

OPAC STUDY GROUP MEETING
OCEAN PLAN AND TERRITORIAL SEA PLAN REVIEW

Tuesday, Feb. 26, 2008 (8:30 a.m. - 4:00 p.m.)
Englund Marine Supply (Upstairs Meeting Room)
975 S.E. Bay Boulevard, Newport, Oregon

MEETING SUMMARY (Revised 3/21/08)

I. Introduction of Members and Guests:

1. Members in attendance: David Allen, Jim Good, Onno Husing, John Griffith, Fred Sickler, Paul Klarin, Jeff Kroft, Cheryl Coon, Fran Recht, John Holloway, Jim Relaford, Neal Coenen, David Fox (for Nearshore PPT presentation).
2. Members not in attendance: Laurel Hillmann, Terry Thompson.
3. Present by conference call (morning issue scoping session): Cathy Tortorici, Jessica Hamilton, Steve Shipsey.
4. Guests: Kitty Brigham, Maura Sullivan.

II. History, Background, and Legal Authorities – Ocean Planning in Oregon:

PowerPoint presentation prepared and given by Paul Klarin (DLCD), along with commentary from Jim Good, Cheryl Coon, and other members:

1. What is the status of oil and gas development in the territorial sea? How should it be addressed at the present time? In the future?
2. Access (or lack of access) to available scientific information was noted, along with emerging work on ocean observing systems, ocean GIS, and information synthesis. The *Oregon Ocean Book* (Bailey and Parmenter, 1985) – a science summary – may be in need of updating. How might that be done?
3. Proactive outreach/education on ocean issues is needed, including those driving management changes.
4. Governance issues – federal, state, and local:
 - a. Composition and responsibilities of OPAC – 2003 changes and their impact on ocean governance.
 - b. Ocean governance structure in Oregon, both present and future. Can it be improved? If so, how?
 - c. Revisit roles of counties in ocean governance; clarify the history.
 - d. What types of intergovernmental arrangements would improve management within the territorial sea?
5. Are mandatory rules/procedures in Part 2 of Territorial Sea Plan (TSP) followed for making resource use decisions? For example, for wave energy?
6. Need for updating/amending TSP with respect to wave energy development. Also for LNG import terminals?
7. Roles of CZMA federal consistency and CWA § 401 water quality certification for wave energy.
8. Water use for wave energy generation. Does Water Resources Commission have rulemaking authority?

9. For predictability in long term, is there a need to include comprehensive ocean zoning in TSP?
10. In short term, is there a need for ocean zoning restrictions for wave energy sites (e.g., percentage allocation)?
11. Coordinate with wave energy working group on the status of cumulative effects proposal. How might that relate to ocean zoning restrictions?

III. Oregon Nearshore Strategy (ODFW):

PowerPoint presentation prepared and given by David Fox (ODFW):

1. Nearshore plan not a regulatory document, but part of larger Oregon Conservation Strategy.
2. Used by Fish & Wildlife Commission in setting priorities for ODFW programs.
3. Nearshore boundary extends offshore to depth of 30 fathoms (180 ft.), which encompasses much of the territorial sea (0-3 nautical miles).

IV. Issue Scoping:

A. Periodic review of TSP per ORS 196.443(1)(a):

1. Includes present site designations and management prescriptions. OPAC needs to get an update on what's actually been implemented and funded with respect to Rocky Shores sites in Part 3 of TSP. Laurel Hillmann worked on this as a NOAA coastal management fellow based at Parks & Recreation Department. She might be able to assist.
2. Question raised as to meaning of last sentence in ORS 196.443(1)(a), which provides – “The council shall recommend deletions to the Territorial Sea Plan of all site designations and management prescriptions to the Land Conservation and Development Commission.” OPAC legal counsel (AAG Steve Shipsey) interpreted the language to mean that recommended deletions are to be submitted to LCDC, but not that OPAC is required to recommend deletions. (Note: Cheryl Coon, a former AAG / OPAC legal counsel, agreed with that interpretation.) John Griffith disagreed with that interpretation, believing the language to be a mandate for deletions. In support of that, he referred to his involvement in passage of HB 3534 (2003) and the legislative intent behind changes to that and other provisions in the statute.
3. Need to also look at other issues in relation to Ocean Plan and TSP review, for example, wave energy, marine reserves, and ocean aquaculture.

B. TSP, Goal 19, and wave energy development:

1. Settlement agreement in process for Reedsport – OPT.
2. Need side-by-side outline of TSP process vis-à-vis settlement process – an issue is that there are several “settlement” groups, one for each project.
3. State agencies intimately involved with “settlement” groups, but there is no comprehensive planning process that looks at all projects collectively. In that regard, is there a long-term need for coast-wide planning of wave energy (e.g., ocean zoning)? Is this an area for OPAC to advise governor and state agencies?

4. It would take several years to undertake TSP amendment process, including gathering data, outreach, and so on.
5. Wave energy is an applicant driven process now; agency staff believes progressive compliance with TSP is being accomplished through existing processes.
6. What do we need in TSP and how does it relate to lessons learned in Reedsport – OPT process?
7. Is installation of wave buoys/anchors a land use action per ORS chapter 197? Is this an avenue for more local involvement? It was noted that cable landings may fit into this category.
8. What issues have come up in settlement process that suggest TSP weaknesses?
9. Does this imply a need for amendment of the “resources inventory and effects evaluation” process in Part 2 of TSP? For wave energy specifically?
10. Is a new TSP section on wave energy needed? For example, site location, criteria, process flow sheet (*e.g.*, agencies involved, socio-economic assessment, etc.).
11. Need to develop a map of fishing grounds to preserve those areas from wave energy development. Work with fishing groups, coastal communities, local governments.

V. Funding Needs and Timing:

Coordinate state agencies to submit budget package for ocean planning and TSP amendment process for issues like wave energy. Several year process to complete.

VI. Future Status of Study Group:

Schedule another meeting after further direction from OPAC. Support among some members to formalize this study group as a longer-term working group.

Some Items to Consider:

Should the state now consider a more comprehensive approach in ocean planning and amend the TSP to address issues like wave energy?

If so, and given the time element involved, should state agencies submit a budget package for the 2009-11 biennium in order to start undertaking this process?

And should any such budget package include enough funding for this study group (and other OPAC committees) to hold further meetings and work with state agencies on any such TSP amendments?

Should this study group be formalized as a longer-term working group?