Rocky Habitat Site Proposal Initial Recommendation

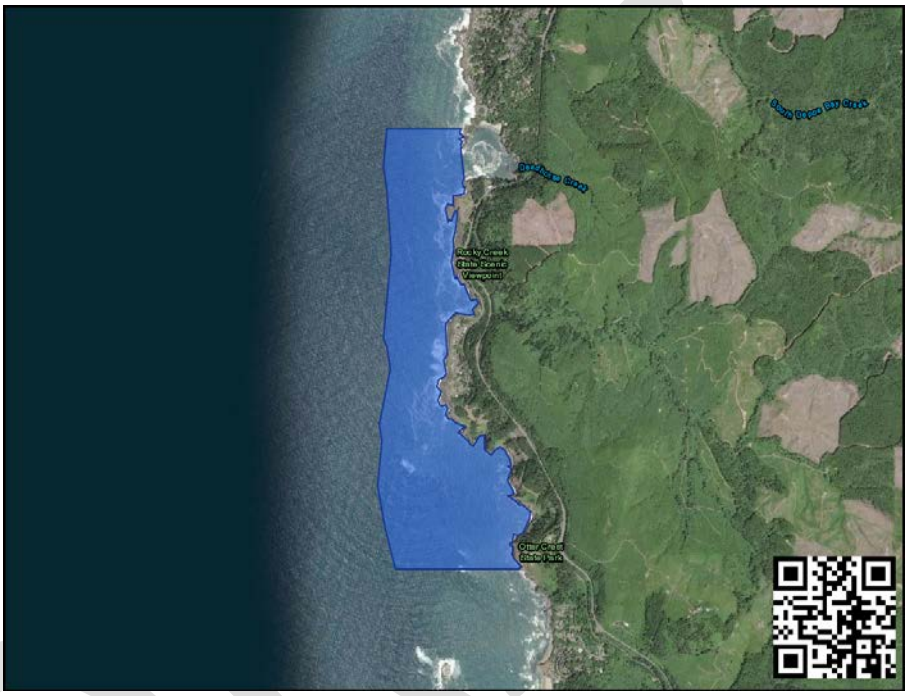
The Rocky Habitat Management Strategy Initial Proposal Process (2020-2021)

Proposed Site

Site Name: Cape Foulweather Complex Marine Conservation Area

Site Map: http://seasket.ch/y0uvvr4X_7

Proposal Materials: https://bit.ly/3sG03CS



Initial Recommendation

This document is a draft summary of the site proposal evaluations conducted by the Rocky Habitat Working Group. The final drafts will be included in a recommendation packet that will be forwarded to the Ocean Policy Advisory Council (OPAC).. The summary below represents an initial draft of the recommendations made by the Working Group for Cape Foulweather Complex Marine Conservation Area. Proposal recommendations will be made available for a 30-day public comment period, during which proposers and other members of the public are invited to submit their feedback. The Working Group will review the feedback for consideration prior to making their final recommendation determinations.

Initial recommendations were crafted using a ranking system whereby the members of the Working Group entered a vote for each proposal where 1 = *Recommend*, 2 = *Recommend, with considerations*, 3 = *Reservations, even with considerations*, and 4 = *Do not recommend*. Consideration are those components of a proposal, identified through the evaluation process, which must be addressed to facilitate its implementation. A vote of modified consensus was agreed upon where no more than 20% of the voting Working Group members could vote *Do not recommend* (4) in order for a proposal to receive a recommendation to move forward for consideration by OPAC.

Average Vote Ranking: 3.1

Initial Recommendation: Do not recommend

Summary of Considerations

The Rocky Habitat Working Group identified the implementation considerations listed below for the proposed Cape Foulweather Complex Marine Conservation Area. Any potential recommendation from OPAC should address these considerations as outlined in the following summary to ensure that implementation of the proposed site is a) consistent with state agency authority and coastal policy, b) appropriately inclusive and representative of stakeholder interests, c) reasonably achievable within the existing framework of rocky habitat site management, and d) in balance with the merits and goals of the proposed site.

Any potential recommendation for implementation of this site should address the following considerations:

- Clarifications on management effectiveness with respect to status quo, site monitoring, enforcement issues, agency coordination
- Level of support with respect to agency and partner roles and expectations, monitoring, signage
- Concerns about equity of access to harvest, marine reserves perceptions
- Site boundaries with respect to size, extent, enforcement

The area surrounding Cape Foulweather is defined by stretches of high rocky cliffs interrupted by small embayments. The original 1994 Territorial Sea Plan does not list Cape Foulweather for a management recommendation, but does identify other areas nearby such as Whale Cove Habitat Refuge and Otter Rock Marine Garden. The views in the area are well-known and consequently the upland area can experience high visitation and use. While the views are stunning and the rocky habitats notable, access to the site remains challenging for much of the rocky intertidal area, which can be hazardous to access, limiting human impacts associated with trampling or harvest.

The concerns expressed in the proposal are primarily focused on the impacts of increasing site use on seabird nesting sites and pinniped haulouts, as well as ecological integrity of the kelp beds. The primary goal aims to conserve the natural character of the site to provide long-term benefits. The proposal emphasizes education and stewardship as means of protecting rocky habitats and ecological communities while allowing for use and enjoyment to enhance appreciation and foster personal stewardship of rocky habitats. The recommendations and metrics are clear and well-outlined, and highlight current site management well. There is also a strong focus on protection of kelp beds, and promoting community science efforts.

The proposal maintains status quo management at the site and does not place any restrictions on commercial or recreational fish harvest. Invertebrate harvest would be closed except clams, Dungeness crab, red rock crab, piddocks, scallops, squid, shrimp, and sand crab, which could be harvested under normal coastwide regulations. In addition, the proposal states that ODFW could allow harvest of other invertebrate species as appropriate. Preservation and conservation of existing site conditions is a stated goal, and also aligns with TSP-3 goals. While the Cape Foulweather Complex may be likely to benefit from site-specific management, some of the proposed regulatory standards and management practices may be in conflict with preservation and conservation of existing site conditions. Clarifications and

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expectations for allowable invertebrate harvest and how it would be used to measure site success would need to be made prior to any designation. Success of this change in site management will also be dependent on community and state investments and capacity to engage in the proposed monitoring and management actions.

Enforcement of management changes may be logistically challenged by capacity, safety, and costs. The inaccessibility of the rocky habitat would be challenging and potentially dangerous to ensure consistent and effective enforcement. Volunteer programs could aid with enforcement if implemented, but firm support and expectations would need to be established up front. Initial and long-term enforcement costs will vary depending on which organisms are being regulated.

The non-regulatory management measures were excellently outlined, but may very well be too ambitious or benefit from revision through agency coordination. Long-term monitoring will be required to determine efficacy of these measures, however, they are measurable and achievable. Some of the proposed management measures will require time and monitoring to fully understand how effective they will be at achieving site goals (e.g. drone and boater education). Recommendations may need to be scaled back and managed adaptively to meet expectations and the intended goals.

Recommendation 10 (coastwide monitoring of invasive species), is not site-specific and would be problematic for implementation. It is unclear who would conduct this work, the roles of the entities involved, who will develop it and what it would look like in practice, and how it would be implemented at a coastwide scale. It would also place an unfunded mandate on agencies to complete this work in the given time period. The role of agencies in this work and other broader long-term objectives in the proposal, is unclear.

The proposal relies heavily on community organizations and other groups to develop and execute the proposed education, outreach, and other stewardship activities. It is unclear who will conduct the proposed monitoring and research in practice, and what the role of agencies will be. At this time, there is concern from the agencies over lack of agency funding and staff capacity to engage in monitoring activities or other forms of site support (e.g. development of signage).

The proposed site is adjacent to three other managed areas: Whale Cove Habitat Refuge, Otter Rock Marine Garden, and Otter Rock Marine Reserve. Implementation of a new designation raises concerns regarding public confusion of variable site management on a section of the coast which already has many different designations and limitations nearby. This may also present potential issues with equity of access to harvest along this portion of the coast for those species which would be restricted from harvest.

The large subtidal area included at this site raises concerns about it being perceived as a Marine Reserve. While harvest of commonly-harvested species would be allowed at the site, it is likely that some members of the public would be concerned about future restrictions once the site is designated. In addition, the site overlaps with a marine reserves comparison area, which is a research site used to compare an area with harvest with the area closed to harvest (Otter Rock Marine Reserve). Because the site allows harvest of commonly harvested animals, the site, as proposed, is unlikely to affect the current marine reserve comparison studies. However, the perception of this being a closed area could affect public trust in Marine Reserves Program science. Additionally, if future regulations were to create additional harvest restrictions, the comparison studies would be adversely impacted.

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The landward site boundary was requested to be the Statutory Vegetation Line (SVL), rather than the Oregon mean high water shoreline (MHW), which the site polygon is automatically clipped to by the Rocky Habitat Web Mapping Tool. While a landward boundary above MHW may be considered for a rocky habitat site designation, the proposed site abuts State Parks lands along a portion of its landward boundary, including Rocky Creek and Otter Crest State Scenic Viewpoints. OPRD does not define an SVL for designated State Parks lands, so any consideration for a landward boundary above MHW would need to be sufficiently justified and reconciled with the agency. Currently, the MHW boundary appears sufficient to meet site goals. Inclusion of the subtidal habitat as proposed would extend management protections in the area, but would be more comprehensive than most other existing rocky habitat designations and require strong justification for implementation. Enforcement of invertebrate and algae harvest regulations, if applied to the subtidal area, would be challenging offshore. Final site boundaries will need to be reconciled with the involved agencies for additional clarification or refinement, particularly with respect to choices made on the north side of the cape. Clarification on site boundaries may also need to be reconciled with private landowners and other agencies outside this process (e.g. ODOT).

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At this time, the Rocky Habitat Working Group does not recommend Cape Foulweather Complex Marine Conservation Area for potential recommendation to LCDC, with an understanding of the merits, perspectives, and considerations described above and in the full packet of evaluation materials.

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Audubon Society of Lincoln City

PO Box 38 Lincoln City Oregon 97367
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April 14, 2021

Ocean Policy Advisory Council's Rocky Habitat Working Group
c/o Andy Lanier
Marine Affairs Coordinator
635 Capitol St. NE Ste 150
Salem OR 97301

Re: Response to Working Group recommendations

Dear Chair Plybon, members of the Working Group:

The Audubon Society of Lincoln City appreciates the opportunity the State of Oregon has provided community groups like ours to nominate sites for rocky habitat designations. We have prepared and submitted a proposal for the Cape Foulweather Complex, urging that it be designated a Marine Conservation Area. We are submitting this letter and attachments in response to the Working Group's Initial Recommendation for this proposal. We ask that our response be included in the public comment record for the Rocky Habitat Working Group Initial Rocky Habitat Site Proposal Recommendations. Our response document quotes each Working Group consideration in *italics* followed by our response. We have added numbering to the bulleted considerations for clarity.

The goal of the Rocky Habitat Management Strategy (Strategy) as adopted in May 2020 is "to protect the ecological values and coastal biodiversity within and among Oregon's rocky habitats while allowing appropriate use." We followed this goal, as well as recommendations of the Oregon Nearshore Strategy, as we developed management recommendations for each site. Our proposals address and would advance each of the five Strategy objectives to achieve this goal:

1. preserve or restore rocky habitats and their biological communities;
2. implement a management program that protects rocky habitats and allows for their enjoyment and use;
3. promote stewardship of rocky habitats through education and outreach;
4. improve our knowledge of rocky habitat ecosystems by research and monitoring; and
5. encourage cooperation and coordination among local, state, relevant federal agencies, and tribal governments to ensure that rocky habitats are managed effectively.

The Strategy objectives provide the Working Group with an excellent and much needed framework to evaluate all proposals, ours and others. Would a proposal help achieve each of these objectives? If the answer is yes, then a recommendation to the Ocean Policy Advisory Council is in order. Using the objectives to frame the discussion of the proposals addresses a

major failure in the evaluation process to date: the lack of an evaluation criteria that minimizes bias.

In addition to using a consistent framework to evaluate our proposals, we would also appreciate hearing a discussion of a site's merits. During the current proposal process Cape Foulweather was independently confirmed in an objective, geo-spatial analysis as being the top Rocky Habitat site along the Oregon Coast. Yet, the site did not receive an initial recommendation from the Working Group.

Responding to the Working Group's initial recommendations has been a challenge because it contains errors and misunderstandings. These could have been avoided if we had been able to have a dialog with agencies and Working Group members during the review process and/or been able to present our proposal to the Working Group and respond to questions and concerns. The Strategy describes a collaborative approach; however, agencies were reluctant to collaborate in proposal development and the review process lacked any meaningful dialogue.

Despite our concerns about the process, we are proud to have nominated two outstanding rocky habitats for site designations. The public process is a wise choice given agency constraints, and site-level management is an opportunity to work collaboratively with stakeholders from all groups – including commercial and recreational fishing interests. We are allies invested in preserving the ecology of our Rocky Habitats and the natural abundance they provide. The proposal process has created momentum within the community. A positive recommendation for this site sends a strong message to the community that all are welcome to be involved in the management of this local treasure.

Sincerely,

dawn villaescusa, President
Audubon Society of Lincoln City (ASLC)
dawnv@birdlover.com
503-507-8457

Enc. ASLC Response to the Working Group's Initial Recommendation: Cape Foulweather

Initial Proposal Period
Audubon Society of Lincoln City Response to the Working Group's
Rocky Habitat Site Proposal Initial Recommendation

Proposed Site
Site Name: Cape Foulweather Complex Marine Conservation Area
Site Map: http://seasket.ch/y0uvvr4X_7
Proposal Materials: https://bit.ly/3sG03CS

Audubon Society of Lincoln City (ASLC) Response to Working Group Recommendations. Please note that we directly quote the considerations in *italics* followed by our response. We have added numbering for clarity.

Any potential recommendation for implementation of this site should address the following considerations:

1. *Clarifications on management effectiveness with respect to status quo, site monitoring, enforcement issues, agency coordination*
2. *Level of support with respect to agency and partner roles and expectations, monitoring, signage*
3. *Concerns about equity of access to harvest, marine reserves perceptions*
4. *Site boundaries with respect to size, extent, enforcement*

The area surrounding Cape Foulweather is defined by stretches of high rocky cliffs interrupted by small embayments. The original 1994 Territorial Sea Plan does not list Cape Foulweather for a management recommendation, but does identify other areas nearby such as Whale Cove Habitat Refuge and Otter Rock (sic) Marine Garden. The views in the area are well-known and consequently the upland area can experience high visitation and use. While the views are stunning and the rocky habitats notable, access to the site remains challenging for much of the rocky intertidal area, which can be hazardous to access, limiting human impacts associated with trampling or harvest.

The concerns expressed in the proposal are primarily focused on the impacts of increasing site use on seabird nesting sites and pinniped haulouts, as well as ecological integrity of the kelp beds. The primary goal aims to conserve the natural character of the site to provide long-term benefits. The proposal emphasizes education and stewardship as means of protecting rocky habitats and ecological communities while allowing for use and enjoyment to enhance appreciation and foster personal stewardship of rocky habitats. The recommendations and metrics are clear and well-outlined, and highlight current site management well. There is also a strong focus on protection of kelp beds, and promoting community science efforts.

***Correction**:* The concerns ASLC addresses in our proposal are not as stated in the Initial Recommendations. The primary concerns are the ecological integrity of kelp beds and maintaining quality of habitats to provide a suitable comparison site to the nearby marine reserve.

Response: The Rocky Habitat Management Strategy (Strategy) allows for variable management of a Marine Conservation Area (MCA) based on site conservation goals and needs. Our proposal, while complex, has at its core, the focus on the large kelp forests at the

site. Our primary goal, as stated in our proposal, is: “In coordination with management of other nearby marine designations, conserve the ecological functions and rocky habitat resources in order to provide long-term ecological, economic, and social benefits for current and future generations.”

1. ***Clarifications on management effectiveness with respect to status quo [1.1 below], site monitoring [1.3 below], enforcement issues [1.2 below], agency coordination [2.1 below]***

1.1 The proposal maintains status quo management at the site and does not place any restrictions on commercial or recreational fish harvest. Invertebrate harvest would be closed except clams, Dungeness crab, red rock crab, piddocks, scallops, squid, shrimp, and sand crab, which could be harvested under normal coastwide regulations. In addition, the proposal states that ODFW could allow harvest of other invertebrate species as appropriate. Preservation and conservation of existing site conditions is a stated goal, and also aligns with TSP-3 goals. While the Cape Foulweather Complex may be likely to benefit from site-specific management, some of the proposed regulatory standards and management practices may be in conflict with preservation and conservation of existing site conditions. Clarifications and expectations for allowable invertebrate harvest and how it would be used to measure site success would need to be made prior to any designation. Success of this change in site management will also be dependent on community and state investments and capacity to engage in the proposed monitoring and management actions.

Correction: Note that the allowable harvested invertebrates list does not include sand crab.

Response:. Our proposal for a marine conservation area (MCA) designation at Cape Foulweather respects the importance of maintaining the site as a comparison area for the Otter Rock Marine Reserve. In practical terms, this means maintaining open harvest. There are, however, other natural resource issues that deserve management at the site. An MCA designation is the only rocky habitat designation that gives us this option. Both our site goal and the proposed recommendations emphasize the value of Cape Foulweather as an Oregon Department of Fish and Wildlife (ODFW) comparison area for the nearby Otter Rock Marine Reserve.

Our goal reflects the Strategy’s emphasis on ecosystem based management, a key principle of which is to recognize that economic and social benefits are as important as ecological benefits -- and that they are fully compatible with each other. A suite of ecosystem services helps ensure community support and investment in achieving an MCA’s goal and objectives.

Placing no additional site-specific restrictions on fisheries and allowing some harvest of invertebrates is consistent with the site goal for providing long-term ecological, economic, and social benefits. Conservation’s compatibility with sustainable harvest is a keystone concept for natural resource management in Oregon. This concept is reflected in the ODFW’s mission statement to protect and enhance fish and wildlife and their habitats for use and enjoyment by present and future generations. The state’s coastwide commercial and recreational harvest

regulations are established to achieve sustainable harvest opportunities that protect natural resources while allowing appropriate use.

The closure of harvest for some invertebrates within the proposed MCA recognizes a gap in information. There is generally far less information available on invertebrate abundance and population dynamics for species not typically harvested. As kelp continues to decline, dependent invertebrate species may also decline in diversity and abundance. Conversely, as more information becomes available, ODFW should manage appropriately which may allow sustainable harvest of other invertebrate species.

We support the commercial harvest of purple sea urchins for two reasons: 1) the economic benefits the harvest provides to the fishing industry; and 2) the need to address an ecological imbalance. Purple sea urchins feed on kelp. An overabundance of sea urchins is leading to the decimation of kelp beds along the Oregon coast. When the kelp is gone, they feed on whatever is left until rocks are bare. Commercial urchin harvest is not allowed in waters less than 10 feet deep so there is no commercial harvest of urchins within intertidal areas.

As we have stated in our proposal, the major change from the status quo is community involvement in site-based, coordinated management and stewardship. Our stakeholder outreach has sparked a high level of community interest in the stewardship of Cape Foulweather and the other nearby marine designations. While many non-regulatory measures could be implemented without a designation, a Marine Conservation Area designation provides focus, incentive, and a shared vision within the local community that can help rally grant funding and provide rationale for decision makers to act on requests for support .

1.2 Enforcement of management changes may be logistically challenged by capacity, safety, and costs. The inaccessibility of the rocky habitat would be challenging and potentially dangerous to ensure consistent and effective enforcement. Volunteer programs could aid with enforcement if implemented, but firm support and expectations would need to be established up front. Initial and long-term enforcement costs will vary depending on which organisms are being regulated.

Response: The Working Group's initial draft recommendations correctly note our proposal emphasizes education and stewardship as the best means to protect rocky habitats and ecological communities. Environmental stewardship and community engagement are widely recognized as effective conservation strategies. This approach aligns closely with Draft Strategy policies as stated on page 7 (Section 6, subsection b). The implementation of the education, stewardship, and community science recommendations contained in our proposal would provide substantive changes in management effectiveness without requiring regulatory change. The working group has spoken favorably of such an approach when discussing other proposals that may require regulatory changes.

Community science and stewardship volunteers would contribute to management effectiveness by providing additional observation and public education capacity. Lincoln City Audubon has long been involved in community science and volunteer efforts. In addition, we have numerous partners, as stated in our proposal, who also have experience and expertise in community

science and volunteer efforts. Education and stewardship will effectively inform the public on the management regulations for the various marine designations in the area. We concur that volunteer training would be necessary, which we will be responsible for. We have no expectation that agencies will be required to establish new programs, rather, we plan to work with community groups and our own volunteers. Agencies will, of course, be consulted where necessary for permission to proceed and identify major information needs.To be clear, we are proposing just two regulatory management changes. They are:

1. No commercial or recreational take of shellfish and marine invertebrates, *except* clams, Dungeness crab, red rock crab, mussels, piddocks, scallops, squid, and shrimp. Commercial harvest of urchins is open and promoted.
2. No harvest of kelp for personal use.

Enforcement would primarily apply to existing regulations, no different from the current situation. The site's inaccessibility applies not only to enforcement officers but to those they are enforcing. Consequently, illegal harvest of non-targeted invertebrates would likely be a very rare occurrence.

If ODFW and Oregon State Police (OSP) determine enforcement of invertebrate harvest restrictions is problematic, it is fully within ODFW's authority and consistent with this proposal to apply invertebrate harvest restrictions only to intertidal areas. Those who currently harvest kelp for personal use at Cape Foulweather will be able to harvest from nearby kelp beds that have much easier access. The use of the site as a comparison area for the Otter Rock Marine Reserve means that additional site-specific harvest restrictions are unlikely in the future.

1.3 The non-regulatory management measures were excellently outlined, but may very well be too ambitious or benefit from revision through agency coordination. Long-term monitoring will be required to determine efficacy of these measures, however, they are measurable and achievable. Some of the proposed management measures will require time and monitoring to fully understand how effective they will be at achieving site goals (e.g. drone and boater education).

Response: We appreciate the Working Group's comment that our non-regulatory management measures were excellently outlined. Our proposal lists clear, specific, measurable, and where applicable, time-specific evaluation metrics for each component. These evaluation metrics define how management effectiveness can be evaluated with respect to the goal of providing ecological, social, and economic benefits. Community-based discussions on effectiveness and adaptive management strategies will occur at the biennial State of the Cape symposium. The heart of our proposal is a strong cooperative and coordinated management approach involving the community, agencies, commercial and recreational users, and others.

Our proposal includes a strong education program that contributes to both ecological and social benefits. Lincoln City Audubon is known throughout the State for our strong education program. We are eager to introduce this added dimension to our core curriculum.

Our proposal provides specific and measurable evaluation metrics for the effectiveness of boater and drone operator education. These metrics include the frequency of reports on seabird disturbances made by volunteer stewards. Monitoring of these metrics will be the responsibility of ASLC and other volunteer community groups. As we noted in our proposal, quantifying the effectiveness of these measures on seabird populations is not realistic due to the multitude of factors affecting seabird population dynamics.

1.4 Recommendation 10 (coastwide monitoring of invasive species), is not site-specific and would be problematic for implementation. It is unclear who would conduct this work, the roles of the entities involved, who will develop it and what it would look like in practice, and how it would be implemented at a coastwide scale. It would also place an unfunded mandate on agencies to complete this work in the given time period. The role of agencies in this work and other broader long-term objectives in the proposal, is unclear.

Response: This recommendation comes from ODFW's Conservation Strategy[1] that includes the Nearshore Strategy. We agree that it is a regional concern rather than a site-specific recommendation. We also recognize that our Recommendation (R8) *Conduct and support studies of social and economic patterns and trends as they relate to rocky habitat resources, human use of the resources, and effects of resource management actions on individuals, user groups, or communities* is also regional rather than local and is more suitably framed at a statewide level with the Strategy rather than a site management level.

We request that Recommendations R10 (coastwide response to invasive species) and R8 (socioeconomic studies) be withdrawn from our proposal.

2. Level of support with respect to agency and partner roles and expectations, monitoring, signage

2.1 The proposal relies heavily on community organizations and other groups to develop and execute the proposed education, outreach, and other stewardship activities. It is unclear who will conduct the proposed monitoring and research in practice, and what the role of agencies will be. At this time, there is concern from the agencies over lack of agency funding and staff capacity to engage in monitoring activities or other forms of site support (e.g. development of signage).

Response: Our management recommendations for the Cape Foulweather Complex address a core objective of the Strategy to "facilitate cooperation and coordination among local, state, and federal resource management agencies, and Tribal governments to ensure that marine resources and habitats are holistically managed."[2] Our recommendations provide a framework for community groups to interact with agencies to achieve a shared site goal and objectives.

Our recommendations also address the Strategy objective to "improve our knowledge and understanding of rocky habitat ecosystems by fostering research and monitoring efforts." ASLC

[1] Oregon Conservation Strategy. 2016. Oregon Department of Fish and Wildlife, Salem, Oregon
[2] Draft Rocky Habitat Management Strategy, page 1, Section 2 *Objectives*, bullet 2e.

will take primary responsibility for all education, science monitoring, and stewardship projects with minimal support from agencies beyond an advisory and permitting role.

We have no monitoring or research expectations of state or federal agencies beyond what is within their current management roles, responsibilities, and ongoing programs. Current agency obligations that are in our recommendations include 1) using climate change information in management decision making and 2) researching and monitoring the effects of climate change, which are stated in ODFW's Climate and Ocean Change Policy (OAR 635-900-0005). Like all agency obligations in administrative rule, they are subject to agency capacity. However, this reality should not detract from site-level management planning for the very habitats the Climate and Ocean Change Policy was meant to address.

Community involvement in the management of the Cape Foulweather Complex MCA would add capacity to agencies responsible for managing rocky habitat and its resources. For example, monitoring the effectiveness of Black Oystercatcher signage and education will be conducted as part of Portland Audubon's ongoing Black Oystercatcher Project. This project has demonstrated its ability to manage, collect and analyze scientifically rigorous data that is vital to the management here and at other sites.

Biological and habitat monitoring is already being conducted by ODFW as part of its comparison site studies. We are not recommending additional monitoring. We request that ODFW share this data with stakeholder community groups, perhaps at our biennial State of the Cape symposium. And we encourage the scientific community to *continue* exchanging information about ecosystem trends. Doing so will help achieve Strategy goals at both site and regional levels.

Local residents and Friends of Otter Rock have expressed strong support for our proposal and have indicated their intent to engage in stewardship and community science projects. We have a proven track record for conducting education, stewardship, and community engagement activities, and we have strong ties to local schools.

We listed potential cooperators in response to the proposal application's request to identify "which state/federal agencies would be impacted by this change in site management." We state clearly in our proposal that listing potential cooperators does not imply their commitment or endorsement of our proposal.

While the proposal application asks about potential sources of financial support for implementing the MCA designation, the instructions state that this information is *not required.* While we understand that agencies need to consider the impacts to the agency, it is unreasonable to require interested coastal organizations to have funding prior to a site being accepted for site-level management. We listed numerous grant and potential third-party funding opportunities. We also described our own level of commitment and capabilities. We made no mention of an expectation that agencies would conduct or fund implementation activities outside of their current level of support.

We anticipate funding for signage to come from public and private grants or other third party sources *with no commitment from the agencies beyond review to ensure signage is consistent*

with regulations and policies. ASLC will lead efforts to secure funding from the funding opportunities listed in our proposal. Recently, we worked in cooperation with the USFWS to install high quality interpretive signage at Alder Island in the Siletz Bay National Wildlife Refuge. We have also communicated with Lincoln County Public Works and the Oregon Department of Transportation (ODOT) regarding proposed signage along Otter Crest Drive and learned that the County has jurisdiction and a compatible permitting process for signage along this road.

Our proposal provides a long term site management framework, with management recommendations to be implemented over time as funding and resources become available. .

3. Concerns about equity of access to harvest, marine reserves perceptions

3.1 The proposed site is adjacent to three other managed areas: Whale Cove Habitat Refuge, Otter Rock (sic) Marine Garden, and Otter Rock Marine Reserve. Implementation of a new designation raises concerns regarding public confusion of variable site management on a section of the coast which already has many different designations and limitations nearby. This may also present potential issues with equity of access to harvest along this portion of the coast for those species which would be restricted from harvest.

Correction:: The draft initial recommendation has mis-identified the adjacent marine garden. It is the Otter Crest Marine Garden. Also, the proposed MCA is 0.7 miles from the Otter Rock Marine Reserve. It is not adjacent.

Response: The presence of other marine designation areas in the vicinity is advantageous and provides opportunities for education and interpretation as well as the opportunity and incentive for local, state, and federal agencies to coordinate and cooperate in their management to maximize management efforts for the ecosystem.

Our proposed education and stewardship activities at the Cape Foulweather Complex MCA will serve to inform the public about other nearby designations and their respective management, greatly enhancing the understanding and appreciation of these marine designations. The commercial fishing industry and charter fishing interests are well informed and unlikely to be confused about variable management.

Local residents understand the designation management differences and are willing to act as stewards. Furthermore, local residents who fish are supportive of the Cape Foulweather Complex MCA proposal and very aware that there are no restrictions on commercial or recreational fishing.

Since harvest is unrestricted (except for non-traditionally harvested invertebrates and personal harvest of kelp), harvest within the MCA has most of the same harvest opportunities as waters not within any marine designation. Therefore, potential equity of access is not an issue in the proposed Cape Foulweather Complex MCA.

3.2 The large subtidal area included at this site raises concerns about it being perceived as a Marine Reserve. While harvest of commonly-harvested species would be allowed at the site, it

is likely that some members of the public would be concerned about future restrictions once the site is designated. In addition, the site overlaps with a marine reserves comparison area, which is a research site used to compare an area with harvest with the area closed to harvest (Otter Rock Marine Reserve). Because the site allows harvest of commonly harvested animals, the site, as proposed, is unlikely to affect the current marine reserve comparison studies. However, the perception of this being a closed area could affect public trust in Marine Reserves Program science. Additionally, if future regulations were to create additional harvest restrictions, the comparison studies would be adversely impacted.

Response: We wrote our proposal with consideration for the Otter Rock Marine Reserve and the need to maintain Cape Foulweather as a suitable comparison site. The MCA goal acknowledges that the management of the proposed Cape Foulweather Complex will be coordinated with the management of other nearby marine designations. Our number one recommendation is to maintain the site's suitability as a comparison area, which is dependent on maintaining an open harvest regime.

The proposal does not include fishing restrictions because:
1) They are not needed to meet the designation's site-specific goal; and
2) It is an ODFW marine reserves comparison area that necessitates open harvest regulations..

Regarding the possibility of future restrictions adversely impacting use of the site for comparison studies, we state in our proposal: "As fisheries evolve, ODFW will not be restricted in its authority to allow (recreational and/or commercial) take of other invertebrate species within the designation area so as to not impede the ability to use the area as a comparison site for evaluating restrictions within the nearby Otter Rock Marine Reserve."

It is highly unlikely that ODFW would choose to implement additional harvest restrictions in the future that would jeopardize the validity of their own comparison studies that have been ongoing for more than ten years.

Misperceptions are best addressed by engaging the community in local management, which is exactly what we propose. Community engagement, including a community-based biennial State of the Cape symposium, will provide a variety of interests (including harvest interests) a place to engage in dialogue, in addition to establishing a shared understanding of local management.

4. Site boundaries with respect to size, extent, enforcement

4.1 The landward site boundary was requested to be the Statutory Vegetation Line (SVL), rather than the Oregon mean high water shoreline (MHW), which the site polygon is automatically clipped to by the Rocky Habitat Web Mapping Tool. While a landward boundary above MHW may be considered for a rocky habitat site designation, the proposed site abuts State Parks lands along a portion of its landward boundary, including Rocky Creek and Otter Crest State Scenic Viewpoints. OPRD does not define an SVL for designated State Parks lands, so any consideration for a landward boundary above MHW would need to be sufficiently justified and reconciled with the agency. Currently, the MHW boundary appears sufficient to meet site goals. Inclusion of the subtidal habitat as proposed would extend management protections in the area,

but would be more comprehensive than most other existing rocky habitat designations and require strong justification for implementation. Enforcement of invertebrate and algae harvest regulations, if applied to the subtidal area, would be challenging offshore. Final site boundaries will need to be reconciled with the involved agencies for additional clarification or refinement, particularly with respect to choices made on the north side of the cape. Clarification on site boundaries may also need to be reconciled with private landowners and other agencies outside this process (e.g. ODOT).

Correction:
Landward boundary: The above statement is incorrect. Our proposal states: "the shore boundary of the proposal area is established at the mean high tide contour as automatically snapped by SeaSketch. Establishing the shoreward boundary as defined by the mean high tide is consistent with many existing agency management directives." We further state: "The plan area is not intended to include federal lands managed by US Fish and Wildlife Service (USFWS), which is generally offshore rocks and islands above the mean high tide." In this application, the terms mean high tide and mean high water are used interchangeably with no distinction between them.

North boundary: The need to reconcile boundaries, particularly with respect to choices made on the north side of the cape appears to be an error. Based on our consultation with ODOT, the only ODOT property is the pullout adjacent to the bridge over Rocky Creek that is at substantial distance from the proposal area. It is our understanding that the State of Oregon owns lands below the Mean High Water, so the need to reconcile boundaries with private landowners is unclear. There may be a need at all designated sites to reconcile the MHW as drawn by SeaSketch with other land survey records.

Response: While our landward site boundary is clearly defined as the mean high tide, our proposal does note that the Rocky Habitat Management Strategy (Part B1b, pp 9-10) definition of rocky habitat (Part B1b, pp 9-10) extends landward to the statutory vegetation line, or if unvegetated, the contour at 16 feet above sea level. In our proposal, we suggest that management consider the needs and functions of rocky habitat up to the statutory vegetation line to be consistent with the Strategy. Our proposal, as written, is consistent with the management principles of the Strategy (Part A5a, p. 4) that state:

> The interconnected relations between rocky shoreline areas, offshore sites, and submerged rock habitat warrants related areas to be managed as an ecological unit.
>
> Management recommendations and prescriptions should follow ecosystem based management and adaptive management principles.

It is a fundamental principle of ecosystem based management to define management boundaries on function rather than jurisdictional lines[3]. While there may be jurisdictional

[3] Long, R.D., C. A. and R.L. Stephenson. 2017, Key principles of ecosystem-based management: the fishermen's perspective. Fish Fish, 18: 244-253. https://doi.org/10.1111/faf.12175

considerations in application, the Strategy aims to do exactly that by planning for multi-jurisdictional management areas.

Seaward boundaries**:** Extensive public outreach during the development of this proposal identified a desire by many in the local community to expand the plan boundaries to include the kelp forests that parallel the shoreline of Cape Foulweather. These kelp forests provide critical ecosystem services.

We did due diligence before defining our proposal boundaries by asking OCMP staff if this would be in conflict with any policies (written or inferred) to extend the boundary of a plan seaward beyond the -5m contour when there is a sound ecological reason to do so.

The OCMP Rocky Habitat Coordinator provided this written response in the SeaSketch forum:[4]

> No conflict here. The -5m depth contour is the defined boundary between the rocky shallow subtidal habitat (representing the maximum extent of the rocky shoreline habitats), and the offshore rocky habitats. It is not a spatial restriction in terms of proposed management designation boundaries. If there is a clear ecological reason to preserve habitat connectivity, then I think that makes a strong case to include areas beyond -5m in your plans.
>
> For additional info, please reference Section B of the Rocky Habitat Management Strategy.

With that information, we established the seaward boundary for this designation to be inclusive of kelp forests occupying nearshore rocky reefs. Kelp forests are characterized by extremely high rates of primary productivity based on a complex food web. Kelp forests also provide three dimensional structure that is essential for fish and invertebrate shelter, feeding, and reproduction.[5] The National Marine Fisheries Service (NMFS) has designated Oregon's rocky reefs and canopy-forming kelp forests as a "Habitat Area of Particular Concern" (HAPC). Bull kelp is recognized as a Strategy species in ODFW's Oregon Nearshore Conservation Strategy.[6]

The kelp forests that occur along nearshore rocky reefs paralleling the Cape Foulweather shoreline are ecologically connected to intertidal and shallow subtidal habitats. All these habitats provide a gradient of environmental conditions that a diverse biota depends upon for nutrients and shelter. A holistic management approach considers how all these habitats function as a closely interrelated system. The Strategy principles (Part A 5a, p.4) state that "the

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[4] https://www.seasketch.org/#projecthomepage/5c1001699112e049f68fc839/forum/5e41c2b4d28ba37e6dde7ea7/topic/5f516df77f5a973a96fe3ab9

[5] D. G Capone, D. A Bronk, M. R Mulholland, E.J Carpenter. 2008. Nitrogen in the Marine Environment (Second Edition), Academic Press.

[6] Oregon Department of Fish and Wildlife (ODFW). 2016. Nearshore Strategy: component of the Oregon Conservation Strategy. Oregon Department of Fish and Wildlife, Salem, Oregon

interconnected relationship between rocky shoreline areas, offshore sites, and submerged rocky habitat warrants related areas to be managed as an ecological unit."

The designation creates an opportunity and mechanisms to more holistically manage the habitat continuum of kelp beds and intertidal habitats as well as the multitude of species dependent on them. The current threat to this type of rocky habitat cannot be emphasized enough. Beginning In 2013, a region wide outbreak of sea star wasting disease coincided with a substantial warming of Oregon coastal waters. Sunflower stars are a predator for the voracious herbivore purple sea urchins. An explosion of purple sea urchin populations coinciding with warmer sea water, hypoxia, and ocean acidification resulted in dramatic losses of kelp forests along the northern California coast and extending into Oregon. Once highly productive kelp beds were transformed into low productivity sea urchin barrens. Monitoring, research and a holistic management approach are necessary to better understand both short and long-term trends in kelp forest ecology and these threats to the continued ecosystems services provided by kelp forests. The kelp forests in the Cape Foulweather area represent the most significant kelp beds along the central and northern Oregon coast.

An MCA designation for Cape Foulweather will focus attention on the importance of holistically managing this key resource. A designation can help attract research institutes as well as establish a framework for volunteer groups, the private sector, and agencies to work together to devise protection and restoration strategies that require a long term approach.

Conclusion:

The management recommendations for the Cape Foulweather Complex are consistent with the goal and policies of the Rocky Habitat Management Strategy. The recommendations are not intended to be mandates. Webster's Dictionary defines recommendation as "a suggestion about what should be done". A truly collaborative process incorporates community needs and requests along with agency expertise and regulatory/management constraints. This collaborative and adaptive approach can shape a successful plan for a site-level management area that can be implemented to provide long term ecological, economic and social values and benefits.

Rocky habitats at Cape Foulweather merit designation as a special place within our State's heritage of protecting our coastal resources while allowing appropriate use. Cape Foulweather on the central Oregon coast exemplifies a high quality rocky habitat supporting a diversity of species dependent on these habitats as well as opportunities for Oregonians and visitors to enjoy and interact with coastal resources. Kelp beds in the vicinity of Cape Foulweather are the largest and best example north of Cape Arago in Oregon. This special place merits designation within the Rocky Habitat Management Strategy.