

Oregon Ocean Policy Advisory Council

Meeting Summary – April 3, 2019

Holiday Inn Express, Salem, OR

Issues Decided/Positions Taken

- The Draft Meeting Summary of the December 7, 2018 Ocean Policy Advisory Council (OPAC) was approved by consensus with minor edit (attendance correction).
- The Council approved by consensus a motion to recommend the Phase 1 products of the Rocky Shores Management Strategy (Territorial Sea Plan – Part Three) to the Land Conservation and Development Commission for potential adoption (exact language of the motion provided below).

“The council recommends the draft amendment to the Territorial Sea Plan Part 3 to LCDC for review and adoption as part of the Oregon Coastal Management Program with changing the name from rocky shores to habitats, allowing all rocky habitat to be eligible for proposals, the agencies may propose site designations within rocky shores, acknowledge the definitions in early sections, retain footnote on page 3, and along with technical amendments.”

- The Council to recommend for adoption amendments to the Territorial Sea Plan – Part 5 (exact language of the motion provided below).

“The Council recommends the specified revisions to the Territorial Sea Plan Part 5 to LCDC for review and adoption as part of the Oregon Coastal Management Program and also recommends amendments to the Part Five text that moves provisions on telecommunication cables from the Proprietary Use and Management Area (PUMA) to the Renewable Energy Exclusion Area (REEA) and additional edits as identified in 2B.”

Note: Both recommendations were communicated to LCDC through a letter of transmittal on May 6, 2019. That letter is attached to this meeting summary as an addendum.

Presentations

- *Andy Lanier* provided a presentation on the TSP Part 5 including a recap of the amendment process and summaries of LCDC recommendations.
- *Bob Bailey* provided a presentation on the Elakha Alliance and its mission to restore sea otters to the Oregon Coast.
- *Charlie Plybon (TSP Working Group Chair), Deanna Caracciolo, and Andy Lanier* provided a presentation on the Phase 1 products of the Territorial Sea Plan Part 3 update.
- *Mike Rust* provided an overview presentation on NOAA’s fin fish, seaweed, and shellfish aquaculture programs, as well as general trends in the industry.
- *Cristen Don and Shelby Walker* provided an update on the marine reserves program as well as recent actions of the Science and Technical Advisory Committee (STAC) relating to the upcoming marine reserves evaluation.

OPAC Members Attendance

Members Present (voting): **Jena Carter** (Statewide Conservation or Environmental Organization; Chair); **Susan Chambers** (South Coast Commercial Fisheries - remote); **Walter Chuck** (Ports, Marine Transportation, Navigation; Vice Chair); **Meagan Flier** (Oregon Coast Indian Tribes – remote); **Loren Goddard** (Coastal City Elected Official); **Richard Heap** (South Coast Charter, Sport or Recreational Fisheries); **John Holloway** (North Coast Charter, Sport or Recreational Fisheries); **Melissa Keyser** (Coastal Conservation or Environmental Organization); **Charlie Plybon** (Coastal Non-Fishing Recreation); **David Yamamoto** (North Coastal County Commissioner) [10/14]

Members Present (ex officio): **Caren Braby** (Oregon Department of Fish & Wildlife); **Laurel Hillmann** (OPRD); **Bryn Hudson** (representing the Office of the Governor); **Rian Hooff** (Department of Environmental Quality); **Patty Snow** (Department of Land Conservation & Development); **Kris Wall** (NOAA Office for Coastal Management), **Meliah Masiba** (Department of State Lands); **Shelby Walker** (Oregon Sea Grant) [8/11]

Staff: **Andy Lanier** (DLCD, OPAC Staff); **Lorinda DeHaan** (DLCD, OPAC Staff); **Steve Shipsey** (Department of Justice); **Dave Fox** (ODFW); **Deanna Caracciolo** (DLCD, OPAC Staff)

Absent Members: **Kevin Dunn** (North Coast Commercial Fisheries); **Jamie Fereday** (Coastal Public At-Large); **Bob Main** (South Coast County Commissioner); **Fred Postlewait** (Statewide Public-at-large)

Public Comment

Public Comment speakers (with affiliation if provided):

- **Tara Brock** (PEW Charitable Trust)
- **Joe Liebezeit** (Portland Audubon Society)
- **Fran Recht** (Pacific Fisheries Management Council)
- **Mark Nicholson** (Lincoln County Audubon Society)

Others in Attendance (with affiliation if provided): Jocelyn Enevoldsen, Mike Rust (NOAA Aquaculture Program); John Serra (Rep Schrader's Office); Stacy Jochinsen (Sen. Merkley's Office).

Acronyms and Initials:

DLCD-Department of Land Conservation and Development; DOGAMI- Oregon Department of Geology and Mineral Industries; DSL- Department of State Lands; OMD – Oregon Military Department; ODFW- Oregon Department of Fish and Wildlife; OPRD-Oregon Department of Parks and Recreation; DOJ – Department of Justice; FACT-Fishermen's Advisory Committee of Tillamook, WCGA – West Coast Governors Alliance; TNC – The Nature Conservancy; RPB – Regional Planning Body

Distributed Materials

1. OPAC December 7, 2018 - Draft Meeting Summary
2. Territorial Sea Plan Part Five
 - a. Department of Justice Correspondence with David Allen
 - b. 2019 Publication Version
 - c. 2018 Blackline Version – from Dec. 7, 2018 OPAC meeting
 - d. LCDC Transmittal Letter - from Dec. 7, 2018 OPAC meeting
3. Territorial Sea Plan Part Three
 - a. Phase 1 Redline Version
 - b. Phase 1 Public Comment Summary Document
 - c. OPAC Decision Items
 - d. Rulemaking – Housing Cost Impact Statement
 - e. Rulemaking – Statement of Fiscal Impact
4. Science and Technical Advisory Council Materials – Marine Reserves Evaluation
 - a. Evaluation Funding Scenarios
 - b. Supplemental Information to the Funding Scenarios
5. Draft OPAC Letters
 - a. Draft FY20 Federal Funding Support Letter
 - b. Draft marine Reserves Evaluation Letter

Additional Resources

1. OPAC Website: <http://www.oregonocean.info/opac>
2. [Department of Land Conservation and Development Website](http://www.oregon.gov/lcd/)
(<http://www.oregon.gov/lcd/>)

Meeting Videos will be posted online on <https://OregonOcean.Info> as soon as possible following the meeting. The majority of the Part Three agenda item was not recorded due to technical difficulties, and as a record of that portion of the meeting, a summary addendum is attached to this document.

For a copy of the video record of this meeting, please contact Andy Lanier at the contact information listed below, and complete a public records request available online at:

<https://www.oregon.gov/lcd/About/Pages/Public-Records-Requests.aspx>

Andy.Lanier@state.or.us (503) 934-0072

April 3, 2019 OPAC Meeting Addendum

Notes from the Part Three Agenda Item discussion. These notes are intended to serve as a record of the agenda item as the video recording for this session was incomplete.

TSP Part 3 Motion – The council recommends the draft amendment to the Territorial Sea Plan Part 3 to LCDC for review and adoption as part of the Oregon Coastal Management Program with changing the name from rocky shores to habitats, allowing all rocky habitat to be eligible for proposals, the agencies may propose site designations within rocky shores, acknowledge the definitions in early sections, retain footnote on page 3, and along with technical amendments.

Process started 2 years ago. Changes in leadership, working group, etc. Proud of the work done to date.
Phased timeline

Phase 1 draft doc review

Public comment summary

OPAC phase 1 decision

Rule-making document review

Phase 2 planning

Public Scoping – collect and review public comment and participation for inclusive text edits. 6 months
Phase 1 – text edits to 1994 A-F sections. Adoption.

Phase 2 – update the rocky shores natural resource inventory. Collect community-based proposals. Incorporate site designations. This will allow anyone to look at nearshore and know what we know about that area. Type of management, species that exist, etc. info needed to alter the designations. People can bring to OPAC deletions, additions, changes in status. All will come to OPAC and be considered for designations.

Phase 3 – review and incorporation of public comment and community-based proposals. Adoption.

About this draft – will not adopt the Appendices. It will be a pilot project. Need to be adaptive.
Appendices is essence of Phase 2.

Strategy maintenance outline allows this plan to be updated regularly
Rules and regulations overview

This does not include site-based management or designations recommendations, designation language, updated inventory, 1994 sections F&G will remain standing until Phase 2 work is completed (F site analysis and categories and G is designations)

The draft plan: purpose, objectives, key terms plan elements, policies, strategy maintenance. Appendices: community criterial, glossary and additional context setting. Phase 2 – site resources and uses review, community protocols and recommendations, digital atlas

Public Comment Summary (official public comment period Feb 23 – March 26 – received 693 comments):

- General Comments: protection against climate change, specify outreach, engagement and education principles, defer to precautionary approach where science is lacking.

- Specific comments: clarify terminology, remove limitations on proposals allow OPAC to judge all proposals based on merit, outline process for managing agencies to recommend site designation adds sub and changes.
- What is the scope of the changes? Strategy addresses all rocky habitats. Never been clear about where proposals can be allowed.

Tribal Comments

- Define “cultural resources” in Policy N (page 8). “resources vital to and/or the product of the perpetuation of traditional practices, ceremonies and lifeways”
- Clarifications on modern day
- Clarification of Oregon federally recognized tribes
- Softer language to indicate not all tribes have treaties or decrees listed (page 21)

This process is open until adopted by LCDC. We will be talking about policies brought to us today that we can consider as part of the public process. May 22 is public hearing in Newport and LCDC meeting on May 24 is last day for public comment.

The working group has not talked about these. Haven’t had a working group meeting since public comment period “closed”

- Changes from Shore to Habitats
- Community proposal site eligibility
 - Allow all rocky habitat (6 votes)
 - Allow rocky habitat between upland vegetation line down to -5 meter depth (3 votes) a giant leap from the original intent of Rocky shores habitat TSP at what point do we stop, how do we manage, are we endanger of taking. Originally this rocky shores was for shoreline areas and #1 is a huge expansion of that. Moving out to 3 miles and now we have lots of other activities beyond visitation. Don’t feel comfortable going out that far. They didn’t want to see access restricted. Could see an unintentional consequence as part of this.
 - Allow only rocky shoreline (intertidal) to be eligible
- Eligibility about how many proposals that would be

Shall OPAC consider substantive policy recommendations raised today and outside the public comment period?

1. Adopt/recommend on case-by-case
2. Adopt and recommend for phase 2
3. Re-open public record, extend Phase 1 and not make any recommendations at this time

ODFW wants to see a discussion on the comments today that were not reflected in previous public comment. We all appreciate public comment.

Management agencies MAY propose site designations within rocky shore as determined by the best available science. **Approved.**

Alter policy G and I to reflect precautionary principle to avoid, minimize, mitigate versus consider. From a policy perspective, consider is a weak word. Need to clarify the path and intent.

OPAC stated informal consensus 1 and 2 plus agencies “may” propose sites. Kick the rest back to the work group.



Oregon

Kate Brown, Governor

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Voting Members

Jena Carter, Chair
(Statewide Conservation Organization)

Walter Chuck, Jr., Vice Chair
(Ports, Marine Transportation or Navigation)

Susan Chambers
(South Coast Commercial Fisheries)

Kevin Dunn
(North Coast Commercial Fisheries)

Jamie Fereday
(Coastal Public Representative)

Meagan Flier
(Oregon Coastal Indian Tribes)

Loren Goddard
(Coastal City Elected Official)

Richard Heap, Jr.
(South Coast Charter, Sport or Recreational Fisheries)

John Holloway
(North Coast Charter, Sport or Recreational Fisheries)

Bob Main
(South Coastal County Commissioner)

Charlie Plybon
(Coastal Non-fishing Recreation)

Fred Postlewait, Jr.
(Statewide Public Representative)

David Yamamoto
(North Coastal County Commissioner)

Melissa Keyser
(Coastal Conservation Organization)

Ex-Officio Members

Brad Avy
Director, Department of Geology
And Mineral Industries

Caren Braby
Marine Resources Program Manager,
Department of Fish and Wildlife

Meliah Masiba
Sr. Policy Analyst, Department of
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Land Conservation and Development

Lisa Sumption
Director, Department of Parks and
Recreation

Shelby Walker
Director, Oregon Sea Grant College
Program

Vacant
Oregon Coastal Zone Management
Association

May 6, 2019

Oregon Land Conservation and Development Commission
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

LCDC Chair Jerry Lidz and Members of the Commission

We are sending this letter on behalf of the Ocean Policy Advisory Council (OPAC) to communicate the Territorial Sea Plan (TSP) recommendations made during the April 3, 2019 meeting of the Council. The OPAC recommendations are related to two parts of the TSP: 1) Part Three – the Rocky Shores Management Strategy; and 2) Part Five – the Marine Renewable Energy chapter. Both proposed amendments were approved after an extensive process and through a consensus vote of the Council, indicating broad support for the completion of the proposed amendments to the TSP. Each recommendation is succinctly summarized below for your reference.

TSP Part Three – Rocky Shores Management Strategy

On December 3, 2015, OPAC recommended that Part Three be reviewed and updated. That recommendation led to the LCDC initiating the rulemaking amendment process (March 2016 Gold Beach meeting). Since then, agency staff and OPAC, through the Rocky Shores Working Group, have worked diligently to conduct a public scoping process, the acquisition of resources, and the drafting of new language to replace sections A-E of the original Part Three chapter. The Council is satisfied with the Part Three amendments (Attachment A) and forwards them to you for consideration. Future work on Part Three includes the compilation of a rocky habitat resource inventory and a public community-based proposal process, which OPAC will help to oversee and we will bring any resulting amendments to the LCDC.

TSP Part Five – Marine Renewable Energy

The Council, in response to the December 5, 2018 LCDC letter specifying revisions to Part Five, is forwarding to you a recommendation on the amendments to Part Five. The Council agrees with the LCDC specified revisions to Part Five, and agrees with the additional optional change to move cables from the Proprietary Use and Management Area designation to the Renewable Energy Exclusion Area designation.

Thank you,

Chair Jena Carter and Vice-Chair Walter Chuck
The Ocean Policy Advisory Council