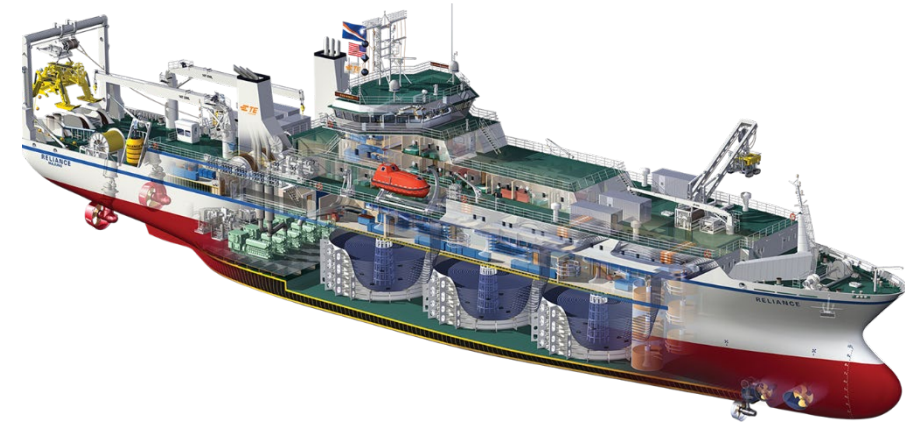
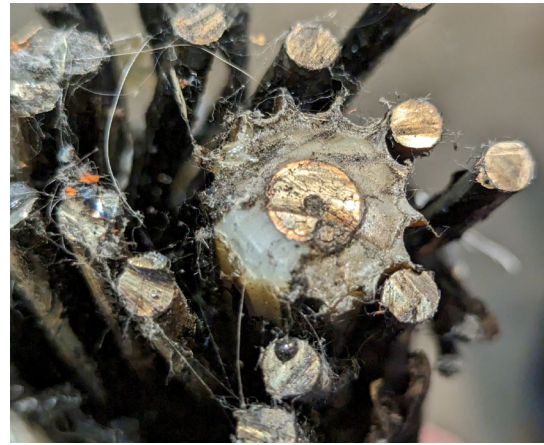


Territorial Sea Plan Part Four: Uses of the Seafloor

LCDC Public Hearing & Rulemaking



OCMP



DLCD



11.3.2023

Andy Lanier

Marine Affairs Coordinator

Oregon Coastal Management Program

TSP4 Uses of the Seafloor Public Hearing & Rule Adoption

1. Ocean Policy Advisory Council (OPAC) Leadership Introductions and Transmittal of Recommendations
2. Staff Briefing on the Draft Recommendations
 - a) The OPAC Process of Getting to Recommendations
 - b) Proposed Rule Amendment
3. Public Comment
4. Commission Deliberation & Potential Adoption



Invited Guests: OPAC Leadership

- Chair, Susan Chambers (below)
- Vice-Chair, Tara Brock (right)



OPAC Transmittal Letter October 16, 2023



Oregon

Tina Kotek, Governor

Ocean Policy Advisory Council
635 Capitol Street NE, Suite 150
Salem, Oregon 97301-2540
Phone: 503-373-0050
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www.oregon.gov/LCD



Voting Members

*Tara Brook, Vice Chair
Ocena
(Coastal Conservation Organization)*

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

*Susan Chambers, Chair
West Coast Seafood Processors Assoc.
(South Coast Commercial Fisheries)*

*Jamie Fereday
(Coastal Public Representative)*

*Margaret Corvi
Confederated Tribes of Coos, Lower
Umpqua and Siuslaw Indians
(Oregon Coastal Indian Tribes)*

*Fran Recht
(Coastal City Elected Official)*

*Joe Liebezit
(Statewide Conservation Organization)*

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

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

*Bob Main
Commissioner, Coos County
(South Coastal County Commissioner)*

*Charlie Flynn
Surfrider
(Coastal Non-fishing Recreation)*

*Peggy Joyce
(Statewide Public Representative)*

*David Yamamoto
Commissioner, Tillamook County
(North Coastal County Commissioner)*

Ex-Officio Members

*Jonathan Allan
Department of Geology
And Mineral Industries*

*Scott Groth
Department of Fish and Wildlife*

*Alexis Taylor
Market Access & Certification Director,
Department of Agriculture*

*Ray Monroe
Oregon Coastal Zone Management
Association*

*Karin Power
Natural Resources and Climate Policy
Advisor
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*Blake Helm
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*Rian Vandenhoff
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*Lisa Phipps
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Land Conservation and Development*

*Lisa Sumption
Director, Department of Parks and
Recreation*

*Karina Nielsen
Director, Oregon Sea Grant College
Program*

*Kris Wall
Federal Agency Liaison, NOAA OCM*

October 16, 2023

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

LCDC Chair Hallová and Members of the Commission:

On behalf of the Ocean Policy Advisory Council (OPAC), we transmit the Territorial Sea Plan (TSP) recommendations made during the September 8, 2023, meeting of the Council. Our recommendations are related to OPAC's work in completion of the amendments to TSP Part Four – Uses of the Seafloor.

Background: TSP Part Four – Uses of the Seafloor

Oregon's coast is a prime landing zone for fiber-optic telecommunication cables that cross the ocean floor from sites around the Pacific Rim. Other types of utilities such as ocean outfall pipes also make use of the seafloor. In the future, utilities such as pipelines and power transmission cables from renewable energy facilities, may eventually be routed across the seafloor of the state territorial sea. Proper placement of easements and installation of infrastructure is required to avoid damage to or conflict with other ocean uses and to avoid, minimize, and mitigate adverse effects on natural resources, marine habitats, and coastal communities.

LCDC originally adopted Part Four of the Territorial Sea Plan on December 1, 2000, based on a January 28, 2000, recommendation from OPAC. In May 2022, OPAC convened the TSP Part Four Workgroup, as mandated by 2021 House Bill 2603, to review and draft amendments to this chapter of the Plan. Over the course of 10 meetings, Workgroup members discussed the current regulatory framework, considered the needs of industries that might make use of the seafloor, and identified processes for addressing impacts to state resources and other ocean users. The Workgroup strove for and reached consensus on the draft amendments it forwarded on to OPAC.

OPAC Recommendations:

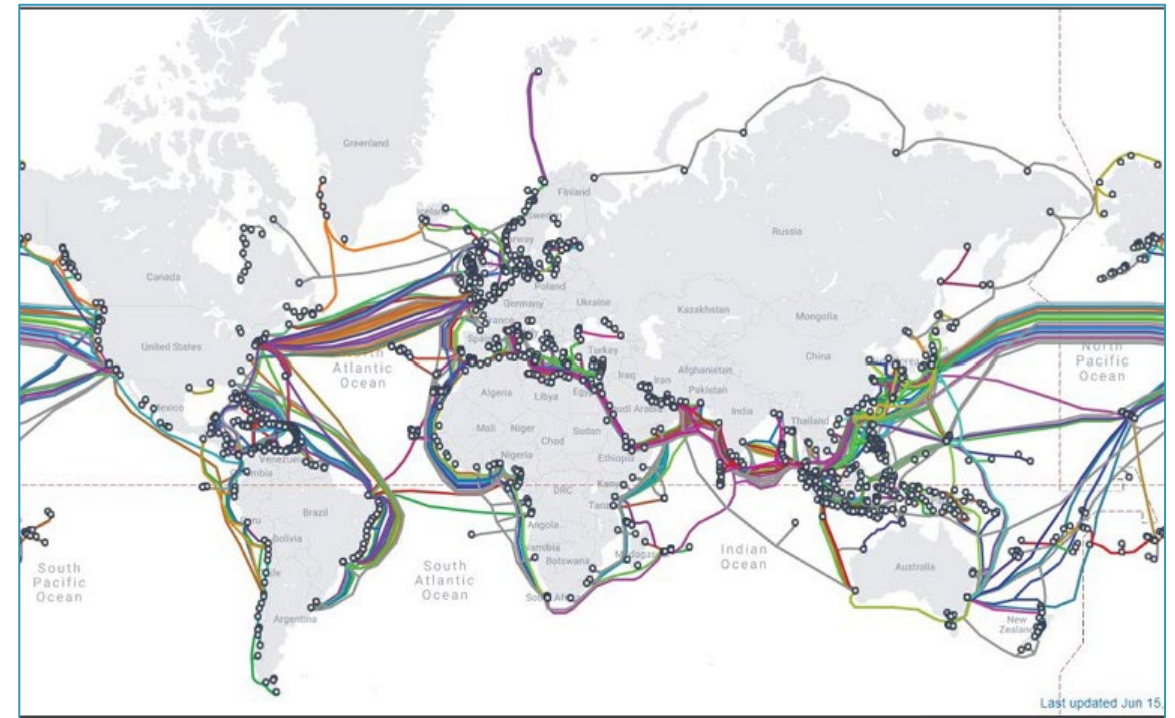
The Council deliberated and acted to recommend amendments to TSP Part Four based on recommendations from the Workgroup at their September 2023 meeting. The proposed amendments provide a strategic framework for the decision-making, partnerships, and collaborative process for permitting undersea infrastructure on, affixed to, or buried under the seafloor in the state territorial sea. The framework aims to maintain the long-term protection of marine ecosystems, preservation of their ecological functions, economic and social services, and, at the same time, protection of infrastructure on, affixed to, or buried under the seafloor in the state territorial sea from potential threats to preserve the services such infrastructure provides Oregonians.

To ensure better coordination and communication among state agencies early in project planning, OPAC recommends implementing a Joint Agency Review Team that would work with applicants and interested and affected communities to review proposed projects and provide input on applications for uses of the seafloor.

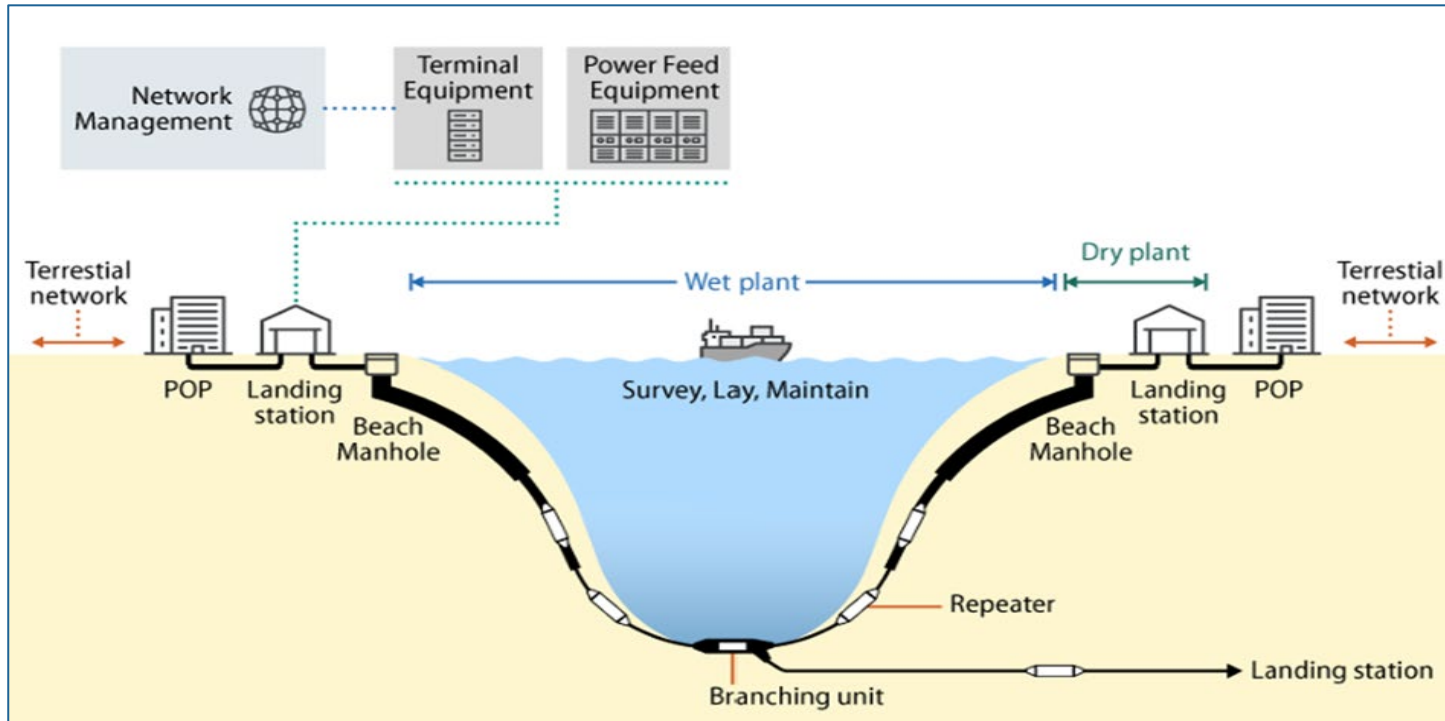
Background on Undersea Cables, Pipelines, and Utilities in Oregon's Territorial Sea

- Telecommunications cables are a worldwide infrastructure use.
- Over 95% of international data is transferred via cables on the seafloor, with more than 500 undersea cables installed.

Undersea Cables in Oregon's Territorial Sea



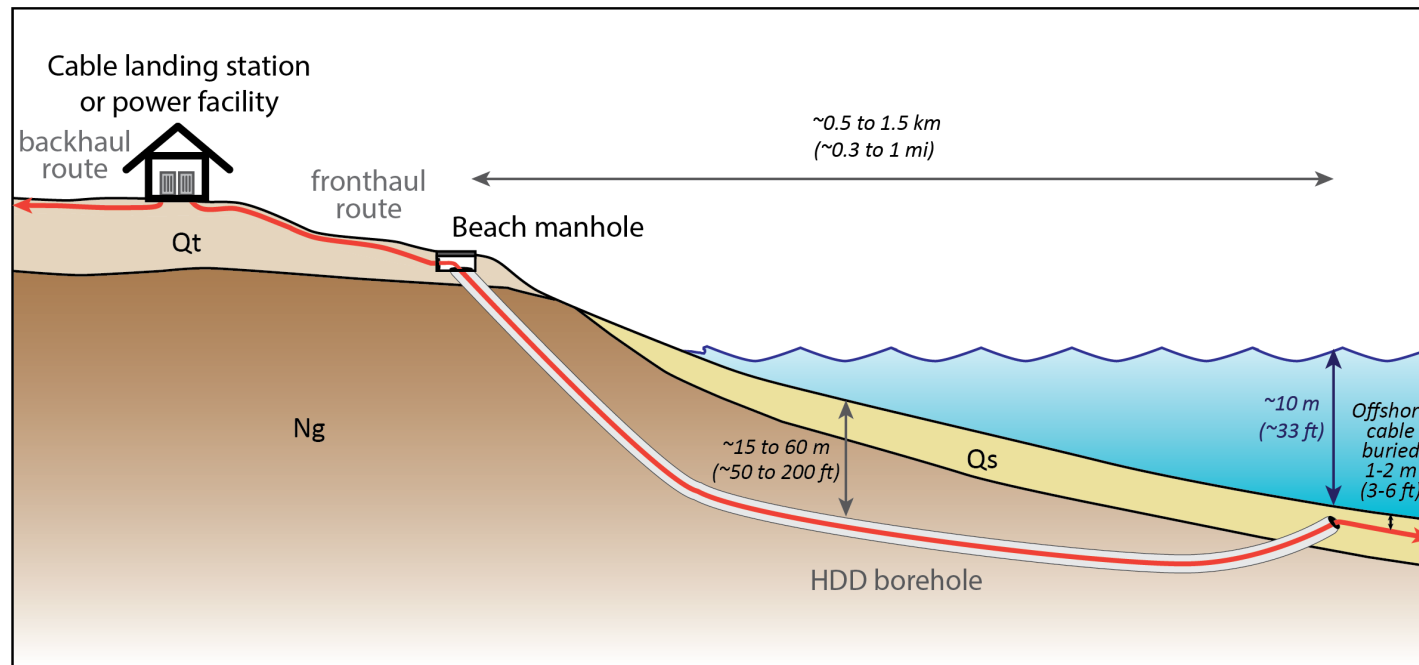
Global Map of In-Service Undersea Fiber Optic Cable Systems, Source: Telegeography, Submarine Cable Map, 2022, <https://www.submarinecablemap.com>



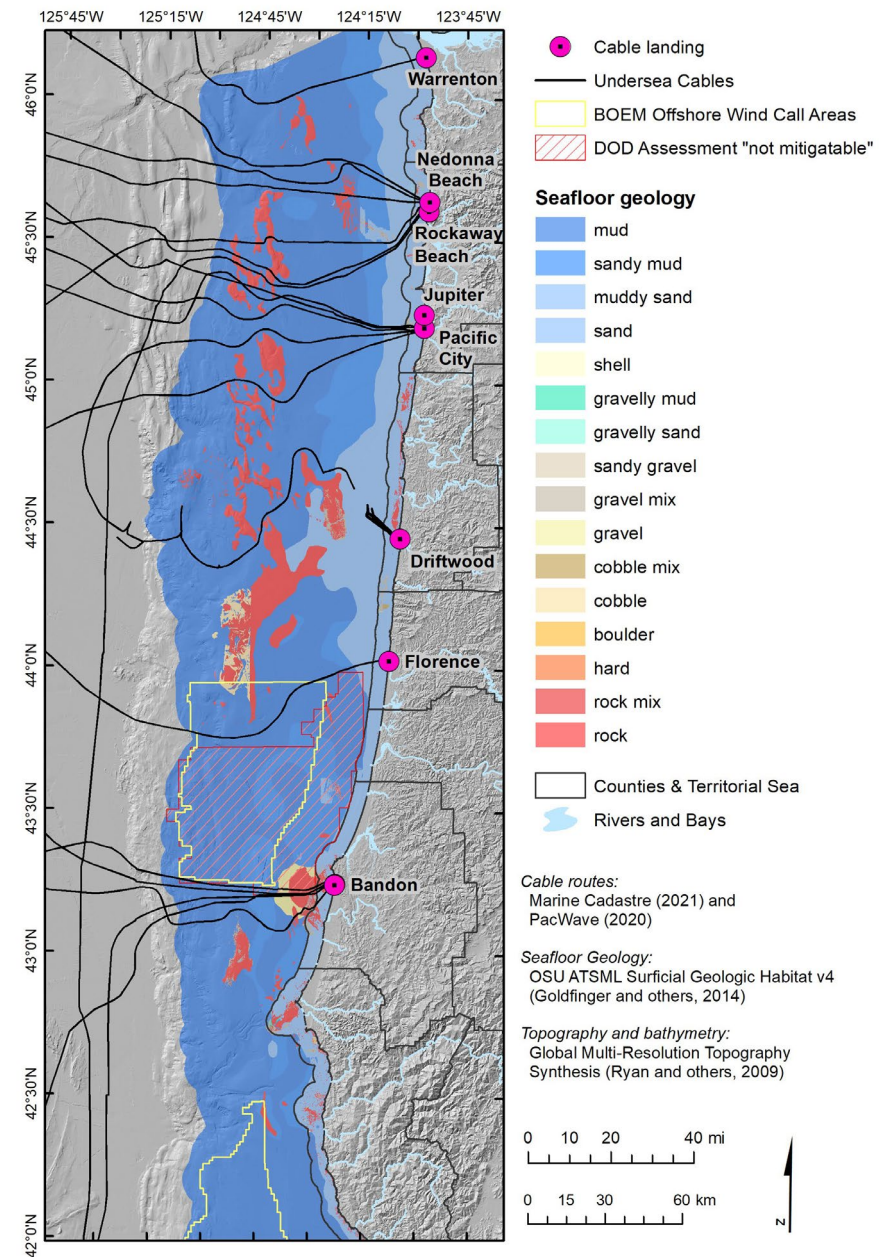
Generalized Undersea Cable Crossing Schematic

Illustration of an Undersea Fiber Optic Cable System Source: Congressional Research Service (CRS), <https://crsreports.congress.gov/product/pdf/R/R47237>

Challenges for the Siting of Undersea Cables



Map and illustration of an undersea fiber Optic cable crossings of the outer continental shelf and ocean shore. DOGAMI Cable Landing Report (2023).



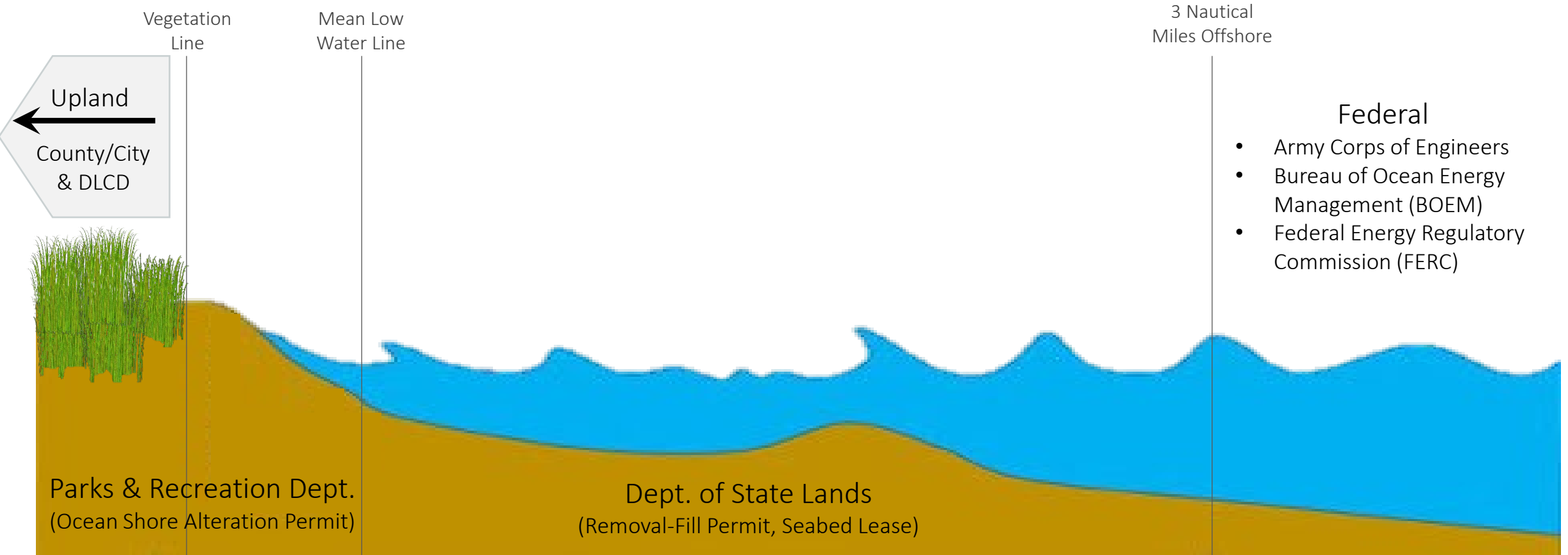


House Bill 2603 DLCD and DSL Legislative Directive

Undersea Cables in
Oregon's Territorial Sea

- DLCD, in consultation with Department of State Lands (DSL) and relevant local and tribal governments shall review Part Four of the Territorial Sea Plan. The review must consider:
 - Fee structures
 - State and Federal review processes (including required permits)
 - DLCD shall provide the study results to the Ocean Policy Advisory Council
- OPAC was directed to make recommendations for amendment of Part Four of the TSP by September 2023.

Regulatory Overview: Subsea Cables



Coastal Zone: Dept. of Land Conservation & Development - OR Coastal Management Program (Federal Consistency Review)
Statewide: Dept. of Environmental Quality (401 Water Quality Certification)
Dept. of Fish & Wildlife (Fishery closures/exclusion; Consultation; Scientific and Incidental Take Permits)

Permitting Overview: Subsea Cables

LOCAL

- Determined based on local policies. May include:
 - Conditional Use Permit
 - Floodplain Development Permit
 - Development Permit

STATE

- Federal Consistency Review (DLCD-OCMP)
- Section 401 Water Quality Certification (DEQ)
- Proprietary Easement/Lease (DSL)
- Removal-Fill Authorization (DSL)
- Ocean Shore Alteration Permit (OPRD)
- Potential Fish and Wildlife Authorization(s) (ODFW)

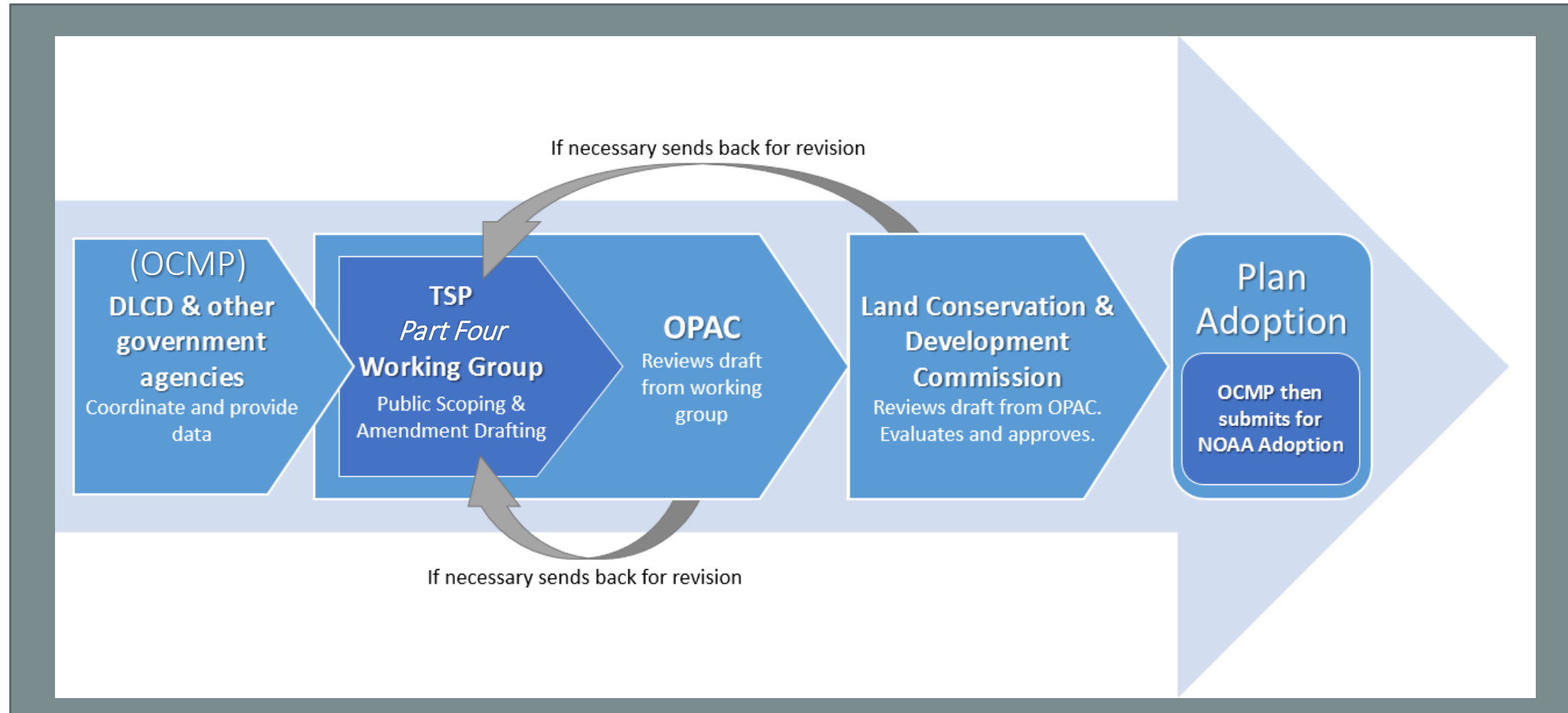
FEDERAL

- Nationwide #12 Permit or Standard Individual 404 Permit (USACE)
- Other project-based authorizations may involve -
 - Bureau of Ocean Energy Management (BOEM)
 - Federal Energy Regulatory Commission (FERC)
 - U.S. Coast Guard

Involved State Agencies



The Update Process



Working Group Composition

Stakeholders

Fishing Industry
Coastal Residents
Conservation
Cable Industry
(Telecommunications,
Power, Cable
Infrastructure)
Coastal research
Public-at-large

State Agencies

DLCD
ODFW
DSL
OPRD
DEQ
DOGAMI
ODOE

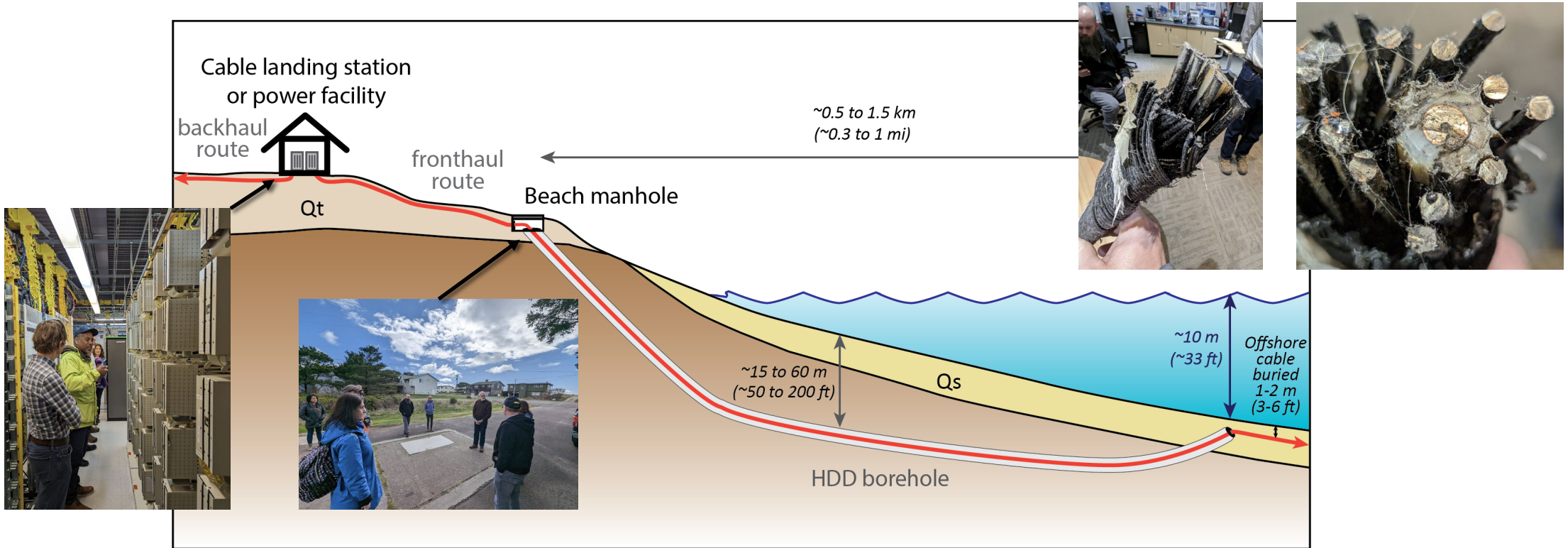
Governments

Local Government
Tribal
Governments
(consultation)

Federal Agencies

NOAA





Working Group Activities:

- 10 Meetings (May 2022-July 2023)
- 2 Studies Reviewed
- 1 Field Trip
- 1 TSP Part Four Draft Recommendation

Topics covered include, but are not limited to:

- Siting cable landing sites and coordinating the offshore design with the onshore design requirements of a project
- Offshore route selection and engineering
- Onshore landing site construction methods
- Offshore cable installation methods
- The data that goes into the above points
- Stakeholder and other marine user interactions and coordination
- Cable maintenance and repair activities
- Cable decommissioning and removal
- Geomorphology of seabed routing and coastal landing sites
- Common risks to the planning, development and construction of cables

The report will not only cover best practices, but will explain the rationale for the best practices - *why do people do what they do when it comes to cables?*

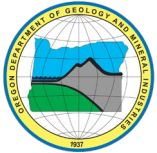


Dedicated fiber optic cable installation vessel (source: submarinenetworks.com)



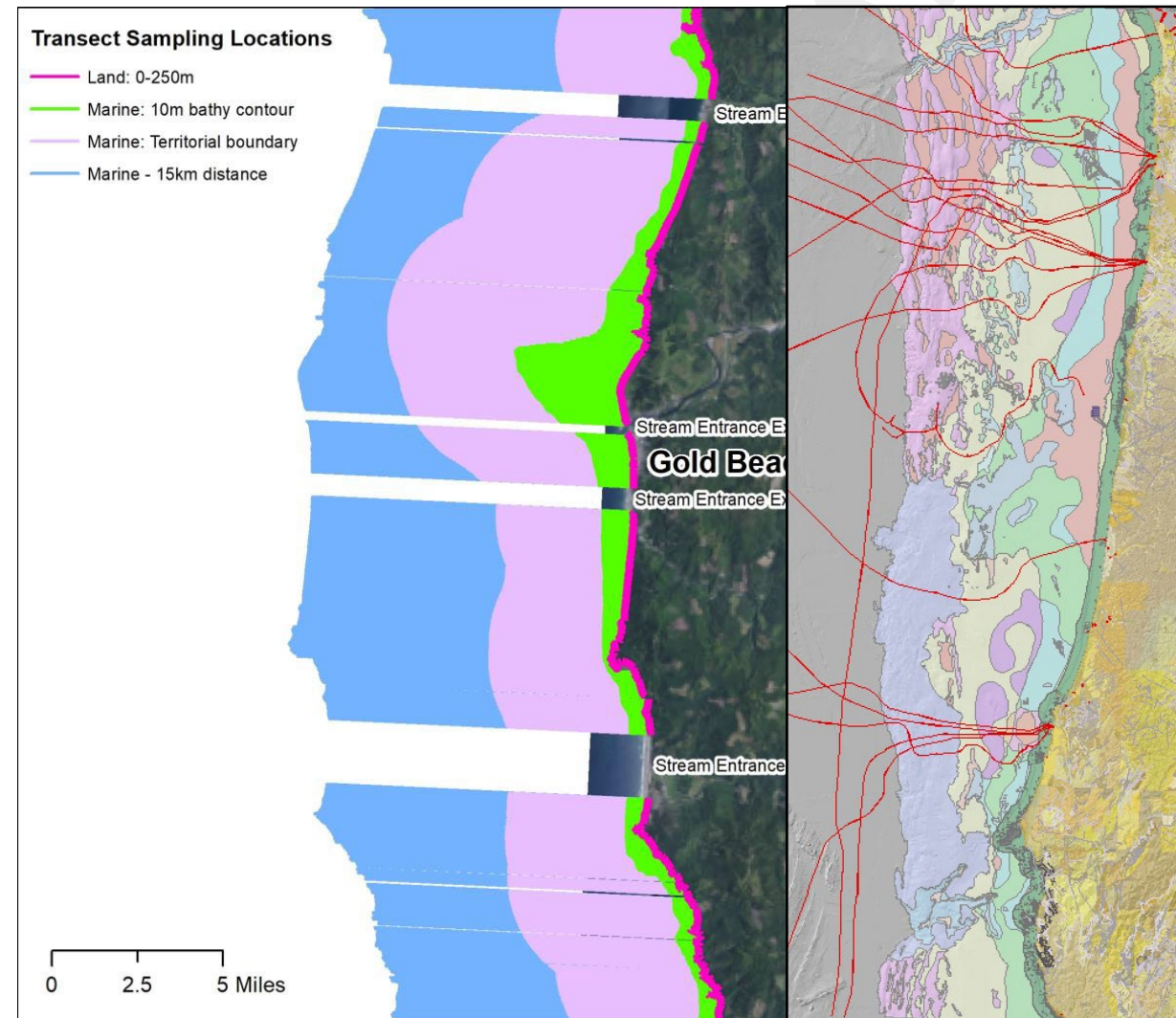
Fiber optic cable plow (source: submarinenetworks.com)

Geologic Assessment of Potential Cable Landing Sites Along the Oregon Coast



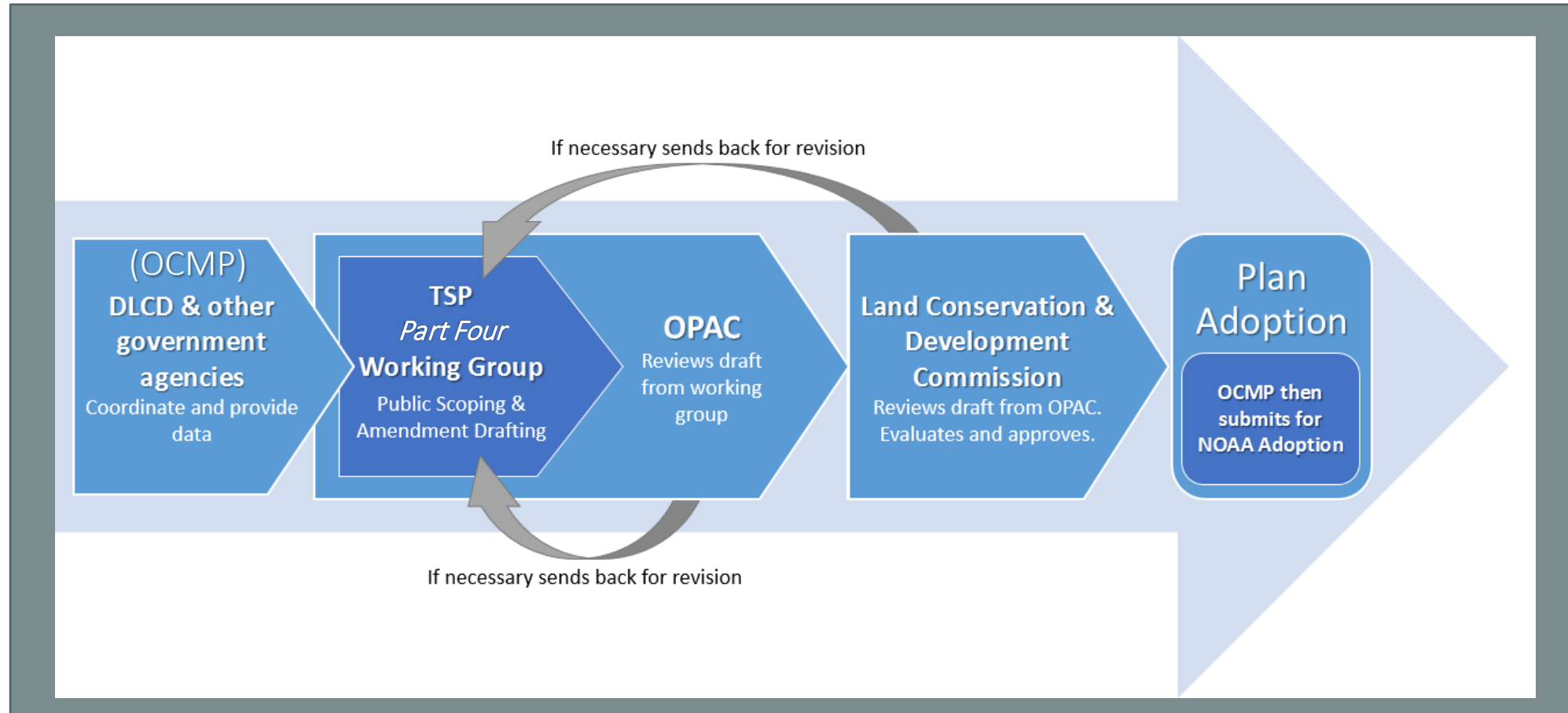
Department of Geology & Mineral Industries

- Review of geologic factors affecting construction of cable landings and challenges for cable longevity
- Compilation of best available geologic data in the Oregon territorial sea and an equivalent distance inland
- Compilation of existing and new datasets assessing susceptibility to sea level rise and future coastline migration
- Systematic analysis of the relative suitability of the Oregon coast for construction of cable landings, with a focus on geologic factors
- Suitability analysis highlights promising areas along all sections of the Oregon coast, but detailed site studies are needed for successful projects



DOGAMI GIS database now available

The Update Process



The OPAC adopted amendments to TSP Part Four: Uses of the Seafloor

Includes:

A reworking of sections initially included in Part Four.

The addition of several new sections:

- Required formation of a Joint Agency Review Team (JART)
- Considering undersea cables, pipelines, and other utilities as part of critical infrastructure
- Submission of a Resource and Use Inventory and Effects Evaluation – required of applicants
- Decommissioning requirements

TSP Part Four Draft Amendment

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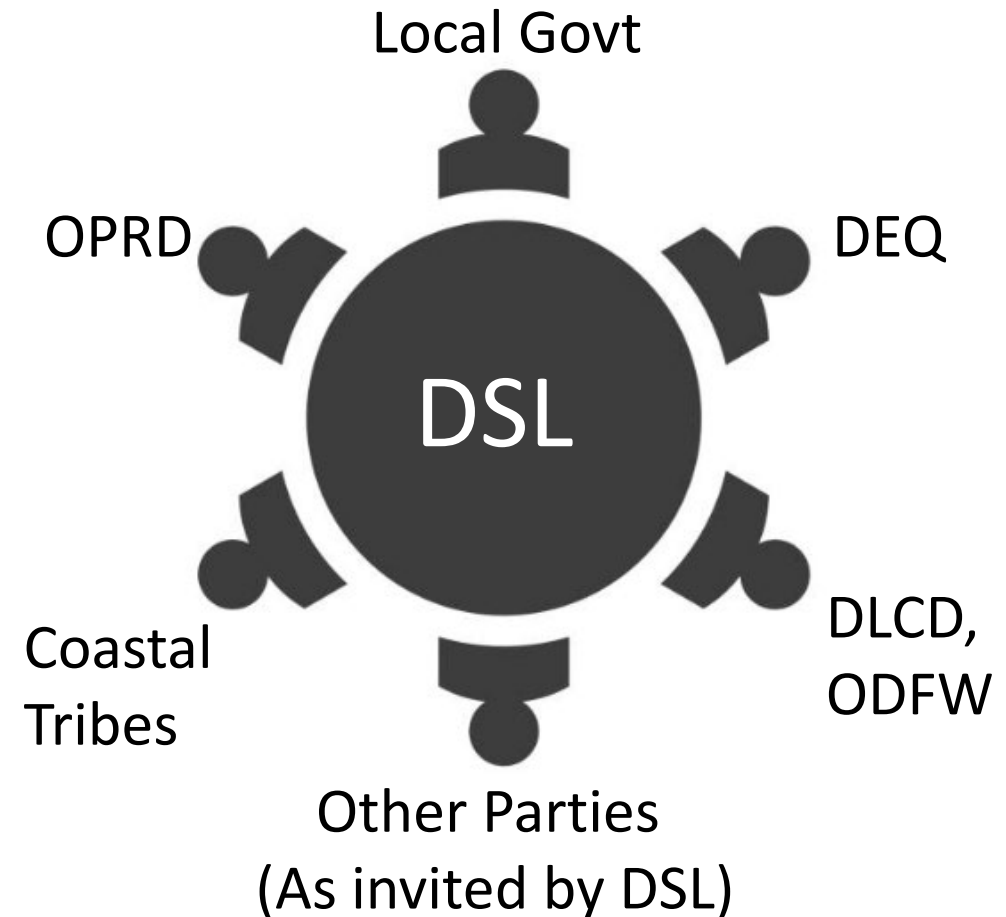
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A Coordinated Process via the JART

The JART will be convened and led by the DSL.

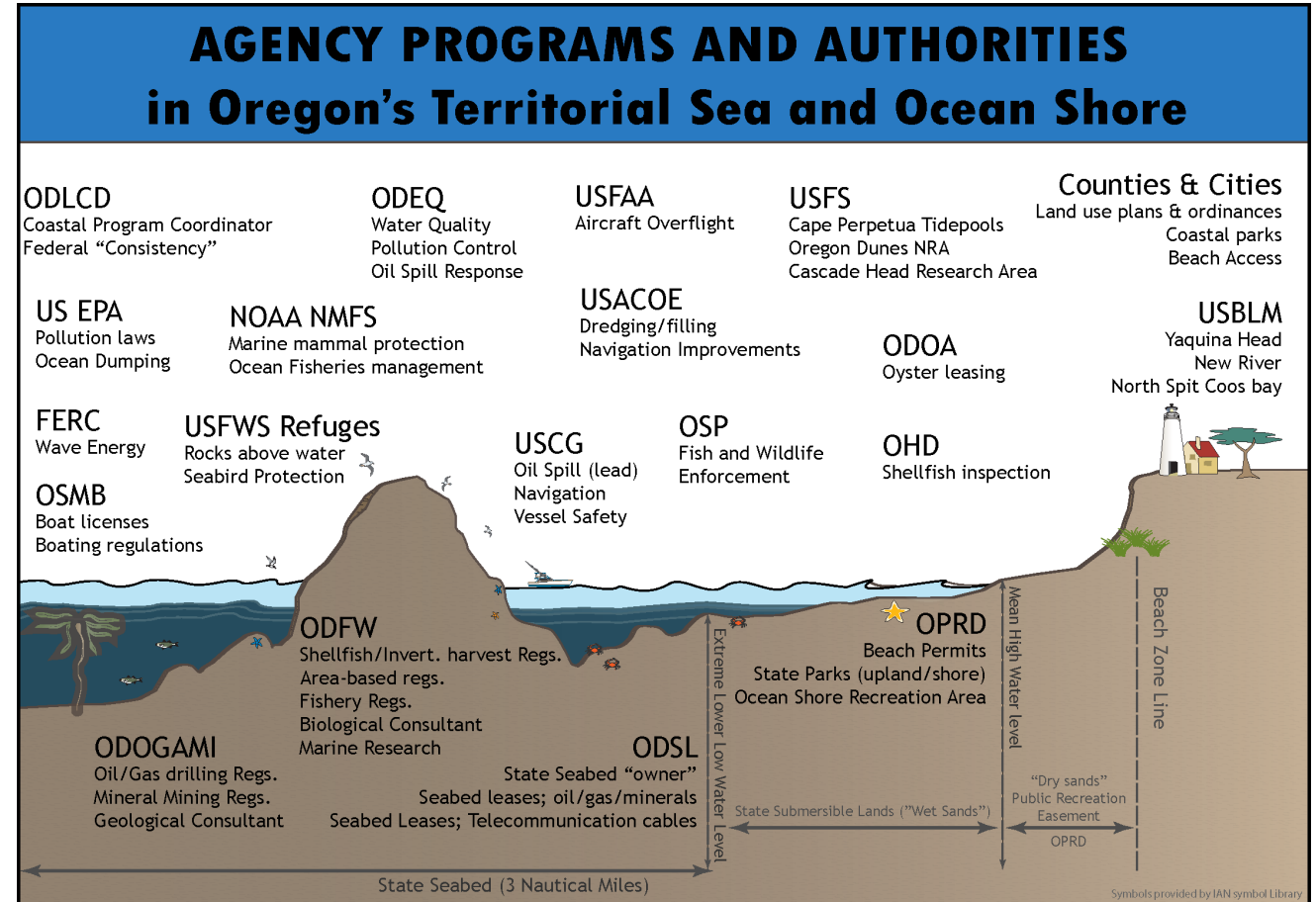
It will be made up of representatives from State and federal agencies as well as representatives of local jurisdictions, Coastal Tribes, and other parties as identified by DSL.

The JART works with applicants to ensure proposed projects are sited appropriately and constructed in a way which minimizes or mitigates conflict with other ocean users and damage to natural resources.



Inventory and Effects Evaluation Requirement

- To provide regulating agencies the data and information necessary for decision making
- Required data and information will inform:
 - the scope, likelihood, and significance of potential effects to coastal resources and uses.
 - ranges from logistics to the project's construction, to effects on natural, cultural, and economic resources



Decommissioning

- Is required for all proposed development actions within Oregon's Territorial Sea
- Requires the owner or operator to submit a decommissioning plan to DSL for approval
- In cases where removal is more environmentally damaging than leaving it in place, the applicant must demonstrate that fact and is required to secure an encroachment easement from DSL, allowing it to remain in place.

Geographic Hearing

Public Hearing in Newport, OR on October 23, 2023

- 1 comment regarding coastal community concerns as detailed in the Hearing's Officer Staff Report to LCDC – Attachment F



Public Comment

Oregon Coast Alliance, Oct 26, 2023

Oregon Shores Conservation Coalition, Oct 30, 2023

Lynnae Ruttledge, coastal resident, Nov 1, 2023

Evelyn Nelson, coastal resident, Nov 1, 2023

Public Comment

Public Comment

Themes of comment:

Thanks - for the good work which will provide significant improvements to the coordinated review of proposed uses of the seafloor.

Issues of concern remain, including:

- Territorial Sea / onshore requirements and comprehensive review of cable routing & suitable landing sites
 - Requirement of need - Territorial sea capacity – for new routes/easements
 - Fee structure, financing, & bonding requirements for seafloor infrastructure
 - Penalties for occupation of state land if infrastructure is left in place
 - Part 1, F (1)(b) – Plan implementation requirements need to be updated to reflect the revisions to Part 4.
-



Questions?