

# Oregon Ocean Policy Advisory Council

Meeting Summary – April 9, 2012

Best Western Agate Beach Inn

3019 N. Coast Highway

Newport, OR 97365

## Issues Decided/Positions Taken

- The Draft Meeting Summary of the Dec 16, 2011 Ocean Policy Advisory Council (OPAC) was approved by consensus, without edits.
- OPAC approved by consensus that federal approval of a spatial plan for TSP Part Five was important, both from the NOAA Office of Coastal Resource Management as well as the Federal Energy Regulatory Commission.
- OPAC approved by consensus a suite of general recommendations and follow-up tasks that the Territorial Sea Plan Advisory Committee (TSPAC) will need to address when considering the amendment of the Territorial Sea Plan for Marine Renewable Energy. Those tasks are listed in Appendix 1 of this document (flipchart notes that were produced by the OPAC facilitator, Jane Barth). Briefly listed below, they include:
  - OPAC supports the basic framework of 4 zones and 2 overlays as recommended from the Territorial Sea Plan Working Group (TSPWG) and drafted by agency staff and presented at the meeting (See draft comprehensive plan PPT).
  - OPAC supports the basic objectives of each zone and overlay as drafted and presented, given a number of additional considerations.
  - OPAC recommended that a suite of definitions be compiled in a user friendly manner (eg, a glossary) to clarify the resource inventory descriptions of the zones.
  - OPAC approved by consensus the use of the methods for Visual Impact Assessment Analysis presented by the Oregon Parks and Recreation Department Staff.
  - OPAC supports the proposed local government/community outreach process. OPAC recommends this process integrate county and city zoning data, where available.
  - OPAC asserts the following issues must be addressed as the TSP process proceeds: (Fisheries data, Ocean Recreation details, STAC's recommendations, Part 5 language). Recommendations below were specific to those issue areas.
    - OPAC supports and encourages groups who have data work with TSPAC/OPAC to bring that data into the TSP process.
    - OPAC recommends TSPAC create a subcommittee to work on fisheries data, both in terms of validity and policy decisions aspects.
    - OPAC recommends that STAC's recommendations on data, e.g. trawl data and Marxan, be addressed.

- The details of the Ocean Recreation Area, specifically size, must be worked out. In addition a definition for ocean recreation “hot spots” must be specified.
- OPAC recommends TSP Part 5 language be looked at and possibly revised for:
  - Aesthetic resources inventory content if not sufficiently addressed by overlay
  - Recreational resources inventory content if not sufficiently addressed by overlay
  - JART process – what stakeholder groups to be involved and participation requirement
  - Timeline for making DSL permit decisions
  - Phased development (page 10)
  - Test site language now that some sites might get connected to the grid (p.14)
  - Add to the “see attached maps” language: zone definitions etc. from framework
  - Incorporation of standards and criteria once developed
- OPAC recommends all policies be set such that updating of data is allowed without influencing policy decisions, thus requiring re-approval by NOAA.

### **Presentations**

- Dr. Stephen Brandt (STAC Chair) presented the STAC report of the Oregon Marine Data Layer Review process to the Council
- Kaety Hildenbrand and Onno Husing presented the recent work of the Northwest National Marine Renewable Energy Center and Local Government Outreach efforts respectively.
- David Allen presented to OPAC the recent work of the Territorial Sea Plan Working Group, as a completed package of work for OPAC to use in the generation of a recommendation.
- Agency Staff (Andy Lanier (DLCD), Laurel Hillmann (OPRD)) gave a presentation to the Council on the Draft Comprehensive Plan Framework and Visual Assessment Inventory and Analysis Framework.

### **OPAC Members Attendance**

Members Present (voting): **Scott McMullen** (North Coast Commercial Fisheries, OPAC Chair); **David Allen** (Public at Large, OPAC vice-chair); **Jim Bergeron** (Ports, Marine Transportation, Navigation); **Jim Pex** (South Coast Charter, Sport or Recreational Fisheries); **Paul Engelmeyer** (Statewide Conservation or Environmental Organization); **Robin Hartmann** (Coastal Conservation or Environmental Organization); **Brad Pettinger** (South Coast Commercial Fisheries); **Fred Sickler** (Coastal Non-Fishing Recreation); **Terry Thompson** (North Coastal County Commissioner); **Frank Warrens** (North Coast Charter, Sport or Recreational Fisheries). [10/14]

Members Present (ex officio): **Richard Whitman** (Office of the Governor); **Caren Braby** (Oregon Department of Fish & Wildlife); **Onno Husing** (Oregon Coastal Zone Management Association); **Patty Snow** (Department of Land Conservation & Development); **Stephen Brandt** (Oregon Sea Grant); **Chris Castelli** (Department of State Lands); **Laurel Hillmann** (OPRD). **Kris Wall** (NOAA Office of Coastal Resource Management); **Aaron Borisenko** (DEQ) [9/10]

Members Absent;; **Jack Brown** (Coastal City Official); **Robert Kentta** (Oregon Coastal Indian Tribes); **Dalton Hobbs** (Dept of Agriculture); **Vicki McConnell** (DOGAMI); **Susan Morgan** (South Coastal County Commissioner); [5]

Staff: **Jane Barth** (OPAC Facilitator); **Lorinda DeHaan** (DLCD); **Todd Hallenbeck** (WCGA Fellow); **Paul Klarin** (DLCD); **Andy Lanier** (DLCD, OPAC Staff); **Tony Stein** (OPRD); **Steve Shipsey** (DOJ).

### **Public Comment and Attendance**

Public Comment speakers (with affiliation if provided): **Rick Williams** (SAIC); **Loren Goddard** (Depoe Bay NSAT); **Laura Anderson** (FISHCRED); **Jason Busch** (Oregon Wave Energy Trust); **Stephanie Webb** (POORT); **David Yamamoto** (Pacific City, TSPAC); **Peg Regan** (Conservation Leaders Network); **John Schaad** (BPA);

Others in Attendance (with affiliation if provided):

**Gus Gates** (Surfrider); **Emily Johnson** (Surfrider); **Charlie Plybon** (Surfrider); **Dan Twitchell**; **Dave Lacey**; **Laura Schmidt** (Our Ocean); **Larry Nixon** (Yachats Citizen); **Marissa Duncan**; **Rob Duboc**; **Kaety Hildenbrand** (OR SeaGrant); **Linda Anderson** (Our Ocean); **Peter Huhtala** (Clatsop County); **Abigail Deyoung** (Siuslaw SWCD); **John Schaad** (BPA); **Randy Clark** (USCG); **Patrick Tempel**; **Tim Hush**; **William Vogt** (OMD); **Heather Reiff** (COMPASS); **Joe Tyburczy** (PISCO); **Jenna Borberg** (Oregon SeaGrant); **Dick Vanderschaaf** (TNC); **Jena Carter** (TNC); **Shirley Kalkhoven**; **Susan Allan** (Our Ocean); **Len Bergstein** (Ocean Power Technologies).

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; CRCFA- Columbia River Crab Fisherman Association; FACT-Fishermen’s Advisory Committee of Tillamook, TSPWG – Territorial Sea Plan Working Group (an OPAC Subcommittee), NNMREC – Northwest National Marine Renewable Energy Center; PEV- Pacific Energy Ventures; WCGA – West Coast Governors Alliance; BPA- Bonneville Power Administration; USCG- United State Coast Guard; TNC – The Nature Conservancy;

### **Distributed Materials**

1. Draft Agenda
2. OPAC December 16, 2011 - Draft Meeting Summary
3. TSPWG Report to OPAC from David Allen
4. Draft Scenic Resource Evaluation and Visual Effects Analysis Criteria for OPAC Consideration
5. Public Comments Executive Summary as of March 16, 2012
6. NOAA OCRM Summary Guidance for Oregon’s Territorial Sea Plan
7. FERC Comprehensive Plan Guidance Language

8. Draft Comprehensive Plan produced by Agency Staff in Preparation for OPAC.

**Additional Resources**

1. [Oregon MarineMap](#)
2. [Http://www.OregonOcean.info](http://www.OregonOcean.info)

**Video Index**

<i>Item</i>	<i>Disc #,</i>
Welcome and Introductions	1
Review and Approval of Draft Meeting Summary (Dist 1.)	1
Update from the Governor’s office (15 minutes) – <i>Richard Whitman</i>	1
STAC report (30 minutes) – Stephen Brandt (STAC Chair) will report on the STAC Review of Oregon Marine Planning Data	1
Update on the local government and NNMREC outreach (15 minutes) – <i>Kaety Hildenbrand</i> and <i>Onno Husing</i> will provide an update on outreach to local communities.	1
Territorial Sea Planning Process Update (30 minutes) – <i>David Allen</i> (TSPWG Chair) and <i>Jane Barth</i> (Facilitator) will provide an update on the Territorial Sea Plan Working Group progress.	2
Break	2
Territorial Sea Plan Amendment Process (75 minutes) – <i>Jane Barth</i> (Facilitator) will help guide OPAC discussion. Andy Lanier provided a presentation on work completed following the last TSPWG meeting in the creation of a preliminary Draft Plan	2
**Working Lunch** Presentation by OPRD staff on work, and assessment of visual impacts.	3
Public Comment (30 minutes) – <i>Scott McMullen</i> (OPAC Chair). Please note there is limited time, thus written comment submitted online or at the meeting is encouraged.	3
Territorial Sea Plan Amendment Process (cont. review and OPAC discussion) – <i>Jane Barth</i> (Facilitator)	4

*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:*

[http://www.oregon.gov/LCD/docs/publications/DO\\_110.02\\_PublicAccessstoDLCDRecords\\_RequestForm.pdf](http://www.oregon.gov/LCD/docs/publications/DO_110.02_PublicAccessstoDLCDRecords_RequestForm.pdf)

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**Appendix 1.**  
**OPAC April 9, 2012**  
Flipchart notes – Jane Barth

I. The group agreed by consensus:

1. OPAC supports the basic framework of 4 zones and 2 overlays as drafted by staff and presented at this meeting.
  - Marine Renewable Energy Exclusion Area
  - Marine Conservation Area
  - Marine Resource Use Management Area
  - Marine Resource Development Area
  - Visual Impact Assessment Analysis Overlay
  - Marine Recreation Conservation Area Overlay
  
2. OPAC supports basic objectives of each zone and overlay as drafted and presented. They recommend the following edits and further consideration of terms:
  - Consider removing the term “Conservation” from the Ocean Recreation Conservation Area overlay label to avoid confusion with Marine Conservation Area label.
  - Use objective for Exclusion area as is for now, but allow for flexibility to add in future using the 2<sup>nd</sup> way NOAA allows for exclusions
  - Remove the terms “existing” and “identified;” instead use the terminology “under Goal 19” (see Marine Conservation Area language for template)
  - On Marine Conservation Area Resource Inventory Layers list, make Ocean Recreation bullet say Ocean Recreation Hotspots
  - On Marine Resource Use Management Area Resource Inventory Layers list, add Ocean Recreation Inventory bullet
  - Instead of “no impacts” in Marine Conservation area on overall framework slide, use “no adverse impacts” language that is on later page on just this area.
  - Reconsider inclusion of the term “users.” Some members felt it was important and appropriate; others recommended it be removed.
  - Consider moving the human influence factors, like ocean recreation, to top of list of inventory layers to avoid it looking like these come up last in our priorities.
  
3. OPAC recommends that definitions, e.g. subtidal rocky reef, be set out in a visible, easily accessible format. Definitions used in the framework and data layers exist, but they need to be communicated better, perhaps in a glossary.
  
4. OPAC recommends Oregon Parks and Recreation Department proceed to implement the Visual Impact Assessment Analysis methodology presented at this meeting.
  - OPAC members should get their input on the methodology to Laurel Hillman by the end of April so implementation can start in May.
  - Visual impact assessment work by OPRD, SeaGrant/NNMRC, and local governments/communities should be coordinated so they are consistent to the extent possible.
  - A demonstration project is desired.

5. OPAC supports the proposed local government/community process. OPAC recommends this process integrate county and city zoning data, where available.

II. OPAC asserts the following issues must be addressed as the TSP process proceeds:

- Fisheries data
- Ocean Recreation details
- STAC's recommendations
- Part 5 language

Specific recommendations, supported by consensus were:

1. OPAC supports and encourages groups who have data work with TSPAC/OPAC to bring that data into the TSP process. Examples mentioned were the Pacific City Dory fleet and Depoe Bay.
2. OPAC recommends TSPAC create a subcommittee to work on fisheries data, both in terms of validity and policy decisions aspects.
3. OPAC recommends that STAC's recommendations on data, e.g. trawl data and Marxan, be addressed. Related to this, OPAC decided that the OPAC Executive Committee can review STAC's report and decide on follow-up work by STAC or other professionals.
4. The details of the Ocean Recreation Area, specifically size, must be worked out. In addition a definition for ocean recreation "hot spots" must be specified.
5. OPAC recommends TSP Part 5 language be looked at and possibly revised for:
  - Aesthetic resources inventory content if not sufficiently addressed by overlay
  - Recreational resources inventory content if not sufficiently addressed by overlay
  - JART process – what stakeholder groups to be involved and participation requirement
  - Timeline for making DSL permit decisions
  - Phased development (page 10)
  - Test site language now that some sites might get connected to the grid (p.14)
  - Add to the "see attached maps" language: zone definitions etc. from framework
  - Incorporation of standards and criteria once developed
6. OPAC recommends all policies be set such that updating of data is allowed without influencing policy decisions, thus requiring reapproval by NOAA. Another way of saying this is to create criteria/standards that don't change even though the data may change over time through improvement, additions, etc.

The following are issues people wanted to discuss related to the framework. Many were too specific or technical for the OPAC meeting, but are relevant to the TSP planning and policy-making process as it proceeds.

- Overall framework:
  - Zone names suggestion: Exclusion, Protection (Goal 19 language for highest bar), Conservation, Management/Use
  - Need to include regulatory buffers against disturbances now in place around wildlife refuges
  - Do you want to consider establishing different standards/criteria for difference scales/sizes of energy projects? How to define that threshold/scale?
  - Are you wanting to set different stringency of criteria for the Conservation vs. Management vs. Development zones? Or, are these just a visual depiction or potential for use/resource conflicts?
  - What data is responsible for putting an area into a particular zone?
  - I don't understand the quality of the data used in determining the zones.
  - Precautionary Principle: Is this recognized in Goal 19? What does it mean in TSP context?
  - Adaptive Management: How do we update the TSP as information improves? How does NOAA get included with updates? (Note: This issue addressed in agreements made during meeting)
  - Consider adding a requirement/trigger to address certain site specific concerns in JART process (if not already include in Part 5 JART), e.g. Fishery Advisory Body meeting, visual impact analysis.
  - Terminology to define "no impact": no significant alteration to the resource; no significant adverse impact; taken all practicable steps to avoid impact
  
- Exclusion Area:
  - Concern that there may be opportunities to coordinate uses on developed sites with renewable energy, e.g., outfall pipes like at OPT.
  - Some ecological resources that are not permitted may fit in this zone (per NOAA). [Note: Concern addressed in OPAC's recommendation to reconsider wording of objective for this area.]
  - Concerned about terminology of "renewable energy exclusion." Does NOAA like that? We aren't excluding oil and gas or aquaculture. [Note: During discussion this concern was alleviated by NOAA liaison.]
  
- Marine Conservation Area:
  - Strengthen language to match Rhode Island language – "Exclusion presumed unless developer demonstrates that "no impact to resources is probable."
  - In order to meet Goal 19, this level needs to be "nearly exclusive."
  - Goal 19 says we must protect fishery resources; this isn't an option.
  - Why would ocean recreational fisheries be placed a different level than commercial fisheries? [Note: Discussion revealed this was due to how data was aggregated at the fishing communities' preference.]
  - Areas of greatest importance to fishing arbitrarily set at too low a level. Level 1 and 2 fishery resources should be placed in this area. Approx. 70% of TS deserves protection.

- Fishery important area maps need updating based on public testimony at Reedsport/Gardiner, Depoe Bay and Pacific City
- Life history unique, should go higher than level 2/3 and into this area
- Concern about understanding and defense of Marxan run: Does one high value ecological attribute turn on whole square mile? Then that square mile's high value triggers increased value on adjacent mile?
- Marine Resource Use Management Area:
  - Need to fine-tune fishing effort maps by port and sector
  - Suggestion for alternate language for objective- Maintain the long term use and health of the area for the benefit of existing and future generations and natural resources.
- Marine Renewable Energy Development Area:
  - Need clarifying statement about research and development needs- 10 years then an ecological/economic viability analysis
  - Consider county "industrial zones" in evaluating these sites. Not sure if county zoning has been included.
  - Areas of low conflict should be designated even if sites are now considered "stranded."
- Visual Impact Assessment Overlay
  - Framework is good; need details clarified... when scenic analysis
  - Adequate stakeholder representation is imperative
  - Local property owners need visual impact protection even when not in a city or near a park.
  - Could be very subjective.
  - Are different viewsheds (public viewpoints, private homes) treated the same way by JART?
- Ocean Recreation Conservation Overlay
  - Framework is good; need details clarified, i.e. 300 meters [Note: Distance addressed in OPAC recommendations above.]