



## Office of Lincoln County Legal Counsel

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April 23, 2018

Steven Shipsey, AAG  
Oregon Department of Justice  
100 SW Market Street  
Portland, OR 97201

Re: *Ciecko v. DLCD*, 290 Or App 655 (2018)  
Court of Appeals, A156130  
March 7, 2018 Opinion

Dear Steve,

On behalf of petitioners Charles Ciecko and David Yamamoto, and the following coastal counties (Clatsop, Coos, Curry, Lane, Lincoln, and Tillamook, with Douglas pending) that supported, via *amicus* brief, the petition for judicial review filed by petitioners in the above matter, we are writing you on this date in your capacity as legal counsel for the Dept. of Land Conservation and Development (DLCD) and the Land Conservation and Development Commission (commission).

First, we look forward to working with DLCD and the commission on ocean planning efforts that encompass state waters off the Oregon coast.

Second, now that the court has invalidated the rule known as amended Part Five of the Territorial Sea Plan (TSP), we would like to offer our assistance since the agency must now address the next steps as a result of this outcome.

The record on judicial review in the above matter, which is over 1,250 pages spanning from March 2008 to Oct. 2013, demonstrates the comprehensive nature of the planning effort for TSP Part Five. The agency made the required findings under ORS 196.471 with respect to the Ocean Policy Advisory Council (OPAC) recommended amendments, but, as the court held at note 2 of the opinion (pages 663-64), did not follow procedures under the statute in effect when the commission acted in January 2013 and later that year when the rule was filed.

So, in our view there is no reason for the commission not to adopt the OPAC recommendation; in other words, first and foremost would be for the commission to take that next step under the statute.

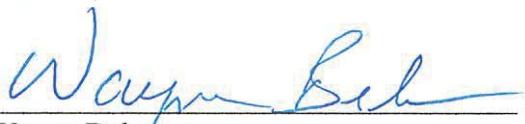
But if the commission, on further review, determines certain language in the OPAC recommendation must be revised for reasons beyond the required findings under ORS 196.471, there is a procedure in ORS 196.471 to return such language to OPAC for revision.

Finally, we would like to emphasize, as the court recognized on page 665 of the opinion, that OPAC “plays a critical role” in ocean planning and “remains the primary means by which a large number of interest groups, as well as the local coastal communities, participate in the planning process.”

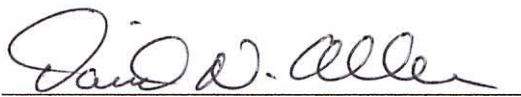
Please feel free to share this letter with DLCD and the commission at your earliest convenience, and do not hesitate to contact us if you would like to discuss further.

Thank you for your consideration in this matter.

Sincerely,



Wayne Belmont  
Lincoln County Counsel



David N. Allen  
Attorney for and on behalf of Petitioners

Cc: Board of Commissioners,  
Clatsop, Coos, Curry, Douglas, Lane,  
Lincoln, and Tillamook Counties  
Scott McMullen, OFCC/GCI/NASCA  
Jena Carter, OPAC chair  
Walter Chuck, OPAC vice-chair  
Jason Miner, Governor’s office  
Sen. Betsy Johnson, Coastal Caucus chair