

Rocky Habitat Management Strategy Updates

Ocean Policy and Advisory Council Meeting

Territorial Sea Plan Working Group: Rocky Habitat Management Strategy

WORKING GROUP MEMBERS

Charlie Plybon – Surfrider Foundation
(Non-consumptive Recreation - Chair)

Tom Calvanese – Port Orford
Research Station (Coastal Research)

Kerry Carlin Morgan – Oregon Coast
Aquarium (Education)

Dave Lacey – Oregon Coast Visitors
Association (Coastal Tourism)

Scott McMullen – Public at Large

Dick Vander Schaaf – The Nature
Conservancy (Conservation)

Andrea Celantano – Oregon
Department of State Lands

Walter Chuck – Port of Newport
(Ports/ Marine Transportation or
Navigation)

Dave Fox – Oregon Department of
Fish and Wildlife

Laurel Hillmann – Oregon Parks and
Recreation Department

Shawn Stephenson – U.S. Fish &
Wildlife Service

Kris Wall – National Oceanic and
Atmospheric Administration

Unfilled (awaiting interest) – Harvest

Unfilled (awaiting interest) – Local
Government

Unfilled (awaiting interest) – Tribal
Government

Purpose: This document was created to summarize and transmit the outcomes of the Rocky Habitat Management Strategy Amendment Process. These results were prepared by the Rocky Habitat Working Group for the Ocean Policy Advisory Council (OPAC) to use while deciding if adoption of the draft Strategy is appropriate.

Overview of Working Group Activities

OPAC was last briefed on the Territorial Sea Plan: Part Three update and Working Group activities at the October 21st, 2019 meeting in Newport, OR. Since then, the Working Group has been active with its tasks including: finalizing the site designation proposal process, shaping development of the new Rocky Habitat Web Mapping Tool, creating and distributing a tool kit of outreach material aimed at increasing public engagement, and conducting a 30-day public comment period.

Working Group Activity Synthesis

Materials and information created and distributed:

- Draft Rocky Habitat Management Strategy
- Rocky Habitat Web Mapping Tool
(<http://oregon.seasketch.org>)
- Rocky Habitat Web Mapping Tool user guide
- Public outreach webinar recording and Tool walk-thru
- Public announcements (outreach meetings, emails, websites)
- Newspaper articles
- Meeting minutes and summaries

The Rocky Habitat Working Group has completed an amended draft of the Oregon Territorial Sea Plan: Part Three – The Rocky Habitat Management Strategy, and requests that OPAC consider the proposed amendments and approve of DLCD staff and the Working Group moving forward on the implementation of Phase III - the site management designation proposal process. This packet contains a brief summary of recent Working Group activities to develop the draft Strategy, a summary of comments received during the most recent 30-day public comment period, and the Working Group's responses and recommendations. A full packet of comments received with summary were submitted with this packet, as well as a copy of the draft Strategy.

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Links to additional Working Group materials

The web links below are connected to more detailed Working Group information and materials referenced in this packet.

- [Draft Rocky Habitat Management Strategy](#)
- [Public Comment Packet and Summary](#)
- [Rocky Habitat Web Mapping Tool](#)
- [Rocky Habitat Web Mapping Tool User Guide](#)
- [Public Outreach Webinar Recording with Tool and proposal walk-thru](#)
- [Working Group Member Contact Information](#)
- [Working Group Meeting Materials](#)
- www.OregonOcean.info

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Summary & Recommendations for the Ocean Policy Advisory Council

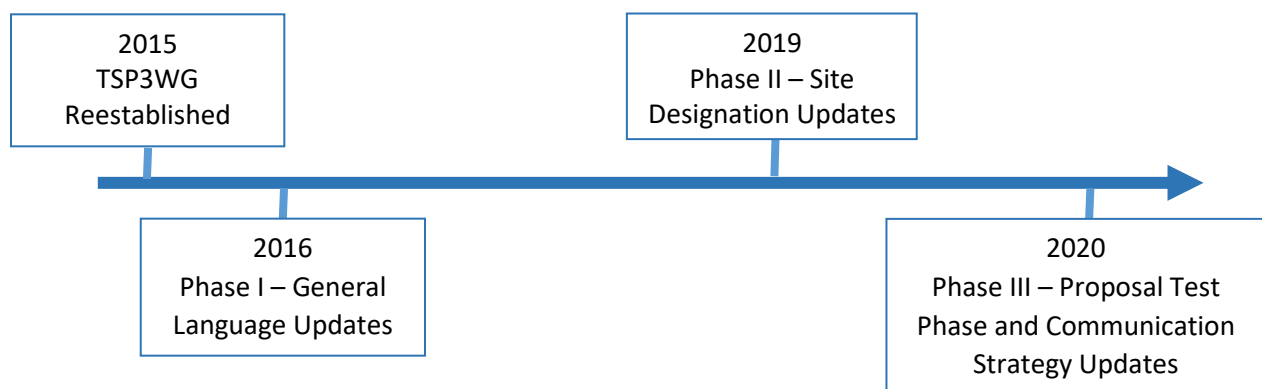
Working Group Recommendations Summary

In brief, the Working Group recommends the following to OPAC:

- 1) Consider altering or extending the timing of the site designation Initial Proposal Process to accommodate for delays and capacity issues related to the COVID-19 pandemic.
 - a) The Working Group suggests extending the Initial Proposal Process from June – December 2020, leaving open the possibility for additional extension into early 2021 as needs and conditions dictate.
- 2) Adopt the amended Rocky Habitat Management Strategy, including:
 - a) the constituent rocky habitat site designations as proposed in Appendix F., and
 - b) the policies and definitions as written.
- 3) Support CTCLUSI's effort to pursue appropriate Tribal nation representation on OPAC.

The Rocky Habitat Management Strategy Update Process

In 2016, the Ocean Policy Advisory Council (OPAC) initiated an update process for the Oregon Territorial Sea Plan (TSP) in accordance with its duties authorized in ORS 196.448 through ORS 196.453, with the intention of recommending amendments to Part Three: [The Rocky Shores Management Strategy](#). OPAC will submit any recommendations for amending the TSP to the Land Conservation and Development Commission (LCDC), which is responsible for adopting amendments to the TSP through the rule-making process.



To administer the Strategy update process, OPAC established a Territorial Sea Plan Working Group (WG) as a technical advisory committee directed to conduct the review and draft amendment recommendations for consideration by OPAC. The Working Group was originally chartered at the May 22nd, 2008 OPAC meeting as part of the TSP Part Five amendment, and later reestablished at the December 3rd, 2015 meeting. The Working Group was charged with developing a set of recommendations for updates to the TSP, which will be specifically focused on making

recommendations regarding updates to the Rocky Habitat Management Strategy. The Working Group restarted work on this task in January of 2018. The Oregon Department of Land Conservation and Development (DLCD) has assisted OPAC as required under ORS 196.435, coordinating and administering WG meetings, textual updates, and public outreach efforts.

The amendment process for the TSP has proceeded thus far in two phases: Phase I focused on public scoping and initial textual edits, whereas Phase II has focused on creating a public site designation process and finalizing the text. The upcoming Phase III is intended to be a 3-4 month process centered on piloting the Initial Public Proposal Process, slated for summer 2020, followed by updates to the Oregon Rocky Shores Communication Strategy.

Overview of Rocky Habitat Working Group Activities

The Rocky Habitat Working Group has met approximately once a month for the duration of the update process, for a total of 28 meetings – 13 in coastal communities, 11 in the Willamette Valley, and 4 held remotely. The OPAC was last briefed on the Territorial Sea Plan: Part Three update and Working Group activities at the October 21, 2019 meeting in Newport, OR. Developments since that time have focused on the following:

Site Designation and Proposal Process. To best incorporate local knowledge and maintain an up-to-date management strategy, and in response to public comment requesting greater focus and opportunity on collecting public input, the Working Group has developed a framework for adaptive management through an annual cycle of OPAC review of proposed management changes. Through this new proposal process, members of the public, agencies, and other entities are invited to submit site-based management proposals for review and potential incorporation into the Strategy. These proposals may outline desired additions, deletions, or alterations to rocky habitat site designations. Proposals will be accepted in a two-part process (Initial and Maintenance), with both processes utilizing the [Rocky Habitat Web Mapping Tool](#) to construct and collect proposals.

During the **Initial Proposal Process** period, proposals will be accepted for a limited duration (3-4 month) period slated to begin in late spring 2020. This process will form the basis for the Rocky Habitat Working Group's recommended site designations for eventual OPAC and LCDC consideration during the 2019-2020 Rocky Habitat Management Strategy final revision. It will also inform the subsequent Maintenance Proposal Process that will follow the adoption of the Rocky Habitat Management Strategy. The **Maintenance Proposal Process** is intended to be a rolling submission process in which proposing entities can submit proposals at any time for review after the 2019-2020 Rocky Habitat Management Strategy has been adopted. Proposal criteria and review procedures for this process will have been informed by the outcomes of the Initial Proposal Process. Criteria for proposals are outlined in Appendix C of the draft Strategy. An overview of the steps of the two site-based proposal processes are outlined in Section E. **Due to ongoing concerns related to the COVID-19 pandemic, the Working Group requests that OPAC consider altering or extending the timing of the Initial Proposal Process to accommodate for delays and capacity issues among potential proposers. The Working Group suggests extending the Initial Proposal Process from June – December 2020, leaving open the possibility for additional extension into early 2021 as needs and conditions dictate.**

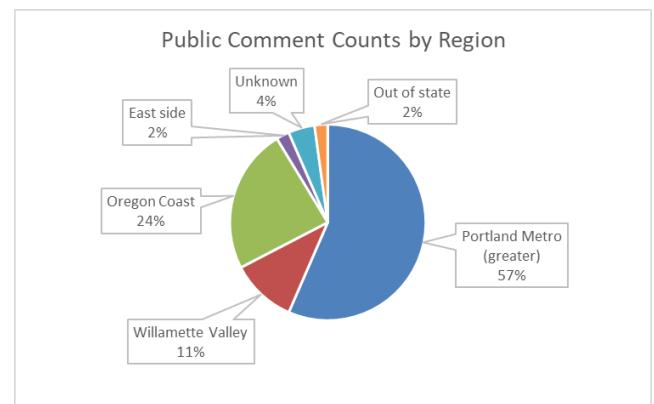
Rocky Habitat Web Mapping Tool (<http://oregon.seasketch.org>). This tool is an online geospatial mapping interface intended to help users visualize Oregon's marine rocky habitat data, generate data reports for specific rocky habitat areas, and facilitate site management designation proposals. With the Tool, users can visualize marine spatial data and information along the Oregon Coast that suits their level and location(s) of interest, delineate areas for management designation changes, generate reports with environmental and human use information, communicate and share this information with others including OCMP staff, and craft and submit their proposals. Proposals collected by this tool will be reviewed for potential incorporation into Oregon's Territorial Sea Plan. The Tool continues to undergo refinements and expansions of its data repository, but is near completion. Results from the Initial Proposal Process will be utilized to complete development of its functionality and user-friendliness, but occasional maintenance will be required long-term.

Public Outreach. In fall 2019, outreach presentations were made at the annual State of the Coast conference, the Surfrider Coos Bay chapter meeting, and others as requested. Following the January 16, 2020 Working Group meeting, public comment was solicited on the draft Strategy for 30 days starting February 1st. Web and email announcements were distributed via numerous partner organization mailing lists and websites to engage the public, and press releases sent to the media. OCMP staff conducted four in-person informational public meetings in Portland, Cannon Beach, Newport, and Coos Bay, as well as two online webinars.

To further aid and encourage potential users and organizations interested in proposal submissions, OCMP has created [a user guide](#) and made available [a webinar recording](#) which include an overview of the Tool functionality and a basic walk-thru of a proposal submission. OCMP staff have also made themselves available for presentations and assistance on a per-request basis. On February 20th, a presentation was made for the PISCO research consortium at that group's request. Additional presentations were requested and scheduled for the Sharing the Coast conference, Shoreline Education for Awareness (SEA) organization, Lincoln City Audubon, Surfrider Coos Bay Chapter, and Friends of Netarts Bay WEBS, however due to complications with COVID-19 restrictions these presentations are being canceled, delayed, or modified. OCMP staff will continue to make themselves available for assistance with site designation proposals throughout the amendment process.

Summary of Public Feedback

Public comment on the draft Rocky Habitat Management Strategy was requested for a 30-day period from February 1st – March 1st, 2020. Comments were submitted via email and in writing at public outreach meetings. In total, we received 46 comments from 51 individuals and 22 organizations. Comments were received from all over Oregon, with approximately 67% coming from the Portland-Metro area and Willamette Valley, 24% from coastal communities, and 2% from out-of-state. Following the March 20 Working Group meeting, an additional 72 comments were submitted from 74 individuals and 14 organizations. A packet containing copies of formal comment letters and a complete summary was



forwarded with this document and is also available [here](#). Public feedback appeared to be overall supportive of the amendment process and the draft Strategy, however a few requests were common to virtually all the comments received, and warrant highlighting. They are as follows:

1. **Implementation of some or all of the original recommended rocky habitat sites from the 1994 plan** In response to public request early in the amendment process, the Working Group has facilitated public comment throughout the Strategy update and created the site management designation process. However, many organizations and individuals have repeatedly called for automatic implementation of a subset of recommended rocky habitat sites from the original 1994 TSP that are not currently implemented in Oregon Administrative Rule (a summary history and timeline of the management of all sites is documented in Appendix F of the draft Strategy).

Of the original recommended site designations, six of the Marine Gardens were implemented as such, seven sites are located within the Marine Reserves system, ten sites have been implemented as Marine Research Areas, and one Habitat Refuge (Whale Cove) has been implemented as a Marine Conservation Area. Comments from the public recommended several additional sites be automatically implemented in the updated Strategy; these are listed in the comment letters in the attached comment package.

Organizations that submitted or signed letters reflecting this or a similar request during the February 2020 public comment period include:

Audubon Society Chapters of Portland,
Lincoln City, Cape Arago, Corvallis,
Kalmiopsis, East Cascades, Klamath
Basin, Lane County, Umpqua Valley,
Rogue Valley, and Salem
Oregon Shores Conservation Coalition
Pew Charitable Trusts

Shoreline Education for Awareness
Coast Range Association
Oregon Coast Alliance
Haystack Rock Awareness Program
Friends of Cape Falcon Marine Reserve
Oregon Wild

Working Group Recommendation: The Working Group has spent extensive public meeting time discussing this issue. While the Working Group is sympathetic to the public request, the decision was made to include the sites that are currently implemented in state rule, and not automatically implement additional sites from the 1994 site designations. Instead we recommend applying the public proposal process that was developed in Phase II specifically in response to the public's requests during Phase I. Automatic implementation of these sites would conflict with efforts to define the designation process while simultaneously participating in it. In addition, participation in such a process would exceed Working Group capacity and rely on outdated representations of site boundaries, characteristics, and resources. In most cases, these specific sites lacked the identification of current management or conservation goals, rules and management prescriptions, stakeholder engagement, or other elements necessary for Marine Conservation Area proposals. In contrast the sites currently implemented in rule have specific regulations, were vetted by public process, and have been in place for decades. The Working Group and public agree that it is best to consider each site individually via a bottom-up, public-driven process utilizing the site designation proposal process outlined in the amended Strategy. Such a process lends itself to being more inclusive, tapping into a greater public, academic and stakeholder capacity than exists solely within the Working Group or state agencies. Finally, history and studies on area-based management processes have well demonstrated that such management actions have

greater public buy-in, are more effective for meeting their long-term goals and are more likely to be properly implemented when driven from a public process. The Working Group recommends that OPAC adopt the site designations as proposed in Appendix F. of the latest draft of the Rocky Habitat Management Strategy.

2. Strengthen policies & definitions regarding protection of marine aquatic vegetation

In response to public suggestion, the Working Group developed new policies for the protection of marine aquatic vegetation during the Phase I process. This action was in response to extensive public comment on the need for such policies, and represents a significant step forward in protecting these vital resources. However, there has been continued discussion in Working Group meetings over inclusion of the word “significant” in Policy R, which currently states:

*Development activities occurring within or near an area with marine aquatic vegetation must have no **significant** adverse effects to the marine aquatic vegetation or its habitat.*

Use of the word “significant” has been shown to be fraught with challenges when crafting and enforcing policy language, and our supporters among the public have suggested its use weakens application of the policy so as to make it “potentially unenforceable”. The policy may face additional challenges with meeting the standards of federal consistency¹. However, existing resource management policies often use the word “significant” in a similar context, and these policies have been successfully enforced. The suggested alternative is to strike the word, add qualifying language in Policies Q and R, and increase specificity in definitions of aquatic vegetation, development activities, and adverse effects (refer to [Audubon/Pew letter](#) for detailed rationale). Clarification on when, where, and to what policies do and do not apply may strengthen their enforceability and increase protection of SAV. Ensuring that policy language is strong is also likely to extend the interval between future amendments to the Rocky Habitat Management Strategy.

Organizations that submitted or signed letters reflecting this or a similar request during the February 2020 public comment period include:

Audubon Society Chapters of Portland,
Lincoln City, Cape Arago, Corvallis,
Kalmiopsis, East Cascades, Klamath
Basin, Lane County, Umpqua Valley,
Rogue Valley, and Salem
Oregon Shores Conservation Coalition

Pew Charitable Trusts
Shoreline Education for Awareness
Coast Range Association
Oregon Coast Alliance
Haystack Rock Awareness Program
Oregon Wild

Working Group Recommendation: There has been considerable discussion and concern from Working Group members on crafting SAV policies and the use of the word “significant”. Some members of the Working Group believe that exclusion of the word limits interpretation and enforcement of the policy. While some of the public’s suggestions to increase specificity in policies and definitions have been implemented, at this time the Working Group believes that a separate process may better lend itself to addressing the imminently important issue of SAV management and relevant enforceable policy. The

¹ Federal consistency: State authority through the Coastal Zone Management Act to review federal actions and permits for consistency with state policies. [Learn more here](#).

forwarded Strategy contains the policy and definition language the Working Group feels is most suitable to ensure appropriate application and enforcement of SAV-relevant policies and regulations with respect to rocky habitat management. The Working Group recommends that OPAC adopt the policies and definitions as written in the latest draft of the Rocky Habitat Management Strategy.

Tribal Government Interaction

On March 5th, 2020, the Working Group received [a letter](#) from the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (CTCLUSI). The letter provides background on CTCLUSI's history, culture, and connection to coastal resources, and outlines specific concerns regarding the Rocky Habitat Management Strategy amendment process. Many of these concerns are outside the purview of the Working Group to appropriately address, however. CTCLUSI's letter has been forwarded to the OPAC and the Governor's Natural Resource Office in pursuit of escalating their concerns to the appropriate entities. For their part, the Working Group has explored ways and incorporated textual changes to the Strategy to better address the concerns outlined in CTCLUSI's letter, and looks forward to continuing our communication with CTCLUSI which was initiated in 2018.

The concerns raised by CTCLUSI are broadly focused on two goals: 1) increasing Tribal engagement, representation, values, and perspectives in the TSP amendment process, and 2) developing alternative rocky habitat site designation pathways that reflect traditional use and habitat protection, and that sync up with Tribal, federal, and state cultural designations outside of the Strategy. To these ends, CTCLUSI requests that the Legislative Council on Indian Services (LCIS) appoints seats on OPAC for all four coastal tribes, and that any current and future working groups shall invite and encourage tribal staff participation. The Tribe has also recently been involved in site designation efforts to protect cultural resources important to their cultural identity and sense of place, and requests a process to delineate Tribal cultural site designations external to the rocky habitat management site designation process to sustain these values, resources, and connections.

Working Group Recommendation: OCMP staff have contacted coastal Tribal nations during the Strategy amendment process and submitted relevant textual changes for Tribal review. However, the Working Group acknowledges that CTCLUSI staff time and capacity is limited. OCMP staff and the Working Group have sent a formal letter of response to CTCLUSI while recognizing that many of their concerns warrant attention from higher authorities such as OPAC and the Governor's Natural Resource office. In an effort to address the concerns outlined in CTCLUSI's letter, the Working Group has discussed textual edits to the Strategy and requested additional Tribal review. The Working Group is committed to ensuring that the Strategy is appropriately representative and inclusive, and will continue to engage in government-to-government consultation throughout Phase III of the Strategy amendment process. Although outside of the Working Group's authority, we recognize the importance of Tribal nation representation and recommend OPAC support CTCLUSI's effort to pursue appropriate representation on the Council.