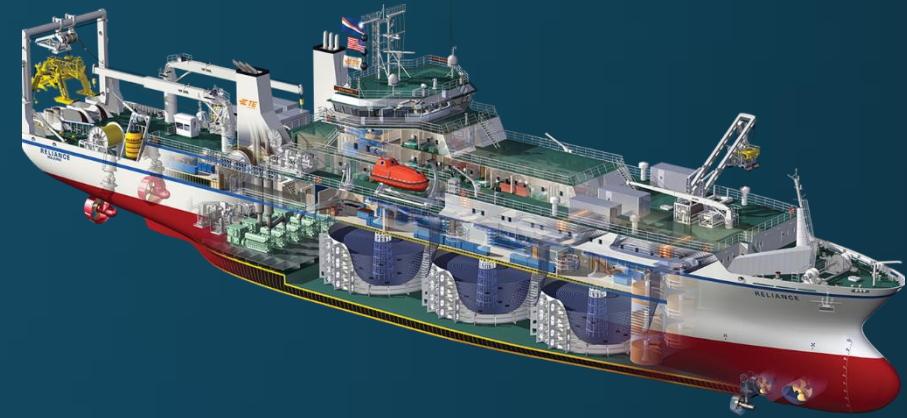


HB 2603 - TSP Part Four

OPAC Working Group Meeting



04.12.2023

Marcus Chatfield

Undersea Cable Coordinator

Oregon Coastal Management Program

TSP Part Four OPAC Working Group Meeting

Welcome!

Introductions:



Marcus Chatfield, Undersea Cable Coordinator
Oregon Coastal Management Program

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Direct: (971) 718-4202

This meeting was led by Marcus Chatfield, Undersea Cable Coordinator (DLCD). The goal of this meeting was to hear a presentation by Reed Burgette on the update to the DOGAMI Cable Landing Siting Report and review and discuss draft amendments to the TSP Part Four: Uses of the Sea Floor. Meetings of the Working Group will provide guidance and recommendations to be used by DLCD staff to generate language amendments for the TSP Part Four. Final recommendations will be presented to the Ocean Policy Advisory Council (OPAC) for their consideration after the Working Group concludes their meetings later in the Spring, thereby meeting the timeline established in HB 2603.

The meeting opened at 9:00AM with introductions of meeting participants, the meeting schedule was discussed. The landing site tour was discussed. The necessity of the addition of another meeting in May was agreed upon. A doodle poll was distributed to meeting participants to help schedule the May meeting. Wednesday the 10th of May was the date decided for the May meeting.

Reed Burgette presented on the update to the DOGAMI Cable Landing Siting Report.

Meeting broke for Lunch at 11:30 AM.

Public Comment period opened at 12:30 PM. There were no public comments.

Discussion about the jurisdiction of the TSP Part Four and what that means for the JART.

Reviewed the Background and the glossary of terms.

Request for evidence for long lasting impact to coastal communities.

Discussion took place regarding the implementation requirements. The question of how burial of cables will be certified was asked.

Discussion of which entities to include in JART membership and JART functions occurred.

The contents of the Resource and Use Inventory and Effects Evaluation were discussed.

Changes to the text in the draft amendments were discussed.

- Review of [TSP 4 Fifth Working Group Meeting Summary](#)
- Any Revisions?

AGENDA

All times are general estimates and subject to change based on meeting progress and discussion.

10:00 am	Welcome, Introductions, and Agenda Overview
10:10 am	Review of meeting schedule, discuss site tours.
10:20 am	Discuss draft amendments: Structure and Background, Glossary of terms
11:00 am	Break
11:15 am	Discuss draft amendments: Policies
12:00 pm	Lunch
1:00 pm	Public Comment
1:30 pm	Discuss draft amendments: Implementation Requirements
2:15 pm	Break
2:30 pm	Discuss draft amendments: Implementation Requirements
3:45 pm	Plan for Next Meeting
4:00 pm	Adjourn

Site Tour Schedule

- Wednesday April 12th (Nehalem and Rockaway Beach)
- 10:00 am to 4:00 pm. In-person meeting of the Working Group and public at North County Recreation District building, 36155 9th St, Nehalem OR 97131.
- 4:30-4:45 Gather at Alaska Communications System (ACS) Beach Manhole
- 4:50-5:30 Gather at the Alaska Communications Cable Landing Station facility
- Thursday April 13th (Hillsboro)
- 11:00 am Gather at ACS Cable Network Operation Center
- Noon break for lunch
- 2 pm Gather at Flexential Data Center 2

Dates for upcoming meetings, materials, & Review Timelines

April 2023


Su	Mo	Tu	We	Th	Fr	Sa
26	27	28	29	30	31	1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	1	2	3	4	5	6

May 2023

Su	Mo	Tu	We	Th	Fr	Sa
30	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31	1	2	3

 = Working Group Meeting

 = Materials provided to WG


 = Last date of written feedback on draft language

Draft Amendments: Structure, Background, and Glossary

Territorial Sea Plan Part IV

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- A. Telecommunications Cables, Pipelines and Other Utilities
 - 1. Background
 - 2. Policies
 - 3. Implementation Requirements
 - a. Burial
 - b. Communication and Coordination
 - c. Controlling the Location of Utilities
 - d. Single Point-of-Contact



Oregon Territorial Sea Plan: Part Four

Uses of the Seafloor
Adopted [Insert Date Here](#)

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 - 1.3 Objectives.....
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 - 2.2 Federal.....
 - 2.2 State.....
 - 2.2 Local.....
 - 2.3 Critical Infrastructure.....
- 3. Policies**
- 4. Implementation Requirements**
 - 4.1 State Agency Review Process.....
 - 4.2 Joint Agency Pre-Application Meeting.....
 - 4.3 Resource Inventory and Effects Evaluation.....
 - 4.3.1 Purpose.....
 - 4.3.2 Sufficiency.....
 - 4.3.3 Use.....
 - 4.3.4 Inventory Content.....
 - 4.3.5 Written Evaluation.....
 - 4.4 Routing and Landing.....
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 - 4.5.1 Cable Burial.....
 - 4.5.1.1 In State Waters.....
 - 4.5.1.2 In Federal Waters.....
 - 4.5.1.3 Burial Verification.....
 - 4.7 Maintenance.....
 - 4.8 Decommission and Recovery.....
 - 4.7.1 Undersea Cables.....
- 6. Communication and Cooperative Mechanisms.....**
- 7. Territorial Sea Plan Revision**
- Appendix A: Glossary**
- Appendix B: Images, Maps, and Charts**



Oregon Territorial Sea Plan: Part Four

Uses of the Seafloor

Adopted Insert Date Here

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Discussion points

- Moved explanation of extant Federal, State, Local policies to the background section as discussed in the March meeting.
- Removed the section on Cable Systems Development. This was done based on a comment from ODFW that the section seemed out of place and that the information contained in it would be better provided somewhere outside this document.
- Replaced the Cable Systems Development section with an expanded discussion on critical infrastructure.
- Moved the Burial section into the installation section

Draft Amendments: Structure, Background, and Glossary

UNDERSEA CABLES, PIPELINES, AND OTHER UTILITIES OR FIXTURES

1 The State Perspective

1.1 Purpose

Part Four of the Oregon Territorial Sea Plan provides a strategic framework for the decision-making process, partnerships, and collaborative relationships in undersea infrastructure development on, affixed to, or buried under the seafloor in the state territorial sea.

1.2 Goal

This strategic 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 in order to preserve the services provided by these projects for Oregonians.

Draft Amendments: Structure, Background, and Glossary

1.3 Objectives

This strategic framework identifies the following objectives to be achieved:

- a. Maintain and protect marine ecosystems, biological resources, migratory species, and areas that are of economic (e.g., fisheries, navigation), aesthetic, recreational, social, or historical importance to the people of Oregon, and could be impacted by projects on, affixed to, or buried under the seafloor in the state territorial sea.
- b. Implement policies and recommendations for routing and landing, installation, maintenance, decommission, and recycling of projects on, affixed to, or buried under the seafloor in the state territorial sea.
- c. Engage communities, ocean users, industries, research institutes, and technical experts in decision-making.
- d. Facilitate coordination and cooperation among federal, state, local agencies, and tribal governments for permitting and planning projects on, affixed to, or buried under the seafloor in the state territorial sea, to streamline the permitting process and to ensure that mitigation and accident response plans are developed and updated.
- e. Promote resilience of projects on, affixed to, or buried under the seafloor in the state territorial sea to climate change, natural disasters, extreme weather events, and human-made activities.
- f. Coordinate the development and installation of projects on, affixed to, or buried under the seafloor in the state territorial sea with the growing development of renewable energy facilities in the Pacific Northwest (e.g., offshore wind farms, wave, solar, and hydrogen technologies).
- g. Continue current, and promote future, compatible use of the seafloor between various ocean users.

Draft Amendments: Structure, Background, and Glossary

2. Background

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 natural gas and hydrogen pipelines and power transmission cables from offshore wind farms, may eventually be routed across Oregon's Territorial Sea bed. Proper placement of easements and installation of projects on, affixed to, or buried under the seafloor in the state territorial sea is required to avoid damage to or conflict with other ocean uses, such as commercial fishing, and to avoid, minimize, and mitigate adverse effects on natural resources, marine habitats, and coastal communities.

State agencies, such as the Department of State Lands, the Department of Environmental Quality, the Department of Fish and Wildlife, the Oregon Parks and Recreation Department, and the Department of Land Conservation and Development, need clear policies and standards for reviewing and approving the routing and installation of projects on, affixed to, or buried under the seafloor of the Oregon Territorial Sea. The policies, standards, data and information within the Territorial Sea Plan can also assist federal agencies in the siting and regulation of projects located in federal waters adjacent to the territorial sea.

Draft Amendments: Structure, Background, and Glossary

2.1 International Law and Treaties Obligations

In implementing this strategic framework, the state should consider the following international treaties to ensure adequate oversight and protection of federal and state concerns regarding undersea cable projects:

- International Convention for the Protection of Submarine Telegraph Cables (1884).
- The United Nations Convention on the Continental Shelf (1958).
- The United Nations Convention on the High Seas (1958).
- The United Nations Convention on the Law of the Sea (1982).
- The United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses (1997).
- The United Nations Framework Convention on Climate Change (1992) and the Paris Agreement (2015).

Draft Amendments: Structure, Background, and Glossary

2.5 Critical Infrastructure

Undersea cable systems (pipelines, and other utilities may also be) are considered vulnerable critical infrastructure. The USA PATRIOT Act of 2001 and the Critical Infrastructure Information Act of 2002 aim to protect critical infrastructure and facilitate sharing of critical infrastructure information among the owners and operators of the facilities and government agencies with infrastructure protection responsibilities.

The Cybersecurity and Infrastructure Security Agency (CISA) considers 16 critical infrastructure sectors, including communication, energy, information technology, and water and wastewater systems¹.

Critical infrastructure is subject to risks associated with physical threats and natural disasters. It is also now increasingly exposed to cyber risks. In addition, connections and interdependencies between infrastructure elements and sectors mean that damage, disruption, or destruction to one infrastructure element can cause cascading effects, impacting the continued operation of another.

In April 2019, CISA released a set of 55 National Critical Functions (Appendix B) to manage the most strategic risks more effectively. The functions were developed in coordination with the sector, state, local, tribal, and territorial partners and enabled the critical infrastructure community to analyze complex challenges that cannot be easily identified, understood, or examined within the existing risk management structures for cyber and physical infrastructure.

A Guide to Critical Infrastructure Security and Resilience prepared by CISA² highlights the Cascadia Subduction Zone earthquake preparedness in the Pacific Northwest as a case that requires cooperation among Federal, state, local agencies, and the private sector to improve the resilience of critical infrastructure, including telecommunication cables, pipelines, and other utilities.

Thus, state agencies, such as the Department of State Lands, the Department of Fish and Wildlife, the Oregon Parks and Recreation Department, and the Department of Land Conservation and Development, need clear policies and standards for reviewing and approving the routing, installation, maintenance, and decommissioning of critical infrastructure projects on the seafloor of Oregon and adjacent federal waters as well as a coordinated permitting process between state agencies, local and tribal governments.

Draft Amendments: Structure, Background, and Glossary

Affix(ed): To attach to the seafloor in a permanent way. Examples include but are not limited to: partial burial, permanently attaching to rocky substrate, burial with loose rubble on the surface of the seafloor.

Applicant: The person or party responsible for acquiring a state permit, license, lease or other authorization for the evaluation, siting, routing, placement, operation, or removal of a cable, pipeline, utility or fixture placed on, affixed to, or buried under the seafloor in the state territorial sea will be referred to as “the applicant”.

Avoid: To prevent or eliminate the effect to the maximum extent practicable

Minimize: to reduce or avoid the effect to the maximum extent practicable.

Mitigate: is the avoidance or minimization of a direct or indirect ecological effect or impact on a receptor through engineering or operational modification of the project. Mitigation does not refer herein to so-called “offsite” mitigation or to compensatory mitigation (i.e., paying or compensating for environmental damage).

MITIGATION. For the purposes of Part Four of the Territorial Sea Plan, the restoration, or enhancement of an area to maintain the functional characteristics and processes of the area, such as its natural biological productivity, habitats, and species diversity, unique features and water quality.

RESTORE: Revitalizing, returning, or replacing original attributes and amenities, such as natural biological productivity, aesthetic and cultural resources, which have been diminished or lost by past alterations, activities, or catastrophic events. For the purposes of Part Four of the Territorial Sea Plan restoration means to revitalize or reestablish functional characteristics and processes of the seafloor diminished or lost by past alterations, activities, or catastrophic events.

Active Restoration: involves the use of specific positive remedial actions, such as removing fills and infrastructure (Cables, pipelines, other utilities or fixtures).

Passive Restoration: is the use of natural processes, sequences, and timing which occurs after the removal or reduction of adverse stresses without other specific positive remedial action.

Regulating agency or regulating agencies: State agencies making decisions to authorize the siting, development and operation projects on, affixed to, or buried under the seafloor in the state territorial sea.

Seafloor: The solid surface underlying the ocean. Specifically within part four of the Oregon Territorial Sea plan, the submerged or submersible lands within the boundaries of the Oregon Territorial Sea.

Cable(s) includes a cable used to conduct electricity or light that is placed on, affixed to, or buried under state-owned submerged or submersible lands within the territorial sea and any facilities within the territorial sea associated with the cable.

Pipeline(s) includes any line of pipe, with or without equipped pumps, valves, and other control devices, used to move liquids, gasses, and/or slurries.

Utility/utilities includes any infrastructure affixed to or placed on the seafloor, not otherwise defined in this glossary, which provide the public with an essential good or service (heat, gas, electricity, water, sewage treatment, data, etc.).

Fixture(s) includes any infrastructure affixed to or permanently placed on the seafloor, not otherwise defined in this glossary, including but not limited to scientific and research devices, observation devices, or other infrastructure requiring a Territorial Sea Easement but not otherwise governed by another section of the Territorial Sea Plan.

Critical infrastructure: Systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.

Project: includes evaluation, siting, routing, placement, operation, decommission, or removal of a cable, pipeline, utility, or fixture on, affixed to, or buried under the seafloor in the state territorial sea

Burial:

Break

Draft Amendments: Policies

3. Policies

The following policies and implementation requirements are mandatory. Decisions of state agencies with respect to approvals of permits, licenses, ~~leases~~ or other authorizations to construct, operate, maintain, or decommission any utilities or fixtures on, affixed to, or buried under the seafloor in Oregon's territorial waters and or connected from the seafloor to the ocean shore must comply with the requirements mandated in the Territorial Sea Plan. Once NOAA/OCRM approves the incorporation of the enforceable policies of the Territorial Sea Plan into the Oregon Coastal Management Program, they are applicable to those federal actions that affect Oregon's coastal zone and are subject to the federal consistency requirements of the federal Coastal Zone Management Act.

Draft Amendments: Policies

When proposing a project an applicant shall:

- a. Maintain and protect natural resources, ecosystem integrity, marine habitat, and areas important to fisheries, navigation, recreation and aesthetic enjoyment from adverse effects that may be caused by projects on, affixed to, or buried under the seafloor in the state territorial sea. Such projects are required to:
 - 1.) Avoid adverse effects to the integrity, diversity, stability and complexity of the marine ecosystem and coastal communities, and avoid conflicts between commercial or recreational fishing, or other ocean/coastal-use activities and utilities, and give first priority to the conservation and use of natural resources;
 - 2.) Minimize any adverse effects when conflicts cannot be avoided;
 - 3.) Mitigate for adverse effects that occur during the lifetime of the project by taking appropriate corrective or compensatory measures through adaptive management; and
 - 4.) Restore the natural characteristics of a site to the maximum extent practicable when the project is decommissioned. (see *also* Statewide Planning Goal 19, Ocean Resources and the Oregon Territorial Sea Plan)

When making decisions to approve projects regulating state agencies shall:

- 1) Strongly encourage applicants to engage with local, state and federal agencies, community stakeholders, tribal governments and affected ocean users in a collaborative agreement-seeking process prior to formally requesting authorization to initiate a project.
- 2) Promote direct communication and collaboration between the applicant and affected ocean users and coastal communities to resolve or avoid conflicts and require written agreements among the parties when necessary to ensure communication and memorialize agreements.

Good concept, but what action would this imply? For the seafloor, the question would be what natural characteristics need to be restored, and that's pretty squishy. Cable removal is a transient disturbance; the disturbance may have a temporary negative ecological effect, but the natural re-settlement that will follow is not a process that we can speed up or enhance.



Marcus CHATFIELD



Request to require evidence of lasting impact to coastal communities

Lunch

We will Resume at 12:30 pm with Public Comment

Public Comment

Draft Amendments: Implementation Requirements

4. Implementation Requirements

Applicants shall adhere to the following implementation requirements (detailed below) when implementing a project related to cables, pipelines, utilities or other fixtures within the Oregon Territorial Sea. This includes the utility cables that transmit the electrical energy from a renewable energy facility to the onshore substation, as prescribed in Part Five of the Territorial Sea Plan, Use of the Territorial Sea for the Development of Renewable Energy Facilities or Other Related Structures, Equipment or Facilities. The requirements in Part Two, Making Resource Use Decisions, sections A and B will not apply to projects related to cables, pipelines, or other utilities or fixtures within the Oregon Territorial Sea.

Draft Amendments: Implementation Requirements

When approving projects state agencies shall avoid, minimize, and mitigate conflicts or adverse effects on natural resources or other ocean users through the following measures:

4.1. Agency Communication, Coordination, and Review Process

State agencies shall apply the policies and provisions of the Oregon Ocean Resources Management Plan, Oregon Territorial Sea Plan, and Statewide Planning Goals as required to comply with State Agency Coordination Programs (OAR chapter 660, divisions 30 and 31). In accordance with the federal Coastal Zone Management Act, federal consistency regulations (15 CFR Part 930), and ORS 196.435, the Department of Land Conservation and Development will review the consistency certification together with required necessary data and information submitted by the applicant for federal authorization for projects related to cables, pipelines, or other utilities or fixtures within the Oregon Territorial Sea to ensure the project is consistent with enforceable policies of the Oregon Coastal Management Program, including the Territorial Sea Plan. The Department of State Lands (DSL) shall coordinate the review of applications for easements and permits in the Territorial Sea in consultation with the Joint Agency Review Team (JART) as described below.

Draft Amendments: Implementation Requirements

4.2 Joint Agency Review Team

The purpose of the JART is the coordination and communication between regulatory agencies in the early stages of project planning. When an applicant requests a pre-application meeting with DSL, DSL shall convene the JART for the pre-application meeting and application meeting. The JART may also be convened by DSL as necessary for follow-up meetings in order to facilitate the coordination of state and federal agencies, and local jurisdictions, as they apply their separate regulatory, proprietary, or other authorities to the review of a proposed project on, affixed to, or buried under the seafloor in the state territorial sea.

Draft Amendments: Implementation Requirements

4.2.1 DSL will invite representatives from the following agencies, jurisdictions and organizations to the coordination meetings:

JART Membership:

- 1) Departments of Fish and Wildlife, Parks and Recreation, Environmental Quality, Land Conservation and Development, and Geology and Mineral Industries, and other agencies with regulatory or planning authority, or advisory expertise, applicable to the proposed project and location as necessary;
- 2) Federal agencies, as invited, with regulatory or planning authority applicable to the proposed project and location;
- 3) Local jurisdictions including representatives from affected cities, counties, and their affected communities, and affected special districts as appropriate;
- 4) Statewide and local organizations and advisory committees, as invited, to participate in the JART application of specific standards, including but not limited to those addressing areas important to fisheries, ecological resources, recreational and visual impacts; and,
- 5) Federally recognized Coastal Tribes in Oregon.

Draft Amendments: Implementation Requirements

4.2.2 JART Roles and Responsibilities

- 1) The JART will coordinate with DSL on the pre-application review process, and comment on the adequacy of the resource inventories and effects evaluations required under subsection 4.3 (Resource and Use Inventory and Effects Evaluation).
- 2) The JART will make recommendations to DSL on the approval of Territorial Sea easements and other authorizations, and to other applicable regulatory agencies on their decision to permit, license or authorize a proposed project on, affixed to, or buried under the seafloor in the state territorial sea.
- 3) The JART recommendations are advisory; regulating agencies who are members of the JART still operate in accordance with their own rules and statutory mandates.
- 4) DSL may acquire the services of technical experts at the expense of the applicant to assist the JART as necessary to conduct the application review.

Break

Draft Amendments: Implementation Requirements

4.3 Resource and Use Inventory and Effects Evaluation

An applicant must provide the regulating agencies the data and information to complete the Resource and Use Inventory and Effects Evaluation, prior to the regulating agencies making any decision. An applicant may use relevant inventory information included in a project application to a federal agency to meet the requirements of this subsection.

4.3.1. Purpose of the Resource and Use Inventory and Effects Evaluation

The purpose of the Resource and Use Inventory and Effects Evaluation is to provide the regulating agencies the data and information necessary to make a decision based on the project's potential effects. The Resource and Use Inventory and Effects Evaluation will help identify if the applicant needs to address deficiencies in the proposed project or with the proposed siting or routing. The regulating agency will use the evaluation to develop specific measures for environmental protection and mitigation as well as measures to protect other ocean uses.

Draft Amendments: Implementation Requirements

4.3.2. Sufficiency of Resource and Use Inventory and Effects Evaluation

An applicant must provide, during the pre-application and application phases, information and data to complete the Resource and Use Inventory and Effects Evaluation that is sufficient to identify and quantify the short-term and long-term effects of the proposed project on, affixed to, or buried under the seafloor in the state territorial sea on the affected natural resources and uses.

4.3.3. Use of Available Environmental Information

Regulating agencies may allow the applicant to use existing data and information from other authoritative sources, when complying with the requirements for the Resource and Use Inventory and Effects Evaluation.

Draft Amendments: Implementation Requirements

4.3.4. Inventory Content

To evaluate the scope of the proposed project, the likelihood of project effects, and the significance of the potential effects to natural resources and uses, regulating agencies shall require that the applicant include consideration of certain factors in the inventory. The Resource and Use Inventory and Effects Evaluation listed below apply to all proposed undersea cable projects in the territorial sea and associated landing sites for which an applicant pursues a DSL Territorial Sea easement, unless the requirements are waived by DSL or otherwise addressed in another part of the Territorial Sea Plan. Projects in the territorial sea related to pipelines, utilities or fixtures have additional data Inventory contents specifically mentioned.

Draft Amendments: Implementation Requirements

4.3.4.1. Information to be provided by applicants about the proposed project within the Oregon Territorial Sea:

- (a) Location (using maps, charts, descriptions, etc.):
- (b) Numbers and sizes of equipment, structures:
- (c) Methods, techniques, activities to be used:
- (d) Transportation and transmission systems needed for service and support:
- (e) Materials to be disposed of and method of disposal:
- (f) Physical and chemical properties of materials, if any, to be used or produced (e.g. chemicals used in Horizontal Directional Drilling, materials which may be transported by a pipeline, etc.); and
- (g) Proposed time schedule.

4.3.4.2. Location and description of all affected areas, including, but not limited to:

- (a) Proposed route of the cable, pipeline, or other utility; and
- (c) Onshore facilities.

Additionally for pipelines or other utilities or fixtures:

- (a) Adjacent areas that may be affected by physical changes in currents and waves caused by the project:

Tara Brock

...

Would not limit this to only hazardous materials.

Draft Amendments: Implementation Requirements

4.3.4.3. Physical and chemical conditions including, but not limited to:

- (a) Bathymetry (bottom topography) and Shoreline Topography, including profile of water depth along the route;

Additionally for pipelines or other utilities or fixtures:

- (b) wave regime;
- (c) typical and maximum current velocities; and
- (d) dispersal characteristics

4.3.4.4. Geologic structure, including, but not limited to:

- (a) Geophysical imaging and geotechnical investigation of full planned horizontal directional drilling (HDD) routes across the shoreline sufficient to characterize subsurface geotechnical properties and plan HDD construction in a way that avoids drill pipe breakage, inadvertent return, surface settlement, and other complications.
- (b) Geologic hazards, such as faults or landslides;
- (c) Mineral deposits; and
- (d) Seafloor substrate type

Draft Amendments: Implementation Requirements

4.3.4.5. Biological and ecological features affected by the project, including, but not limited to:

- (a) All habitats along the proposed route, specifically including critical marine habitats (see Part Four, Appendix A)
- (b) Recreationally or commercially important finfish or shellfish species;
- (c) Benthic flora and fauna;
- (f) Other ecosystem elements; and
- (g) Community composition of resident and migratory species.

4.3.4.6. Cultural, economic, and social uses affected by the project, including, but not limited to:

- (a) Commercial and sport fishing;
- (b) State or federally protected areas;
- (c) Scientific research;
- (d) Ports, navigation, and dredge material disposal sites;
- (e) Recreation;
- (f) Coastal community economy;
- (g) Aquaculture;
- (h) Wastewater or other discharge;
- (i) Utility or pipeline corridors and transmission lines;
- (j) Military uses; and
- (k) Aesthetic resources.

(c) Benthic flora and fauna;

ANTHONY Rebecca A * ODFW

I think Part 4 should include information about benthic species for all projects whereas the water column communities/characteristics are less relevant. That is not the case if Part 4 is applied to facilities in estuaries, wetlands, waterbodies, etc.

(f) Other ecosystem elements; and

ODFW

In a list of requirements, what does this mean? Does it mean "any other ecosystem elements that may be adversely affected by the project?"

(g) Community composition of resident and migratory species.

ODFW

This language is too vague. Does it mean infaunal invertebrate relative abundance? Does migratory mean squid and herring? Seems that C above covers the need.

Draft Amendments: Implementation Requirements

4.3.4.7. Significant historical, cultural or archeological resources.

4.3.4.8. Other data that the regulating agencies determine to be necessary and appropriate to evaluate the effects of the proposed project.

4.3.5. Written Evaluation

Regulating agencies shall require the applicant to submit a written evaluation of all the reasonably foreseeable adverse effects associated with projects related to cables, pipelines, utilities or other fixtures within the Oregon Territorial Sea. For purposes of the evaluation, the submittal shall base the determination of “reasonably foreseeable adverse effects” on scientific evidence. The evaluation shall describe the potential short-term and long-term effects of the proposed project to marine resources and uses of the Oregon territorial sea, continental shelf, onshore areas and coastal communities based on the inventory data listed above and the following considerations:

Draft Amendments: Implementation Requirements

4.3.5.1. Biological and Ecological Effects: Biological and ecological effects include those on marine habitats and on the species those habitats support. The evaluation need not discuss highly speculative consequences. However, the evaluation shall discuss possible outcomes that are either likely to occur or catastrophic environmental effects of low probability. Factors to consider include, but are not limited to:

- (a) The time frames/periods over which the effects will occur;
- (b) The maintenance of ecosystem structure, biological productivity, biological diversity, and representative species assemblages;
- (c) Maintaining populations of threatened, endangered, or sensitive species;
- (d) Vulnerability of the species, population, community, or the habitat to the proposed actions; and
- (e) The probability of exposure of biological communities and habitats to adverse effects from construction, operating procedures, or accidents.

4.3.5.2. Current Uses: Evaluate the effects of the project on current uses and the continuation of a current use of ocean resources such as fishing, recreation, navigation, and port activities. Factors to consider include, but are not limited to:

- (a) Local and regional economies;
- (b) Archeological and historical resources; and
- (c) Transportation safety and navigation.

4.3.5.3. Natural and Other Hazards: Evaluate the potential risks to the project, in terms of its vulnerability to certain hazards and the probability that those hazards may cause loss, dislodging, or drifting of structures, buoys, or facilities. Consider both the severity of the hazard and the level of exposure it poses to natural resources and coastal communities. Hazards to be considered shall include slope failures and subsurface landslides, faulting, tsunamis, variable or irregular bottom topography, weather related, or due to human cause. Additionally, evaluate potential for horizontal directional drilling complications that would affect natural resources and coastal communities and describe plans to minimize these hazards based on site-specific subsurface geotechnical characteristics.

4.3.5.4. Cumulative Effects: Evaluate the cumulative effects of a project, including the onshore component, in conjunction with effects of any past projects, other current projects, and probable future projects. The evaluation shall analyze the biological, ecological, physical, and socioeconomic effects of the proposed project and other projects along the Oregon coast, while also taking into account the effects of existing and future human activities and the regional effects of global climate change.

Draft Amendments: Implementation Requirements

- (a) In conducting the cumulative effects analysis, the applicant shall focus on the specific resources and uses, as detailed under section 4.4.4 that may be affected by the incremental effects of the proposed project and other projects in the same geographic area. The evaluation shall include but not be limited to consideration of whether:
- i. the resource and uses are especially vulnerable to incremental effects;
 - ii. the proposed project is one of several similar projects in the same geographic area;
 - iii. other developments in the area have similar effects on the resources and uses;
 - iv. these effects have been historically significant for the resource and uses; and
 - v. other analyses in the area have identified a cumulative effects concern.

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4.4 Routing and Landing

Locations for new cables, pipelines, or other utilities shall conserve areas available to ocean fisheries, prevent or avoid conflicts with other uses, protect marine habitats, and minimize adverse effects on other natural resources of the seafloor or ocean shore. New rights of way may be required to be located as close to existing rights of way as possible or with sufficient capacity to enable future expansion within the approved right of way.

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4.5 Installation

4.5.1 Cable Burial.

4.5.1.1 In state waters:

All undersea cables crossing or affixed to state lands of the territorial sea lying seaward of Extreme Low Water (which is the seaward boundary of the Ocean Shore Recreation Area) shall be buried so as to ensure continuous burial unless the approving state agencies make findings that burial cannot be practically achieved and all affected parties agree that adverse effects of not burying the cable have been avoided, minimized and or mitigated to the maximum extent practicable.

4.5.1.2 In federal waters:

Decisions to permit burial of cables crossing or affixed to the seabed of the outer continental shelf (beneath federal waters) to a depth of 1500 meters, or to a latitude/longitude agreed to by affected stakeholders, off Oregon will be deemed consistent with this state policy. When a federal agency does not require burial in waters to this depth, the state may concur that the decision is consistent with state policy if the federal agency makes findings that burial cannot be practically achieved. When a federal agency does not require burial in waters to this depth, the state may concur that the decision is consistent with state policy if all affected parties agree that adverse effects of not burying the cable, pipeline, other utility or fixture, have been avoided, minimized, and or mitigated to the maximum extent practicable.

4.5.1.3 Burial shall be verified to the target burial depth by the applicant to the easement-granting agency.

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4.6 Maintenance

The easement-granting agency shall require that cables, pipelines, utilities, or fixtures shall be inspected as part of installation. Inspections after installation shall occur as otherwise required by a regulatory agency, and after any major geologic event, such as subduction-zone earthquake, to ensure continued burial and or infrastructure integrity.

4.7 Decommission and Recovery

Projects should be decommissioned and removed by the authorized user from the seabed at the end of their useful or operational/design life to avoid overtime infrastructure exposure and continue sustainable activity in terms of the use of the state waters as well as maintain the long-term protection of marine ecosystems, preservation of their ecological functions, economic and social services.

4.7.1 Undersea Cables

The owner or operator of the undersea cable shall submit to the Department of State Lands for approval a decommissioning plan and follow the process for decommissioning and recovery highlighted in Section 1 of House Bill 2603 and DSL Easement Term and Conditions.

There may be cases where the removal of an undersea cable is more environmentally damaging than leaving the cable in situ. In such cases, DSL may require the environmental impact assessment from the authorized user to demonstrate the level of damage to the environment caused by cable removal and allow the cable to remain buried in the seabed.

5 Communication and Cooperative Mechanisms

Written agreements between the applicant and fishers or other users shall be required by the easement-granting agency as evidence of communication and coordination. Such agreements may coordinate work, determine routing, identify routes, respond to emergencies, provide for mitigation of adverse effects, or specify procedures for on-going communication. Written agreements, when required, shall specify how fishers or other users and the applicant will resolve disputes over lost fishing gear, damage to seafloor utilities, damage to natural resources or liability for such actions.

Draft Amendments: Implementation Requirements

6 Territorial Sea Plan Review

Territorial Sea Plan Part Four shall be subject to review by the Ocean Policy Advisory Council (OPAC) no longer than seven years after it has been adopted. OPAC may, at any time, choose to initiate an amendment of the plan through the process described under Part One, section F.2, Changing the Plan and ORS 196.443(1)(a).

Plan for next meeting

Before the next meeting, an informational packet will be sent out:

- A meeting Summary of this Working Group Meeting.
- Proposed Amendments to the TSP Part 4 based on the discussions had during this meeting.
- Any updates received by DLCD on the DOGAMI Study.

Other Topics for next meeting?

Adjourn

Thank you all For your participation!