

**Oregon International Port of Coos Bay
Marine Reserves Recommendation Committee
October 21, 2009; 5:30pm**

**North Bend City/Coos Curry Housing Authorities
1700 Monroe Street, North Bend, OR 97459**

MINUTES

Attendance: Bill Russell, Dave Lacey, Valerie Pena, Jamie Doyle, John Griffith, Mike Helfrich, Gus Gates, Steve Bodnar, Mike Boehme, Reg Pullen, Matt LeDoux, Bob Main, Devin Hockema, Margery Whitmer, Wayne Butler, Rick Goche, Don Peabody, Jan Hodder, Jim Pex, Steven Shimotakahara, Mike Lane, Bart Stein, Dave Warner, Mike Gaul, Kathy Wall, Aaron Simons, Andrea Wall

Guests: David Allen, Timm Slater, Mike Hosie

Open: Mike Gaul opened the meeting at 5:40 pm.

Upon a motion from Jim Pex (second by Dave Lacey), the minutes from the July 15, 2009 meeting were approved.

The speaker tonight is David Allen who is the public at large member of OPAC. He will talk about the history of OPAC and Marine Reserves. Mr. Allen will be about 15 minutes late, so we will move forward with the update on HB3013.

There is a public meeting going on in Port Orford tonight in regards to agency rules of HB3013. Kathy Wall sat through a presentation of Ed Bowles at OCZMA last week and she will give an update.

The main thing that was pointed out through HB3013 is the way that they are going to establish committees for the State's Perpetua, Falcon and Heceta Head groups. Since our group was formed before the passage of HB3013, we are outside of their purview. The other three groups are going to be limited to eight committee members. We should feel honored that we get to have as much input as we do in this process. If this group had fallen under HB3013, we would have been limited also. Everyone here has an opportunity that a lot of the other committees are not going to get. We will try to work with ODFW and follow the process and as many of their process rules as we can without being required to. ODFW will still talk to us about speakers and even though we are outside of HB3013 they will still talk to us about funding for this committee. We should also be able to hire a facilitator if necessary later. We are hoping that with David Allen's presentation, we will get enough of the OPAC history and we will be able to move forward. As soon as the sideboards are identified for the two pilot sites; what will be looked at for baseline studies; and how they will evaluate them, Ms. Wall requested that Ed Bowles pass that information to us. It should be useful to know how they are looking

at the pilot sites to help us decide if there is a place in our area. In the rule making process, LDCD, ODFW and Oregon Parks and Recreation Department will be making new rules to put the two pilot sites into action. Even though the meetings were last night, tonight and tomorrow night, there is still a comment period. For all of the meetings, ODFW will accept comment until December 11th; Department of State Lands until November 17th; and Oregon Parks and Rec. until November 17th. The information on how to get into the rules and look at them was sent to you along with the Agenda for this meeting a week ago. If you want to make comment you can.

There is an OPAC meeting on Friday in Florence and there will be a LDCD meeting regarding part 5 of the Territorial Sea Plan. David Allen will give you a more in-depth look at that plan when he gets here.

Mike Gaul talked to Ed Bowles yesterday and he said he was going to send some funding this way to help offset some of the costs for renting this hall and maybe a facilitator later. We will talk later to see if there is anyone else you want to hear from. When the real discussion starts, Mr. Gaul thinks it would be good to have a facilitator in here; a neutral party that can take all the ideas.

Bill Russell encouraged the use of facilitators – we need someone who is completely unbiased.

Looking at the proposed Red Fish Rock site, a Marine Reserve and a Marine Protected area, it is hard to conceptualize; are there any maps of the actual pilot area? Will the nearshore gathering of shellfish be restricted on Rocky Point which is one of the most popular areas? Ms. Wall said that was one of her questions also. Do you want to hear from the people that proposed the Red Fish rock and the Otter Rock proposal sites as one of our presentations? Mr. Gaul said that there were maps and he hoped to get them together to scan and forward or bring to the next meeting. The question on shellfish might be a good question for David Allen.

There was some discussion in the group about where the Red Fish Rock site was and how it might affect the shellfish.

Someone said the map was online at www.Oregonmarinereserves.net .

John Griffith said he would be concerned with facilitators – some things might get included that are not true or relevant if there was no examination. Anything anyone said would be included whether it was true or not. You have to be careful because he knows that the information could end up in the conservation plan (he gave an example of ODFW)

Jim Pex said he knew what John was saying but he thought a facilitator could bring up the various comments for a vote to include what was relevant and true.

Mr. Gaul said if the money comes through and we get to the point of a facilitator, we should have a discussion as to yea or nay and then who. Mr. Gaul has some of his own ideas about whom the Port has used in the local area and who have been very good.

Dave suggested that we get a facilitator outside the state government. Mike said that one person locally who he feels is very good is Crystal Shoji; the Port has used her a couple of times. She runs a good meeting, takes good notes and gets the information back to us. Mike Helfrich agreed, said that she did an excellent job on the Charleston Master Plan and he didn't think she had any agenda to sway her thinking.

Mr. Gaul continued with an agenda item about a meeting day. The third Wednesday of the month had been set before and he wanted to make sure that it still worked for the majority. This date falls on the same days as some other meetings in the area and Mr. Gaul said that he would again bring the subject up and see if there were any better days. We want the majority of people to attend these meetings. The decision was to leave it at the third Wednesday of the month.

Mike Lane wanted to mention that there was a SOORC meeting last Tuesday and we still haven't gotten the word from Echo Trust as to whether we have the ability to release or/ and how much information we can release on the mapping that has been done. There are still some privacy issues that need to be looked at.

David Allen arrived and Mr. Gaul introduced him by saying he is one of the public members of OPAC. Mr. Gaul then asked the people around the table introduce themselves and who they represent.

Mr. Allen then started his presentation and said that he did not mind taking questions during the presentation. He started with the history of OPAC when he became a part of it. His role is coastal public-at-large representative; Jim Good is the other at-large member and he covers State-wide. Mr. Allen was appointed by the Governor in 2004. Prior to that OPAC had gone through a lengthy process on a Marine Reserves recommendation under former Governor Kitzhaber's direction. They came up with a recommendation in 2001 which resulted in a change in the statutes which OPAC operates under. HB3534 in 2003 changed the composition of OPAC; changed the membership but also voting members. When that bill passed it created more of a voting membership for people who were not specifically representing state agencies. It opened more voting participation for people, state cultural interests, public at large interests, coastal local governments and state agencies. There are 14 voting members and 24-25 total members. Mr. Allen was recently selected as vice-chair. He also co-chaired the Territorial Sea Plan (TSP) working group which is the other issue that OPAC has been doing a lot of work with currently and a Wave Energy facility siting on the territorial sea. They are now going through an amendment process on the TSP. Friday's meeting will review what they have put out on the new Part Five of the TSP. It was at the direction of the Governor to move forward on the Territorial Sea Plan. Mr. Allen is also a member of the TSP advisory committee, set up in conjunction with the member process and they advise the Land Conservation and Development Commission (LCDC) which is going through

the rule making process for the new Part Five. Mr. Allen then said he wanted to get back to Marine Reserves and why the committee in this room was here.

In 2005 they finally started having meetings; there were a lot of issues that delayed meetings for about a year.

Someone in the audience asked: What was your background before you were appointed by the Governor?

Mr. Allen said he served on the Newport City Council from 2001-2004. When he served on the City Council, he was the representative of the Oregon Coastal Management Association. From that he was able to meet a lot of folks who serve on coastal local governments dealing with coastal issues similar to what OPAC deals with right now. People he met thought he might be a good representative to OPAC. He was a practicing attorney in Newport and so had familiarity with the legal issues.

Continuing his presentation Mr. Allen said that one of the first things OPAC was asked by Governor Kulongowski was to look at the Marine Reserves issue even though OPAC had come up a recommendation. He wanted the issue reviewed again and to build on what was done in 2001 and try to move the process forward.

There were some meetings in June and October and then in December of 2005 when they were starting to look at the issues again and then the Governor gave them a new task. The Governor wanted them to look at the Coastwide Marine Sanctuary through the Federal Sanctuary program. This caused an impasse on top of looking at the Marine Reserves and posing a problem of where to focus their interest as most of the OPAC members are volunteers and it was taking a lot of time. However, that was what the Governor really wanted to look at so OPAC focused on Marine Sanctuaries for the next year. The Marine Reserves working group was formed in 2006, chaired by Frank Warrens, but OPAC's focus was on the Marine Sanctuary Coastwide. The Governor wanted a full blown recommendation at the end of 2006. It became apparent, however, they could not get the recommendation because of the outreach that was necessary. So the Governor just asked for a status interim report on a couple of questions and they came up with it at the end of 2006.

Question: Can you give us the difference between Marine Sanctuary and Marine Reserves?

The Marine Sanctuary program is a Federal program operating through federal agencies and it has a federal bureaucracy over it. States must operate under it and in conjunction with it. There are a lot of the issues if the governance was in place and if we went for the Marine Sanctuary, especially in the territorial waters. The Marine Reserves within the same territorial waters would be a jurisdiction of the State; there was no federal bureaucracy that would be looking over us or we would have to coordinate on a Marine Reserve issue. If we wanted to move forward with the proposal to be considered for a Marine Sanctuary, there would be another level of bureaucracy.

One issue that the Governor wanted OPAC to look at toward the end of 2006 was the governance procedures between the State and the Federal on fisheries management that would be in place in a Sanctuary.

OPAC expressed concerns about how fisheries management would be conducted within the Sanctuary program on the entire coast proposal. The Governor listened to OPAC saying no to a coast wide Sanctuary and then everything was moved to Marine Reserves.

Question: Wasn't there an issue about funding coming to Oregon in 2006 for the Marine Sanctuary?

Mr. Allen said that the Sanctuary funding was put on hold by congress and they were not putting any new money into it. OPAC had some issues about funding to actually implement the program at the federal level.

The Wave Energy issues came along in 2007. It was a contentious issue and a lot of coastal local governments sent letters telling OPAC to start looking at wave energy. A wave energy workgroup was formed. Mr. Allen just wanted people to be comfortable with whatever they finally did.

So both issues, Wave Energy and Marine Reserves, happened in 2007. There were several meetings starting in 2007 on the Marine Reserves issues and that workgroup actually met more than OPAC did.

In June 2007, the Governor came out with a memo asking OPAC to start the nomination process for Marine Reserves. That was the first time you had a sense of where you were being asked to go in the Marine Reserves process.

The memo was sent to the Marine Reserves work group that Frank Warrens chaired. Those first meetings were in Corvallis discussing the implementations of what OPAC had to do to move forward on the nomination process.

At the same time the Port of Newport came out with a Resolution indicating their point of view. They were not against it, just wanted to make sure there were certain parameters implemented. After Newport came out with their resolution, a lot of other ports, cities, and towns up and down the coast started sending in their resolutions. Mostly they wanted to be sure social and economic impacts and feedback from the coastal communities was considered.

Question: Someone asked Mr. Allen to highlight what the 2001 recommendation was.

Mr. Allen suggested he go over that at the end of his presentation.

Initially OPAC was concentrating on the coastal communities, the fishing industry and the environmental concerns in their requests for feedback. There was another issue that

changed some of the dynamics. The south coast county representative to OPAC was vacant for many years and John Griffith was appointed by the County Commissioners to be a member of OPAC. It was issue between the Board of Commissioners and the Governor's office for a couple of years as to whether John should be appointed or someone else. Many at OPAC expressed concern about moving forward with any large policy issues without having a full membership.

In November of 2007 in Gold Beach, when OPAC was looking forward to the outreach program for Marine Reserves, OPAC took a vote which said they would continue the outreach, but before the implementation process moved forward, they needed a full membership. Without the full membership, they felt it might impact the credibility of whatever decision they made. Whatever OPAC did, they wanted credibility with the coast and with the state as to what they were doing. A response was sent to the Governor to that effect.

Another critical thing happened: Coastal caucus members set a meeting with the Governor and the fishing industries on November 1st and they had a frank discussion about their concerns; not only Marine Reserves but wave energy also. This is where Marine Reserves and Wave Energy sort of came together instead of having two separate issues. The Governor issued a press release saying his recommendation was for less than 10 Marine Reserves and no more than 5-7 wave energy parks. The Governor made a promise in the press release maintaining that there would not be any socio-economic impacts for coastal communities.

OPAC then engaged Oregon Sea Grant at the end of 2007 to do an outreach up and down the coast to get more feedback. They presented their findings to OPAC in March of 2008.

John Griffith was appointed to the Coos County representative seat as of February 2008.

Based upon OPAC's intention not to move forward until the Coos County seat was filled, Chip Terhune, the Governor's Chief of Staff, decided to do his own coastal tour to talk with people in the community meetings. Then the Governor sent his Executive Order regarding Marine Reserves and Wave Energy which leads us to where we are today. The Executive Order talked about the side boards for Marine Reserves (less than 10 sites). He wanted to make sure to minimize the impact to the communities so Marine Reserves would be small enough to reduce impact and large enough to have some scientific and ecological effect that could be utilized as a Marine Reserve site for further evaluation. The Governor also asked the OPAC and the State to look wave energy and to come up with an amendment to the Territorial Sea Plan (Part Five).

John Griffith corrected Mr. Allen and said that Chip Terhune actually came down after the Governor's Executive Order.

Most of the wave energy issues were between Reedsport and Coos Bay and there was a lot of concern from the communities about wave energy moving in without knowing

where to site these facilities. FERC is responsible to say where someone can locate a facility if they apply. The State gets involved after the fact. In conjunction with the Executive Order, the Governor and the State entered into a Memorandum of Understanding with FERC. It basically said that FERC would hold off on moving forward with any large scale, commercial applications on wave energy until Oregon put forth the amendment to the TSP that would be recognized by the Federal Governments as an enforceable policy and that all decisions would have to abide by it in the future for any sitings. FERC would have to abide by the decision as to the sitings so any application from 0-3 miles would go through the FERC process who would first look at the State Territorial Sea Plan so see what it says.

One part which has taken a long time has been the maps, which will show overlays with recreational use areas, departmentally sensitive areas, and fishing areas. What OPAC needs is a corresponding map to be a part of the TSP Amendment Part Five which would show the high impact zones (high use) so you could try to direct companies coming in to the areas of least impact. The map is taking time and we hope to have some of the overlays or drafts ready by next year.

Back to Marine Reserves: The Governor's Executive Order came out and the dynamic was changed again, from a nomination process to a proposal process.

OPAC put out a Policy Guidance Document working from March until September putting this document together. It incorporated the Governor's Executive Order, added some additional criteria that OPAC thought was important and it had the sideboards. Also created was a course review document so people could look at it if they wanted to propose a site; it was just bullet points showing what OPAC was asking for.

They received 20 proposals; several were the same so there were about 7 with some overlapping.

Discussion returned to the mapping again by members of the MR Committee around the table; how and if it would be available to the group; how Eco Trust would put them into a generalized form etc. Rick Goche talking about the maps SOORC is working on; there were questions about people that didn't participate in the informational gathering and so forth.

Mr. Allen said that all the processes in mapping have to be consistent.

Other considerations: Surfrider is doing some surveys on non-fishing/ recreational type uses, kayaking, surfing etc.

The discussion then went to funding and the ocean effect and community effects of funding. It comes down to where you put your priorities and focus for the decisions.

OPAC took the charge of the Governor very seriously and tried to make some accommodations and compromises, slowly working with the coastal caucuses on this and the result was HB 3013.

Mike Lane turned the meeting back to timing on the mapping. He said it is probably being affected more by the permitting process for OPT and Wave Energy. The conversation continued for quite a while.

Again, back to Marine Reserves: OPAC came up with the determination that there would be two pilot projects of Marine Reserves. The rule making is happening now. There is a lot of baseline information to put in place but the process is starting. Once the rulemaking is complete, the Port core group, NSF will be the key group looking at developing work plans with different stakeholder groups. The core group will be more specific than the rulemaking. There is a whole process in place as to how to evaluate those sites and next year, ODFW who is in charge of the process, can report back to the legislature and OPAC. Other than the two pilot sites, there were other areas, not looked at as pilot sites, but which need to be looked at for further evaluation; they are potential sites, Cape Falcon, Cascade Head and Cape Perpetua. The Cape Arago/ Seven Devils area was rejected by OPAC last year. They had potential sites, similar to Cape Falcon, Cascade Head and Cape Perpetua, to look at. After OPAC rejected it, Mike Gaul stepped up and said the Port of Coos Bay would make an effort to convene this group to look at this area to see if a proposal could be moved forward for OPAC and the State to look at and see if it could become a potential marine site. Mr. Allen then said that this group's recommendation for this area could be a proposal or no proposal at all.

Steve Shimotakahara referred to OPAC Reserves Policy Recommendations of November of 2008. He asked about putting a wave energy park on top of a Marine Reserves – is that possible? Mr. Allen said that you would have to look at all the situations and be consistent with policy – HB3013. You would have to look at the enhancements and detriments of both Marine Reserves and Wave Energy.

Mr. Pex commented to Dr. Shimotakahara that if this group chose to do that, it would be better to be under a Marine Protected area than a Reserve.

Mr. Allen continued the discussion and gave some options to think about Marine Reserves vs. Marine Protected.

Discussion again went back to the fishermen interviews for a while and then the question came up again about whether we would have a proposal or not and if not why are we here or is the decision already made to put one somewhere; also it covered more discussion on the Territorial Sea Plan and the mapping issues and wave energy.

Kathy Wall made two points about the discussions above. The amendments to the Territorial Sea Plan are related only to ocean energy; its not aquaculture site or future uses, only energy project on the ocean. The second point is even as we are talking about the mapping in SOORC, OPT has two valid applications that went in before any of these

things have happened. She has heard the term “grandfathered” in Coos Bay and Reedsport. OPT has said that they will wait to see what happens through this process, but by regulation, they are not required to. As we are talking about Bandon to Reedsport, those two wave energy areas are still important because we do not know that this process is going to change the location of those applications. We need to consider these wave energy facilities as we talk about Marine Reserves, because they might be put right where they are applied for right now.

Comment: This process we are going through is giving us the chance to put something together so when these companies come forward we can direct where the wave energy parks are put. It will give FERC something to look at as they go through their process also.

All alternative energy projects will be affected by the amendment to the TSP.

Comment: Regarding Marine Reserves, it is not what kind of science we can get out of the process, but how can we get some science out of the process. Would it be possible to have a control site for scientific background looking at how healthy the ocean is without it be quarantined?

Comment: It was asked what if any specific problems the Governor has identified which causes the need for a Marine Reserve? Has OPAC identified any reason?

Mr. Allen said that no specific problems have been identified in the Territorial Sea from a fisheries standpoint that needed to be addressed. OPAC has chosen to focus on research and science instead.

There was some more discussion on the economic cost of a Marine Reserve.

Break***

After the break the discussions continued regarding mapping and where that mapping should be. Why couldn't it be negative mapping just showing where the fishermen were not impacted.

Dave Fox said last month that there are no areas available to ODFW that are not affected by humans which is why they feel that Marine Reserves are important. It could benefit ODFW by creating a baseline to manage state waters.

Comment: Another comment was made about the wave energy and not being able to trust that OPT would wait for the Territorial Sea Plan. There was an argument that the State was on board for a test site but not full buildout like OPT wanted.

Back to Marine Reserves – Mike Gaul said that if you really want to discuss Wavy Energy, we can have someone come in at a later date.

Some of the language from the Executive Summary and what it requires as well as the use of Marine Reserves was reviewed by Dave Lacey.

John Griffith brought up the issue of funding again. The legislature only put \$1 million out of the New Carissa into the pot – it's not renewable. What does the future hold with respect to funding.

Mr. Allen said that ODFW would report back to an interim legislative committee on the results of the work plan for the pilot sites, the potential sites and our Cape Arago site proposed by this group (if it is proposed). One of the criteria is the status of funding necessary to carry out the provisions of section one. The local caucus is very aware the New Carissa is just a one shot deal and that next year ODFW will report back on how that money has been used.

There is a provision in the bill which does allow money to be gifted or granted or contributions received for purposes of moving forward.

Mr. Allen commented on what OPAC approved last year in the policy recommendation regarding Marine Reserves.

Various comments continued throughout the rest of the meeting jumping from subject to subject.

Steve Bodnar reminded all participants in this committee you are representing groups, and the views you take to them are not your own, but should be what is actually being said in the meeting. It is everyone's responsibility to pass the information on.

The Next Meeting is November 18, 2009

The meeting was adjourned at 8:33 pm