

## 1. SUMMARY

The Oregon International Port of Coos Bay Cape Arago Marine Reserves Recommendation Committee voted March 16, 2011, by two-thirds majority to recommend to the Port Commission that no new marine reserves or marine protected areas be established in the Cape Arago-Seven Devils area.

Unlike Port Orford and Depoe Bay, which found areas they felt could be sacrificed as marine reserves, the majority of our committee found that designating a new marine reserve or marine protected area, or expanding existing protected areas at Cape Arago-Seven Devils would cause significant socioeconomic harm, thereby violating Oregon marine reserve criteria.

Cape Arago-Seven Devils is very important economically for recreation, tourism and commercial fishing. There are four restricted-area designations already at the Cape, including a subtidal research reserve that is not used by researchers.

None of the options to create additional reserves and/or protected areas at Cape Arago-Seven Devils received even a one-third vote. Vote tally was as follows:

Option A, calling for a reserve, 7 yes votes, 27 no

Option C, calling for a reserve, 10 yes, 24 no

Option G, calling for a reserve, 9 yes, 25 no

Option H, calling for no new reserves or protected areas, 23 yes, 11 no.

When voting took place, it did so with a previously agreed criterion that a two-thirds majority would be required to approve an Option.

Our committee had 34 members selected to represent business and environmental interests, fishing and recreation, tribes, public at large and local governments. We met on 18 occasions since May 27, 2009, which resulted in 239 pages of minutes, conducted three public hearings at which 48 people produced 20 pages of recorded comments as well as submitted 373 pages of additional comments. Many of the committee members conducted or participated in public meetings as individuals (i.e. representatives of the cities of Coos Bay and North Bend, Coos County, chambers of commerce, Charleston Advisory Committee) which produced additional volumes of comments. Staff has much of this testimony available for review.

Although it was the opinion of Port staff and Oregon Department of Fish and Wildlife that our committee's geographical area of concern was Cape Arago and Seven Devils, we briefly discussed possibly recommending further consideration of sites near Blacklock Point. ODFW also clarified that "No marine reserves/protected areas" was an option for our committee.

Some committee members on both sides of the marine reserves debate were paid to participate in the committee.

## 2. EXPLANATION

Our committee agreed to a consensus statement, with no dissenting votes (attached).

No biological problem was identified in the area being considered during or before the 18 months that our committee worked on a marine reserve recommendation. Potential benefits of a new marine reserve were theoretical; harm (examples: economic, loss of fishing opportunity, fishing effort shift) from one or more new marine reserves at Cape Arago, Seven Devils was real.

Cape Arago-Seven Devils is a very valuable fishing and recreation opportunity for area residents and visitors. It's close to a safe harbor with developed infrastructure and a maintained channel, and has abundant fish and healthy natural habitat. The committee considered the value of fisheries, lack of a known problem with current management, uncertainties of marine reserves and of the state's commitment to finance them, plus the surplus of places for research already before the two-thirds majority of the committee voted for No New Marine Reserves or Marine Protected Areas at Cape Arago-Seven Devils.

Members of the majority also pointed out that no analysis has been done of current management to see if it is advisable to add other management tools, possibly including marine reserves; that the Oregon Legislature has not budgeted general funds to operate the pilot marine reserves it already designated; and that it is reasonable to wait for results from those two reserves and budget-makers' future decisions before tying up more public land and resources for a special interest-only purpose. They also cited mission creep (once designated, protection areas, regulations and public expenses have a tendency to expand); reduced safety, due to having to go to other fishing areas farther from safe harbor; that fishing is already highly regulated; and that most days weather and sea conditions conspire to keep boats ashore, a form of natural regulation that preserves resources. Cape Arago is also home to hundreds of seals and sea lions that eat fish.

Some members of the majority wondered aloud whether the marine reserves issue in Oregon is anything but a political device, and whether marine reserves advocates would ever be satisfied with closed areas, or keep pushing for more ground; some noted marine reserves advocates' failure to acknowledge that thousands of square miles of fishing water is already closed to rockfish fishing, and more that is restricted at 40- and at 20-fathoms. It was also noted that habitat at the Cape is already well protected because bottom-contact trawl fishing is not done there, and very little commercial dive fishing (sea urchins or cucumbers) goes on; and that marine reserves would have no protective influence on heavy forces like oil spills, El Nino and, if it's actually occurring, climate change.

Although our committee did not pore through case studies of marine reserves, when the subject of science was raised, comments followed that case studies of marine reserves show mixed results that appear to be mostly situational: Some reserves bring about no observed environmental change, some very little, and others quite a lot, depending primarily on circumstances before and after reserve

designation, and on species chosen for study. For example, some researchers concluded that marine reserves were successful by tallying numbers of immobile invertebrates that people like to eat, such as abalone, before and after fishing for them was banned by marine reserve designation. Studies like those tell more about the effectiveness of fishing regulations than about the performance of marine reserves. Committee members said we already have lots of fishing regulations here in Oregon, and no problem with current management was identified.

### 3. CAPE ARAGO-SEVEN DEVILS CLOSURE WOULD VIOLATE CRITERIA FOR MARINE RESERVES

Designating a marine reserve at Cape Arago-Seven Devils would violate Oregon's marine reserves criteria. Applying criteria to land use decisions is at the core of Oregon's land use scheme, and recently came to be important in the process of marine reserves in Oregon.

Our committee heard threats several times that if we chose no new reserves, or a reserve that someone might consider too small, people from other places would force a large reserve on our community. Some threats alleged that criteria outside of state law and executive order exist. Examples are that marine reserves are intended to create ecological benefits (by the criteria they're supposed to be places only to study ecological benefits that might occur), that they must be networked to accomplish these hypothetical benefits, and that not having a new marine reserve at the Cape would leave an intolerable ecological and research gap (refuted by criteria).

Oregon has only three primary marine reserves criteria, stated by Gov. Ted Kulongoski first as a promise to reassure fishermen on Nov. 1, 2007 (attached), then as an Executive Order, on March 26, 2008 (also attached), and finally put in state law by the Oregon Legislature with HB 3013 from the 2009 session (ORS 196.545 (3)):

1. There will be fewer than 10 marine reserves that are
2. large enough to allow study, individually or collectively, of ecological benefits, if any, but
3. small enough to avoid socioeconomic harm.

Governor Kulongoski statement to fishermen, and Executive Order 08-07.

Gov. Kulongoski's natural resources director Mike Carrier cited Executive Order 08-07 and HB 3013 in a June 9, 2010, letter to our committee "Your team's work to find an ecologically meaningful site that, if protected, would not cause significant socioeconomic hardship is consistent with the intent and letter of both the Order and the House Bill." Carrier June 9, 2010, letter, attached.

Some committee members and people who testified asked the committee to ignore state criteria by substituting irrelevant, hypothetical considerations such as the Oregon Ocean Policy Advisory Council's (OPAC) Science and Technical Advisory Committee's (STAC) so-called Size and Spacing guidelines.

Example of such request found in Committee minutes, April 28, 2010. A member of the majority noted that these guidelines are invalid, largely because their process violated STAC and OPAC operating rules and because participants in the workshop that made the guidelines decided to disregard Gov.

Kulongoski's criteria in their deliberations, while even noting that the criteria are requirements of

marine reserves in Oregon. As a result, their guidelines were not adopted by OPAC or included in an executive order or put into state law. Documentation of these points about the STAC report is in our committee's record.

#### 4. BACKGROUND

The criteria evolved from controversy and Gov. Kulongoski's efforts to assuage it. Oregon's marine reserves process has been underway more than a decade. The first Ocean Policy Advisory Council (OPAC) in August 2002 recommended establishment of a "limited network (sometimes called "system") of marine reserves," the emphasis placed on science. The backlash of recommending fishing closures and economic displacements based only on untested hypotheses was too much for the old OPAC to endure. The Oregon Legislature reorganized OPAC in 2003 with HB 3534, signed into law in August that year by Gov. Kulongoski. The second (and current) OPAC began meeting in mid-2005 with a request from Gov. Kulongoski to resume the effort to establish marine reserves with the same assumptions and work products that brought down the old OPAC.

The new OPAC was immediately beset with controversy. No headway could be made with the old idea of having a "networked system" of marine reserves with no regard for socioeconomic realities and growing coastal resistance.

On Nov. 1, 2007, Gov. Kulongoski assured fishermen and coastal communities that he did not intend to force marine reserves on them, because it was looking at that time like he might get no reserves without a political problem. If only one community volunteered a place it would be enough to fulfill the "individually or collectively are large enough to allow scientific evaluation" criterion. The point is that if a community did not want to or could not agree to call loss of a fishing spot "insignificant," the criteria protect that community. Coastal communities and ocean users know the value of places in the ocean best.

Even with these assurances, Depoe Bay and Port Orford were the only fishing towns where the governor's marine reserves aspirations found any traction, and they weren't going along happily. Mr. Loren Goddard, of the Depoe Bay Nearshore Action Team, told our committee that his town nominated a place called Otter Rock as a pilot marine reserve out of fear that if they didn't sacrifice at least a second-tier fishing spot, a worse outcome was in store.

Lastly on the change from an ecologists-ordained “limited network of marine reserves” to a process involving land use criteria, OPAC in 2008 could not have recommended a “limited system of marine reserves” because it is required at ORS 196.443(1)(d) to perform an analysis of short- and long-term effects to do so. OPAC performed no analysis.

## 5. FISHERIES VALUES OF CAPE ARAGO-SEVEN DEVILS

Minutes of our first meeting committee reflect a statement by OIPCB deputy executive director Mike Gaul, quoted below, and a Southern Oregon Ocean Resources Council (SOORC) study of the fisheries value alone show that Cape Arago-Seven Devils does not meet Oregon’s criteria for marine reserves.

From the minutes of committee meeting May 27, 2009, attributed to Mike Gaul: “This is probably the only Port staff input you will get. For the recommendation for Marine Reserves off Cape Arago, the Port did a (back of the napkin?) economic impact to see what a Marine Reserve area off of Cape Arago would do. They found that 5 businesses in Charleston would close; it would eliminate 131 jobs in the Charleston area. It would impact the annual revenue by \$11,084,000. When you use a multiplier that would all add up to about an annual impact of over \$55,000,000. That is the first thing that caught our attention.”

The SOORC contracted with EcoTrust to estimate sport and commercial fisheries value of the Cape Arago-Seven Devils area. Fishermen who participated were asked to identify on a map where they fished, as if they had a dollar’s worth of pennies to put, more or fewer, in those spots of greater or lesser importance to them. The entire Cape Arago-Seven Devils area showed as the highest or second-highest for fisheries value. This alone is enough to bar establishment of new marine reserves/marine protected areas at Cape Arago-Seven Devils, in keeping with marine reserves criterion 3.

The clear economic value of Cape Arago-Seven Devils fisheries, testified to by many members of the public at OPAC meetings leading up to the November 2008 OPAC decision meeting, is mostly why the OPAC voted down the two proposals for new marine reserves at Cape Arago-Seven Devils. A retelling of that testimony occurred at a Coos Bay City Council meeting immediately preceding our committee’s vote to recommend no new marine reserves and/or new marine protected areas at Cape Arago-Seven Devils.

Although some public testimony suggested that marine reserves can bring a community more revenue, the committee majority was skeptical, including chambers of commerce representatives. In such a gamble, our community would be wagering that a reduction of known social and economic opportunity would somehow increase social and economic opportunity. This is a difficult hypothesis to favor, given the evidence that the state has so little faith in marine reserves that it has budgeted no general funds to establish and operate them, that a net loss of tourism would probably result from closing fishing area that would not be filled by people coming to look at it from shore, and that SCUBA diving already has limited popularity here due to strong currents, often heavy swell, cold, and limited visibility. Washington marine reserves are sometimes visited by SCUBA divers, but are not on the ocean coastline. They are in

the more protected waters of Puget Sound and Hood Canal. Most who dive here are hunting fish and shellfish, so the predictable net effect to diving would be negative.

## 6. CONCLUSION

Unlike Port Orford and Depoe Bay, our community told the Ocean Policy Advisory Council and now has repeated, after a two year-long examination, that expanding the number or size of restricted areas at Cape Arago-Seven Devils would cause significant socioeconomic harm.

Public process and coastal communities are supposed to matter, according to Sec. 3 (c) of Gov. Kulongoski's Order, ORS 169.420(6), etc. When asked for clarification, Oregon Department of Fish and Wildlife told our committee that "no marine reserves" is an option.

Business owners have testified that the mere threat of unnecessary, ill financed marine reserves is harmful, particularly to business sectors like boat sales and service. The threat of increasing the number or size of marine reserves and protected areas at Cape Arago-Seven Devils has been carried through the public process and voted down twice now.

END

## Elise Hamner

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**Subject:** FW: Marine Reserve Recommendation Committee - Majority Report  
**Attachments:** Majority report OIPCB CAC 041011.docx  
**Importance:** High

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**From:** Donna Scholl  
**Sent:** Friday, September 16, 2011 9:28 AM  
**To:** Steve Bodner ([c.trawl@yahoo.com](mailto:c.trawl@yahoo.com)); Mike Boehme ([bearenstein@gmail.com](mailto:bearenstein@gmail.com)); Wayne Butler ([wayne.b1@mycomspan.com](mailto:wayne.b1@mycomspan.com)); Rodger Craddock; [garb@presys.com](mailto:garb@presys.com); Rick Goche ([rickg@ari1.com](mailto:rickg@ari1.com)); John Griffith ([haliotis@charter.net](mailto:haliotis@charter.net)); Mike Helfrich; Mike Lane ([oceanlane@frontier.com](mailto:oceanlane@frontier.com)); Matt LeDoux ([matt.ledoux@yahoo.com](mailto:matt.ledoux@yahoo.com)); Bob Main ([bmain@co.coos.or.us](mailto:bmain@co.coos.or.us)); James Moore ([cherijimmoo@yahoo.com](mailto:cherijimmoo@yahoo.com)); Barry Nelson ([macban86@yahoo.com](mailto:macban86@yahoo.com)); Bart Stein ([bart.stein@edwardjones.com](mailto:bart.stein@edwardjones.com)); Donald Peabody ([don@deesdiamondflashers.com](mailto:don@deesdiamondflashers.com)); Valerie Pena ([wildwings7@charter.net](mailto:wildwings7@charter.net)); Jim Pex Sr. ([jimpex@charter.net](mailto:jimpex@charter.net)); Bill and Jolene Poppe; Reg Pullen ([reg\\_pullen@BLM.gov](mailto:reg_pullen@BLM.gov)); Mark Schneider ([tunaman@q.com](mailto:tunaman@q.com)); Dean Warner ([deanw@presys.com](mailto:deanw@presys.com)); Margery Whitmer ([fish@bettykaycharters.com](mailto:fish@bettykaycharters.com))  
**Cc:** David Koch; Kathy Wall; Elise Hamner  
**Subject:** Marine Reserve Recommendation Committee - Majority Report  
**Importance:** High

At the March 16, 2011, meeting of the Oregon International Port of Coos Bay's Marine Reserves Recommendation Committee, you were one of the committee members who voted in favor of Proposal H, calling for "No New Marine Reserves and No New Marine Protected Areas." By a vote of 23 to 11, Proposal H was the only proposal to receive the 2/3 majority vote required to move a proposal forward to the Port Commission as a recommendation.

At the conclusion of the meeting, the committee agreed that two reports would be authored, representing both the Majority and the Dissenting viewpoints. A draft Majority Report has been prepared by John Griffith and Mike Helfrich, providing for input from committee members who chose to assist. However, it is necessary that the Majority Report reflect the viewpoint of not just the authors, but rather the collective viewpoint of the 23 committee members who voted in favor of Proposal H.

To that end, the draft Majority Report is being submitted to you for your review and concurrence. Please review the report and let Port staff know whether you have any objections or substantive revisions to the contents of the draft report. If we do not receive any objections or substantive revisions by September 30, 2011, we will presume that you concur that the report accurately reflects your viewpoint as a member of the 2/3 majority that supported Proposal H. On the other hand, if you object or have substantive revisions that you believe must be made as a condition of your concurrence with the report, please notify us prior to September 30, 2011. If necessary, Port staff can schedule a time to meet with you to discuss your concerns, so that we can determine how best to incorporate them into the process.

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**From:** Michael Boehme [mailto:[bearenstein@gmail.com](mailto:bearenstein@gmail.com)]  
**Sent:** Friday, September 16, 2011 11:57 AM  
**To:** Donna Scholl  
**Subject:** Re: Marine Reserve Recommendation Committee - Majority Report

I agree with the report.

Thank you for all of your effort in putting this together.

Michael P. Boehme  
Public at Large #6

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-----Original Message-----

From: John Griffith [mailto:[haliotis@charter.net](mailto:haliotis@charter.net)]  
Sent: Friday, September 16, 2011 11:29 AM  
To: Donna Scholl  
Subject: RE: Marine Reserve Recommendation Committee - Majority Report

Donna

Don't know if this is how or when to concur with the statment, but I concur and support it. The statement is what I would have said.

john griffith

On Fri, Sep 16, 2011 at 9:27 AM, Donna Scholl wrote:

> At the March 16, 2011, meeting of the Oregon International Port of  
> Coos Bay's Marine Reserves Recommendation Committee, you were one of  
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> [www.coosbayraillink.com](http://www.coosbayraillink.com)<<http://www.fishingcoosbay.com/>>  
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> [cid:image001.jpg@01CC7452.92CCD720]<[www.portofcoosbay.com](http://www.portofcoosbay.com)>

## Donna Scholl

---

**From:** Donna Scholl  
**Sent:** Monday, September 19, 2011 8:07 AM  
**To:** David Koch; Kathy Wall; Elise Hamner  
**Subject:** FW: Marine Reserve Recommendation Committee - Majority Report

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**From:** James Pex [mailto:jimpex@charter.net]  
**Sent:** Friday, September 16, 2011 9:12 PM  
**To:** Donna Scholl  
**Subject:** RE: Marine Reserve Recommendation Committee - Majority Report

I concur

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**From:** Donna Scholl [mailto:dscholl@PortofCoosBay.com]  
**Sent:** Friday, September 16, 2011 9:28 AM  
**To:** Steve Bodner (c.trawl@yahoo.com); Mike Boehme (bearenstein@gmail.com); Wayne Butler (wayne.b1@mycomspan.com); Rodger Craddock; garb@presys.com; Rick Goche (rickg@ari1.com); John Griffith (haliotis@charter.net); Mike Helfrich; Mike Lane (oceanlane@frontier.com); Matt LeDoux (matt.ledoux@yahoo.com); Bob Main (bmain@co.coos.or.us); James Moore (cherijimmoo@yahoo.com); Barry Nelson (macban86@yahoo.com); Bart Stein (bart.stein@edwardjones.com); Donald Peabody (don@deesdiamondflashers.com); Valerie Pena (wildwings7@charter.net); Jim Pex Sr. (jimpex@charter.net); Bill and Jolene Poppe; Reg Pullen (reg\_pullen@BLM.gov); Mark Schneider (tunaman@q.com); Dean Warner (deanw@presys.com); Margery Whitmer (fish@bettykaycharters.com)  
**Cc:** David Koch; Kathy Wall; Elise Hamner  
**Subject:** Marine Reserve Recommendation Committee - Majority Report  
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10/14/2011

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## Donna Scholl

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**From:** Donna Scholl  
**Sent:** Monday, September 19, 2011 8:08 AM  
**To:** David Koch; Kathy Wall; Elise Hamner  
**Subject:** FW: Marine Reserve Recommendation Committee - Majority Report

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**From:** Steve Bodnar [mailto:c.trawl@yahoo.com]  
**Sent:** Saturday, September 17, 2011 11:22 AM  
**To:** Donna Scholl  
**Subject:** Re: Marine Reserve Recommendation Committee - Majority Report

I approve this majority report 100%.

Steve Bodnar  
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 Bandon Submarine Cable Council  
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 541-888-8012

**From:** Donna Scholl <dscholl@PortofCoosBay.com>  
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**Cc:** David Koch <dkoch@PortofCoosBay.com>; Kathy Wall <kwall@PortofCoosBay.com>; Elise Hamner <ehamner@PortofCoosBay.com>  
**Sent:** Friday, September 16, 2011 9:27 AM  
**Subject:** Marine Reserve Recommendation Committee - Majority Report

10/14/2011

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Elise Hamner | Communications & Community Affairs Manager | Oregon International Port of Coos Bay  
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**Donna Scholl**

**From:** Donna Scholl  
**Sent:** Monday, September 19, 2011 8:08 AM  
**To:** David Koch; Kathy Wall; Elise Hamner  
**Subject:** FW: Marine Reserve Recommendation Committee - Majority Report

Donna Scholl  
 Executive Assistant  
 Oregon International Port of Coos Bay  
 PO Box 1215  
 125 Central Avenue, Suite 300  
 Coos Bay, OR 97420  
 (541) 267-7678 phone  
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**From:** cmlkhelf@aol.com [mailto:cmlkhelf@aol.com]  
**Sent:** Saturday, September 17, 2011 9:51 PM  
**To:** Donna Scholl  
**Subject:** Re: Marine Reserve Recommendation Committee - Majority Report

I concur with the draft as presented.

-----Original Message-----

From: Donna Scholl <dscholl@PortofCoosBay.com>  
 To: Steve Bodner (c.trawl@yahoo.com) <c.trawl@yahoo.com>; Mike Boehme (bearenstein@gmail.com) <bearenstein@gmail.com>; Wayne Butler (wayne.b1@mycomspan.com) <wayne.b1@mycomspan.com>; Rodger Craddock <rcraddock@coosbay.org>; garb <garb@presys.com>; Rick Goche (rickg@ari1.com) <rickg@ari1.com>; John Griffith (haliotis@charter.net) <haliotis@charter.net>; Mike Helfrich <cmlkhelf@aol.com>; Mike Lane (oceanlane@frontier.com) <oceanlane@frontier.com>; Matt LeDoux (matt.ledoux@yahoo.com) <matt.ledoux@yahoo.com>; Bob Main (bmain@co.coos.or.us) <bmain@co.coos.or.us>; James Moore (cherijimmoo@yahoo.com) <cherijimmoo@yahoo.com>; Barry Nelson (macban86@yahoo.com) <macban86@yahoo.com>; Bart Stein (bart.stein@edwardjones.com) <bart.stein@edwardjones.com>; Donald Peabody (don@deesdiamondflashers.com) <don@deesdiamondflashers.com>; Valerie Pena (wildwings7@charter.net) <wildwings7@charter.net>; Jim Pex Sr. (jimpex@charter.net) <jimpex@charter.net>; Bill and Jolene Poppe <bill.poppe@frontier.com>; Reg Pullen (reg\_pullen@BLM.gov) <reg\_pullen@BLM.gov>; Mark Schneider (tunaman@q.com) <tunaman@q.com>; Dean Warner (deanw@presys.com) <deanw@presys.com>; Margery Whitmer (fish@bettykaycharters.com) <fish@bettykaycharters.com>  
 Cc: David Koch <dkoch@PortofCoosBay.com>; Kathy Wall <kwall@PortofCoosBay.com>; Elise Hamner <ehamner@PortofCoosBay.com>  
 Sent: Fri, Sep 16, 2011 9:30 am  
 Subject: Marine Reserve Recommendation Committee - Majority Report

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## Donna Scholl

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**From:** Donna Scholl  
**Sent:** Monday, September 19, 2011 8:08 AM  
**To:** David Koch; Kathy Wall; Elise Hamner  
**Subject:** FW: Marine Reserve Recommendation Committee - Majority Report

Donna Scholl  
Executive Assistant  
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**From:** matt.ledoux@yahoo.com [mailto:matt.ledoux@yahoo.com]  
**Sent:** Sunday, September 18, 2011 6:15 PM  
**To:** Donna Scholl  
**Subject:** Re: Marine Reserve Recommendation Committee - Majority Report

Looks good to me. I agree to the report. Great job guys!

Sincerely,

Matt LeDoux, President  
John 21, Inc.  
d.b.a. Fishermen's Wharf  
(541) 888-TUNA (8862)  
[FishermensWharfOregon.com](http://FishermensWharfOregon.com)

Sent from my iPhone

On Sep 16, 2011, at 9:27 AM, Donna Scholl <[dscholl@PortofCoosBay.com](mailto:dscholl@PortofCoosBay.com)> wrote:

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<Majority report OIPCB CAC 041011.docx>