



**FREQUENTLY ASKED QUESTIONS (FAQs)
OCEAN PLANNING IN OREGON**

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Oregon Wave Energy Trust (OWET) was a sponsor of this FAQ Document

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Frequently Asked Questions (FAQs)
Ocean Planning In Oregon

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1. Why do we need to amend Oregon's Territorial Sea Plan?

A number of new uses are being proposed for Oregon's Ocean. The most obvious new use of the ocean is marine renewable energy development—wave energy and in the future, floating offshore wind installations. And, in time, open ocean aquaculture facilities, and, other activities may also be proposed.

The new uses of the ocean have one thing in common. They physically occupy, for potentially decades at a time, defined pieces of ocean real estate. That's different from today's uses of the ocean like fisheries and navigation, which are, for the most part, temporary non-exclusive uses of the ocean.

Under state and federal law, private corporations can be granted exclusive use access to areas that are now public places in the ocean. That means, in time, some areas offshore will no longer be available for commercial and recreational fishing, boating, transit, and other activities.

That's why, in Oregon, we are preparing an ocean plan to accommodate new uses of our ocean. Through a deliberate planning process, with plenty of input from the public, new industrial uses of the ocean will be steered to places in the ocean with the least impact on the marine resources and the users of those resources. The objective is, through a careful siting process, to avoid and minimize conflicts among ocean users in Oregon's Territorial Sea and beyond.

Companies seeking to deploy ocean energy devices off the Oregon Coast will benefit from the process because a core outcome will be the identification of sites where renewable energy facilities stand the best chance of being authorized (permitted) by state, federal and local agencies.

2. Who's leading the ocean planning process? Who makes the final decisions?

Under Oregon law, the Land Conservation and Development Commission (LCDC) is responsible for adopting amendments to the Territorial Sea Plan (TSP). Before LCDC takes action, a robust citizen involvement process will be held.

The process starts with the Ocean Policy Advisory Council (OPAC). OPAC established the Territorial Sea Plan Working Group (TSPWG), a subcommittee of OPAC, to carry out the bulk of the planning work. After TSPWG develops a draft of the plan, that draft plan will be reviewed by and acted upon by the full OPAC.

During the fall of 2011 LCDC will also convene a second group called the Territorial Sea Plan Advisory Committee (TSPAC). Many people serving on OPAC-TSPWG also serve on TSPAC. In addition, on TSPAC there are representatives from the marine renewable energy industry, the utility community, and other stakeholders that are *not* represented on OPAC. The work of these two committees—OPAC/TSPWG and TSPAC—will be closely coordinated. The Department of Land Conservation and Development (DLCD) is providing staff for both OPAC/TSPWG and TSPAC. It is anticipated DLCD staff will forward OPAC-TSPWG's first draft(s) of the ocean plan to TSPAC sometime during the fall of 2011.

The public will have ample opportunities to provide input to those two committees.

3. When will the plan be completed?

The amendments to the Territorial Sea Plan (including the spatial overlays) are scheduled for completion during the spring of 2012. There isn't, however, a hard deadline for final completion of the plan.

Still, there's a sense of urgency to complete the plan. Energy companies seeking to do business in Oregon waters—for research & development or commercial-scale energy production—need clarity about sites for their developments. In addition, by moving expeditiously, the State of Oregon can inform and shape the larger federal ocean planning process on the West Coast.

4. What are the next steps in 2011? How will the process unfold?

The TSPWG is waiting for the last overlays of information to be developed and vetted and become available for the Territorial Sea Plan amendment process. That inventory information should be available by the end of early June 2011.

The Territorial Sea Plan Working Group (TSPWG) anticipates holding two major rounds of public outreach work sessions to engage Oregonians.

TSPWG will launch the first round of public meetings/work sessions—public work sessions designed to engage all interested persons and groups—in a wide range of communities on the Oregon Coast and inland. The purpose of the first round of public meetings is:

- explain the steps in the planning process and the Goal 19 Ocean Resources planning requirements.
- share maps-overlays of Oregon's ocean resources and uses with the public and begin recording feedback about those maps.
- provide local governments, community groups, and concerned citizens an active role in the TSP amendment process. Among other things, the objective will be to have the plan outcomes reflect concerns people have about the impacts marine renewable energy projects may have on their communities and existing uses of the ocean.

The Department of Land Conservation & Development (DLCD) is posting information relevant to Oregon's ocean plan—the maps/overlays—online on a web-based tool called Oregon MarineMap. Oregon MarineMap will enable Oregonians (with access to a broadband connection) to see the data, query the data sets, and engage the planning process.

<http://www.oregonocean.info/>

After the first round of public work sessions, there will be an interim period before a second round of public work sessions. OPAC/TSPWG will use information and feedback received during the interim period to scope out various options for developing a coast-wide plan that incorporates local input and input from other Oregonians.

During the interim period, OPAC/TSPWG will continue to encourage input from all parties that informs OPAC/TSPWG's understanding of how to apply the Goal 19 implementation requirements.

Sometime during the fall of 2011, TSPWG will launch a second round of public work sessions to review and consider planning options with the public. The second round of public work sessions would be followed by a period where those ocean plan options-scenarios are developed into draft recommendations for OPAC to consider as amendments to the Territorial Sea Plan.

OPAC will then review the draft recommendations of its work group (TSPWG), receive further public input, make changes if needed, and forward the draft plan to the Department of Land Conservation & Development (DLCD) for consideration by the other key committee—Territorial Sea Plan Advisory Committee (TSPAC). Again, TSPAC has a broader range of member

stakeholders than OPAC (e.g., TSPAC includes membership from the marine renewable energy industry and the utility community).

5. *How can Oregonians participate in the process?*

Information on the ocean planning process can be found at: <http://www.oregonocean.info/>

Individuals can consider participating in OPAC/TSPWG's public work sessions (Round 1 and Round 2) that will be taking place in the months ahead.

People should consider joining local committees if such committees have been formed in their area of the Oregon Coast to provide input into the ocean plan.

And/or, of course, individually, Oregonians are welcome to make their views known to OPAC and/or the staff of the Department of Land Conservation and Development (DLCD).

6. *Who has standing in the process?*

All Oregonians have standing. Goal 1, Citizen Involvement, ensures that. Under Oregon's Land Use Planning Program, there are 19 different Planning Goals and all land use plans in Oregon—and the Territorial Sea Plan—must conform to those Goals.

Having said that, again, people may find that by participating in local groups of citizens (formed to engage the ocean plan) they can have the most impact on the process. Local groups with and genuine connections to ports and local governments on the Oregon Coast are likely to be in the best position to help shape the outcomes of the ocean plan.

7. *How should wave energy companies engage the process?*

Participate in the ocean planning process.

They are welcome to track and participate in the work of OPAC and the Territorial Sea Plan Working Group (TSPWG), and, starting the fall of 2011, the Territorial Sea Plan Advisory Committee (TSPAC). The wave energy industry, utilities, and other non-governmental organizations have formal representation on TSPAC.

The ocean renewable energy industry, especially in North America, is in its early stages of development. As such, only a few companies are in a position, at this point in time, to identify specific areas in the ocean appropriate for their unique technologies.

To the extent possible, however, it would be helpful for members of the ocean renewable energy community to share information with OPAC and TSPAC. Through the planning process, OPAC and TSPAC can attempt to develop options to accommodate a wide spectrum of renewable energy devices (research & development efforts and commercial-scale energy deployments) consistent with Goal 19.

To their credit, a number of companies have engaged fishermen committees and other groups to initiate dialogue. We strongly encourage continued and open dialogue as the best approach for identifying specific sites for potential ocean renewable energy development. Maintaining a balancing act—between private dialogue and public disclosure/planning—is something we need to work through.

And, this spring, the Oregon Wave Energy Trust (OWET) and other leaders in the wave energy industry have provided constructive input to OPAC/TSPAC. That input explains the needs of

wave energy developers (the need to find sites that can support early stage development and the need to find larger-scale commercial sites). OWET will be submitting, in writing, additional information to OPAC/TSPAC in the near future.

In addition, we recommend people in the wave energy industry contact staff at the Oregon Department of State Lands (DSL) for more information about DSL's leasing process.

8. *What about the role of the local governments?*

Ocean renewable energy, ultimately, will need to come onshore. As such, looking ahead, there are significant land use implications and regulatory issues (e.g., right of ways) and those matters are the direct responsibility of cities and counties.

Local governments on the Oregon Coast have *not* performed reviews of their comprehensive plans and ordinances to make them "ready" for offshore renewable energy development. It's been thirty years since the estuary plans on the Oregon Coast (prepared by local governments) were acknowledged by the state government as being consistent with Oregon law. The shoreside staging areas for wave energy development, of course, are most likely to be sited in the lower estuaries (at the ports).

Local governments on the Oregon Coast are beginning to engage the ocean planning process.

The Clatsop County Commissioners are preparing to undertake a review of their comprehensive plan and ordinances in light of offshore renewable energy development. The Lincoln County Commissioners are laying the groundwork to spearhead a local process in collaboration with cities within Lincoln County to provide timely input to OPAC. The City of Newport City Council (on April 4, 2011) sent a letter to OPAC, under the Mayor of Newport's signature, stating the City's intention to partner with Lincoln County and nearby cities to provide input to OPAC for ocean areas off Lincoln County. And, the Curry County Commission has signaled a strong interest in helping Curry County residents organize their input to OPAC.

Other jurisdictions will benefit from these local reviews because they face the same issues. The Department of Land Conservation and Development (DLCD), the Oregon Coastal Zone Management Association (OCZMA), and Oregon Sea Grant (OSG) will provide technical advice and expertise to support those efforts. Insights gained will be shared with other coastal jurisdictions.

OPAC/TSPWG encourages local government working groups/committees and other local committees to provide input to OPAC before and during the second round of public work sessions. The spring and summer of 2011, the interim period—between the first public work sessions and the second round of public work sessions— represents an optimal time to assemble a local committee to be ready to provide input to OPAC/TSPWG during the fall 2011.

9. *Do local governments have planning authority in Oregon's Territorial Sea?*

Under Oregon law, ocean planning responsibilities in the ocean (Oregon's Territorial Sea) rest with the Oregon Land Conservation & Development Commission (LCDC). The Oregon Legislature pre-empted local planning authority over the Territorial Sea with SB 630 during 1987 (which established the OPAC process, and additional legislation in 1991).

Several coastal counties, however, reserve the right to contest that statutory interpretation at a later date.

In any event, under Oregon law, state agencies (DLCD in particular) have explicit coordination duties with local governments under ORS Chapter 196 and Goal 19. Several counties anticipate developing protocols with the State of Oregon to clarify these coordination agreements.

Most important, if local governments and other Oregonians engage the OPAC process they can help shape the outcomes; especially for ocean areas within and adjacent to their jurisdiction. As such, local government leaders may want to **form local advisory groups**. That could be an effective way to bring diverse stakeholders in the community together and provide a focal point for community input into the OPAC process.

In time, cities and counties should consider amending their shoreside land use plans and ordinances. That's especially true for coastal jurisdictions that want to promote ocean renewable energy development. For instance, steps can be taken (working with the ports) to ensure adequate shoreside staging areas for ocean renewable energy activities.

The Territorial Sea Plan Working Group (TSPWG)—the group formed by OPAC to spearhead the ocean planning process—will encourage input into the Territorial Sea Plan Amendment process. From the perspective of OPAC, all along, amending Oregon's Territorial Sea Plan is meant to be a bottom up process.

Several years ago several local governments (Lincoln County, Tillamook County and Depoe Bay, the City of Port Orford) formed local fishermen groups to address ocean renewable energy and marine reserve issues. Those local fishermen committees made major contributions to the planning process (mostly, through the gathering of fishing grounds data). But, again, these groups were formed primarily to provide input on fisheries-related matters.

Now though, it can be anticipated that **other Oregonians**, with different interests in Oregon's ocean, will want to engage the ocean planning process. These interests include, among others, the tourism-recreation sector, the real estate community, the homebuilders, the ocean recreation community, and the conservation community.

And, the utilities (investor owned utilities and public utilities) that hope to include ocean renewable energy in their energy portfolios may want to coordinate their activities with local governments. Local governments, in turn, should coordinate their shoreside land use activities with the utilities. In today's challenging environment (as we search for new, affordable, low carbon energy resources) it would be advantageous for utilities and local governments to coordinate their efforts.

10. *The boundaries of coastal counties extend into Oregon's Territorial Sea. What does that mean for Oregon's Territorial Sea Plan?*

The borders of the seven coastal counties extend west beyond to the outer boundary of the Territorial Sea.

But, during 1987, the Oregon Legislature enacted legislation preempting local government planning jurisdiction in the Territorial Sea. The legislation, SB 630, clarified that the legal jurisdiction of the State of Oregon extends over the Territorial Sea (0 to 3 miles). SB 630 also: (1) enhanced Oregon's leverage over potential development of oil and gas in federal waters beyond Oregon's Territorial Sea, and (2) promoted cooperation/coordination among state agencies and local governments on matters related to the management of the Territorial Sea.

The first Oregon Territorial Sea Plan (TSP) was adopted in 1991.

By 2007, though, in Oregon, there was a mounting number of wave energy developments proposed for Oregon's Territorial Sea. The potential impacts on fisheries and other marine resources became increasingly apparent. Many agreed Oregon's Territorial Sea Plan needed to become a "*spatial plan*." That meant the existing plan would have to be changed to work something like a zoning map, where, in advance, sites or places in the ocean would be identified where renewable energy would be encouraged. Those places or multiple use zones, in turn, would guide: (a) the leasing program administered by the Department of State Lands (overseen by the State Land Board) and, (b) the licensing program of the Federal Energy Regulatory Commission (FERC).

Therefore, under Oregon law, OPAC and TSPAC, after an extensive public involvement process, will forward a draft set of amendments to the TSP to the Land Conservation & Development Commission (LCDC) for final action.

11. *Can counties and cities create maps of ocean resources they consider significant for their communities?*

Yes. It would be helpful to have maps expressing public sentiment about ocean resources documenting the location of existing uses of the ocean. Maps generated from local groups would constitute public input and it would join the other map overlays that have been prepared for the ocean plan.

12. *Can ocean viewsheds be protected under the ocean plan?*

Yes. Goal 19 requires that the actions of state agencies protect and encourage beneficial uses of ocean resources, including such things as navigation, food production, recreational and aesthetic enjoyment, provided those uses don't adversely affect the areas important to the marine ecosystems or fisheries.

13. *What about the coastal tribes?*

The tribes on the Oregon Coast, each a sovereign nation, have signaled an interest in being engaged in Oregon's ocean planning process.

14. *How do marine reserves fit into the ocean plan?*

Marine reserve designations will be taken into account when OPAC-TSPAC prepares the amendments to Oregon's Territorial Sea Plan. Marine Reserves, in all likelihood, would join other places within the Territorial Sea where renewable energy development would be prohibited.

15. *What about the federal waters beyond Oregon's Territorial Sea?*

From the start of Oregon's marine spatial planning process, information has been gathered about the ocean and the uses of the ocean for both state and federal waters. That means information about marine resources and existing uses have been collected out to the edge of the continental shelf in federal waters.

That information will inform the planning process for federal waters (areas of ocean beyond three miles on the outer continental shelf [OCS]). Federal agencies also need this spatial information to prevent impacts on fisheries and sensitive marine ecosystems.

Under the Outer Continental Shelf Lands Act (OCSLA), the U.S. Department of Interior (USDOl) is directed to “prevent interference with existing uses” when leasing areas on the OCS for siting renewable energy. The policies under the OCSLA are largely conform to state policies codified in Goal 19.

In addition, on July 19, 2010, the White House Council on Environmental Quality issued the *Final Recommendations of the Interagency Ocean Policy Task Force*. That document provides a larger policy framework for coastal marine spatial planning in the United States. That policy calls for local, state, federal and tribal collaboration at the regional level.

Genuine partnerships have been formed at the local-state-federal level. And, during December of 2010, Secretary Ken Salazar (USDOl) granted the State of Oregon’s request to establish a state-federal-tribal Task Force to coordinate state and federal ocean planning activities off Oregon. The first meeting of that Task Force was held in Portland on March 31, 2011.

And, through a Regional Planning Body (probably working in concert with the West Coast Governor’s Agreement on Ocean Health) the objective is to prepare a seamless three-state ocean plan for the West Coast (again, working in concert with federal agencies).

16. *How much ocean space do renewable energy companies need in Oregon waters?*

At present, no one has a definitive answer to that question. The Ocean Policy Advisory Council (OPAC), one of two groups tasked to prepare Oregon’s ocean plan, is encouraging wave energy companies to work with them to understand the needs of the wave energy industry.

That question, how much space is needed, probably needs to be answered in the short term, and, then, later, in the long term.

But, for now, consider this.

A study funded by the Oregon Wave Energy Trust (OWET) determined the electrical grid capacity onshore on the Oregon Coast—as it exists today—has the capacity to provide transmission of 430 megawatts (MW). That’s a lot of electricity. When one examines the space requirements needed to generate 430 MW by Ocean Power Technologies (OPT) buoy, using that particular technology as a guide, it will take five square miles of ocean to generate 430 MW.

Oregon’s Territorial Sea (from 0 to 3 miles) is approximately 1,250 square miles. When you include federal waters beyond Oregon’s state waters, there are thousands of square miles to site renewable energy developments off the State of Oregon.

Given the large amount of ocean area to work with, there should be ample opportunities to identify a sufficient number and range of sites to foster the development of renewable energy off of Oregon, consistent with Goal 19.

17. *Is there a mandate to find sites for renewable energy development?*

There is not an explicit statutory or regulatory requirement, per se, under Goal 19 or in the state statutes, that mandates wave energy sites must be identified. Goal 19 instructs OPAC/TSPWG to identify and protect beneficial uses. Finding locations for renewable energy development, consistent with Goal 19, would promote a future beneficial use.

There are references, however, to renewable energy siting needs in Part 5 of the existing Territorial Sea Plan. Moreover, during March 2008, Governor Kulongoski signed an Executive

Order (O8-07) instructing state agencies to develop a plan to identify sites for renewable energy development.

In addition, the State of Oregon has entered into a Memorandum of Understanding (MOU) with the Federal Energy Regulatory Commission (FERC). The MOU outlines the agreement between FERC and Oregon that the State of Oregon and FERC will coordinate the permitting of renewable energy development in Oregon's Territorial Sea. During the fall of 2006, Governor Kulongoski began to promote Oregon as a global leader in wave energy.

As such, there are political and economic considerations to find ocean renewable energy sites within the state and federal waters off the Oregon Coast consistent with Goal 19 (and, in federal waters, consistent with the OCSLA and the emerging federal coastal marine spatial planning guidelines).

18. Is offshore renewable energy realistic?

Yes, in time. Here's why.

The physics of moving water is compelling. Water, when moving, is exponentially more dense than wind. And, there's an extraordinary amount of energy in the waves off Oregon. And, in Oregon, the wave climate is optimal during the winter when peak electricity load requirements occur in Western Oregon.

Unlike a number of other leading sources of renewable energy—like wind and solar—wave energy will probably prove to be more continuous and predictable. For utilities, continuity and predictability of electricity is highly important.

Utilities manage their transmission and distribution networks on an hour-by-hour and minute-to-minute basis. Reliable sources of base power are needed to accommodate peak demand periods. Intermittent sources of renewable energy can be supplemented. For example, a natural gas generating plant can smooth the flow of power when wind energy is not available. But, natural gas is not an inexpensive fuel. Advanced methods to improve the operational efficiency of the electric grid are under development. That's important because, in time, those advances are likely to help utilities address the challenges of integrating intermittent sources of renewable energy into their operations.

On the Oregon Coast there's a surplus electric grid capacity (430 MW). Wave energy developments, if sited thoughtfully, could transmit electricity into the electric grid in many places on the Oregon Coast without requiring costly upgrades to the electric grid. And, a lot of that power would be consumed within the coastal region.

And, important policy decisions have been made by the Oregon Legislature and the Governor's Office to support wave energy. Those decisions were taken because of the significant development opportunity and the region's need for new sources of renewable (low carbon) energy. The renewable portfolio standards (RPS) in state law require utilities to broaden their portfolio of energy sources to include renewable energy. RPS establishes a market for more expensive low-carbon renewable energy. And, during the last two legislative sessions, the Oregon Legislature provided almost \$7.5 million of funding for the Oregon Wave Energy Trust (OWET).

Wave energy will need to compete with other sources of renewable energy. That's why the completion of the amendments to the Territorial Sea Plan is so important. The plan will improve the investment climate for wave energy technology development because the process will identify sites for wave energy. Getting wave energy devices in the water will spur technological

advancements. These deployments will also speed the evaluation of the environmental impacts of ocean renewable energy devices on the marine environment.

19. Who will fund wave energy deployments?

Ultimately, the investment community will be the driver behind financing wave energy developments. That's also true for floating wind energy (probably coupled with wave energy). Before the investment community underwrites commercial-scale ocean renewable energy projects (which will run into the tens of millions of dollars) the utilities— the potential customers for ocean renewable energy — must be confident power from ocean renewable energy is affordable.

Off the Oregon Coast there's an extraordinary amount of energy in the waves. But, it will be expensive to have it work in the ocean. That's why getting demonstration projects in the water off Oregon is important. It's the best way to learn how to work in that demanding environment. For the foreseeable future the federal government needs to be an important source of funding to support wave energy research & development. In Europe, national government funded early-stage renewable energy initiatives for wind power and solar power made a huge difference. Today, the Scottish government is providing substantial financial backing for Scottish wave energy companies.

Each individual wave energy technology and each individual company will have a different story and trajectory of development.

20. What about other sources of renewable energy?

There are a number of sources of renewable energy including wind energy, biomass, solar.

And, under the Northwest Power Act, 80% of the Northwest's future electricity load demands must be met through energy efficiency. During the last twenty years, 50% of the region's increased electricity load demands were met through energy efficiency. The rapid development and deployment of smart grid technologies is an especially promising way to meet those targets.

The central examination of energy issues in the Northwest is the Northwest Power and Conservation Council's (NPCC) Sixth Northwest Conservation and Electric Power Plan (Council Document 2010-09, February 2010). The Sixth Power Plan Overview provides a compelling introduction to these issues. The NPCC's territory covers four states—Oregon, Washington, Idaho, and Montana. The plan also provides guidance to individual utilities and the Bonneville Power Administration (BPA).

At present, the State of Oregon does not have, at a sub-regional level (where most investments in electricity transmission and distribution occur), a comprehensive renewable electrical resource development strategy or business plan for the development of offshore and/or onshore energy development (conventional power or renewable power). On April 13, 2011 Governor John Kitzhaber announced the State of Oregon will undertake a ten year strategic business plan for renewable energy development.

In any event, the utilities (public utilities and investor owned utilities) in Oregon are looking ahead. They have their own internal planning efforts. Under the Northwest Power Act utilities must develop strategies to acquire the future energy resources to meet the needs of their customers. Check with your local utility to learn about their efforts to address these challenges/opportunities.

21. *How will wave energy complement other energy sources?*

The utilities on the Oregon Coast purchase electricity from Bonneville Power Administration (BPA). For the near future, BPA has a surplus of power within their hydropower system. But, the capacity of the hydroelectric dams on the Columbia is finite.

BPA has put the utilities on notice they must diversify their sources of electricity in the future. Utilities will have an option. They can identify and acquire new resources to supplement what they purchase from BPA on their own. In the alternative, utilities can purchase “Tier Two” power from BPA (which will be more expensive than Tier 1 power).

At the end of the day, decisions the utilities make about power purchases will be anchored to electricity demand forecasts and cents-per-kilowatt hour considerations. The predictability of the energy supply will also be a major factor. The costs and the predictability of the power are the two ways to compare across the spectrum of different energy sources and electricity generation technologies.

22. *How will fishing grounds maps be used in the ocean planning process?*

The fishing grounds maps will be used to steer new uses of the ocean away from fishing grounds and sensitive marine environments.

During 2009 and 2010, commercial and recreational fishermen in Oregon provided information about the location of their fishing grounds to inform the ocean planning process.

Through a confidential one-on-one interview process—a voluntary process—many fishermen sat down with Ecotrust staff to provide this information. The data from the individual interviews was combined or aggregated to prepare general maps of recreational and commercial fishing grounds off the Oregon Coast. In most cases the process was spearheaded at the local level by teams of local leaders in the commercial and recreational fishing industry. These groups were: SOORC, FINE, and FOORC, POORT and NSAT.

Today, because of that groundbreaking work, for virtually the entire Oregon Coast, there is “spatial” information about the location of fisheries to inform the planning process.

23. *We provided fishing grounds information. What now?*

The recreational and commercial fishing industry are encouraged to stay involved. For the last two years information needed to inform the ocean plan process has been gathered and integrated into Oregon MarineMap. Now it is time to actually do the ocean planning.

This will be a bottom-up (community driven) process. The fishing grounds maps will be used to determine where to locate new “industrial zones” for activities like wave energy. But, only fishermen (commercial and recreational) really understand which places in the ocean are seldom used for fishing and vessel transit. There’s a wealth of information in fishing ground maps and undisclosed data sets used to prepare those maps. But, the maps, in their current format, on their own, may *not* provide clear answers for where to locate (or not locate) opportunity zones for wave energy.

That’s why we need people in the fishing industry to stay engaged. You can shape the outcomes. We need your help to do the ocean plan.

24. *Goal 19 (Oregon’s Ocean Resources Goal) & fisheries*

The Territorial Sea Plan “amendment process” means doing a plan for the ocean.

That planning process has deep legal roots within Oregon’s land use planning system.

Under Oregon Law through Goal 19 (Ocean Resources Planning Goal [OAR 660.015.0010(4)] of Oregon’s Statewide Planning Goals & Guidelines), areas that have important fishing grounds must be protected for their use as fisheries. Moreover, this protection extends to areas that are important both as individual fisheries sectors and individual coastal ports.

For the three mile area off the coast Goal 19 provides the policy framework.

In addition, beyond three miles, federal law applies. The federal law has similar mandates to Goal 19. Under the Outer Continental Shelf Lands Act (OCSLA), the federal government must “prevent interference with existing uses” when it leases offshore areas for renewable energy development.

That’s why we prepared general-aggregate maps of the fishing grounds, other marine resources, and existing uses of the ocean that extend beyond three miles. To protect those existing uses we needed to know what those activities are and where they take place.

25. *Why did fishermen need to provide information?*

Under state and federal law, documentation about the location of fisheries has to be provided so those places can be preserved for fisheries. Not everyone, understandably, was comfortable providing information about fishing grounds.

But, in time, many people on the coast understood this information needed to be generated. Marine resources are public resources that belong to all Oregonians. In the case of ocean areas beyond state waters (in federal waters) those resources belong to the American people. Again, that’s why this has to be a public planning process with transparent and trusted (peer reviewed) methods employed to gather and integrate information.

But, here’s the good news.

State law, Goal 19, and, the federal law, the Outer Continental Shelf Lands Act (OCSLA) both contain enlightened public policies. They call for the protection of marine ecosystems, fishing, and the economies of coastal communities that depend on the ocean.

26. *Can fishermen suggest where wave energy development should go?*

Yes. That would be extremely helpful.

After all, fishermen (commercial and recreational), better than anyone, understand where and how fisheries take place. Therefore, fishermen can identify the areas in the ocean where renewable energy facilities would have the least impact on fisheries.

The two ocean planning committees, TSPAC and TSPWG, need teams of experienced fishermen to help them understand the maps for their fisheries.

What fishermen say about sites for renewable energy development will not be the final consideration. Wave energy sites proposed by fishermen groups will also be evaluated to see if ***other conflicts*** arise with other beneficial uses—shipping lanes, a dredge material disposal site, and/or, other important ecological features. Additionally, ocean energy sites will have their own

requirements. They can't be located just anywhere. Avoiding fishing grounds is a major consideration. It's not the only consideration.

27. Are the fishing grounds maps adequate for ocean planning?

The information provided by the fishing grounds maps is outstanding.

Groups of local fishermen are encouraged to work with the Ocean Policy Council (OPAC). OPAC needs their help understanding the maps and how to avoid impacts on fisheries. That's probably the most significant observation about the maps—*they need interpretation* by people who understand the nuances of those maps. So, fishermen committees on the Oregon Coast (FACT, FINE, SOORC, NSAT, POORT, FISHCRED and the four seafood commodity commissions) are encouraged to engage the planning process.

28. Can fishing grounds maps be changed or amended?

Yes, but, only with the consent of the leaders of the groups that collected the data.

When fisherman groups were approached —starting with the Southern Oregon Ocean Resource Coalition (SOORC)—there were clear understandings. Everyone knew it would take a balancing act. The proprietary information from individual fishermen needed protection. At the same time, commercial and sports fishermen had to display enough information to invoke the protections under Goal 19 protections (the Implementation Requirements of Goal 19).

During 2009 SOORC took the lead in collecting fishing grounds data and SOORC led the negotiations with the Department of Land Conservation and Development (DLCD) about the maps for their area. Agreement between DLCD and SOORC was reached in January 2010 on the level of information disclosure—what would be displayed to the public. Again, enough information needed to meet the Implementation Requirements of Goal 19. That's why, in some circles, the fishing grounds maps are sometimes called the “the SOORC (formatted) maps.”

The mapping process up and down the Oregon Coast was successful. Today, we have maps, out in the public, noting the fishing grounds for nearly the entire Oregon Coast. And, those maps are all based on the SOORC-format.

As we delve deeper into the Territorial Sea Plan amendment process, we will discover the limitations to the SOORC-format—the aggregate maps fishing leaders agreed to display. The SOORC format does *not* provide the optimal amount of information for ocean planning. That's understandable. It would be remarkable if the SOORC format had met all the data needs.

Ecotrust has the capacity, with their GIS computer systems, to generate different maps (with a different format) based on different scenarios. And, new/different maps can be developed quickly because fisheries data from individual fishermen has already been collected.

However, again, if the format of the maps is going to be changed—if additional data will be displayed to the public—that can only happen with the consent of local groups that collected the data. The leaders of those local groups, in effect, have custodial duties over those aggregate data sets and how the information is displayed to the public. The individual fishermen interviewed retain control over their individual data sets. That contractual relationship between Ecotrust and the fishermen, codified in the consent forms fishermen signed with Ecotrust, is legally binding.

NO ONE proposes to alter those existing understandings. Ecotrust has a custodial duty NOT TO DISPLAY an individual fisherman's data without that fisherman's clear permission.

But, the decision to alter the aggregate maps—that decision rests with the leaders of those local groups who made it possible to gather that data.

In the months ahead, discussions will occur with and among commercial and recreational fishermen about the format of the fishing grounds maps.

29. What is FISHCRED?

During 2010, a new commercial fishermen’s group called FISHCRED was formed. FISHCRED stands for “Fishermens’ Information Service for Housing Confidential Release and Essential Distribution.”

Here’s a brief history of FISHCRED.

After SOORC initiated the fishing grounds mapping process on the South Coast, the group of commercial and recreational fishermen serving on FINE (Fishermen Involved in Natural Energy)—a Lincoln County-based group—then took steps to carry out a fishing grounds mapping effort for Newport and Depoe Bay similar to the work Ecotrust did on the South Coast with SOORC.

Lincoln County Counsel determined that because FINE was established by ordinance by the Lincoln County Commission, FINE would be subject to Oregon Public Records Law requirements. That meant materials displayed at FINE meetings, such as fishing grounds maps, were, under Oregon Law, subject to public-records law requests. Therefore, anyone could gain access to that information. That was an issue for fishermen groups formed by a local government (codified by a local ordinance to connect it, legally, to a local government).

That therefore had an impact on the following groups—Nearshore Action Team (NSAT) (formed by the City of Depoe Bay), the Fishermen’s Advisory Committee for Tillamook (FACT) (formed by Tillamook County), and FINE (formed by Lincoln County). Those local committees, to avoid Public Record Law requests, had to review maps outside of their formal meetings. So, FISHCRED, a stand-alone entity, offered a means to shield private data discussions and reviews of mapping products from the Oregon Public Records Law.

The FISHCRED Board of Directors elected to restrict membership to FISHCRED to commercial fishermen only.

These issues—under the public records law—did not arise at SOORC. That’s because SOORC was *not* established by the actions of a local government. When SOORC was established, the members of SOORC saw the advantages of remaining an autonomous group. After SOORC was formed in early 2008 they sought non profit status from the Internal Revenue Service (IRS). SOORC has commercial fishermen and recreational fishermen and other community leaders in their group.

In a larger sense, the fishermen involved with FISHCRED, many of them involved with FINE, also view FISHCRED as a means for Oregon fishermen—commercial fishermen and potentially recreational fishermen—to coordinate discussions coast-wide about the display of fishing grounds data beyond the SOORC-based format.

During the months ahead, as the ocean planning process proceeds, there may be compelling reasons to re-examine the format for the public display of aggregate data. Again, *not* individual fishermen’s data. The U.S. Department of Interior is not bound by Goal 19 or agreements DLCD reached with fishermen about the format for the display of their data. As such, federal

agencies may ask that fishing grounds data be displayed differently for use in their federal planning processes. So, in time, a new round of discussions about fishing ground data displays—this time with federal agencies—should be expected. Looking ahead, fishing grounds data display discussions probably need to be coordinated with fishermen groups from Washington and California. FISHCRED could play a role in facilitating those interstate discussions.

However, all local ocean resource planning groups on the Oregon Coast have equal standing under Oregon's ocean planning process. The State of Oregon, through DLCD as the lead agency, will not mandate local groups like SOORC coordinate data-display discussions with FISHCRED. Each local group that has demonstrated leadership and spearheaded collection of fishing grounds data remains custodians of that aggregate data (in partnership, with Ecotrust, where the fishing data is stored).

30. *Over time, fisheries change (natural cycles/changes in regulations). How does the planning process take that into account?*

It's a challenge.

Over time, information on fishing grounds will need to be updated and plans will need to be modified/updated to reflect those changes.

Implementation Requirements under Goal 19
Oregon Ocean Resources Planning Goal (OAR 660.015.0010[4])

1. Uses of Ocean Resources

State and federal agencies shall carry out actions that are reasonably likely to affect ocean resources and uses of the Oregon territorial sea in such a manner as to:

- a) maintain and, where appropriate, restore the long-term benefits derived from renewable marine resources;
- b) protect:
 - 1) renewable marine resources—i.e., living marine organisms—from adverse effects of development of non-renewable resources, uses of the ocean floor, or other actions;
 - 2) the biological diversity of marine life and the functional integrity of the marine ecosystem;
 - 3) important marine habitat, including estuarine habitat, which are areas and associated biologic communities that are:
 - a) important to the biological viability of commercially or recreationally caught species or that support important food or prey species for commercially or recreationally caught species; or
 - b) needed to assure the survival of threatened or endangered species; or
 - c) ecologically significant to maintaining ecosystem structure, biological productivity, and biological diversity; or
 - d) essential to the life-history or behaviors of marine organisms; or
 - e) especially vulnerable because of size, composition, or location in relation to chemical or other pollutants, noise, physical disturbance, alteration, or harvest; or
 - f) unique or of limited range within the state; and
 - 4) areas important to fisheries, which are:
 - a) areas of high catch (e.g., high total pounds landed and high value of landed catch); or
 - b) areas where highly valued fish are caught even if in low abundance or by fewer fishers; or
 - c) areas that are important on a seasonal basis; or
 - d) areas important to commercial or recreational fishing activities, including those of individual ports or particular fleets; or
 - e) habitat areas that support food or prey species important to commercially and recreationally caught fish and shellfish species.
- c) Agencies, through programs, approvals, and other actions, shall
 - 1) protect and encourage the beneficial uses of ocean resources—such as navigation, food production, recreation, aesthetic enjoyment, and uses of the seafloor—provided that such activities do not adversely affect the resources protected in subsection 1., above; avoid, to the extent possible, adverse effects on or operational conflicts with other ocean uses and activities; and
 - 2) comply with applicable requirements of the Oregon Territorial Sea Plan.