



Oregon Coastal Notes

Oregon Coastal Zone Management Association

June 2008

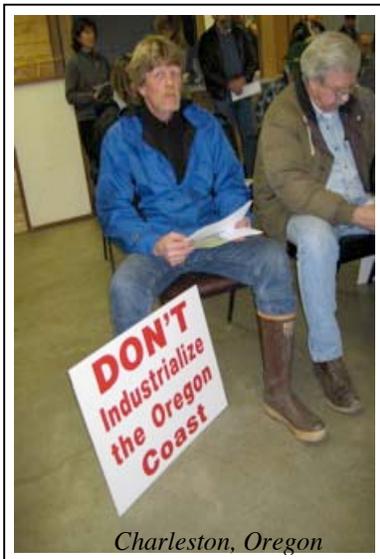
Special Report: Wave Energy Development off Oregon Sparks Strong Community Concerns—Onno Husing, Director, OCZMA

This report explores wave energy development in Oregon. Be aware, though, events are unfolding rapidly. By the time you read this report, it will probably be out of date. For current information, check OCZMA's web site at www.oczma.org.

So far, there have been a lot of twists and turns in this saga. Most notably, on March 26, 2008 the State of Oregon entered into a Memorandum of Understanding (MOU) with the Federal Energy Regulatory Commission (FERC) on wave energy development off Oregon. That same day, Governor Kulongoski also signed Executive Order 08-07 on wave energy and marine reserves.

What does all this mean? It means people on the Oregon Coast now have an historic opportunity to shape events in Oregon's Ocean. We've got about a year to lay the foundation of a bottoms-up community-driven comprehensive ocean plan. Are we up to the challenge?

In the early evening of January 16, 2008, I drove up to the Power Squadron Building on the Charleston, Oregon waterfront with Bob Eder, a Newport-based commercial fisherman. Judging from the number of parked cars and pickup trucks we knew the meeting, hosted by the Oregon International Port of Coos Bay, would be well attended. It was the first opportunity in Coos County to discuss Ocean Power Technologies' (OPT) proposed 20-buoy wave energy demonstration project for waters off Coos Bay.



OPT's proposed 20-buoy wave energy demonstration project in Coos Bay would come on the heels of OPT's 10-buoy wave energy demonstration project off Reedsport. In the last eighteen months, eight Preliminary Permit applications were filed with the Federal Energy Regulatory Commission (FERC) to study sections of ocean in Oregon's Territorial Sea (0 to 3 miles) for potential wave energy development. In Northern California, a number of preliminary permits for wave energy development have also been filed with FERC.

And, in January 2008, a group called the "Washington Wave Energy Company" announced an enormous wave and wind energy project off the State of Washington. So, by early 2008, people on the Oregon Coast felt like they were in the midst of a modern day Gold Rush. One thing's certain. Wave energy development, coupled with calls for marine reserves, has created anxiety in coastal communities on the Oregon Coast.

A Packed House in Charleston, Oregon

Mike Gaul, Deputy Director of the Oregon International Port of Coos Bay, kicked off the Charleston meeting. Mike explained this was just the first opportunity to discuss OPT's proposed Coos Bay demonstration project.

Mike Gaul introduced Steve Kopf, an energy siting consultant who works for OPT. Steve Kopf



OPT January 16, 2008 Meeting in Charleston, Oregon

opened by saying, "I know why you are all here tonight. You are here because you care about your community and your livelihoods." He continued, "I am here to open a dialogue. The process to get a permit for wave energy is complex. We want to work with you. To go forward with an application to the Federal Energy Regulatory Commission (FERC), we need to understand and address your concerns." Steve Kopf stressed, "We have a proposal for a proposed location, but no firm decision has been made."

Kopf then discussed OPT's recent meetings with the fishing industry in Reedsport (twenty miles north of Coos Bay). OPT's proposed pilot projects are, in effect, directly related because fishermen from Reedsport and Coos Bay fish many of the same waters. And, information generated from OPT's Reedsport demonstration project will have a direct bearing on a Coos Bay wave energy project. Steve Kopf noted, "We had extensive discussions with fishermen in Reedsport. Some of you were involved in those meetings."

Recapping the Reedsport Talks

Let's recap what happened in Reedsport.

In 2007, from the spring to the fall, six meetings hosted by the Port of Umpqua were held in Reedsport with OPT and the fishing industry. Reedsport Mayor/Port of Umpqua Port Commissioner Keith Tymchuk chaired the meetings. Steve Kopf represented OPT.

OPT's 10-buoy Reedsport demonstration project has coastwide significance because:

- (1) It's the first major wave energy demonstration project in the United States (OPT's scheduled 10-buoy deployment is 2009),
- (2) It will be subject to tremendous scrutiny, environmental studies and monitoring, and,
- (3) It will set important precedents.



Winchester Bay, Oregon

The Port of Umpqua invited a number of local fishermen (by letter) to participate in the talks. Because the demonstration project has coastwide implications, the Port of Umpqua also asked Oregon's four seafood commodity commissions to participate in the talks (Oregon Dungeness Crab Commission [ODCC], Oregon Salmon Commission [OSC], Oregon Trawl Commission [OTC], Oregon Albacore Tuna Commission [OAC]). I attended the Reedsport talks as part of OCZMA/Oregon Sea Grant Extension's community outreach program on wave energy.



The talks in Reedsport between OPT and the fishing industry explored if it's possible for the fishing industry (individuals and/or organizations) to sign "**settlement agreements**" with OPT. Settlement agreements, if achieved, outline and codify how OPT will design and operate wave installations to address fishing industry concerns. OPT carried out other separate settlement talks in Portland with state and federal resources agencies and the conservation community on environmental issues. OPT also held settlement discussions on marine safety with the U.S. Coast Guard.

FERC encourages applicants (like OPT) to negotiate settlement agreements with impacted parties. Under the Federal Power Act (FPA) (16 U.S.C., 791a-828c), if FERC awards OPT a license for their Reedsport demonstration project, settlement agreements embedded in a license application will be binding. Settlement agreements are also binding contracts among parties even if those agreements are not filed with FERC.

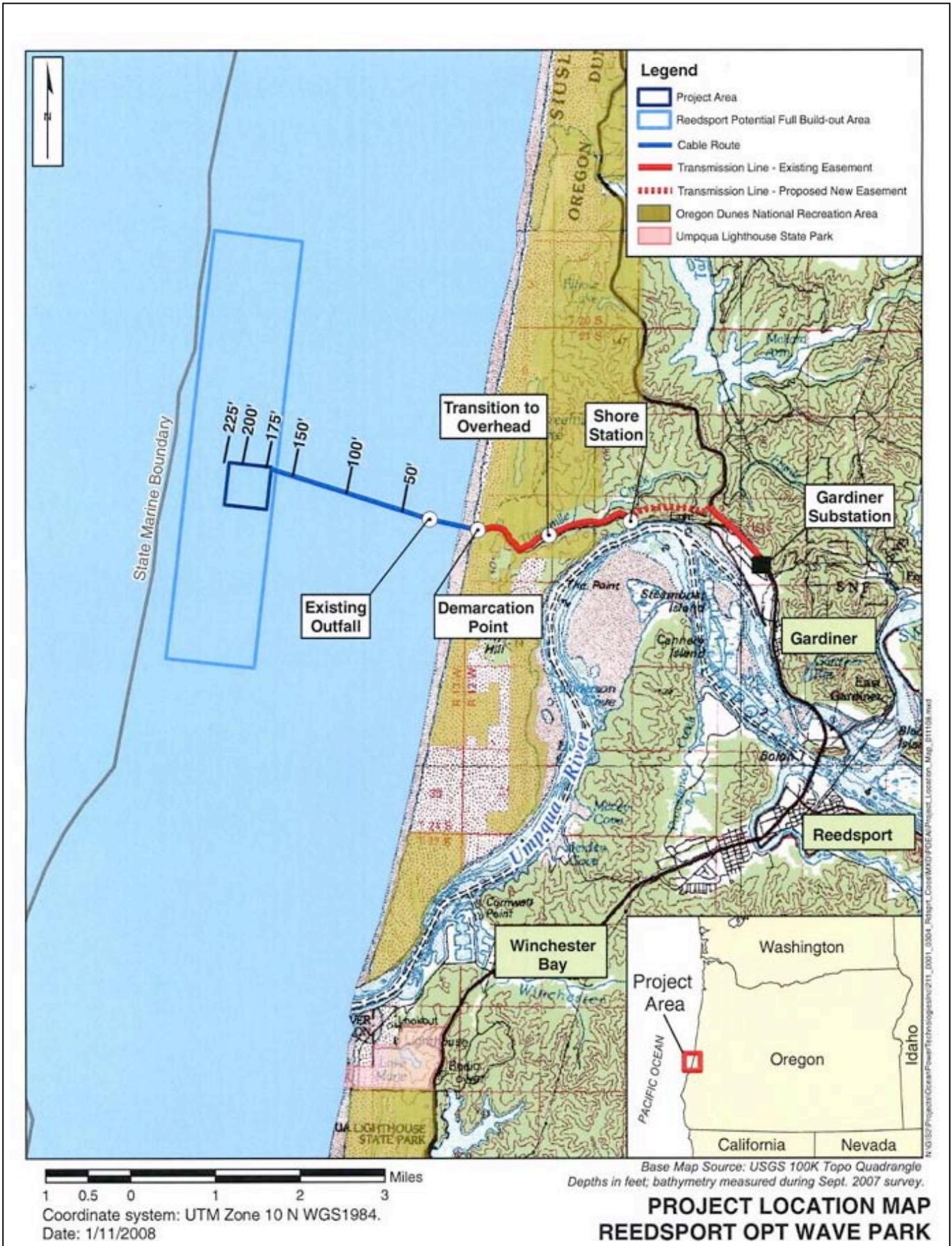
Many fishermen, understandably, are **not** in favor of wave energy if they will lose fishing grounds or if wave energy damages the marine environment. So, why did fishermen agree to participate in the Reedsport settlement talks? They wanted to shape OPT's project. And, by being at the table, the fishermen learned about OPT and OPT learned about the fishing industry. Direct dialogue enhances the possibility wave energy development can happen without damaging the marine environment and the local/regional fishing economy.

From the outset of the Reedsport talks, the message to OPT was crystal clear. Fishermen told OPT, "Take your wave energy project as far west as you can, into deeper waters, especially to minimize impacts on the crab fishery." Why is that so important? Today on the Oregon Coast, the Dungeness crab fishery is the cornerstone of the commercial fishing industry.

During the first four meetings in Reedsport, OPT representatives told fishermen the **location** of their demonstration project was not on the table for discussion. OPT's rigid stance on the location of their proposed wave energy project got the talks off to a frustrating start. For the fishing industry, the location of a wave energy project (even a modest-sized demonstration project) was the central consideration. Why is location so critical? Even though the Pacific Ocean is enormous, seafood can only be harvested economically at certain locations at certain times of the year. Dungeness crabs congregate on sandy bottoms at certain depths. OPT planned to place their project in the heart of some of the best crab fishing grounds on the entire Oregon Coast.

For the fifth meeting, October 3, 2007, Paul Ammann, OPT's Wave Park Program Manager, flew in from OPT's headquarters in Pennington, New Jersey to attend the meeting. He got an earful from the fishermen. One fisherman declared, "If we were apple growers, what you are proposing to do is put your project right in the heart of our orchard!" Paul Ammann responded, "We don't want to be in the middle of your orchard." He pledged to try to re-engineer their Reedsport demonstration project to see if OPT could move the project further west into deeper water. Some of us saw Paul Ammann's promise as a potential breakthrough.

At the next meeting, the sixth or last meeting in Reedsport (November 12, 2007), Steve Kopf and Paul Ammann announced OPT would move their Reedsport demonstration project 6 fathoms deeper (a little less than 1/2 mile west of their original site). That, in effect, moved OPT's demonstration project out of the prime crab fishing grounds. But, OPT's project will still impact the crab fishery.



Reedsport Wave Park Project Location Map Courtesy of OPT

Nick Furman:

*“For so long, we, the fishing fleet, were the only ones out on the ocean.
I think we began to feel the ocean was ours.
We’re beginning to learn that’s not the case anymore.”*

I think OPT made a significant gesture by moving their demonstration project to deeper water. But, let’s be totally honest. Most fishermen in Reedsport felt OPT did not move their project far enough west. And, from the fishermen’s perspective, a larger issue overshadowed the settlement talks. Fishermen are alarmed that under federal law (the FPA), FERC can grant private wave energy corporations **exclusive rights** to occupy public ocean space (even in state waters) for decades at a time (30 to 50 years).

Under Section 4(e) of the FPA, FERC must give “**equal consideration**” to wave energy development and the protection of environmental, recreational, and cultural resources during the permitting process. The FPA, however, does not shield existing ocean users from impacts caused by wave energy development. So, fishing grounds could be lost to wave energy facilities when FERC applies their balancing test. When that reality hit home, one of the Reedsport fishermen fumed, “But, but, that’s Un-American!” From the fishermen’s perspective, conversations with OPT in Reedsport (especially the early meetings) only focused on reducing impacts on fisheries and not on avoiding impacts. Looking back at the process, Barry Nelson (a Reedsport fisherman and Port of Umpqua Port Commissioner) commented, “We just don’t see that true compromises were made.”

Consider this, though. What if fishermen had not participated in the settlement talks? First, OPT would not have understood the concerns of the fishing industry. Second, OPT would not have changed the proposed location of their demonstration project. Third, important logistical matters would not have been discussed (e.g., lighting the wave park to delineate boundaries, crab gear removal protocols, timing of maintenance operations, crab gear loss compensation, mooring lines configurations, etc.).

The discussions about OPT’s Reedsport demonstration project are **not** over yet. In the near



Photo Courtesy of OPT

future, OPT will release a 1,000+ page draft license application to FERC for their Reedsport demonstration project. OPT’s draft license application will contain a wealth of information. After receiving feedback on the draft license application, OPT will incorporate that feedback into their license application to FERC. Once OPT submits their license application to FERC, people will have 60 days to comment and petition FERC for intervener status for that project.

Why is OPT reluctant to move into deeper water off Reedsport? It’s expensive to carry out this pioneering work. For example, it costs \$1 million to deploy just one mile of transmission cable. And, when buoys are sited in deeper water (37 fathoms and deeper) expenses escalate for specialized divers and ships to service wave buoy installations. Moreover, at the early demonstration stage, little electricity is generated. So, OPT will spend millions of dollars to deploy 10 buoys off Reedsport and they will hardly make anything in return. State and federal resources (e.g., grants, tax incentives) will underwrite some of the costs because OPT’s deployment is an important, early demonstration project.

OPT is poised to make this investment to solidify their position as a leader in the development of wave energy technology. Looking ahead, OPT expects to sell their wave energy technology to

energy companies and utilities (the entities most likely to eventually own and operate wave energy installations). The Reedsport demonstration project is also a vehicle to learn more about the impacts of wave energy on the marine environment and the fishing industry.

OPT asserts they cannot move the Reedsport demonstration project into deeper water at this time because they need to refine their technology. And, OPT maintains the only way to advance their technology is to deploy an array of buoys in the ocean. So, at the time of this writing (recall, things change fast in this arena), OPT proposes deploying a 10-buoy project off Reedsport in 2009 in waters ranging from 34 to 38 fathoms (about 1.5 miles offshore, within Oregon's Territorial Sea).

OPT's project will encompass 300 meters by 400 meters (30 acres of ocean space). Fishermen in Reedsport (recreational and commercial) concede they can absorb the loss of 30 acres of fishing grounds. For them, that's not the main issue. They are concerned about the **cumulative impacts** of multiple, larger commercial-scale wave energy installations, combined with the potential loss of fishing grounds to marine reserves. During the Reedsport talks fishermen regularly asked, "How can I comment on this wave energy installation when we don't know how many other wave installations will be allowed, how big they will be, and, where they will be located?"

OPT tells us their future 200-buoy commercial-sized wave installations (if deployed) will encompass 1/2 mile by 5 miles of ocean space. That's about 600 acres (or, approximately one square mile). OPT will leave room for travel lanes between clusters of buoys. Fishermen, though, have reasons to be concerned. If FERC and the State of Oregon allow multiple wave energy installations to be sited in important fishing grounds, the viability of commercial and recreational ocean fisheries would be threatened.



Charleston, Oregon Waterfront

Alas, at this point in time, the State of Oregon does **not** have a comprehensive plan in place to guide the location and scale of wave energy development in Oregon's Territorial Sea (or marine reserves). This key issue is addressed later in this report.

Another outcome of the Reedsport settlement talks may not be experienced for several years. At the last (sixth) meeting in Reedsport, OPT promised that if they build a commercial-scale wave energy installation off Reedsport, they will try to move it farther offshore. That's significant. Before the Reedsport talks began, OPT had planned

to place their commercial-scale wave energy installation directly adjacent to and north of their 10-buoy demonstration project. OPT now understands that locating **commercial-scale** wave energy installations in the heart of crab grounds will spark a bitter confrontation. OPT, wisely, wants to avoid that conflict.

And, finally, fishermen in Reedsport informed OPT that if OPT located a wave energy installation in the 26 to 28 fathom range (as originally proposed) they would have encountered: (a) significant debris flows during winter storms (e.g., uprooted trees, drifting mats of kelp), (b) wave overtopping, and (c) punishing subsurface currents and shifting sands. That's invaluable local knowledge.

OPT did make adjustments to their Reedsport demonstration project. OPT will take what they learned in the Reedsport talks and apply those insights to their draft license application. I believe

that confirms the value of the Reedsport settlement talks. Having said that, the Reedsport process was *far* from perfect. When the talks began, we were all in uncharted waters (including OPT). In Reedsport, though, OPT drove the agenda and the timing of the process. That's how it works under the FPA. But, there's good news. Fishermen and coastal community leaders are now better organized. It's been a difficult learning process. And, we've gained important experience. As a result, the next round of OPT-fishermen talks on Oregon's South Coast (on OPT's Reedsport and Coos Bay demonstration projects) will be handled much differently.

Back to the Charleston Meeting



At the Charleston meeting on January 16, 2008, Steve Kopf made comparisons between their Reedsport demonstration project and their Coos Bay project. He noted, "We tried to take everything we learned in Reedsport and overlay it on our issues." Steve Kopf said OPT's 20-buoy demonstration project off Coos Bay (scheduled for deployment in 2010) will follow the 2009 deployment off Reedsport. With improved technologies, OPT believes that by 2010, they will be able to take their Coos Bay project farther offshore.

January 16, 2008 OPT Meeting in Charleston, Oregon (photo to the left)

Steve Kopf shared that OPT works with engineering firms with expertise in the design of deepwater oil and gas installations. He showed an artist drawing of OPT's three-anchor buoy system (*see drawing to the right*). Each buoy has a diameter of 37 feet and a draft of 120 feet. The buoys extend 27 feet above the water. The anchors will be made of concrete and weigh 165 tons each (about the size of a two car garage). Steve Kopf stated that OPT's three-anchor buoy design is more stable than conventional single-anchor buoys (they provide greater elasticity). OPT plans to space their buoys 100 yards apart in rows parallel to the beach. OPT's 20-buoy array off Coos Bay will encompass 60 acres of ocean space.

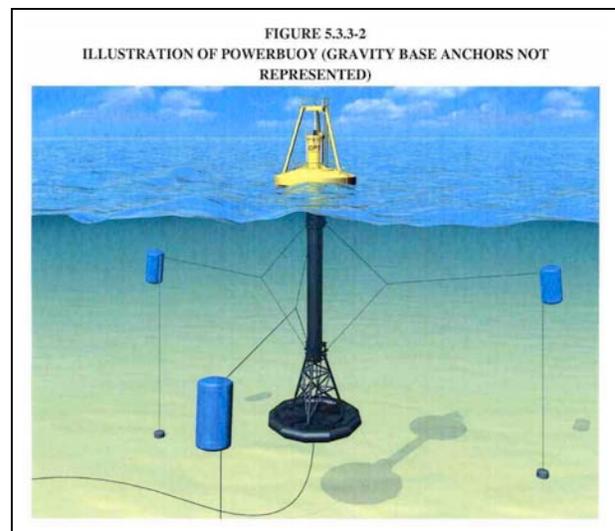
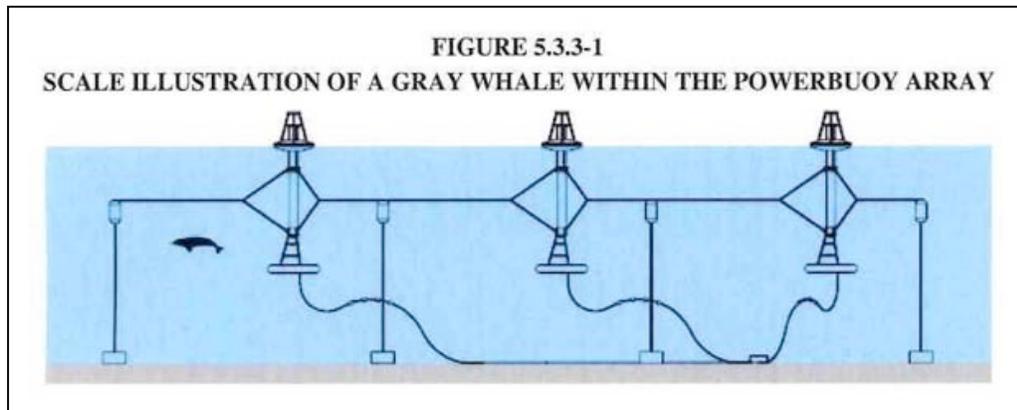
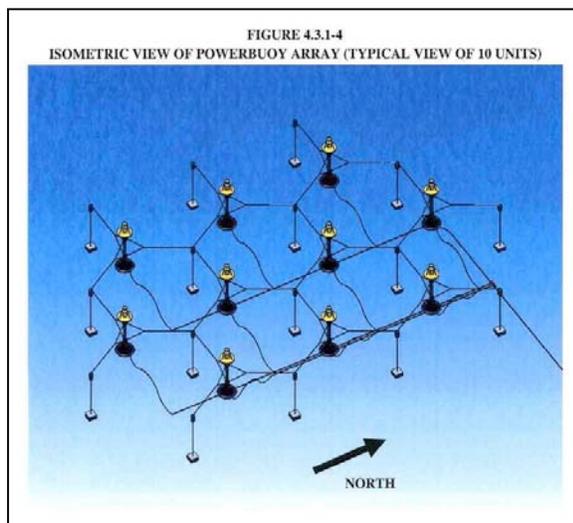


Illustration taken from Coos Bay OPT Wave Park (FERC No. 12749) Notice of Intent (NOI) and Preliminary Application Document (March 2008)

Steve Kopf noted, "I know you're concerned about the size of these wave energy installations, especially commercial-scale operations. You want to know how much ocean space is involved. Energy markets will limit the scale of wave energy development off Oregon. For the near future, energy demand can be met with a 30-acre wave energy installation site off of Reedsport and a 60-acre wave energy installation site off of Coos Bay. A couple square miles of Oregon's Territorial Sea is all that's needed to provide that amount of power. We are talking about less than 1% of the Territorial Sea."



Illustrations (left and below) taken from Coos Bay OPT Wave Park (FERC No. 12749) Notice of Intent (NOI) and Preliminary Application Document (Mach 2008)



(Editor’s Note: *Oregon’s Territorial Sea (from 0 to 3 miles) is 1,256 square miles).*

On January 8, 2008 *The Coos Bay World* had published a story about the Washington Wave Energy Company’s project. Knowing that, Steve Kopf remarked, “Many of you heard about a big project up in Washington State.” He shrugged and said, “Frankly, it’s ridiculous. Even if the technology existed to do that, why *would* you do that?” Steve Kopf restated his statement that energy markets will limit the scale of wave energy development.

The Q & A Session

A woman asked, “How do you know you can sell all this power?” Steve Kopf said investments in wave energy development will not be done on speculation. He stressed, “Unless power purchase agreements (PPAs) with public and private utilities are signed, wave energy installations will not be built.”

Steve Kopf explained that power demand projections for the Northwest suggest markets for renewable wave energy exist. Here’s why. In 2007, the Oregon Legislature passed Renewable Portfolio Standard (RPS) legislation. So, over time, the State of Oregon will require private and public utilities in Oregon to purchase a percentage of their power from renewable sources. California and Washington have similar mandates. Steve Kopf noted, “Because of RPS, utilities will be hungry for this kind of power.” That sparked a lively discussion. Several people complained that the State of Oregon is increasing energy costs without knowing how much of an increase will result. Steve Kopf responded, “Look, the Northwest has been fortunate. You’ve enjoyed cheap power because of Bonneville Power Administration (BPA).”

January 16, 2008 OPT Meeting in Charleston, Oregon



Some people wanted to know, as a threshold matter, why the State of Oregon is promoting wave energy. They characterized wave energy as “unproven technology” with unknown impacts on

the fisheries and the marine environment. They recommended that Oregon focus on proven renewable energy technologies (like wind and solar) and leave the ocean alone. Steve Kopf answered, “The company I work for, OPT, is a wave energy development company. That’s what we do. But, again, we are running out of energy. All these diverse forms of power are needed.” Steve Kopf said Oregon and the Oregon Coast will benefit economically by leading the nation and the world in wave energy technology development.

(Editor’s Note: *Fishing industry people, like most Oregonians, strongly support the search for new sources of clean, renewable power. After all, fishermen just experienced a huge jump in the price of diesel fuel. Fuel prices pose an immediate threat to the viability of their industry).*

A local fisherman inquired, “Can we transit past the wave energy installation site on the east side?” Steve Kopf replied, “Absolutely. The transmission cable will be buried. Some people talk about a mandatory half-mile no-transit buffer around wave energy installation sites. I don’t know where that’s coming from. We have no problem with people fishing or transiting right up to our buoys.”

The issue of security buffers came up during the Reedsport talks. In the Gulf of Mexico, it is reported that the Department of Homeland Security (DHS) requires security buffer zones (exclusion zones) around major submerged oil and gas pipelines. Given the modest amount of energy that wave installations will produce, it’s hard to imagine DHS imposing exclusion zones around wave energy installations and transmission cables in Oregon. But, no one can guarantee DHS won’t impose restrictions.

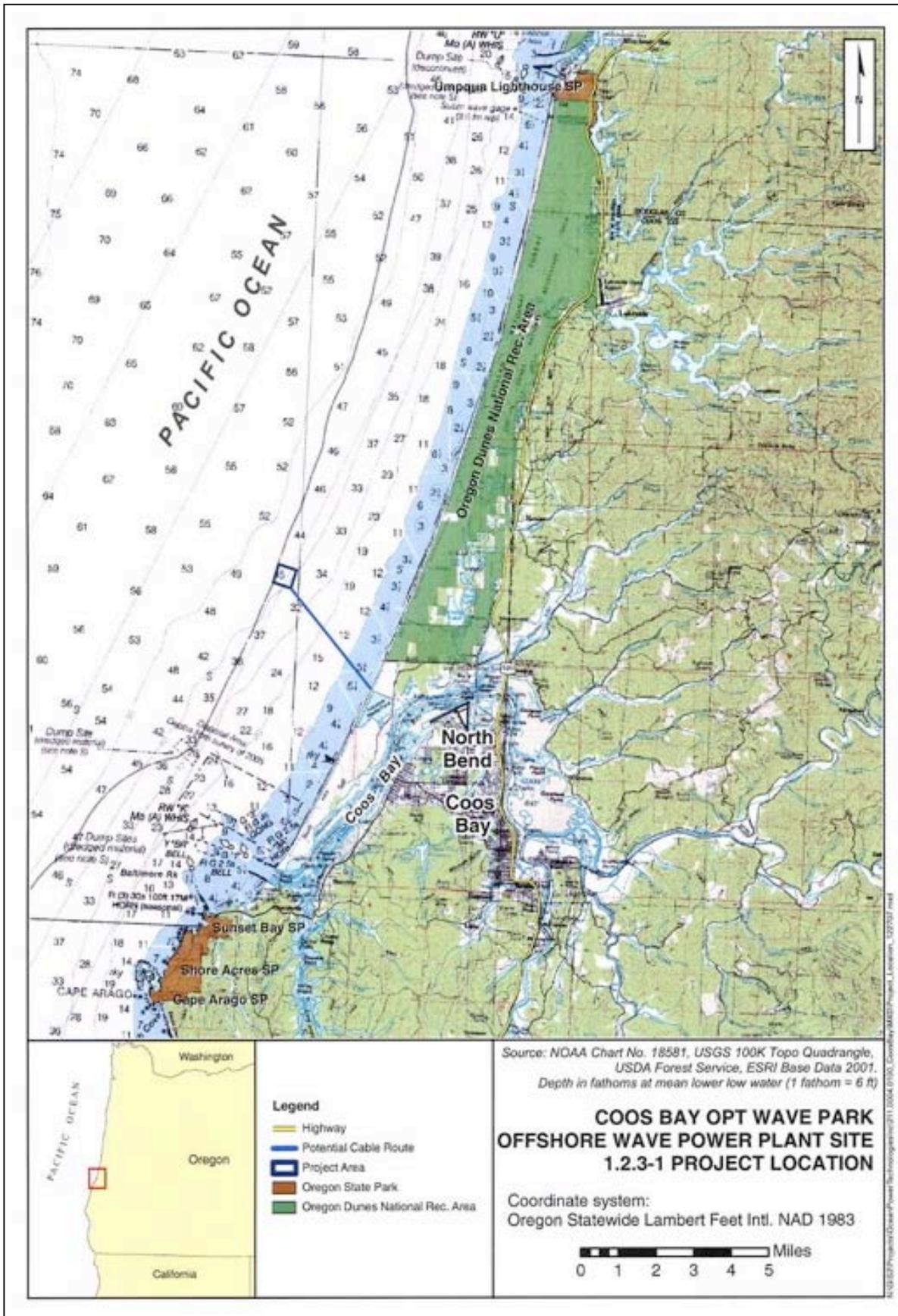


Photo Courtesy of OPT

Another person asked, “Can these things (*buoys and anchors*) be removed?” Steve Kopf said firmly, “Yes.” Kopf continued, “Oregon law was changed in 2007. It requires wave energy companies to demonstrate they have the financial capability to remove the buoys and the anchors. OPT is insured through Lloyd’s of London. The assets are in place to ensure buoys and anchors can be removed or repositioned. The buoy that sank off Newport was **not** one of ours. It is owned by Finavera Renewables.”

Finavera’s test buoy sank off Newport in late October 2007. The fact that the sunken buoy has still not been retrieved demonstrates additional marine infrastructure (tenders, salvage ships, skilled divers) is needed in the Northwest to service wave energy development. Steve Kopf said, “OPT has ten years of experience deploying buoys working with the Navy and others. Our buoys are seaworthy. Our emphasis is on not having them sink in the first place.”

Steve Kopf was asked why OPT needs two demonstration projects (one off Reedsport and one off Coos Bay). He described the extensive studies and environmental monitoring that will be required, “We are being told, for some species like salmon, that you can’t take data from one place and apply it to another area. On the other hand, they think crab behave pretty much the same way in different parts of the coast.” Steve Kopf brought up marine mammal issues. He commented, “Dr. Bruce Mate, one of the world’s leading experts, has been hired to work those issues. Dr. Mate’s work is funded by the Oregon Wave Energy Trust (OWET).”



Coos Bay Wave Park Offshore Wave Power Plant Site Project Location Map Courtesy of OPT

Steve Kopf noted that issues related to electro-magnetic fields (EMFs) must be understood and addressed. He stated, “There’s a one year lag time between our Reedsport demonstration project and our Coos Bay demonstration project. Our technology will evolve. For the Coos Bay pilot project, we will deploy a second-generation buoy technology. The new buoys may produce twice as much power. That means OPT will need to run separate tests/monitoring at separate sites as our technology evolves.”

Steve Kopf noted, “From our settlement talks with state and federal resources agencies, we’ve just learned we need to collect *three years of data* to have statistical relevance.”

Someone from the back of the crowd said, “You talk very well. But, you are trying to sell us on this. What if there are impacts on us?” Steve Kopf answered, “In Reedsport, we helped fishermen understand the FERC license process.” He described the separate stages. First, there’s the Preliminary Permit (PP) process. That’s where an applicant gets one year to study a site and demonstrate progress toward developing a license application. Second, there’s the Notice of Intent and Preliminary Application Document (NOI-PAD) stage. That’s followed by the license application stage. Preliminary Permits are typically good for 36 months. However, FERC’s due diligence requirements press companies to file a NOI-PAD within a year of receiving a Preliminary Permit.

Steve Kopf said, “To understand the impacts we need to deploy buoys in the ocean, connect them to the grid, and study them. We will learn about impacts through demonstration projects. If they believe there are impacts...” Someone shouted out, “Who is they?” Steve Kopf replied, “State and federal agencies.” The crowd grew restless.

I stood up and said, “I think Steve’s right. First, let me say that I don’t work for OPT. I work for OCZMA. We work for the coastal communities.” I continued, “Second, it won’t just be consultants paid by OPT doing this work and making these calls. Independent scientists will be involved. There will be scrutiny from state and federal agencies and others. I believe it will be a transparent process. State and federal funding will be used to help pay for some of the studies. Public funding can help ensure full disclosure. We need to watch this closely. If we learn it’s not an honest process, we will let you know.”

Some people, certainly not everyone, looked a little relieved. But, as a general matter, skepticism runs deep. People fear if wave energy gets rolling and companies start making large amounts of money, curbs and/or safeguards on wave energy will be waived.

Rick Goche, a Charleston-based salmon fisherman, asked, “How much are you willing to pay us?” Steve Kopf paused. Paul Merz, another Charleston-based salmon fisherman, said, “Look, OPT is planning to do a 20-buoy demonstration project off Coos Bay in 2010. If it works, later on, you will build commercial-scale projects. Right? So, make us an offer. Cut us in. Make the fleet a partner. Give us a percentage of the profits.”

Steve Kopf replied, “I understand the concept. But, who will I pay?” Paul Merz offered, “Maybe the commodity commissions. It’s just a recommendation.” Steve Kopf replied, “I can’t negotiate that. That must be part of a state plan.”

Steve Bodner, staff of the Coos Bay Trawlers Association and Bandon Undersea Cable Committee stated, “You can negotiate with us! That’s how it worked with AT&T in 1999. AT&T wanted to site two fiber optic cables right through our fishing grounds.” Steve Bodner continued, “Then Governor John Kitzhaber told AT&T they had to work with us. We negotiated a direct payment from AT&T to compensate us for lost fishing grounds. So, OPT can negotiate directly with us. And, we will want to know the total economic impacts. The analysis must be based in reality.”

Coos County Commissioner John Griffith made a closing comment, “I hope nobody thinks any deals or compromises have been made. As Mike Gaul said earlier, we are forming a local committee to deal with this. People don’t want to be paid off. They don’t want to lose their careers in the fishing industry. In the Valley, people use the term ‘stakeholders.’ I prefer the term ‘stockholders’. We must ensure your investment in the fishing industry isn’t wiped out.”

March 7, 2008—A Big Change in Plans; OPT Announces a 200-Buoy Wave Park off Coos Bay!

On March 7, 2008, 52 days after the January 16, 2008 public meeting in Charleston, OPT announced they submitted to FERC (that same day) a NOI-PAD for a 200-buoy commercial wave park off Coos Bay. We were shocked by the news.

Nick Furman, Administrator, ODCC

OPT dispatched Steve Kopf to Oregon to talk with South Coast community leaders and fishing industry leaders. On Friday March 21, 2008, at 9:00 a.m., an organizational meeting was held at the Oregon International Port of Coos Bay. Nick Furman, the respected Executive Director of the Oregon Dungeness Crab Commission (ODCC), was named acting Chairman. The group agreed to name itself “SOORC” (Southern Oregon Ocean Resource Coalition); pronounced “source” as in “water source”. SOORC then voted to seek 501(c)(3) status. Kathy Wall, a management analyst with the Oregon International Port of Coos Bay, serves as the point of contact for SOORC. Mike Gaul, Deputy Port Director, is also actively involved.



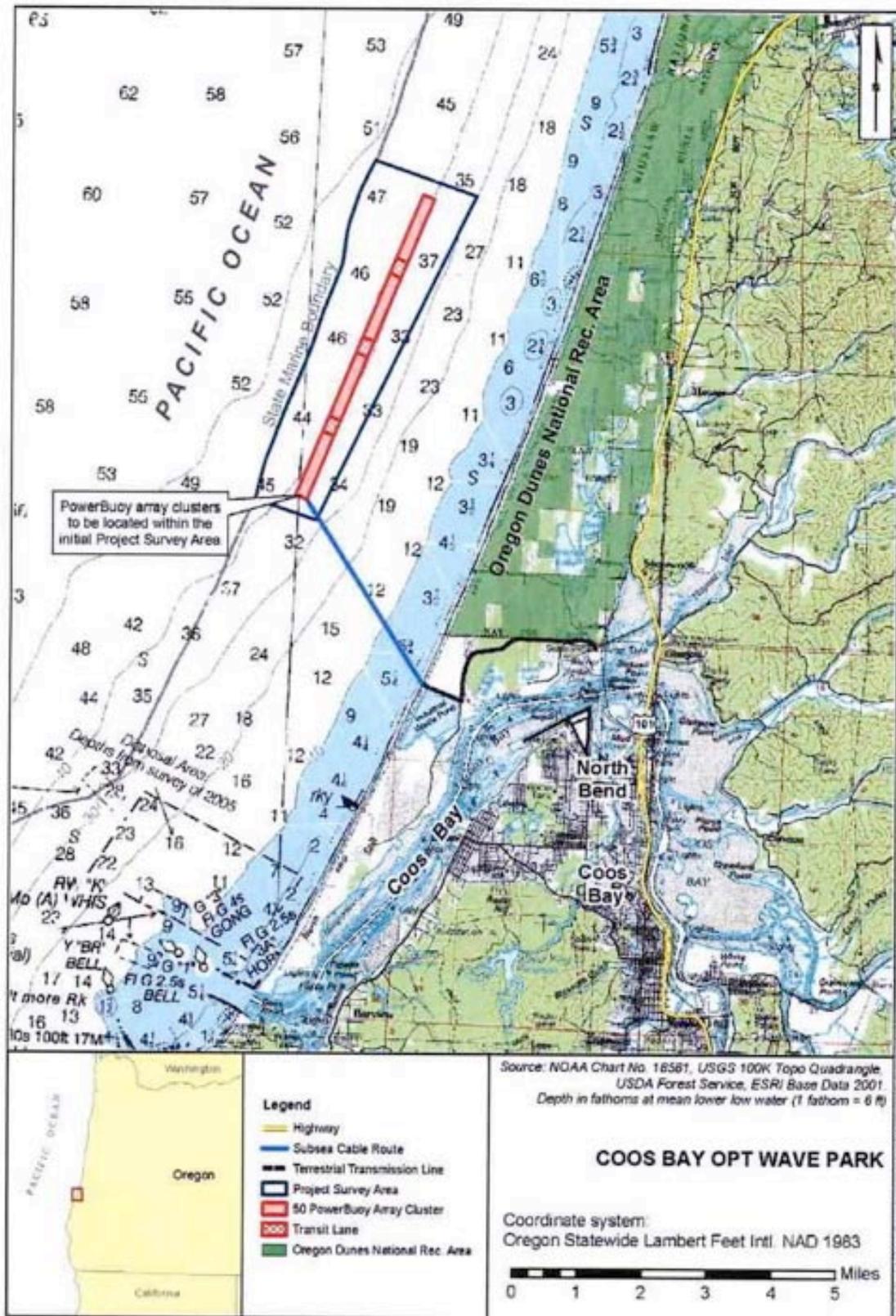
In addition to Coos County fishermen, Barry Nelson, a commercial salmon fisherman from Reedsport, and Port of Umpqua Port Commissioner, is serving on SOORC. With consent from fishermen in Reedsport, SOORC will now be handling negotiations with OPT for both the Reedsport and the Coos Bay projects.

Steve Kopf joined us at 11:00 a.m. Media (print and TV) covered the meeting. State Senator Joanne Verger and State Representative Arnie Roblan attended. Nick Furman opened the meeting. Mike Gaul followed with a statement. Without mincing words Mike Gaul said, “In a recent e-mail, Onno Husing wrote to me, ‘The Federal Power Act is an 80-year old warmed-over mining claim statute which encourages secrecy on the part of those working with that law. Not to debate the issue, but, secrecy and deception are defined differently in my dictionary. From my many years of experience, the only way to get projects through is to have honest communications.’”

(Editor’s Note: *I’m hardly alone in observing the FPA is a relic of an older era. The FPA was written in 1920 with hydropower development in rivers in mind; not wave power in the open ocean).*

Steve Kopf responded to Mike Gaul’s statement. He said, “Onno’s right. The FERC process has its constraints. It forces applicants into unfortunate positions.” Steve Kopf acknowledged that OPT’s March 7, 2008 filing to FERC, **without** advanced notice to the fishing industry and impacted coastal communities, “broke” the trust. He urged the members of SOORC to focus on how OPT can restore that trust.

**FIGURE 1.2.2-2
PROJECT LOCATION-COOS BAY**



Coos Bay OPT Wave Park Map taken from Coos Bay OPT Wave Park (FERC No. 12749) Notice of Intent (NOI) and Preliminary Application Document (March 2008)

Steve Kopf then explained what made OPT change their plans. It was OPT's investors that pressed OPT to pursue a commercial-scale wave energy installation off Coos Bay. The investors examined the long periods of time it will take to carry out demonstration projects (three-to-four years). Then, after the demonstration projects, OPT would still need to launch yet another multi-year FERC licensing process to get permission to proceed with a commercial-scale wave energy installation. Steve Kopf shared, "Our investors have confidence in us. But, they want to know that we can do a big project. They need to see a path how to do that. OPT's leadership also understood that the fishing industry was concerned about commercial-scale wave projects. So, in the spirit of full disclosure, they felt it was time to have that conversation with you."

Senator Joanne Verger calmly told Steve Kopf that by moving quickly to commercial-scale development off Coos Bay that OPT had alarmed people. Senator Verger said coastal ports and the fishing industry "stand tall" on the Oregon Coast. She advised OPT to carry out a demonstration project off Coos Bay and to defer commercial-scale development.

Steve Kopf assured everyone that, as a practical matter, OPT's deployment off Coos Bay would be a phased deployment. He said information from OPT's Reedsport demonstration project will begin to become available in 2009. Steve Kopf stressed OPT will be subject to *adaptive management*. That means, as new information becomes available from Reedsport, that data will influence what happens next. OPT has a dilemma. On the one hand, people on the Oregon Coast demand to know what OPT plans to do and when they plan to do it. On the other hand, major forces outside OPT's control (investors, state and federal agencies, politics, the Pacific Ocean) will, over time, compel them to change their plans.

Chairman Nick Furman said to Steve Kopf, "We need more time to evaluate the different FERC licensing processes. Would you ask OPT to join SOORC in asking FERC for a 60-day extension for the comment period?" Steve Kopf readily agreed to pass on SOORC's request to OPT.

The next week, OPT complied with SOORC's request. FERC then quickly granted an extension. That was an important gesture for both OPT and FERC to make.

March 26, 2008—Oregon Announces Memorandum of Understanding (MOU) with FERC & Governor Ted Kulongoski Signs Executive Order 08-07!

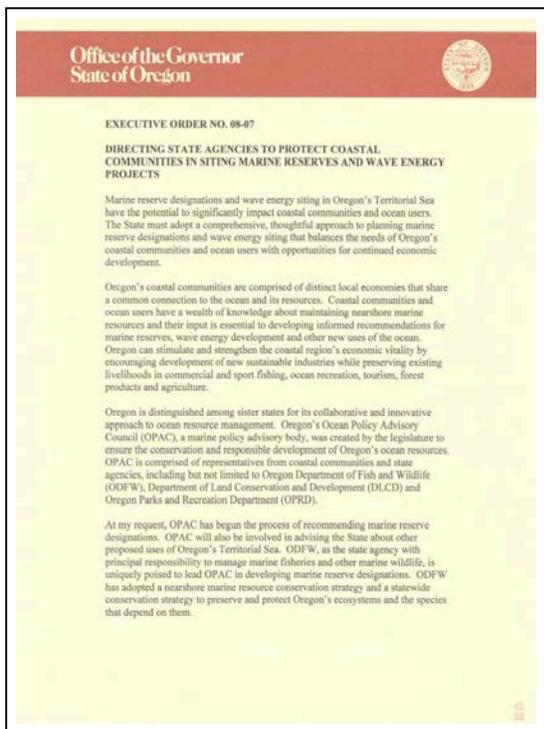
On March 26, 2008 the rules of the game changed again!

For a number of months, discussions have been underway between the State of Oregon and FERC to develop a Memorandum of Understanding (MOU) on wave energy development in Oregon's ocean waters. OPT's March 7, 2008 announcement about the 200-buoy project accelerated the discussion. On March 26, 2008, Governor Kulongoski wrote a letter to the Chairman of FERC and the Executive Director of OPT. A key passage from Governor Kulongoski's letter states:

I am a strong proponent of the development of wave energy technology and hope it will one day help Oregon and others transition to clean energy. I have also been working cooperatively with OPT on its application for a small demonstration project composed of 14 (*editor's note: actually, it's been downsized to a 10-buoy project*) wave energy buoys off the coast near Reedsport.

However, my support for the use of Oregon waters is presently limited to testing and research of a limited number of small demonstration projects in order to commercialize the technology and develop the scientific analysis of the potential impacts of the technology on ocean resources and existing uses.

In the MOU, FERC and the State of Oregon recognize that they need to coordinate state and federal regulatory activities and delay supporting commercial-scale projects until demonstration projects yield additional information. The parties also acknowledged the State of Oregon will prepare **a comprehensive plan** for the siting of wave energy development in Oregon's Territorial Sea. Executive Order 08-07 (DIRECTING STATE AGENCIES TO PROTECT COASTAL COMMUNITIES IN SITING MARINE RESERVES AND WAVE ENERGY PROJECTS) was also signed on March 26, 2008. It directs state agencies to work with people on the Oregon Coast to prepare a comprehensive plan for wave energy and marine reserves.



This is welcome news! By tapping the breaks on the wave energy development process (with the MOU with FERC and E.O. 08-07), the State of Oregon and FERC increased the chances that responsible wave energy development can happen off the Oregon Coast. We now have the breathing room (the time) needed to carry out an ocean resource planning process anchored at the local level. To his credit, Steve Kopf was among the first people in the wave energy industry to support the preparation of a comprehensive Oregon ocean plan. By being on the front lines in Reedsport and Coos Bay, Steve Kopf saw the status quo under the FPA was, frankly, untenable.

However, another important question arises. Doing an ocean plan is a big job. How will local ocean resource planning efforts be funded? Local ocean resource planning groups need resources for administration/travel expenses, legal/regulatory advice, socio-economic work, mapping, and marine research. Because local groups will play such a pivotal role, I'm optimistic resources can be

assembled (through OWET, the federal government, the State of Oregon, Foundations, and the wave energy industry).

Are We Ready to Seize this Opportunity?

Resource issues aside, will people in the fishing industry and port communities (individuals with special knowledge of Oregon's ocean) step up and prepare locally-based ocean resource plans? I'm confident they will if they understand why a plan is needed (to protect their livelihoods), and, if they believe they will play a pivotal role.

There are reasons to be optimistic. Depoe Bay's Near Shore Action Team (NSAT) was formed two-and-a-half years ago. A tipping point was reached when NSAT members began to believe they would really shape what happens off Depoe Bay. And, in 2006, the Lincoln County Commissioners showed extraordinary leadership. They filed for a Preliminary Permit to FERC for the ocean waters off Lincoln County, and established the FINE Committee (Fishermen Involved with Natural Energy). FINE was modeled after two successful fishermen's committees in Oregon that work with the telecommunications industry to site undersea fiber optic cables. In Depoe Bay and at FINE, precisely the same motives are at work. It's about **local empowerment**.

Up and down the Oregon Coast, people are responding to the challenge. From south to north, the following local ocean resource planning groups are in place: POORT (the Port Orford Ocean Resource Team), SOORC (Southern Oregon Ocean Resource Coalition, Coos Bay/Reedsport),

FINE (Fishermen Involved with Natural Energy, Lincoln County), NSAT (Near Shore Action Team, Depoe Bay), FACT (Fishery Advisory Committee for Tillamook, Garibaldi). In each of these local processes, respected local people (including ocean users) are engaged.



On May 6, 2008, SOORC met again with Steve Kopf in Coos Bay (*see photo to the left*). SOORC may choose to sign the settlement agreement with OPT on the Reedsport demonstration project. Why would SOORC do that? By signing a settlement agreement, SOORC would get a seat on the committee overseeing the Reedsport demonstration project (the **adaptive management** process). It is becoming clear there's a long-term role for local ocean resource planning committees after an initial ocean plan is developed and after settlement talks on individual projects conclude.

And, the Oregon's Ocean Policy Advisory Council (OPAC) has set into motion a process to amend Oregon's Territorial Sea Plan. Oregon's Territorial Sea Plan (like the FPA) is an outdated, applicant-driven process. The goal is to make the amended Territorial Sea Plan "spatially explicit" like a zoning map. Local ocean resource planning groups are being urged to prepare maps **for their section** of the Oregon Coast. The new ocean plan can help us sort out, in advance, where different activities should take place in Oregon's Territorial Sea. It can help us preserve fishing grounds for fisheries.

Preparing a spatially-explicit ocean plan seems the only way to make good on Governor Kulongoski's November 1, 2007 historic pledge to the Oregon Coast (later codified under E.O. 08-07). Recall, Governor Kulongoski promised **marine reserves and wave energy won't damage the economy and culture of the Oregon Coast**. Through a comprehensive ocean plan we can steer wave energy development away from key fishing grounds and sensitive habitats. It's an imaginative way to resolve conflicts and overcome the inherent flaws of the FPA.

Thinking Big and Thinking Long Term: The Ball is in Our Court



Different sectors of Oregon's fishing industry utilize virtually the entire continental shelf. Many people expect wave energy development (in the future) to move farther offshore into federal waters. Also, count on seeing proposals to site wind energy farms on platforms in the ocean off Oregon. And, President Bush is asking Congress to: (a) open more areas on the continental shelf to offshore oil and gas development, and, (b) promote open ocean aquaculture. There are a lot of new uses of the ocean on the horizon. As a result, most people believe Oregon's ocean planning process must be comprehensive and encompass the entire continental shelf off Oregon.

Beyond three miles, in federal waters, the Minerals Management Service (MMS), under the United States Department of Interior (DOI), has jurisdiction over wave energy (under the Outer

Continental Shelf Lands Act, 43 U.S.C. Sections 1301-1315(2002)). A year or two from now, *after* we prepare an ocean plan, Oregon will submit that plan to the National Oceanic & Atmospheric Administration (NOAA). Oregon will ask NOAA to make the ocean plan part of Oregon's federally acknowledged coastal zone management program under the Coastal Zone Management Act (16 U.S.C. Sections 1451-1465). That would give Oregon leverage (under Section 307 of the CZMA) to insist federally-authorized activities in federal waters (like wave energy) are consistent with Oregon's Ocean Plan. The FPA also directs FERC to work within the framework of a state management plan during the permitting process. So, several levers exist to influence the siting process.

We have been given an historic opportunity. Local ocean resource planning groups have a window of time to develop spatially-explicit ocean plans to protect their interests. OCZMA, working with Oregon Sea Grant Extension, will continue to support the work of the local committees. If you are a fisherman (recreational or commercial) please get involved with a local ocean resource planning group. Share your knowledge of the ocean. Few people know Oregon's ocean like ocean users. This process will only work if you participate. If we *don't* develop these plans, someone else will.

Contact information for the local ocean resource planning committees on the Oregon Coast (alphabetical order):

FACT (Fishermen Advisory Committee for Tillamook)—Garibaldi

- *Linda Buell, Co-Chair; Telephone: 503-322-0007*
E-mail: fishon@garibaldicharters.com
- *Craig Wenrick, Co-Chair; Telephone: 503-965-6352*
E-mail: seaq@oregoncoast.com

FINE (Fishermen Involved in Natural Energy)—Lincoln County

- *Kaety Hildenbrand, Marine Extension Agent, Lincoln County Extension Office*
29 SE 2nd Street, Newport, Oregon 97365
Telephone: 541-574-6537, Ext. 27 (office)
E-mail: kaety.hildenbrand@oregonstate.edu

NSAT (Near Shore Action Team)—Depoe Bay

- *Loren Goddard, Chair; Telephone: 541-765-2359 (home)*
E-mail: fishaffair@mac.com

POORT (Port Orford Ocean Resource Team)—Port Orford

- *Leesa Cobb, Port Orford Ocean Resource Team*
P.O. Box 679, 351 6th Street, Port Orford, Oregon 97465
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SOORC (Southern Oregon Ocean Resource Coalition)—Coos Bay/Reedsport

- *Nick Furman, Chair (Oregon Dungeness Crab Commission Administrator)*
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