

Nichol Duff

From: Shawn Humphreys
Sent: Wednesday, December 7, 2022 4:03 PM
To: Nichol Duff
Cc: Shoreline Master Program
Subject: FW: Pacific County's Critical Areas Ordinance update, comments from WGS

Follow Up Flag: Follow up
Flag Status: Flagged

Categories:

From: Sears, Tricia (DNR) <Tricia.Sears@dnr.wa.gov>
Sent: Friday, November 18, 2022 11:44 AM
To: Shawn Humphreys <shumphreys@co.pacific.wa.us>
Cc: Sears, Tricia (DNR) <Tricia.Sears@dnr.wa.gov>; Ojennus, Matthew (COM) <matthew.ojennus@commerce.wa.gov>
Subject: Pacific County's Critical Areas Ordinance update, comments from WGS

Hello Shawn,

In keeping with the interagency correspondence principles, I am providing you with draft comments on Pacific County's Critical Areas Ordinance update (Commerce ID# 2022-S-4524).

I looked at the entire proposal and focused on areas related to WGS work.

There are no specific revisions to geologically hazardous areas or mineral resource lands proposed.

Overall the provisions are strong, noting that you have requirements to record to the title if you have mineral land or critical areas on the property; and definitions of geologically hazardous areas, best available science, and others that are well crafted.

Of note, on page 64, the provisions refer to the Department of Natural Resources Division of Geology and Earth Resources. Please change that to Washington Geological Survey (WGS).

If you have not checked our interactive database, the WGS Geologic Information Portal, lately, you may wish to do so.
[Geologic Information Portal | WA - DNR](#)

Thank you for considering our comments. If you have any questions or need additional information, please contact me. For your convenience, if there are no concerns or follow-up discussion, you may consider these comments to be final as of the 60-day comment deadline of January 13, 2023.

Cheerio,
Tricia

Tricia R. Sears (she/her/hers)
Geologic Planning Liaison

Washington Geological Survey (WGS)
Washington Department of Natural Resources (DNR)
Cell: 360-628-2867 | Email: tricia.sears@dnr.wa.gov

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Nichol Duff

From: Patrick@PK80.com
Sent: Monday, December 12, 2022 12:08 PM
To: Shawn Humphreys; Shoreline Master Program; Kelly Rupp
Cc: Lisa Olsen; Mike Runyon; Frank Wolfe; 'Nansen Malin'; Jim Walsh; 'Joel McEntire'; Suzi.Ryan@leg.wa.gov; 'Senator Jeff Wilson'; Rian Sallee; rian.sallee@ecy.wa.gov
Subject: Pacific County Planning Commission Review of the Shoreline Management Program
Attachments: surfside_preservation_newsletter_12-1-22.pdf

Categories:

Shawn Humphreys, SMP Committee and County Commissioners, Pacific County Planning Commission.

I understand that you are accepting public comments in relation to the review of the Shoreline Management Program.

Pacific County is giving special treatment to a small faction of the members of Surfside HOA that I will hereafter refer to as "The Faction", and that this practice is illegal allowing a small group of members in Surfside HOA to force others to violate SMP, CARL, The Washington State Firewise program, and the apparent intent of the State Shoreline Management Program, to top, kill and/or remove their trees and damage their property, property values and safety by topping their trees for the views of about 350 or the 2800 properties in Surfside if not for the exceptions and special treatment that Pacific County has granted Surfside. Homeowners must also suffer higher winds and wind damage, increased amounts of blowing sand, and higher probability of water damage. Pacific County has allowed this to happen by giving The Faction in Surfside HOA special treatment that then effects the ordinances of the entire rest of Pacific County. This also costs Pacific County as they must then also suffer the cost of topping and/or removing trees on County Property, and this cost is paid by entire County. It also forces Pacific County to violate the Washington State Firewise Program, for the sake of views. This has gone on for years and had damaged many peoples properties, property values, property ecology, and lives, and increased risk from natural weather events. I understand none of this is your fault personally but you are in a position to rectify or help rectify the situation. I am hoping the Planning Commission and the County Commissioners will correct the SMP and the CARL ordinance 180 to be in compliance with both the Washington State Constitution, RCW 36.70A.172 and the Washington State Firewise Program of which Surfside HOA claims to be following.

The Washington State Constitutions states:

Article I Section 12 SPECIAL PRIVILEGES AND IMMUNITIES PROHIBITED. *No law shall be passed granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which upon the same terms shall not equally belong to all citizens, or corporations.*

State Shoreline Management Act states:

The [Shoreline Management Act](#) (SMA) requires all counties and most towns and cities with shorelines to develop and implement [Shoreline Master Programs](#). The law also defines our role in reviewing and

approving local programs. The SMA was passed by the Washington Legislature in 1971 and adopted by voters in 1972. Its overarching goal is "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines."

Environmental protection

The SMA is intended to protect shoreline natural resources including the land, vegetation, wildlife, and aquatic habitats against adverse environmental effects. All allowed uses are required to offset adverse environmental impacts as much as possible and preserve the natural character and aesthetics of the shoreline.

I admit that I have not read every word of the State Shoreline Management Act, <https://app.leg.wa.gov/RCW/default.aspx?cite=90.58.030> but I can find nothing that permits or encourages exemptions for HOAs or any other person or corporation, in fact as it states above, it appears not to encourage this type of exemptions.

And the Washington RCWs state:

RCW [36.70A.172](#)

Critical areas—Designation and protection—Best available science to be used.

(1) In designating and protecting critical areas under this chapter, counties and cities shall include the best available science in developing policies and development regulations to protect the functions and values of critical areas. In addition, counties and cities shall give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries.

(2) If it determines that advice from scientific or other experts is necessary or will be of substantial assistance in reaching its decision, the growth management hearings board may retain scientific or other expert advice to assist in reviewing a petition under RCW [36.70A.290](#) that involves critical areas.

Yet SMP and CARL gives special privileges to HOAs in allowing their covenants to override the SMP, CARL and the Washington State Firewise program. So if a person or corporation owned property right next to Surfside HOA and their property bordered the Ocean, or in relationship to CARL bordered a lake or critical area, that person or corporation would not be allowed to top the trees but Surfside could per the current exemptions in SMP and CARL. This clearly violates the State Constitution Article I Section 12 .

Also, the "best available science" recommends NOT topping or removing all the trees along the Ocean or the perimeter of a lake or critical area. In fact CARL itself does not allow topping of trees for all but HOAs. The Washington State Firewatch program also states to NOT TOP Trees as this causes a fire hazard and can kill the tree. Thus the Pacific County SMP and CARL ordinance also appears to violate RCW 36.70A.290 by giving permission to Surfside HOAs to top trees in the critical areas around lakes and ignores the science presented in the State Firewise Program.

Please see the relevant parts of SMP shown below. Allowing topping or removal of trees or "special treatment" of HOAs violates the intent of the entire rest of the SMP, RCW 36.70A.290 and the Washington State Firewise Program.

Please see the sections of CARL below and pay special attention to the highlighted parts. I believe this part of Exemption 13 violates that constitution, [RCW 36.70A.172](#) and the Washington State Firewise Program; Topping of trees is not permitted **unless specified in an existing covenant effective prior to the effective date of this Ordinance.** The part in Red writing clearly violates the intent of the entire rest of the SMP, CARL and The Washington State Firewise Program. HOA covenants to not overpower state law, HOAs must comply with state law.

I understand that at the Pacific County Planning Commission meeting a few days ago, Annette DeLeest indicated that she felt that because their properties were more expensive than many other properties in Pacific County, thus they pay higher taxes, they (those that live on J Place in Surfside HOA) should get special consideration in the SMP and CARL ordinances and that their interests should outweigh the other members of Surfside as well as the others in Pacific County. In the recent Shoreline Management meeting Peggy Olds stated that they (the J Place members of Surfside HOA) had a "special deal" with the County. I hope you don't agree with them that richer people should have more rights and consideration than mid and low income homeowners, when it comes to writing the laws designed to protect the environment and reduce fire danger. I hope you agree that the small percentage of J Pl property owners in Surfside should not be getting the special treatment from Pacific County that they have been receiving in the past. Peggy Olds also indicated that she was elected to be on the Pacific County Planning Commission to represent Surfside. I don't believe she was elected to do that by the majority of Surfside members as about 1400 properties are forced to top their trees and all 2800 are forced to pay extra dues to enforce the covenant, while only about 350 benefit. She certainly does not seem to represent the majority of the members of Surfside, but does seem to represent to be representing her own personal interests as a person who lives on J Pl. and wants to preserve her personal views. She should not be on a government committee with that clearly stated attitude, she should be doing what is best for the entire community, and that is clearly not the case. It surprises me that the County would select someone with that type of attitude, prejudice and blatantly stated self interest, so clearly stated, to be on government committees. Peggy Olds' stated opinions are not only elitist, but as many others have pointed out recently, these types of opinions are also racist.

All the laws should be written to benefit the majority of the community while protecting the rights of the minorities. Views are not a right in the State of Washington. All laws should be equally enforced. And all County Ordinances should be in compliance with the State and Federal laws.

We are asking that the Pacific County Planning Commission change the SMP and CARL ordinances to stop the topping of trees in the Shoreline and Critical Areas of Surfside, stop the special treatment of Surfside HOA, and bring SMP and CARL into compliance with the State Constitution and [RCW 36.70A.172](#)

There seems to be some discussion about tying the Master Shoreline Program to CARL, I understand this again proposed by The Faction. After learning more about these ordinances, I believe they should be total separate as they don't seem to cover any of the same issues. If you feel they should be related could you briefly explain the reasons for this?

The attached flyer was given to select people in Surfside HOA. I believe it includes a variety of false claims about the "view" rights of the J Pl people of Surfside.

- First off Washington State does not support any right to force other property owners to top or remove trees for one's view.
- Note in the flyer that The Faction members of Surfside are attempting to add additional restrictions to force members to eliminate the indigenous trees, and replace them with specific non-indigenous trees

designed to protect the views of the J Place homeowners. They have already killed thousands of indigenous trees over the last few years, including those in CARL areas and I believe in SMP.

SMP relevant parts.

SMP 1.5 Goals

A. The County's goal in adopting this Master Program is to recognize and protect the functions and values of the shoreline environment of statewide and local significance.

B. For shorelines of the state, protection and management priorities are to:

1. Sustain, protect, and restore the native ecology;
3. Anticipate and plan to minimize hazards created by erosion and natural disasters;
8. Encourage shoreline development that complements, and does not damage, natural shoreline ecological functions.

3.2 Shoreline Environment Designations

A. Natural.

1. Purpose. The purpose of the "natural" environment is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes.

2. Designation criteria. A "natural" environment designation shall be assigned to shoreline areas if any of the following characteristics apply:

- a. The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;
- b. The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest;
- c. The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety;
- d. The shoreline includes largely undisturbed portions of shoreline areas such as wetlands, estuaries, unstable bluffs, coastal dunes, spits, and ecologically intact shoreline habitats; or
- e. The shoreline is designated as a Natural Area Preserve or Natural Resources Conservation Area and managed by the Washington Department of Natural Resources.

3. Management policies.

- a. Restrict or prohibit uses or developments that would significantly degrade the ecological functions or alter the natural character of the shoreline area.
- b. New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed. Do not allow the subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions.
- c. Permit access for scientific, historical, educational, and low-intensity recreational purposes, provided that no significant adverse impact on the area will result.
- d. Ensure that uses and activities permitted in locations adjacent to shorelines designated Natural are compatible and will not compromise the integrity of the natural environment.
- e. Ensure that developments within the Natural environment are compatible with uses and activities in adjacent (including aquatic) environments.
- f. The following uses should not be allowed in the Natural environment:
 - i. Commercial uses;
 - ii. Industrial uses;
 - iii. Nonwater-oriented recreation; and
 - iv. Roads, utility corridors, and parking areas that can be located outside of Natural designated shorelines.
- g. Public access and public recreation objectives should be implemented whenever

feasible and significant ecological impacts can be mitigated.

h. Prioritize preservation of resources over public access, recreation and development whenever a conflict exists.

i. Plan for the restoration of degraded Natural environment shorelines.

E. Coastal Conservancy.

1. Purpose. The purpose of the "coastal conservancy" environment is to protect to the highest degree possible and, where feasible, restore coastal ocean shorelands within Pacific County; conserve wildlife; and manage the unique characteristics and resources of the shoreland areas, landward of the ordinary high water mark on the Pacific Ocean shorelines of Pacific County.

2. Designation criteria. A "coastal conservancy" environment designation shall be assigned to those shoreline areas landward of the ordinary high water mark and inclusive of dunes and adjacent wetlands. These shorelines have one or more of the following characteristics, which provide a high-recreational value and present environmental limitations to development:

a. Beaches;

b. Dunes;

c. Wetlands;

d. Sediment sources; and/or

e. Cliffs.

4.5 Vegetation Management

A. Policies

3. Design clearing activities with the objective of maintaining natural diversity in vegetation species, age, and cover density.

4. New developments and uses should be designed to preserve native vegetation and to minimize tree removal and vegetation clearing to the minimum necessary to accommodate shoreline development. Existing trees and shrub cover should be preserved, and where feasible, restored, to provide wildlife habitat, maintain water quality, and ensure soil and slope stability.

B. Regulations

1. Vegetation clearing shall be limited to the minimum necessary to accommodate approved shoreline development that is consistent with all other provisions of this Master Program and Pacific County Code. Mitigation sequencing per Section 4.2.B.4, must be applied unless specifically excluded by this SMP or Section 4.2.B.3, Mitigation Requirement, so that the design and location of the structure or development, including septic drainfields, minimizes short- and long-term vegetation removal. The County may approve modifications or require minor site plan alterations to achieve maximum tree retention.

2. Vegetation within shoreline buffers, other stream buffers, wetlands or wetland buffers, or other critical areas shall be managed consistent with Section 4.2 of this Master Program.

3. Where vegetation removal conducted consistent with this Section results in adverse impacts to shoreline ecological function per Section 4.2.B.5, Adverse Impacts, new developments or site alterations are required to develop and implement a mitigation plan per Section 4.2.B.7, Mitigation Plan.

4. Mitigation measures must be maintained over the life of the use or development.

5. Native tree removal in shoreline jurisdiction must be mitigated by installation of a similar native tree at a 2:1 impact to mitigation ratio, unless otherwise stated in a County-approved habitat enhancement plan or with the approval of the Administrator. Non-native tree removal in shoreline buffers must be mitigated by installation of a native or suitable non-native tree at a 1:1 impact to mitigation ratio. All mitigation trees shall be preferentially placed in the shoreline buffer, unless the trees provide connectivity to upland habitats or other critical areas, and shall be held to a 75% survival standard at the end of three years.

6. Where a tree poses a safety hazard, it may be removed or converted to a wildlife snag if the hazard cannot be eliminated by pruning, crown thinning, or other technique that maintains some habitat function. If a safety hazard cannot be easily determined by the

County, a written report by a certified arborist or other qualified professional is required to evaluate potential safety hazards. Removal of a hazard tree is subject to the replacement requirements of Section 4.5.B.5. Mitigation trees shall be placed in a location within shoreline jurisdiction such that a future hazard is not created.

7. Selective pruning of trees and mowing of vegetation for purposes of maintenance, invasive species management, or fire protection is allowed, provided that no vegetation shall be removed from critical areas, dunes, or their respective buffers without approval from the Administrator. Topping of trees for views is not allowed. In addition, treeTree limbing is allowed for view preservation, not view creation. The removal of tree limbs shall not reduce overall canopy cover.

8. With the exception of hand-removal or spot-spraying of invasive or noxious weeds on shorelands outside of steep or unstable slope areas, the determination of whether non-native vegetation removal may be allowed in shoreline jurisdiction shall be evaluated in conformance with this section, Section 4.2 Environmental Protection and Critical Areas and Section 5 Shoreline Uses and Modifications. Such removal of noxious weeds and invasive species must be incorporated into mitigation plans, as necessary, to prevent erosion and facilitate establishment of a stable community of native plants.

9. Aquatic weed control shall only be permitted where the presence of aquatic weeds will adversely affect native plant communities, fish and wildlife habitats, or an existing water-dependent use. Aquatic weed control efforts shall comply with all applicable laws and standards.

5.10 Dune Modification

A. Policies

1. Recognize the value of dunes in protecting inland areas from damaging inundation caused by a combination of high tides and storms, tsunamis, the harmful effects of windblown sand, and flooding losses.

2. Recognize the importance of dunes in providing open space that has economic, aesthetic and ecological value.

3. Limit modification of the dunes and vegetation to comply with state and federal law, and to the minimum extent necessary to protect views and property values.

4. Recognize the importance of protecting the primary dune.

5. Recognize that accretions have increased the value and amount of open space, and that upland development in these areas is not encouraged.

6. Acknowledge that all information is not available to determine the future of dunal accretion and/or erosion activity, and commit to amending land use policies that respond to refinements in technical research.

7. Maintain existing beach access roads, parking areas, drainage, and sanitary facilities. Recognize that the ocean beach is a state corridor in transportation planning activities and studies and it is a part of the Seashore Conservation Area.

8. Manage beaches and dunes to conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beaches.

9. Manage beaches and dunes to reduce the hazard to human life and property from natural or human-induced actions.

10. Recognize that many dune grasses are non-native. These non-native species negatively affect native dune-associated species, yet they also provide dune stability, which provides protection from coastal erosion and flooding. Acknowledge the need to balance the management of non-native dune grasses and in recognition of their potential ecological impacts and protective functions.

B. Regulations

1. Where allowed.

a. Dune modification shall be allowed only where it will not result in decreased protection of inland development from damage caused by storm surge, tsunamis, windblown sand, or flooding.

b. Dune modification to protect views of the water shall be allowed landward of the

primary dune buffer identified in Subsection B.2 and only on properties subdivided and developed prior to the adoption of this Master Program. Such dune modifications shall only be allowed where the view is completely obstructed for residences or water-enjoyment uses and where it can be demonstrated that the dunes did not obstruct views at the time of original occupancy, and then only in conformance with this section.

2. Primary Dune Buffer. The following regulations shall apply to a protective strip of dune land, or buffer, along all ocean beaches in the Coastal Conservancy designation.

a. The width of the buffer shall be measured from the winter grass line, inland two hundred (200) feet, but not to extend beyond the landward (eastern) boundary of shoreline jurisdiction. Determinations of the grass line shall be conducted in winter.

b. Dune modification within one hundred (100) feet of the winter grass line is prohibited except:

i. For ecological restoration, where it is demonstrated that the proposed action will not decrease protection of inland development from damage caused by storm surge, tsunamis, windblown sand, or flooding; or

ii. To provide access across the buffer:

(1) For public, community, or joint use of more than four (4) parcels. In such cases, impacts to ecological functions shall be avoided, minimized, and mitigated.

(2) For individual or private means, where it can be shown that a community or joint means of access is not possible and that no public means of improved access exists within 5,000 feet of the proposed facility. In such cases, access paths shall be limited to pervious trails at grade a maximum of six (6) feet in width.

c. The following dune modification activities may be permitted within the buffer but outside of the waterward one hundred (100) feet of the buffer, provided that such activities do not result in adverse impacts to shoreline ecological functions:

i. Those activities allowed in subsection (b), above;

ii. Public recreational trails; and

iii. Vegetation removal for the purpose of maintenance, fire protection, or invasive species management, in accordance with Section 4.5 of this Master Program.

3. Where allowed, dune modification shall comply with the following regulations:

a. Dune modification activities shall be consistent with state and federal flood protection standards.

b. Dune modification operations shall not in any manner affect or alter the waterward buffer, as established in subsection (B)(2) above.

c. Dune modification operations shall not result in a net loss of shoreline ecological functions or significant adverse impacts to other shoreline resources and values.

d. If vegetation is removed or disturbed, consistent with the provisions of this Master Program, within one growing season of the action, disturbed areas shall be replanted with native dune vegetation.

e. Written notification shall be submitted by the land owner to the Administrator on a form to be provided by him prior to beginning of dune modification operations.

Such notification shall include the approximate date on which the operation will begin, the location and size of the area to be modified, a description of the operation and any other necessary information required by the Administrator.

4. Any structure, including the expansion or alteration of existing structures, shall be prohibited waterward of the setback line, as defined in the Pacific County Land Use Ordinance No. 178.

5. The use restrictions defined under other sections of this Master Program shall apply to the dune land easterly of the building setback line and coming under the jurisdiction of the Act

C. Authority

1. The Director of the Department of Community Development or his or her designee(s) shall be the Administrator of this Ordinance and is given the authority to interpret and apply, and the responsibility to administer and enforce, this Ordinance to accomplish the stated purposes.

Exemptions 12 e. Any removed tree or vegetation shall be replaced with an appropriate native species in appropriate size within one calendar year.

Exemptions 13. Minor pruning of vegetation for maintenance purposes, or thinning of limbs of individual trees to maintain an existing view corridor, when performed in a manner that ensures continual survival of the vegetation, is exempt. Mowing of dune grasses within a critical area or its buffer is not permitted, except for the purpose of fire protection within fifty (50) feet of an existing structure, and except that mowing of dune grasses within a critical aquifer recharge area is exempt when no other critical areas or critical area buffers are present. Topping of trees is not permitted unless specified in an existing covenant effective prior to the effective date of this Ordinance.

G. Penalties and Enforcement

4. Any disposition of a violation pursuant to this Ordinance and Ordinance No. 165, or any amendment thereto, shall not absolve a person from correcting or abating a violation and shall not prevent the prosecuting authority from pursuing criminal prosecution, other civil action including, but not limited to, injunctive relief, license revocation, and abatement, or all of the above. If Pacific County prevails in a separate civil action, the Court may award the County reasonable costs including, but not limited to, the costs of the responsible officials' time, witness fees, attorney fees, court costs, and the costs to the County of abatement or of enforcement of an injunction, or both.

State Shoreline Management Act

Shoreline Management Act <https://app.leg.wa.gov/RCW/default.aspx?cite=90.58.030>

The [Shoreline Management Act](#) (SMA) requires all counties and most towns and cities with shorelines to develop and implement [Shoreline Master Programs](#). The law also defines our role in reviewing and approving local programs. The SMA was passed by the Washington Legislature in 1971 and adopted by voters in 1972. Its overarching goal is "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines."

Environmental protection

The SMA is intended to protect shoreline natural resources including the land, vegetation, wildlife, and aquatic habitats against adverse environmental effects. All allowed uses are required to offset adverse environmental impacts as much as possible and preserve the natural character and aesthetics of the shoreline.

Findings. I admit that I have not read every word of the State Shoreline Management Act, <https://app.leg.wa.gov/RCW/default.aspx?cite=90.58.030> but I can find nothing that permits or encourages exemptions for HOAs, in fact as it states above, it appears not to encourage this type of exemptions.

Patrick Johansen
Chairman of Housing Justice Committee
RiseUpWA LLC
<https://riseupwa.org/hoa-reform/>
Patrick@PK80.com
503-781-4492

We are not attorney's. All communications are opinions and beliefs.
Nothing in our communications should be considered to be legal advice.

"The only thing necessary for the triumph of evil is for good men to do nothing." - Edmund Burke



YOUR ACTION IS NEEDED TODAY!

Pacific County PUBLIC HEARING will be held **TODAY** at 6:00 PM.

LET YOUR VOICE BE HEARD!

PROVIDE YOUR INPUT VIA

Zoom Meeting: at: <https://zoom.us/j/3066189481> or by calling 253-215-8782 Meeting ID: 306618948.

AND/OR SEND YOUR COMMENTS TO: Shawn Humphreys, Director, Pacific County DCD at P.O. Box 68, South Bend, WA 98586 or email to smp@co.pacific.wa.us

Here's What's Happening

Pacific County is proposing an update to the Pacific County Shoreline Master Program (**SMP**). Though the County considers these changes to be "minor", **they pose significant changes to our water view rights within Surfside.**

What do these proposed changes do?

Currently our water views are protected by language in the **Critical Areas Resource Lands** (CARL) which is incorporated into the SMP by reference. The CARL allows Surfside HOA the right to manage our vegetation and tree heights per our Covenants. Our Covenants restrict our tree and vegetation height limits to our building heights, which in turn protects our water views. We

believe education of property owners regarding right tree, right place and alternative vegetation that can provide habitat and food for wildlife is a better choice.

Proposed changes to the SMP will restrict the cutting, topping and trimming of trees in Surfside. As a part of the proposed changes, the County had to prepare a SEPA Impact Statement which identifies impacts resulting from governmental decisions. On the SEPA impact checklist, **the County checked that Views were “Not Applicable” and marked N/A on this form.** This is blatantly false and misleading! The proposed changes **WILL AFFECT OWNERS VIEWS** unless Surfside can continue to enforce their Covenant tree height restrictions which allow property owners to top (trim) or cut their trees as necessary to protect their views.

Discussion: The SMP allows for water view access and a view corridor. We believe our Covenants are what protect our “view corridor”. Those in Surfside who have a water view (which includes more than J Place) pay the price for our water views on our property taxes. A recent analysis done by our Preservation group found that there was up to a \$200,000 difference in home values depending on the view. This has no doubt increased over the past year. This change will be a significant impact to our property values and lost County tax revenue if water views are not protected.

Alternatives: Nonconforming Use of Property

As the county is proposing to change the land use language in the SMP that currently allows Surfside to protect water views by managing vegetation heights, we request that the County continue to recognize and codify Surfside's existing land use policy as a nonconforming use entity under the SMP and CARL which is incorporated by reference. We are a planned use development with historic property rights that have been recorded on our property deeds. Can the County legally change these deeded rights?

We would also like to request that the county provide a MAP that identifies the SMP boundaries and that these boundaries identify Surfside's nonconforming land use status.

We must DEMAND that the County maintain our water view rights, and protect our property values.

Your Concerned Preservation Neighbors

Nichol Duff

From: crabby@bakerbay.org
Sent: Thursday, December 1, 2022 3:10 PM
To: Shoreline Master Program
Cc: kelly.rupp@leadtoresults.com
Subject: Oral comments for public hearing
Attachments: CRCFA SMP Public Oral Comments 1 Dec 2022 2.0 (1).docx

Follow Up Flag: Follow up
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Categories:

Shaun

I do not know how long members of the public will have to speak tonight so I am sending these comments to the update of the county SMP hearing starting at 6 pm tonight.

I intend to supplement these general comments with more extensive written comments before the end of the public comment period on 19th of December 2022.

Two items are necessary to be made clear in this SMP update that they are a major part of the regulations.

1. Fixed Structures in the offshore marine waters are Prohibited
2. Maximum 10% wave amplification due to USACE dredge disposal activities.

I'd like to note that there have been NO casualties at the Mouth of the Columbia River in the dangerous midwinter crab fishery since the Corps has been limiting offshore mound induced wave amplification. The SMP is doing its job to protect human life and property that transits the mouth of the Columbia River.

Please note that the WCMAC is currently engaging in development of strategies of engagement with BOEM by the state. Local input is not being considered in the document. As soon as I receive an updated version I'll forward, it should be out by the 1st of the week. The committee is considering an engagement strategy that is UNIQUE in the nation and will include members of the public and fishing, NO other taskforce in the nation has any ordinary citizens on the BOEM/state interface and the results show.

Thank you,

Dale Beasley

President CRCFA and CCF

Past chair of the Ocean Section 6 update for the last update

Pacific County SMP

smp@co.pacific.wa.us

Shaun Humphrey

CRCFA Pacific County SMP verbal comments

1 December 2022

My name is Dale Beasley, President of the local Columbia River Crab Fisherman's Association and the Coalition of Coastal Fisheries with members from San Diego to the Bering Sea not only representing fishing but a lot of shoreside support businesses as well. Our collective objective is to ensure that our coastal citizens THRIVE not just barely survive.

CRCFA will submit expanded specific written comments before the December 19 cutoff of the public comment period.

1. Addressing major changes in Ocean Section 6
2. How residential tree cutting and limbing is handled

I was chairman of the citizen involvement committee specific to updating Ocean Section 6 in which the county held numerous committee meetings attended by the public, fishing interests, SMP update facilitator, Mr. Rupp and Pacific County Commissioners; Commission Wolfe attended many of the SMP ocean update committee meetings.

The end product of the Ocean Section 6 has as its **INTENDED OUTCOME** to not only protect the ocean ecology but all those United States citizens that rely on the ocean for their socioeconomic wellbeing. **Existing uses, including fishing are to be protected and preserved for current and future generations.**

Recent unsolicited new emerging industrial development currently has two lease requests of BOEM to lease over 700 square miles of ocean in SW Washington waters, about 45 times larger than the city of Longview. These Floating Offshore Wind proposals if built, will present massive displacement of fishing which is on top of other multiple Cumulative Adverse Impacts directly related to the UNIQUE Rafeedie Decision which has caused massive fishing effort shift out of the northern tribal U & A areas to south of Westport and into Pacific County waters having a traumatic economic impact on our people where the natural resource pie is divided excessively..

In late summer of this year the Fishing Industry met in person in Ilwaco with Senator Cantwell, the USCG Commandant, Admiral Fagan, and senior staff from the US Department of Commerce Nicole Teutschel from Washington DC. The fishing industry had representatives from Newport to Westport at this meeting where all those fishing representatives present fully supported the USCG Fairways. USCG Fairways will have a similar Prohibition on Fixed Structures similar to the existing Pacific County SMP Ocean Section 6. CRCFA suggests strongly that this Prohibition of Fixed Structures remains in place to compliment the USCG Fairways that extend the Prohibition on Fixed Structures out to nearly 100 fathoms from shore and will provide extended protection for fishing and marine vessel traffic where CZM Certifications have failed to extend the SMP further offshore, The USCG has come to the rescue fulfilling one of their critical missions, preservation of vessel traffic.

USCG has also has major concerns about using helicopters for at sea rescue operations in any offshore wind industrial facility with wind turbines sticking a 1000 feet into the sky and turbine blade sweep of multiple football fields in diameter which could easily present a severe collision RISK and will present a serious life threatening conflict for USCG rescue missions. Coordinated SMP and Fairways will ensure superior future USCG rescue attempts saving our citizen's life and property.

It should be noted that the creation of the Washington Marine Spatial Plan did not anticipate the initial build out of 4000 Megawatts of power as the first step in offshore industrialization. This plan anticipated a slow growth of FOSW where future impacts could be verified incrementally to understand the true impacts before jumping to mega facilities without benefit of any developed science available anywhere in the world to study impacts. **Lease immediately and then ask questions after the fact is an inappropriate takeover of the ocean where science is left behind making decisionmaking standing on unfirm ground.**

When the USACE came to the ocean with new nearshore disposal options the science was developed incrementally as the ocean disposal impacts on fishermen and Dungeness crab were incrementally studied for adverse impacts. BOEM is too aggressive with the lease process and does not have any well-reasoned science to ensure the nearby coastal Fish Dependent Communities are NOT HARMED. Fact, the western regional director of BOEM that is responsible for signing off on the offshore industrial development permits stated a couple of rather BIASED comments, "It makes no difference where BOEM leases ocean to development as fishing is everywhere" and "BOEM has NO control over what happens to nearby communities resulting from BOEM activities." WRONG, WRONG, WRONG. BOEM has NO criteria that will lead to a NEPA No Action Alternative. All BOEM does is lease ocean to the highest bidder with insignificant attention to adverse impacts that fall out of any lease on the coastal people that are regarded as throwaway. The only WEAs on the coast are in California and the original proposals were expanded to multiple times the original proposed developments – the same could happen in Washington offshore waters if the SMP is not strong enough to continue to protect and preserve our Fish Dependent Communities.

CRCFA has reviewed the considerable addition of ISU language in the SMP and see little benefit to the enactment of the ISU unless the SMP Ocean Section 6 is CZM Certified. The offshore maps developed under the Washington Coastal Marine Spatial Plan have little direct ISU features within the 0 – 3 miles offshore. The ISUs would protect channel markers and shipwrecks. There are NO rocky reefs in the 0 – 3 mile zone as indicated in the MSP maps. Having said that CRCFA can tentatively support the ISU additions which appear to be complimentary to the existing SMP Ocean Section 6 protections and should present little if any consequence to our county citizens. If the ISU language is added as a result of the Washington CMSP process the county should also adopt the CMSP "Fisheries Protective Standards" as well.

<https://msp.wa.gov/important-sensitive-and-unique-areas-isus/>

These maps should be added to the SMP and **dated as not entirely accurate**. These Washington CMSP ISU maps would be far better if the ISU information was on a NOAA lat/long chart to better define the exact points of the ISW references. Without exact lat/long references the ISUs will be pretty difficult to impossible to protect in the future.

BOEM talks a far better game than the collaboration they fail to deliver. Local SMP should cite some criteria for engaging BOEM in meaningful and frequent debate over the enactment of industrial complexes off our county that stands to receive considerable HARM from significant loss of ACCESS to fishing

grounds. Without Specific engagement BOEM will completely ignore the Pacific County SMP unless they are demanded to do so. The enactment of BOEM's original call areas in Southern Oregon of 2200 square miles was a complete mismanagement of intent of the energy Oregon was possibly considering. BOEM did not engage with the state of Oregon on potential WEAs until 18 hours before going public with their "call areas." BOEM engages in completely deceptive interactions, and they only do one thing, "Lease ocean to the highest bidder." These conversations should lead to meaningful actions that not just BOEM can support but also the state of Washington can support at the end of the discussions. We should all remember that the Washington Coastal Marine Spatial plan does NOT end at 3 miles from shore, but extends out to 700 fathoms from shore and the SMP is a document that should be incorporated into the Washington CMSP so the WCMAC is considering a wider engagement than just out to 3 miles from shore.

Currently WCMAC is in the process of writing some rules of engagement with BOEM and the State of Washington relative to offshore industrial development. The criteria is still in draft form and will be further discussed on 14 December 2022 with possible enactment on that date. See attached draft comments to the email that contains this document.

At the end of the day everyone concerned with industrial development in our Washington offshore waters should always recall that Washington CMSP legislation is UNIQUE in the nation as the only state to put offshore planning in place to Protect and Preserve existing sustainable uses of the ocean, that includes fishing. Every other state in the nation put CMSP in place to initiate offshore wind industrial development.

Nichol Duff

From: xoffbrats <xoffbrats@comcast.net>
Sent: Wednesday, December 7, 2022 10:55 AM
To: Shoreline Master Program
Subject: FW: Surfside newsletter
Attachments: surfside_preservation_newsletter_12-1-22.pdf

Categories:

This is the latest newsletter from Annette Deleest, she also spoke at the DMP meeting on Dec 1.
She and others within Surfside feel entitled.
The SMP is for the entire county, not a specific group.
Washington is not view guaranteed.
Please do not let them bully any of you.

Ronda Christoph

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Betsey Nelson <betseyjnelson@gmail.com>
Date: 12/7/22 10:22 AM (GMT-08:00)
To: Steve Flickinger <steveflick@comcast.net>, Linda Flickinger <lmflick@comcast.net>, Candace Carteen <ccarteen@gmail.com>, xoffbrats <xoffbrats@comcast.net>, r <bjmcmurphy@aol.com>, Wallace Steven <sw1743@yahoo.com>, Cori Harms <charms1013@gmail.com>, Larry Raymer <lraymer@hotmail.com>
Subject:

https://www.surfsidepreservation.com/uploads/1/5/1/0/15104824/surfside_preservation_newsletter_12-1-22.pdf



YOUR ACTION IS NEEDED TODAY!

Pacific County PUBLIC HEARING will be held **TODAY at 6:00 PM.**

LET YOUR VOICE BE HEARD!

PROVIDE YOUR INPUT VIA

Zoom Meeting: at: <https://zoom.us/j/3066189481> or by calling 253-215-8782 Meeting ID: 306618948.

AND/OR SEND YOUR COMMENTS TO: Shawn Humphreys, Director, Pacific County DCD at P.O. Box 68, South Bend, WA 98586 or email to [**smp@co.pacific.wa.us**](mailto:smp@co.pacific.wa.us)

Here's What's Happening

Pacific County is proposing an update to the Pacific County Shoreline Master Program (**SMP**). Though the County considers these changes to be "minor", **they pose significant changes to our water view rights within Surfside.**

What do these proposed changes do?

Currently our water views are protected by language in the **Critical Areas Resource Lands (CARL)** which is incorporated into the SMP by reference. The CARL allows Surfside HOA the right to manage our vegetation and tree heights per our Covenants. Our Covenants restrict our tree and vegetation height limits to our building heights, which in turn protects our water views. We

believe education of property owners regarding right tree, right place and alternative vegetation that can provide habitat and food for wildlife is a better choice.

Proposed changes to the SMP will restrict the cutting, topping and trimming of trees in Surfside. As a part of the proposed changes, the County had to prepare a SEPA Impact Statement which identifies impacts resulting from governmental decisions. On the SEPA impact checklist, **the County checked that Views were "Not Applicable" and marked N/A on this form.** This is blatantly false and misleading! The proposed changes **WILL AFFECT OWNERS VIEWS** unless Surfside can continue to enforce their Covenant tree height restrictions which allow property owners to top (trim) or cut their trees as necessary to protect their views.

Discussion: The SMP allows for water view access and a view corridor. We believe our Covenants are what protect our "view corridor". Those in Surfside who have a water view (which includes more than J Place) pay the price for our water views on our property taxes. A recent analysis done by our Preservation group found that there was up to a \$200,000 difference in home values depending on the view. This has no doubt increased over the past year. This change will be a significant impact to our property values and lost County tax revenue if water views are not protected.

Alternatives: Nonconforming Use of Property

As the county is proposing to change the land use language in the SMP that currently allows Surfside to protect water views by managing vegetation heights, we request that the County continue to recognize and codify Surfside's existing land use policy as a nonconforming use entity under the SMP and CARL which is incorporated by reference. We are a planned use development with historic property rights that have been recorded on our property deeds. Can the County legally change these deeded rights?

We would also like to request that the county provide a MAP that identifies the SMP boundaries and that these boundaries identify Surfside's nonconforming land use status.

We must DEMAND that the County maintain our water view rights, and protect our property values.

Your Concerned Preservation Neighbors

8

Nichol Duff

From: xoffbrats <xoffbrats@comcast.net>
Sent: Wednesday, December 7, 2022 1:44 PM
To: Shoreline Master Program
Subject: Fwd: Correspondence regarding AdHoc

Categories:

This email is from a year ago, December of 2021.

It is from Sam Jacobs, Surfside's attorney. This letter, written to Ric Minich, our then Surfside President and current board at the time clearly is against granting anyone view easements.

I am following this closely and it appears Surf Preservation is trying to use the county commissioners as a back door to get a right that our attorney denied. If you people fall for this, you are getting played .

Please do what is right for the entire county, not a select group.

Ronda Christoph

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Steven Wallace <sw1743@yahoo.com>
Date: 12/7/22 1:01 PM (GMT-08:00)
To: Joanne Mcmurphy <bjmcmurphy@aol.com>, Betsey Nelson <betseyjnelson@gmail.com>, xoffbrats <xoffbrats@comcast.net>
Subject: Fwd: Correspondence regarding AdHoc

----- Forwarded Message -----

Subject: Re: Correspondence regarding AdHoc
Date: Sun, 5 Dec 2021 20:27:27 +0000
From: Jacobs, Sam M. <SJacobs@helsell.com>
To: sw1743@yahoo.com <sw1743@yahoo.com>
CC: Ric Minich <RMinich@surfsideonline.org>, Ronda Christoph <rchristoph@surfsideonline.org>, Tom Rogers <trogers@surfsideonline.org>, Tracy Lofstrom <tlofstrom@surfsideonline.org>, Kimber Holtermann <kholtermann@surfsideonline.org>, Cori Harms <charms@surfsideonline.org>, John Curran <jcurran@surfsideonline.org>, Dan Neptun <dneptun@surfsideonline.org>, Larry Raymer <lrayer@surfsideonline.org>, Marriann Schweitzer <MSchweitzer@surfsideonline.org>, Kurt Olds <KOlds@surfsideonline.org>, Gribben, Brandon S. <BGribben@helsell.com>

Ric,

I am not aware of Surfside granting anyone view easements. In addition, it would be questionable whether an easement

was valid if it encumbered to someone else's property. If you want to research whether any such view easements existed, probably the best way to do it would be by researching the title of both the property that supposedly benefits and the property that supposedly is burdened by the view easement.

Sam

Sent from my iPad

On Dec 5, 2021, at 10:35 AM, sw1743@yahoo.com wrote:

[EXTERNAL MESSAGE]

Ric Minich <http://scanmail.trustwave.com/?c=4062&d=goat4dvW8eKLUZEXeSVyuqjo8S9wtzumCKLir7O-1A&s=1714&u=http%3a%2f%2fet%2eal>

Does anyone have or point me to information, looking for help? At yesterday Ad Hoc meeting a couple of members stated that they had Deeded "View easements" granted by surfside. As I am researching this issue I wanted to see if anyone could fill me in?

Has Surfside granted Deeded vested "view easements" to any member in the past or is this a mistaken impression?

If so where can I find the enabling resolution and title transfer docs, where were they recorded? How many were granted, What was the consideration?

Thankyou in advance,

Steven Wallace

Nichol Duff

From: Thomas Rogers <thomasrogers600@gmail.com>
Sent: Wednesday, December 7, 2022 6:13 PM
To: Shoreline Master Program
Subject: SMP Planning Hearing December 1 Statement Made by Attendees
Attachments: SMP H letter 1.pdf; A DELEEST 1 .pdf; S MOSHER 1.pdf

Categories: Coverage Needed, Mike N

Attached please find a cover letter in PDF format and a formal response to statements made by Annette De Leest and Sheri Mosher at the December 1 SMP hearing.

I will be making a comment on the full language of the proposed draft changes before the filing deadline of December 19.

Thank you for your hard work.

Shawn Humphreys
Director
Pacific County DCD

RE: Shoreline Master Plan Update Public Hearing Comment

I have attended three of the SMP open houses and Planning Commission meetings and listened carefully at the Public Hearing. I understand Public Hearings to be just that, a hearing, not a debate. I applaud your efforts in keeping the focus on the hearing part. However I have thought about the comments made in the open session and the banter between commissioners during that time and would like to comment. I will attach two separate comments because the two speakers brought up two separate points.

Again, thank you and Dan Nickel for you hard and difficult work work. I truly appreciate it. I'm retired now but I spent a good portion of my first career involved in big city big visibility development and construction projects so I know how frustrating it can become.

Tom Rogers
35301 J Place
Ocean Park, WA
98640

PS.

My wife and I have owned a variety of homes and properties in Pacific County for 35 years, (half of our lives and 2/3 of our adult lives,) we have seen many changes but we still see much of what drew us here in the first place, good people and the great outdoors.

Shawn Humphreys
Director
Pacific County DCD
smp@co.pacific.wa.us

RE: Shoreline Master Plan Update Public Hearing Dec 1 statements by Mrs. Annette De Leest.

Please accept this comment regarding Mrs. Annette De Leest's statements made during the SMP update Hearing.

I listened carefully to Annette and she spoke at length about property rights and views and the need for views to be protected to protect property values and that those values lead to lots of tax dollars to the county and that the SMP proposed language did not give Surfside HOA enough power to ensure that the view of ridge line home owners would be protected (I place mostly). I believe a public "hearing" should never be a debate, a debate where the loudest and most able debater "wins" so I listened, but I feel the record should also include some additional materials.

- I. Mrs. De Leest forgot to identify herself as Surfside HOA official, as Chair of its Tree, Brush, Vegetation and Noxious Weeds Committee in charge of tree height and removal covenants.
- II. Mrs De Leest talked about her view rights and mentioned at least once view corridors. Please be aware that the word "view" does not exist in the Surfside HOA covenants. I do not believe "view" rights or privilege is afforded by WA State Law or constitution (but I might be wrong.). Additionally RCW 90.58 specifically addresses the anticipated objections of individuals such as Mrs De Leest and other upland property owners individually and collectively and addresses those concerns in other sections of the act which I will list.
- III. Please refer to RCW 90.58.020. SMP Policy enunciated by the Legislation. The Shoreline Management Act was written in 1971 before the vast majority of homeowners purchased their properties in Surfside HOA and when the SMP enabling legislation was written to protect the shorelines from just such upland private land owner interference we now are facing **...the legislature finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership..... that unrestricted construction on privately owned or publicly owned shorelines of the state is NOT IN THE BEST PUBLIC INTEREST.**
- IV. The following extracts from RCW 90.58.020 the order of preference for uses.
 - A. Preserve the natural character of the shoreline;
 - B. Result in long term over short term benefit;
 - C. Protect the resources and ecology of the shoreline;
 - D. Increase public access to publicly owned areas of the shorelines;
 - E. Increase recreational opportunities for the public in the shoreline;
 - F. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.
- V. Mrs. De Leest argued that any devaluation of her property by reducing her view value would be a "taking" under the law, and I do not argue that. However if such a "taking" did happen, it happened in 1971 well before Mrs De Least purchased her property or built her home AND the legislature allowed for that in RCW 90.58.290. **The restrictions imposed by this chapter shall be considered by the county assessor in establishing the fair market value of the property.** Her objections cannot be addressed in this master plan ordinance review, they must be taken up with the assessor or the legislature.

MRS. DE LEEST OFFERED NO SUGGESTIONS FOR CHANGES IN DRAFT LANGUAGE

Shawn Humphreys
Director
Pacific County DCD

RE: Shoreline Master Plan Update Public Hearing Dec 1 statements by Mrs. Sheri Mosher.

Please accept this comment regarding Mrs. Sheri Mosher's statements made during the SMP update Hearing.

- I. Mrs. Mosher forgot to identify herself as member of the Surfside Board of Trustees
- II. Mrs. Mosher talked broadly on the difficulty of overlapping and conflicting environmental rules and regulations affecting Surfside including SMP rules and notably CARL rules and regulations.
- III. Mr. Mosher spoke, to my way of hearing, about the peninsula as an ecologically unimportant *sand spit* and that Surfside HOA should be granted the rights to do with the HOA area as they please. I do not agree.

Mrs Mosher suggested that the whole Pacific County SMP update process be scrapped to start over with re-writing definitions. I do not agree, I participated, albeit silently in the open meetings which have demonstrated good public planning work. Mrs. Mosher offered no suggestions on any specific language on any section under discussion and specifically no suggestions pro or con on Section 4.5.

From: Steve Flickinger <steveflick@comcast.net>
Sent: Thursday, December 8, 2022 11:12 PM
To: Shoreline Master Program
Cc: Linda Flickinger
Subject: SMP Public Comment

Categories:

Subject: SMP Public Comment

December 8, 2022

TO: Pacific County SMP
FROM: Steve and Linda Flickinger

We attended the December 1, 2022 Pacific County Planning Commission SMP Public Review Draft 2022.11.14 , and now wish to Comment.

There were two individuals that gave comments, Ms. Annette deLeest, and Ms. Sheri Mosher. It was not clear that they found fault with an Amendment, but it did appear that they wanted some additional wording added. Ms. deLeest spoke of her property values being impacted negatively if Vegetation was allowed to grow and block her views of the ocean; and Ms. Mosher talked about her water views being impacted if trees/vegetation in the area are not given an exception to being topped thereby reducing the tree canopy. Both of these individuals live in the same neighborhood we do, Surfside HOA. They live on J Place within a mile of one another, on a ridge at a higher elevation. In public venues and meetings they expressed they are entitled to a 180° view west to the Pacific ocean – over rooftops of homes and lower tree heights. Their comments did not bring to light any necessary changes to the proposed Amendments. Their comments appeared to be made solely for their individual desires.

Shawn Humphreys, DCD Director, at the 12-1-2022 Public Hearing did respond to Ms. deLeest that there was no Shoreline Environment Designation zone in Surfside, (SMP did not apply to majority of Surfside (only a strip of land along the Ocean at Mean High Tide)) – please see maps at <https://fortress.wa.gov/ecy/ezshare/SEA/FinalSMPs/PacificCounty/PacificCO/PacCOSEDMapJan2018.pdf>

Ms. deLeest is Chair of the Surfside HOA TBVN Tree, Brush, Vegetation, Noxious Weeds committee, and a former BOT Board of Trustee 2018-2021.

Ms. Mosher is a current BOT Board of Trustee.

Ms. Peggy Olds, Pacific County Planning Commission, is a former Chair of Surfside TBVN committee, and the wife of the current President of Surfside Board of Trustees, Kurt Olds.

No one should be allowed to mold the SMP to their individual or small group desire. The SMP comes from the Washington state 1971 Growth Management ACT – with the county directed to administer in an equal and non-biased manner.

We applaud the DCD Department of Community Development efforts to resist individuals and small groups to insert wording/language which would unnecessarily obligate the county to enforce on their behalf.

Sincerely,

Steve & Linda Flickinger

Stakeholders, Ocean Park, Pacific County, Washington

E: Linda Lmflick@comcast.net

E: Steve steveflick@comcast.net

SHORELINE ENVIRONMENT DESIGNATIONS - NORTH COAST

Page 1 of 7



PACIFIC COUNTY Shoreline Master Program

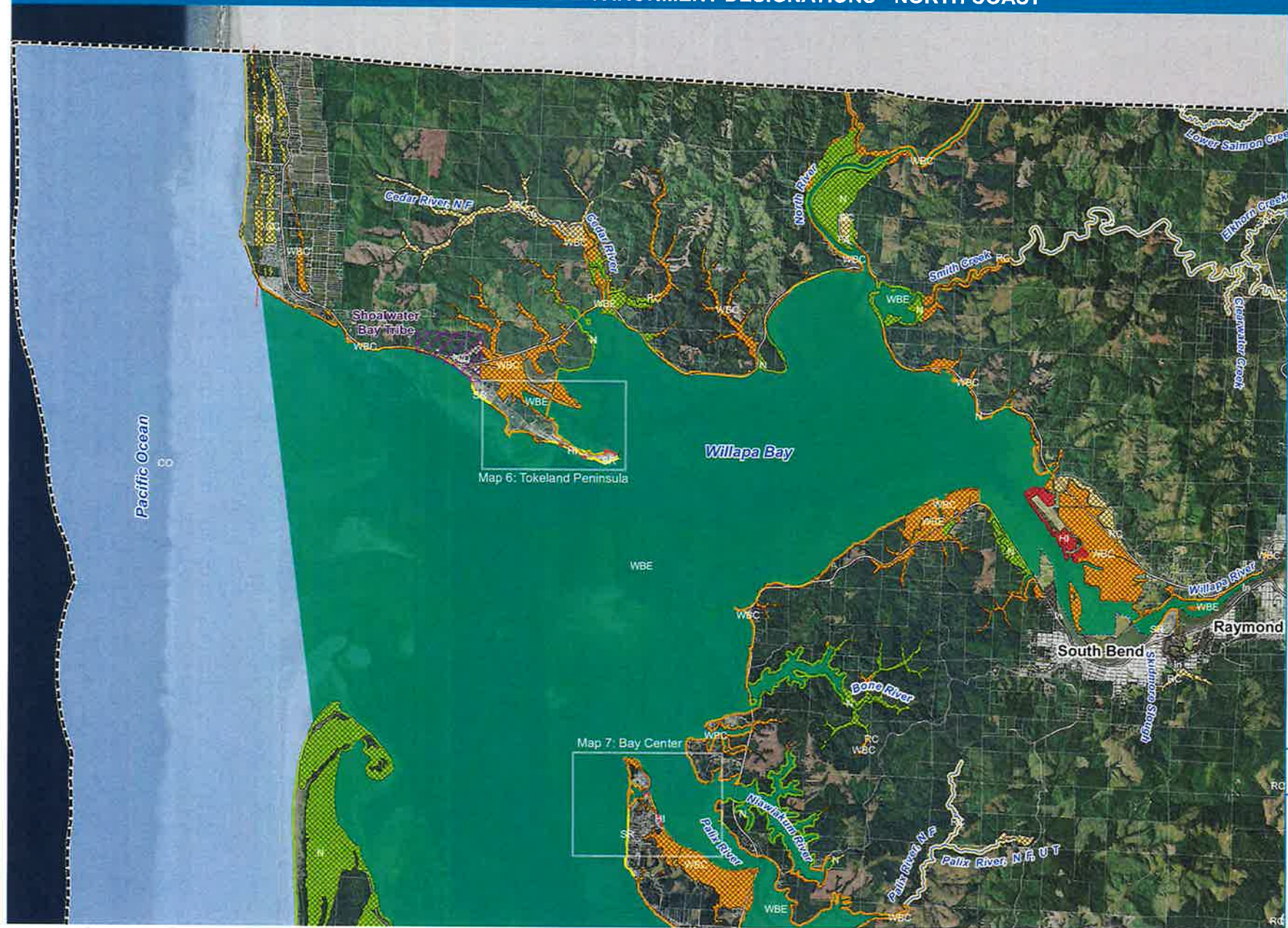
MAP LEGEND

Shoreline Environment Designation

- Natural (N)
- High Intensity (HI)
- Shoreline Residential (SR)
- Rural Conservancy (RC)
- Willapa Bay Conservancy (WBC)
- Coastal Conservancy (CC)
- Freshwater Aquatic (FA)
- Willapa Bay Estuary (WBE)
- Coastal Ocean (CO)
- Not Designated (N/D)
- Incorporated (In)
- Potentially Associated Wetland
- SMP Stream
- Tribal Boundary
- 1889 Western Boundary of Upland Ownership (WBUO)
- County Boundary

Notes:
 1. We hereby certify that this map constitutes the Official Shoreline Map as approved by Resolution 2016-036 of the Board of Pacific County Commissioners and signed by its chair dated this 27th day of September, 2016.
 2. Extent of shoreline jurisdiction applies to the western state boundary in the Pacific Ocean (the three-mile limit) and includes all small islands, islets, rocks, and reefs that may not be shown on this map. Labels identify shoreline waterbodies and waterways. Any unlabeled waterbodies and waterways assigned a Shoreline Environment Designation on the map have been included in shoreline jurisdiction as potentially associated wetlands.
Data Sources: Olympic Natural Resources Center, WA State Department of Ecology, Pacific County, FEMA, USFWS, The Watershed Company, 2013 NAIIP Aerial.

Date: 9/27/2016



Features depicted on this map are approximate. They have not been formally delineated or surveyed and are intended for planning purposes only. Additional site-specific evaluation may be needed to confirm/verify information shown on this map.

SHORELINE ENVIRONMENT DESIGNATIONS - CENTRAL COAST

Page 2 of 7



PACIFIC COUNTY Shoreline Master Program

MAP LEGEND

Shoreline Environment Designation

- Natural (N)
- High Intensity (HI)
- Shoreline Residential (SR)
- Rural Conservancy (RC)
- Willapa Bay Conservancy (WBC)
- Coastal Conservancy (CC)
- Freshwater Aquatic (FA)
- Willapa Bay Estuary (WBE)
- Coastal Ocean (CO)
- Potentially Associated Wetland
- SMP Stream
- 1968 Seashore Conservation Line
- 1980 Seashore Conservation Line
- 1889 Western Boundary of Upland Ownership (WBUO)
- County Boundary

Notes:
 1. We hereby certify that this map constitutes the Official Shoreline Map as approved by Resolution 2016-036 of the Board of Pacific County Commissioners and signed by its chair dated this 27th day of September, 2016.
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Data Sources: Olympic Natural Resources Center, WA State Department of Ecology, Pacific County, FEMA, USFWS, The Watershed Company, 2013 NAIAP Aerial.
 Date: 9/27/2016



Pacific Ocean

Willapa Bay

Hines Marsh W
 Hines Marsh E
 Skating Lake
 Pauls Lake
 Unnamed Lake
 Mallard Lake
 Loomis Lake
 Island Lake

Willapa River N
 Willapa River N F U T
 Canyon Creek
 Canyon River
 Canyon River U T
 Willapa River S F
 Willapa River S F
 Willapa Creek
 Finn Creek
 North Naches River
 Middle Naches River
 South Naches River
 Naselle River

SHORELINE ENVIRONMENT DESIGNATIONS - SOUTH COAST

Page 3 of 7



PACIFIC COUNTY Shoreline Master Program

MAP LEGEND

Shoreline Environment Designation

- Natural (N)
- High Intensity (HI)
- Shoreline Residential (SR)
- Rural Conservancy (RC)
- Willapa Bay Conservancy (WBC)
- Coastal Conservancy (CC)
- Freshwater Aquatic (FA)
- Willapa Bay Estuary (WBE)
- Columbia River Estuary (CRE)
- Coastal Ocean (CO)
- Coastal Ocean High Intensity (COHI)
- Incorporated (In)
- Potentially Associated Wetland
- SMP Stream
- 1968 Seashore Conservation Line
- 1980 Seashore Conservation Line
- 1889 Western Boundary of Upland Ownership (WBUO)
- County Boundary

Notes:
 1. We hereby certify that this map constitutes the Official Shoreline Map as approved by Resolution 2016-036 of the Board of Pacific County Commissioners and signed by its chair dated this 27th day of September, 2016.
 2. Extent of shoreline jurisdiction applies to the western state boundary in the Pacific Ocean (the three-mile limit) and includes all small islands, islets, rocks, and reefs that may not be shown on this map. Labels identify shoreline waterbodies and waterways. Any unlabeled waterbodies and waterways assigned a Shoreline Environment Designation on the map have been included in shoreline jurisdiction as potentially associated wetlands.
Data Sources: Olympic Natural Resources Center; WA State Department of Ecology; Pacific County; FEMA; USFWS; The Watershed Company; 2013 NADP Aerial.

Date: 9/27/2016



Features depicted on this map are approximate. They have not been formally delineated or surveyed and are intended for planning purposes only. Additional site-specific evaluation may be needed to confirm/verify information shown on this map.

SHORELINE ENVIRONMENT DESIGNATIONS - NORTHEAST



PACIFIC COUNTY Shoreline Master Program

MAP LEGEND

Shoreline Environment Designation

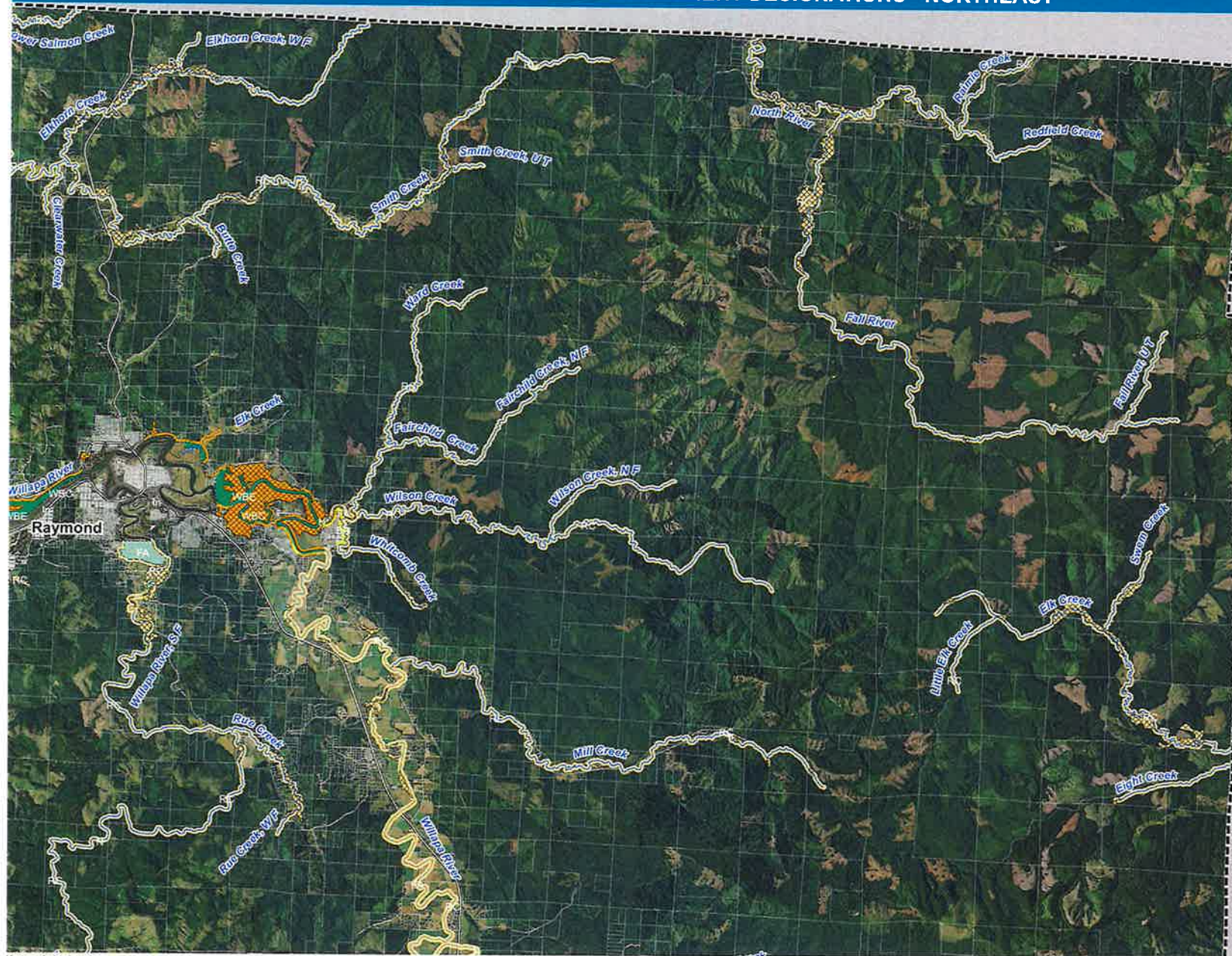
- Natural (N)
- High Intensity (HI)
- Shoreline Residential (SR)
- Rural Conservancy (RC)
- Willapa Bay Conservancy (WBC)
- Freshwater Aquatic (FA)
- Willapa Bay Estuary (WBE)
- Incorporated (In)
- Potentially Associated Wetland
- SMP Stream
- County Boundary

Notes:

1. We hereby certify that this map constitutes the Official Shoreline Map as approved by Resolution 2016-026 of the Board of Pacific County Commissioners and signed by its chair dated the 27th day of September, 2016.
2. Extent of shoreline jurisdiction applies to the western state boundary in the Pacific Ocean (the three-mile limit) and includes all small islands, islets, rocks, and reefs that may not be shown on this map. Labels identify shoreline waterbodies and waterways. Any unlabeled waterbodies and waterways assigned a Shoreline Environment Designation on the map have been included in shoreline jurisdiction as potentially associated wetlands.

Data Sources: Olympic Natural Resources Center, WA State Department of Ecology, Pacific County FEMA, USFWS, The Watershed Company, 2013 NAIP Aerial.

Date: 9/27/2016



Features depicted on this map are approximate. They have not been formally delineated or surveyed and are intended for planning purposes only. Additional site-specific evaluation may be needed to confirm/verify information shown on this map.

SHORELINE ENVIRONMENT DESIGNATIONS - SOUTHEAST



PACIFIC COUNTY Shoreline Master Program

MAP LEGEND

Shoreline Environment Designation

- Natural (N)
- Rural Conservancy (RC)
- Freshwater Aquatic (FA)
- Potentially Associated Wetland
- SMP Stream
- County Boundary

Notes:
 1. We hereby certify that this map constitutes the Official Shoreline Map as approved by Resolution 2016-036 of the Board of Pacific County Commissioners and signed by its chair dated this 27th day of September, 2016.
 2. Extent of shoreline jurisdiction applies to the western state boundary in the Pacific Ocean (the three-mile limit) and includes all small islands, islets, rocks, and reefs that may not be shown on this map. Labels identify shoreline waterbodies and waterways. Any unlabelled waterbodies and waterways assigned a Shoreline Environment Designation on the map have been included in shoreline jurisdiction as potentially associated wetlands.
 Data Sources: Olympic Natural Resources Center, WA State Department of Ecology, Pacific County, FEMA, USFWS, The Watershed Company, 2013 NAIP Aerial.

Date: 9/27/2016



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SHORELINE ENVIRONMENT DESIGNATIONS - TOKELAND PENINSULA

Page 6 of 7



PACIFIC COUNTY Shoreline Master Program

MAP LEGEND

Shoreline Environment Designation

- High Intensity (HI)
- Shoreline Residential (SR)
- Willapa Bay Conservancy (WBC)
- Willapa Bay Estuary (WBE)
- Potentially Associated Wetland
- County Boundary
- Parcel Boundary

Notes:

1. We hereby certify that this map constitutes the Official Shoreline Map as approved by Resolution 2016-036 of the Board of Pacific County Commissioners and signed by its chair dated this 27th day of September, 2016.
2. Extent of shoreline jurisdiction applies to the western state boundary in the Pacific Ocean (the three-mile limit) and includes all small islands, islets, rocks, and reefs that may not be shown on this map. Labels identify shoreline waterbodies and waterways. Any unlabeled waterbodies and waterways assigned a Shoreline Environment Designation on the map have been included in shoreline jurisdiction as potentially associated wetlands.

Data Sources: Olympic Natural Resources Center; WA State Department of Ecology, Pacific County; FEMA, USFWS, The Watershed Company, 2013 NAD Aerial.

Date: 9/27/2016



Features depicted on this map are approximate. They have not been formally delineated or surveyed and are intended for planning purposes only. Additional site-specific evaluation may be needed to confirm/verify information shown on this map.

SHORELINE ENVIRONMENT DESIGNATIONS - BAY CENTER

Page 7 of 7



PACIFIC COUNTY Shoreline Master Program

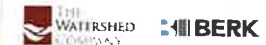
MAP LEGEND

Shoreline Environment Designation

- Natural (N)
- High Intensity (HI)
- Shoreline Residential (SR)
- Willapa Bay Conservancy (WBC)
- Willapa Bay Estuary (WBE)
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Data Sources: Olympic Natural Resources Center, WA State Department of Ecology, Pacific County, FEMA, USFWS, The Watershed Company, 2013 NAD Aerial.

Date: 9/27/2016



Features depicted on this map are approximate. They have not been formally delineated or surveyed and are intended for planning purposes only. Additional site-specific evaluation may be needed to confirm/verify information shown on this map.

From: Betsey Nelson <betseyjnelson@gmail.com>
Sent: Sunday, December 11, 2022 7:29 PM
To: Shoreline Master Program
Subject: SMP

Categories:

Shawn

Reading the reason and goal of SMP I am more confused why anyone on panel is there to 'represent' any upland owner or any private association (SHOA)? Aren't these the exact people who already have shoreline access and in their speeches to the panel they are all insistent on more protection for their water views from the county. The panel I ASSUMED was there to protect access for public NOT more protection for private individuals to keep the public from interfering with their view they say is protected.

First these individuals and their associate on panel in no way represent their HOA. Surfside has no process where any one member or members have any right to speak for the rest of us in the HOA. These members speak only for themselves.

Also the associations (SHOA) own attorney was very clear that there are no view rights in our covenants the fact that these members assert such rights should concern everyone. This same subject came up when Peggy Olds asserted same such rights to ad hoc facilitator, Kelly Rupp, procured by Peggy Olds for same such association. I have no knowledge if Ms Olds shared Sam Jacob letter this information with M Rupp. Kelly seems to have taken Ms Olds word over our own attorney and the chair and cochair of ad hoc committee.

Thank you to Shawn and Nansen for sighting this tactic and calling it out they have the public's good in their sights which I assumed was the role of any panelist.

I have no problem with the wording of ordinance as it is but if any changes are made beyond allowing some limbing by tree owner (owner MAY limb tree) I would not support and I would have preferred original wording not even allowing limbing and the word view should absolutely not be included.

Please find attached SHOA attorney letter and surfside preservationists letter authored by Annette deLeast and supported by Olds and Mosher and other insiders and super majority of present board of trustees who used fear that others were trying to 'take' their view to win their seats. Again another false misleading statement but fear is very effective tool for winning an election.

Betsey Nelson

Letter from HOA attorney to full board including Kurt Olds.

Ric,

I am not aware of Surfside granting anyone view easements. In addition, it would be questionable whether an easement was valid if it encumbered to someone else's property. If you want to research whether any such view easements existed, probably the best way to do it would be by researching the title of both the property that supposedly benefits and the property that supposedly is burdened by the view easement.

Sam

From: lamosher4@frontier.com
Sent: Friday, December 16, 2022 11:56 PM
To: Shoreline Master Program; Kelly Rupp
Subject: PUBLIC INPUT ON DRAFT SMP- LETTER ATTACHED
Attachments: Letter to PacCty.odt

Categories:

Thank you for the opportunity for citizens to provide feedback and input into the public hearings for Pacific County's draft Shoreline Management Program.

Please find attached a letter addressed to Shawn Humphreys from a concerned citizen.

I would appreciate receiving a short confirmation that my letter has been received by each of you.

Thank you.

Sheri Mosher
Resident of Pacific County
34209 J Place, Ocean Park, WA
(not my mailing address)
lamosher4@frontier.com

December 11, 2022

VIA EMAIL

Shawn Humphreys, Director
Department of Community Development
Pacific County
South Bend, WA

**RE: PUBLIC INPUT INTO PACIFIC COUNTY SHORELINE MASTER PROGRAM (SMP)
2022**

Pacific County has proposed updates described as "minor" changes to the Pacific County Shoreline Master Program (SMP). Some proposed changes are concerning and significant issues for thousands of property owners throughout Pacific County. To propose "minor" changes that are inconsistent and/or contradict other county and local documents creates hardship on these potentially thousands of property owners. Specific proposed changes do elevate to a significant level, do create conflicts with property rights, and will require further critical review or be stricken from this proposed draft.

I have carefully reviewed these County documents,

1. The Pacific County Comprehensive Plan 2020 - 2040
2. The Consistency Analysis February 2022 by Consultant The Watershed Company
3. SEPA Checklist prepared by Pacific County
4. Pacific County SMP Public Review Draft 11.14.2022
5. CARL Public Review Draft 11.14.2022
6. Critical Area and Resource Lands (CARL) Ordinance 180 (as adopted by SMP) & 180A
7. 12.1.2022 Hearing PowerPoint Presentation

Outlined below are the issues that address inconsistencies, particularly for some county residents who live in specific areas that were in existence prior to CARL and SMP Acts.

1) THE SMP APPLIES TO NEW DEVELOPMENTS, NOT THOSE EXISTING USES

On Pacific County's current website published *FAQs - Periodic Update of the SMP, "How does the SMP affect existing uses and development?"* The county states, **"SMP regulations apply to new development and uses; they are not retroactive. Existing uses and developments legally established may be repaired, maintained, and operated."**

This statement clearly distinguishes that the SMP is focused on new development, not existing uses and are not retroactive.

2) SIGNIFICANT OR MINOR PROPOSED CHANGES

In the County's Public Update Slide Presentation 12.1.22, the county states, "This is not a major update of the SMP • Main goal is to ensure consistency with existing rules"

In these proposed SMP updates, there is no reference or recognition of incorporated Homeowners Associations in Pacific County and restrictive covenants that protect private property rights.

Vegetation Management (SMP Section 4.5)

- Issue: establish tree pruning standards for view preservation
- Note, shoreline and critical area buffers use exemption standards in CARL Section 3.E.13

13. Minor pruning of vegetation for maintenance purposes, or thinning of limbs of individual trees to maintain an existing view corridor, when performed in a manner that ensures continual survival of the vegetation, is exempt. Mowing of dune grasses within a critical area or its buffer is not permitted, except for the purpose of fire protection within fifty (50) feet of an existing structure, and except that mowing of dune grasses within a critical aquifer recharge area is exempt when no other critical areas or critical area buffers are present. Topping of trees is not permitted unless specified in an existing covenant effective prior to the effective date of this Ordinance.

- Proposed language in SMP Section 4.5(B)(7)

7. Selective pruning of trees and mowing of vegetation for purposes of maintenance, invasive species management, or fire protection is allowed, provided that no vegetation shall be removed from critical areas, dunes, or their respective buffers without approval from the Administrator. Topping of trees for views is not allowed. ~~In addition, tree~~ limbing is allowed for view preservation, not view creation. The removal of tree limbs shall not reduce overall canopy cover.



In the comparison above from the 12.1.22 Slide Presentation, major proposed language changes to Section 4.5.B.7, Vegetation Management **significantly alter and remove** county-recognized HOA covenants on views and tree trimming, codified in current CARL Ord 180, Section 13 existing language and in the SMP Section 4.5 - Vegetation Management.

As proposed in the SMP draft 11.14.2022, this is not a minor, but a significant change. The original language in SMP 4.5 is consistent with the CARL Ord 180.

"Topping of trees is not allowed unless specified in an existing covenant effective prior to the effective date of this ordinance."

The proposal redefines (not clarifies) what a property owner may do with existing landscape within a residential development by requiring approval, "***from the Administrator,***" rather than complying with HOA covenants. Shortening this original sentence to, "***Topping of trees is not allowed***" totally changes the meaning and intent, and property rights are reduced.

Two new sentences referring to tree limbs and canopy cover have been inserted, "***Tree limbing is allowed for view preservation, not view creation.***" and "***The removal of tree limbs shall not reduce overall canopy cover.***" These proposed changes will have a negative impact on property owners and property values for those who purchased view properties and built an existing single-family home in planned residential developments and either have existing views or own undeveloped property with views. To be apparent, The Watershed Company gave the county a caveat on these recommended changes that, "***While trimming is not necessarily considered development,*** ..."

The County planning commission is confusing citizens who believe these changes will impact each and every existing tree or shrub on private property landscape in an existing residential development. In addition, Homeowners Associations have restrictive covenants that address the height of trees to not block views of others. This puts the county into contradiction and conflict with property owners and property rights in an HOA.

Trimming trees in a residential property of a pre-CARL/SMP planned residential development is codified in Homeowners Association restrictive covenants (some since 1965) and the same current language is in CARL Ord. 180, Section 13 and SMP Section 4.5. As currently written, it does not constitute moderate or a greater harm to ecological functions.

3) INCONSISTENCIES OF COUNTY RESPONSE ON VIEWS

Pacific County SEPA Application

The county's response to the SEPA checklist, Section 10 - Aesthetics(b), question, "*What views in the immediate vicinity would be altered or obstructed?*" was N/A. The county's answer of N/A is grossly inaccurate in this non-project, as the outcome will, in fact, alter or obstruct views of properties, affecting thousands of citizens who have existing views or who have bought property in the county with the intent to build a home with view potential.

In the Pacific County SMP Public Review Draft 11.14.2022, the county recognizes and distinguishes views, property values, and ownership rights in multiple locations:

1. Section 3.2 Shoreline Environmental Designations, Section 2, Designated criteria, "The Shoreline Residential environment designation shall be assigned to areas of more intense development that are predominantly single-family or multifamily residential development or are planned and platted for residential development."
2. Section 4.3 Public Access, Section 4, "Consistent with the overall best interest of the state and people of the County, protect the public's opportunity to enjoy the physical and aesthetic qualities of the state, including water views."
3. Section 5.3 General Shoreline Uses, Section 4, "Ensure that proposed shoreline uses do not infringe upon the rights of others or upon the rights of private ownership"
4. Section 5.10 Dune Modifications, Section 3, "Limit modifications of the dunes and vegetation to comply with state and federal laws and to the minimum extent necessary to protect views and property values."
5. Section 5.3 General Shoreline Uses, Section B, Regulations (b), "Dune modifications to protect views of the water shall be allowed landward of the primary dune buffer identified in subsection B.2 and only on properties subdivided and developed prior to the adoption of this Master Program. Such dune modifications shall only be allowed where the view is completely obstructed for residences or water-enjoyment uses and where it can be demonstrated that the dunes did not obstruct views at the time of original occupancy, and then only in conformance with this section."
6. Section 5.19 Residential, Section B, Regulations (1), "Single-family residential development is a priority use on the shoreline..."
7. Section 7.2 Preexisting Structures and Uses, Section B, Preexisting single-family residences, "Single-family residences and appurtenant structures, located landward of the ordinary high water mark, that were legally established prior to the effective date of this Master Program but that do not conform to the regulations of this Master Program are considered conforming structures and uses for the purpose of this Master Program..."
8. In the Pacific County SMP Public Review Draft, the county defines "adverse impact" as, "An impact that can be measured or is tangible and has a reasonable likelihood of causing moderate or greater harm to ecological functions, economic activities or normal uses, or other elements of the shoreline management."

Potentially thousands of private citizens residing in incorporated Homeowners Associations will be excluded or wrongly designated as 'developing' instead of an 'existing' use. For example, Surfside Estates Homeowners Association was incorporated in 1965, existing long before the creation of the CARL and SMP Acts. Surfside Estates is the second largest HOA in the state of Washington, having been the largest for many decades, and yet there is no identifiable reference to this existing residential entity. Even within Surfside, there are three other HOA/CONDO entities.

With the proposed SMP draft language in 4.5(b)(7), the CARL Ord 180, Section 13 will be significantly contradictory, and will conflict with the HOA restrictive covenants which are recorded with every property deed in Pacific County. To illustrate, since 1965 the Surfside Estates Homeowners Association 2,000-plus owners have all the property rights and privileges granted through Articles of Incorporation, Bylaws, and Restrictive Covenants. Citizens' private property rights with restrictive covenants are recorded in perpetuity with property deeds, filed as official county records at the time of purchase. Surfside Estates is just one of many HOAs in Pacific County that has restrictive covenants addressing many responsibilities of owners from building construction and building heights, to tree and vegetation heights to protecting and preserving views, and many more.

4) INCONSISTENCY WITH EXISTING USES WITHIN CARL AND SMP DRAFTS

1. Public Update Slide Presentation 12.1.22, "This is not a major update of the SMP • Main goal is to ensure consistency with existing rules"
2. The County's 2016 Critical Areas and Resource Lands Ordinance (CARL) update (Ord.180, adopted August 23, 2016) ran concurrently with the 2017 SMP update and was adopted by ordinance within the SMP. Select sections of Ordinance 180 are incorporated by reference into the current SMP.
3. Long-standing HOA covenants were recognized in the current Pacific County CARL Ordinance 180, Section 13, addressing pruning of vegetation and trimming trees for maintenance. The final sentence of the current CARL Ord 180 states, "*Topping of trees is not permitted unless specified in an existing covenant effective prior to the effective date of this ordinance.*"
4. In the Pacific County SMP Public Review Draft, Section 4.5 - Vegetation Management, the County described its Amendment Goal to, "provide county staff and applicants with a better understanding of tree trimming allowances for view preservation in shoreline jurisdiction. The SMP is current absent of any clear guidance."
5. In the draft Pacific County SMP, Vegetation Management (Section 4.5) ; proposed editing of long-existing codified language in the CARL Ord 180 (Section 13) significantly changes the intent of language on tree topping and tree limbing which will negatively impact thousands of county residents.
6. In the Consistency Analysis for Pacific County, February 2022, by consulting firm for the County, The Watershed Company from Tacoma WA, Section 5 - Other Issues for Consideration, (Table 5-1 (2), The Consultant's recommendation stated, "While trimming is not necessarily considered development, the County may consider adding a distinction that tree limbing is permitted for view preservation but not view creation. Additionally, consider establishing a standard for maximum limbs to be removed within a certain time period. Watershed identified that this item of consideration, referenced in the SMP, "Section 4.5 Vegetation Management, does not contain guidelines for when tree limbing is allowed for view preservation or to what degree for tree crowning."

5) DESIGNATED DEFINITION FOR HOAs

In the Pacific County Comprehensive Plan 2020-2040, the Surfside Homeowners Association is called "the community of Surfside Estates" and is recognized as being initially platted in 1965 with restrictive covenants, long before CARL and the SMP. Surfside Estates is only identified as a Community Crossroads although the growth has been steady with high tremendous growth over the past 2-3 years.

An urban growth area may include territory that is located outside of a city only if such territory already is characterized by urban growth.

The Pacific County Comprehensive Plan 2020-2040, describes the county, and for the Long Beach Peninsula:

"Residential land uses in the planning area are predominantly located on the west side of the Long Beach Peninsula. The community of Surfside Estates is at the north end of the Peninsula and has seen steady housing development from its initial platting in 1965. This residential planned development has a large percentage of seasonal residences with densities of four to six units per acre. Approximately 40% of the lots within Surfside Estates host permanent residential dwellings while many of remaining lots are used for recreational purposes. The Surfside Homeowners Association operates a private water system for residents, in addition to trash compaction and disposal services to members. Covenants apply to construction and common "good neighbor" practices. The Surfside Homeowners Association office provides administrative offices as well as meeting facilities."

Surfside Estates Homeowners Association has grown significantly as measured by the number of building permits and construction, but doesn't seem appropriately defined as just a Community Crossroad designation.

6) SOLUTIONS

The SMP Section 4.5 - Vegetation Management should remain as written, consistent with the current CARL Ord 180, Section 13; the county should not implement 4.5(B)(7) on proposed changes related to trees and views. There are no definitions for view creation, view corridor, view preservation, tree topping, yet the county encourages views throughout its documents. If the county requires accessibility to views by the public, certainly the country should ensure that the views for private property owners are maintained from their properties as evidenced on county tax rolls.

The Key Feature for SMP Section 4.5(B)(7) as the County described, "Proposed amendment provides distinction that tree limbing is permitted for view preservation but not view creation, while also proving protection of ecological functions by preserving canopy cover." The county should clarify in the proposed SMP changes that there are pre-existing legally formed entities such as an HOA that have restrictive covenants for view protection, created prior to CARL and SMP, for which these requirements do not apply. The County does not need to create contradiction and confusion.

The county should perform due diligence in researching HOAs within the county to determine their designations and whether these proposed changes are consistent with legitimate restrictive covenants that protect views. It was premature to answer a simple N/A on the SEPA Checklist which will alter or obstruct views.

Has the county ensured a review that property rights in residential designations are being balanced with the environmental mandates on properties subdivided and developed prior to the adoption of this Master Program. Not all residential developments (as defined in the SMP) are adjacent to critical areas as designated in RCW 36.70A.050.

Has the county ensured a review that property rights in residential designations are being balanced with the environmental mandates on properties subdivided and developed prior to the adoption of this Master Program. Not all residential developments (as defined in the SMP) are adjacent to critical areas as designated in RCW 36.70A.050.

HOA property owners currently have the right to trim or remove trees and vegetation within their property landscapes for specific restrictions. There is no adverse impact and NO NET LOSS to the aggregate shoreline as a result of tree trimming or tree crowning of trees in a residential development. What a burdensome, over complicated hardship required of homeowners to count tree limbs or get authorization to remove tree limbs.

Other viable solutions identified in current SMP, county documents, and the consultant consistency analysis:

1. Table 2-1 - Summary of Consistency (Consistency Analysis, The Watershed Company) reflects that in 2009 - Optional Language for amendments to state laws and potential revisions include, "Pacific County **may grant relief from shoreline master program development standards** and use regulations resulting from shoreline restoration projects **within urban growth areas** consistent with criteria and procedures in WAC 173-27- 215."
2. The Pacific County Comprehensive Plan 2020 - 2040, Section 2.11, GRANDFATHERING NONCONFORMING USES. As a general rule, new development regulations should apply **prospectively**. Land development, land activities, and or land uses that existed immediately prior to the enactment of a development regulation, but are inconsistent with the provisions of that development regulation, **should be "grandfathered"** with some provisions depending upon the uses.
3. The Pacific County Comprehensive Plan 2020 - 2040, Section 1.2, PLANNING UNDER THE GROWTH MANAGEMENT ACT, (6) Property rights. Private property shall not be taken for public use without just compensation having been made. **The property rights of landowners shall be protected from arbitrary and discriminatory actions.**
4. The Pacific County Comprehensive Plan 2020 - 2040Section 2.2.2 COUNTY-WIDE PLANNING POLICIES, In making land use decisions, **the various special interests of the community must be balanced with protections to the health, safety and welfare of the community at large.**
5. Consistency Analysis Report by The Watershed Company points out that in CARL Section 4.E - Table 4-1 on Standard Wetland Buffer Width, for buffers for wetlands surrounding **existing man-made canals are not subject to these standard wetland buffer widths**

Because Pacific County is diverse in topography, one size shoe does not fit all designated areas no matter how small. Some unique residential developments have been minimized resulting in overzealous interpretations of what constitutes a balance of the CARL and SMP environment plans.

I urge the county to review the designation of incorporated Homeowners Associations with restrictive covenants and governing documents that provide property rights and balance with these environmental issues.

I urge the planning commission NOT TO MAKE CHANGES TO THE SMP 4.5 VEGETATION MANAGEMENT language as proposed in the draft SMP Section 4.5(B)(7).

Thank you.
Sheri A. Mosher
34209 J Place, Ocean Park WA

Nichol Duff

From: Colleen Malley <gr8pony57@gmail.com>
Sent: Monday, December 12, 2022 2:58 PM
To: Shoreline Master Program
Subject: Supporting CARL/tree changes

Categories:

This email is send my support to disregard the CARL County code along the Surfside waterways and lots. The restriction of cutting, topping and trimming of trees has caused great destruction and loss of property values in the Surfside area. Our lot is on the canal and we have topped and ruined all of ours trees to the point of cutting most of them down. No where in Washington codes is anyone guaranteed a view beyond their property line. Hoping you follow through on these changes.

Colleen Malley
32101 I St
Ocean Park, WA

Nichol Duff

From: Shawn Humphreys
Sent: Monday, December 12, 2022 7:28 AM
To: Shoreline Master Program
Subject: FW: [BULK] SMP

Importance: Low

Categories:

From: xoffbrats <xoffbrats@comcast.net>
Sent: Monday, December 12, 2022 7:20 AM
To: Shawn Humphreys <shumphreys@co.pacific.wa.us>
Subject: [BULK] SMP
Importance: Low

Hello,

I zoomed in to the December 1, 2022 SMP meeting.

I have been a resident of Pacific County, Surfside to be exact since 2015.

I have concern over comments made by Annette Deleest and Sheri Mosher, as well as Peggy Olds. All 3 of these ladies are members of Surfside HOA, live on the J pl ridge and clearly concerned with their own views and agendas for a select few residents and not what is best COUNTY wide.

Peggy Olds was not appointed by anyone in Surfside to represent us in this SMP.

Sheri Mosher was recently put on the HOA Board without ever running for a position. I listened to her call this Peninsula a "sand spit" and feels her HOA (Surfside), should have the right to do what we want. How is this beneficial COUNTY WIDE?

Annette Deleest is chair of the tree committee where tree heights are trying to now be enforced after 20 plus years.

Topping a tree does significant damage and leads to killing the tree.

The Surfside tree committee has gone as far as to top a tree on County right of way on Oysterville road for the sake of a view.

Annette Deleest bought her house on J pl ridge in 2019. It's not her "view" that has raised her taxes. Her view has not changed. It's their new roof, with the entire roof being solar panels. Along with residing the house, redoing the deck and installing a new heat pump. 2 beautiful new houses have just been built up there, also affecting her value.

Annette Deleest is only in this for her view rights, which again are not guaranteed in Washington State.

I agree with Nansen and her comment to represent ALL citizens, not a specific group or HOA.

Washington is NOT a guaranteed view state. View is not in our HOA covenants. View needs to be removed from any SMP language.

The new language you have proposed in the SMP section 4.5 B.7 Vegetarian Management needs to stand.

HOA'S should not involve themselves in the SMP for a select group. Allowing this is selective enforcement or selective privilege, which is what Surfside HOA is about.

Please take this into consideration for the benefit of the entire county.

Ronda Christoph

Sent from my Verizon, Samsung Galaxy smartphone

Nichol Duff

From: Mike Stockman <stockman.mike059@gmail.com>
Sent: Monday, December 12, 2022 5:52 PM
To: Shoreline Master Program
Subject: Tree removal

Categories:

I write to you today to share my experience in dealing with the Surfside HOA. My wife and I have traveled through the Surfside development for years for Clamming expeditions. Only recently had we considered buying property here which we did about 4 years ago. I tried to be informed in our due diligence of the rules of the HOA. I read that complaints were handled in a complaint driven manner, in that someone would have to file a complaint that would be reviewed to insure that the complaint was warranted. This was my understanding of the system. Later, a couple of years ago, we received a letter from the HOA informing us that a complaint had been filed and our trees were 17', a foot over the maximum allowed height. This began an investigation on my part to study the impact our trees were having. We live on H Place along the canal. I went up on J to observe my trees impact. I could find no obstruction whatsoever. While up there a pedestrian walked up and asked what I could see? I related my story and was looking for any evidence that my trees were obstructing someone's views. She began to argue that it was our responsibility to insure that their views were not affected and that further we were also required to maintain their property values. I found her opinions incredulous. The only views affected that I could determine were created by the beach dunes and beach grass West of the surfside development. Later, talking to the enforcement officer, I asked who had complained because I could find no obstruction from my trees. She declined to share any further evidence. Later in talking with other neighbors, it was revealed that an individual had made it his business to drive around the development with a laser determining tree heights. While educating myself, I learned that not all trees were equal, depending on their location. Most trees on the I St. corridor were limited to 16', while trees on K st. (the street closest to the beach) were allowed a 24' height. Ironically, the house directly across the canal from us had trees that appeared significantly higher than this 24' limitation, and yet no complaint had been recorded. How could my 17' tree be obstructing a view and 24'+ tree not? I believe these established heights are completely arbitrary! The HOA threatened fines if we did not comply with their finding, which caused me a good deal grief. I really didn't want to cut the trees, but assembling a saw and extension ladder, being a 28 year career firefighter now retired, I climbed as high as I might venture. Cutting a couple of feet was not sufficient according to the HOA officer (so much for their height estimates). Eventually we decided to cut down our only 4 trees to put this issue to rest. Later we began to hear more about the HOA and this tree heights obsession. I wish we had not been forced to cut these trees, which were along the canal, providing much needed soil stabilisation. I further believe it is not my responsibility as a property owner to maintain my neighbor's views or property values! You get a view as long as it lasts! In the event of a tsunami that deposited a huge dike of sand that truly changed everyone's views, are these property owners going to demand the county or state restore their views. I hope that Pacific county can see the value of our trees and demand that the Surfside HOA cease and desist in it's attack on trees in the development. Michael Stockman, 32305 H place. 503.407.2483

From: Fred Gorton <fgorton1951@yahoo.com>
Sent: Monday, December 12, 2022 6:33 PM
To: Shoreline Master Program
Subject: Shoreline Master Program Public Comment

Categories:

Shawn Humphreys, Director

Pacific County DCD

Mr. Humphreys:

It is my understanding that Pacific County is proposing an update to the Shoreline Master Program in the not to distant future. I would like to weigh in on the ecological disaster that is taking place in Surfside as a consequence of the tree height covenant that the HOA currently has in place. Because of the covenant, many trees are topped or chopped down because of that covenant. As a result, Sea Breeze Lake has been experiencing toxic blue-green algal blooms for the past two years. I live full time on that lake.

According to the research that I have done, blue-green algae thrives on nitrogen and phosphorus entering the waterways. Trees are essential for several reasons. The tree roots will take up the nitrogen and phosphorus through their root systems before making it into the lake. When the trees and other vegetation are removed the nitrogen and phosphorus are not taken in. The trees also shade the waterway keeping the water temperature down and inhibit the growth of the blue-green algae. Trees also have another effect on inhibiting the growth of blue green algae. As the trees drop their leaves in the lake, researchers have discovered that when leaves are wet they leach organic molecules which can inhibit blue-green algal blooms. Chemicals within the leaves could potentially be used as an algal control mechanism. It appears that planting trees along waterways such as Sea Breeze Lake can alleviate the blue-green algae problem that was created by Surfside HOA's aggressive tree removal from the banks.

Not only is the blue-green algae extremely unsightly and surely brings down the property values of any property along the lake, but there are health risks associated with them as well. Blue-green algae can be toxic to domestic animals. Dogs that may go down to the lake to swim or drink can become seriously ill or even worse. The blue green algae can also be toxic to the waterfowl that use Sea Breeze Lake. Maybe that could be an explanation as to why there are less geese and ducks on the lake.

Far more importantly, however, is the possible health risks to the people that live around the lake. According to the Environmental Protection Agency, toxins produced by the algae can cause rashes, liver illness, vomiting, diarrhea, neurological effects, respiratory problems and even death. Researchers at Florida Atlantic University are testing for airborne toxins from the algal blooms. Their research shows that the toxins can become airborne and can be transported almost 4 miles from the water source. Additional studies continue to show the harmful effects of airborne blue-green algae. Since I live only a few feet from Sea Breeze Lake the chances that I may be inhaling the airborne blue-green algae is a very real possibility.

Other scientific studies that I have read indicate that the airborne toxins can cause gastrointestinal, liver and neurological problems in humans, especially those that have preexisting conditions such as those people suffering from ulcerative colitis, non alcoholic fatty liver disease and a host of other diseases.

In order to preserve a view, the Surfside HOA's aggressive tree cutting around Sea Breeze Lake has created an environmental, ecological, and health disaster for the members that live on the west side of the ridge. The potential health issues are real. Since I live only a few feet from Sea Breeze Lake, I think that the Surfside HOA is purposely putting the health of the members that are living around Sea Breeze Lake in peril through their aggressive tree cutting around the lake. As a resident I was never informed of the potential of the blue-green algae forming in the lake or the potential health risks involved.

The easiest solution to the blue-green algae is to aggressively **replant** trees and other native plants around the lake to repair the riparian zone and mitigate the blue-green algae problem.

Research indicates:

- Trees act like enormous sponges. They absorb the phosphorus and nitrogen that promote the growth of the blue-green algae through their root systems before they reach the water.
- Trees provide shade that will keep the water temperature lower thereby impeding the growth of algae blooms.
- Their roots hold the soil preventing soil erosion
- Leaves that fall into the water release a molecule that inhibits the growth of blue green algae.
- New research shows that the cyanobacteria from the blue-green algae can become airborne. The long term health effects on humans are currently being studied.
- Airborne algae and cyanobacteria were shown to induce allergy, and respiratory problems when aerosolized and inhaled. This can be particularly troublesome for people with asthma and COPD.

I would hope that Pacific County would take all of this into account when updating their Shoreline Master Program around Sea Breeze Lake in Surfside. Thank you for your time and consideration.

Fred Gorton

34519 I St.

Ocean Park, Wa. 98640

Nichol Duff

From: Doug Malley <dmalley59@gmail.com>
Sent: Monday, December 12, 2022 2:19 PM
To: Shoreline Master Program
Subject: SMP

Categories:

I own property in Surfside HOA (Ocean Park) and want it known that I fully 100% support any changes you are considering for the saving of our trees due to the relentless slaughter by a small group of people called Surfside Preservation.

They do not represent myself or I am sure hundreds of other members in the HOA.

Thank You
Doug Malley
32101 I Street
Ocean Park

Nichol Duff

From: Zirger Comcast <zirger@comcast.net>
Sent: Tuesday, December 13, 2022 2:12 PM
To: Shoreline Master Program
Subject: Comment on proposed changes to SMP

Categories:

Director Humphreys,

I am a resident of the Surfside HOA in Ocean Park, WA, specifically at 708 338th Place.

I offer the following comment to the proposed changes to the SMP:

I concur with the proposed language change to SMP Section 4.5(B)(7), disallowing the topping of trees for views.

I propose removing the exception in CARL Section 3.E.13, which provides an exception for tree topping where specified in covenants.

This exception and the enforcement of the tree height covenant in the Surfside HOA has caused significant damage to and has killed trees in the buffer adjacent to waterways in this area. The loss of these trees has negatively affected the health of the waterways and has resulted in the loss of natural habitat for wild animals. The loss of these trees has negatively impacted the value of property in the area. The arbitrary establishment of tree height restrictions for the purpose of preserving views for a minority of residents is not based on any scientific or environmentally sound basis.

Respectfully,

Kevin Zirger

Nichol Duff

From: L P <zumkitty@gmail.com>
Sent: Tuesday, December 13, 2022 3:51 PM
To: Shoreline Master Program
Subject: Support FOR Pacific County Shoreline Master Program Changes

Categories:

I am writing today because I have been made aware of a flyer circulating in the Surfside neighborhood from a group called Surfside Preservation regarding changes to the Pacific County Shoreline Master Program.

My understanding is Surfside Preservation is a group of property owners who live on the ridge in Surfside and have the belief they are entitled to all waterway views at the expense of any and all other property owners in the HOA residential area.

This flyer is urging ridgeline residents to contact your office in opposition of any changes to the SMP because it will remove or limit their ability to force lower landowners within the HOA to reduce the height of and/or removal of trees that impact their view of the waterways.

I am not versed on the rules and regulations regarding the protections of the area and am unaware of any relationship between this HOA and Pacific County, however, if the changes proposed have this group nervous about their "entitled views", it must be a significant beneficial environmental change for the area.

I am a Surfside property owner. I have no trees and no waterway views but I do have concerns over the rising water tables, sea level property flooding, wind and rain protection, noise pollution and wildlife impacts, particularly for those living at sea level. Trees in their natural state help mitigate some of these concerns.

The current Surfside HOA tree policies are not a friend of the present day climate changes we face today. Unfortunately, there are some ridgeline owners who will stop at nothing to assure no changes are made. They have dominated the narrative far too long and the impact of this selfishness has started to negatively affect the sea level properties and wildlife.

Please accept my support for changes to the Pacific County Shoreline Master Program, in particular those in favor of positive environmental change for this region.

Feel free to contact me if you have any additional questions or would like a copy of the flyer mentioned above.

Sincerely,

Linda Poer
903 Oysterville Road/PO BOX 713
Ocean Park WA 98640
360-910-1959

20

Nichol Duff

From: Bauernschmidt, Lauren N (DFW) <Lauren.Bauernschmidt@dfw.wa.gov>
Sent: Friday, December 16, 2022 4:24 PM
To: Shoreline Master Program
Cc: Lentes, Gwendolen A (DFW); Spoon, Amy K (DFW); Whittaker, Kara A (DFW); Folkerts, Keith E (DFW); Berejikian, Marian (DFW); OBrien, Thomas W (DFW)
Subject: WDFW SMP Comments
Attachments: PacificSMPPeriodicReview2022Comments.pdf

Categories:

Good Evening,

Please see the attached letter for Washington Department of Fish and Wildlife's comments on the Pacific County Draft Shoreline Master Program. We thank you for the opportunity to provide this feedback and welcome any questions or comments our letter may generate.

Thank you,



Lauren Bauernschmidt (she/her)

Pacific County Habitat Biologist
Washington Dept of Fish & Wildlife

Office: 360-249-1217

Mobile: 360-480-2558

Email: Lauren.Bauernschmidt@dfw.wa.gov

48 Devonshire Rd
Montesano, WA 98563





State of Washington
DEPARTMENT OF FISH AND WILDLIFE

Mailing Address: PO Box 43200, Olympia, WA 98504-3200 • 360 902-2200 • TDD 360 902-2207

Main Office Location: Natural Resources Building, 1111 Washington Street, Olympia, WA

December 13, 2022

Shawn Humphreys, Director
Pacific County Department of Community Development
P.O. Box 68
South Bend, WA 98586

Subject: WDFW Comments on Pacific County's Draft Shoreline Master Program

Dear Mr. Humphreys,

I write on behalf of the Washington Department of Fish and Wildlife (WDFW) to offer our comments on Pacific County's periodic update of your Shoreline Master Program (SMP) under the Shoreline Management Act (SMA). Consistent with our commitment under the [Principles of Correspondence](#), we have striven to maintain contact throughout the process and we look forward to fully engage you as the process moves towards completion.

As you consider revisions to your SMP, please consider adding our updated source of best available science (BAS) on riparian management to ensure your SMP complies with RCW 90.58.100(1) and WAC 173-26-201(2)(a), which calls for local governments to make use of and, where applicable, incorporate new science from state agencies when updating SMPs. Our science can help you achieve your SMP's requirement to achieve no net loss of shoreline ecological functions. [Volume 1: Science Synthesis and Management Implications](#) (Quinn et al. 2020) is a source of BAS for understanding how riparian areas and surrounding watersheds affect ecological functions and aquatic habitats. Volume 1 is intended to inform the development of policies related to management of riparian areas within (and beyond) the shoreline jurisdiction. [Volume 2: Management Recommendations](#) (Rentz et al. 2020) provides guidance to assist local governments with the protection and — where possible — restoration of healthy, intact, and fully functioning riparian ecosystems, which are fundamental for clean water, healthy salmon populations, and climate-resilient watersheds.

Site-Potential Tree Height Tool

Our new riparian management recommendations point out that the riparian ecosystem in forested ecoregions varies in width depending on the soil productivity for growing trees. The width of the riparian ecosystem is defined as the "site-potential tree height" of the dominant tree species at age 200 (SPTH₂₀₀). To help jurisdictions determine SPTH₂₀₀ at a given location, we have created an [online mapping tool](#). Our recommendations do not differentiate between large rivers and small streams or between fish-bearing and non-fish-bearing waters, as the science does not support treating them differently.

Compensatory Mitigation

While we do not anticipate that all future harm to riparian ecosystems will be avoidable within the shoreline jurisdiction, we do expect that local jurisdictions will achieve the requirement to provide for *no net loss* of riparian ecosystem functions and values within the shoreline jurisdiction by providing offsetting compensatory mitigation when your regulations authorize unavoidable harm (WAC 173-26-186(8)). This may require providing more compensatory mitigation than has been provided in the past. We also anticipate that many local jurisdictions will determine that they need to monitor and adaptively manage the implementation of their SMPs to ensure that no net loss of shoreline ecological functions is achieved.

WDFW recognizes that this periodic update does not fully address the above listed concerns. We encourage the adoption of these revisions due to the intention of periodic updates to incorporate BAS, regardless of other revisions. In an analogous situation under the Growth Management Act (GMA), the Growth Management Hearings Board (GMHB) recently determined the city of Anacortes' Critical Areas Ordinance (CAO) departed from BAS because its riparian buffers were undersized and in violation of the GMA's requirement to protect critical areas functions and values. The city has since adopted protections consistent with our riparian science in its CAO, and the GMHB has determined that the CAO now meets GMA's BAS requirements. We ask that you carefully consider putting into practice our BAS and management recommendations to identify and protect riparian ecosystems consistent with the goals of the SMA and GMA.

We value the relationship we have with Pacific County and the Department of Ecology and look forward to working collaboratively with everyone involved as this update is brought to a successful conclusion. As you contemplate revisions to your proposed SMP to incorporate new BAS, I will serve as your contact person, answering your questions and connecting you with WDFW agency resources when I don't have the answers myself.

Sincerely,



Lauren Bauernschmidt

Area Habitat Biologist

CC:

Gwen Lentes, Regional Habitat Program Manager
Kara Whittaker, Land Use Conservation and Policy Section Manager
Tom O'Brien, Ecosystem Services Division Manager
Chuck Stambaugh-Bowey, Habitat Program Deputy Director

References:

Quinn, T., G.F. Wilhere, and K.L. Krueger, technical editors. 2020. Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications. Habitat Program, Washington Department of Fish and Wildlife, Olympia.

Rentz, R., A. Windrope, K. Folkerts, and J. Azerrad. 2020. Riparian Ecosystems, Volume 2: Management Recommendations. Habitat Program, Washington Department of Fish and Wildlife, Olympia.

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Nichol Duff

From: Shawn Humphreys
Sent: Monday, December 19, 2022 7:06 AM
To: Nichol Duff
Subject: FW: SMP

Categories:

From: Larry Raymer <lraymer@hotmail.com>
Sent: Wednesday, December 14, 2022 9:16 PM
To: Shawn Humphreys <shumphreys@co.pacific.wa.us>
Subject: SMP

Dear Shawn,

My name is Larry J Raymer. I purchased my property in Surfside in 2005. In 2006 I became a member of the Tree, Brush and Vegetation Committee. Shortly there after, I became the chairman of the committee and remained as chair for approximately ten years. I have worked with general managers, business mangers, and compliance officers regarding covenant issues and other member concerns. I have worked with members of Pacific county public works and DCD.

I have a good knowledge of our covenants and no where will you find the word view. In approximately 1985, a building height restriction was put in place in some areas by the HOA and shortly there after a tree height restriction to match the building height was added in those areas.

The height restrictions are from 16 feet to 35 feet in the areas where there are restrictions. There is a 24 foot restriction on G Street, 16 foot restrict on H Street to the east side of I street. The east side of I Street is 24 in some areas. There is a 16 foot restriction on the west side of J Place for the most part. I see nothing written in the covenants that explains why these restrictions were placed and why they are so random.

If memories serves me, I believe the county has language to ensure public safety along public access points. As far as the private sector is concerned, that is for the property owner to decide. If a neighbor is concerned about a tree being dangerous or hazardous, this should be between the neighbors.

Sincerely,

Larry J Raymer

Sent from Mail for Windows

Nichol Duff

22

From: Thomas Rogers <thomasrogers600@gmail.com>
Sent: Thursday, December 15, 2022 4:04 PM
To: Shoreline Master Program
Subject: SMP Draft Comment
Attachments: SMP DRAFT of 12 1 2022 COMMENT 12 14 2022 Revised Signed.pdf

Categories:

I apologize for resending this comment document but I failed to sign and date my comments.

Again thank you

Nichol Duff

From: Thomas Rogers <thomasrogers600@gmail.com>
Sent: Wednesday, December 14, 2022 4:27 PM
To: Shoreline Master Program
Subject: SMP Draft Comments
Attachments: SMP DRAFT of 12 1 2022 COMMENT 12 14 2022.pdf

Categories:

Attached please find my comments on the latest draft of the proposed Shoreline Master Plan. My comments only reference the vegetation section of the document.

The county employees and the Watershed Co has done an excellent job pushing this document work forward.

Thank you for you hard work and Good Luck.

Shawn Humphreys
Director of DCD Pacific County

Fro. Thomas Rogers



12/14/22

Re: PMP update

Please accept the following as my comment on the proposed SMP update as presented at the public hearing on December 1, 2022.

At this time I am inclined to suggest that the proposed changes to Section 4.5 B7. should Not be made. I have come to that conclusion after reading the email sent to Surfside HOA members from Surfside Preservation which was founded by Annette De Leest and Sheri Mosher, who are officials of Surfside HOA. The email is so full of hyperbolic half truths, bullying, fear mongering and a call to arms; that I reread every document pertaining to RCW 90.58, the Shoreline Management Act of 1971, that I could find.

I offer this measured suggestion to the Planning Commissioners and relevant county officials.

It is my considered opinion that the Shoreline Management Act was an attempt by the Legislature, after recognizing that the shorelines of Washington were worth protecting for ALL the citizens of the states, not only for the private owners of the land abutting the "ordinary high waters" as defined in the act of 1971.

The act creates a method for the state, counties and legal municipalities to act in concert with the owners of the shorelines, governments, tribes and other recognized entities to act as stewards to preserve the rights of all to protect the shorelines and access to the public. It does not create a special group such as a "club" or "home owners association" to assert rights and privileges, nor does it allow individual upland property owners, or a group of ATV owners with a megaphone to assert ownership over the ocean dunes.

The act does allow the government agencies who are empowered to administer the act to "hear" the concerns of the public when writing and adjusting the rules of shoreline access and maintenance. The act does not allow the counties the right to enact by "fiat" a grant of any right or privilege to one or more groups or individuals, that is not a matter of settled law prior to RCW 90.58 being enacted in 1971.

The act does, however, provide avenues for those who believe they have been damaged, such as Annette De Leest, who in her public hearing testimony on December 1, 2022, asserted her view was worth \$200,000 and the proposed master plan language might damage her. She may have actionable rights under section 90.58.290 of the act. The legislature recognized this might happen to an individual and provided relief.

If Surfside HOA or an individual home owner, club, association or individual, believes their rights have been violated **and/or that the plan submission language is incorrect OR is improperly written** they can appeal the plan's submission under Sections 90.58.180 and 90.58.190 of the Act.

IT IS MY HUMBLE RECOMMENDATION THAT THE MOST NEUTRAL POSITION FOR THE PLANNING COMMISSION, COUNTY ADMINISTRATION AND THE COUNTY COMMISSIONERS TO TAKE REGARDING SECTION 4.5.B 7. IS TO MAKE NO CHANGES IN THE CURRENT LANGUAGE. IF SURFSIDE HOA SEEKS TO MAKE CHANGES IN THE DOCUMENT THEY CAN SEEK REDRESS UNDER THE LEGAL PROCESS PROVIDED IN THE ACT.



YOUR ACTION IS NEEDED TODAY!

Pacific County PUBLIC HEARING will be held TODAY at 6:00 PM.

LET YOUR VOICE BE HEARD!

PROVIDE YOUR INPUT VIA

Zoom Meeting: at: <https://zoom.us/j/3066189481> or by calling 253-215-8782 Meeting ID: 306618948.

AND/OR SEND YOUR COMMENTS TO: Shawn Humphreys, Director, Pacific County DCD at P.O. Box 68, South Bend, WA 98586 or email to smp@co.pacific.wa.us

Here's What's Happening

Pacific County is proposing an update to the Pacific County Shoreline Master Program (SMP). Though the County considers these changes to be "minor", **they pose significant changes to our water view rights within Surfside.**

What do these proposed changes do?

Currently our water views are protected by language in the **Critical Areas Resource Lands (CARL)** which is incorporated into the SMP by reference. The CARL allows Surfside HOA the right to manage our vegetation and tree heights per our Covenants. Our Covenants restrict our tree and vegetation height limits to our building heights, which in turn protects our water views. We

believe education of property owners regarding right tree, right place and alternative vegetation that can provide habitat and food for wildlife is a better choice.

Proposed changes to the SMP will restrict the cutting, topping and trimming of trees in Surfside. As a part of the proposed changes, the County had to prepare a SEPA Impact Statement which identifies impacts resulting from governmental decisions. On the SEPA impact checklist, **the County checked that Views were "Not Applicable" and marked N/A on this form.** This is blatantly false and misleading! The proposed changes **WILL AFFECT OWNERS VIEWS** unless Surfside can continue to enforce their Covenant tree height restrictions which allow property owners to top (trim) or cut their trees as necessary to protect their views.

Discussion: The SMP allows for water view access and a view corridor. We believe our Covenants are what protect our "view corridor". Those in Surfside who have a water view (which includes more than J Place) pay the price for our water views on our property taxes. A recent analysis done by our Preservation group found that there was up to a \$200,000 difference in home values depending on the view. This has no doubt increased over the past year. This change will be a significant impact to our property values and lost County tax revenue if water views are not protected.

Alternatives: Nonconforming Use of Property

As the county is proposing to change the land use language in the SMP that currently allows Surfside to protect water views by managing vegetation heights, we request that the County continue to recognize and codify Surfside's existing land use policy as a nonconforming use entity under the SMP and CARL which is incorporated by reference. We are a planned use development with historic property rights that have been recorded on our property deeds. Can the County legally change these deeded rights?

We would also like to request that the county provide a MAP that identifies the SMP boundaries and that these boundaries identify Surfside's nonconforming land use status.

We must DEMAND that the County maintain our water view rights, and protect our property values.

Your Concerned Preservation Neighbors

Nichol Duff

From: Candace Carteen <ccarteen@gmail.com>
Sent: Thursday, December 15, 2022 4:03 PM
To: Shoreline Master Program; Shawn Humphreys
Subject: Subject: Comment SMP Public Review Draft 2022.11.14

Categories:

Dear Mr. Humphreys,

I want to thank you for all that you do to keep order in this crazy world.

I appreciate the hard work the DCD and the county Planning Commission have done. I listened to the entire audio of the December 1st Public Hearing and now wish to make a formal suggestion during the Public Comment Period. I understand my suggestion will be included in the Public Comments that will be sent to WA Department of Ecology for their review.

I support the amendment of SMP Section 4. General Policies and Regulations 5. Vegetation Management B. Regulations 7. =
SMP Section 4. 5. B. 7. found on page 56 of the SMP Public Review Draft 2022.11.14

but, believe that the words:

or the ultimate demise of the tree

Should follow the new addition. **See the bolded suggestion below.**

Based on the future of ocean-edged properties, we can not afford to lose any, healthy and stable trees. They are too big a benefit to our future control of the changing weather and weather patterns. All states are suggesting the planting of more trees, so we don't want to deplete those that we already have.

7. Selective pruning of trees and mowing of vegetation for purposes of maintenance, invasive species management, or fire protection is allowed, provided that no vegetation shall be removed from critical areas, dunes, or their respective buffers without approval from the Administrator. Topping of trees for views is not allowed. **In addition, tree Tree limbing is allowed for view preservation, not view creation. The removal of tree limbs shall not reduce overall canopy cover. or the ultimate demise of the tree.**

I live in Pacific County for all the beautiful reasons that are so apparent with a short drive to the ocean, I believe that the SMP should include the interests and concerns of the entire county as a whole and not include individual interests of specific community groups such as HOAs. Private organizations should never have stronger regulations than the county or state they reside in.

Nichol Duff

From: kelly.rupp@leadtoresults.com
Sent: Friday, December 16, 2022 11:57 AM
To: randy.pugh19@gmail.com
Cc: Shoreline Master Program
Subject: FW: Accepting public comments in relation to the review of the Shoreline Management Program
Attachments: Accepting public comments in relation to the review of the Shoreline Management Program

Categories:

Thanks, Randy, for your feedback. Am forwarding it directly to the SMP comments registry to ensure that it's catalogued in the official record.

- Kelly

From: Randall Pugh <randy.pugh19@gmail.com>
Sent: Friday, December 16, 2022 11:19 AM
To: kelly.rupp@leadtoresults.com
Subject: Accepting public comments in relation to the review of the Shoreline Management Program

To Kelly Rupp

I understand that you are accepting public comments in relation to the review of the Shoreline Management Program.

I would like to express my disapproval of the current conditions as written and ask that you make changes as you go forward that are equal for all People in the Pacific County and Washington state.

Pacific County is giving special treatment to a small faction of the members of Surfside HOA that I will hereafter refer to as "The Faction", and that this practice is illegal allowing a small group of members in Surfside HOA to force others to violate SMP, CARL, The Washington State Firewise program, and the apparent intent of the State Shoreline Management Program, to top, kill and/or remove their trees and damage their property, property values and safety by topping their trees for the views of about 350 or the 2800 properties in Surfside if not for the exceptions and special treatment that Pacific County has granted Surfside. Homeowners must also suffer higher winds and wind damage, increased amounts of blowing sand, and higher probability of water damage. Pacific County has allowed this to happen by giving The Faction in Surfside HOA special treatment that then effects the ordinances of the entire rest of Pacific County. This also costs Pacific County as they must then also suffer the cost of topping and/or removing trees on County Property, and this cost is paid by entire County. It also forces Pacific County to violate the Washington State Fire wise Program, for the sake of views. This has gone on for years and had damaged many peoples properties, property values, property ecology, and lives, and increased risk from natural weather events. I understand none of this is your fault personally but you are in a

position to rectify or help rectify the situation. I am hoping the Planning Commission and the County Commissioners will correct the SMP and the CARL ordinance 180 to be in compliance with both the Washington State Constitution, RCW 36.70A.172 and the Washington State Fire wise Program of which Surfside HOA claims to be following.

The Washington State Constitutions states:

Article I Section 12 SPECIAL PRIVILEGES AND IMMUNITIES PROHIBITED. *No law shall be passed granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which upon the same terms shall not equally belong to all citizens, or corporations.*

State Shoreline Management Act states:

The [Shoreline Management Act](#)(SMA) requires all counties and most towns and cities with shorelines to develop and implement [Shoreline Master Programs](#). The law also defines our role in reviewing and approving local programs. The SMA was passed by the Washington Legislature in 1971 and adopted by voters in 1972. Its overarching goal is "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines."

ENVIRONMENTAL PROTECTION

The SMA is intended to protect shoreline natural resources including the land, vegetation, wildlife, and aquatic habitats against adverse environmental effects. All allowed uses are required to offset adverse environmental impacts as much as possible and preserve the natural character and aesthetics of the shoreline.

I admit that I have not read every word of the State Shoreline Management Act, <https://app.leg.wa.gov/RCW/default.aspx?cite=90.58.030>but I can find nothing that permits ore encourages exemptions for HOAs or any other person or corporation, in fact as it states above, it appears not to encourage this type of exemptions.

And the Washington RCWs state:

RCW [36.70A.172](#)

Critical areas—Designation and protection—Best available science to be used.

(1) In designating and protecting critical areas under this chapter, counties and cities shall include the best available science in developing policies and development regulations to protect the functions and values of critical areas. In addition, counties and cities shall give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries.

(2) If it determines that advice from scientific or other experts is necessary or will be of substantial assistance in reaching its decision, the growth management hearings board may retain scientific or other expert advice to assist in reviewing a petition under RCW [36.70A.290](#)that involves critical areas.

Yet SMP and CARL gives special privileges to HOAs in allowing their covenants to override the SMP, CARL and the Washington State Firewise program. So if a person or corporation owned property right next to Surfside HOA and their property bordered the Ocean, or in relationship to CARL bordered a lake or critical area, that person or corporation would not be allowed to top the trees but Surfside could per the current exemptions in SMP and CARL. This clearly violates the State Constitution Article I Section 12 .

Also, the “best available science” recommends NOT topping or removing all the trees along the Ocean or the perimeter of a lake or critical area. In fact CARL itself does not allow topping of trees for all but HOAs. The Washington State Firewatch program also states to NOT TOP Trees as this causes a fire hazard and can kill the tree. Thus the Pacific County SMP and CARL ordinance also appears to violate RCW 36.70A.290 by giving permission to Surfside HOAs to top trees in the critical areas around lakes and ignores the science presented in the State Firewise Program.

Please see the relevant parts of SMP shown below. Allowing topping or removal of trees or “special treatment” of HOAs violates the intent of the entire rest of the SMP, RCW 36.70A.290 and the Washington State Firewise Program.

Please see the sections of CARL below and pay special attention to the highlighted parts. I believe this part of Exemption 13 violates that constitution, **RCW 36.70A.172** and the Washington State Firewise Program; Topping of trees is not permitted unless specified in an existing covenant effective prior to the effective date of this Ordinance. The part in Red writing clearly violates the intent of the entire rest of the SMP, CARL and The Washington State Firewise Program. HOA covenants to not overpower state law, HOAs must comply with state law.

I understand that at the Pacific County Planning Commission meeting a few days ago, Annette DeLeest indicated that she felt that because their properties were more expensive than many other properties in Pacific County, thus they pay higher taxes, they (those that live on J Place in Surfside HOA) should get special consideration in the SMP and CARL ordinances and that their interests should outweigh the other members of Surfside as well as the others in Pacific County. In the recent Shoreline Management meeting Peggy Olds stated that they (the J Place members of Surfside HOA) had a “special deal” with the County. I hope you don’t agree with them that richer people should have more rights and consideration than mid and low income homeowners, when it comes to writing the laws designed to protect the environment and reduce fire danger. I hope you agree that the small percentage of J Pl property owners in Surfside should not be getting the special treatment from Pacific County that they have been receiving in the past. Peggy Olds also indicated that she was elected to be on the Pacific County Planning Commission to represent Surfside. I don’t believe she was elected to do that by the majority of Surfside members as about 1400 properties are forced to top their trees and all 2800 are force to pay extra dues to enforce the covenant, while only about 350 benefit. She certainly does not seem to represent the majority of the members of Surfside, but does seem to represent to be representing her own personal interests as a person who lives on J Pl. and wants to preserve her personal views. She should not be on a government committee with that clearly stated attitude, she should be doing what is best for the entire community, and that is clearly not the case. It surprises me that the County would select someone with that type of attitude, prejudice and blatantly stated self interest, so clearly stated, to be on government committees. Peggy Olds’ stated opinions are not only elitist, but as many others have pointed out recently, these types of opinions are also racist.

All the laws should be written to benefit the majority of the community while protecting the rights of the minorities. Views are not a right in the State of Washington. All laws should be equally enforced. And all County Ordinances should be in compliance with the State and Federal laws.

We are asking that the Pacific County Planning Commission change the SMP and CARL ordinances to stop the topping of trees in the Shoreline and Critical Areas of Surfside, stop the special treatment of Surfside HOA, and bring SMP and CARL into compliance with the State Constitution and **RCW 36.70A.172**

There seems to be some discussion about tying the Master Shoreline Program to CARL, I understand this again proposed by The Faction. After learning more about these ordinances, I believe they should be total separate as they don't seem to cover any of the same issues. If you feel they should be related could you briefly explain the reasons for this?

The attached flyer was given to select people in Surfside HOA. I believe it includes a variety of false claims about the "view" rights of the J PL people of Surfside.

- First off Washington State does not support any right to force other property owners to top or remove trees for one's view.
- Note in the flyer that The Faction members of Surfside are attempting to add additional restrictions to force members to eliminate the indigenous trees, and replace them with specific non-indigenous trees designed to protect the views of the J Place homeowners. They have already killed thousands of indigenous trees over the last few years, including those in CARL areas and I believe in SMP.

SMP relevant parts.

SMP 1.5 Goals

A. The County's goal in adopting this Master Program is to recognize and protect the functions and values of the shoreline environment of statewide and local significance.

B. For shorelines of the state, protection and management priorities are to:

1. Sustain, protect, and restore the native ecology;
3. Anticipate and plan to minimize hazards created by erosion and natural disasters;
8. Encourage shoreline development that complements, and does not damage, natural shoreline ecological functions.

3.2 Shoreline Environment Designations

A. Natural.

1. Purpose. The purpose of the "natural" environment is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-

wide processes.

2. Designation criteria. A "natural" environment designation shall be assigned to shoreline areas if any of the following characteristics apply:

- a. The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;
- b. The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest;
- c. The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety;
- d. The shoreline includes largely undisturbed portions of shoreline areas such as wetlands, estuaries, unstable bluffs, coastal dunes, spits, and ecologically intact shoreline habitats; or

e. The shoreline is designated as a Natural Area Preserve or Natural Resources Conservation Area and managed by the Washington Department of Natural Resources.

3. Management policies.

a. Restrict or prohibit uses or developments that would significantly degrade the ecological functions or alter the natural character of the shoreline area.

b. New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed. Do not allow the subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions.

c. Permit access for scientific, historical, educational, and low-intensity recreational purposes, provided that no significant adverse impact on the area will result.

d. Ensure that uses and activities permitted in locations adjacent to shorelines designated Natural are compatible and will not compromise the integrity of the natural environment.

e. Ensure that developments within the Natural environment are compatible with uses and activities in adjacent (including aquatic) environments.

f. The following uses should not be allowed in the Natural environment:

- i. Commercial uses;
- ii. Industrial uses;
- iii. Nonwater-oriented recreation; and
- iv. Roads, utility corridors, and parking areas that can be located outside of Natural designated shorelines.

g. Public access and public recreation objectives should be implemented whenever

feasible and significant ecological impacts can be mitigated.

h. Prioritize preservation of resources over public access, recreation and development whenever a conflict exists.

i. Plan for the restoration of degraded Natural environment shorelines.

E. Coastal Conservancy.

1. Purpose. The purpose of the "coastal conservancy" environment is to protect to the highest degree possible and, where feasible, restore coastal ocean shorelands within Pacific County; conserve wildlife; and manage the unique characteristics and resources of the shoreland areas, landward of the ordinary high water mark on the Pacific Ocean shorelines of Pacific County.

2. Designation criteria. A "coastal conservancy" environment designation shall be assigned to those shoreline areas landward of the ordinary high water mark and inclusive of dunes and adjacent wetlands. These shorelines have one or more of the following characteristics, which provide a high-recreational value and present environmental limitations to development:

- a. Beaches;
- b. Dunes;
- c. Wetlands;
- d. Sediment sources; and/or
- e. Cliffs.

4.5 Vegetation Management

A. Policies

3. Design clearing activities with the objective of maintaining natural diversity in vegetation species, age, and cover density.

4. New developments and uses should be designed to preserve native vegetation and to minimize tree removal and vegetation clearing to the minimum necessary to accommodate shoreline development. Existing trees and shrub cover should be preserved, and where feasible, restored, to provide wildlife habitat, maintain water quality, and ensure soil and slope stability.

B. Regulations

1. Vegetation clearing shall be limited to the minimum necessary to accommodate approved shoreline development that is consistent with all other provisions of this Master Program and Pacific County Code. Mitigation sequencing per Section 4.2.B.4, must be applied unless specifically excluded by this SMP or Section 4.2.B.3, Mitigation Requirement, so that the design and location of the structure or development, including septic drainfields, minimizes short- and long-term vegetation removal. The County may

approve modifications or require minor site plan alterations to achieve maximum tree retention.

2. Vegetation within shoreline buffers, other stream buffers, wetlands or wetland buffers, or other critical areas shall be managed consistent with Section 4.2 of this Master Program.

3. Where vegetation removal conducted consistent with this Section results in adverse impacts to shoreline ecological function per Section 4.2.B.5, Adverse Impacts, new developments or site alterations are required to develop and implement a mitigation plan per Section 4.2.B.7, Mitigation Plan.

4. Mitigation measures must be maintained over the life of the use or development.

5. Native tree removal in shoreline jurisdiction must be mitigated by installation of a similar native tree at a 2:1 impact to mitigation ratio, unless otherwise stated in a County-approved habitat enhancement plan or with the approval of the Administrator. Non-native tree removal in shoreline buffers must be mitigated by installation of a native or suitable non-native tree at a 1:1 impact to mitigation ratio. All mitigation trees shall be preferentially placed in the shoreline buffer, unless the trees provide connectivity to upland habitats or other critical areas, and shall be held to a 75% survival standard at the end of three years.

6. Where a tree poses a safety hazard, it may be removed or converted to a wildlife snag if the hazard cannot be eliminated by pruning, crown thinning, or other technique that maintains some habitat function. If a safety hazard cannot be easily determined by the County, a written report by a certified arborist or other qualified professional is required to evaluate potential safety hazards. Removal of a hazard trees subject to the replacement requirements of Section 4.5.B.5. Mitigation trees shall be placed in a location within shoreline jurisdiction such that a future hazard is not created.

7. Selective pruning of trees and mowing of vegetation for purposes of maintenance, invasive species management, or fire protection is allowed, provided that no vegetation shall be removed from critical areas, dunes, or their respective buffers without approval from the Administrator. Topping of trees for views is not allowed. In addition, Tree limbing is allowed for view preservation, not view creation. The removal of tree limbs shall not reduce overall canopy cover.

8. With the exception of hand-removal or spot-spraying of invasive or noxious weeds on shorelands outside of steep or unstable slope areas, the determination of whether non-native vegetation removal may be allowed in shoreline jurisdiction shall be evaluated in conformance with this section, Section 4.2 Environmental Protection and Critical Areas and Section 5 Shoreline Uses and Modifications. Such removal of noxious weeds and invasive species must be incorporated into mitigation plans, as necessary, to prevent erosion and facilitate establishment of a stable community of native plants.

9. Aquatic weed control shall only be permitted where the presence of aquatic weeds will adversely affect native plant communities, fish and wildlife habitats, or an existing

water-dependent use. Aquatic weed control efforts shall comply with all applicable laws and standards.

5.10 Dune Modification

A. Policies

1. Recognize the value of dunes in protecting inland areas from damaging inundation caused by a combination of high tides and storms, tsunamis, the harmful effects of windblown sand, and flooding losses.
2. Recognize the importance of dunes in providing open space that has economic, aesthetic and ecological value.
3. Limit modification of the dunes and vegetation to comply with state and federal law, and to the minimum extent necessary to protect views and property values.
4. Recognize the importance of protecting the primary dune.
5. Recognize that accretions have increased the value and amount of open space, and that upland development in these areas is not encouraged.
6. Acknowledge that all information is not available to determine the future of dunal accretion and/or erosion activity, and commit to amending land use policies that respond to refinements in technical research.
7. Maintain existing beach access roads, parking areas, drainage, and sanitary facilities. Recognize that the ocean beach is a state corridor in transportation planning activities and studies and it is a part of the Seashore Conservation Area.
8. Manage beaches and dunes to conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beaches.
9. Manage beaches and dunes to reduce the hazard to human life and property from natural or human-induced actions.
10. Recognize that many dune grasses are non-native. These non-native species negatively affect native dune-associated species, yet they also provide dune stability, which provides protection from coastal erosion and flooding. Acknowledge the need to balance the management of non-native dune grasses and in recognition of their potential ecological impacts and protective functions.

B. Regulations

1. Where allowed.

- a. Dune modification shall be allowed only where it will not result in decreased protection of inland development from damage caused by storm surge, tsunamis, windblown sand, or flooding.
- b. Dune modification to protect views of the water shall be allowed landward of the primary dune buffer identified in Subsection B.2 and only on properties subdivided and developed prior to the adoption of this Master Program. Such dune

modifications shall only be allowed where the view is completely obstructed for residences or water-enjoyment uses and where it can be demonstrated that the dunes did not obstruct views at the time of original occupancy, and then only in conformance with this section.

2. Primary Dune Buffer. The following regulations shall apply to a protective strip of dune land, or buffer, along all ocean beaches in the Coastal Conservancy designation.

a. The width of the buffer shall be measured from the winter grass line, inland two hundred (200) feet, but not to extend beyond the landward (eastern) boundary of shoreline jurisdiction. Determinations of the grass line shall be conducted in winter.

b. Dune modification within one hundred (100) feet of the winter grass line is prohibited except:

i. For ecological restoration, where it is demonstrated that the proposed action will not decrease protection of inland development from damage caused by storm surge, tsunamis, windblown sand, or flooding; or

ii. To provide access across the buffer:

(1) For public, community, or joint use of more than four (4) parcels. In such cases, impacts to ecological functions shall be avoided, minimized, and mitigated.

(2) For individual or private means, where it can be shown that a community or joint means of access is not possible and that no public means of improved access exists within 5,000 feet of the proposed facility. In such cases, access paths shall be limited to pervious trails at grade a maximum of six (6) feet in width.

c. The following dune modification activities may be permitted within the buffer but outside of the waterward one hundred (100) feet of the buffer, provided that such activities do not result in adverse impacts to shoreline ecological functions:

i. Those activities allowed in subsection (b), above;

ii. Public recreational trails; and

iii. Vegetation removal for the purpose of maintenance, fire protection, or invasive species management, in accordance with Section 4.5 of this Master Program.

3. Where allowed, dune modification shall comply with the following regulations:

a. Dune modification activities shall be consistent with state and federal flood protection standards.

b. Dune modification operations shall not in any manner affect or alter the waterward buffer, as established in subsection (B)(2) above.

c. Dune modification operations shall not result in a net loss of shoreline ecological functions or significant adverse impacts to other shoreline resources and values.

d. If vegetation is removed or disturbed, consistent with the provisions of this Master Program, within one growing season of the action, disturbed areas shall be replanted with native dune vegetation.

e. Written notification shall be submitted by the land owner to the Administrator on a form to be provided by him prior to beginning of dune modification operations.

Such notification shall include the approximate date on which the operation will begin, the location and size of the area to be modified, a description of the operation and any other necessary information required by the Administrator.

4. Any structure, including the expansion or alteration of existing structures, shall be prohibited waterward of the setback line, as defined in the Pacific County Land Use Ordinance No. 178.

5. The use restrictions defined under other sections of this Master Program shall apply to the dune land easterly of the building setback line and coming under the jurisdiction of the Act

C.A.R.L. relevant parts.

C. Authority

1. The Director of the Department of Community Development or his or her designee(s) shall be the Administrator of this Ordinance and is given the authority to interpret and apply, and the responsibility to administer and enforce, this Ordinance to accomplish the stated purposes.

Exemptions 12 e. Any removed tree or vegetation shall be replaced with an appropriate native species in appropriate size within one calendar year.

Exemptions 13. Minor pruning of vegetation for maintenance purposes, or thinning of limbs of individual trees to maintain an existing view corridor, when performed in a manner that ensures continual survival of the vegetation, is exempt. Mowing of dune grasses within a critical area or its buffer is not permitted, except for the purpose of fire protection within fifty (50) feet of an existing structure, and except that mowing of dune grasses within a critical aquifer recharge area is exempt when no other critical areas or critical area buffers are present. Topping of trees is not permitted unless specified in an existing covenant effective prior to the effective date of this Ordinance.

G. Penalties and Enforcement

4. Any disposition of a violation pursuant to this Ordinance and Ordinance No. 165, or any amendment thereto, shall not absolve a person from correcting or abating a violation and shall not prevent the prosecuting authority from pursuing criminal

prosecution, other civil action including, but not limited to, injunctive relief, license revocation, and abatement, or all of the above. If Pacific County prevails in a separate civil action, the Court may award the County reasonable costs including, but not limited to, the costs of the responsible officials' time, witness fees, attorney fees, court costs, and the costs to the County of abatement or of enforcement of an injunction, or both.

State Shoreline Management Act

Shoreline Management Act <https://app.leg.wa.gov/RCW/default.aspx?cite=90.58.030>

The [Shoreline Management Act](#)(SMA) requires all counties and most towns and cities with shorelines to develop and implement [Shoreline Master Programs](#). The law also defines our role in reviewing and approving local programs. The SMA was passed by the Washington Legislature in 1971 and adopted by voters in 1972. Its overarching goal is "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines."

ENVIRONMENTAL PROTECTION

The SMA is intended to protect shoreline natural resources including the land, vegetation, wildlife, and aquatic habitats against adverse environmental effects. All allowed uses are required to offset adverse environmental impacts as much as possible and preserve the natural character and aesthetics of the shoreline.

Findings. I admit that I have not read every word of the State Shoreline Management Act, <https://app.leg.wa.gov/RCW/default.aspx?cite=90.58.030> but I can find nothing that permits or encourages exemptions for HOAs, in fact as it states above, it appears not to encourage this type of exemptions.

Thank you for your time and Service.

Randall Pugh

Ocean Park

Washington

Mobile: 360-214-0439

Email-randy.pugh@yahoo.com

Nichol Duff

From: dm_kamm@yahoo.com
Sent: Friday, December 16, 2022 9:33 PM
To: Shoreline Master Program
Subject: Public Input for the Shoreline Master Program

Categories:

Attn:
Shawn Humphreys, Director
Pacific County DCD

We need your help and consideration. It is essential that the current HOA exemption highlighted and discussed in the December 1st SMP meeting be removed. Ms Annette deLeest and Ms Peggy Olds DO NOT represent the interests of the majority of Surfside and especially those of us who have homes and live along Sea Breeze Lake and the canals. They represent those who look down upon the waterways and the Pacific Ocean from the ridge on J Place where these two individuals live and propagate their selfish vision.

Mr Fred Gorton and Mr Randall Pugh have provided extensive background, research and facts regarding the effects of the recent HOA's tree cutting efforts and how it has driven out wildlife allowing extensive blue-green algae blooms, water toxicity and can be attributed to flooding.

Our community needs your attention, now. The Shoreline Master Program is designed to guide local governments through the process of developing Shoreline Master Programs to meet the requirements under the state Shoreline Management Act. Do not exempt the Surfside HOA from your commonsense rules.

The above, sent by another Surfside resident, also expresses our sincere concerns. We live on the canal within Surfside.

Regards,
Mark Kamm
Dawn Carnahan
803 324th Place
Ocean Park

Sent from Yahoo Mail on Android

Nichol Duff

From: David Tollefson <iamahotdog2@yahoo.com>
Sent: Friday, December 16, 2022 7:04 PM
To: Shoreline Master Program
Cc: Pat Tollefson
Subject: Public Input for the Shoreline Master Program

Categories:

Shawn Humphreys, Director
Pacific County DCD

Subject: Public Input for the Shoreline Master Program

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//s//

David & Pat Tollefson
34513 I Street
Ocean Park WA 98640

Nichol Duff

From: David Tollefson <iamahotdog2@yahoo.com>
Sent: Friday, December 16, 2022 6:46 PM
To: Shoreline Master Program
Cc: Pat Tollefson
Subject: Public Input for the Shoreline Master Program
Attachments: 008 SMP Response.docx

Categories:

I have attached our letter of concern. Thank you in advance for your help and consideration.

David & Pat Tollefson
34513 I Street
Ocean Park WA 98640

Shawn Humphreys, Director
Pacific County DCD

Subject: Public Input for the Shoreline Master Program

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//s//

David & Pat Tollefson
34513 I Street
Ocean Park WA 98640

Nichol Duff

From: crabby@bakerbay.org
Sent: Sunday, December 18, 2022 8:09 AM
To: Shoreline Master Program; 'Brandon, Tess (ECY)'
Cc: crabby@bakerbay.org; Casey.Dennehy@ecy.wa.gov; Lisa Olsen; Mike Runyon; Frank Wolfe; kelley.rupp@leadtoresults.com
Subject: CRCFA/CCF public Comments update Pacific County SMP
Attachments: Pacific County periodic update public comments 18 Dec 2022 - CRCFA final version.pdf
Categories: Mike N, Coverage Needed

Mr. Humphreys, Ms. Tess Brandon

See attached CRCFA/CCF comments to the Pacific County SMP update. Our extensive comments are related to support of Ocean Section 6 and other related sections.

Please review specific comments submitted for oral testimony on 1 December 2022 which these attached current comments support.

Recently the US House passed the National Defense Bill and projected to pass the Senate this coming week which also supports many of the passages in our current SMP update comments. This Defense Bill authorizes the National Academies of Science to study and provide recommendations to protect fishing communities. CRCFA/CCF comments to the SMP also recommend many fisheries protections necessary to maintain sustainable coastal Fish Dependent Communities including but not limited to the CZM Certification of the SMP which has similar vessel traffic protection forthcoming in the USCG Fairway designations which complement each other.

CRCFA/CCF appreciates the county's update and the inclusion of a large amount of public participation especially prevalent in the last update which carried over to this update of the SMP. Local participation is essential for the SMP to be successful.

Please send an email verification of the inclusion of the attached comments in a timely manner to the Pacific County SMP update, Thank you,

Concerned for the economic viability and sustainability of all our county citizens,

Dale Beasley President of CRCFA/CCF

Columbia River Crab Fisherman's Association



Dale Beasley President
PO Box 461
Ilwaco, WA 98624
360-244-0096
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Tom Echols Executive Director
806 Puget St NE
Olympia, WA 98506
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Coalition of Coastal Fisheries

Shawn Humphreys

Director, Pacific County DCD

P.O. Box 68

South Bend, WA 98586

smp@co.pacific.wa.us

Tess Brandon

Washington Dept of Ecology

Olympia, WA

tebr461@ecy.wa.gov

RE: Pacific County SMP update – Specific comments Ocean Section 6

Effects Industrial Development on coastal Fish Dependent Communities

GOAL - Minimal Offshore Impacts to Existing Uses Including Fishing

From the office of Dale Beasley, President CCF and CRCFA, Vice-chair WCMAC

On behalf of our large number of members and supporters of Coalition of Coastal Fisheries and Columbia River Crab Fisherman's Association who represents fishing families from San Diego to the Bering Sea with headquarters in Ilwaco, Washington we submit the following information in support of the Pacific County SMP periodic update, Ocean section 6 and supporting sections. Our members will be directly impacted by Floating Offshore Wind through complete displacement of ground contact fishing (crabbing) and other industrial development and have a direct and personal interest in future offshore development OUTCOMES on our people with the aim to increase benefits, limit adverse impacts, and especially AVOID CONFLICT with fishing with NO more than MINIMAL impact where minimal is defined as next to nothing. The costs and impacts of federal ocean policy rushing to install ocean energy and climate action are disproportionately and disparagingly falling on coastal fish dependent communities that will be displaced over large areas of the ocean (currently proposed over 700 square miles), subjecting Pacific County citizens with Severe Conflict for ocean space as currently proposed by unsolicited lease requests of BOEM. Please refer to our specific comments submitted via oral and written comments to updating the Pacific County SMP during the open public comment

period 1 December 2022. The remainder of this document is dedicated to the reasons why the SMP is so important to the health, safety, and socioeconomic success of our county citizens through the protection and preservation of our local fishing industry that is a substantial part of our local culture and heritage which the SMP Ocean Section 6 is attempting successfully to address. There is a good reason that the Washington legislature set up the SMP through local control and that is the local citizen's know best what they need as regulation in their area, not regulators that may be located in Seattle or Spokane. ORMA - Ocean Resources Management Act is prominently on display in the Pacific County SMP carrying out the INTENT of the Washington legislature. The county SMP is not a "NIMBY" regulatory document but a blueprint for county socioeconomic survival in the face of significant inland growing demand for more electricity.

The Coalition of Coastal Fisheries represents 15 seafood organizations both commercial and recreational fisheries that have found it best to work together for the common good of all. Over the years fishing has faced many challenges and huge **cumulative displacement** of our fisheries that are UNIQUE in Washington offshore waters that will continue to have ADVERSE generational impacts that the CZM Certification of the Pacific County SMP could prevent. Recently, the USCG has proposed wide Fairways off of our shores that that protects navigation through the "prohibition of fixed structures" to protect and preserve navigation as a primary objective with ancillary protections of fishing within the Fairways. The USCG Fairways embrace Presidential Executive Orders 13563 & 12866

"The American people deserve a regulatory system that works for them, not against them: a regulatory system that protects and improves their health, safety, environment, and well-being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society; regulatory policies that recognize that the private sector and private markets are the best engine for economic growth; regulatory approaches that respect the role of State, local, and tribal governments; and regulations that are effective, consistent, sensible, and understandable."

Offshore wind and other new merging industrial uses of the high seas pose a significant challenge in proper placement to AVOID adverse impacts to nearby communities from becoming collateral damage via fishing displacement that will put some nearby communities under excessive socioeconomic duress. The AMERICAN PEOPLE deserve a regulatory system that works for them , not against them. This duress associated with BOEM initiating offshore wind can be significantly reduced by providing a small taskforce by providing a prominent seat at the decision table for those most affected by an industrial takeover of the high seas at the highest levels of strategy development with BOEM that will lead to outcomes that can achieve shared goals on climate and biodiversity while reducing unnecessary and uneven impacts affecting our Coastal Fish

Dependent Communities, which the Pacific County SMP does address directly. Please review CCF/CRCFA comments of 1 December 2022 supporting the SMP Ocean Section 6 and ancillary passages throughout the SMP.

Unproven offshore wind and other new emerging industrial uses of the high seas not just a significant challenge to nearby communities but also present significant RISK to ocean ecosystems that are at this time unknown with certainty. Currently WDFW claims conservation laws are failing salmon and that higher standards are necessary for salmon recovery. BOEM has NO standards to protect the ocean ecosystems where salmon and other marine species spend the majority of their life cycle. The current BOEM process gives undue deference to industrializing the ocean without knowing the RISKS or IMPACTS to the ocean ecology. The current Washington standard for public growth is "No Net Loss of Ecological Function", a very high standard to achieve but yet in place. WDFW is looking to increase that high protection standard to mandate a "Net Ecological Gain" from public developments. It is impossible for BOEM leases to meet the existing Washington ecological standard let alone the more stringent proposed "Net Ecological Gain" standard currently being proposed. BOEM has no concern as BOEM has NO standards at all to meet any ocean ecological standards or any socioeconomic standards associated with offshore industrial impacts on coastal communities.

Some fishing areas are simply so valuable to Fish Dependent Communities that they just need to be **Protected Fishing Areas** (PFAs) as a priority where any new emerging industrial use of the ocean can only exist where these new emerging unproven industrial developments **AVOID CONFLICT** with existing uses including fishing and navigation which have both congressional and legislative policy preference where there is use Conflict. This is an SOS clarion call to saving our Fish Dependent Communities and retain our fishing families' ability to supply the public with fresh, high-quality fish, shellfish, and recreational opportunity instead of sacrificing fishing JOBS facing displacement over huge areas of fishing grounds due to new emerging massive industrial development that if not properly located will have significant geospatial interference with vessel traffic that MUST be protected by USCG fairways and the Pacific County Shoreline Master Program moving forward. Offshore wind has ample space to develop offshore the west coast other than the 38 miles south of Westport which is only place left to fish in Washington unimpeded by the loss of access to 50% of all fish/crab on 70% of the north Washington coast due to the Rafeedie Decision. **Cumulative impacts** on the offshore fishing fleet of Washington are UNIQUE in the nation currently at a tremendous loss of fishing ACCESS that does not exist in any other state in the nation.

The primary goal of the fishing industry is to maintain long term resilient seafood economies that sustain and prevent the depletion of both fish and fishermen in our communities that are in harmony with and rely upon ample harvestable ACCESS to quality sustainable coastal ecosystems that can maintain their health and vitality for current and future generations that thrive over time and place with **NO fisherman left behind**. For most Americans, the only real access to the marine resources (fish/crab) off our coasts is through the commercial seafood the fishing industry harvests for their benefit. Huge Industrial Developments adversely impacting our fishing industry's ability to access productive fishing grounds not only impacts our small businesses, but also, will have significant impact on Fish Dependent Communities, the culture, heritage, and viability of many small ports and harbors along the coast that are the lifeblood for the local economies, and those Americans who choose domestically healthy harvested seafood for their dinner tables to enjoy. It must be understood that floating offshore wind and other similar industrial developments will result in SIGNIFICANT NO FISHING NO INCOME ZONES that will negatively impact coastal viability causing numerous poor demographic consequences that will ripple throughout the coast depressing our socioeconomic wellbeing.

The COASTAL fishing community recognizes that energy is the primary driver of our national economy and is a vital quintessential necessity accessible and affordable to all our peoples' daily lives, but others must also recognize that our nation's food security is also an essential NEED that we as a nation cannot do without. As our nation moves toward a more carbon free society, we must not spill coastal lifeblood, the open harvest ACCESS to sustainable fish/crab in any major way. Improperly placed new emerging industrial developments can and will cause *excess socioeconomic tension* on coastal communities not only with lost coastal JOBS but will fall unduly on electric ratepayers unless the cost of offshore wind is reduced by a factor of 20 which is highly unlikely in this age of raging inflation and rising interest rates. The depth of lost JOBS from ill placed industrial development due to the pursuit of offshore energy needs realistic curbs that are missing in the BOEM process where BOEM regional director has stated that "All BOEM does is supply a place for ocean energy to develop". This misplaced singular objective neglects the potential for HARM on nearby and distant water dependent communities due to the huge areas of fishing displacement that will cause a catastrophic crisis to some Fish Dependent Communities like those in SW Washington where real and lasting unacceptable HARM to the community lifeblood will occur if navigation and fishing displacement is not attended to directly before BOEM issues a lease for new emerging industries on the high seas where by 2050 the US Department of Energy predicts 110,000 MG of development for ocean offshore wind – loss of 110,000 miles of fishing access. BOEM has endeavored to centralize and monopolize power over all other existing uses of the ocean environment. BOEM

has distanced those who make decisions through taskforces that omit the public and fishing interests from those who must deal with the outcomes of those decisions which all too often leave fishing on the sidelines displaced from their fishing grounds as BOEM pushes forward Floating Offshore Wind as the primary and only use of huge tracts of ocean as they fail to employ proper **Environmental Justice** to their operations. Our nation's fisheries deserve better treatment than BOEM is currently dishing out. The Pacific County SMP is a significant counterweight to this arrogant attitude BOEM has illicitly subjected many coastal communities to all over the nation.

BOEM collaboration and analysis of Floating Offshore Wind (FOSW) impacts on coastal Fish Dependent Communities is an exercise in futility unless the **BROKEN BOEM offshore lease process** is seriously reformed to honestly include the affected public DIRECTLY in the process and honestly results in **CONFLICT AVOIDANCE** of existing use of the ocean including but not limited to fishing. The coastal people do not need to be subjected to undue self-inflicted Climate Action Pain due to unnecessary fishing displacement where we need a no nonsense approach to offshore wind as we have the courage to do the RIGHT thing by coastal people as our nation makes this decarbonization energy transition we are just beginning to embrace. Once steel goes in the water, if it is in the wrong location, it is too late to make a change as the collateral damage will already be done. Only CONFLICT AVOIDANCE with existing uses will provide mutual prosperity for fishing and offshore wind where BOEM develops mutual respect for existing socioeconomics of affected nearby communities that do not need any additional stressors on their activities that are already highly stressed.

Lease of ocean real estate to the highest bidder must only be done AFTER a proper EIS is completed that contains realistic results/review of environmental, economic, and social impacts of any proposed Offshore Wind or other industrial development on the high seas that is oriented toward AVOIDANCE of CONFLICT with existing ocean uses. Lease now and MAYBE attempt to fix problems later is a backward INEFFECTIVE broken process in dire need of modification doomed to inflict injury and repeat mistakes of the past in the pursuit of extensive energy that the coastal people cannot afford. We need to find ways to address the climate change by working hand in hand with affected communities in ways that work for the local environments and existing industries, not at their expense. Navigational SAFETY MUST rise to the surface of any considerations to prevent marine casualties from occurring as a result of exuberance to moving too fast to understand the serious ramifications of displacing fishing ACCESS to the high seas necessary for their continued vitality and stability as an industry. **Fish Dependent Communities must be allowed to THRIVE not just barely survive**, or worse, fail when ACCESS to vital ecosystem services is cut

off via displacement. **Avoidance of impacts is the preferred course of action** as almost all past mitigation measures have never been able to demonstrate the capacity to offset the loss of ACCESS to ecosystem services where the full lifecycle services are truncated when the least environmentally practical alternative is not the preferred alternative where vulnerable disadvantaged communities are **forced to suffer strong Environmental Injustices** that force localized austerity by displacement of fishing.

Cumulative adverse impacts to local coastal Fish Dependent Communities have been highly significant producing a depth of the loss of ACCESS to fish/crab in SW Washington that was unimaginable in the last century placing many fisheries in dire straits. This trend must not continue to perpetrate loss after loss and additional HARM for our coast. Fishing families have grappled with declining ACCESS to fish/crab that have long been foundational to their cultural identity and economic wellbeing. As our nation moves forward in pursuit of carbon free electricity in a time of global warming, we must chart a course that acknowledges and redresses the HARMS to our coastal communities while responsibly developing an offshore energy and economic future for the entire region without leaving our coastal people behind as the best option as we strive to reduce our carbon footprint offshore wind MUST AVOID CONFLICT with existing ocean uses including but not limited to fishing at this critical moment in history as we all face climate change action agendas.

We as a nation MUST not lose sight of past significant failures of energy pursuits – bankrupt Solyndra and the largest public bond default in US history in Washington’s pursuit of nuclear energy with two concrete edifices towering into the sky at Satsop, Washington reminding us not all ideas result in the grandiose predictions now being touted by the proponents of floating offshore wind. Failure - with extreme residual costs to taxpayers and ratepayers is a distinct possibility of dramatically increasing coastal POVERTY for years to come.

Everyone involved in the OSW (offshore wind) process needs to **slow down** and thoroughly examine not just the potential power needs of the future but assess those needs on a regional basis in conjunction with potentially BETTER power options in the NW including but not limited to: Hydropower, Solar, Land based Wind, Geothermal, Biofuels, Landfill Gas Generation, Smart Grids, Hydrogen & Fuel Cells, as better options that are far more cost effective than high priced Floating Offshore Wind that will need substantial additional cost of power transmission to urban load centers. Power price to the consumer MATTERS and currently Floating offshore wind (FOSW) is the most expensive power on the face of the earth that will cause all family budgets to hemorrhage excessively. **COSTS MATTER!** The U.S. Dept. of Energy should be investing in

research and development in solar shingles and home power storage where there is zero loss of onsite ecosystem function or interference with existing ocean uses. A fishing dollar turns over many times in the community and an authentic working waterfront is also a tremendous draw for the tourism industry that also bolsters the economic condition of coastal communities.

FOSW is currently an unproven as a reliable source of power, will never be 24/7 reliable baseload power our citizens demand today, and is laced with untold uncertainty with escalating costs as inflation rages into our current economy forcing development costs even higher than projected. FOSW besides being highly speculative it **MUST AVOID CONFLICT** with existing offshore uses and be moved outside of the current BOEM west coast arbitrary restriction of 1300 meters of water depth. CCF/CRCFA strongly suggests a moratorium on large scale OSW facilities until all **RISKS** to marine life, fisheries, and nearby Fish Dependent Communities are thoroughly and clearly understood so that **CONFLICT** with these important aspects of society can be **AVOIDED**. **The savage truth is that after the FACT mitigation is NEVER complete and always falls far short of remediating the real adverse impacts of most industrial installations anywhere**, they are attempted. Example: hydropower dams on the Columbia/Snake River system resulted in multiple ESA salmon listings and some species extinctions of salmon which have never been completely compensated after almost 100 years of existence and many **BILLIONS** of dollars invested in mitigation that has failed to alleviate the lasting and ongoing **HARM** done to salmon and forcing the dramatic shrinkage of the fishing industry as failed mitigation of lost spawning and rearing habitat it urbanized. How can we honestly expect anything more from offshore industrial development of energy than adverse impacts that will never be able to mitigate the loss of ecosystem services that currently exist.

Energy drives our national economy and is a vital necessity to all our peoples' lives, but some sources of new emerging industrial energy production will inflict additional long term irreversible **HARM** to our coastal Fish Dependent Communities and is categorically unacceptable if these new offshore wind facilities are not located to **AVOID CONFLICT** with existing uses of the high seas. Location, Location, Location is the primary influence if this new industrial development moves forward at all. Offshore wind **MUST** not spill the lifeblood of our coastal communities. Ill placed offshore wind **MUST** not become a significant injustice to coastal people's way of life and wellbeing. Fishing's **ACCESS** to sustainable fish/crab **MUST NOT** be diminished. The current Cascadia Wind proposal offshore Pacific and Grays Harbor Counties is an example of misplaced industrial arrogance that is simply and completely out of

bounce and a total illegitimate new emerging unproven industrial takeover of the high seas with total disregard for the consequential deterioration of coastal community wellbeing.

Cumulative impacts over decades MATTER and some Cumulative impacts place enormous detrimental burdens on some communities more than others such as the federal court Rafeedie Decision affecting fishing where that single impact exceeds NOAA's definition of a fisheries disaster declaration with a minimum of a 35% negative fisheries impact in harvest reduction which happens annually offshore northern Washington where 50% of the available harvestable fish/crab are denied ACCESS to U.S. citizens and state fishing residents of Washington. It is not possible to have Mutual Prosperity for both fishing and offshore wind unless new industrial development AVOIDS LOCATION of EXISTING USES including but not limited to fishing? That Mutual Prosperity will depend on BOEM and associated permitting agencies developing some honest mutual respect for the socioeconomic needs of the Fish Dependent Communities that is currently missing as witnessed by the pernicious EXCESSIVE SIZE of the southern Oregon call areas in 2022. BOEM and other offshore wind permitting agencies MUST set some well-reasoned THRESHOLDS that apply of coastal community protection for nearby and distant water communities. Currently there are NO limitations of the ill effects that BOEM can inflict on coastal communities. BOEM impact Threshold development must include ROBUST public involvement in the BOEM taskforce meetings as equal partners at the table, NOT leaving the public sitting on the sidelines in forced SILENT due to the insensitive nature of the existing BOEM/STATE Taskforces to date. Industrial development of offshore waters must occur only through AVOIDANCE of impact to coastal fisheries needs as a 1st priority and has been a major concern of congress and some state legislatures including the Washington state legislature. These legislative concerns have NOT translated into any meaningful AVOIDANCE protections for coastal Fish Dependent Communities, again as witnessed by the recent oversized call areas in southern Oregon which is an incredibly divisive move on the part of BOEM. There is NO agency accountability for the wellbeing of the coastal people adversely impacted by agency actions that all too often translate to lost fishing grounds causing increased fishing casualties as ACCESS to fisheries resources is diminished one small/large displacement action at a time. The mere announcement of placing a total displacement of fishing and navigation in southern Oregon is definitely a tyrannical edict exceeding BOEM's regulatory power to install offshore wind over such an extensive area without concern for imposing such a major stressor on the coastal socioeconomic needs of nearby and distant water fisheries which also illicitly disrupts interstate commerce. BOEM has obviously turned their back on the needs of Fish

Dependent Communities that will bear the adverse impacts of the mugging of the fleet via displacement. Current unsolicited lease requests of BOEM offshore Pacific County total over 700 square miles of fishing grounds is unprecedented and a tremendous cumulative adverse impact on our citizens that will place the last nail in the coffin of fishing.

BOEM and other agencies' public engagement needs to be a process that results in protection of fishing grounds, navigation, and other important existing uses, and offshore wind **MUST** located in areas of absolute least impact to coastal Fish Dependent Communities. This BOEM offshore wind location process is completely void of reasonable discretion in the southern Oregon "call for interest" areas that are important fishing grounds for many fisheries. Costs to the public for this new offshore electricity must lend to overall community prosperity not **ENERGY POVERTY** and provide assurance to the reasonableness of the cost of power to the public is at a price that **MUST** be a benefit to society, not a complete drag on our coastal economy through excessive offshore floating wind pricing that is projected to be multiple times the existing price structure available to local coastal PUDs from BPA at approximately 1/20 of the NREL cost projections well into the next decade. The public needs to know the **FACTS** about overall excessive offshore wind power cost, how much those costs will be, and who will be responsible to pay the bills before any long term commitments are made that not only protect and preserve fishing JOBS but also do not excessively raise power rates beyond what ALL communities can reasonably afford, even those less fortunate in our society so that an insurmountable burden is not placed on the ratepayer forced to purchase overpriced offshore floating wind power. The **EXCESSIVE** cost of offshore floating wind is a huge headwind to realistic development of the new emerging industrial development. There needs to be a positive **cost/benefit analysis and responsibility to the taxpayer and ratepayer** as stakeholders to prevent offshore wind costs hemorrhaging family budgets besides protecting existing coastal water dependent JOBS that need abundant **ACCESS** to the ocean seafood bounty before any lease of ocean area is even contemplated. The **BOEM process is lacking sufficient due diligence** and no criteria to prevent a Bernie Madoff or FTX effect mugging the public purse. **AVOIDANCE** of interference with fishing and navigation needs to be reprioritized as a 1st priority of BOEM as they begin to establish WEAs in coastal waters that **AVOID CONFLICT** with existing uses. The goal of BOEM to establish Floating Offshore Wind on the Pacific Coast is commendable and well-intended to provide additional energy for the future but **COSTS do matter** to those affected families that will be subject to much higher power costs and of course lost fishing JOBS that will cripple the vitality of coastal Fish Dependent Communities. **The BOEM**

objective needs to become first and foremost to protect the SACRED RIGHT of historical public trust rights of fishing and navigation where new emerging use of the high seas is AVOIDANCE of impact to these basic high seas RIGHTS. The recent "call for interest" in southern Oregon shatters and will obliterate and place opprobrium on existing use over an excessive area that is considerably more than requested by the state of Oregon. No one honestly knows the nature of the impacts associated with a 2050 buildout of 110,000 MG of offshore wind and if they claim to pontificate on the subject, they are only SPECULATING on hopeful outcomes to the California current ecosystem and the coastal communities that essential ecosystem supports. Only time will prove anyone Right or Wrong. It is far better to rely on the Precautionary Principle than suffer disrepute from adverse consequences from an overly aggressive U. S. Dept. of Energy "speculation" of excessive expensive offshore wind that MUST not fall unduly on the backs of unsuspecting ratepayers. The public has a RIGHT to know the FACTS about costs of FOSW before they unknowingly get fleeced by unexpectedly high power rates. We reject even the suggestion that transitions in our move to a clean energy power system must necessarily result in burdensome costs to families and businesses, and especially coastal Fish Dependent Communities. Prohibitive costs of FOSW will be too large for the public to stomach – Not even Alice in Wonderland is this far removed from the reality lost in la la land wondering aimlessly and playing MONOPOLY with other people's money that will lead to a Lehman Brother's ending without any decommissioning of the facility adding to the ratepayer and taxpayers PAIN similar to Solyndra failure after the housing crisis failures of 2008 caused by that PONZI scheme similar to the house of ill stacked cards leaving investors holding the empty bag of corrupt FTX cryptocurrency scandal currently in the news with the FTX creator now in jail for misappropriation of other peoples' money.

A number of years ago at an Oregon offshore energy listening session, Oregon Senator Betsy Johnson ask the question, "why can't we put the ocean energy in some communities that may want it?" The DLCD official stated clearly and without hesitation, "No one wants ocean entry anywhere on the coast," which bared the shunned coastal reality. Further it should be noted that **not one coastal public comment session in Washington state has identified offshore wind as a preferred use of the ocean** over fishing, NOT one, especially where fishing will be disemboweled by offshore energy where fishing is displaced for the full term of the FOSW development's existence. The Fishing Industry has viewed FOSW through the lens of a BS meter redlined since FOSW emerged as a toxic possibility based mostly on hope and change as reality is shunned. The recent Hecate FOSW presentation at the Washington Coastal

Marine Advisory Council in December of 2022 exuded a lot of hope and **NOTHING concrete** as they time and again **pointed to uncertainty** of their proposed industrial development.

Lease immediately and deal with the consequences later is an upside-down process that has NO rejection point and totally disrespects the need for public involvement in the wayward BOEM process. New emerging industrial use of the ocean should proceed only if existing uses including but not limited to fishing and navigation are protected from exploitation before any new ocean lease occurs that displaces the existing uses. Both congress and the Washington state legislature put ocean policy in place so that **"the right to navigation and fishing therein shall not be affected"** (quoted from 43 USC 1332 (2) congressional policy statement). This is a high bar for BOEM to meet when issuing new industrial leases in the U.S. Exclusive Economic Zone (EEZ) which was originally put in place to **prevent the depletion of both fish and FISHERMEN** as perfectly immortalized as the congressional INTENT in a letter Senator Magnuson, chairman of the Commerce Committee wrote in 1974. The excessive size of huge displacement of existing uses in southern Oregon call area definitely BREECHES the INTENT of congress, even if the original 2200 square miles of area is cut in half – EXCESSIVE – too much adverse impact on southern Oregon communities and a really BAD precedent to set for other coastal industrial development areas as the US Department of Energy views the federal administration's goal of 30MG of OSW by 2030 to increase approximately 4X that by 2050 through an existing process that still needs additional DUE DILIGENCE applied to the process to protect future coastal community viability. Developing offshore industrial complexes without any THRESHOLDS on existing use displacement from all sources is total abuse of power and is not the INTENT of congress or the Washington legislature. The local Pacific County SMP is a ray of bright sunlight that is upholding the INTENT of both congress and the Washington legislature as opposed to the singular lack of due diligence of the BOEM process whose actions are moving forward like a huge footprint squishing a bug on the sidewalk.

BOEM offshore lease process is totally BROKEN and needs immediate REFORM before they DEFORM the coastal socioeconomics and DEPRESS the demographics of our Coastal Fish Dependent Communities. The entire BOEM/Oregon taskforce was kept in the dark (exceptionally nontransparent) about the potential 2200 square mile lease area until a scant 18 hours before the public notice, **reprehensible and irresponsible action**. This REFORM will need congressional action as the existing BOEM lease process is excessively bias to do only one thing, lease ocean to the highest bidder, a lease process

that has **NO alternative Rejection Point**. The excessive size in prime fishing grounds of southern Oregon "call for interest areas" is proof positive of just how off the rails the BOEM ocean lease process is today, **reprehensible**. This huge area was put up for ocean lease potential after over a decade of BOEM/Oregon taskforce meetings that totally ignores the "Oregon Way" of doing business where the public input is supposed to be completely integrated into the process and expressed in the decisionmaking process early, often, and transparent. Early, often, and transparent was discarded by BOEM demeaning the entire "Oregon Way" of working through "environmental justice" conflicts. There was NO process of alleviating environmental justice issues created by loss of historical fishing areas that were previously identified in the prior Principle Power, Coos Bay BOEM ocean lease process that was scuttled due to excessive cost of the project, nothing has changed except the proposals have increased in size and expense – why should we expect a different result. Because it is the RIGHT thing to do – protect nearby and distant water communities from excessive displacement that WILL significantly depress existing coastal economies.

Floating Offshore Wind is currently the most expensive power in the world.

Ocean lease fees recently bid on the east coast at more than \$9600/acre are ridiculously HIGH, interest rates are on the rise, inflation is raging, offshore wind development costs will CRUSH family budgets and cause excess economic PAIN for most of our nation's families, especially those in low income communities such as Pacific County, Washington. When the Fed starts raising interest rates to curb raging inflation the economy begins to shrink, supplies are much harder to get, and easy money becomes far more scarce. Spending to support "green" must be reasonable for every citizen's budget. Ratepayers and taxpayers MUST be made aware of the total increase in local and distant power rates before any lease of ocean energy development occur. **BOEM actions have socioeconomic consequences on coastal communities that MUST be protected, not just "considered."** Ample forethought must be put into any offshore industrial development so that development is a BENEFIT to society, not a significant drag on our people's wellbeing.

Offshore energy must be cost effective and a substantial benefit to society or not at all. NREL predicts the price of power from offshore floating wind north of Newport, Oregon as far out as 2032 at least \$0.75 to \$0.85/kW further north off the Washington coast; this excessive price for power was estimated prior to the current bout with high inflation rates. No one in their right mind would pay almost 20 X the sticker price on the window of a new car, who in their right mind would pay 20 X that amount for ocean energy, especially when there are

ample shoreside power alternatives far cheaper with far less socioeconomic disruption to coastal communities? **Shoreside power alternatives MUST be a part of the Northwest energy analysis** to even establish the need of OSW that could be filled by cheaper onshore alternatives to serve the public, especially in the NW. Just because OSW can be made to happen does not mean it is a need necessary to make OSW occur. In Washington new offshore waters projects MUST be based on need – Washington does NOT need any additional electrical generation in the near future. A lot of current produced electricity is shipped out of state to California and other states besides out of country to Canada today. In addition, Floating Offshore Wind (FOSW) will require the construction of expensive onshore electric GRID transmission enhancements to carry the load inland to larger load centers at great added cost and permit activity that will further elevate end user electric rates that are undoubtedly not factored into the NREL cost estimates of offshore wind power generation all the way to the end consumer. The real costs to the ratepayer will be far more than the lowball estimates of a minimum of \$0.75 - 0.85/kW. BASELOAD power that is carbon-free, reliable dispatchable 24/7, supplied by the Snake River dams must not be removed especially since reliable replacement power is not ready for primetime daily use and is many years/decades away from a feasible option of 24/7 reliability. Everyone MUST understand that offshore wind development of the Washington coast is UNIQUE affected by Cumulative existing circumstances found no place else in the nation where moving forward with the development of offshore wind from the realm of possibilities to the realities of the inescapable adverse displacement consequence is an imperative where this excess tension can only be resolved by AVOIDANCE of the pending displacement of fishing from Olympic Wind and far worse the Hecate Cascadia Wind unsolicited lease request that totally ignores ALL existing use on the Washington continental shelf. **REPREENSIBLE and totally IRRESPONSIBLE.**

US Department of Energy has visions on a GRAND SCALE of 110,000 MG of Offshore Wind (OSW) by 2050 and has shown a reprobate willingness to tradeoff other people's FREEDOMS without proper consideration or alleviation of their PAIN of the losses incurred by their displacement from wide swaths of ocean necessary to ensure the existing use sustainability regardless of their needs causing an intersection of **environmental injustice**, potential deterioration of coastal quality of life, wellbeing, from offshore industrialization over excessively large ocean areas covering hundreds and potentially thousands of square miles of ocean right here in Pacific County offshore waters. **REPREENSIBLE and totally IRRESPONSIBLE.**

It is a very uncomfortable TRUTH that U.S. OFFSHORE energy policy is a forced Energy POVERTY program that will require fossil fuel prices to consumers to stay sky high forever driving INFLATION to uncontrollable levels causing PAIN on all our people and especially PAINFUL to our nation's poor people. U.S. energy policy will force millions of our citizens to make unreasonable choices between heating and eating, let alone paying attention to their own healthcare. As fossil fuels costs are FORCED artificially higher the of crop fertilizers will drive food prices even higher, crop yields will decrease as our world's population is expanding leading to worldwide food insecurity situation eventually leading to worldwide food riots that will be worse than the very destructive US riots in the summer of 2020 – there is an absolute limit to how far we as a nation can realistically address our future carbon free energy demands – costs MATTER and POVERTY is not one of the costs we as a nation must push onto our citizens that will cause unnecessary social disruption. **The war on carbon may be necessary BUT it must not drive our people into POVERTY or for that matter undermine our nation's wellbeing** especially where the US is dependent on foreign nations for the raw materials necessary to produce carbon free electricity and uses of electric vehicles. This dependence on foreign sourcing of raw materials also undermines our national security as a free nation. The Risk Reward Ratio of floating offshore wind is completely skewed to the irrational where the meager rewards of reducing worldwide carbon are crushing to our people and placing a burden on their backs that is totally intolerable. At some point common sense has to prevail before FOSW places such a burden on our people that they will be completely devastated.

SW Washington houses the 4th most Fish Dependent Community in the nation where sustainability is dependent on abundant sustainable ACCESS to fish/crab. Coastal people on a regional basis and their needs MUST NOT remain invisible in the BOEM offshore wind lease process as has occurred in Southern Oregon "call areas". 110,000 MG will be a serious physical transformative invasion of incumbent historical marine water uses including fishing and navigation where BOEM, NOAA, and other complicit agencies are systematically eliminating existing water dependent uses including fishing that requires sustainable ACCESS to fish/crab to be successful. U.S. citizens are suffering under current U.S. anti-fossil fuel Energy Policy which is driving extremely high rates of inflation that our nation has not seen since the early 1980's that is shaking the very foundation of our society, crushing working class families significantly sending their quality of life plunging as the American Dream is disappearing due to misplaced ideology that is sinking many people's boats instead of an energy policy that brings our entire society in a single unifying uplifting. Today 61% of our nation's total electrical supply is produced by fossil

fuels that will still have a place in our energy supply system when the sun does not shine, or the wind does not blow which is about 50% of the time. Continuing to artificially force higher fossil fuel prices will also force the cost of electricity to intolerable levels of unacceptability crippling most American family's viability. **SLOW DOWN WE ARE MOVING TOO FAST** – energy transition toward a carbon free society must be at a measured affordable pace to protect all our peoples' wellbeing, anything less is not acceptable.

Historical offshore vessel traffic zones need to be maintained and the USCG is beginning to enshrine those traffic zones for the future based on documented historical use in there developing PACPARS vessel traffic study (<https://www.regulations.gov/document/USCG-2021-0345-0079>). The Coast Guard's authority to designate fairways and traffic separation schemes is found in Chapter 700, Ports and Waterways Safety, of Title 46 of the United States Code (USC), specifically **46 USC 70003**, which states, "in order to provide safe access routes for the movement of vessel traffic proceeding to or from ports or places subject to the jurisdiction of the United States, the Secretary (of the department in which the Coast Guard resides) shall designate necessary fairways and traffic separation schemes for vessels operating in the territorial sea of the United States and in high seas approaches, outside the territorial sea, to such ports or places. **Such a designation shall recognize, within the designated area, the paramount right of navigation over all other uses**" (adopted from USCG PACPARS study directly utilizing their Statutory authority). It should also be noted that CRCFA has been a consistent contributor to vessel safety related to OPA 90 and has been a taskforce member on safety of oil transport on multiple occasions. CRCFA has been a principle in the Crabber/Towlane negotiations and facilitated the printing of the 1st towlanes developed under GPS satellite navigation which has greatly increased the compliance with the use of the towlanes to successfully separate the tug and barge navigation from fishing areas providing additional safety at sea for unobstructed navigation. The southern Oregon BOEM call area has intolerably truncated the crabber/towlane that has been in existence for the last 51 years where fishing and other ocean use have voluntarily shared the ocean to the benefit of these existing ocean uses. Pending USCG fairways on the west coast are essential to maintaining this voluntary sharing of the high seas that benefits both existing industries. BOEM MUST respect the USCG fairways that have been given the paramount right to navigation over all other ocean uses by congress.

The effect of industrialization of this U.S. Dept. of Energy projected 110,000 MG of power actually moving forward to fruition will have **GRUSOME and unacceptable negative socioeconomic consequences** on many coastal Fish Dependent

Communities that currently rely on ACCESS to sustainable fisheries products harvested for the American consumer and for their economic sustainability denied by displacement by excessive offshore industrial development interwoven into a multitude of other existing use cumulative impacts currently having a serious negative effect on coastal socioeconomics. USCG PACPARS study and implementation results are an essential step to ensuring navigational safety and important efficiencies of all Pacific Coast navigation. CRCFA was a contributing member of the original Columbia River OPA 90 committee charged with vessel operating procedures to improve overall vessel safety standards and prevent oil spills where SAFETY is a paramount consideration in offshore wind development that needs full compliance with pending USCG fairway designations before any west coast offshore wind developments are established. Avoidance of USCG fairways by offshore industrialization is a MUST moving forward.

CCF/CRCFA encourages agencies to move forward with a marine decarbonization initiative at the speed of TRUST and at a pace that those less fortunate in our society are not pushed completely underwater to wallow in Energy POVERTY. Some well-reasoned SAFEGUARDS and THRESHOLDS still need to be developed by BOEM in conjunction with coastal communities and other permitting agencies in association with affected communities that require permits and authorizations that totally respect and protect existing uses including navigation and fishing. The ocean energy footprint should not step harshly on the existing fishing communities and must remain tethered to honest pragmatic socioeconomic reality where offshore wind costs are able to keep inflationary pressure under control where even a doubling of costs to the ratepayer is not allowed to occur. There are a multitude of land based carbon free power alternatives including power conservation initiatives that must be fully put into play long before the ocean is fully developed, and existing JOBS displaced. U.S. Department of Energy projection of 110,000 MG offshore energy by 2050 is FRIEGHTENING to the people of the coast, as this will translate into a huge amount of exiting use (fishing & navigation) displacement.

Northeast coastal US has a high density population that “may” limit more land based options than those found in the NW United States. Example: Rhode Island is about the same physical size as Pacific County in SW Washington, but Rhode Island has 60 X the population and 60 X the need to “possibly” look to offshore wind as an alternative to some land based power sources. US Department of Energy policy to decarbonize the electrical grid must look at all of the overall impact to localized communities and displacement of existing JOBS as a primary consideration of placement of any energy and if the local

community supports the new energy as proposed, in need of modification, or NOT at all. **Big brother's foot should NEVER be placed on the neck of any community** to install offshore energy, let alone a vulnerable community that is dependent on fish/crab for its very existence like those found in SW Washington.

BOEM - 30 CFR 585.102 (7) mandates, **"Protection of the rights of other authorized uses of the outer continental shelf."** (9) Prevention of interference with other reasonable uses (as determined by the Secretary or Director which may be excessive authority for BOEM when all they do is lease ocean to the highest bidder) of the exclusive economic zone, the high seas, and territorial seas." (12)(e) BOEM will provide for coordination and consultation with the governor of any state, the executive of any local government, affected by a lease." BOEM may also invite the formation of a taskforce **or other joint planning agreement** to deal with effects associated with offshore industrial development. Coordination and consultation with affected populations needs to lead to outcomes that prevent interference with reasonable existing uses of the ocean does not lead to total displacement of fishing and navigation from hundreds or even thousands of square miles of ocean without significant adverse consequences especially reviewed in the bright light of decades of cumulative impacts affecting historical uses of navigation and fishing including but not limited to the Rafeedie Decision that has removed 50% of all fish/crab on 70% of the Washington coast which is a UNIQUE situation found NO PLACE else in the nation and will require a UNIQUE solution when BOEM evaluates how to protect the rights of other existing uses of the ocean in SW Washington offshore waters that only encompass 38 miles of coast that is currently the only place left to fish unobstructed. **ACCESS for fishing to these 38 miles of coast are PRECIOUS to the future socioeconomic needs of the SW Washington and northwest Oregon Fish Dependent Communities to survive.** BOEM has a responsibility to ensure that coastal communities are not destroyed by excessive displacement by new emerging industrial complexes which is the **dark side potential** of designating offshore floating wind facilities. Build first and attempt to mitigate the consequences once damage is done will never be able to be successful at remediating adverse impacts that may never be able to be fully mitigated. This is especially true for the young high debt next generation of fishermen that are currently suffering severely from cumulative adverse impacts before any offshore ocean wind lease is contemplated that will displace them further with even more ill effects suppressing their ability to remain solvent businesses. Ocean energy development MUST not lead to the young fisherman's DEMISE, a demise that will be intergenerational loss of future fishermen and relegating them to some other future existence lacking the

freedoms of the sea they now possess. **Protective THRESHOLDS MUST be established that protect the wellbeing of our coastal Fish Dependent Communities.** The Pacific County SMP is a significant contributor to protecting existing use of our Washington offshore waters that BOEM is lacking but these local protections require BOEM compliance which ecology is shortchanging by not CZM Certifying the Pacific County SMP provisions.

The BOEM offshore energy lease PROCESS is completely BROKEN. What is occurring today is just the tip of the coastal destructive iceberg, by 2050 the Department of Energy is forecasting 110,000 MG of ocean turned into huge industrial offshore wind complexes that will DESTROY and DESTABILIZE our coastal Fish Dependent Communities of this nation. This wanton destruction of fishing through MASSIVE Floating Offshore Wind industrial complex displacement is unwarranted, reasonably foreseeable, and a terrible bureaucratic overthrow of historic cultural uses of the ocean. Extremely expensive FOSW will drive a massive amount of inflation onto the backs of all our citizens that are already struggling to put food on their dinner tables as today's inflation rages to levels not witnessed for over 40 years.

The BOEM Oregon Taskforce interactions were totally deficient and definitely not a collaborative process where the needs of nearby coastal communities were addressed. At the Oregon Coastal Caucus listening session in Astoria on 23 May 2022 one of the Oregon taskforce members stated clearly for the record that members of the taskforce had NO idea that BOEM was going to initially designate 2200 square miles of ocean as "call areas" all located in one area of Oregon to become WEAs in the future until 18 hours before the announcement was made public by BOEM. ZERO collaboration, intolerable. That admission is an example of **total failure of the Oregon/BOEM taskforce** process to even have any meaningful discussions about locating offshore wind industrial developments in areas that AVOID CONFLICT with existing uses including fishing. Why even bother with a taskforce if extremely important issues such as placement and size of WEAs is not a resolution point to be discovered through collaboration with affected communities and if necessary, compromise based on coastal energy need and accommodation of avoidance of conflict with existing uses. It is NOT acceptable to lose fishing JOBS in SW Washington only to have the power generated in offshore waters shipped out of state to California that is not being responsible to their citizens power needs by placing unrealistic carbon free power demands unrealistically placing imports from other states to meet California artificial mandates. **REPREENSIBLE and totally IRRESPONSIBLE.**

The actions of BOEM in designation the huge southern Oregon call area was a **TOTAL BREECH of any sunshine act provisions** by keeping that important announcement off the discussion table and out of the public eye until the dirty deed was done and 2200 square miles of productive southern Oregon ocean was designated as a call for interest for massive offshore wind energy leasing far in excess of immediate needs of the state of Oregon investigation to install up to a possible 3GW of OSW placing a hovering cloud of unimaginable darkness over shoreside Fish Dependent Communities causing an excessive TENSION of pending carnage of attack on ACCESS to the fish/crab in the area where even shoreside infrastructure could be placed in serious jeopardy of failure. **REPREHENSIBLE and totally IRRESPONSIBLE.**

There is NO existing Fish Dependent Community that will not consider the needs of their fellow citizens in these communities if the community need is sufficiently large enough that the need is imperative to be met. **Compromise does not mean total elimination of ACCESS to important fishing grounds** over hundreds of even worse thousands of square miles of productive fishing grounds that will occur if the US Department of Energy predictions of 110,000 GM of offshore wind by 2050 occurs which would be a full frontal attack and hostile action undermining critical shoreside infrastructure that could only occur if public servants totally neglect the needs of affected communities. Coastal people are deathly afraid of being put out of business and just holding meetings so that BOEM can say that they collaborated with fishing but MUST result in outcomes that protect and preserve the fishing industry and all the shoreside businesses that fishing supports. Collaboration with fishing needs more than lip service about caring for their ACCESS to fish/crab. It must be kept in the forefront of BOEM actions to lease ocean for new emerging industrial use foregoes any opportunity to take corrective action once the industrial steel is in the water – **adaptive management is NOT an option after the damage to nearby communities is already done.** Fishing engagement MUST lead to favorable outcomes for existing uses in the ocean where AVOIDANCE of Conflict with fishing and new use is put in areas of MINIMAL adverse impact instead of simple confiscation of citizens fishing grounds. It appears that in the BOEM world even if you are at the decision table you are still on the menu since the only thing BOEM does is lease ocean to the highest bidder. To date fishing has only witnessed the BOEM lease process enlarging an unsolicited lease request and maintaining the entire size of the original call area offshore of Humboldt Bay. BOEM actions speak far louder than their rhetoric at meetings to collaborate with the fishing industry where the **fishing industry has NO active role in the outcome** of the BOEM lease or accumulation of leases. So far BOEM actions speak a lot louder than their rhetoric about working with fishermen which has

only led to total frustration where BOEM leases for Floating Offshore Wind that has NO viable sized projects beyond test sizes anywhere in the world to judge any results. All comments on FOSW to date from the majority of anyone speaking at an OSW meeting has been, **"SLOW DOWN, YOU ARE GOING TOO FAST,"** leasing ocean before the appropriate scientific data is collected is an upside down process that only leads to offshore wind development, loss of fishing areas, and unknown impacts to the California Current that will not be assessed until significant damage is done. Director Borne further stated that BOEM was going to be transparent in their process – NOT in the southern Oregon call for interest area where even the Oregon taskforce members were kept in the dark until it was too late to even discuss other options. Again, actions speak louder than hollow meaningless words that BOEM has NO intention of honoring. Director Borne also claimed that BOEM tries to deconflict the southern Oregon call for interest area and still put out a call for interest that smothered an entire southern area of the entire state. Another BOEM employee stated that the area was hard to shallow for the public, but that is how it is going to be. Not even a sorry, just choke on the results because it "may" be good for the earth, MAYBE. **This is the worst case of "Command Control Ocean Management" that has ever occurred in the eastern Pacific** where large amounts of public comments were totally ignored. Relying on the lessee to collect data to put themselves out of business is a really poor plan of action and we can be sure that the data supplied will be slanted toward putting steel in the water even with a rigorous BOEM review of the lessee data presentation is truthful, rigorous, and credible as presented but does not evaluate science that may shed a poor light on an industrial buildout. **The real PROBLEM is that there are NO specific guidelines that lead to a decision to put steel in the water or not to put steel in the water.** When the entire process is subjective to BOEM discretionary decisionmaking where BOEM only does one thing, Lease Ocean to the Highest Bidder the decision process is slanted heavily to leasing and impacts to shoreside communities are neglected. To date, BOEM has never denied an ocean energy lease request, 100% lease with NO lease denials for any reason. The Pacific County SMP provisions and the USCG Fairways provide a reasonable counter balance to the BOEM slanted offshore ocean leasing PROCESS.

At one of the recent BOEM meetings BOEM stated unequivocally that BOEM had NO intension to change their process to lease ocean and will not do an EIS any earlier in the lease process – sorry no one will like the BOEM answer to persistent public call for moving the EIS prior to leasing ocean. NO Change in BOEM process is going to happen, NO MATTER what we hear from the public. Public comments to this point are 100% rejected by BOEM. When a process is BROKEN it must be repaired and repairing MUST address the needs of existing

uses and those of affected coastal communities. Displacement of existing uses is a SERIOUS MATTER that must be responsible not just to placing wind turbines in the ocean and is which is NOT the only thing that MATTERS, the needs of coastal communities MUST also MATTER, and those affected communities MUST not be suppressed while pushing their heads underwater.

The Precautionary Principle to ocean management has been dampened, NO abandoned by BOEM as massive new emerging “untested FOSW” industrial complexes which are being encouraged by an overly aggressive federal offshore energy policy that is moving forward relentlessly in southern Oregon placing over 1800 square miles of ocean up for grabs without caring enough about deleterious consequences to our “oblivious” coastal communities that do not realize that fish across the dock feeds their businesses that supply a wider JOB base across an affected community. Current areas of OSW consideration on the Pacific Coast are already exceeding a cumulative 3000 square miles of potential devastation with local family JOB loss - the Morrow Bay WEA, Humboldt WEA, Southern Oregon call area, and now Olympic and Cascadia Wind unsolicited lease requests offshore SW Washington are expanding rapidly before even one watt of extremely expensive offshore floating wind electricity devastates the electric ratepayer’s family budgets. This massive industrial devouring of fishing area is merciless overthrow of the long-standing Public Trust Doctrine that has maintained FREEDOM of navigation and fishing on the high seas for hundreds of years. This loss of FREEDOM will occur one CUMULATIVE expansive WEA at a time that must be put into context with all other LOSS of FREEDOMS from ALL other cumulative sources, including but not limited to the Rafeedie Decision that is based on a myriad of other federal court decisions including but not limited to Boldt and Belloni. Every WEA that elevates to a BOEM ocean energy lease will cancel a disproportional number of coastal Fish Dependent Communities’ socioeconomic viability and resiliency mercilessly strangling coastal wellbeing associated with massive displacement of the existing fishing from new industrial development that is put in any fishing grounds. **Avoidance of impact is key to the future viability of affected coastal communities**; some like Pacific County WA are far more fish/crab dependent than other communities making them far more vulnerable to suppression, from unsolicited lease request that has had NO avoidance measures considered by anyone. **Unsolicited lease requests should NEVER be honored.** The lessee should NOT be telling the government where a lease area should be put in the ocean. The unsolicited lease process is a BROKEN process that needs to be removed from the ocean lease process – ODFW agreed at the PFMC ad hoc Marine planning committee session on 4 March 2022.

This BOEM ocean confiscatory ship has just set sail on the northwest coast by Olympic Wind and Cascadia Wind unsolicited lease request where WEAs have not yet been established and NO environmental or socioeconomic analysis has been even contemplated. The unsolicited lease process is a highly significant benefit to offshore wind developers that puts nearby coastal communities at a big disadvantage. We still have some opportunity to put reasonable development standards on offshore wind that has a very strong propensity to destroy the social fabric of our coastal Fish Dependent Communities through the BOEM ocean leasing process that has a singular lack of compassion for the people they will suppress. This BOEM lease process is beyond RISK into SERIOUS GAMBLING with the very soul of our very hard pressed coastal Fish Dependent Communities where existing cumulative impacts are more deteriorating to UNIQUE SW Washington communities than any place else in the nation. This new confiscation of public ocean area is very dangerous as the BOEM "call for interest" could result in hundreds of square miles of No Fishing No Income ZONES for our coastal people in other adjacent areas. In southern Oregon BOEM put out a HUGE "call area" for offshore wind of about 2200 square miles: **unbelievably oversized** that is an affront to our democratic process where BOEM has utilized exemptions in the legal system to remove safeguards necessary for nearby affected communities to THRIVE and will force them into just barely survive if at all. Even the removal of the center of the original southern Oregon "call area" from the BOEM original proposal still covers 6 to 7 X the area necessary to meet the Oregon offshore wind request for enough area to install 3GW of offshore wind. It should also be noted that there are NO power transmission capability in southern Oregon to move large amounts of power to areas of power need that is also very expensive adding considerably to the overall cost to power customers monthly bills that must be considered in offshore wind development. Cost/benefit ratios must consider far more than just the developer's needs but MUST also police the end customers' monthly power bill increase. Loss of coastal fishing JOBS will lead to additional decrease in quality of **regional demographics** and will result in additional increases in poverty. Reduced income as a result of lost ACCESS to fish/crab due to offshore wind development will lead to significant negative social and community health statistic deterioration due to this increased poverty rates. Mortality rates in affected communities will increase and become significantly higher, with age of death often 10 years younger than average male US deaths already injected locally on the SW Washington coast. Other indicators such as adult and juvenile alcohol violations, drug use, child abuse, adolescent suicide rates than corresponding state rates, sometimes double or triple. All these reduced demographics spawned by lost income due to displacement of fishing grounds

and fishing time reductions contributing to coastal Fish Dependent Communities instability and significantly reduced viability. Offshore wind displacement has not adequately analyzed the more than casual connection between lost fishing area/time and a dramatic increase in reduced coastal demographics. Increases in the number of food bank solicitations will be correlated to loss of ACCESS to fish via displacement of offshore wind mega-facilities covering hundreds or thousands of square miles of lost ACCESS to fish/crab. Poverty rates in SW Washington will also grow higher than the most recent at 16.4% which is 50% higher than state averages denoting the fact that SW Washington is a "low income" community, and the federal government should apply the Biden Administration Goal 40 to the area. BOEM addresses offshore wind on a state by state basis, and the coastal demographics must also be done on a state by state basis, not generalizing local demographics to the entire nation which has some localized areas in distant states that have substantial economic deficiencies.

The BOEM offshore energy lease PROCESS is BROKEN.

What is occurring today is just the tip of the coastal destructive iceberg, by 2050 the Department of Energy is forecasting 110,000 MG of ocean turned into huge industrial offshore wind complexes that will DESTROY the coastal Fish Dependent Communities and destabilize our entire Fishing Communities of this nation. This wanton destruction of fishing through MASSIVE Floating Offshore Wind industrial complex displacement is unwarranted, reasonably foreseeable, and a terrible bureaucratic overthrow of historic cultural uses of the ocean. Extremely expensive FOSW will drive a massive amount of inflation onto the backs of all our citizens that are already struggling to put food on their dinner tables in many communities. Forcing a choice between putting food on the table or excessive power bills should NEVER be a choice forced upon our nation's people. As important as long-term decarbonization of our society may be, the immediate need to put food on the table MUST not be neglected. Currently, there are 116 federal programs that provide support to the energy sector with a total value of approximately \$60 billion/year at taxpayer expense. In addition, when offshore wind developers are put in charge of producing the data to support or neglect their projects, they have a built in bias and a strong conflict of interest to provide data to influence the outcome they desire – how backward is that data gathering system to BOEM's lease structure where they lease first and fail to adequately address the questions long after the lease is consummated. I cannot even imagine an offshore industrial complex producing any scientific data to put themselves out of business after spending hundreds of million of dollars to secure an ocean lease to build an industrial complex.

Offshore Floating Wind Power is the most expensive electricity in the world. It is reasonably foreseeable that elevated family expenses will not come down anytime soon as current inflation is raging and unless our nation energy policy changes course, our national energy policy will double down on high rates of inflation. NREL estimates the cost of Northwest FOSW at least \$0.75 - \$0.85/kW offshore Washington soliciting a **coastal POVERTY PROGRAM** – no other way to describe this; this in addition to the loss of Fishing JOBS due to displacement over huge areas of the ocean will explode existing weak coastal demographics to unimaginable levels of poverty for those less fortunate on the coast where existing demographics are some of the most stressed in the state and the nation.

The US Energy Policy demand to decarbonize our energy future needs to be completely revisited and the “needs of all our people” just to meet their daily needs MUST be put far before a carbon ideology that is totally misplaced today. Yes, our nation can work toward energy decarbonization but at a well-reasoned pace that can **accommodate all our people’s standard of living**, not at a pace that crushes those less fortunate in our society today. US energy policy MUST be **companionate to all of society with no one left behind**. Impacts to all people must be a significant part of the final outcome associated with initiation of offshore wind. In the NW Public Utility Districts were established to control pricing of electrical energy to rural areas which will be undermined by OSW if coastal PUDs are forced to purchase FOSW electricity.

The fishing industry depends 100% on fossil fuels to produce fisheries products for our nation’s citizens and there is NO decarboned vessel propulsion substitute at this time or in the reasonably foreseeable future to drive our fishing vessels or our nation’s farm equipment that is even close to being cost effective or reasonable to replace - **fossil fuels still have a place in our society**. Current U.S. energy policy makers are way out over their skies and that policy is currently manifested in the highest inflation rate that our nation has seen this century and is lowering our citizen’s standard of living dramatically. Our nation MUST retreat from its current errant energy course before our people are irretrievably HARMED and the future generations of Americans have their dreams of a better future shattered. Contrary to existing energy policy COSTS of power MATTERS to our people. **Forcing people into poverty is not an acceptable outcome of any policy that our nation pursues.**

BOEM/NOAA have NO MAXIMUM Threshold Standards for offshore new emerging industrial development where the accumulation of fishing displacement whose effects can easily over burden, disadvantage, and cripple nearby and distant water socioeconomic needs of Fish Dependent Communities

where the fishing footprint has been currently compressed, especially in Washington before any NEW industrial displacement areas are put into effect. These large anticipated industrial FOSW complexes and other displacement burdens are from multiple sources over time that has the potential to significantly lower the standard of living negatively affecting the coastal quality of life of those low income communities like those found in SW Washington. Ocean energy facilities impact communities over a large ocean area regionally and are not state by state impacts. Fish know NO boundaries associated with artificial state boundaries in the ocean as BOEM is handling ocean issues today, state by state. Olympic Wind & Cascadia Wind in SW Washington will have a profound effect on the peoples' ACCESS to fish/crab in SW Washington and northwest Oregon as well. Interstate considerations are a paramount concern when initiating offshore industrial facilities, especially those as HUGE as Olympic/Cascadia Wind are proposing for lease of at least 700 square miles of ocean, that is 700 square miles BEFORE BOEM puts out a call for interest that could dramatically increase the size of an anticipated WEA. This impact on Northern Oregon trawl fleet could be highly significant in addition to the SW Washington adverse fishing impacts.

BOEM has not considered and has summarily dismissed "environmental justice" concerns that are a reasonably foreseeable outcome of overly aggressive offshore industrial development. The BOEM lease process and particularly the unsolicited lease process is laden with legal exemptions that basically leads to predetermined OSW projects where developers lease ocean real estate at great expense long before any proper analysis has been done to ensure existing uses of the ocean are AVOIDED by development as intended by both congress and the Washington state legislature. Unsolicited lease requests are made of BOEM in the hopes of securing a noncompetitive lease agreement at greatly reduced fees compared to the lease bidding process that averaged approximately \$728 million per lease for a 1000 MG or less facility offshore Massachusetts. These leases set a floor on BOEM leases of existing occupied ocean, and a lease of 2000 MG such as that recent Olympic Wind and Cascadia Wind unsolicited requests should bring in at minimum \$2.9 billion and more depending on the number of square miles of lease requested as precedent for minimum bids has been set on the east coast on a per mile basis. Unfortunately, the BOEM offshore leases in California undervalued the ocean with only a lease process producing around \$2000/acer with a total net of \$759 million for 373,268 acres of potential offshore industrial wind development. The unsolicited bid process undermines the fair lease recovery of ocean in addition to destroying ACCESS of fish/crab of nearby Fish Dependent Communities. This tremendous expense lease fees are excessive for low income people on the coast to swallow as a part of their

new high priced energy facilities. The OCSLA recommended lease fees are totally undervalued compared to recent east coast results. High lease fees lead to high power costs to consumers. **COSTS MATTER, especially to BOEM disparaged coastal communities!**

The BOEM ocean lease process is extremely FRIGHTENING to the coastal people health and wellbeing that depend on abundant ACCESS to harvestable and sustainable seafood for their welfare and quality of life that is rooted deeply in FREEDOM of Navigation and Freedom of Fishing, two very significant hallmarks of **precious time honored Freedom of the Seas** protected by the Public Trust Doctrine that MUST not be impinged upon and where FREEDOM is being placed in jeopardy causing an uncertain future for many by BOEM's extremely aggressive setaside of historical coastal values placing a people at RISK through marginalization of their way of life that cannot be replaced by menial alternative job pursuits resulting in serious Environmental Injustice concerns that BOEM is totally ignoring as they shortchange mandated by Interior and other Departments PR&Gs incorporated into NEPA documents that leave NO room for the NO Action Alternative which is becoming far less than a formality. Several years ago, BOEM western regional director Ellen Aronson stated in discussions after an Oregon/BOEM Taskforce meeting, **"Fishing is everywhere so it makes NO difference where BOEM makes any offshore ocean energy leases."** **WRONG, WRONG, WRONG!** This BOEM attitude is exactly why BOEM original 'call for interest' covering 2200 square miles of very productive ocean in Southern Oregon, absolutely NO regard for impacts to the coastal people's need to ACCESS sustainable fisheries. This call area was many multiples the size required to meet the Oregon aspirations of 3 MG of ocean energy. This is a symptom of **"Watch what you ask for, you may get far more than requested"**. Remember BOEM's anticipation of 110,000 MG by 2050 cannot and MUST NOT be overlooked when even engaging BOEM in a request for establishment of WEAs, Oregon may get far more than requested and a lot of that electricity may not go to OREGON but to central or southern California. Washington and Oregon lose fishing industry JOBS and does NOT benefit in any manner from the energy derived offshore Oregon. Heinous result, but entirely plausible in the BOEM world. Offshore Wind should be about making peoples lives better, not disenfranchising those communities that depend on ACCESS to offshore waters for their families wellbeing predicated on harvest area of fisheries resources. Floating offshore wind is probing beyond reasonable guardrails associated with coastal economic realities.

As late as February 2022 congress was once again calling for a specified federal agency (USACE) to upgrade their PR&Gs to reflect the 2007 WRDA mandate to

do so. It is amazing that congressional INTENT in legislation already passed can be ignored by some agencies for over a decade. Some agencies assume they are in charge when they ignore congressional legislation which in the end leads them to a non-productive legal battle to ensure congressional mandates and INTENT are followed. It is no wonder that Vineyard Power has 3 pending lawsuits due to the callous behavior of BOEM that was on full display when the western regional director of BOEM told CRCFA directly, "It does not matter where BOEM lets offshore wind leases because fishing is everywhere." WRONG, WRONG WRONG AGAIN! Fishing is not everywhere and when OSW areas become concentrated in hundreds if not thousands of square miles in size OSW will undoubtedly displace some major fishing efforts costing the coastal people's wellbeing. The final ROD in 2007 on US energy policy states clearly that OSW development SHALL minimize CONFLICTS with fishing. This mandated MINIMAL impact to fishing certainly is being ignored by BOEM.

The Coalition of Coastal Fisheries and the Columbia River Crab Fisherman's Association submits these enclosed comments for full consideration by BOEM and other agencies involved in permitting and leasing ocean for the proposed offshore development of new emerging Industrial projects including but not limited to Floating Offshore Wind (FOSW). CCF/CRCFA are nonprofit fishing advocacy groups dating from 1979 that continue to struggle for the success of Fish Dependent Communities on the west coast. Our members constantly fight for the long-term survival of the commercial fishing industry as a productive rewarding livelihoods and way of life that supports our families and communities in which we live, work, and play. It is not the INTENT of congress to crush our coastal people. When the United States extended our nation's jurisdiction out to 200 miles from shore it was the INTENT of congress to stop the depletion of both fish and fishermen. BOEM has an obligation to honor the congressional INTENT to protect freedom of fishing and navigation in the EEZ as they seek to establish "new emerging" displacive industrial complexes in offshore waters that MUST avoid conflict with existing uses of the high seas.

At the outset, we appreciate and endorse the comments submitted by the Pacific Fisheries Management Council (PFMC), the Responsible Offshore Development Alliance (RODA), the Pacific Coast Federation of Fishermen's Association (PCFFA), and the Washington Dungeness Crab Fishermen's Association (WDCFA) that are relative and applicable to all OSW facilities proposed now or in the future on the east or west coast; and hereby incorporate their comments by reference. Also included by reference that applies to all west coast BOEM WEAs is the Alliance of Communities for Sustainable Fisheries on the draft Morrow Bay Wind Energy Area EA of 10 May 2022 which are well

thought out comments that MUST be addressed to successfully address the needs of all Fish Dependent Communities wherever OSW is developed.

This document is applicable to the entire OSW proposals in the nation but has special emphasis to the NW part of the nation where the interest in development has been limited to date. The Washington coast fishing community is already **past any reasonable DISPLACEMENT THRESHOLD** found any place else in our nation with Rafeedie Decision realities that have squeezed beyond the pale the lifeblood out of our state citizens where ACCESS to seafood has been reduced by 50% on 70% of the coast and the other 30%, the only place offshore industrial development can realistically occur is a **HEFTY CONFLICT** with an over concentrated fishing effort shift area to the tiny area south of Westport where 90% of the crab fleet now is forced to fish due to prior LOST ACCESS to fish/crab. This small area is the only place offshore Washington that new industrial development can possibly occur, and the entire area is a **high CONFLICT area** where fishing is over concentrated due to existing DISPLACEMENT which causes the most concern for our nearby coastal communities. Incremental encroachment on fishing offshore by industrial development over time if not properly safeguarded and is reasonably foreseeable that the Cumulative Displacement will be totally overwhelming existing historical fishing regional use of the ocean including those Oregon fishermen that fish north of Columbia.

ACCESS to marine waters offshore Washington is UNIQUE in the nation with SPECIAL Needs for protection like none other in the nation. **SPECIAL PROTECTION REQUIRED** to ensure that the health and wellbeing of the coastal communities are fully protected by every AVOIDANCE MEASURE possible, not just practicable. **Offshore Wind should not PUNISH** those that have lived, worked, and raised families based on ACCESS to fish/crab for generations, access currently under significant distress from existing CUMULATIVE impacts.

NEPA and BOEM/NOAA PR&G analysis applies to industrial development on offshore marine waters where a proposed action would cause negative effects on the human environment and **MUST include direct, indirect, and cumulative effects** of any proposed action including effects on the human environment i.e., navigation and fishing amongst other marine water uses. The cumulative impact analysis **must be more than perfunctory**; it must provide a "complete and useful analysis of the cumulative impacts of past, present, and future projects, court decisions, and other agency actions and their effects on the fishing community as a whole which will have a profound NEGATIVE effect on nearby communities when the BOEM call for interest is answered by 14 or more companies as

occurred in Morrow Bay offshore waters causing BOEM to increase the original unsolicited lease request to quadruple in size from the original lease request.

Cumulative Impacts - Cumulative impact is the impact on the environment and uses which results from the incremental increased effects of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time (decades) and by other agencies and or judicial decisions. Example of out of sight out of mind impacts is the closure of salmon JOB mitigations hatcheries (Grays River and Elochoman) that were created to put salmon in the ocean exclusively for harvest to maintain coastal fishing JOBS that would have been lost due to dam construction on the Columbia River. Salmon stock manipulation like elimination of the backbone of the offshore troll salmon fleet (Toutle River Coho) with the failed Cowlitz Coho. Environmental HARM to salmon and their habitat is coast wide. Tire dust is killing salmon that have matured in the ocean and returned to spawn furthering cumulative impacts. These are just a few examples of past and present adverse impacts on coastal communities that need to be factored into the decision to lease offshore industrial complexes further displacing ACCESS to fish/crab that could place inordinate adverse socioeconomic hardship on nearby and distant water Fish Dependent Communities.

Cumulative pervading Impacts MATTER to very real JOB loss in coastal communities!

When is enough, enough disproportional punishment for BOEM to put in place some clear and concise avoidance measures for those communities that have had plenty of disparaging cumulative disruptive measures forced upon them over decades? SW Washington is past any reasonable and prudent Cumulative impacts cutting ACCESS to seafood for our coastal fishing fleets. Offshore wind displacement will be punitive punishment to our industry that will be highly consequential with negative impacts to our cultural heritage and socioeconomic needs. It should be duly noted that the Washington Coastal Marine Advisory Council invested millions of dollars of taxpayer funding and several years of Scientific investigations and could not find an area in the existing GLD area that extends 700 fathoms offshore to designate as a low use area for an offshore wind or other industrial development area that was capable of AVOIDING CONFLICT with existing uses of the coastal ocean.

PR&G analysis is more focused than NEPA with clear explanations of the agencies choices made in a manner to head off potential conflicts which will cause deleterious effects on coastal communities. PR&G mandates MUST lead

to mutually beneficial outcomes associated with any BOEM/State Taskforce process, a process that MUST have affected public members in the taskforce including members of the fishing industry. These processes can and should be combined with associated state and local Need processes to avoid duplication and reduce workload of reviewers to the benefit of all those affected by BOEM actions. If BOEM does not specifically apply CEQ PR&G requirements that totally reflect the 2007 and more recent WRDA requirements BOEM must fully and clearly document how the agency process has met the federal objective, guiding principles, and general requirements that could be approved by CEQ that addresses public benefits and costs, full consideration of distributional impacts, especially those low income environmental justice communities that could become eligible for Biden Goal 40 initiative, how nearby communities influenced the ocean lease and the lease impacts on RISK and uncertainty of the nearby communities, justify any social costs or benefits, environmental justice concerns, and Cumulative Impacts of direct, indirect, past, present, and future cumulative effects, and more of their decision authorized by their process. The Record of Decision should describe the resulting decisions and outcomes in a single document including any required mitigation to **eliminate Conflict** with existing uses of the high seas. Agency actions should accomplish the widest range of beneficial uses of the environment without degradation, risk to health and/or safety to fishing and navigation interests, or other undesirable and unintended socioeconomic consequences" (42 USC 4331(b)(3)). An undesirable consequence would be loss of sustainable ACCESS to seafood resources over large areas of the ocean that sustains nearby and distant coastal Fish Dependent Communities. **What is the Threshold of unacceptability perpetrated on these affected communities** from direct, indirect, and historical and future cumulative impacts, not just the immediate offshore wind lease in any affected area? That is the overall goal of this document; each state will have a different set of THRESHOLDS depending on the totality of existing adverse impacts on nearby and distant water dependent communities where social and economic effects are held to MINIMUM impact. The NEPA analysis MUST include analysis and REMEDIATION, not mitigation of project effects related to Environmental Justice affecting low income communities such as those found in SW Washington which has some of the lowest median family incomes and highest rate of unemployment in the state of Washington. Agencies need to pay specific attention to their actions that have an adverse effect on Public Safety and Environmental Justice to nearby and distant water communities. Agencies MUST pay special attention to community concerns and satisfactorily **address those concerns for resolution in a manner that is acceptable to the communities affected by industrial development** that has an

effect on them. Agency responsibility is far greater than simply providing a place for offshore industrial development that BOEM has stated publicly in meetings in the NW in the last few months. Agencies must also safeguard against the deleterious socioeconomic effects on shoreside communities associated with OSW. Fishing is too valuable to the coastal socioeconomic community assets to not have any clear safeguards in place for accountability to community sustainability. Agency PR&Gs have more stringent requirements than NEPA to meet the federal standards and must be applied broadly according to CEQ guidelines by all agencies as directed in WRDA 2007 bill that President Obama sent to the CEQ to develop across a wide spectrum of federal agencies including BOEM. The Federal agency should structure its program guidance to other parties to require, to the extent that statutory authority allows, that projects reflect the PR&Gs and apply the guidance so that appropriate performance is achieved by project proponents in designing projects that Avoid effects consequential to water resource needs of nearby and distant water communities, especially effects that accumulate. All the agencies in association with the BOEM process MUST learn to embrace the MURT principle of Mutual Understanding Respect and TRUST for the needs of affected communities.

https://www.doi.gov/sites/doi.gov/files/elips/documents/707_dm_.pdf

Recently USACE was notified by congressional house transportation committee to fully update the PR&G's (see attached letter at end of this document) that will include all WRDA bills from 2007 to present. A USACE permit is necessary to get a BOEM permit to build any industrial development lease in offshore waters. The most recent 2020 WRDA bill includes mandates to include Environmental Justice parameters into decisionmaking to protect low income communities. USACE MUST include these parameters into the permit they need to issue to any new emerging industrial complex offshore. The USACE should also include a number of public hearings so that the affected communities can begin to understand the roll that USACE MUST accommodate in the establishment of new uses of the ocean that could very well have serious consequences to nearby and distant water communities affected by the displacement of fishing and navigation that will have deleterious effects on some communities more than others.

USACE has recently updated some of their performance metrics and put out a sample graphic that could form the basis for interfacing with BOEM:

3C's of Successful Partnering



This above graphic is a reasonable metric upon which to begin to solve environmental justice problems that obviously were missing in the BOEM/Oregon taskforce where the 3 C's were definitely placed in the gutter by BOEM. Definitely, there was NO commitment based on TRUST, Transparency, or Accountability with Mutual RESPECT totally missing when BOEM did not even discuss the size or location of the southern Oregon Wind Energy Areas call for interest which were announced, and the taskforce members were NOT even notified of the HUGE call areas or placement until 18 hours before the public announcement was made. **REPREENHENSIBLE!** Commitment to the collaboration of a reasonable taskforce was totally missing and the public and fishing interests were not even allowed to participate in the decisionmaking until BOEM "command and control" tactics were carried forward without regard to consequences to existing uses. The "Oregon Way" of working through environmental justice issues was totally shelved by BOEM. BOEM is the big bully on the ocean that needs a good punch in the nose until it bleeds profusely. Only congress can reign in the BOEM "Reign of Terror." Washington can lead the way forward; we have plenty of help already aware of the BOEM methods that omit state Rights. BOEM could learn a few lessons from their counterparts in other federal venues. It is important that we all recognize the value that a diverse set of people, groups, and organizations can bring to the discussion table for delivery and actively seek out and invest in enduring partnerships across the mission delivery life cycle for the MUTUAL BENEFIT of people affected and involved in developing Offshore Wind developments that can be established without CONFLICT to existing ocean users or ecosystem function. The graphic

below shows how collaboration can change the negotiating landscape and drive a far better PROCESS than BOEM is currently invested in only "self interest" of making the ocean lease at any cost and without regard of consequences to the people they are adversely affecting:



The bottom line is **MUTUAL ACCOUNTABILITY** where the end solution is to navigate through the collaboration process that may take a substantial period of time to come to an end result that could be beneficial to all parties involved in the initiation of new emerging industrial uses such as offshore wind being placed in the US EEZ that is a BENEFIT to the nation and NOT adverse to current existing uses of navigation, fishing, and other legitimate existing uses. The **COMMON VISION must become one of CONFLICT AVOIDANCE**. In order to achieve Conflict Avoidance, the Washington BOEM interface will need to be much more stringent than has been achieved in any other state in the nation and BOEM's "Command Control" tactics will need to be abandoned and a similar resolve to follow something similar to the 3C's graphic above, but with well-reasoned modifications that embrace the Washington Legislative INTENT back in 2010 when the legislature initiated Washington Coastal Marine Spatial Planning Legislation that fully intended to follow the Magnuson intent to STOP the depletion of both fish and fishermen when the US EEZ was established back in 1976. The Grays Harbor oil terminal case also provides some very instructional directives that firmly embrace the **Washington INTENT to "Preemptively Protect Fishing"** as one of ORMA's mandates – anything less is dishonoring the Washington legislature. The Washington legislators clearly articulated their vision of promoting new emerging industrial uses of the ocean to **AVOID CONFLICT** with existing uses as the primary focus of their directives in the

plain language of 3 different pieces of CMSP legislation that the Washington Supreme Court articulated quite plainly that: 1. agencies have a duty to ascertain the INTENT of the legislature and carry it out, 2. interpret ORMA broadly, 3. and to Preemptively Protect Fishing. Further the legislature did not preclude the development of offshore wind or other industrial development if these new industrial enterprises avoided impact to fishing.

Cumulative effects on the Washington fishing fleets are already at critical oppressive mass with loss of ACCESS to significant fish/crab that will also have serious adverse effects on these same affected communities that are also strongly affected by MMPA and ESA considerations that are cumulative effects on Fish Dependent Communities. Massive colonies of Sea Lions devour large amounts of ESA protected salmon depressing communities' access to JOB producing salmon. Congress has once again spoken when they adopted recent legislation permitting lethal take of sea lions near Bonneville Dam and Willamette Falls in Oregon that has placed a strong exemption on ESA & MMPA to allow this take of marine mammals to protect salmon and people that depend on salmon. Congress will need to enact similar protective measures for the citizens of SW Washington to protect them from total emaciation at the heavy hand of the BOEM current deplorable tactics that obviously have ZERO empathy on the adverse impacts carelessly dispensed to nearby and distant water Fish Dependent Communities where BOEM has zero Thresholds on cumulative adverse impacts from past, current, and future actions by themselves and others. The errant behavior of BOEM in southern Oregon call for interest clearly oversteps the Oregon desire to install 3000 MG of offshore wind by initiating a massive call for interest multiple times the size of offshore wind lease requested. Even the 3000 MG is a fairly large undertaking that must be initiated in a stepwise method to even begin to fully understand the extent of the intrusion of massive offshore wind that could have deleterious effects on the entire productivity of the eastern Pacific Ocean, California Current that currently relies on strong upwelling caused by strong winds on the coast that drive primary productivity of the coastal ocean. **Cumulative adverse impacts MATTER.** BOEM's long term vision in southern Oregon is to see 20 GWs of power turning the entire area into a major industrial complex with all the fallout of any industrial complex. Oregon has no need for 20GW of power in southern Oregon, which could turn into a source of power for California with damages done to Oregon waters which would then supply power elsewhere. The deleterious impacts associated with this major industrial development is unknown other than the FACT there will be impacts to both wildlife and fisheries production that will be curtailed within the boundaries of the industrial complex negatively affecting the nearby communities. The impacts could be so great

that in order to protect these waters from major impacts completely halting the offshore energy development process should be an accepted possibility, an outcome that must be considered as a reasonable alternative in the NEPA process. The California current has many Floating Offshore Wind proposals that could become **CUMULATIVE stressors that MATTER** to migratory species from the many facilities already proposed. These multiple wind farms are all stressors which should be considered as an accumulation of impacts that could have a serious impact on the coastal upwelling that drives coastal biological productivity. Trying to draw a conclusion without real data from inferences of North Sea monopole wind turbines is a total exploitation of the data that will not translate to the West Coast of the United States offshore floating wind energy complexes. BOEM needs to scale down their expectations of going all out on huge OSW industrial complexes and MUST slow down, go slow, and develop real data based on California Current realities. This takes TIME, it cannot be done by osmosis, a change in tactics is required, before we need to attempt to heal the wounds created from over extension of the HOPE for CHANGE in our nation's energy supply before it is ripe to happen when we do not know what significant HARM could be done long term to the coastal biological support system which relies heavily on strong winds to produce the necessary upwellings to occur that drives all coastal biological productivity.

Strong NW Winds in spring and summer in coastal waters create a strong cascade of biological ecosystem response that increases primary productivity which ricochets up the food chain all the way to our citizens dinner plates. Currently there are not enough FOSW complexes to measure potential real world impacts downstream wake effects from this myriad of potential wind farms, but some computer modelling shows downstream effects for up to 200 kilometers. In Washington, the department of ecology has a **NO NET LOSS OF ECOSYSTEM FUNCTION** which has been infused in state coastal shoreline master programs and will need to be fully integrated into Washington/NOAA CZM Certification and extended out to 200 miles from shore. If Fishing is excluded from the Olympic Wind and Cascadia Wind areas that is a MAJOR loss of ecosystem function and a major stressor not just on the ecosystem but also on could also be catastrophic to Fish Dependent Communities. Any RISK ASSESSMENT analysis must account for "ALL" stressors on the ecosystem including but not limited to just the biological impacts that could be attributed to loss of upwelling which could result in environmental injustice impacts to fisheries at considerable distances from the OSW industrial complex.

BOEM existing "Command Control" PROCESS does not provide any reasonable solutions to displacement of existing uses (lost ACCESS to fish/crab that

sustains coastal Fish Dependent Communities) nor provide any foundation upon which to base such substantial massive decisions to displace existing use except that the only thing BOEM does is “lease ocean to the highest bidder”, consequences be damn even to the detriment of the entire ecosystem.

Collaboration is one of the general requirements of the PR&Gs resulting from the 2007 WRDA bill, which call on Federal agencies to “collaborate fully on water resources related development activities with other affected Federal agencies and with tribal, regional, state, **local, and non-governmental entities**,” which includes county commissioners, fisheries and environmental organizations concerning the effects of any federal action. Analysis must consider both quantitative and qualitative values of the impacts on the environment and ocean uses from BOEM actions. **Coordination must not be simply collaboration but that collaboration MUST lead to real on the ground (ocean) safeguards** that protect and preserve the integrity of affected fishing communities that are currently suffering significantly under the overbearing yoke of the Rafeedie Decision that has removed ACCESS to 50% of the fish and crab on the majority of the Washington coast, the only state in the nation to be saddled with such a judicial loss of ACCESS to fisheries resources that NO other state in the nation is forced to endure. Washington coastal communities face tremendous accumulation of negative effects on fishing that are highly consequential and detrimental to the next generation of fishing families’ ability to partake in the American Dream of future success and wellbeing. Additional industrial DISPLACEMENT could easily be the RUINATION of the local fishing fleet on the SW coast of Washington; best case scenario the fleet barely survives but does not THRIVE and ends up on the low end of the state’s median family income as good fishing JOBS are lost or dramatically tamped down through displacement of large fishing areas necessary to thrive. **SIMPLE Outreach to fishing communities is NOT enough to be acceptable unless it leads to real protections** of the nearby Fish Dependent Communities that leads to preservation and wellbeing of these affected communities. It should be specifically noted that the Washington Coastal Marine Advisory Council spent 6 or 7 years constructing a Coastal Marine Spatial Plan and was unable to locate a place for offshore industrial development to exist without CONFLICT with existing uses. It is hard to imagine that an industrial offshore wind company such as Olympic Wind or Cascadia Wind can ask for a lease in Washington offshore waters without producing analytical documentation that AVOIDS CONFLICT with existing uses when the WCMAC was unable to designate an area of the ocean after years of analysis that avoids conflict with existing use including fishing. USCG vessel traffic maps recently released show a fairly dense traffic pattern and those vessel traffic maps do not include small vessel

traffic not required to maintain VMS or AIS transponders on board. These VMS and AIS communication devices are not required on most vessels under 65 feet in length which constitutes most of the vessel traffic in nearshore waters.



USCG is in the process of authorizing traffic protective fairways that would prohibit fixed structures required of industrial development precipitated by their desire to protect crabber towlanes that have been in existence for over 50 years without any need for federal regulation to maintain a well reasoned sharing of the ocean to the benefit of existing uses of the tow industry and the crab industry. These vessel traffic protection zones will be done in consultation with the existing participants in the two industries with the initial meetings facilitated by Washington Sea Grant that has been the official facilitator of the crabber/towlane agreement for the last 25 years or more. These lane agreements have been largely successful relying on GPS and electronic charting devices on board both tug and fishing vessels with the Oregon Fishermen's Cable Committee providing the mapping of the towlanes in multiple navigation formats that are in common usage by both industries. BOEM has an obligation to respect and provide legal deference to the USCG traffic fairways currently under development.

Federal Consistency determination of any offshore wind energy industrial facility must fully consider the negative effects on affected communities with potential remediation actions to ensure that the affected communities do not SUFFER gross indignities from loss of excessive ACCESS to fish/crab the lifeblood of the communities. Washington ecology's reluctance to CZM Certify the Pacific County SMP is not in accordance with the legislative INTENT of the Washington CMSP

legislation where ORMA - Ocean Resources Management Act - anticipated that the state would include the Pacific Coastal Counties SMPs in the CZM Certification which was arbitrarily removed in the past by Washington ecology/NOAA agreement which may not have had proper public engagement to be removed in the first place. The real question moving forward with the unsolicited lease request of BOEM from Olympic Wind and Cascadia Wind is "How will BOEM accept and respect the UNIQUE Washington Coastal Marine Spatial Planning legislation that puts the needs of Coastal Fish Dependent Communities as a first priority for protection and preservation ahead of industrial development in offshore waters" as exemplified in the Pacific County SMP Ocean Section 6 where the legislature mandated ORMA be incorporated into the SMP which is state law and superior law to agency WACs." Washington ecology produced a Crosswalk document comparing the agency WACs to the Pacific County SMP, here included by reference. The Crosswalk revealed that the Pacific County SMP contains two CRITICAL regulations found in NO other state or federal regulations. 1. Broad Prohibition on fixed structures in the ocean, 2. Prohibition of mound induced wave amplification at dredge disposal sites in excess of 10%. Both of these regulations are safety specific measures to slow the high fatality rate in the coastal fisheries which has been the highest in Dungeness crab of any occupation in the nation at 466/100,000. **Safety MATTERS** and lost ACCESS to fish/crab has increased fatalities on the Washington and Oregon coasts and is well documented. In Washington loss of ACCESS to fisheries has caused multiple fisheries transfers into the Dungeness crab fishery that occurs in a dangerous midwinter fishery where the majority of a year's income comes in a very short amount of time front loaded to the beginning of the crab season where often 50% or more of the fishing occurs in only 13 miles of coast south of Klipsan Beach. Loss of additional ACCESS to multiple fisheries will only decrease the margin of safety already greatly reduced by existing parameters concentrating the fishery beyond any reasonable levels of acceptability before any more loss of fishing area occurs south of Westport to the Columbia River. **Loss of ACCESS to fish/crab has a direct effect on SAFETY and increased marine fatal casualties.**

TYPE AND SCALE OF ANALYSIS required under CEQ PR&G general requirements: after determining applicability, agencies have the discretion to select an appropriate level of analysis that is commensurate to the nature of the water resources investment and sufficient to inform the decision-making process efficiently and effectively. Cumulative impacts on fishing and navigation that currently exist in Washington offshore waters magnify the need for all review agencies to be hypersensitive the existing cumulative impacts existing on the

Washington coast. Agencies can have flexibility in their analyses but MUST be sensitive to coastal people's needs as well by:

- 1) selecting between project - and programmatic-type analysis;
- 2) applying standard analysis, scaled analysis, or exclusion of a water resources investment as appropriate; and – offshore wind projects will **require standard analysis that could lead to the NEPA No Action Alternative** as a viable action due to the massive accumulation of impacts on Washington fishermen from multiple sources;
- 3) developing agency threshold parameters, MUST become mandatory and applicable. Each of these flexibilities is further described below. Elements agencies should consider when determining the appropriate level of analysis include:
 - a. Magnitude and significance of specific problems and opportunities the industrial investment seeks to address;
 - b. Significance and dependence of nearby communities on natural resources within the study area; Remember, Pacific County has been recognized as the 4th most fish dependent community in the nation which places a larger burden on agencies to PROTECT ACCESS to fisheries necessary for coastal socioeconomic survival
 - c. Size of the industrial complex overall especially from an accumulation of interest generated in offshore wind when a call for interest is put out or unsolicited lease requests multiply in specific affected areas already under duress
 - d. Accumulation of multiple industrial complexes over a region
 - e. **Accumulation of total displacement of existing uses from all sources including both area and time restrictions (Rafeedie Decision which is UNIQUE in the nation has massive displacement impacts)**
 - f. Magnitude and significance of expected impacts of the industrial investment;
 - g. Expected investment scale and/or costs to coastal people including but not limited to significantly increased electrical rates (floating offshore wind is the most expensive electricity source in the nation by far);
 - h. Complexity in science, engineering, ecosystems, cultural values, **environmental injustice**, and other resource management effects;

i. Projected service or operational life of the project or facility including finances required for decommissioning the project at the end of its useful life; **Significant upfront Bonding for decommissioning** – no need to allow an LLC simply declare bankruptcy and simply abandon their mess in the ocean where the taxpayer ends up responsible for the decommissioning or worse the mess is just left in the ocean. Decommissioning MUST result in removal of all foreign materials brought to the installation offshore industrial facilities including all anchors, chains, buried cables, etc.. Conversion to “so called” artificial reefs is not an acceptable option when the facility reaches the end of its useful life so that the ocean is left in pre-industrial development conditions. **No trash left behind.**

j. **Stakeholder concerns**, which MUST be resolved to the satisfaction of those potentially displaced – once the last straw is placed on the camel’s back and it breaks it is too late to remediate that “last straw”. In SW Washington that straw pile is already very high and is nearing the “last straw”.

k. Authority under which the investment decision/recommendation is made; **local communities need a complete list of all permits**, timing, and the method by which those affected can participate in the permit process as they become required – Rumor has it that as many as 30 permits need to be added in putting offshore wind steel in the water; the public needs sufficient access to comment on all the permits so that each can be evaluated and addressed as necessary, and required by law.

l. Uncertainty in decision variables and resulting **risk exposure** that will have any negative socioeconomic effect on nearby communities MUST be ascertained upfront before any significant actions like an ocean lease is put into place;

m. Overall cost/benefit ratio and who must pay for the industrial facility and how much as reflected in the ratepayer and taxpayers increased monthly payments that MUST not be overburdening to affected communities, especially those that experience JOB loss due to the displacement of fisheries;

Degree of performance or irreversibility of potential investment decision is a MUST determination that needs to be determined prior to an ocean lease;

n. Nature and extent of tribal trust responsibilities in the area contributing to overall cumulative impacts; **Please note the Quinault Nation sent a letter opposing the Olympic Wind** project due to impacts on the tribal

guaranteed access to 50% of the fish/crab that could enter their U&A for tribal harvest potential;

o. Best scientific information available; or able to be attained needs to be included in any well reasoned analysis of offshore leasing for industrial purposes that displaces existing uses;

p. **TOTALITY of Cumulative effects of, or controversy associated with, any of the above must be ascertained upfront and resolved satisfactorily to the affected communities.**

BOEM still has to develop the appropriate level of THRESHOLDS where impacts to nearby and distant water Fish Dependent Communities lead to the NO ACTION ALTERNATIVE in the process of adopting offshore wind projects where there must be an upper limit to the loss ACCESS to fishing grounds (time and area) that can be applied in any ocean area no matter what advantages present to wind developers like excessive amounts of wind where there may be excessive amounts of fisheries resources that the fishing industry depends upon for their wellbeing. **This is NOT a tradeoff scenario;** fishing is to be protected especially offshore Washington where massive cumulative loss of fishing grounds is already prevalent. Any additional loss of ACCESS to fish/crab on the Washington coast would be **PUNITIVE to fishing and definitely cross any arbitrary THRESHOLD of acceptability** to continued diminishment of ACCESS to fish/crab to a point of being disparaging to fishing and the communities that fishing supports. The Washington crab fishery is already at the level of loss of crab due to the Rafeedie Decision that NOAA has determined is a recognized DISASTER, at 35% loss of ACCESS to crab as defined in the Magnuson/Stevens FCMA.

Recall, after many years of Washington CMSP development, the Washington Coastal Marine Advisory Council could not identify anywhere inside of 700 fathoms in their GLD that OSW could develop without serious CONFLICT with other existing uses including but not limited to fishing. Mapping of Washington potential offshore energy facilities became an exercise in futility when energy areas were arbitrarily put on Washington CMSP maps knowing full well that they could not exist in the areas they were placed but only put there for display purposes only with NO expectation that the mapped areas would be able to be developed. A **pure exercise in futility** that could AVOID CONFLICT as directed by the Washington legislature with 3 different years of expansion of the state Ocean Resources Management Act - ORMA. See relative use map of Washington offshore waters at end of document. When the Washington legislature developed "Coastal" Marine Spatial Planning

legislation starting negotiations as early as 2009/10 there were 243 applications to place ocean energy in the water nationally. Grays Harbor Ocean Energy conceived by Burt Hamner projected so many wave energy buoys be placed in the water between Westport and the Columbia River that the entire Eastern Pacific wave climate would be reduced by 11%; Hamner called this new emerging industrial takeover of the high seas a coastal erosion control program. The Washington legislature sent Hamner packing and opted to protect the existing use lead by preservation of fishing as a 1st priority in the Washington CMSP legislation. Offshore wind was not excluded but OSW was mandated to AVOID CONFLICT with existing use including fishing before it could be permitted in marine waters.

Agencies including BOEM and NOAA can combine their PR&G analysis into their required EIS for projects that they are performing. Project level analyses typically require more detail and focus on a narrower scope and/or scale. On February 10, 2022, the congressional House Transportation Committee sent a letter to the USACE and the CEQ reminding them of their congressional PR&Gs responsibilities that applies to all water development projects and what the original intent of congress was when they mandated the update of the Corps 1983 P&Gs in 2007 reaffirming the vast majority of the primary points in this document. House Transportation Committee letter attached near the end of this document in FULL support of the CRCFA/CCF document assertions that BOEM/NOAA has a lot of analysis and protections for Fish Dependent Communities to add to the new emerging federal water industrial projects offshore and particularly offshore Washington state that must be incorporated into offshore analysis that USACE permits will require due to the insistent and continual modifications to the Water Resources Development Act's mandates to place a growing list of federal mandates to better **protect and preserve locally affected communities** from federal actions that could cause them HARM primarily due to displacement. Recent WRDA bills beyond 2007 include but not limited to 2014, 2016, 2018, and 2020 have additional mandates for incorporation into ALL federal agency PR&Gs across federal agencies that should not take 15 years to implement. This letter reminding all agencies of their need to incorporate WRDA requirements into their PR&G actions could not have been better timed to support CCF/CRCFA document today. Agency actions that OMIT their congressionally mandated responsibilities to PR&Gs for water development projects are illegitimate such as those that BOEM neglects in establishment of offshore wind projects that neglect local impacts as well associated with their offshore lease process which is in dire need of significant modification.

https://transportation.house.gov/imo/media/doc/2022-02-10%20PAD%20GN%20CG%20LTR%20to%20CEQ%20&%20Corps%20on%20Implementing%20PR&G_FINAL.pdf

In addition, <https://crsreports.congress.gov/product/pdf/IF/IF10221> the Congressional Research Service has compared the original P&R to the modernized PR&Gs that still need attention. Agencies PR&G are supposed to reflect how Congress INTENDS agencies to develop and evaluate federal water resource projects. Congress in the Water Resources Development Act of 2007 (WRDA 2007; P.L. 110-114) directed an update of the 1983 P&G for use by the Army Corps of Engineers (Corps). WRDA 2007 required that the update address advancements in economic and analytic techniques; **public safety; low-income communities**; nonstructural solutions; and integrated, adaptive, and watershed (regional) approaches that resulted in publication of final CEQ Interagency PR&G Guidelines in 2014. These updated PR&Gs provided far greater attention to local priorities which BOEM is now neglecting by their recent comments stating all BOEM does is provide a place for OSW to develop projects – this neglect of local priorities is out of bounce with the INTENT of congress to protect nearby communities from HARM when designating WEAs which lead to ocean offshore energy leases. Congress intended the updated PR&Gs to apply to the dilution of the selection of alternatives with less focus on economic development and infrastructure investment to also include prominently local socioeconomic effects associated with water development projects and to minimize HARM to local communities from federally associated water born projects where OSW is not a foreordained conclusion. This was a major change for projects from strictly in the National Interest to specifically include effects that also benefit the local communities as well, not just the overall National Interest that is all too often a NEBULOUS concept when local communities are HARMED. This was a MAJOR shift in congressional INTENT that some agencies still have difficulty including in their slanted analysis relative to water development projects, such as the NOAA refusal to CZM Certify the Pacific County SMP using nebulous “national interest and discrimination to OSW” which Washington ecology mandated a change in the SMP to specifically change the wording in the SMP regulations to broaden the language so as to AVOID discrimination against OSW specifically which the SMP was rewritten to avoid. NOAA has glossed over the major change in the county SMP that was broadened significantly to avoid specific discrimination against offshore wind.

This is readily apparent in the NOAA “quick’ unsubstantiated assertion that the Pacific County SMP is not a state regulatory scheme that should be included

for CZM Certification even though in the past the SMP had been Certified. NOAA did not present any valid arguments or legal standing to why the Pacific County SMP as to why full consistency is prohibited by existing law or provide any documentation to support a maximum extent practicable argument. Therefore, there is no basis to conclude that existing law applicable to the federal agency prohibits full consistency of the county SMP from moving forward for full consistency in the Washington/NOAA federal consistency document. Since NOAA has raised NO significant issues or valid legal objection with citations attached, Washington ecology should be able to successfully request and put into effect in the NOAA/Washington CZM Certification all of the county SMP once again and the SMP must become a guidance document attached to any offshore industrialization that requires a fixed structure in the ocean beyond 3 miles from shore that then becomes prohibited in the fairly small area offshore SW Washington offshore of Pacific County out to 200 miles.

BOEM has a right of appeal for any denied consistency determination Pursuant to subsection (a)(1) quoted in the prior section and Subpart H of the federal consistency regulations, within 30 days from receipt of notice of a Commission conditional concurrence to which BOEM does not agree, BOEM may request that the Secretary of Commerce override this objection. 15 CFR §§ 930.4(a)(1) & 930.125(a). In order to grant an override request, the Secretary must find that the proposed activity for which BOEM submitted a consistency certification is consistent with the objectives or purposes of the Coastal Zone Management Act or is necessary in the interest of national security. A copy of the request and supporting information must be sent to the Washington ecology and the U.S. Army Corps of Engineers who also has a responsibility to comply with the WRDA 2007, 2014, 2016, 2018, and 2020 WRDA directives of congress which in recent years has included Environmental Justice consideration for water developmental projects. These pertinent WRDA bills since 2007 are included by reference as well.

In the WRDA 2016 and 2020 congress readjusted their expectations for the implementation of the updated PR&Gs to specifically include environmental justice concerns into water development projects including the USACE permits necessary for OSW developments. Any analysis associated with federally authorized projects over \$100 million are to get full analysis and local impacts are to be minimized and mitigated if there is a valid reason that AVOIDANCE which is the 1st option cannot occur. **Mitigation is NOT a substitute for AVOIDANCE of adverse effects on communities.** Localized Social impacts from offshore industrial development particularly

those impacting tribal and or low-income, or other disadvantaged communities MUST be AVOIDED such as those found in SW Washington. It MUST be duly noted that there is NO margin for any tradeoffs that could negatively affect coastal fishing in Washington that has been thoroughly marginalized by the effects of the Rafeedie Decision, a marginalization that NO other state in the nation has to bear which has already crossed any reasonable THRESHOLD of acceptability found anywhere in the nation with the loss of 50% of ACCESS to all fish/crab on the majority of the coast. The Rafeedie loss of coastal fishing income for state citizens is totally excessive without additional lost ACCESS to fisheries resources now or any time in the future. **THRESHOLDS MATTER!** Protective Thresholds for coastal Fish Dependent Communities must be installed before ocean OSW leases are put into effect.

Agencies should integrate, to the extent possible, their PR&G analysis into existing planning processes, in a more extensive manner than the NEPA process and land management planning are integrated into larger planning processes. Agencies could integrate the PR&G and NEPA analyses by producing an analytical document that reflects both analytic processes, if that is the most efficient method for fulfilling NEPA and the required PR&Gs ordered by congress. Agencies should rely on the same information when performing their PR&G and NEPA analyses, as appropriate. If an agency eliminates the PR&Gs from an alternative from further study, they MUST fully explain why it is doing so in its NEPA documentation and how their substitute process still facilitates the full implementation and the full INTENT of congress as if the PR&Gs had been fully employed in the process.

Governments at all levels have limited financial resources. However, such financial limits cannot be used to unnecessarily constrain the development PR&Gs into NEPA documents for a reasonable range of alternatives including the NO Action Alternative, especially when the CZM criteria is applied to any offshore project. It is the INTENT of congress for agencies to develop a portfolio of potential alternatives that the Federal government or others can implement, which can provide the greatest overall value to the taxpayer and the Nation's economy, ecosystems, and the nearby communities including the coastal electrical ratepayer who ALL have a right to know the costs to the people affected by excess price for the power provided by offshore wind before they become responsible for paying for OSW facilities they do not want or need to pay for. The communities have recently been included in congressional actions so that the "National Interest" does NOT suppress affected communities where projects have adverse effects on those communities. Those ecosystem services and

effects on communities that cannot be acceptably quantified must be qualitatively described in sufficient detail so that the decision maker can understand the importance and magnitude of the changes and how those changes have an effect on the nearby communities' viability and stability. Such issues should pertain to the increase in coastal fishing fatality rates from additional loss of access to large areas of fish/crab that drives the fishing economics into the ground so that the "Fish or Go Hungry INSANITY" is not triggered leading to increased marine casualties. The overall analysis associated with deleterious impacts such as increased fatality rate is real and Dungeness crab has had the highest fatality rate of any occupation in the nation in the NW states of Washington and Oregon due to the negative effects associated with the loss of ACCESS to fish/crab resulting from the Rafeedie Decision. Whatever analytical technique is used, reports should indicate, which qualitative services are most important and why – overlooking the strong potential increase in fatalities is not an acceptable oversight for agencies to not put into proper perspective related to loss of ACCESS to fish/crab anywhere on the coast where these fatalities have occurred over time. These fishing fatalities are closely related to lost ACCESS for fisheries resources, and it is reasonably foreseeable that additional loss of ACCESS will lead to additional fatalities based on the existing "Fish or Go Hungry INSANITY" currently injected into the dangerous midwinter crab fishery that is ominously threatening the fishing fleet each and every season where crab fishermen are forced out of economic necessity to fish tougher weather each and every year as the modern fleet continues to be more aggressive each year just to survive financially. Landlocked agency personnel may not understand this treacherous phenomenon but when one considers that a year's income is caught or lost in as little as 30 days in a storm ridden coastal fishery the pressure to fish tougher weather every winter is unbelievable. Fishing Fatality increases MUST be prominent in the calculus of approving or denying a potential OSW site that is oversized or ill placed in fishing grounds. The Morrow Bay WEA is definitely oversized for any OSW development in SW Washington where fishing area and time is currently compressed more than any place else in the nation with only 38 miles of coast to fish unimpeded. PRESSURE, PRESSURE, PRESSURE on the fishing fleet is currently unbelievable and DEADLY without any additional loss of access to fish. Fact is any WEA will add to the fatality connected with any additional loss of ACCESS to fish/crab where all the fisheries are interconnected and all loss in any fishery leads directly to more pressure in the crab fishery fatality rate.

When OSW facilities can only produce energy at rates approaching excessive amounts such that the cost per kW is excessive (offshore WA @ >\$0.75 - \$0.85/kw) approval of this high priced energy should be looked at with an

extremely jaundiced eye with subpar national benefit that is an extreme expensive price for any citizen to pay for the OSW energy for any modest reduction in carbon on a worldwide scale that would be immeasurable. If any project triggers either an Environmental Impact Statement (EIS) or Environmental Assessment (EA) pursuant to NEPA, then the impacts are significant enough that the investment meets the threshold for a PR&G analysis as well that includes analysis associated with increased fatalities. As stated in the CEQ General Principles, Requirements, and Guidelines Federal agencies should collaborate fully on water resources related activities with other affected Federal agencies and with tribal, regional, state, local, and non-governmental entities, as well as community groups, academia, Fisheries, and other stakeholders such as those most affected in the development of OSW to realize most comprehensive problem resolution and better informed decision making that is required to **protect coastal communities from HARM**. In consideration of this HARM prevention procedures agencies MUST examine the project in question in the bright light of Environmental Justice especially for the low income, high unemployment communities affected like in SW Washington. Eliminating the public and fishing interests from sitting on the BOEM/State Taskforce is NOT appropriate or in accordance with the INTENT of congress to stop the depletion of fish and fishermen on the coast when congress extended jurisdiction of the EEZ out to 200 miles from shore.

CRCFA/CCF has not seen any specific Project-level procedural deliverables that even begin with a clear definition of the water resources (wind developments) and economic challenge(s), including a statement of the problems and/or opportunities to be addressed, the cause or causes of any the problem(s), any constraints related to them, and their relationship to the missions, statutory authorities, and other specific statutory or regulatory requirements of the agency or agencies, states, or local communities involved. Clearly problems, needs, opportunities, and constraints need far better descriptions to better position agencies to determine whether there is a reasonably foreseeable federal solution in light of the goals identified in the PR&Gs as applied to any EIS, EA, or even a policy laid out at any BOEM meeting held that CRCFA/CCF has attended in the last several months associated with OSW facilities potentially developed on the entire west coast. The CEQ directives associated with the new update of the PR&Gs are hereby included by reference which needs to be fully encapsulated in any BOEM lease process moving forward. Past BOEM precedent is insufficient to continue and needs a major overhaul that has been called for at every recent BOEM process from central California northward by multiple affected public members in multiple venues provided. One of the most robust public comment opportunities was recently provided by the Oregon

Coastal Caucus that held 6 open public meetings from Brookings to Astoria where 700 people attended and provided excellent comments, all of which pointed to SLOW DOWN, BOEM is going too fast, and BOEM actions are not supported by the facts on the grounds. Almost all the commenters demanded fisheries be protected from displacement and if OSW was to exist at all moving OSW outside of 1300 meters should be a first priority to provide fisheries protection.

BASELINE Ocean CONDITIONS Must be established over a period of years before any offshore industrial development projects begin that can account for interannual ecosystem variability so that the ocean can be returned to baseline conditions and existing condition levels of ecosystems services that are acceptable to fishing conditions when any industrial project is decommissioned. Key fisheries resources and services must be analyzed and determined by including and recognizing local and traditional natural knowledge; taking stock of the quantity and quality of current and potential environmental, economic, and social resources and services found in the **study area and beyond the project footprint** that includes areas to which OSW displaced fishermen affect other areas when their fishing effort is shifted elsewhere which could be a considerable distance from where they were displaced. Resource inventories should focus not only on the fisheries targeted water resources area, but also on all the interconnected ecosystem support that may be affected by a change in ACCESS to the targeted water resources. These fisheries resource inventories also should provide an opportunity to identify potential alternatives that may be better placement of OSW facilities that has less impact on resources and coastal uses including but not limited to fishing.

Long before an EIS is developed for OSW lease the fact that many small entities will be pushed off the ocean wherever an OSW energy facility is placed by BOEM must evaluate those impacts under consideration by the **Regulatory Flexibility Act** that congress passed to ensure "Fair Treatment" of small business owners from HARM caused by federal lease actions. The Small Business Administration has commented on the potential to harm many small businesses due to OSW leasing of the ocean. **The RFA compliance analysis MUST be done before any OSW lease is issued** and as an ongoing analysis throughout the process of initiating an OSW facility in operation. In order to supplement information vital to addressing potential adverse impacts to Fish Dependent Communities the Small Business Administration sent a request to the Department of Energy to produce a comprehensive study on the impacts to small businesses including but not limited to fishing. These studies should be done to ascertain a

socioeconomic baseline before additional OSW leases are carried out. The small businesses also include the ones that fishing also supports throughout time.

<https://cdn.advocacy.sba.gov/wp-content/uploads/2022/03/11123550/Comment-Letter-DOE-Wind-Energy-2022.pdf>

<https://cdn.advocacy.sba.gov/wp-content/uploads/2022/03/11123548/Fact-Sheet-DOE-Wind-Energy-2022.pdf>

Without an economic baseline to compare direct, indirect, and cumulative impacts on fishing from a variety of effects from multiple sources to determine the extent of OSW impacts that could be difficult to determine “after the fact” of installation of OSW facilities that displace fishing over hundreds of square miles of fishing grounds. These series of studies should be on a basis in size that included all the BOEM/state taskforces including members of the public and the fishing industry, currently and which may be put together anytime in the reasonably foreseeable future like that may occur off the coast of Washington which will be a special case where Cumulative Impacts are significant led by the impacts of lost ACCESS to fish/crab due to the Rafeedie Decision that has had a very substantial ADVERSE impact on the Washington coast fishing industry.

The Washington taskforce must include members of the public and fishing industry as direct members of the group. BOEM MUST not apply the special “exemption” from FACA that they have applied over the rest of the nation. It is vital that BOEM hear directly from those affected by an accumulation of DISPLACEMENTS from fishing grounds that have occurred over the last few decades that have squeezed the Washington fishing sectors significantly over time through displacement of time and area across the state including fishing losses in Puget Sound that contribute to more fishing effort shift to the coast of Washington.

BOEM MUST produce an Environmental Impact Statement to Identify NO CONFLICT Wind Energy Areas (WEAs) on the Coasts of the United States with **UNIQUE emphasis** offshore Washington state where it will be very difficult if not impossible to locate offshore industrial facilities without adverse impact of major CONFLICT and displacement to fishing due to existing excessive CUMULATIVE impacts and significant fishing effort shift that is already occurring. The BOEM offshore lease process needs to be done in such a manner that industrial expansion of offshore wind effects in marine waters are carried out in a manner that **AVOIDS CONFLICT** with existing uses including but not limited to fishing so that those living, working, and raising families in coastal Fish Dependent Communities are not PUNISHED. Fishing is dying a slow agonizing death from 1000 “BALANCED” cuts. **Historical precious RIGHTS of FREEDOM of**

fishing and navigation must be safeguarded without more substantial disruption. To protect historical FREEDOMS, the BOEM lease process MUST put an **immediate stop to the misguided unsolicited leasing** of public ocean waters which has a strong potential to HARM nearby and distant water Fish Dependent Communities across the nation unabated by the non-existence of any reasonable cumulative impacts. BOEM must correct their lack of transparency and establish clear and **concise metrics that define AVOIDANCE MEASURED THRESHOLDS** that protect and prevent the depletion of our national fishing industry by overzealous offshore industrial developers that have **minimal regard for the success or survival** of existing uses including but not limited to fishing that provide vital food services to our nation and help sustain our national food security which is under duress from the current US Department of Energy's aggressive policies that are raising the price of fossil fuels long before the public can adjust to significant increases in Petro fuels that drive our entire economy in this nation. Our world's population has grown from less than 2 billion people to nearly 8 billion in a single lifetime and could easily reach 10 billion people prior to reaching the Department of Energy goal of 110,000 MG offshore wind by 2050 which **requires forward looking analysis** of CUMULATIVE IMPACTs on Fish Dependent Communities. **FOOD not energy will be the most important commodity of the future** as the earth's population continues to expand. Putin's war in Ukraine is about securing that critical future food supply as the eastern portion of Ukraine is flat farmable land. Ukraine is one of the major wheat producers in the world. Access to fish/crab will become increasing important, not just to our nation's fishing fleets but to all mankind. The current Russian invasion of Ukraine will have a more than significant impact on the world's food supply and losing ACCESS to our fisheries resources over hundreds/thousands of miles on our offshore waters will only aggravate world hunger especially in years to come as the Ukrainian infrastructure is demolished. Food production worldwide will also require significant oil production to ensure food is reasonably foreseeable **at a price all people can afford to purchase.** Necessary OSW Electric gains in the NW are still many many years off and MUST continue to AVOID areas of fishing. Repurposing energy to food production is NOT something that will be easy to make happen anytime in the near future that is reasonably foreseeable. Tractors and fishing boats run on diesel and conversion to electricity is improbable in fishing boats that lose weight as fuel is burnt throughout a fishing trip and the weight that must be floated is replaced with fish/crab for our citizen's consumption. As batteries power is used up, the weight is not reduced and necessary to accommodate for fishing vessels to carry tons and tons of fisheries products to market. Batteries will never be able to accommodate this weight loss to allow

for poundage of fish to be added to the vessel holds. Solving this dilemma will not be an any fix. Utilizing explosive hydrogen will be a safety problem on vessels that will be a real SAFETY PROBLEM compared to diesel that is fairly inert and very difficult to ignite as stored on fishing vessels. SAFETY MATTERS at sea where there is often NO second chance when an accident occurs. Diesel is an efficient, SAFE energy transfer medium that will be very difficult to replace for sea going vessels and for that matter military vehicles that will become major explosive harbors if hydrogen is attempted as an energy transfer medium. Maintaining a continuous and reasonably priced fossil fuel source has no replacement anytime soon in the reasonably foreseeable future.

CCF/CRCFA is dismayed by the opaque BOEM process where the public and greatly affected fishing industry are blocked from participating in the BOEM/state taskforce process. In states where a taskforce has been initiated in a BROKEN process similar to Oregon inland bureaucrats are overly reliant on BOEM dispensing FACTUAL information in order to make justifiable decisions, a process that MUST be improved. When BOGUS fish harvest maps are displayed as the gospel but 90% of the fish harvest production is omitted the maps for ocean energy placement are distorted and erroneous results that could displace a major portion of the fishing industry such as the huge call areas in southern Oregon can be advanced at the expense of nearby and distant water Fish Dependent Communities. This is but one example of misuse of bureaucratic power where there is NO attempt to address the needs of coastal people and is an abuse of regulatory overreach used to suppress coastal Fish Dependent People's need for ACCESS to fish/crab. This regulatory overreach threatens the very lifeblood of the coast. Coastal seafaring people do not deserve to be overtly punished by overly aggressively sized call areas or WEAs without even a test run of floating offshore wind to even begin to understand the substantial adverse impacts to the ecosystem or significant nexus to the people that depend on marine ecosystems for their economic wellbeing. BOEM needs to anticipate the HARM that they will inflict on people and finally grasp the INTENT of both congress and some legislatures to protect and preserve fishing for current and future generations. The BOEM process MUST be required to be reined in to preserve the RIGHT of FREEDOM of the seas for fishing and navigation as INTENDED. **AVOIDANCE of historical uses** of the ocean MUST be the first action of any BOEM lease process. Lack of any meaningful standards or guidelines with well established Maximum THRESHOLDS of cumulative adverse impacts in local areas making coastal people FEAR for their JOBS from BOEM misplaced activities. BIG PICTURE - Why should coastal people be forced to live in FEAR of JOB loss? Agencies exist to make people's lives better so that they can THRIVE and to protect their SAFETY, not dismantle their way of life destroying

their historical uses and FREEDOMS and having all the citizens battered by sky high electrical rates solicited from Troubled Waters when displaced people have NO where else to go except out of business once pushed off the ocean by every massive new WEA established. At the end of the day floating offshore wind must produce some reasonable GAINS not just excessive PAIN for the people of the coast. **U.S. energy policy must be more than a horrible impoverishment of all our people.** Speaking of adaptive management measures is an exercise in futility as any measures adopted will not curtail adverse impacts as the offshore wind project will already be constructed and damages done which will not be REMEDIATED and the socioeconomic impacts already in place strafing the lives of the people impacted victimizing and preying on those less fortunate.

BOEM needs to be REFORMED before they DEFORM our coasts.

Congress did NOT intend for BOEM to have limitless jurisdiction over every square inch of the EEZ when OCSLA was created which was reflected in the opening congressional policy statement.

The existing BOEM ocean lease process is BROKEN needing immediate repair before excess damage is done to coastal communities. CCF/CRCFA has serious concern about a misguided lack of open public participation as equal partners in any BOEM/state taskforce where our **fishing industry will be the biggest loser on the coast due to displacement.** The public at the decision table MUST become a reality instead of minimalist participation after the administrative record is officially closed before the public and members of the fishing industry are able to “unofficially” vent about grave matters affecting their livelihoods with diminished/denied ACCESS to fisheries resources over very large new emerging industrial lease areas. Our advice is similar to many other comments BOEM has already received - **GO SLOW** and incrementally advance to be able to remediate adverse impacts instead of wholesale onslaught displacement of 100’s or even 1000’s of square miles of ocean from a single unsolicited lease request that occurred offshore Morrow Bay where the fishing community lost up to 400 square miles in just one WEA. The fishing industry is dismayed at the display of an unprecedented lack of concern and callousness for the wellbeing of nearby communities which are being trampled by indifference to ~~unintended~~ INTENDED (?) consequences of industrial impacts on our shoreside water dependent communities as industrial leases result in **unresolved conflicts** caused by displacement by new emerging unproven industrial offshore wind facilities injected into the midst of existing ocean use. The recent PFMC ad hoc/BOEM meeting on 4 March 2022 left the fishing industry flabbergasted at extreme bias of the significantly expansive “2200 miles of call areas” in southern Oregon which definitively put offshore industrial expansion head and shoulders above

the needs of the nearby and distance water coastal communities. UNFATHOMABLE disregard for nearby coastal communities shown in the BOEM process in southern Oregon. The state of Oregon suggested an aggressive 3000 MG of ocean energy for the entire state of Oregon and received over 7 times the area required in just southern Oregon – USURY as BOEM left the door open for considerable future expansion over and above the 3 GW contemplated by the state which could give up significant fishing grounds with electricity sent to south central California where JOBS are lost in Oregon with no reasonable benefit at all as fishing is sacrificed unnecessarily for a growing population base hundreds of miles to the south. **BOEM must SLOW DOWN** as this new emerging high priced industrial expansion is an existential threat with minimal deference to consequences to the ACCESS to coastal resources that built the coastal ports. Even if BOEM eventually cuts the southern Oregon “call areas” by 50% the loss of ACCESS to the fisheries resources will be highly significant and an irresponsible loss to the coast rural people’s ability to THRIVE by placing an artificial cap on moving these industrial energy farms outside of 1300 meters. Reprehensible. BOEM is acting like an ocean czar that has NO concern for the coastal people’s needs and not in accord with the congressional or legislative intent of multiple states, not just Washington. Once again agencies MUST be reminded of the INTENT of congress encompassed by the recent 2022 US House of Representatives Transportation Committee letter to the USACE and CEQ to pay far more specific attention to impacts to local communities when approval of water development projects occur. As recent as 22 June 2022 BOEM director Lefton received letters from a bipartisan group of NW legislators expressing their significant concerns over the recent flurry of WEAs coming online in primary fishing grounds that will likely have environmental and economic effects including cumulative impacts on fishing. Our NW legislators understand that once steel goes in the water it is too late to AVOID CONFLICT and it is an oxymoron to initiate adaptive management after damage is done to nearby Fish Dependent Communities, that is why they are calling for a programmatic EIS for the totality of impact on the entire west coast to avert economic disaster for the coastal communities. These concerned legislators are also very concerned about the BROKEN BOEM taskforce process that has NO stakeholder input during the taskforce meetings and is calling for a CHANGE in taskforce membership to include those most affected where SAFETY and basic economic security of our nation’s fishing industry is protected.

Programmatic EIS needs to be done before BOEM makes any lease agreements. People need to be officially a large part of the decisionmaking process long before OSW areas are leased. Some coastal areas are currently compromised by huge **No Fishing No Income Zones** like those found offshore Washington

due to Rafeedie; compromised to the point that there may be NO reasonably foreseeable additional impact allowable without major adverse impacts to coastal communities which the congress sought to AVOID. These legislators also entertained the idea that the NO Action Alternative may be the best course of action when INFORMED choices are made when the whole planning system is put into consideration when clarity of unanswered questions on this nascent technology are considered including impacts on shoreside communities are fully addressed. These letters should serve as a notice that BOEM responsibilities extend to AVOID and MINIMIZE impacts on the fishing industry from initiation of OSW.

Washington fishing fleet is UNIQUE as the only state in the nation required to share all fish/crab 50/50 as mandated in the federal Rafeedie Decision, large national marine sanctuary, and large military practice zones that eliminates more than 70% of the coast for placement of WEAs and causes considerable prospect for new emerging industrial siting **CONFLICT that must be AVOIDED!** AVOIDANCE of significant effects is difficult if not impossible in offshore SW Washington waters where most of the fishing occurs in just 38 miles of coast as a result of existing effort shift south out of tribal fishing areas due federal court enforce Rafeedie Decision to uphold tribal treaty rights. This UNIQUE Washington situation needs to temper expectations of what reality can actually be accomplished that **AVOIDS Conflict** with existing uses including fishing and keeping coastal social costs to a minimum where the potential to tear the very social fabric to tatters exists as **additional cumulative impacts** will further suppress ACCESS to fish/crab. All adverse impacts MUST be AVOIDED and even minimized impacts MUST be successfully and fully **remediated** to prevent further denigration of both current and future generations of seafaring coastal people.

CCF/CRCFA appreciates BOEM's consideration of this letter and would like to arrange a meeting with BOEM in the coming weeks to discuss the effects of a Washington WEA further that avoids Conflict with existing uses. This meeting should be far more than a BOEM presentation of what the coastal people can expect, but how BOEM will make adjustments to their process to better protect and prevent the depletion of ACCESS to fish and depletion of fishermen as intended by congress when the EEZ was formed to prevent the depletion of both fish and fishermen. This initial meeting must be timed to avoid major fishing times so that more fishermen can attend without missing valuable fishing season. Late spring or fall are the best times to schedule meeting where fishing can attend without loss of invaluable fishing time. The flurry of public comment periods in the summer of 2022 was unprecedented and prevented on

the water fishermen from commenting due to timing of the comment periods. Fishing representative comments should be given considerable weight in the decision process due to the inability of the fishing community to attend and be counted in the multiple processes in the summer of 2022.

Coalition of Coastal Fisheries and Columbia River Crab Fishermen's Association submit this letter regarding the Bureau of Ocean Energy Management's ("BOEM") and Department of Interior's ("DOI") current and future actions that BOEM intends to conduct offshore wind lease sales on the Pacific Coast of the United States. Washington legislative action SB 6263 mandated that "a representative from a federal agency with lead responsibility for marine spatial planning must be invited to serve as a liaison to the WCMAC team to help ensure consistency with federal actions and policy." To fulfill that Washington legislative mandate BOEM should appoint that liaison to the Washington Coastal Marine Advisory Council to act as a coordinator on offshore Washington planning of an action agenda to address new emerging industrial uses of the marine waters to explore the benefits of joint plans that **includes marine resource committees and marine water stakeholders (this includes members of the fishing industry)** as intended by the Washington legislature when additions to ORMA (Ocean Resource Management ACT) was adopted. **Washington RCW 43.372.040** shall guide the planning process. This **planning process SHALL preserve and enhance public access to offshore coastal marine waters and SHALL foster active public participation in decisionmaking and significant involvement of communities adjacent to state marine waters** amongst other important directives of the Washington legislature including but not limited to areas with particularly high value for fishing and appropriate locations with high potential for renewable energy production with **MINIMAL potential for CONFLICTS** with other existing uses or sensitive environments. The implementation strategy describing how the plan's management measures and other provisions will be considered and implemented through existing state and LOCAL authorities which includes the Pacific and Grays Harbor Shoreline Master Programs. SB 6350 Section 6 Any provision of the marine management plan that does not have as its primary purpose to management of commercial or recreational fishing but that has an impact on fishing **MUST MINIMIZE the negative impacts on the fishing.** The Washington Coastal Marine Spatial Plan does not create any authority to supersede any state agency or **local government authority**. As a matter of need, currently there is NO or reasonably foreseeable energy shortage in Washington state which Must achieve a unified state position on matters involving the siting and operation of renewable energy facilities in the state's coastal marine waters. Offshore wind is not needed in Washington. FACT a full 47% if the Wind energy produced in the Columbia Gorge was shipped to California, the rest was used to sideline cheap hydropower insinuating that even the wind power developed in the state was additional to the existing power needs of the state. In addition, once the Columbia Gorge wind industry became well-developed hydropower was virtually sidetracked. In the early fall when Bonneville Dam was visited it was putting out less than 10% of its capacity due to the power duplication of upriver plateau wind

production wasting of additional carbon free power available in the NW. Fact, there are at least two Columbia River dams that have open turbine bays that could be utilized to produce even more reliable cheap 24/7/365 baseload power not available from offshore wind. The Washington Coastal Marine Spatial Plan should incorporate existing adaptive management strategies underway by **local**, state, and federal entities consistent with state law; Pacific County SMP is state law that address developments in the state's offshore marine waters that must be fully implemented and CZM Certified which is currently being mistreated by agencies.

The WCMAC is mandated by the Washington State legislature to serve as a point of contact and a forum for communications to seek consistency across all policies regarding coastal water issues **including principles and standards required for emerging new coastal uses which are in much need of basic upgrading.**

Our fishing organizations are deeply committed to policy, science, and sustainable coastal economics based efforts to address reasonable climate change measures and support some of the Biden Administration's efforts to advance clean energy **alternatives if responsible offshore wind development can avoid, minimize, and remediate adverse impacts to nearby Fish Dependent Communities, not just those vessels displaced because their displacement will have an effect on a lot of other fishing vessels and other small businesses that will be associated with long term loss of ACCESS to ample harvestable fish in the offshore wind areas, especially as large as 700 square miles as proposed.** Responsible offshore wind development also must include power generation at a price that all shoreside citizens can afford to pay without draining their monthly paycheck. We strongly urge BOEM to conduct an environmental impact statement ("EIS") pursuant to the National Environmental Policy Act ("NEPA") that fully incorporates all affected agencies PR&Gs (Principles, Regulations, and Guidelines) at the onset of offshore wind planning to identify if wind energy areas ("WEAs") can be implemented in a manner that can preemptively protect and preserve our coastal fisheries and other existing uses as clarified in the Grays Harbor oil terminal case which clarified the extensive reach of ORMA in a 9 – 0 Unanimous Supreme Court decision which cannot and must not be ceremoniously dismissed. Coastal citizens need protection for overly expensive power as well that must be included in any EIS relative to thorough analysis of any offshore wind development. The Supreme Court unanimous decision related to ORMA is a shot across the bow of any future offshore development that will not preemptively protect fishing.

CCF/CRCFA has decades of experience in protecting Pacific Ocean waters, State by state Coastal Marine Spatial Planning, data collection and display, and the many lessons learned during the development and on-going permitting of

various USACE projects on the Pacific Coast, we urge BOEM to conduct an EIS that fully analyzes the Pacific Coasts outstanding ecological significance and importance, including to the local fishing industry and coastal economy that fishing has supported for decades. Our basic tenant is, **"DO NO HARM!"** Coastal Fish Dependent Communities that will receive the HARMFUL social costs of OSW must also come under the **"Justice 40 Goal"** of the Biden Administration where 40% of the benefits of OSW must go to underserved coastal low income communities, not just all of the PAIN of lost ACCESS to fish/crab from OSW displacement. This issue must not be foregone in this federal decisionmaking process that must address this coastal wealth disparity in local area equity specific social impacts levied from addressing the cost of mitigating carbon where government greenlights all of government push to address perceived climate change that is a global issue not a local issue for curing the copious quantities of CO₂ that is a necessary ingredient to our very survival as a people. The **BIG PICTURE of climate change** is that climate change has been ongoing for the last 19,000 years when the north American ice sheet pushed as far south as Portland, Oregon before contracting which it is still ongoing today. The ice sheet contraction that has raised sea level over 400 feet is still causing a rising sea. Warming climate change began long before the recent industrial revolution of the 1800's and is still continuing today. Much larger inter-galactic processes are at play that dwarf recent decades of manmade carbon production. A few offshore windmills will have an immeasurable impact on global climate change. Lots of rhetoric that may sound good to those that really do not have a basis for believing the hype may buy into that good sounding rhetoric but cannot substantiate it beyond hyperbole. Just a note – April 2022 was the coldest month on record in the last 128 years of weather record in the NW keeping in some areas of the US strongly indicating that the global warming is not a straight line upward that climate alarmist are continually touting. This document is not claiming global warming is not occurring, it is. We are however claiming that actions taken to reduce our carbon emissions must also **leave NO citizen behind** in our nation's quest to reduce our national carbon footprint. Adverse impacts from offshore wind on nearby communities should fall squarely under the Biden "Justice 40 Goal" where the nearby community receiving adverse impacts from the development of offshore wind receive 40% of the benefits from the new emerging industrial project from the gross kW output of any project until the project is completely decommissioned.

Washington is also UNIQUE in the nation as the only state to initiate Coastal Marine Spatial Planning to preemptively protect and preserve fishing and allows offshore wind that does not conflict with fishing and only applied ORMA (Ocean Resources Management Act) to the four Pacific coastal counties. All other states

that have initiated CMSP have done so to install ocean energy in offshore waters including our neighbor to the south, Oregon. Washington has been charting a course to the future for quite some time, that course has always first and foremost been laser focused on protection of fisheries.

Washington Coastal Marine Spatial Plan created **Fisheries Protective Standards** for inclusion in the Washington/NOAA CZM certification program for implementation to ensure the future viability of Washington coastal Fish Dependent Communities.

Fisheries Protections

The CMSP also establishes fisheries protection standards to ensure offshore development does not have long-term, significant adverse effects to fisheries and that all reasonable steps are taken to avoid and minimize adverse social and economic impacts to fishing (see Section 4.6.4 of the Washington MSP Management Framework).

The fisheries protection standards also provide a definition for adverse effects to fisheries. Adverse effects can be direct, indirect or cumulative. Adverse effects for commercial or recreational fisheries are defined as any of the following:

i. A significant reduction in the access of commercial or recreational fisheries to the resource used by any fishery or a fishing community(s).
[Hundreds of square miles of displaced fishing is definitely SIGNIFICANT!]

ii. A significant increase in the risk to entangle fishing gear.

iii. A significant reduction in navigation safety for commercial and recreational fisheries. [Loss of ACCESS to fish/crab in the past has contributed to the highest fatality rate of any occupation in the nation, and additional loss of ACCESS will only contribute more pressure to contribute to additional marine casualties]

iv. Environmental harm that significantly reduces quality or quantity of marine resources available for harvest. [Displacement reduces existing use, fishing]

In addition to consulting with affected fisheries, the protection standard also identifies the following specific considerations that new offshore developments must meet:

- Avoid adverse social and economic impacts to fishing through proposed project location, design, construction, and operation, such as avoiding

fishing areas. [Where adverse impacts to fishing cannot be reasonably avoided, demonstrate how project has MINIMAL impacts to fishing where MINIMAL impacts are defined as next to nothing.]

- Minimize the number of and size of anchors. Space structures for greater compatibility with existing uses and bury cables in the seafloor and through the shoreline. Final Programmatic EIS: Marine Spatial Plan for Washington's Pacific Coast

- Minimize risk of entangling fishing gear from new structures installed in the seafloor or placed in the water.

- Minimize the displacement of fishers from traditional fishing areas, and the related impact on the travel distance, routing and navigation safety in order to fish in alternative areas.

- Minimize the compression of fishing effort caused by the reduction in the areas normally accessible to fishers.

- Minimize the economic impact resulting from the reduction in area available for commercial and recreational fishing for the effected sectors and ports.

- Limit the number and size of projects that are located in an area to minimize the impact on a particular port, sector, or fishery.

- Consider the distribution of projects and their cumulative effects over the region, not just the specific state sector.

- Other reasonable and relevant considerations as determined by the fisheries consultation process and specifics of the proposed project.

As part of the consultation requirements, applicants proposing offshore developments are also required to consult with WDFW and affected fisheries to identify and produce outcomes with potential reductions in adverse impacts with opportunities to avoid, reduce, and produce minimal impacts to fisheries.

Impacts of Fisheries Protections

The fisheries protection standard does not limit specific areas in state waters from project proposals, but, consistent with existing state laws, requires offshore development proposals to demonstrate they will not result in significant adverse impacts to fisheries and have taken all reasonable steps to avoid and minimize adverse effects. It outlines specific considerations that reduce physical, ecological, and socioeconomic impacts to fisheries from proposed projects. These considerations, along with a comprehensive definition for adverse effects for fisheries and a requirement to consult with WDFW and affected fisheries, provide greater specificity and assurance that projects will meet these requirements. The Washington CMSP clearly states that, "in state

waters, industrial-scale renewable energy projects will likely have a very difficult time demonstrating that they can avoid significant adverse impacts to existing uses and resources.” This statement is also applicable to federal waters offshore SW Washington. Analysis of offshore industrial development may face challenges that may discourage large scale proposals for new ocean industrial projects in offshore waters. Applicants applying for Projects that **AVOID impacts to fishing and limiting the size of the area applied for** through improving the quality and type of applications for projects will reduce the likelihood of the state receiving applications for projects that will ultimately be unsuccessful in Washington offshore waters. Cascadia Wind is such a lease request that has little chance of successfully meeting the Washington lease requirements to AVOID Conflict with fishing. Washington offshore waters currently have excessive areas denied ACCESS to fisheries and applicants must consider existing CUMULATIVE EFFECTS on fisheries and locate new industrial complexes in areas of MINIMAL impact on fisheries to be successful. As a result, it may be more likely that the state receives a greater number of initial applications for projects that are ultimately rejected due to the scale of or siting of the project – i.e., due to potential significant adverse impacts and incompatibility with state policies. Collectively, these current and future effects may mean that new ocean uses could exacerbate pressure on already stressed marine resources and industries. The individual action elements of the MSP are designed to ensure future ocean use projects prevent, avoid, and minimize adverse impacts to the environment, existing uses, and communities. The industrial project MUST not have cumulative, significant adverse impacts to the environment and existing uses. RECENT BOEM comments is that all they do is provide a place for OSW to develop is not their only responsibility. BOEM must also prevent significant negative impacts to fishing and nearby and distant water dependent communities.

It is essential that agencies understand and use the word in the law **“MINIMAL” which is “simply more than almost nothing”**, certainly not displacement of fishing over hundreds of square miles of productive fishing grounds as Olympic Wind and Cascadia Wind are proposing at over 700 or more miles of ocean lost to fishing is far more than “MINIMAL”.

https://msp.wa.gov/wp-content/uploads/2018/06/FEIS_response_final.pdf

BOEM/NOAA need to also understand that “sensible regulation and actions requires careful scrutiny of the burdens that potential rules/actions impose” on water dependent people and nearby communities which the creation of WEAs will produce on top of existing cumulative effects

suppressing socioeconomics of these Washington coastal communities. BOEM/NOAA must work together to ensure that NOAA offshore fishery surveys with long standing data sets MUST be preserved, not totally destroyed through displacement from ability to ACCESS the historical trawl areas to maintain reliable information into the future. Data to maintain sustainable fisheries can be terminated by ill-placed WEAs that interrupt these important data sets that help supply sustainable fisheries on our coasts. These important data sets are not just about fishing, these long term information sets help drive the sustainability of our Fish Dependent Communities all across the nation. US Department of Energy has had an intense focus on forecasting the effect of Climate Change, but the government is not only willing to gamble our fisheries economic collapse but irresponsibly risk the Ocean ecosystems and productivity on our coasts when major areas of ocean upwelling that brings important nutrients to our fisheries resources necessary to maintain fisheries production. After the spring transition that dictates where larva from many species on the coast end up that is either advantageous or not for may commercial species of fish and crab are affected by strong NW winds in late spring and early summer. These strong trade winds cause a cascade of ecosystem response that increases primary productivity which bounces up the food chain all the way to our citizens' dinner plates. A BOEM offshore wind strategy that tinkers excessively with NOAA Fisheries management measures may have disastrous future consequence that NO one will want to be associated with, but it will be too late to correct after the huge wind farms are in place that totally ignored the Precautionary Principle of "go slow and measure scientifically as we increase the number and size of wind turbines in individual areas, not splattered all over the ocean as if there was NO concern. Weather wakes from OSW farms have been theorized to impact meteorological conditions over 200 kms downstream from the farms that will have a negative impact on ocean stratification and primary productivity will be placed at an imbalance. New placebo data sets generated by computer models are just that, computer simulations that all too often produce irregular results that are NO

substitute for real world measurements. Going full speed ahead with megafarms without real world scientific analysis in small intervals will completely upset our theories of sustainability causing irreputable harm to Fish Dependent Communities dependent on sustainable ACCESS to fisheries resources that drive our communities' economic wellbeing in addition to the initial displacement of huge areas for fishing.

To put the issue of perceived renewable energy's need to decarbonize the US electric grid by 2050 current Princeton University and Bloomberg News estimates renewables would need approximately 308,000 square miles of wind turbines and solar panels which is an area the size of Washington, Idaho, and Montana combined. Unfathomable when put into this realistic context the overall ecosystem impacts. Imagine how much CO₂ gobbling trees would be lost increasing the carbon footprint or how much offshore fishing grounds removed from fish production to meet this unreal expectation/demand of a carbon free grid in the future. Boggles the mind to even begin to contemplate a Net-Zero Carbon America project (see graphics toward end of document). To even begin to realize the projected carbon free energy needed for our nation's energy policy we will need an all of the above sources with significant investment in nuclear power that provides 24/7/365 reliability as a source of baseload power to cover downtime in both solar and wind energy power facilities which can add substantially to our nation's energy portfolio but not available on a 24/7 basis. Baseload power for the foreseeable future will need at a minimum multiple gas fired facilities when the wind does not blow. Washington has a No Net Loss of Ecosystem Function directive from Washington ecology – it is quite honestly IMPOSSIBLE to create that huge amount of offshore industrial complex and meet the ecology NO Net Loss of Ecosystem Function. How is this WAC function of No Net Loss going to be able to apply “compensatory mitigation” that remediates not just the loss of area through displacement but quite honestly even begin to mitigate for lost ecosystem services that feed the food chain when the wind

farms drop significant wind speeds that will have a significant effect on primary productivity of the ocean over hundreds or even thousands of square miles of “once” productive ocean that Fish Dependent Communities relied upon for their socioeconomic success. These OSW new emerging industrial complexes will interfere with other historical and reasonable uses of fishing and navigation. These adverse downstream impacts could be subtle and difficult to measure but still produce enormous adverse impacts on the shoreside communities that BOEM claims they are not responsible for, which is completely fictitious, or calling a spade a spade a complete LIE on BOEM’s part. If BOEM did not issue the unsolicited lease offshore Washington or expand them 4 fold like they did offshore Morrow Bay, then there would be NO ecosystem loss or huge loss of ACCESS to fishing grounds through displacement. Prevention of interference with other reasonable uses of the EEZ (fishing and navigation) must also address CUMULATIVE adverse impacts to fishing that exceed reasonable THRESHOLDS of existing loss before BOEM even contemplates OSW farms in SW Washington offshore waters. **How much must Fish Dependent Communities be forced to sacrifice to inland electrical demands?** Washington fishing industry has the shortest coast to fish on the west coast and currently has the most area percentage currently denied area and time of any other state in the entire coast. CUMULATIVE IMPACTS MATTER and cost the fishing industry lots of \$\$\$\$ that are reflected in poor demographics in SW Washington! Price of electricity MATTERS here and will have an exponential impact pushing the demographics even lower. BOEM cannot and MUST not say that they have NO control over shoreside impacts – their lease actions MATTER and will influence shoreside people significantly. OEM cannot and must not ignore adverse impacts to coastal communities.

Washington electricity is some of the cheapest in the nation which makes OSW extremely challenging to be even somewhat competitively priced here even with massive taxpayer support will still equate to a coastal Poverty Program that will lower the coastal standard of living,

strip our citizens of their good family wage fishing JOBS, and negatively affect the overall quality of coastal wellbeing. In the NW U.S. OSW electrical generation is not only challenging, floating OSW is, not now, or any time in the near future projected to become cost effective in the NW. NREL estimates the levelized cost of electricity as far out as 2032 to cost 50% more in Astoria and north than south of Cape Blanco in southern Oregon. Offshore floating wind costs off the Pacific/Grays Harbor County line will be over \$0.75/kW and could push upwards of \$0.85/kW. Compare that to the current BPA rate of \$0.04/kW – absolutely STAGGERING Unbearable BURDEN for the coastal public, working families, seniors, and those people who are on fixed incomes to bear and significantly and negatively affecting every American. The NREL future estimates did NOT account for the high rate of inflation our nation is currently experiencing which will add even more to the initial cost of industrialization, not to mention the cost to borrow money is escalating rapidly and substantially with interest rates over doubling just since the first of the year in 2022 with no control of escalating inflation anytime in the near future. Excessive offshore wind costs will be recovered in increased rates to consumers rather they can afford such drastic increases or not and is especially crippling to many coastal low income communities when the sacred RIGHTS of navigation and fishing are breeched by BOEM's lack of concern to these entities.

The Oregon Offshore Wind Site Feasibility and Cost Study indicates that the cost of producing electricity by offshore floating wind is FAR CHEAPER (40%) on the south Oregon Coast than north of Florence due to the increased offshore wind potential in the southern area, evidently this is why BOEM CONCENTRATED WEAs in the southern portion of Oregon to give a substantial advantage to OSW pricing even if it is still excessively high estimated by NREL at over \$0.50/kW. The wide range in cost/kW reflect the range of more continuous wind speeds between the north and the south sites along the NW coast. Even at the southern area ability to produce 40% more electricity per unit of effort that cost is still astronomical and highly suppressive to coastal

community wellbeing. After the February BOEM/Oregon Taskforce meeting was closed and the public was able to participate off the administrative record the fishing industry was shocked to hear BOEM officials state that they were indifferent to any consequences of actions once the OSW electricity reached shore and that BOEM's only concern was to supply a place for OSW to industrialize the ocean. Horrifying thought that the impacts to nearby communities affected by offshore industrial development was of no concern or control of BOEM. Shocking statement. To further exacerbate the astounding cost of the power north of central Oregon it was even more puzzling why any developer would skip a potential developing WEA area of southern Oregon or Northern California and go for an unsolicited lease request in SW Washington waters where the real cost of the energy was almost 50% more expensive to produce off of the Pacific Grays Harbor County line than WEAs in southern Oregon areas? Maybe to get a cheaper original BOEM lease from an unsolicited lease request? Puzzling at best, irrational use of capital at worse. Considering the federal incentives of an earned income credit and guaranteed bank loans where a default is paid by the taxpayer no wonder there are ocean energy proposal that are difficult to impossible to rationalize from an outside analysis or economic perspective.

Understanding and accommodating the UNIQUE Washington coast:

- *No other state in the nation has federal obligations to tribal treaty obligations eliminating 50% of all fish ACCESS on 70% of the Washington coast for state fishing families*
- *No other state has sacrificed as much fishing area and time as Washington Fish Dependent Communities to any federal treaty obligations*
- *No other state has 60% of offshore waters off limits to industrial development due to Olympic National Marine Sanctuary which concentrates both fishing and offshore wind in an area producing excess CONFLICT for ocean space*
- *No other state in the nation has over 90% of existing fishing effort shifted into a small 25% area of SW Washington available fishing area to avoid the greatly reduced fishing opportunity due to the federally induced 50/50 tribal treaty sharing obligations*

- *Next generation fishing families in Washington have far more headwind to their success than any generation in the nation or any other state – UNIQUE due to the 50/50 sharing requirement and significant loss of potential income*
- *Please note and understand that the towboat companies reduced the width of the existing towlanes from 2 to 1 mile wide offshore Washington to offer more fishing area to the over-stressed Washington fishing fleet as their fishing ACCESS was significantly diminished due to the Rafeedie Decision*
- *Further flabbergasting the dramatic UNIQUE Washington situation is that BOEM has no Metric Thresholds that SHOULD easily lead to the NEPA No Action Alternative as the most reasonably foreseeable option available in SW Washington offshore waters. REPREHENSIBLE!*

*Due to the UNIQUE nature of the highly compromised Washington coast BOEM's interaction with the nearby communities that could/will be displaced over large tracts of ocean is imperative that the BOEM/State interface be UNIQUE as well. Members of the public including fishing representatives MUST be included in the BOEM/Washington Taskforce. **Exceptions to FACA must not be employed.** The fishing industry has decades of experience in ocean management working cooperatively with other industries and agencies to share the ocean and AVOIDANCE of adverse impacts to all concerned parties. The Lower Columbia Solutions Group may be a model that is well established and could/should be adopted in the Washington interface with BOEM to help determine the future of coastal Fish Dependent Communities where OSW is to AVOID CONFLICT with fishing as intended by the Washington legislature when they initiated Coastal Marine Spatial Planning legislation that MUST not be ignored.*

The crab fishing and towboat industry are in their 51st year of successfully sharing the ocean through collaborative efforts to the benefit of both industries without government intervention. Currently, Washington University Sea Grant is the neutral convener of the crabber/towlane group. The crabbers in recent years opened the inside towlane over a month earlier to accommodate high fuel prices in the spirit of working to the benefit of both industries. One of our affiliates at CCF is the Oregon Fishermen's Cable Committee (OFCC) that works collaboratively with transoceanic telecommunication companies that is also a great model of cooperation to share the ocean successfully. Both of these long standing ocean sharing operations relies heavily on the **MURT principle – Mutual Understanding Respect and Trust** where everyone is at the decision table as equal partners with a hunt for equitable solutions which should be how the BOEM offshore lease program should be run offshore UNIQUE Washington.

CRCFA/CCF did notice that the original call areas in southern Oregon were marginally separated where a number of telecommunication lines converge and

head for the western Pacific nations. We also noted that the northern Call Area in southern Oregon would make the towlane terminate with no place for the tugboats to go – complete oversight. The Oregon orowind map tool should easily show this discrepancy.

Incorporating NEPA EIS Review at the Start of WEA Identification on the Pacific Coast with emphasis on waters offshore the state of Washington that has a primary goal to AVOID adverse impacts to existing uses including but not limited to fishing is a reasonable first step in any possible ocean lease arrangement. It should be noted upfront that the Washington Coastal Marine Advisory Council comprised of members of the public appointed by the governor of Washington and multiple agencies took approximately 5 – 7 years to develop a Coastal Marine Spatial Plan with a GLD out to 700 fathoms of water and were unable to dedicate an area for any offshore industrial development that was able to AVOID CONFLICT with existing use including fishing on the EEZ high seas area offshore. This inability to locate an area for offshore industrial development is due to the extensive existing designation of multiple existing uses on the coast that are permanent and over concentrate existing uses including fishing into the 38 miles of ocean south of Westport which is incidentally the only place that any industrial development can develop.

Inability to dedicate a No Conflict WEA area offshore Washington stems from the Cumulative UNIQUE existing uses of the Washington coast which are far different than any other state in the nation, in FACT **VERY UNIQUE**. Washington has an extremely large Olympic National Marine Sanctuary, about 3300 square miles, multiple tribal treaties with fishing rights in the ocean which is UNIQUE in the nation with larger effects than the Olympic Sanctuary, extensive military practice zones essential to national security, Navy submarine stealth approaches to Puget Sound, and excessive fishing effort shift to SW Washington where 90% or more of the highly productive and competitive Dungeness crab fishery is now concentrated which is also UNIQUE in the nation. While the effects of one additional wind farm on a particular population segment may not be excessive, the aggregate effects of multiple stressors through space and time will amplify the effects caused by other sectors and adding a large 2000 GM wind farm or more as now proposed by Cascadia Wind into Washington offshore waters could be devastating. The Precautionary Principle must be employed in this area, jumping to a huge offshore wind farm could be overwhelming in this area. Adaptive management will not work once this monstrosity is built and the effects put in place, when our fears are realized it will be too late to do anything about the consequential effects to the nearby coastal communities. Cumulative pressures can be particularly important in the

Washington waters because of the increased deployment of OSW combined with excessive pressures from other marine activities and sea users in this area that are determined by other federal activities on the majority of the Washington coast.

The Washington coast has historically and remains threatened by intense pressure from multiple uses and stressors, causing major shifts in the marine ecosystem and widespread extreme conflict among marine users that has been difficult to deal with on an annual basis. For example, some of the world's busiest marine traffic routes are off the Washington coast, introducing a high level of background noise. The extra noise generated by OSW turbines and their associated vessel traffic may lead to cumulative noise impacts on marine mammals in these areas, negatively affecting their behavior and feeding patterns - there will be multiple species impacts in addition to the great human impacts to our fisheries and navigation. The cumulative adverse effects of OSW on wildlife/fish remains relatively unexplored and poorly understood. Moving forward with massive investments in excessive sized OSW is ill advised and will have unintended consequences on wildlife, fish, and human activities in our offshore waters where Ecosystem goods and services provided by nature that are of used by humans that are lost due to industrial development. At the root of the ecosystem service concept is the connection between the biochemicalphysicalgeologic elements of an ecosystem and the health and well-being of the humans that depend on that ecosystem for their wellbeing. The quantitative loss of ecosystem services depends on the scale of the project under consideration - Olympic Wind and Cascadia Wind are no small undertakings at over 700 square miles of lost ocean ACCESS. Surely when hundreds of square miles of lost ACCESS to the ecosystem services are at stake, the loss MUST be considered as HIGHLY SIGNIFICANT. PR&G analysis should quantify as many effects as possible and incorporate this analysis into the necessary NEPA EIS document on the project to properly address the effects of the project. Lack of resources alone is not a sufficient rationale for the lack of substantial analysis.

PR&G analysis should connect ecological and social analysis to provide decisionmakers with additional relevant information as they make the best NEPA alternative management action possible that is protective of existing uses in the ocean. AVOIDANCE of adverse effects such as displacement of existing uses is the best possible scenario to protect coastal socio-cultural values and does not negatively affect coastal demographics that display "with and without" the project moving forward. Agencies have a responsibility to Avoid, minimize, and completely remediate project effects. The process of identifying ecosystem

services and metrics should be well documented in the analysis. The analysis should consider, at a minimum on a qualitative basis, those ecosystem services important to the area and those most affected by the proposed action involving the significant loss of ACCESS to ecosystem services (fish/crab) to the nearby communities' fisheries livelihoods. Cumulative impacts MATTER and must not be overlooked. The Environmental Organizations' Joint Scoping Comments for the Humboldt Wind Energy Area Environmental Assessment covers a lot of the ecological significance that actually ties the ecosystem importance to the abundance of fish harvest in the ocean and these parameters should/could be extended to any area that BOEM is responsible for analyzing to ensure that WEAs are placed in areas of least effect on the ocean ecology that underlays fish/crab harvest areas.

<https://ocr.org/wp-content/uploads/Final-Humboldt-WEA-scoping-comments-9.24.2021.pdf>

The analysis of ecosystem service impacts should describe how these impacts are expected to change over time as future projects and other cumulative losses to fish/crab. In the application of PR&Gs it is intended that Federal actions in water resources as a whole should maximize public benefits, **with appropriate consideration of costs to the taxpayer and ratepayer.** Cost/benefit MATTERS in context of deleterious effects on nearby communities. Public benefits encompass environmental, economic, social goals, and socioeconomic impacts on coastal communities and include monetary and non-monetary effects and allow for the consideration of both quantified and unquantified measures with effects on coastal communities. The analysis must include substantial information to justify the use of any technique as the most appropriate given the circumstances surrounding the project. In Washington, existing RAFFEDIE circumstances in offshore waters are UNIQUE and must be consider in a different light than anywhere else in the nation and MUST lead to a UNIQUE analysis and final conclusions that have an effect on the final alternative that is selected with **significant focus on the NO Action Alternative** which will be hard to justify passing over it. The analysis must also consider one of the worst case scenarios as a result of permitting the proposed offshore industrial development and the potential to isolate entire communities from ACCESS to the ocean's fisheries resources if the tonnage delivered to the nearby communities is reduced significantly and the USACE must make the impossible choice to suspend dredging the local port access channel. It should also be pointed out that offshore floating wind is not economical at this point in time and may not be for decades to come. Forcing forward an offshore industrial development that has NO chance of making it to a financial

breakeven point is totally disrespectful to the public ratepayer and taxpayer that will ultimately be charged with paying for any deficit spending project where a public utility is the only market available. The citizens that lose ACCESS to offshore ecosystem services and the ordinary citizens on the hook to pay for a money losing project MUST be fully brought into the decision process long before they receive the bills for agencies failing to protect the wise use effects of their public purse especially when there is NO way to justify a project based on even a breakeven point. Carbon reduction means nothing and is in fact HARMFUL to the families forced out of business or unable to feed their families or put a roof over their head due to JOB loss of exceedingly high utility bills that cannot be justified by any cost benefit analysis, especially those projects that cannot justify their economic existence now or any time in the foreseeable future. It is especially baffling why an offshore wind project developer would choose to build an OSW facility in an area such as the Pacific Grays Harbor County line where the existing wind resource is at least 50% less than other places on the west coast and the option attaining a Power Purchase Agreement is much higher per kW further south. The overall economic benefits or losses MUST be a reasonably foreseeable consideration. Just because a bank loan is federally guaranteed does not mean the federal government should underwrite a project that is a known loss, and that the taxpayer will eventually be on the hook to bail out a loan that was supplied by a bank knowing the project had no possible method of at least breaking even on their investment. This type of irrational behavior is what caused the economic crash of 2008-09 in the housing debacle where many loans were issues knowing full well that they could never be repaid. The only benefactor was the bank that received a substantial fee for making these irresponsible loans that they repackaged and sold off to unsuspecting institutions before the loans showed a default. Hopefully our nation learned enough not to repeat this type of foolhardy behavior at taxpayer expense. **Solyndra comes immediately to mind** along with Fisker Karma and fifty other examples of throwing away public funds in an unjustified attempt to reboot the shaky economy from fiscally irresponsible handling of the public purse and cannot be dismissed as a reasonably foreseeable reoccurrence – bankruptcy and total loss of taxpayer funds. Irresponsible use of taxpayer funds is NEVER acceptable, not even to supplement a newfound carbon ideology that Solyndra exemplifies. To put things in perspective, a land based wind turbine can be put in operation for 5% the cost of an offshore floating wind turbine and there is still ample room on land similar to the Naselle Ridge wind turbine facility that NGOs submarined that can be put in operation far more responsibly to meet coastal power needs.

Washington coastal waters are so UNIQUE that Washington will need a

UNIQUE solution to accommodate, protect, and preserve existing uses including but not limited to fishing and navigation which have been protected by the Public Trust Doctrine for hundreds of years and yet in more recent years have sustained multiple costs associated with excessive cumulative adverse impacts from a variety of sources. Existing use including fishing in Washington offshore waters has no place left to go if displaced by any new emerging industrial use of the ocean without facing certain jeopardy where the young high debt next generation fishing families will face certain failure which is unavoidably tangible which **MUST** be a basic concern of BOEM activities launched in the Washington offshore area. Siting almost any exclusionary zones for offshore industrial development (WEAs) will be very difficult offshore Washington where prudence, good judgement, and doing the Right Thing to protect existing uses from **CONFLICT** will be extremely challenging and near impossible; certainty, an unsolicited lease request that does not adequately vet existing uses in their lease request area is undoubtedly impossible without **CONFLICT** and is a hovering cloud of darkness ominously threatening coastal Fish Dependent Communities. This document is a **CLARION CALL** to act with additional prudence moving forward off the Washington coastline. SW Washington coastal interests will need to directly involve the public including representatives of fishing on any group that is charged with offshore decisionmaking where the loss of excessive fishing **ACCESS** in the condensed area would be hazardous to coastal communities' wellbeing. This hovering threat causes a tense situation that could wrought carnage to several communities nearby the offshore wind areas that cannot **AVOID CONFLICT** and the reduced commercial tonnage over the channels into some ports like Ilwaco and Chinook could lose USACE dredging and complete **ACCESS** to the sea affecting not just commercial fishing vessels but also well over a thousand recreational vessels as well as the critical shoreside support infrastructure is undermined and cut off from the sea. This may not be an intended consequence of BOEM leases affecting large offshore areas that displace fishing but the comments we've heard at recent meetings of BOEM are scary that BOEM responsibility ends at the shore and that there are **NO** established metrics that define **THRESHOLDS** of protection for existing uses that will be displaced. BOEM saying that fishing is not going to be displaced, which was said recently, is very unrealistic the actual facts on the ground will show otherwise. BOEM is **NOT** transparent in how any decisions will ever be made to protect fishing as a first priority as envisioned by the Washington legislature when they authorized Washington CMSP. The metric pertinent to the Washington legislature was to **AVOID CONFLICT with fishing**. One of the BOEM employees stated recently that

he was sorry if the coastal communities did not like the answer that will be anticipated by a BOEM process that only has one mission, lease ocean area that displaces existing uses where unintended consequences will be destructive for nearby communities are beyond BOEM control which is NOT true. **The No Action Alternative is always an option** and should be fully considered as a viable option in SW Washington offshore waters. Cumulative impacts from existing ocean closures of time and area are approaching their limits in all fisheries and have caused serious damages to many. Investing in fisheries is like investing in Wall Street, if you get over concentrated in any one business the potential for economic disaster significantly increases – ENRON comes to mind. Currently, Dungeness crab is the only fishery capable of sustaining coastal Fish Dependent Communities. Scary for ports dependent on channel dredging and needing commercial tonnage should crab stub its toe due to displacement by offshore industrial development. This potential loss of Dungeness crab fishing must be safeguarded as if the nearby ports very existence was as stake as it is.

Fishing fought many years in congress to free our offshore fishing area of foreign rape and overfishing of our fisheries resources. The United States EEZ was established to 200 miles offshore to protect and preserve our nation's fisheries and is the only reason the USA has a 200-mile EEZ. As industrialization of our seas comes into our EEZ, BOEM has neglected why the United States even has a 200-mile zone free of foreign fleets that were shed to provide OPEN ACCESS to fisheries for our nation. **AVOIDING CONFLICT** with fisheries must be a 1st priority. We must also recognize that acquiring Seafood protein by fishing has one of the lowest carbon footprints of any protein source in the world and is also far healthier for our people with Omega 3 not found in many other sources of protein that we can eat. These high value protein areas are variable and not always found in specific areas even though that can occur on a regular basis. Misplaced Industrial Development can distort fish harvest and infringe on a fisherman's right to their IFQ resources that may have been purchased at a high price from someone else's fishing rights where ACCESS to historical quota resources is denied via ill placed displacive industrial development. Everyone needs to recognize that BOEM did not reduce the size of the Humboldt call area as it moved toward a WEA, this did not go unnoticed by the fishing public. This makes it hard for other areas under a Call Area to expect any accommodation of historical fishing in the current southern Oregon process of establishing WEAs. **TRUST** in the process is being pushed over the cliff during community engagement as a sidebar and puts collaboration into the realm of dictation by BOEM where the process is totally command control and nontransparent to the public and those on the teleconference with the PFMC ad hoc committee, the public, and the fishing industry on 4 March 2022. One

common concern expressed over and over again was the fact that BOEM had not developed certainty in the metric analysis that would establish a specific pathway to define a verifiable metric when fishing is infringed upon significantly by cumulative impacts to lead to a NEPA No Action Alternative that is protective of nearby communities. BOEM stated several times that their only mission was to provide a place to develop Offshore Wind Areas and onshore consequences were not their concern. **SHOCKING** - and not in accordance with congressional or Washington legislative INTENT to **AVOID CONFLICT with fishing** because offshore displacement of fishing will have consequences when the primary placement of offshore wind is where the new emerging nascent industry is given preference to ocean area that has been the historical domain of fishing and necessary for the health and welfare of the coastal Fish Dependent Communities whose needs for sustaining these communities are shelved to **OVER ACCOMMODATE new uses** of the ocean at the expense of the affected nearby communities. When the public and fishing is excluded from the primary decisionmaking table those excluded have frustration with the entire process where **TRUST in the OUTCOME is totally undermined**. Not only did BOEM state that the initial area of 3000 MG could cover over 300 square miles or southern Oregon ocean industrial real estate would be expanded in the future. NO tempering of CUMULATIVE IMPACTS to fishing areas was considered when this comment about future expansion of WEAs was discussed. The only open transparent process moving forward was the FACT that more is not enough for this power hungry ambition of establishing WEAs at the expense of fishing suppression.

The usual BOEM/state taskforce format where the public is not allowed will not be acceptable in Washington. No Public, No Fishing at the table undermines TRUST in the outcome BOEM levies/dictates. There will need to be a better interface with the citizens than has been done elsewhere. This will be a part of the **UNIQUE solution** to solving the UNIQUE situation found here. CFF/CRCFA suggests a format similar to the Lower Columbia Solutions Group that has been able to work collaboratively and accomplish exceptional new ocean use areas utilizing developing science as the baseline to build **TRUST** in the outcome where everyone is at the table working together for the common good of the local, state, and national interests. **TRUST is the central issue** involved in the LCSG; it should also be central to any group working for the common good in offshore Washington to evaluate where and if an industrial development is honestly a viable option in Washington offshore waters that is still able to **AVOID deleterious effects** to nearby communities. It should be recalled that the Washington WCMAC labored with this issue of finding a minimal Conflict OSW site for over 5 years and did not find an acceptable site for OSW.

Rigorous Scientific Analysis by the USACE and the LCGS utilized multiagency scientific analytical tools, some of which had to be newly invented when the new nearshore ocean disposal sites were studied to ensure No Dead Fishermen and No Dead Crab and is a model of public interface for BOEM Must fully consider when initiating new offshore wind energy sites. The Rigorous scientific analysis of the groups involved full collaboration with nearby communities effectively and inclusively from the beginning of the project until it had received ample scientific study from the design stage through a number of years to establish the FACTS were repeatable over a period of years and at multiple sites by **going SLOW initially and gradually increasing intensity** until the target disposal amounts were reached without adverse impacts to either the small vessel navigators or the crab resource itself. The new method of disposal was modified to go SLOW and disperse sediment over 10X the distance of normal dump and run of 5 – 700 feet up to a mile to control the depth of sediment deposition of individual disposal events with a cumulative impact of not to exceed 1 foot of sediment mound accumulation in a single year over baseline conditions. The scientific BACI design used a control area and a dump area where the crab were radio tagged and tracked until they left the range of the tracking devices ensuring survival. This Mouth of the Columbia River sediment testing became a model for the nation at AVOIDANCE of adverse impact which gradually utilized the MURT model to build TRUST between the agencies and those that could be potentially affected and HARMED by the new intrusion and use of the ocean where the potential for CONFLICT was avoided completely as the disposal in the new nearshore sites does not occur until after the crab season is over in both Oregon and Washington. Where OSW is involved, it is impossible to achieve this high degree of AVOIDANCE of effects unless the BOEM analysis examines all fisheries data and **collaborates directly with the entire fishing fleet** to establish an area that is not used by the fleet for fishing and the OSW wind turbines are separated far enough to allow safe passage through the turbine arrays. Is this level of AVOIDANCE possible, it will depend on the outcome and level of collaboration that the agencies are willing to participate and find a common goal of AVOIDANCE that is acceptable to all participants that will be affected by the new emerging industrial development that is proposed for offshore Wind or other industrial undertakings. The Principle Power OSW facility was small and yet did not AVOID fishing impact because not all segments of the fishing industry were consulted until after decisions had been made by BOEM to locate the facility. Recent southern Oregon “call areas” had little or NO public input as to location of the potential facilities relative to fishing activity. The state of Oregon suggested OSW of 3000 MG – BOEM “call area” was at least 7 times what the nearby state asked

to accomplish. This excessive proposal was outside the realm of acceptability to those on the coast that would be displaced. Even if the final WEA is reduced by 50% the size of the proposal will be unwarranted and not in accord with expectations of the nearby coastal community that was willing to at least entertain a "reasonable proposal."

Finding COMMON GROUND takes collaboration, not BOEM dictation, and certainly not placing those on the receiving end of the BOEM process left on the outside of the process as onlookers as they are butchered by displacement that results from divisive actions where the federal government fails to protect the economic depletion of Fish Dependent Communities. OSW solutions to be successful must produce a win win situation not a win lose scenario that is occurring everywhere BOEM leases have been awarded. The new administration 30 X 30 national ocean energy policy will drive down the coastal wellbeing and definitely have a negative impact on coastal living standards making it much more difficult to supply food on kitchen tables for our coastal people and increasing POVERTY. In addition, our current national energy policy is driving a significant increase in inflation toward the sky and pushing down the quality of life of far too many of our citizens crushing the value of our dollar daily and will hurt those on a fixed income (retirees) especially hard. **The national Offshore Wind goal of 30 GW by 2030 and 110 GW zero carbon emissions by 2050 is a POVERTY PROGRAM for the coast** as 70,400,000 acres become No Fishing No Income Zones and will rob good paying family wage coastal fishing industry jobs that will widen the urban/rural divide as the major energy jobs created will be in urban areas. As OSW gains traction Washington coastal electricity rates will skyrocket to prices that will overwhelm family budgets and smash them to smithereens in our low income/high unemployment coastal area. BOEM process to permit OSW is moving much faster than the **"Speed of TRUST"** required to develop OSW that AVOIDS displacement of existing ocean uses including fishing opportunities needed to support coastal Fish Dependent Communities which the national ocean policy carried out by BOEM and the US Department of Energy that are willing to SUPPRESS coastal communities mercilessly. Offshore floating wind energy carries with it a significant amount of financial RISK, excessive costs, and uncertainty of project development that so far has not been sufficiently tested in US weather conditions and has enlisted foreign project ownership of our offshore ocean leases that fishing fought for years to rid our coasts of foreign involvement in our nation's coastal **exclusive** economic zone. OSW in west coast waters is untested and RISKY and a long way from becoming cost competitive. BOEM facilitating ocean co-use is promoting space use CONFLICT that is unacceptable. Responsible OSW siting that BOEM touts to honestly be responsible MUST AVOID CONFLICT with existing uses. The use of words "safe" and "equitable" ring hollow in the coastal communities where their JOBS will be displaced by excessively large WEAs that cover hundreds of square miles of fishing grounds. **Co-ocean use is a total misnomer if not an outright lie** as fishing will be displaced wherever floating wind is placed – Co-ocean use associated with Floating Offshore Wind (FOSW) is a total fallacy and will only lead to dysfunctional appropriation of coastal resiliency as major **No Fishing No Income Zones** are created

in offshore waters. The promotion of Co-ocean use where coastal fishing industry JOBS are displaced is impossible to mitigate offshore wind's adverse impacts. Once the fishing family is crushed by total economic disruption caused by OSW resulting in bankruptcy, those families will never fish again. The only way Collaborating with coastal communities and enhancing stakeholder engagement will help enable mutually beneficial and equitable siting solutions is to AVOID fishing areas completely. The Department of Energy's January 2022 Offshore Wind Energy Strategies is totally discounting the needs of coastal Fish Dependent Communities and **using flowery verbiage to push the fishing people off the ocean**. It is unbelievable that federal agencies honestly believe that FOSW is compatible with existing uses of the ocean and the needs of coastal communities especially in areas of the coast that are already overcrowded by intense concentrated in a reduced space use like SW Washington waters where new OSW will face opposition where a range of negative direct and indirect economic, social and environmental effects on individual fishers, the fishing industry, fishery-dependent coastal communities and wider society where fishing has been playing a dominant role in the livelihoods of coastal communities for decades will occur via displacement where the FOSW will effectively act as an area closed to fishing.

In addition, there is a lack of sufficient onshore transmission capacity to transmit power from the strongest offshore wind resources to load centers hundreds of miles away from OSW facilities as an additional significant cost allocation to the ratepayers of this already very high priced OSW. It was obvious to the fishing industry that NREL series of "informal discussions" to create a national offshore energy report that the needs of fishing were NOT consulted as the national strategic vision was developed and the value to our nation's food supply was minimized as inconsequential. Agencies keep using the term, "Affordable Energy" applied to offshore floating wind, affordable to who is the key delineator never pointed out, Bill Gates founder of Microsoft, or Elon Musk founder of Tesla may be able to afford the offshore floating energy as affordable, the average **US hardworking citizen cannot afford the rates predicted for offshore wind** anywhere on the coast and especially offshore wind north of Newport, Oregon to Canada where the cost per kW will be at least \$0.75 - \$0.85/kW as estimated by NREL and probably more in Washington offshore waters.

Eventually CCF/CRCFA believes quite strongly that the courts will have to review FOSW as a **"Major Questions Doctrine"** where **courts should not defer to agency statutory interpretations that concern questions of "vast economic or political significance to the people** that BOEM is levying on coastal Fish Dependent Communities, especially in relationship to the **illicit unsolicited lease** request by any offshore industrial development. This doctrine applies where agencies overstep the legislative INTENT such as in the Grays Harbor oil terminal case that the Washington Supreme Court issued a 9 - 0 Unanimous decision that clearly delineated the legislative INTENT of Washington ORMA that definitely comes into play in any industrial activity offshore of Washington state even in the EEZ out to 200 miles. Washington ORMA - Ocean Resources Management Act was put in place after two major oil spills and was modified 21 years later to protect and preserve existing uses including fishing from deleterious new emerging industrial

adverse effects. BOEM process that cuts the public including fishing out of the meeting discussions until after the official BOEM/State taskforce meetings are over is “Fake it until you make it happen,” events where durable solutions are hard to come by when those suffering from the effects of the decisionmakers are excluded. That is why the 1st major large offshore wind facility, Vineyard 1, is being challenged in court by numerous and separate court filings; those most affected were pushed out of the process forced to languish in the outside looking in as their livelihoods are decided by those that will never feel the ill effects or the PAIN of their actions.

The major-questions doctrine respects Congress/legislature choice to keep significant policy questions for themselves which they declared clearly in the plain language in the introduction to OSCELA and recent additions to Washington ORMA. The 2021 WA legislature added fuel to this decision by restricting offshore seabed mining offshore Washington in the recent legislative session in 2022. The **Major Questions Doctrine** reigns in the **Chevron Doctrine** and brings forward the **“Non-delegation Doctrine”** where agencies have overstepped their legislative mandates into areas clearly not authorized for agencies to overregulate. **Intelligible Principle Test** has been applied to even places legislatures and congress delegated excessive deference to agencies to determine a course of action in regulating that those branches of government should not have tried to regulate. The words in the law mean what they conveyed to reasonable people at the time they were written, and these legal interpretations should be guided by the plain text of the law as interpreted in the WA Supreme Court unanimous decision in the Grays Harbor oil terminal case or *Whitman v Am Trucking Ass’n* 2001 Scalia.

The Washington legislature in RCW 143.43.010.(6) is quite clear, “The state shall participate in federal ocean and marine resource decisions the **FULLEST EXTENT POSSIBLE**, which is from 0 – 200 miles from shore by definition. The legislature further INTENDED ORMA to be incorporated into their Shoreline Master Programs. Washington ecology failure to yet **recertify** the Pacific County SMP for CZM Certification is a distortion of the legislative INTENT. Failure to re-apply the county SMP for CZM Certification affectively amends the statute by excessively narrowing the legislative SMP scope beyond that legislatively intended. Washington ecology is responsible for carrying out or supporting enforcement of all activities having an effect on the resources or uses of coastal resources shall ensure that the NOAA/Washington CZM Certified agreement is, and policies are achieved in Washington offshore waters. WA ecology has a responsibility to identify conflicts between policies and utilize regulations to resolve conflict effects of offshore activities in order to assure that these policies are achieved. Failure to even attempt to CZM Certify the Pacific County SMP is failure to carry out the legislative intent to **preemptively protect fishing** as intended and called out in the Unanimous Grays Harbor oil terminal case. The Washington CZM primarily guided by the legislation surrounding the ORMA legislation is different than most other state’s CZM comments submitted by

other states due to the fact that WA CMSP legislation is far different in its objective due to the FACT that WA ORMA legislation puts the protection and viability of the fishing industry ahead of and OSW is subordinate to the fishing when there is development of OSW or other industrial pursuits in WA offshore waters. Offshore industrial wind development is not prohibited, is not specifically encouraged, and is only allowed if it can be placed in an area that AVOIDS CONFLICT that leads to adverse impacts to fishing and other existing uses of the ocean which is a tall order to accomplish in the only place fishing can openly occur in Washington offshore waters south of Westport.

NOAA may not be the final arbiter on any objection that the state may raise relative to actions in the coastal zone in the 3 – 200 mile EEZ. If BOEM does not agree with the state objection to consistency with the state/NOAA agreement conditions BOEM can appeal the decision to the Secretary of Commerce. 15 CFR §§ 930.4(a)(1) & 930.125(a). In order to grant an override request, the Secretary must find that the proposed activity for which BOEM submitted a consistency certification is consistent with the objectives or purposes of the Coastal Zone Management Act or is necessary in the interest of national security. A copy of the request and supporting information must be sent to Washington ecology and the U.S. Army Corps of Engineers. Federal waters are considered excluded from the coastal zone under the Coastal Zone Management Act [16 U.S.C. §1453(1)]. In this instance (Olympic and Cascadia Wind), Washington's review of activities in federal waters focuses on spillover effects on **coastal resources and anthropogenic uses** within the coastal zone and federal waters that will have far reaching impacts on nearby Fish Dependent Communities and there will be significant socioeconomic HARM from displacement to fishing grounds where ecosystem services are denied.

The Washington/NOAA CZM Agreement is based on effects to **coastal resources and uses** by fishing of those coastal resources where Washington ecology review of the activity "may" include effects that activities in federal waters may have on resources and uses (fishing) within the state coastal zone, or effects that activities in federal waters may have on species and uses (fishing) in federal waters that travel in and out of the coastal zone into federal waters. All aspects of the various fisheries in Washington coastal waters are interrelated. As mentioned elsewhere in this document many failed fisheries in Washington waters have collapsed into the Dungeness crab fishery that may not directly feel the impacts of the FOSW or other industrial facilities but those fisheries that are displaced also participate in crab and when denied ACCESS to other fisheries put excessive pressure on the crab fishery that forces the crab participants to fish tougher weather annually and reduce the size of the piece of crab pie every

fishing family has to harvest reducing their economic viability. This could increase the vertical lines in the water when whales are present and increase the RISK of whale entanglement and depending on species could lead to additional closures on the crab fishery as a direct effect on uses within the WEA area that produce tangible adverse impacts indirectly on the larger crab fishery that is felt indiscriminately by multiple Fish Dependent Communities where the socioeconomic effects could be quite substantial over time. The effects of WRDA 2007 where the USACE principles and guidelines were mandated to be updated and President Obama ordered that mandate to the CEQ for execution was extended to almost every federal agency including BOEM and NOAA to incorporate into their action plans. As a result of this Presidential Executive Action BOEM at the direction of CEQ developed their Principles, Requirements, and Guidelines (PR&Gs) for water and land related activities.

https://www.doi.gov/sites/doi.gov/files/elips/documents/707_dm_.pdf

It should be noted that CRCFA played an active role in the development of the WRDA 2007 bill that mandated the update of the USACE 1983 outdated guidelines that only paid homage to the "National Interest" where the WRDA 2007 and consequent WRDA bills including the 2020 WRDA bill **insisted that federal agencies pay attention to local impacts and especially impacts to low income and disadvantaged communities,** this is a strong deviation from pre-2007 activities. CRCFA understands well the congressional INTENT of the development of the PR&Gs that pertain to offshore industrial development policy as listed in OSCELA and as impacted by the 2007 WRDA bill that is not being carried out as intended by congress. CRCFA was involved extensively in the development of the 2007 WRDA legislation, the only WRDA legislation between 2000 and 2014 and helped develop the legislative INTENT was to protect the nation's citizens from Harm from federal water development activities. Offshore wind is a federal water development activity.

The BOEM lease process thus falls under the evaluation of this proposed lease sale's consistency with the Coastal Act, where Washington ecology analyzes spillover effects on coastal resources and uses beyond federal waters to include effects on nearby and distant Fish Dependent Communities and must include the Pacific County SMP regulations and policies that have far reaching impacts on all Washington residents, resources, economy, food security, and support infrastructure, ports, and are only expected to worsen in the coming decades as aggressive national energy policies and excessive development incentives subject coastal residents to additional loss of ACCESS to sustainable fishery resources from an accumulation of FOSW not just in Washington offshore waters but regionally further concentrating fishing effort into smaller and

smaller productive fishing areas increasing the horrendous effect to **"Fish or Go Hungry INSANITY"** in a very dangerous midwinter Dungeness crab fishery exacerbating the increase in the fatality rate in the fisheries. Loss of hundreds of miles of fishing opportunities does have deleterious consequences that all agency personal MUST acknowledge the fishery vulnerability and include in any analysis to prevent the associated marine casualties caused by continual pressurization of the root cause, **"Loss of ACCESS to Fish/CRAB"** from an accumulation of fisheries losses over decades that in their totality is a **MAJOR EFFECT that MUST not be ignored** any longer. Washington accumulated lost access to fish/crab are the highest loss of any state in the nation due to the dramatic adverse impacts of Rafeedie Decision. Today, due to his historical accumulation of fisheries losses even minor incursions of FOSW will have dramatically toxic effects on nearby communities as suitable sea space for fishing is diminished, let alone huge losses of fishery ACCESS over hundreds of square miles of displacement associated with FOSW. The next generation of coastal fishermen are especially at RISK of total annihilation. The coastal fisheries witnessed this termination as far back as the early December storm in 2007 that took five new crab fishermen out of business completely and that was before any WEAs caused additional loss of ACCESS to fish/crab will accelerate more economic strain on the fisheries in SW Washington effecting additional intolerable miscarriage within the young new high debt entrants in the fishing industry.

Because WEAs dictate which areas are leased and where offshore wind farms are ultimately constructed, BOEM ~~should~~ MUST fully consider the environmental and socioeconomic CUMULATIVE impacts of multiple offshore wind projects and other cumulative impacts from all other sources across a region not just in a particular state before designating/designing west coast or Washington WEAs. Unfortunately, on the Pacific Coast under current BOEM practice, WEAs are identified primarily by an unsolicited lease request which does not consider an accumulation of adverse impacts currently having harmful effects on fishing. Basic information gleaned from unsolicited lease requests has MAJOR factual flaws where there is NO vital existing use information to examine and the developer simply puts an X on the ocean attempting to obtain a non-competitive bid for the ocean space attempting to get a significant personal lease advantage arrangement with BOEM eliminating competition and a specific process designed to place any WEAs in the area of avoidance of impact to existing uses including but not limited to fishing. These Pacific Coast unsolicited bids then result in a Call for Interest or Information and/or Nominations and the Intergovernmental Renewable Energy Task Forces, where the public has only a minimal and very insubordinate role well after the area is already leased.

Environmental and existing use assessment of the area does not occur until WEAs have already been identified; and even then, only encompasses offshore wind site assessment and characterization activities, as opposed to consideration of the entire lifespan of the projects, including construction, operations and decommissioning of a project after it has exceeded its useful life. Waiting to conduct an initial NEPA EIS review until after a broad area has been winnowed down to WEAs limits the information available to decisionmakers during site selection and cuts the public out of the process inappropriately. Existing process EA lacks the rigorous analysis necessary to ensure that the full extent of the impacts of offshore wind developments are first avoided, and then minimized and then fully ~~mitigated~~ remediated. Existing uses are held at arm's length until it is too late to protect their interests in the offshore WEA; decisions are already essentially made without NEPA required public scrutiny until it is too late to alter or effect the No Action Alternative which is a foregone issue completely. **The intent of NEPA is breached completely in an unsolicited lease process** which bypasses all avoidance and minimization processes where alternate actions including the No Action Alternative are not available which places disproportionate consequences on disadvantaged low-income communities such as those found in SW Washington raising questions of **additional environmental justice concerns** that MUST be addressed. In SW Washington low income communities Fish provides some of the best family wage JOBS available on the coast. FOSW JOBS created will be few if any on the coast, all construction JOBS will be in Puget Sound as the coastal deep draft USACE channels are of insufficient depth to support floating wind energy structures of the type Principle Power has demonstrated around the world. The recent April 2022 report to the California Coastal Commission, however, may shed a new light on the type of turbine base that has draft compatible with existing west coast channels into ports like Coos Bay and the Port of Grays Harbor utilizing the design style built in China and installed in offshore South Korea.



CCF/CRCFA would be remiss if we neglected to show this recent new floating platform development in FOSW design that will be put into place in the western Pacific region soon. This new shallow draft turbine base does not take away the significant loss of fishing grounds that the FOSW facilities will destroy ACCESS to sustainable fisheries resources for nearby communities. However, there is far more hope in cost reductions for FOSW than reality will permit – FOSW will never be cost-efficient any time in the foreseeable future especially if this current rate of inflation rages on for any length of time. Example, in 1980 inflation was just beginning, similar to 2022, and by 1982 the price to construct a 70' trawler increased by over 50%. If this same rate of increase occurs as a result of the current inflation, the cost of OSW could increase the cost of power from \$0.75 - \$0.85/kW to a minimum of \$1.20/kW which would destroy family budgets and certainly not in the national interest – COSTS MATTER. Current literature for OSW does not analyze this very real potential increase in power rates where raging inflation is fully considered.

Currently Environmental Justice concerns in the United States are pursuing equitable development as an approach for meeting the needs of underserved communities through policies and programs that reduce disparities while fostering places to live and work that are healthy and vibrant. It is increasingly considered an effective place-based action for creating strong and livable communities where

communities are not subjected to localize disparities that floating offshore wind development can bring to affected coastal communities such as those found on the SW Washington coast and the entire west coast.

Equitable development is driven by priorities and values as well as clear expectations that the outcomes from development need to be responsive to underserved populations and vulnerable groups, in addition to using innovative design strategies and sustainable policies where Floating Offshore Wind AVOIDS all but minimal fishing areas. Acknowledging and understanding both is necessary for sustaining environmental justice. Lower-income citizens should be successfully guiding the changes that occur that are affecting their communities rather than reacting to major expensive economic consequences after the fact and electricity prices rise exponentially. This unique narrative is often missing from prevailing planning, design, and place-based discussions that BOEM is offering in their process is misplaced where the members of the public and the communities they represent are actually cut out of the BOEM process especially true where the unsolicited lease request is put into place by BOEM like in the Morrow Bay example of dedicating a massive 400 square mile WEA. As a public policy issue, environmental justice is often framed and presented in the context of the law, public health, waste management, and public involvement. However, other factors contributing to the hardships experienced by communities with environmental justice concerns include failures in planning or enforcing proper zoning, or the incompatibility of ocean uses where new emerging offshore industrial development just simply allowed to displace existing uses including fishing while at the same time increasing the cost of power beyond the reach of the average citizen affected by OSW.

BOEM must tailor their statement of purpose and need such that it must not be defined too restrictively and may not be so narrowly defined as to reflect BOEM's preferred course of action (lease ocean) rather than its underlying basic need and purpose of the entire coastal community that the OSW development will have and may very well have environmental justice connections. In turn, the purpose and need statement sets the stage for the agency's analysis of project alternatives. The NEPA process is intended to "inform decision makers and the public of the reasonable alternatives that would avoid or minimize adverse impacts or enhance the quality of the human environment, especially of those to whom the effects of the OSW development may occur. The alternatives analysis is the heart of the environmental review process and is intended to provide a clear basis for reasonable choice among options by the decisionmaker and the public by rigorously exploring and objectively evaluating all reasonable alternatives to the proposed action. The agency's review of alternatives must "serve as the means of assessing the environmental impact of proposed agency actions, rather than justifying decisions already made." The alternatives analysis is the linchpin of the entire impact statement, and it is essential to the NEPA process that the decisionmaker be provided with a detailed and careful analysis of the relative environmental merits and

demerits of the proposed action and possible alternatives and the effects on existing uses of the ocean that both congress and the Washington legislature sought to protect and preserve.

Many principles of Environmental Justice should be applied to offshore industrial development. Finding ways to better align environmental justice and offshore planning as complementary quality of life goals that need to be incorporated into the BOEM leasing program to better serve not only offshore industrial development but also successfully address concerns of nearby affected communities. Environmental Justice is not a priority as it should be for BOEM in the ocean leasing process that is not socially responsible nor sustainable when applied to many nearby communities. In the context of environmental justice and ocean planning, a nuanced process of equitable development improves public involvement; **supports collaborative problem solving**; and makes a visible difference in communities that are underserved, under-resourced, and overburdened where vulnerabilities will be amplified by the industrial development of offshore wind such as those found in SW Washington. Environmental Justice concerns need to be identified and addressed immediately when a WEA is just beginning to be contemplated. This is a reminder of the necessity to properly analyze and address the environmental effects, including human health and safety, adverse economic and social effects of Federal actions as required by the National Environmental Policy Act of 1969. When EIS analysis is delayed until extremely late in the BOEM lease process it is not honestly possible to incorporate “Environmental Justice’ parameters that protect the nearby communities from adverse impacts of OSW.

Offshore wind is a social and environmental issue, and the **principle of fairness** suggests the burden of policies that may be necessary for society – like protecting the environment and coastal economics should not be borne by a small minority of coastal people who happen to be victimized by the deleterious side effects of offshore industrial development or federal court decisions like the Rafeedie Decision, these sweeping changes need to be borne by society as a whole not these small affected needy communities. Basic community concerns should not be interpreted as unwillingness to embrace change or new development as long as the process is set up in a manner to **protect nearby communities from HARM**. Public push back often reflects frustration with past failures of the public involvement process, concern that cherished institutions like coastal fishing may be lost or severely damaged, or fear of massive involuntary displacement of fishing over huge areas of viable fishing grounds necessary to sustain Fish Dependent Communities if siting of industrial complexes are not sited outside of areas nearby communities depend upon for their survival as well as the differential burdens that may beset coastal populations that are less resilient to shifts in their ACCESS to seafood products necessary for their economic sustainability, especially those communities already beset by other large loss of ACCESS to fish/crab. Ocean industrial development reveals the direct connections between ocean use,

environmental justice, and nearby community sustainability that could easily be placed in jeopardy which **BOEM needs to modify their process to be more pliable to plan with coastal communities rather than dictate to them that the eventual outcome** will be to initiate a large WEA in their fishing grounds rather than to protect the nearby communities from adverse impacts of offshore industrial development. BOEM should also keep in mind that industrial offshore development is not always appropriate and at times the adverse effects of offshore development can and do not benefit nearby communities and development should be AVOIDED completely.

When done correctly, NEPA provides a tried-and-true mechanism for engaging all of the government entities and stakeholders in a comprehensive, inclusive, and transparent process **from the very beginning** to explore the **direct, indirect, and cumulative ecosystem impacts** of an activity that should be influenced by past activities in the area in question is especially poignant in SW Washington that is significantly affected by the Rafeedie Decision. NEPA is a process where investigation before Actions are taken. BOEM has NEPA upside down where they lease before initiating and EIS. Completing an EIS prior to the identification of WEAs would have multiple benefits because it would (1) ensure that areas selected have the optimum wind energy potential that AVOID potential adverse environmental and social impacts; (2) illuminate and address the **environmental and user conflicts** from the start to reduce the likelihood of litigation at a later date; and (3) provide a **more robust public engagement** and comment process that identifies resource and user concerns earlier and more thoroughly than BOEM's current reliance on the Unsolicited lease request, Call for Information/interest, and Nominations process. BOEM MUST become much more responsive to the coastal fishing citizens that will be impacted by OSW development from displacement and work to provide solutions where WEAs are placed in ocean areas that AVOID CONFLICT with existing uses including but not limited to fishing to prevent suppression of existing economies.

Adopting a NEPA review process to designate WEAs would also build public confidence in the WEAs that may be identified, that the **WEA avoids conflict with existing users** including but not limited to fishing, and the improved knowledge of challenges would allow stakeholders, lessees, and agencies to start collaborating on developing solutions to recognized impacts at the beginning of the process, instead of learning of issues later in the process when BOEM conducts detailed environmental analyses or EIS of individual project construction and operations plans. An EIS would also capitalize on the significant experience that stakeholders and federal, state, local and tribal entities have in regional ocean planning, which for many West Coast Coastal Marine Spatial Planning Councils should have become the expected way to

collaborate and deliberate on the management of the ocean. BOEM must give these state lead Coastal Marine Spatial Plans adequate deference so that these CMSP's have real meaning in offshore industrial development and offer the protections that state legislatures intended. It should be noted that Washington is UNIQUE in its CMSP legislation as the only state in the nation to legislate CMSP to protect and preserve fishing as a first priority in the legislation. All other states initiated CMSP legislation to install ocean energy. Back in 2010 when Washington SB 6350 was originated there were 243 requests to lease ocean with the intent to grab as much ocean as immediately possible to install ocean energy **or sell the right to someone else to develop it**. Fishing was immediately an afterthought in the out of sight out of mind process. The Washington legislature was approached by Burt Hamner to finance his wave energy project that he described as a coastal erosion control system. Hamner envisioned the entire ocean full of wave energy buoys that he projected would lower the entire wave climate in SW Washington by 11%. Burt Hamner was unceremoniously thrown out of Olympia as a snake oil salesman. The Washington legislature was acutely aware of the ocean energy potential to destroy the coastal heritage and coastal fishing communities and their families. **Washington CMSP was put in place to protect and preserve fishing as a first priority** and if ocean energy could be placed in the ocean in such a way as to AVOID adverse impact to fishing it would be encouraged – **AVOIDANCE is the key decision point to Washington industrial development in offshore waters.**

Siting WEA Projects on any coast and especially the Northwest Requires a **Rigorous Alternatives Analysis** that embraces the **"Do No HARM"**, philosophy at its core that has a priority on AVOIDANCE of impact to existing uses including but not limited to fishing and navigation that has been the hallmark of ocean protections for 100's of years and is the hallmark of the Washington legislature. **"Do No HARM"**

Lawsuits will abound until this BOEM lease process is cleaned up and proper procedures are initiated the embrace the INTENT of congress to cause NO HARM to the fishing industry. The current BOEM lease process forgoes good faith efforts to make well-reasoned conclusions to adequately protect nearby communities prompting lawsuits in the future besides:

1. [001-Complaint-without-Exhibits.pdf \(texaspolicy.com\)](#)
2. [Microsoft Word - Complaint \(rodafisheries.org\)](#) – District of Columbia Case No. 22-237
- 3.

43 U.S.C. §§ 1331–1356.

43 USC § 1332 (2): The congressional policy mandate requires that “the character of the waters above the outer continental shelf as high seas and **the right to navigation and fishing therein shall not be affected**” by BOEM’s management and regulation USC § 1332(2) is being ignored by BOEM. Until this congressional legal policy is met by BOEM lawsuits will continue to plague the development of offshore wind. Currently fishing and navigation are being infringed upon by the malpractice of the existing BOEM process where offshore leases are granted for OSW within or outside of a WEA before an EIS is even contemplated. **In 2005, Congress amended OCSLA to impose a legal obligation on BOEM to protect existing “reasonable uses” of the Outer Continental Shelf, including commercial fishing,** and to consider the impact of proposed leases’ on fishing and navigational uses. 43 U.S.C. § 1337(p)(4)(I), (J). BOEM ocean leases stem from a major rule affecting basic use of the oceans requiring clear authorization from congress that by policy demands that the right of navigation and fishing SHALL not be affected which is a very clear policy directive by congress that MUST be guided by this plain text in the law where the words mean what they say, **“the right to navigation and fishing therein shall not be affected”**, this should be the minimum performance standard for protecting coastal Fish Dependent Communities and integrated into the BOEM lease process so that the INTENT of congress is properly ascertained and carried out as directed in the congressional policy statement. The issuing of cumulative WEAs or unsolicited lease requests is a major rule that congress must address that requires clear congressional authorization where agencies are effective and accountable to both congress and the people that the WEA designations are affecting. *Loving v. United States*, 517 U.S. 748, 757 (1996). The congress obviously did not authorize massive displacement of fisheries, FACT they directed the opposite where fisheries was not to be affected. “If an agency wants to exercise expansive regulatory authority over some major social or economic activity . . . Congress must clearly authorize an agency to take such a major regulatory action.” *United States Telecom Ass’n*, 855 F.3d at 421.

There is no evidence in any statute, legislative history, or regulatory history that Congress intended for BOEM to become an ocean czar where BOEM can place excessive WEAs that displace existing uses including but not limited to fishing over such large areas that it contributes to a “brain drain” on the coast forcing our young people, our best coastal human capital to leave the coast due to the loss of good paying coastal fishing JOBS. The legislative history is full of evidence that both congress and the Washington state legislature intended to protect and preserve both fish and fishermen. FACT is still I have a letter written to me by **Senator Magnuson** stating that FACT very clearly that the congress intended to **“prevent the depletion of both fish and fishermen”** in the

EEZ. In addition, Washington **congressman Don Bonker** addressed the PFMC on 19 February 1977 and stated very clearly that the **Magnuson Act that implemented the EEZ was implemented to aid the commercial fishing industry, not put them out of business.** BOEM current lease policy is not in accordance with the original INTENT of congress when the US unilaterally expanded the US territorial seas to 200 miles offshore with the express intent to rid our shores of foreign interests that are currently sneaking back into the EEZ displacing fishing. The congressional intent was to remove foreign interests from our EEZ. BOEM and the US Department of Energy have misplaced this congressional INTENT as they allow foreign interests to once again invade our waters with foreign JOBS which should go to US citizens. If BOEM is pushing the advocacy of thousands of JOBS, these MUST be JOBS available for US citizens. A significant part of prudent and reasonable offshore development standards in addition to protection of coastal fisheries is the fact that US Flag Vessels and US crews are employed in Offshore Wind Development not finding work arounds that cost our citizens reasonably good paying jobs while other standards yet to be developed protect the ocean ecology. Offshore wind developers that accept federal or state subsidies of any kind should be required to use US steel and US turbines so that more JOBS are created for US citizens.

An EIS prior to identifying WEAs would provide Pacific Coast affected people with rigorous alternatives analysis necessary to determine which areas produce optimal offshore wind energy potential, **AVOID potential conflicts** with the environment and existing ocean users including fishing, and are overall most appropriate for offshore wind energy development to respect and prevent adverse impacts to nearby and distant coastal communities at a location priority where **fishing is preemptively protected.**

The California Current that spans the Pacific Coast is one of the most productive ecosystems in the world that has exceptionally strong ocean upwellings which bring nutrients to the surface providing unparalleled fisheries productivity. This ocean upwelling fuels a strong biological engine that supports 1000's species of fish and wildlife, including an overabundance of marine mammals, fish, birds, turtles, and invertebrates. The NE Pacific plays a significant role in the culture of the coast and is the foundation for a coastal economy characterized by commercial and recreational fishing, estuary aquaculture, recreational boating, shipping, and tourism. There is no doubt that offshore wind development in offshore waters will significantly affect the human environment in the region. An EIS, instead of an Environmental Assessment, is therefore appropriate given the significant impacts on the environment when all stages of WEA development are thoroughly considered, **existing users are preemptively protected**, and past

cumulative impacts are factored into the decision to lease appropriate ocean for new emerging industrial development only in areas that AVOIDS effects to existing uses.

We envision development of an EIS for the Pacific Coast with full consideration for the UNIQUE situation offshore Washington as the only state in the nation to bear the burdensome cross of the UNIQUE Rafeedie Decision. The EIS should analyze all stages of offshore wind development (including site placement, site assessment, construction, operations, and decommissioning including sufficient realistic **decommissioning Bonding** capable of removing the entire OSW development from the ocean) and assess all reasonable alternatives in the region in order to identify WEAs that AVOID impacts to nearby communities. Examining the full scope of potential impacts from the very start would enable BOEM to consider, at the outset, measures or recommendations for least impactful development types and survey and construction schedules and ways to avoid and reduce conflicts like the ones unfolding in other areas of the United States where offshore wind permitting, and development is underway. By identifying affected parties and impacts early on, an EIS could provide greater certainty and predictability for lessees going forward and could increase efficiencies in later development stages by helping adequately inform future NEPA reviews. Further, the learned information could be incorporated as monitoring, mitigation, and adaptive management measures into lease stipulations, ensuring the final projects are more responsive to on-the-ground concerns raised by the public including the fishing industry. It provides the chance to establish an environmentally protective and progressive process, while setting a level playing field among bidders and **eliminate the current unsolicited lease request process completely** that bypasses the real analysis necessary to place WEAs in NO Conflict Areas offshore. NEPA achieves its purpose by "action forcing procedures . . . requiring that agencies take a "hard look" at environmental consequences." *Robertson v. Methow Valley Citizens Counsel*, 490 U.S. 332, 350 (1989). This "hard look" means federal agencies must address any adverse environmental effects which cannot be avoided." TOTAL DISPLACEMENT of fishing from the "hard look" is an effect that cannot be avoided in offshore floating wind energy development. Under NEPA agencies fulfill their duties by preparing a "detailed statement" for all major agency actions "**significantly affecting the quality of the human environment,**" known as an environmental impact statement ("EIS") 42 U.S.C. § 4332(C). An EIS must include within its scope "cumulative actions that when viewed with other proposed actions or previous actions like Rafeedie Decision have cumulatively significant impacts on the human environment and should therefore be **discussed in the same impact statement**" and "similar actions

that when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together that result in loss of ACCESS to fish/crab for the fishing industry which MATTERS.” 40 C.F.R. § 1508.25(a)(2)–(3). The Cumulative Impact requirement ensures that agencies consider the **collective effects** of individually minor but related actions over time when examining environmental impact. 40 C.F.R. § 1508.7. Cumulative Actions can accrue over decades.

New age of “hard look” is relative to offshore wind development is ripe for step two for the Chevron-State Farm Framework which is at a critical time for the Chevron Doctrine where the Supreme Court is reigning in agency deference in a big way. In a progression of recent cases, the U.S. Supreme Court has, in various ways, signaled a reluctance to defer to federal agencies’ interpretations of statutes. *Michigan v. EPA* and *Encino Motorcars LLC v. Navarro* are leading to a **new Chevron-State Farm conceptual framework**, which directs courts to scrutinize the factual premises and underlying policy reasons supporting an agency’s legal interpretive position. When BOEM employs its process working under EXEMPTIONS from FACA and Interior Department PR&Gs they are setting themselves up for judicial review, tougher scrutiny, and reversal of their actions where they have NO Thresholds on Cumulative Effects of their actions that negatively affect nearby communities where they have failed to execute a robust cost/benefit analysis and effects of their actions on these communities. BOEM has neglected their duty to produce fact-finding and cost/benefit analysis requirements upon agencies aimed at good governance where agencies have overextended their use of Chevron which is causing the doctrine to come under sharp political, judicial, and academic attack. The BOEM process that is used to suppress existing ocean uses including but not limited to fishing is lacking in its assessment of negative impacts to other existing uses of the ocean and has failed to indicate what will be lost in gross domestic product if all they entertain is the exvessel value of the fish harvested. The fish/crab not able to be harvested also lose money in analysis all the way to the consumer’s dinner plate. BOEM is not in line with the State Farm Doctrine (widely taken to have ratified the hard look doctrine) where adequate analysis of cost/benefit analysis leaves out all shoreside consequences of their displacement of fishing revenue that is value added across the country all the way to the end consumer. BOEM’s recent comment about all they do is provide a place for ocean energy & it is not their concern what happens on shore is BOGUS deficient analysis where the consequences of their actions cause an adverse economic ripple effect onshore. It should be noted that Motor Vehicle Manufacturers Ass’n v. State Farm Automobile Insurance Co has been cited in over 700 DC circuit opinions. **Recent administration political influence peddling should not be the decision**

parameter in OSW considerations. Good in depth analysis and positive “hard look” at cost/benefit of the scientific FACTS discerned should decide if an OSW facility is ripe for installation, not a simplistic 30X30 presidential euphonism put forward as a feel good measure to plaque the green washed political base even when the true results are economically irresponsible, and any OSW facility will be a seminal case on arbitrary and capricious activities if any of the current floating wind facilities actually get permits to build anything. Offshore Washington anytime in the reasonably foreseeable future Floating Offshore Wind energy is projected to cost at a minimum \$0.75/kw without considering the consequences of the massive inflation the nation is experiencing is a very dysfunctional use of taxpayer and ratepayer dollars and will lead to significantly increased POVERTY in SW Washington and elsewhere, where median family income is one of the lowest in the state and will force families to make really poor choices between food on the table or heating their homes let alone putting really high priced gas in their cars to get to work. The BOEM “hard look” on the reasonableness of the cost/benefits of offshore wind fails the sniff test, it also fails the people that will be FORCED to purchase the excessively high priced power that will also drive inflation higher toward the stratosphere. Floating Offshore Wind will drive inflation to new highs that the people of the coast cannot afford.

Federal administrative agencies are required to engage in “reasoned decisionmaking.” Not only must an agency’s decreed result be within the scope of its lawful authority, but the process by which it reaches that result must be logical and rational using the best information attainable. It follows that agency action is lawful only if it rests “on a consideration of the relevant factors” (emphasis added) [State Farm]. State Farm will aptly apply to coastal floating offshore wind where in the course of its own statutory interpretation analysis, reasoning that “although the statutory term ‘appropriate’ leaves agencies with flexibility, an agency may not ‘entirely fail to consider any important aspect of the problem’ when deciding whether regulation/action is honestly appropriate. [State Farm].” Forcing Fish Dependent Communities off the ocean in very large scale wind farms is widening the berth of agency rules subject to “hard look” review which an agency must support its statutory interpretation with factual materials or cost-benefit analyses in order for its interpretation to be considered reasonable. Once again BOEM’s recent comments that fishing will not be prohibited within ocean energy facilities is BOGUS and unsupported by the facts as many forms of fishing the requires bottom contact will by definition be excluded. Saying and doing are not the same thing; BOEM fallacious claim that fishing can occur within an OSW facility is patently FALSE. “Sensible regulation/action requires careful scrutiny of the burdens that potential actions

imposed on those other than those directly involved in OSW development,” must be fully a significant part of the analysis before a final determination of the siting of an OSW facility is worthy of its placement only if major displacement of fishing is not the outcome. What is “major” to BOEM employees working from a comfortable office in California may be interpreted far differently by those on the grounds suffering the displacement from OSW facilities. It should be noted that unless a statute prohibits consideration of cost to others, State Farm arbitrary and capricious review under the APA requires it. More generally, the appropriate reading of *Michigan v. EPA* is that the Court deploys the Chevron–State Farm conceptual framework to subject to heightened judicial scrutiny the EPA’s policy choice to disregard costs when making its threshold determination that it was “appropriate” to act. Costs to others MATTER and cannot be passed over as BOEM is currently doing in their contrived process of over relying on Chevron at costs that may exceed \$1.20/kW under this current inflation we as a nation are experiencing. This is hard to justify in the opening policy in OCSLA where congress put forward a very straight forward policy statement in very plain language within the law, **“the right to navigation and fishing therein shall not be affected”**. This policy statement about navigation and fishing is about as straight forward as it gets in the law.

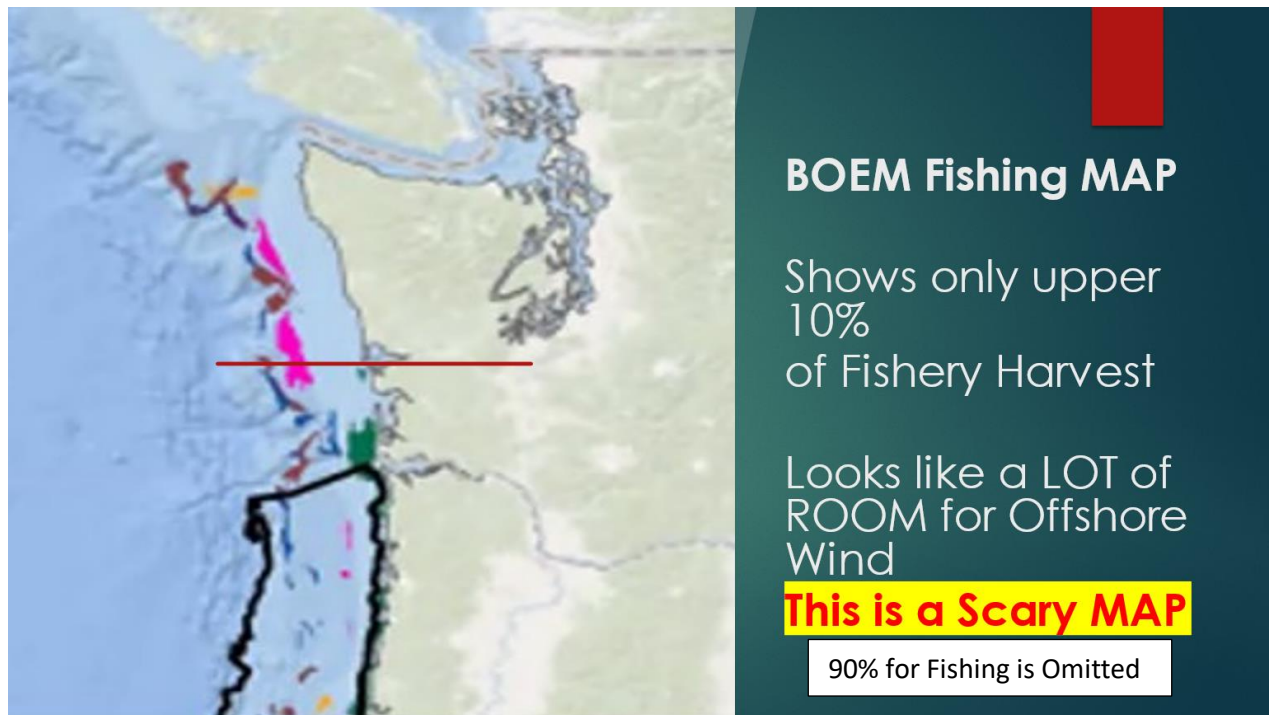
Chevron–State Farm legal framework is premised on the idea that effective judicial oversight leading to optimal agency regulation/action depends upon forcing agencies to justify their policy-based choices when issuing rules/actions that interpret statutes. This will prevent agencies from using legal statutory interpretation arguments — which are relevant at Step One — to evade their obligation to factually justify their policy-based interpretation arguments at Step Two. Implementation of floating offshore wind activities by BOEM’s deficient process in which provides a vivid illustration of the core problem — namely, an agency effectively uses Chevron Step One legal statutory interpretation arguments to justify its implicitly policy-based interpretation at Step Two using exemptions in the laws. This example is part of a wider trend of the weakening, if not effective nullification of, judicial oversight at Chevron Step Two. This perfunctory Chevron Step Two allows agencies to shroud policy choices in legalistic reasoning, thereby avoiding a demonstration factual support for their policy decisions. And the Catskill Mountains case offers a compelling example of the need to resuscitate Chevron’s anemic Step Two — a need that could be addressed by the State Farm approach. With respect to any ambiguous statutory language, agencies are often called upon to make their interpretive choices based on policy-driven considerations. With *State Farm* incorporated into *Chevron* Step Two, the agency is forced to identify those

considerations and provide factual support to show how its legal interpretation effectuates their actions judicially. The far better choice for federal agency activity is for agencies to choose statutory interpretations, and the revised factual framework will affect better agency decisionmaking. By requiring that the “reasoned decisionmaking” by agencies includes fact-finding and cost-benefit analysis of underlying policy choices vetted in the administrative record, will lead to better outcomes for coastal people faced with OSW. Avoidance of displacement of existing uses is the obvious first choice that BOEM should enlist in their decisionmaking as to where to place WEAs.

Currently Chevron deference is under attack where the U.S. Supreme Court stands with respect to *Chevron* generally, and, more specifically, the extent to which an agency must support its statutory interpretation with factual materials and/or cost-benefit analyses in order for their actions to be interpretation and considered reasonable in their WEA assignment that AVOIDS impacts on existing uses. In a progression of recent cases, the U.S. Supreme Court has, in various ways, signaled a reluctance to defer to federal agencies’ interpretations of statutes putting the brakes on Chevron deference in many instances but this may mean that more scrutiny is in line that more than hints that there is a new day coming where there is a Chevron – State Farm conceptual doctrine framework which directs courts to scrutinize the factual premises and underlying policy reasons supporting an agency’s interpretive position. Currently BOEM is overstepping their deference in their overly narrow use of OSCA in relationship to the rest of the US Code especially in ignoring “the right to navigation and fishing therein shall not be affected”.

“Effects” and “impacts” are synonymous with respect to NEPA. 40 C.F.R. § 1508.8. The EIS must analyze “ecological such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, **cultural, economic, social**, or health, whether direct, indirect, or cumulative” effects. 40 C.F.R. § 1508.8. Direct effects “are caused by the action and occur at the same time and place.” 40 C.F.R. § 1508.8(a). Indirect effects “are caused by the action and are later in time or farther removed in distance but are still reasonably foreseeable.” 40 C.F.R. § 1508.8(b). The EIS must not only identify impacts but evaluate their severity. 40 C.F.R. § 1502.16(a)–(b) (recognizing that agency must explain the “significance” of effects). And when **providing reasonable alternatives**, agencies must include even those they do not have the specific authority to implement. See *NRDC v. Morton*, 458 F.2d 827 (D.C. Cir. 1972). One reasonable alternative to OSW is onshore wind like Naselle Ridge or could be

pump up hydroelectric such as that proposed east of Goldendale, WA. The law also requires agencies to “prepare supplements to either draft or final environmental impact statements if . . . the agency makes substantial changes in the proposed action that are relevant to environmental concerns, or . . . there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.” 40 C.F.R. § 1502.9(c)(1). Effects and impacts are used synonymously throughout this paper.



BOEM has made extremely limited, if any efforts to review commercial fishing as part of its WEA siting decisions elsewhere in the nation that have been subverted by unsolicited lease requests of BOEM. In fact, the fishing maps displayed at the BOEM/OREGON Taskforce meeting in the fall of 2021 were totally fallacious only displaying the upper 10% of fisheries production offshore WA and OR leaving 90% of the fishing effort unmapped which has been their MO since BOEM’s inception. CCF/CRCFA participated in BOEM mapping exercises over a decade ago where walking the dog on Long Beach received the same deference as the only coastal fishery on the coast capable of sustaining coastal fishing ports, Dungeness crab. The maps were put out as number of uses even if one dominant map superseded a collection of other maps in providing coastal sustainability. On top of this type of fallacious analysis BOEM buried the Flaxen Conway Fishing maps that displayed a far different use

pattern than the deficient map BOEM put before the agencies in the fall 2021 BOEM/Oregon Taskforce meeting where those that immediately recognized the BOGUS presentation were NOT allowed to immediately challenge the maps as portraying the illegitimate use of the offshore waters by fishing and the agencies present went on as if BOEM was displaying the TRUTH when in fact the reality was totally fallacious missing 90% of the commercial fish harvest in Oregon/Washington offshore waters. **Deceitful presentation skewing the eventual outcome for OSW siting is an improper use of authority and subject to legal challenge.**

Under current BOEM regulations, BOEM is required to conduct a Call for Information and Nominations unless there is an unsolicited lease request for a WEA that bypass all reasonable analysis that should avoid Conflict with nearby and distant water/fish dependent communities. We recommend that scoping for an EIS occur simultaneous with the Call and that the information gathered from the Call be one of the inputs that feeds into the EIS process that AVOIDS Conflict with existing ocean uses including fishing and navigation. The EIS would then result in a record of decision that identifies the final WEA areas on the Pacific Coast that are in accord with existing fishing activities. Full collaboration with the nearby communities in the WEA selection is paramount to avoiding Conflict.

The unsolicited lease request is nothing but an avoidance of necessary information request that bypasses the public interest and undermines the public TRUST as NEPA is denigrated. The unsolicited lease process places the affected public into just "Noise" in the background to be ignored. There is NO counterweight that prevents the developers interests from exploiting federal/state fisheries displacement to the detriment of the public trust resources managed by state and federal fisheries management councils and in the case of Dungeness crab out to 200 miles from shore. BOEM has NO standards or thresholds established in the scope of their review process that is not dictated by the developers' objectives to install OSW facilities. The deference that BOEM has handed to developers is excessive. The BOEM process where an EIS is not done until long after an offshore lease has been given to a developer and wrongly defers any public comments on important issues which impact the whole of the OCS resources and nearby Fish Dependent Communities until near the end of the process of installing new emerging industrial complexes on the continental shelf or slope even though impacts from potential activities are reasonably foreseeable much earlier in the process. The BOEM process of beginning to lease ocean energy sites in the Pacific region show a distinct bias to industrialization and will result in displacement of fisheries in the ocean energy area. **There is**

NO such thing as coexistence between Floating offshore wind and ground contact fisheries, FOSW is mutually exclusive of fishing.

In sum, to maximize the opportunity for offshore wind projects to be developed with minimal environmental and ocean user impacts and maximum stakeholder input and engagement from the start the **BOEM process needs to be changed.** CCF/CRCFA recommend that BOEM conduct an EIS prior to any OSW lease and as the means for identifying WEAs on the Pacific Coast including the UNIQUE situation offshore Washington where serious multiple loss of ACCESS to fish has occurred including but not limited to the Rafeedie Decision which has cut deeply into the Washington fishing industry ACCESS to fish/crab.

CCF/CRCFA has attended several BOEM/Oregon Taskforce meetings and have come away empty. Our ability for MINIMAL input has been placed in the long shadow of the taskforce out of sight out of mind and believe strongly that the current BOEM process leaves those most affected by WEAs that shortchanges the current ocean users including but not limited to fishing. The OSW establishment of WEAs especially unsolicited OSW development is a **real war on working men and women that depend on the ocean for economic sustenance** has NO thresholds on the total elimination of their fishing rights being displaced one OSW farm at a time without limitations and is very dangerous to the long term existence of fishing that will lock coastal Fish Dependent Communities into POVERTY as their socioeconomic resources are denied multiple ACCESS via OSW as Cumulative impacts expand which is reasonably foreseeable and certain to accrue. The Olympic and Cascadia Wind projects will likely be a “major” harm to the local ecosystem, local marine species, **commercial fisheries**, deep draft shipping, scientific research and surveys, and military and national security uses with exceptionally very high priced intermittent electricity a reasonably foreseeable outcome that will contribute to increased POVERTY on the coast which of course leads to additional bad demographics.

BOEM offshore lease PROCESS is BROKEN. The BOEM PROESS is aggressively BIASED and discriminatory against existing uses including but not limited to fishing. Of primary concern is the unsolicited lease process that sidesteps any honest effects or analysis of the area requested. **Environmental Justice** effects on nearby communities completely ignored. Environmental justice can be defined as a goal of sustainable, healthy societies in which all people have plentiful access to environmental goods and equitable – but minimal – exposure to environmental risks. Vulnerability analysis should be thoroughly investigated to protect communities most susceptible to disproportionate and cumulative effects from the installation of oversized OSW industrial complexes as large as 400 square miles like the BOEM lease area offshore Morrow Bay or the 700

square miles of FOSW proposed for SW Washington. These offshore industrial complexes are causing significant loss from an uneasy tradeoff of ACCESS to fish/crab that nearby shoreside communities need for their socioeconomic success. **Cumulative impact analysis must investigate community injuries over long time frames** to get an accurate **Big Picture of past damages** that have perpetrated chaos in some Fish Dependent Communities like SW Washington. Fishing losses from Industrial takeover of offshore fishing areas to fishing communities will occur over long time frames and will not be fully recognized in the near term as additional companies begin to apply for additional industrial leases over the coming decades increasing the vulnerability to Coastal Fish Dependent Communities and reducing the coastal economic resiliency. The disruption in fishing grounds will increase operating costs for vessels, increase safety risk, and lower fishing industry revenue which need full long term analysis. Example: CRCFA estimates that long term consequences of the Rafeedie Decision have cost the Washington crab fleet in excess of \$240 million to date which significantly diminished the ability of the next generation of Washington fishermen to be viable. Addition of unsolicited WEA requests will only compound the adverse effects on nearby communities placing community resiliency at considerable RISK, especially the RISK to the young high debt new fishermen that have not developed enough financial security to survive any significant displacement from fishing grounds and will become victims in peril of a Vanishing America unless checked before the viability of the fishing fleet is sapped. Environmental Justice MUST stop the **toxic effects of FOSW to fall disproportionately on disadvantaged communities** like those found in SW Washington that currently has some of the worst demographics in the state that will be further distorted by displacement causing further environmental inequity as the outcome that MUST be prevented is the nearby communities from becoming environmental justice communities.

BOEM has the **Cuyahoga River on fire once again**, but this time massive offshore industrial development is being pushed aggressively forward without proper protections, thresholds, or meaningful metric analysis of long term Cumulative **adverse effects on nearby communities that have/will significantly suppress fishing opportunity for Coastal Fish Dependent Communities undermining their overall viability and removing much required resiliency**.

Environmental Justice is not metered out by collaborative processes, but environmental justice programs include provisions for both distributive justice, referring to the distribution of environmental quality among different communities, and procedural justice, referring to the access of citizens to decision-making processes that affect their environments and their vary lives.

BOEM's state taskforces to date have excluded ordinary citizens and fishing interests from becoming members of the decisionmaking team forcing unequitable outcomes for displacement of Fish Dependent Communities need for the sacredness of ACCESS to fish/crab to sustain these communities nearby Offshore Wind facilities. EO 12898 has to make a difference in the lives of these nearby communities poised to suffer huge displacement from their ACCESS to fisheries resources sustainability that these communities need.

Offshore industrial development must not come at the expense of nearby communities' socioeconomic suppression that could lead to total failure and certainly will for some young next generation fishing families. Loss of additional Fishing Grounds is unmitigated collateral damage as fishing is displaced by Offshore Wind, other industrial development, or the effort to make 30% of the ocean into ocean preserves by 2030 – HARMFUL cumulative impacts can easily be recognized through even ordinary geospatial mapping of fishing displacement over time and place on the Washington coast. OSW electricity at current exorbitant cost will cause the entire nearby Coastal Community to hemorrhage significant socioeconomic damage and is nothing more than a **Coastal Poverty Program**. NREL has estimated that the cost per kW of electricity as far out as 2032 at \$0.75 - \$0.85/kW which does not include the high rate of inflation that our nation is currently experiencing. Current cost of electricity to local Washington coastal PUDs from the Bonneville Power Administration is about \$0.04/kW in SW Washington. Monthly energy bills could go up by 20 X if OSW was the sole source of coastal energy which it can never become due to the intermittent reality of the FACT wind does not blow at a speed to swing huge turbine blades on windmills more than 40% of the time north of Newport Oregon. BOEM must consider impacts not only to offshore seafood harvesters but also to the seafood processors, seafood supply chain, related shoreside infrastructure, and the general population that would be served by FORCED offshore wind industrial takeover of large tracts of the high seas. **Agency offshore wind policy must not make paupers out of the coastal people, or anyone forced to purchase this high price offshore electricity.**

The BOEM lease process effects on nearby Fish Dependent Communities' socioeconomic impacts are always portrayed as MINIMAL and as a FONSI, Finding of NO Significant Impact. These FONSI are a **severe twitching of the FACTS** where multiple stressors on nearby coastal communities are erroneously dismissed as inconsequential. Negative economic impacts to individual families in seafood dependent communities could/will suffer severe economic destruction where industrial development suppresses dependent fishing over excessive sized consequential WEA areas. These adverse effects are not even

portrayed as a concern by BOEM where lip service to caring about impacts to Fish Dependent Communities is a basic analytical DEFECT in BOEM Process and as depicted in the recent BOEM/NOAA MOU. **BOEM is inappropriately distorting fishing data** necessary to protect and preserve fishing from over exuberant offshore wind development displacing fishing opportunity over very large geospatial areas without any Cumulative impact analysis or any **meaningful Metric Thresholds** applied to protect nearby communities from significant HARM undermining nearby communities' socioeconomic wellbeing. All the west coast including SW Washington will suffer gross indignities as a result of OSW.

The only fishing economics shown at the PFMC ad hoc meeting by BOEM on 4 March 2022 ZOOM meeting was exvessel landed value which is the bare minimum new dollars generated by fishing, A far better example of TRUE value of the seafood products produced by fishing anywhere is far better portrayed by the **Gunnar Knapp "The Economic Importance of the Bristol Bay Salmon Industry"** from 2013 where the study followed the sockeye salmon from harvest to the consumer. Value was generated all the way from harvest to processor, warehousing, trucking, wholesaler, to retailer, restaurant, to the consumer that created JOBS from end to end. Without end to end income analysis the value of fish harvester is diminished, and the entire socioeconomic picture totally distorted. The vast majority of fishing value is always totally undervalued by only showing exvessel value and the health value to the consumer of these healthy seafood products for the American people is never put out for proper inspection. METRICS omitted! When the value of fishing is discussed, it is never in terms of a new dollar in the US economy relative to a discretionary dollar where a newly generated dollar has several times the value of a discretionary end use dollar. BOEM did mention at the ad hoc presentation that there is NO bright line metric and that the entire BOEM decision to establish WEAs is discretionary, discretionary with the value of fishing minimized without concern for what happens on land to the overall Fish Dependent Communities and that the impacts were relative. Relative to what was never put on the table for examination or discussion – the transparency they claim to be putting forward was shrouded in opaque relativity where decisions to move forward with OSW leasing has NO Score Card, NO strikes, NO balls, just homeruns for development of OSW. This analysis is highly flawed where long term impacts negatively affecting declining demographics to nearby and distant water communities are simply ignored. The BOEM process is set up in such a manner to do one thing, get OSW leases in place and steel in the water. There are NO Cumulative impact analysis that leads to NO. BOEM said that they have never found any significant impacts associated with any EA's they have done; no

mention of NO OSW facilities in US waters to measure consequences on Fish Dependent Communities. Once the turbines are in the water and impacts begin to mount on communities there is NO chance to undo the damages. The United States is rushing "head long" forward with extra large wind lease areas without any ability the redress the potential damages done to coastal society.

https://iseralaska.org/static/legacy_publication_links/2013_04-TheEconomicImportanceOfTheBristolBaySalmonIndustry.pdf

The fishing community is scared to death of what is to come. BOEM's only concern is to lease large tracts of ocean, very large tracts of ocean where fishing will be excluded by default as the ocean is given away to the highest bidder as the public is blinded by the BOEM procedure with totally inadequate display of how the decisions are made to expel fishing that has long historical culture in the ocean that is being stripped away by people with an ideology preference no matter the physical cost of OSW development or the socioeconomic costs to the coast and all of society. Fishermen and processors are not at the decision table and are on the MENU eaten alive by displacement everywhere OSW decides they want to develop. Frustration abounds with this opaque no Threshold process. The BOEM call areas in southern Oregon for 3 GW of OSW will at a minimum initially eliminate over 300 square miles of potential fishing grounds and this was indicated not the last confiscation of fishing where over time it was indicated the 3 GW near term growth of OSW was only the beginning of the facilities possible in this action area as coastal livelihoods are destroyed by a flawed process that many times spoke to the FACT that they only leased ocean and had NO control over what the consequences were on land, that was someone else's concern – calculated and COLD as there are NO METRICS that will ever lead to the No Action Alternative in the NEPA process years after a developer has put lease money on the BOEM table and worked with BOEM for years to get the OSW facility over the finish line to production as the only OUTCOME that BOEM ever anticipates in this flawed process.

NON-Collaborative development of OSW industrial development affects different areas significantly more than others, especially those areas of SW Washington. BOEM facilitated collaborative workshop formats may be useful if they are interactive and not simply listening sessions where the public is excluded from official meetings, often until after decisions like the large call areas recently announced in southern Oregon. **Phased approaches to offshore windfarm development are preferable** if at all necessary as they allow for data and information regarding impacts and the success or failure of previously implemented mitigation steps to be evaluated and incorporated into future planning, decision-making, construction and operation. Jumping immediately

to 1000 or larger MG facilities or BOEM call areas exceeding 2200 square miles is taking a noxious step **too far too fast** to know honest results of large area displacement of fishing grounds and lost fishing opportunities on nearby and distant communities. After the February 2022 BOEM/Oregon Taskforce meeting was closed, the public finally was able to give their perspective of NEW INFORMATION presented on 25 February 2022 with the most common comment presented **"SLOW DOWN"** the process of designating WEAs. It should be noted that the public comment feed was arbitrarily shut off in less than an hour prior to some public comment in the queue for delivery. A second theme to the public comments was that the Call Area was in strong CONFLICT with existing uses including but not limited to an existential threat and little if any deference to fishing. A third theme to the public comments was that without the public and fishing industry at the BOEM Taskforce meetings the public comment period after the meeting was over was an exercise in futility where **fishing was being sacrificed on the altar of carbon** where adverse impacts to fishing were not even secondary considerations to placing offshore floating wind facilities where it was best for development with totally insufficient deference to fishing communities, deference needed for their economic viability. Another prevalent concern from the public was that CUMULATIVE IMPACTS not just to historical fishing opportunities but also impacts to marine ecosystems. **Almost everyone that testified after the official meeting was begging for a seat at the table.** Doug Boren simply stated as if an emperor of the offshore leasing process and overlord of the ocean that it was simply that the taskforce criteria (that BOEM set) simply was the way it was going to be – pathetic response to the people most affected and omitted from the primary decisions being made at the taskforce that only gives “lip service” to the public where the Public and fishing is excluded. The current offshore energy policy threatens the coastal way of life and wellbeing of the coastal Fish Dependent Communities. Many members of the public lamented that fact that BOEM did not initiate an EIS into the lease process until way too late in the process after huge financial resources had been committed to leasing the ocean for OSW. Many advocated for an PEIS much earlier in the process where call areas were to be established. It should also be noted that on the same day as the BOEM/Oregon Taskforce meeting BOEM let a number of very large record OSW leases to six companies on the east coast offshore New York and New Jersey contributing over \$4.37 billion in lease fees for exclusive access to 488,201 acres of ocean real estate which is just the beginning of a huge cascade of pending ocean leases. The federal government also announced enhanced engagement with fishing as the leases were put forward by Director Lefton, “Because we understand the value of meaningful community engagement, we are requiring lessees to report their engagement

activities to BOEM, specifically noting how they're incorporating any feedback into their future plans." **Pure LIP SERVICE**, including their remarks to include underserved communities as their collaboration will serve as a model for future engagement as this establishes the US as a major player in the global offshore wind energy market, no matter the cost to all US citizens. All this BS rhetoric as the southern Oregon coast is about to lose a major portion of their ACCESS to fisheries resources available to nearby communities. BOEM claims they hold companies accountable for improving their engagement, communication and transparency with these communities, so much for accountability.

BOEM falsely claims these additions are intended to promote offshore wind energy development in a way that coexists with other ocean uses and protects the ocean environment, while also securing our nation's energy future for generations to come. At the BOEM Oregon taskforce meeting Doug Boren made similar **hollow claims**. Collaboration means absolutely nothing to coastal Fish Dependent Communities when their fishing grounds are no longer accessible due to large industrial tripoint anchored floating platforms that reach 1000 feet into the stratosphere and spread their anchor lines in multiple directions from the wind platform essentially denying access to any fish that are in the area for harvest. BOEM made the FALSE claim that fishing would be allowed within the offshore wind industrial complexes with NO reference to what type of fishing may or may not coexist within the industrial complex and strongly indicated that fishing would not be even an inconvenient hurdle in the way of OCS development, regardless of any NEPA requirement. It should be noted that a NEPA EIS is never required to come to a directed outcome and when a developer oversees developing an EIS the outcome is sure to be favorable to the developer no matter what, the facts presented can be selective to never overburden the developer and conducive for moving forward with viability of the OSW facility. It should be noted that OSW is in its infancy and infants make a lot of mistakes. As the industry matures mistakes will be made and fairly difficult if not impossible to correct especially when the existing users are expelled from an area and the industrial complex is not completely decommissioned to the original state of the ocean ecosystem prior to development. It will be necessary to include funding for decommissioning all OSW facilities. There are several examples of renewable energy facilities being left behind across the world. In Oregon the state only required a \$200,000 bond which was a JOKE as it cost OPT over \$1 million dollars to remove a single wave energy anchor from offshore Reedsport in shallow water. OSW facilities will require several anchors for each turbine. Some decommissioning setaside that is reasonably foreseeable must come out of the

dollars produced by any energy facility that could easily cost as much as the original installation or more. This is a study that needs to be fully warranted and must be realistic set aside. Costs are going to escalate with inflation we are currently experiencing. There will be higher interest rate due to the inflation that will also increase the price to produce the electricity to which the electrical ratepayers will be subjected and the PUBLIC needs to be made aware of their total costs before any OSW steel goes into the water. Inflation and reasonable decommissioning bonding capable of removing the steel in the water will raise the cost of the electricity that the ratepayer will be subjected to – it is doubtful that the NREL cost study of FOSW included these inflationary or bonding costs further increasing the economic RISK that the ratepayers will eventually be subjected to, a RISK that will ultimately mean for far too many that they will be forced to choose between putting food on their kitchen table for their families or being able to pay sky high electric bills each month. The Cost of Decommissioning OSW turbines when their useful life is terminated will be a huge fortune locked in a rigor mortis of obsolescence pushed off on to the taxpayer in the end. One of the facts that we have learned from the European experience in offshore wind is that the turbines do not last as long as originally stated with some lasting less than 20 years so projecting a useful life of over 30 years is probably pie in the sky not reality. Reality is that OSW to date has always over promised and under delivered except for the appetite for taxpayer subsidies where wind profiteers have gone long on taxpayer subsidies. Just between 2016 and 2020 the American taxpayer subsidized onshore wind by about \$23.7 billion in only wind production tax credits.

BOEM needs Regulations that provide a road map for developers to follow during the permitting process, allowing developers to more adequately estimate the revenue resources required for a proposed project. These regulations MUST consider AVOIDANCE of adverse impacts on coastal communities that cannot be remediated fully. This would in turn result in fewer failed proposals, because developers would know the requirements before investing huge sums of money in projects or locations that would ultimately prove unacceptable because of unforeseen or known adverse impacts. Overall, it would also be anticipated that having regulations in place for permitting alternative energy activities on the OCS would result in decreased time and costs to obtain permits necessary for construction of OSW facilities eventually lowering the cost of the electricity to the coastal consumers to far more reasonable levels than those currently projected by NREL over the next decade or more. Future guidance for OSW development is necessary before leases of the ocean is consummated.

USCG representative Doug Moriarty plainly stated that OSW could/would be classed as ESSENTIAL INFRASTRUCTURE and entry into the OSW facilities may be RESTRICTED. He also noted that many types of fishing simply cannot fish around OSW facilities due to the simple fact that anchoring systems would eliminate many types of fishing within the facilities due to entanglement RISK. Entanglement RISK also abounds if cables to shore are improperly buried and could pop out of the sediment as they have at Block Island. Again, reasonable guidance is necessary to prevent underwater cables from becoming impediments to fishing and navigation. The transcontinental fiberoptic cables has shown competence in cable burial and periodic inspections to ensure buried cables remained buried. Periodic inspections are a necessary guideline for OSW. The Oregon Fishermen's Cable Committee should become a significant interface between the fishing industry and offshore industrial developers to ensure all cables are properly buried and remain buried to ensure interference with fishing is AVOIDED. Pacific County SMP should require the OSW developer to pay for any reburial of electrical cables that fail to stay buried regardless of the parameters put on the developer when the cable was first brought to shore. County officials do not have the expertise to ensure that the electrical cables will remain buried in the ocean environment by a mere 6 feet of burial now in the updated version of the county SMP.

BOEM's pipe dream to lease ocean to offshore floating wind any time in the near future that results in any benefits will only **result in a nightmare for nearby communities** that will suffer gross environmental injustice where these Fish Dependent Communities will be disproportionately HARMED by unfair loss of ACCESS to large tracts of sustainable fish/crab. BOEM official designation of call areas in southern Oregon simply tells the nearby communities there is nothing they can do about it, shut up and go along as they deny them any meaningful interaction that results in the preservation of fishing.

At the crabber towlane meeting on 12 March 2022 USCG official announced that the United States Coast Guard was looking at making the crabber/towlanes official sanctioned government lanes, this announcement was done without any consultation of with the affected industries. BAD things happen when there is NO collaboration and agencies simply start imposing their will. The USCG listened to coastal community input and made major adjustments to the width of the fairways as a direct response to the collaboration from affected communities in the NW in USCG 13th district to their credit. This initial USCG federal regulation of the crabber towlanes was modified to include the lanes in enlarged vessel transit

Fairways that were established. More recently on 1 June 2022 USCG discussed wider fairways to protect the majority of existing vessel transit lanes; this choice of broader protections for vessel transits is a far more welcome choice to address preservation of congested vessel traffic fairways within the nations territorial seas as authorized under the Ports and Waterways Safety Act of 1972. The BOEM Oregon call areas plastered the course plotted to the Oregon towlanes without realizing that the towboats with barge behind have been traversing the area for decades and that the lanes extended into deeper waters than where crabbers traditionally fished, so no lanes were on the charts even though well used tug fairways were traditionally utilized. This is the kind of Conflict that can occur when private industry and the public is left out of the planning of BOEM call areas and excluded from the official BOEM/state taskforce meetings. Hopefully this can be corrected with some consultation with the fishing and towboat industries and adaptive management prior to WEA initiation so that the proposed USCG Fairways are protected from displacement by offshore wind. Hopefully the fishing industry MUST not receive additional loss of fishing and transit area when the much needed changes occur, again consultation with the existing ocean users and USCG is required to AVOID navigational risks and conflicts associated with new emerging offshore industrial development of the high seas. Over the summer of 2022 USCG met several times with the affected fishing and navigation industries to refine their PACPARS study to broaden vessel transit fairways to include most vessel traffic offshore Washington and Oregon that resulted in broad vessel traffic protections that are welcomed by existing industries. It should be noted that the vessel traffic fairways PROHIBIT fixed structures like offshore floating wind turbines anchored in fairways. BOEM expectations must not ignore the goals and expectations of coastal Fish Dependent Communities and embrace social injustices to nearby communities that the USCG Fairways protect from displacement.

ENVIRONMENTAL JUSTICE concerns that need to be addressed in a positive manner to protect these coastal Fish Dependent individual families from progressive additional HARM from Cumulative Adverse impacts that have accrued to coastal fish dependent communities over time and area for decades:

1. **Rafeedie Decision** terminated season time and area –tragic lost 50% of all fish/crab on 73% of the Washington coast
2. Offshore Floating Wind Displacement over large areas in fishing grounds –
 - a. **Coastal public enemy #1**
3. Mass Weather Index over 90 – large swells and high winds increase anchoring areas
 - a. Mass weather index is best realized by San Diego is a 10 – Neah Bay is a 131
 - b. Mass Weather Index is cumulative impact of storm intensity and frequency

4. **Highest Fatality Rate** in Dungeness crab of any occupation in the nation = 468/100,000
 - a. **Lost Fishing Area and Time** has a direct effect on **crab fishing “Fish or Go Hungry INSANITY”** causing fishermen to fish in excessive weather and overrunning the seaworthiness of their vessels with the majority of fatalities occurring during bar crossing beyond the fringes of respect for the massive power of the ocean due to economic pressures to succeed due to lost fishing area and time
5. Ports with channel depth less than 65’ will not support OSW infrastructure
 - a. All ports on the WA/OR coast are disqualified due to shallow channels
 - b. Coos Bay will need extensive solid rock underwater blasting to be deepened
 - c. New Chinese swallower turbine support structures may change this scenario
6. Limited Entry & excessive permit costs dampen next generation fishermen success
 - a. This is a MAJOR concern in WA where 50% of ACCESS to fish/crab is gone
7. Coastal Disparity in Demographics – young potential fishermen moving out of area
 - a. Brain Drain of our young potential fishermen
8. Low meat quality in Dungeness crab closures every 8 out of 10 years
9. Biotoxin season closures have extended into mid-February
10. Low Dissolved O² and other natural disturbances
11. ESA species closures Time and Area especially dramatic in CA
 - a. Whale presence shutdowns cut 3 months off the California crab season in 2022
12. Dredge mound induced wave amplification at many ports entrances pose safety risk
13. Displacement from industrial development including but not limited to OSW
14. Reduced salmon hatchery production especially west of Bonneville Dam
15. Salmon stock selection (Upper Columbia Salmon mature in Alaska, not locally available for harvest)
16. Culling of Toutle River Coho in multiple salmon hatcheries west of Bonneville Dam
17. Destruction of Salmon spawning and rearing areas as our population expands
18. Flat funding of Mitchell Act for the last 25 years until very recently
19. Reduced State salmon hatchery funding for the last 20 years until very recently
20. WDFW suspended production of 160 million salmon smolts between 2000 & 2018
21. Closure of salmon JOB mitigation hatcheries – Grays River, Elochoman
22. Underutilization of hatchery capacity all over the state
23. Discontinuing productive artificial salmon production like hatch boxes, rearing ponds
24. Unchecked Salmon predation from both mammal and avian sources
25. Creation of Rice Island from dredge spoils creating the largest Caspian tern colony in the world
26. Excessive numbers of unchecked Cormorants and other avian predation
27. Introduced nonnative game fish in salmon rearing areas that eat salmon smolts
28. Global warming affecting in river water temperatures to lethal levels
29. NGO Attacks on fishing
30. MMPA over protections on sea lions & other salmon eating mammals
31. Dam Construction and adverse salmon effects
32. ESA restrictions on salmon and other fish
33. Salmon net restrictions
34. Anti-gillnet bills
35. Troll salmon restrictions – 99% reduction in access to salmon

36. *Excessive fishing permit evaluations dampening next generation of fishermen*
37. *Multiple Time & Area closures for fishing over time and space*
38. *Harvest restrictions in multiple fisheries*
39. *Crabber/Towlanes are voluntary fishery displacement*
40. *Crab Pot limits*
41. *Inflation reducing profit margins – beginning to rage today*
42. *Weather buoy malfunctions shorting available weather windows*
43. *Chemical pollutants affecting salmon survival*
44. *Tire Dust killing salmon in high density traffic areas*
45. *Needed onshore power transmission lines will also have a dramatic impact on shoreside ecosystems and affected communities adding substantially to the overall power costs to the consumers*
46. *FERC Order 1000 was issued to ensure power rates are JUST and REASONABLE and not unduly discriminatory or preferential which may be constrained by unreasonably priced electricity that HARMS not benefits end use consumers –*
 - a. *Current NREL floating offshore wind power costs are totally unreasonably priced and especially unreasonable in the NW at over \$0.75/kW*
47. *The original DOE electrical transmission corridors were successfully challenged in the 9th circuit court - Cal. Wilderness Coalition v. U.S. Dept. of Energy, 631 F.3d 1072 (9th Cir. 2011).*
 - a. *Court directed DOE to take the “hard look” at environmental impacts of such designations required by NEPA.*
48. *This list above is not all inclusive but a start on considerations of cumulative impacts affecting our vulnerable coast and especially SW Washington where further displacement via Offshore Floating Wind with resultant fishery displacement will be one more nail in the coffin of fishing – a BIG nail!*

Sometimes the only way to curb this growing list of adverse impacts on fishing is through successful court wins similar to the Grays Harbor oil terminal case. The 1st offshore wind facility permitted in the US is Vineyard Wind – they have at least 3 lawsuits in progress due to impacts to fishing that BOEM has instigated.

The recent court decision in Buckingham Virginia the people never gave up and eventually won relief, an example for all of us affected on the west coast to NEVER GIVE UP, FIGHT TO THE BITTER END and this court win is an uplifting win that gives us hope that our democracy at a time when we all need assurance that our human rights are protected and we the people are actually being heard and protected from the current insanity of injecting extremely high priced power that will produce a virulent Poverty Program on the coast. We all need to recognize that coastal communities' future MATTERS more than high priced offshore wind and that Environmental Justice can be at the heart of honest decisionmaking where OSW is placed in areas of NO Conflict with coastal people not in arbitrary decision areas inside 1300 meters of water depth but further

offshore. We must all remember that it was fishing that fought long and hard to secure an area to fish from strong interference from foreign fishing fleets improving ACCESS to viable fish populations. BOEM has a legal duty to protect fishing, not just hold minimal hearing sessions which they eventually ignore in favor of major industrial facilities displacing the heartbeat of the nearby vulnerable fishing communities where BOEM ignores the crux of Environmental Justice when BOEM attempts to force an OSW facility into areas that are incompatible with existing uses including an unjust burden on fishing communities that to BOEM is not a very well kept dirty secret that **OSW is really the challenge of our time** as BOEM picks winners (OSW) and issues loser status to our coastal communities involved in a fight for a right to secure human dignity that will entrench coastal POVERTY if the coast loses its brutal war to save their fishing grounds from displacement where fishing is just as imminently threatened as the Island of Tangier is which is predicted to disappear in less than 25 years if nothing is done to protect it.

<https://www.doi.gov/pressreleases/biden-harris-administration-sets-offshore-energy-records-437-billion-winning-bids-wind>

<https://www.boem.gov/renewable-energy/state-activities/new-york-bight>

<https://www.ca4.uscourts.gov/opinions/191152.P.pdf>

<https://www.boem.gov/renewable-energy/state-activities/california>

Regional development of offshore industrial development standards and guidelines must occur, certainly fixed structure monopole wind turbines will have a much different adverse impact footprint than floating offshore wind that displaces fishing over a much broader reach for each individual turbine placed in operation placing much larger stressors on existing human use (including fishing) of the ecosystem. The use of **adaptive management** of offshore wind development **only responds to damages already measurable and occurring** – an ounce of prevention is worth 5 pounds of mitigation that never fills the loss associated with displacement of fishing. The loss is not only in the direct affected area of loss but also where these vessels that normally fish an area are moved out and into other areas to crowd other secondary areas usually of less intrinsic value for harvest that is shared amongst more fishing vessels overall cutting the fish/crab pie ever thinner. Decision STANDARDS need to be developed that account for the cumulative adverse impacts and in that absence of information on long term effects that increase coastal POVERTY where it takes time to accumulate social inequity when a blind eye is turned away from

Social Justice will require total revitalization where there has been a paradigm shift where coastal people are considered throwaway. Reprehensible!

This agency DEFECTIVE analysis Process is how all our citizens lost the vast majority of their ACCESS to west coast salmon, one significant FONSI at a time where CUMULATIVE actions were never brought to bear over time and analysis progressed as if each and every action was an isolated insignificant incident. The laws of physics apply to the BOEM leasing process – every BOEM lease action has an equal and opposite reaction where BOEM has simply turned a blind eye to the adverse consequences of displacing fisheries over excessively large call areas. BOEM has malignantly distorted the displacement of fisheries by significantly manipulating the fishing maps that suppress 90% of all fish harvest that is highly discriminatory and bias against fishing. BOEM initiated this highly selective course of action specifically “because of” the fact that they created a **major factual content moderation** into **pure censorship of the data** that is readily available causing a serious lack of honest comparison of incompatible ocean uses. **Misrepresenting the fishing footprint is unacceptable.**

History MATTERS, CCF/CRCFA has not forgotten how **BOEM buried the Flaxen Conway Oregon State University BOEM contracted fishing maps** in the Northwest United States over a decade ago. These meticulous fisherman interview maps never received any public view. Existing state CMSP produced fishing maps are similarly dismissed. Both sets of maps displayed 100% of the fishing effort and are not the jaundiced view BOEM wanted to show the **uninformed public or other non-fishing agencies**. Current BOEM fish production maps eliminate 90% of all fish production, atrocious display of **arrogance suppression of FACTS** that BOEM/NOAA has weaponized for the industrial takeover of the ocean where 90% deleterious impacts to coastal Fish Dependent Communities are suppressed in advance where residual RISKS from offshore development are considered acceptable to society whether they are or not. AUTROCIOUS abuse of power was on display at the fall BOEM/Oregon taskforce meeting in 2021 and NO one at the meeting even realized the wool on harvest abundance was jaded with 90% of the harvest omitted on the fishing maps and if they did, they did not bring it to anyone’s attention!

This government created manipulation of the fishing data will lead to a **COROSSIVE CRISIS** with a chilling effect for coastal communities causing demographic CHAOS. This Fish Map **censorship fails the accountability test** where BOEM is gaslighting the public and other members of the taskforce to achieve oversized OSW leases that are highly detrimental to nearby Fish

Dependent Communities where the **fishing public is recklessly treated like indentured servants** ordered to vacate the premise. There is a valid reason that the Courts have recently began to **reign in the Chevron Doctrine**. BOEM is naïve to believe their misuse of FACTS will do nothing but cause the reigning in of Chevron to accelerate as they continue to select a course of action specifically “because of” the fact it accomplishes their desired OUTCOME, lease of ocean real estate to the highest bidder regardless of the significant adverse consequences that are toxic to nearby communities that are displaced from their historical use of the offshore marine waters placing them at elevated omnipresence of failure RISK tearing at the entire coastal social fabric when it is additive to other Cumulative adverse effects that have accrued over time dating back decades where fishing continues to accumulate additional loss of ACCESS to fish/crab.

The one positive that is somewhat but not exclusive to the BOEM west coast lease process is that these OSW facilities appear to be placed in deeper waters further offshore than where the majority of seafood other than albacore is produced, this offshore movement may have back tracked and brought closer to shore interfering with more fisheries with the advent of the February 2022 Call Areas announced in southern Oregon and the unsolicited lease request of Cascadia Wind offshore Washington. Every new industrial development in offshore waters needs to be assessed as a Cumulative Adverse Impact to our coastal communities even at deeper depths which could be even further offshore than 1300 meters to AVOID BRUTAL destructive impacts on Multiple Fish Dependent Communities. FACT, displaced invaluable fishing area hurts the coastal socioeconomic underpinnings and there is plenty of bureaucratic rationale and NO HONEST stumbling block to save Fish Dependent Communities other than misplaced ideology of carbon over the needs and wellbeing of our nation’s coastal people to procure their historical quality of life and will endanger the public health and welfare of many of these citizens from continual erosion of fishing grounds as their margin of economic safety is continuously eroded leading to **additional “Fish or Go Hungry INSANITY” that ends in an increase in marine casualties** eluded to by USCG representative Moriarty at the recent BOEM Oregon Taskforce meeting in the end of February 2022. Under federal law the failure to honestly consider all available alternatives constitutes a clear error in process that can be challenged in court, is that where we are headed as BOEM’s deleterious decisions fail to protect public health and welfare of our coastal communities as they ratchet up the tension between the coast and offshore wind facilities? The southern Oregon call areas are a serious ratcheting upward of the tension between coastal communities and BOEM. BOEM has an obligation to AVOID, MINIMIZE, and REMEDIATE adverse impacts through

mitigation measures to protect nearby communities from HARM by preventing significant deterioration of the coastal economics in the process of siting OSW that provides an adequate margin of safety for affected communities that are particularly sensitive to CUMULATIVE loss of fish/crab ACCESS like those communities on the Washington coast. It is common sense that development of new, or expansion of offshore energy facilities has a disproportionate adverse impact on economically disadvantaged low income communities facing displacement from viable fishing grounds.

All fisheries on the west coast are interrelated. The more loss of ACCESS to fish/crab in any single fishing area casts excess pressure on other fisheries as fishing is displaced by **unsolicited lease requests** in SW Washington of over 700 square miles forcing fishermen out of their productive fishing grounds to invade other fisheries elsewhere to remain viable. This type of massive, displaced fishing effort is reducing the overall viability of the entire fishing industry. Local displacement impacts can be and often are highly significant to individual fishing families that are denied ACCESS to sustainable fish/crab. Both **BOEM and NOAA have NO reasonable Threshold Analysis of Cumulative adverse impacts** that could even begin to lead to the **NEPA No Action Alternative**. This BIASED BROKEN process of incrementally displacing fishing is unacceptable agency behavior and is NOT what state legislatures or congress intended when coastal Marine Spatial Planning or OCSLA was legislated. The PRIMARY INTENT of congress and the Washington state legislature was to **AVOID CONFLICT with fishing and to Preemptively Protect Fishing** as articulated in the Washington State Supreme Court Grays Harbor oil terminal case where agency consideration of potential adverse impacts to fishing and other ocean uses was thoroughly distorted toward industrial development erroneously. This was a **Supreme Court 9 – 0 decision left NO ambiguity that fishing was to be PREMPTIVELY PROTECTED!**

BOEM aggressive designation of **oversized WEAs** is the result of ignoring congressional and legislative INTENT to AVOID adverse impacts to existing ocean uses including fishing. The southern Oregon call area is totally excessive and beyond any expectation of congress by eliminating huge offshore fishing areas without remorse.

Washington ORMA was legislated in 1989 after severe damages occurred to fishing in Alaska (Exxon Valdez oil spill) and Washington due to the Nestucca oil spill at Westport. ORMA is the official state policy and lynchpin of the State/Federal CZM base to protect the Washington coast from deleterious industrial development and other adverse impacts on not just the environment but fishing as well. ORMA was expanded in 2010, 2012, 2013 for additional protections of the coast and its people. CCF/CRCFA were primary sponsors of

this additional legislation by the Washington fishing industry and supported by businesses, agriculture interests, and NGOs from all over the state that formed a statewide coalition to pass the bills. ORMA expansion was truly a statewide bill of, for, and by the people of Washington who treasured their coastal ACCESS to the high seas. The agency task is to properly integrate the state/federal collaboration **respecting state and local rights** as legislated by the people of the state to better protect their treasured freedom of the sea specifically freedom of fishing and navigation that has been the hallmark of the Public Trust Doctrine for hundreds of years and an overriding consideration of all Washington ORMA legislation since inception in 1989.

ORMA applies to “uses or activities that require federal, state, or local government permits or other approvals and that will adversely impact renewable resources, marine life, fishing, estuary aquaculture, recreation, navigation, air and water quality, or other existing ocean or coastal uses.” The state shall participate in federal ocean and marine resource decisions to the fullest extent possible to ensure that the decisions are consistent with the state's policy concerning the use of those resources.” To the fullest extent possible means that SMPs which requires inclusion of ORMA MUST be considered for CZM Certification anything less is agency failing to ascertain the INTENT of the legislature and carry it out.

Washington Ocean Resources Management Act (ORMA) is connected in INTENT with the CZM Certification of the Pacific County SMP that the legislature also directed that only 4 Washington coastal counties to be affected by ORMA to include mandates only in the coastal counties SMPs. Washington ecology should/must request NOAA to CZM Certify the Pacific County SMP that was demanded by ecology to be written broadly to AVOID specific discrimination against offshore wind and to be far more inclusive of other potential industrial development on the ocean. The SMP regulatory language was rewritten in a nondiscriminatory manner to “Prohibit Fixed Structures” in marine waters to avoid specific discrimination against a single industry like offshore wind. Some place there is a total disconnect in the CZM NOAA interpretation of the SMP that NOAA has labeled as discriminatory, even though ecology required the county regulation to be reorganized to prevent any discriminatory language in their SMP. NOAA MUST provide a clear and concise statement as to how they have determined that the Pacific County SMP is discriminatory and why NOAA is helping to suppress the CZM Certification of the SMP as they have been doing and which specific federal law supports their decision to suppress the CZM certification of the SMP which is current effective state law. This current state of the NOAA decision to help suppress the existing county SMP from CZM certification needs further explanation not only why this certification is not legally appropriate and why the prior decertification of the Pacific County SMP

occurred without any public notice or comment period explaining why this very important and exceedingly “secret” legal action occurred without public notice bringing issues of **Environmental Justice** into play in this NOAA decision that could allow significant inappropriate HARM to coastal communities even beyond Pacific County offshore waters and would also affect the coastal fish dependent community of Westport in Grays Harbor county as well as others who also fish offshore Pacific County. **“Environmental justice is not merely a box to be checked”**, and the agencies failure to consider the disproportionate impact on those closest to the potential fixed structure industrial development offshore Pacific County has resulted in a flawed analysis by both Washington ecology and NOAA as they collude to prevent the CZM Recertification of the Pacific County SMP. These false mantras the agencies have put forward do not carry the day. What matters is whether the agencies have performed their statutory duty to determine whether any facility is honestly suitable for an industrial site offshore SW Washington, considering Cumulative Environmental Justice parameters and potential adverse socioeconomic risks for the people of nearby communities. They have not. They have not equitably considered — not just consider, but equitably consider — the potential negative environmental consequences of BOEM activities on nearby communities, granting any lease would not promote environmental justice on nearby communities is incomplete and unable to equitably move forward, especially in SW Washington. “If the recent Washington Environmental Justice Act is to mean anything, and if we as a state are going to promote environmental justice, then the time has come to reject proposals like this one that will be put forward as an unsolicited lease request of BOEM that bypasses all public process in requesting the lease offshore Washington where **“fair treatment”** to low income communities is fully put into play where the potential for substantial harm to nearby communities could be further disadvantaged by additional loss of ACCESS to offshore seafood that is the lifeblood of the nearby communities. It is reasonably foreseeable that the communities of SW Washington cannot continue to sustain major loss of fishing ACCESS and associated loss of coastal economic viability and resiliency where the national standard where stringent suppression of communities must not be tolerated in

an area where the concentration of low income people exist as shown by statewide demographics. A particular consideration in environmental justice assessments is whether a given group of people bear “a disproportionate share” of negative environmental impacts which the displaced fishing industry will be an easy show in this area. The Grays Harbor Oil Terminal Case the Supreme Court UNANIMOUSLY relied heavily on the plain language in the law in the case to rule that **ORMA directs agencies to PREEMPTIVELY PROTECT FISHING** and that protection extends upland to the limits of the SMP regulations and offshore into marine waters as the legislature intended. **Legislative INTENT MATTERS.**

The Washington ecology also demanded a basic language change in the last SMP update was “No Net Loss of Ecosystem Function.” The term “ecosystem” includes incorporation of human beings being included but not limited to fishermen. Applying the Supreme Court definition as interpreted faithfully in the Grays Harbor oil terminal case **“As broadly as possible,”** would also include no net loss of fishing/navigation capacity to preemptively protect fishing/navigation. There is a basic disconnect from the legislative INTENT at ecology that is refusing to request NOAA to CZM Certify the Pacific County SMP that ecology demanded the broadening of the SMP language to include all new emerging industrial development in Washington offshore waters that are fixed structures. This failure to CZM Certify the SMP is a basic disconnect that the Supreme Court Decision should redirect ecology activity to move the SMP into NOAA’s court narrowing the disconnect that would at a minimum carry state law forward and put the onus on NOAA to justify their denial publicly, which they have not done – certify the SMP to move the westward boundary of the SMP from 3 to 200 miles offshore as intended by the legislature when they expanded ORMA over the last decade. In America agencies are NOT CZAR of the ocean, the law is king, and the INTENT of the law was Plain in the Grays Harbor Supreme Court case to **Preemptively Protect Fishing** to the full extent of the law and if ecology refuses to even request the Pacific County SMP for CZM Certification they are shortchanging the INTENT of ORMA to extend as far as possible by neglecting their duty to move the Preemptive Protection as far as possible. Ecology is acting like judge and jury denying the public their right to know how NOAA may react and if NOAA can actually defend their legal position if they try and deny the CZM Certification on the only shabby reason they have come up with is the Pacific County SMP is “discriminatory.” Discriminatory was discussed when “Prohibition of Fixed Structure” language

was put into the SMP to eliminate the possibility of “Discriminatory Language” in the SMP. The language in the county SMP was specifically changed to eliminate any chance of the SMP being discriminatory toward any specific industrial development in offshore waters.

Everyone should also note that the Pacific County SMP was previously CZM Certified, and that certification was removed by ecology/NOAA agreement without proper public involvement. The reason for removal given to CRCFA by Washington ecology was that Washington had too many SMPs in the state and the CZM would be too complicated to administer. It should also be noted that there are only 4 Pacific coastal counties that fall under the ORMA legislation, thus limiting the number of SMPs that must become CZM Certified. Further, the two northern Washington coastal counties do not have ocean sections in their SMPs further limiting the argument of ecology that too much work would be involved. One more salient point, **the amount of work required to comply with the law is never an argument to ignore the law** in the first place. Ecology should request CZM Certification of the SMP to maintain the legitimacy and stability of ORMA’s plain language; it is not the agencies prerogative to pick and choose what portions of the law to follow by picking their own policy preferences. CCF/CRCFA challenges to ecology and NOAA on this CZM issue are not cries of a disgruntled method of handling this genuine disagreement but **a blueprint for a better future** for the people of the coast that will have a great propensity to suffer at the hands of BOEM when they place many hundreds square miles of offshore fishing grounds into WEAs and industrial development displaces the coast’s primary economic driver, fishing. The coast believes rightfully so that the urban/rural divide will only widen with the advent of OSW energy facilities on the coast and is not in the best interest of the people of the state as a whole to downtrodden the people that are already disadvantaged which is easily shown in statewide historical demographics. *History will judge our dissent in this legal discussion of the law in ways that others will find, over time, to be more persuasive – we shall overcome if our coastal communities are still able to earn a viable, stable, and thriving future as intended by the Washington legislature by preemptively protecting fishing as described in ORMA’s reach in the UNANIMOUS Grays Harbor oil terminal Decision which did set the precedent for the legal interpretation of the full extent of the ORMA legislation.* The failure to move the county SMP into CZM Certification is troubling and is akin to a court “shadow docket decision” where no reasoning or legal arguments are presented which is a troubling practice for issuing very consequential decisions with NO ability for meaningful public input as an emergency is developing on the coast like a slow moving trainwreck that will still cause enormous HARM to coastal resiliency when the fishing area is finally forfeited to industrial takeover of the only place left on the coast to fish without losing 50% of all fish/crab on the

majority of the coast. **Thresholds MATTER and none exist** as fishing is once again cast aside like last week's trash for extremely expensive overpriced power which is nothing more than a coastal POVERTY PROGRAM which will have an immeasurable impact on CO₂ in the world's atmosphere when fishing is preemptively protected as directed by the Washington legislature.

Initiating offshore wind may be overtly influenced by Bitcoin transactions are a calamity for atmospheric CO₂ that adds 1000s of pounds of CO₂ from the global bitcoin mining footprint which is the equivalent to the tailpipe emissions of 15 million cars. A single bitcoin transaction uses as much electricity of 10,000 visa credit card transactions. Bitcoin is a new phenomenon that emerged without any regulations that places an extraordinary demand on our nation's electrical supply with NO conservation ethic whatsoever. Why should a new nascent form of monetary exchange put such a demand on our electrical system as to put demands on our other industries like our offshore industries resulting in displacement and loss of historical JOBS??? Simply unethical use of electricity that should pay its own way and pay to create enough "green" energy to offset their electrical use. Bitcoin transactions are rife with fraud potential to fleece people of their money as recently FTX perpetrated on the public.

The Washington ecology decision to refuse to move the Pacific County SMP into NOAA's court for adoption for CZM Certification is an agency action that fails to consider the SMP for CZM action is arbitrary and capricious where a clear error of judgment has been made. The **decision to refuse recertification of the county SMP is clearly arbitrary and capricious** as ecology ignores important aspects of the pending problem of harm to coastal communities and has not explained their actions based on the evidence before ecology and reached an implausible decision that cannot be ascribed to a difference in view of the harmful pending problems perceived by those affected on the coast. Clearly ecology has ignored many relevant factors like the FACT that after 5 years of WCMAC review and CMSP production could find NO place in Washington offshore waters to dedicate to offshore wind that would not CONFLICT with existing offshore uses including but not limited to fishing. This nondedication of offshore wind siting location was not a mistake or oversight by the WCMAC. The WCMAC's inquiry into the facts was an honest searching and careful examination of FACTS gathered over several years, the ultimate standard of review was not a narrow one, but exhaustive INCLUDING EXTENSIVE MAPPING of existing uses of the coastal waters that were often calibrated to amount of use, not just if a use may have existed at some point in time, or in the past that included all uses, not just the upper "10%" of the fishing effort that BOEM displayed in their fishing maps at

the fall meeting of the BOEM/Oregon Taskforce meeting in 2021 which was an abuse of power to suppress 90% of the fishing existence on the coast.

Washington ecology, NOAA and BOEM should fully consider the WCMAC's failed serious attempt to locate some area for OSW off Washington in the GLD area of consideration from 0 – 700 fathoms of water that avoided conflict with existing use as a definite investigation where ecology is substituting their judgment call over that of the multiple agencies and the public forum that did an exhaustive search of areas of NO conflict. In this case there is no rational connection between the FACTS on the ground and the choice both ecology and NOAA have made to suppress the Pacific County SMP from CZM Certification. As Olympic and Cascadia Wind submit unsolicited lease requests to BOEM, BOEM should fully consider all the public effort that has been carried out in a failed search to locate any offshore wind facilities in SW Washington as all northern Washington offshore federal waters are off limits to development north of Westport. Offshore wind and fishing are forced into a very small section of the state offshore waters to compete for available space to ply their trades is unreasonable to force fishing off more waters than they have already lost to other competing interests via Rafeedie Decision.

NOAA has 8 principles of America the Beautiful for a **locally led effort** to conserve and restore our lands and **waters**. **LOCALLY LEAD EFFORT is the key to honestly moving offshore wind in a direction that is compatible with existing uses in the ocean.** The BOEM state taskforce that omits the public is felonious and needs to change.

Principle 1: Pursue a Collaborative and Inclusive Approach to Conservation

Principle 2: Conserve America's Lands and Waters for the Benefit of All People

Principle 3: Support Locally Led and Locally Designed Conservation Efforts

Principle 4: Honor Tribal Sovereignty and Support the Priorities of Tribal Nations

Principle 5: Pursue Conservation and Restoration Approaches that Create Jobs and Support Healthy Communities – not policies that displace fishing grounds but protect them as both congress and the Washington legislature intended

Principle 6: Honor Private Property Rights and Support the Voluntary Stewardship Efforts of Private Landowners and Fishing rights to ACCESS fish/crab – not continually shrink fishing ACCESS to their rights

Principle 7: Use Science as a Guide even if that science needs to be developed

Principle 8: Build on Existing Tools and Strategies with an Emphasis on Flexibility and Adaptive Approaches that fully encapsulate the Washington Coastal Marine Spatial Plan, Pacific county SMP, and the INTENT of the Washington State Legislature in the enactment of CMSP legislation that is UNIQUE in the nation as the only state in the nation to adopt CMSP legislation that put as a first priority to protect and preserve fishing for current and future generations, only then allow offshore new emerging industrial development that AVOIDS CONFLICT with existing uses, not simple displace existing use as the huge BOEM call area of southern Oregon is doing.

These principles should be applied to how BOEM and NOAA works with the fishing industry to protect and preserve the fishing industry for the future success and prevent the depletion of the fishing fleets that fish offshore Washington which includes fishermen for California, Oregon, Alaska and Canada besides Washington. The Fishing Industry needs an MOU with NOAA to help the industry survive catastrophic impacts where fishing is in the crosshairs of further displacement. The elephant in the process of OSW development is how we do analysis of a significant RISK of a tipping point of cumulative impacts that has put fishing on the ragged edge of financial devastation affecting the **RISK uncertainty of the fishing industry that could cripple our coastal economic base** where our coastal food supply for the nation is also at RISK.

CRCFA/CCF agrees that our nation should incorporate all sources of energy into our national energy system, BUT the rights and privileges of fishing communities must also be protected from aggressive cumulative adverse decisions that lead to socioeconomic deterioration of the coastal communities in the process of expanding our nation's energy portfolio into new areas while suppressing historical energy beyond reasonable amounts that place our communities and our entire nation at serious RISK of deterioration of quality of life which is now beginning to express dangerous price of oil increases that really hurt those on the lower rungs of the economy that are simply struggling to keep food on the kitchen table for their families. Suppressing those that are already disadvantaged is an unconscionable act against a large portion of our nation's society. In this case there is NO Deference due where the agency has not thoroughly examined the relevant data and provided a clear and well reasoned legal explanation of its decision that includes a rational connection between the facts found and the choice made to forego CZM Certification of the Pacific County SMP. NOAA simply stating the SMP is discriminatory even though it applies equally to all new emerging offshore industrial uses

conceivable from growing fixed structure seaweed to underwater computing hard drives, to offshore wind, oil drilling, or any other fixed structures. Washington ecology and NOAA collusion to omit the county SMP from CZM **recertification** is arbitrary and capricious and lack of adequate discretion in their actions. The fishing community strongly believes that there is **NO substantial evidence** in the agencies record to support the agencies decision to continue to allow the SMP to languish hopelessly urging CZM Certification where the agencies actions constitute a clear abuse of the agencies' delegated discretion. An agency action survives court review if it "examined the relevant data and articulated a satisfactory explanation for its action including a **rational connection between the facts found and the choice made** which has not been done to this point in the process of working toward a good final decision to either move CZM certification to fruition or supply an evidence base determination of NO action. To date that factual determination is lacking. Relying on subservient WACs instead of initiating superior state law in the SMP is a fools errand and could easily lead to a reversal of decisions as was the case in the Grays Harbor oil terminal case when lower courts relied on WACs and basically ignored the RCWs that the facts deviated from the INTENT of the legislative RCWs, a case in which the Washington Supreme Court reversed lower case decisions when they did employ the RCWs or in this case the regulations found in the Pacific County SMP which directs clear and concise outcomes expected in the regulations, not just hoped for under the WACs which may or may not lead to the same results after years of industrial scale work to establish offshore wind utilizing a convoluted process that has NO determination of outcome that leaves excessive discretion under the table to be executed in attempting to move an OSW facility to the finish line extracting excessive HARM to nearby coastal communities along the way. It makes one question motives of ecology when CZM funding to the state comes from NOAA that places the WRONG incentives toward ecology actions in order to continue their NOAA CZM funding stream at the expense hard press coastal communities.

It is well-established that an agency's action must be upheld, if at all, on the basis articulated by the agency itself." Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 50 (1983) (citation omitted); see Va. Ret. Sys. v. Cirillo, 676 S.E.2d 368, 372 (Va. Ct. App. 2009) (citing Motor Vehicle Mfrs. Ass'n, 463 U.S. at 48); see also Va. Code Ann. § 10.1-1322.01(P). In this instance neither Washington ecology or nor NOAA has adequately articulated their factual basis for NO action toward CZM

Certification of the county SMP and have merely supplied an exercise in “semantics” in their decline of even moving forward toward CZM Certification.

In explaining its decision, agencies must be “clear enough that its path may be reasonably discerned.” *Encino Motorcars, LLC v. Navarro*, 136 S. Ct. 2117, 2125 (2016) (internal quotation marks omitted); see also *Cirillo*, 676 S.E.2d at 371–72. In this case NO explanation other than a claim of unexplained discrimination has been put forward and NO legalese cited as to why the **CZM Certification has been outright denied by inaction.** The reasons for denying a request for CZM Certification are narrow, including national security and a presidential decree, both of which are not applicable in this request of CZM certification. To date the agencies have not “articulated a satisfactory explanation for their action including a rational connection between the facts found and the choice made and are unsupported by any substantial evidence.”

The US Congress put forward a policy statement with the enactment of OCSLA, the lease law of the ocean that affects all BOEM offshore lease action. The policy directive was very clear that fishing was to be protected from excessive displacement as a broad policy statement with the same INTENT as the Washington legislature did in ORMA and carried forward by the Pacific County Commissioners in the SMP Ocean Section 6. It is unethical for unelected agency officials to neglect elected legislators’ policy statements in both state and federal laws found in U. S. Code or state ORMA legislation.

43 U.S.C. § 1332 (2): this subchapter shall be construed in such a manner that the character of the waters above the outer Continental Shelf as high seas and the **right to navigation and fishing therein shall not be affected**; This mandate is a very high bar outlining the purpose of the OSCLA legislation that BOEM castrated as it utilizes OSCLA to lease ocean real estate to the highest industrial bidder over massive areas that are turned into No Fishing No Income Zones in our offshore waters with significant adverse impacts to nearby and distant Fish Dependent Communities. There MUST be put in place a Cumulative adverse impacts THRESHOLD that embraces **federal, state, and local policies** for the protection and preservation of existing marine water uses including fishing and navigation. Both congress and the state legislature INTENDED this historical priority for fishing and navigation to continue as the policy basis of our nation’s current day high seas regulations including leasing ocean real estate for the development of offshore industrial development. **HARM to coastal Fish Dependent Communities is NOT a legislative government priority nor in the national interest** to place coastal communities at RISK of JEOPARDY due to massive displacement of existing good paying marine water JOBS by

oversized ill placed new emerging industrial complexes in marine waters. Offshore BOEM leasing activities offshore Washington do not align well with the state's CMSP vision for a sustainable, prosperous future based on RISK of loss to seafood ACCESS necessary for viability where Washington fishermen most at RISK from existing Cumulative adverse effects of compression of existing fishing area prior to any BOEM leases. Existing Cumulative Impacts must not be ignored, but thoroughly examined and put into proper perspective to limit disruptive influences associated with offshore wind displacement of existing fishing areas. Adverse impact THRESHOLDS where past CUMULATIVE impacts are fully addressed and not just "considered" but actions put in place to Protect and Preserve coastal Fish Dependent Communities from socioeconomic HARM.

Unsolicited Industrial lease request of BOEM is a very BAD process that eliminates all semblance equity when the area is selected by the industrial developer and not a RATIONAL Scientific Approach to source the area of MINIMAL effect on nearby communities. Agencies MUST initiate Thresholds that are protective of Fish Dependent Communities as an integral part of their offshore strategic plan rather than allow an automatic unsolicited process to allow **unsolicited lease requests** in any fishing ground as predetermined by an unsolicited industrial developer's demand that is contrary to the INTENT of both congress and the Washington state legislature that places AVOIDANCE of adverse impacts from ocean development as a first priority. The legislative INTENT of both congress and Washington legislature was NOT unsolicited lease requests to be placed anyplace that an unsolicited lease is requested. The INTENT was to first and foremost to preemptively protect and preserve navigation and fishing as primary use of offshore waters. **The BOEM lease process is backward in that they lease first and ask questions later** which definitely needs total revision that places WEAs in area of minimal impact on existing uses including but not limited to fishing. The definition of MINIMAL is a critical component of the legislation where MINIMAL is synonymous with "Next to Nothing."

RCW 43.143.060 (2) (b) "The protection and preservation of existing sustainable uses for current and future generations, including economic stakeholders reliant on marine waters to stabilize the vitality of the coastal economy," clearly displays the Washington legislative INTENT to preemptively protect existing uses including fishing. This specific reference to protecting existing uses was put into law as a result of process development and agencies perversion of the absence of adequate preemptive protections of fishing in the Washington CMSP. **AVOIDANCE is more than a priority in ORMA, Avoidance is a MANDATE.** Pacific County placed this ORMA AVOIDANCE mandate in the current Shoreline Master Program that MUST

become NOAA CZM Certified. The 38 miles of the SW Washington coast is intensely fished and overcrowded from effort shift as a result of Cumulative stressors statewide including but not limited to the Rafeedie Decision, ESA salmon, salmon predation, and the MMPA over protection of the very abundant marine predators that have rebounded to record numbers with NO top end delineated in the MMPA legislation. The lethal take of Sea Lions and other abundant salmon predators needs to have congressional oversight and lethal take authorization over a much wider area than currently authorized up the Columbia River in and around Bonneville dam and Willamette Falls to bring other ESA listed salmon back from the brink. As the pinniped populations continue to expand unchecked salmon populations plummet.

BOEM examination of impacts from offshore industrial development has neglected/suppressed impacts to Fish Dependent Communities and addresses those adverse impacts as if they were **nuisance impediments** to new emerging industrial complexes like very expensive offshore wind like an inefficient dog catcher that sleeps half the time. BOEM views nearby communities with a jaundiced eye as throwaway people and their RIGHTS of fishing and navigation are inappropriately relegated to the dust bin of history. A more appropriate analogy of BOEM actions would be putting fishing communities on the garbage heap of humanity to simply be blown away as dust in a desert storm as if these lives were nothing more than cannon fodder to be blown out of the water during target practice. INAPPROPRIATE!!

All people's lives must matter in the process of industrializing the Exclusive Economic Zone which was formed by congress to Protect and Preserve not just fish and their ecosystems but to Protect and Preserve the fishing families that depend on the EEZ fisheries resources for their economic viability. Agencies have manipulated the congressional INTENT of the formation of the EEZ that our nation's fishermen fought a long hard battle to secure our nation's fisheries resources for our people. The EEZ was put in place to protect and preserve FISHING not to be displaced by offshore industrialization. This history matters.

BOEM's deceptive fishing maps that only show the upper 10% of production are unethical portrayal at best and outright illicit manipulation of the data that will be used to destroy nearby coastal communities affected by massive industrial takeover of the ocean where fishing is suppressed in areas on the west coast as large as hundreds of square miles of **NO Fishing No Income Zones** where there are ZERO Thresholds on Cumulative adverse impacts that could/should lead to the NEPA No Action Alternative. CUMULATIVE impacts MATTER! No Matter how BOEM frames the taking of hundreds of square miles of fishing

grounds the impact is highly significant and subject to court interpretation of the "Non Delegation Doctrine."

Cumulative adverse impacts in Washington are UNIQUE. Washington is the only state in the nation required to be compliant with including but not limited to the federal court Rafeedie Decision. Washington's UNIQUE set of court ordered circumstances need a UNIQUE solution that accounts for including but not limited to, the loss of ACCESS to 50% of all fish/crab on 70% of the north Washington coast. **Cumulative impacts MATTER** to the viability and stability of coastal Fish Dependent Communities like those located in SW Washington where communities have been overburdened by Cumulative adverse effects to fishing that have proliferated for decades through regulatory decisionmaking one FONSI at a time over decades such as the elimination of **salmon JOB mitigation hatcheries** like Grays River and the Elochoman.

New emerging industrial uses of the high seas MUST be initiated only in areas of MINIMAL impact to existing uses where even those minimal impacts can be thoroughly remediated through mitigation in such a manner that existing uses are still able to successfully THRIVE which has not been BOEM's primary outcome of their lease proposals to date. The offshore industrial development is the primary consideration in the lease process and the unsolicited lease process is a devastating SHAM perpetrated on coastal Fish Dependent Communities without remorse subverting the INTENT of our legislators to preemptively protect fishing and navigation. **Environmental injustice needs to be addressed** and corrected to remediate multiple injustices that have/will result in loss of ACCESS to fish/crab that the nearby vulnerable communities need to succeed. SW Washington is a disproportionately and intensely impacted community like none other in the nation due to Rafeedie. Offshore energy facilities are a binary choice that must be based on public need for the proposed offshore industrial activities and there MUST be no reasonable alternatives including alternatives based on land to reasonably meet those needs. The existing criteria could be expanded but **existing RCWs mandate that there will be no likely long-term significant adverse impacts to coastal or marine resources or uses. All reasonable steps MUST be taken to avoid and minimize adverse social and economic impacts and other criteria in RCW 43.143.030.** SB 5603 establishes WCMAC to recommend principles and standards for development of offshore waters and when there are disagreements over proposed actions in offshore waters mediate disagreements when they respond to issues facing coastal communities to stabilize the vitality of coastal communities. The WCMAC needs to expand its recommendations based on the Coastal Marine Spatial Planning legislation to ensure that the coastal

communities are Protected as intended by the WA CMSP legislation. The US Congress recently new Environmental Justice parameters insist that vulnerable coastal communities are protected from HARM where RISK of JOB LOSS is prevented and must be accountable to preventing adverse financial and social effects that OSW or other new merging marine water industrial development will have on low income communities such as those found in SW Washington.

Section 6.2.B.3. (a – h) Pacific County Shoreline Mater Program adopted specific regulations in ORMA with additions to better protect sensitive ocean ecology, existing ocean uses, and called out fishing for special protections. These regulation can be found listed below.

Permit Review Criteria. Pacific County shall only permit ocean and associated upland or coastal uses and activities if all the criteria listed below are met or exceeded. The applicant shall provide the county with the most current, accurate, and complete scientific and technical information for its review, when needed. Public input shall also be considered.

- a. There is a demonstrated significant local, state, or national need for the proposed use or activity;
- b. There is no reasonable alternative to meet the public need for the proposed use or activity;
- c. There will be no likely significant long-term or cumulative adverse impacts to coastal or marine resources or uses, including consideration of cumulative adverse impacts from activities outside the county that cause local impacts;
- d. All reasonable steps are taken to avoid and minimize adverse environmental impacts, including impacts on migration routes and habitat areas of species listed as endangered or threatened, species of economic importance, environmentally critical and sensitive habitats such as breeding, spawning, nursery, foraging areas and wetlands, and areas of high productivity for marine biota such as upwelling, with special protection provided for the marine life and resources of all aquatic Environment Designations. Special review and analysis consideration shall be given to renewable biological resources of local economic importance;
- e. All reasonable steps are taken to avoid and minimize adverse social and economic impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing;
- f. Compensation is provided to mitigate adverse impacts to coastal resources or uses that maintains the county health, safety, and economic welfare;

g. Plans and sufficient, realistic performance bonding for decommissioning and failure incidents are provided to ensure that the site will be rehabilitated after the use or activity is completed, terminated, or abandoned; and

h. The use or activity complies with all applicable local, state, and federal laws and regulations.

Section 6.2.B.4

The proponent of an ocean use development or associated on-shore facility that could impact coastal ocean areas or shorelines in areas of Pacific County subject to the ocean use requirements shall be required to submit the following information, and any other information deemed necessary by the Shoreline Administrator, in the final permit application package:

a. An overall development scheme discussing the site plan and proposed plans, operating procedures, and best management practices to be employed;

b. A phasing plan for the staging of development that utilizes a precautionary approach to ensure no net loss of ecological or ecosystem functions and protection and preservation of existing uses through avoidance, minimization, and compensatory mitigation for impacts;

c. Analysis of potential significant adverse impacts identified as required by SEPA environmental checklist;

d. Mitigation and monitoring plans to address unavoidable adverse environmental, social and economic uses and resources and the effectiveness of mitigation;

e. Analysis of the visibility of the proposed facilities from the shoreline and the effect on public access, aesthetics, and views and a plan to avoid and minimize or eliminate such impacts;

f. Plan for the transport, storage, disposal and clean-up of solid, liquid and hazardous wastes;

g. Analysis of the adequacy of and impact to the local infrastructure, including but not limited to transportation, utilities, and emergency services, to service the project. If the analysis shows that the infrastructure is inadequate to carry the added load on the community, compensatory mitigation that offsets any additional costs to the community shall be provided;

h. Analysis demonstrating that the facility will be able to comply with local air pollution control regulations;

- i. Fire protection plan;
- j. Oil spill contingency plan, if involved in petroleum exploration, production, storage or transportation;
- k. An analysis demonstrating the proposed project's consistency with the Shoreline Master Program and Coastal Zone Management Act;
- l. An analysis of designs and methods available to prevent, avoid and minimize adverse impacts including but not limited to noise, light, temperature changes, turbidity, water pollution and contaminated sediments on the marine, estuarine or upland environment, particularly during critical migration periods and life stages of marine species and critical oceanographic processes; and
- m. An analysis of alternatives that are commensurate with the need for the proposed use (e.g. if there is a demonstrated national need for a proposed use, then national alternatives, including alternatives outside of Pacific County and Washington State, should be considered).
- n. Pre-project environmental baseline inventories and assessments and monitoring of ocean uses to measure effects on marine and estuarine ecosystems, resource-based uses, and coastal communities.
- o. Demonstrated consistency with B.5 through B.8 of this section

Section 6.B.5.

Additional procedural requirements for new ocean use proposals. In addition to the otherwise required shoreline substantial development, conditional use, or variance permit procedural requirement, MSP defined new ocean use proposals shall include the following:

- a. Pre-application Meeting: Prior to submitting any applications for shoreline permits for new ocean uses or developments, the applicant will participate in at least one pre-application meeting which may be consolidated and coordinated with all local, state, and federal agencies. During the pre-application stage:
 - i. The applicant should use the Marine Spatial Plan to understand potential use and resource conflicts, including review of the baseline data, maps, analyses, and management framework. This information can assist applicants in avoiding and minimizing impacts to resources and uses through project siting and design.
 - ii. The applicant should provide required data and information about the project and identify and coordinate with stakeholder groups as

well as other governments, including state, tribal and federal government entities.

iii. The applicant should identify state and local policies, procedures, and requirements, including those referenced in the Marine Spatial Plan.

b. Inventory – Review adequacy of site-Specific inventory and respond to requests for additional data or studies.

c. Effect Analysis – Submit an effects evaluation (See Section 4.5 of the MSP) which includes proposed mitigation measures, and best management practices.

d. Plans – Submit proposed construction and operation plans, including adequacy of prevention, monitoring, and response plans.

e. Coordination – Continue to coordinate with government entities (local, state, tribal and federal agencies), stakeholders (representatives from fish, aquaculture, maritime commerce, conservation, tourism, recreation), and the Washington Coastal Marine Advisory Council (WCMAC), and the in all aspects of project development and review

New Merging Offshore Industrial Development needs to have well-reasoned Principles, Requirements, and Guidelines (PR&Gs) that result in what is the **most important aspect of the PR&Gs is the OUTCOME** to protect and preserve the existing uses including fishing from HARM when existing use is displaced. The Washington legislature placed their INTENT in the ORMA legislation which added direction to Washington coastal marine spatial planning process OUTCOME in RCW 43.143.060 (2) (b) and was added to ORMA in 2013 due to lack of progress with creation of the Washington “coastal” marine spatial plan to specifically “Protect and Preserve” existing ocean uses, especially fishing between 2010 and 2013. **PROTECTION of fishing is the OUTCOME** the legislature was INTENDING to accomplish including areas of the ocean that do not have ISU protections in regulations. This OUTCOME is an essential Washington legislative mandate, especially since BOEM has NO PR&Gs that require mitigation measures for displaced uses of the ocean, the mitigation is strictly voluntary on the part of offshore new emerging industrial developments and mitigation measures for almost all industrial developments almost NEVER REMEDIATE the loss associated with industrial adverse impacts on nearby communities whether on land or at sea.

Bottom line – The UNIQUE situation that exists off the Washington coast needs a UNIQUE solution that BOEM must administer in a protective manner that addresses well-reasoned Thresholds that provides accountability to the

existing stressed Washington coastal communities that are currently overburdened by a large influx of vessels relegated to only the 38 miles south of Westport due to the huge disparaging loss of ACCESS to fish/crab on the north Washington coast due to the Rafeedie Decision. In Washington crab alone this economic loss of fishing ACCESS has cost the crab fleet in excess of \$240 million to date and annually increase by multi-million dollars that should be available to finance the next young generation of fishing families necessary to sustain our coastal Fish Dependent Communities into the future. **This huge financial loss to the Washington fishing fleet elevates vulnerability of casualty RISK in the crab fishery to fatal levels** in this very dangerous midwinter fishery. Fatality rate in Dungeness crab has been the highest fatality rate of any industry in the nation. Decisionmakers at BOEM/NOAA and other associated federal agencies MUST develop a proactive approach to eliminate HARM from effects of offshore industrial development and to prevent additional RISK of socioeconomic concentration of burdens on nearby vulnerable affected communities that are currently suffering from a magnitude of cumulative impacts. BOEM MUST stop distortion of FACTS by showing only 10% of the fishery harvest as they did in the fall of 2021 at the BOEM/Oregon Taskforce meeting. Eliminating 90% of the Oregon/Washington harvest from fishing maps can only be described as **DECEPTION of impact** and completely ignores and totally distorts the existing cumulative circumstances on the ocean adversely impacting nearby communities. Cumulative impacts MUST be accounted for in lost ACCESS to fish in area and time which can become a major adverse economic consequence over time. Currently our nation's agencies have NO method of honestly calculating the true value of area and time lost to fishing from displacement or how to remediate that loss in calculating real effects on the Fish Dependent Communities which both congress and the legislature intended to protect from industrial development loss of ACCESS to fish/crab. The true value of fishing to a community cannot and must not be measured strictly in dollars lost to the fisheries. Fishing expertise is something that is invaluable to maintaining coastal fish dependent communities and is often irreplaceable when it is displaced. Expertise in fisheries is a non-measurable commodity where harvestable fish may only gather in harvestable concentrations a few minutes per day. BOEM has yet to put into effect any reasonable strategy for avoidance, minimization and mitigation of impacts to fishing and fisheries that prioritizes fisheries productivity, viability, and long-term resilience. Simple establishment of communications/coordination does NOT protect Fish Dependent Communities from HARM of displacement or other indirect adverse long term effects on the entire nearby communities. **Sacrificing coastal communities' marine water economic base is NOT an acceptable**

OUTCOME intended by Washington legislators CMSP legislation. The BOEM OSW strategy yet to be developed **MUST** prevent existing uses including but not limited to fisheries from being disproportionately and directly and indirectly affected by offshore industrial development. AVOIDANCE of impact is the best possible solution to siting OSW which BOEM seems to have skipped as they jump immediately to so called “mitigation” measures for HARM done to existing marine water users, including but not limited to fishing. Mitigation measures associated with industrial development historically have fallen far short of the adverse impacts perpetrated on fishing. This is clearly evident in the OUTCOMES of placing numerous dams on our rivers to produce hydropower. The result of these dams on the offshore troll salmon industry in Washington has resulted in a highly significant reduction in the size of the state’s entry level fishery of over 99%. All the billions of dollars allocated to mitigation have FAILED to stop the precipitous decline of all salmon sectors FORCED upon the fishing industry by failure to remediate lost salmon spawning and rearing habits as well as Cumulative fatality loss of salmon associated with dam passage by salmon. Today troll salmon harvest is at < 1% of the historical harvest to a mere 200,000 pounds compared to historical harvest of over 21 million pounds annually for over a decade in the 1970s. The Washington gillnet fishery has suffered the same level of significant harvest decrease in the name of salmon conservation when it is the increased population demand that has a continually expanding appetite for a growing population footprint on the salmon’s habitat and things like even mundane tire dust is killing off salmon whenever it rains and washes into nearby salmon spawning and rearing habitat.

BOEM MUST establish clear CRITERIA for offshore industrial Project DECISIONS based on FACTS that lead positive results from FACTUAL INFORMATION based in credible peer reviewed science that other than developers submit for their planning process to develop offshore wind facilities. This BOEM process which has yet to be developed **MUST** Establish Clear Criteria for Project Decisions that are applicable to other cooperating agencies such as: The Corps’ agency-specific guidelines should clearly identify the types of projects that Corps planners may not recommend absent an overriding consideration of national need as determined in writing by the Assistant Secretary of the Army (Civil Works). This should include, but not be limited to, a prohibition against selecting an alternative if:

- a. The alternative would increase or transfer socioeconomic risk onto another community in excess of local or state regulations.
- b. The alternative would disproportionately affect people of color, or low-income or vulnerable populations.

- c. Another less environmentally damaging alternative that would address the identified water resources problem is available and practicable. Clean Water Act section 404 requires that the Corps select the least environmentally damaging practicable alternative which could include developing energy facilities on land instead of in the ocean.
- d. The alternative would result in environmental impacts that cannot be mitigated pursuant to 33 USC 2283(d). – This is an exceptionally difficult requirement when BOEM regulations do not even require mitigation for displaced ocean use including fishing.

All federal/state/local agencies involved in new emerging industrial development on marine waters MUST Empower Impacted Communities: The agency-specific guidelines should empower impacted communities, regardless of whether or not they are the non-federal sponsor of offshore marine water industrial projects, including by directing agencies to:

- a. Authentically engage with potentially affected communities early in the project planning process (before the required National Environmental Policy Act scoping process) to explore potential project approaches and designs that reflect community values and norms and redress environmental injustices. Apply this requirement to new project studies, studies and planning affecting already authorized but unconstructed projects, and studies and planning affecting ongoing project operations and/or maintenance.
- b. Use the most accurate and localized data available to facilitate understanding of the impacts or benefits of project alternatives on specific communities.
- c. Include in every environmental impact statement, an assessment of the potential negative environmental, public safety (including the risks of increasing marine fatalities), or public health impacts (including evaluation of measures of health inequality) on any communities of color, economically disadvantaged communities, or Indian Tribes that may be affected by proposed alternatives. Existing ocean uses MUST be protected from displacement and RISK to these uses MUST be of MINIMAL consequence where MINIMAL is defined as adverse impacts next to ZERO and certainly < 5%. Minimal adverse impacts must be put in context of all cumulative impacts imposed on affected coastal communities.

These changes and more, in combination with **effective and meaningful engagement with communities** and Tribes, will help ensure that Corps projects and programs achieve the PR&G Federal Objective and National Water

Resources Planning Policy. These changes will also help ensure that agency projects comply with the full suite of federal laws and policies applicable to Marine Water planning, including: the Water Resources Development Act directives since 2007 to fully consider natural, nature-based measures; the Clean Water Act section 404 requirement to develop and adopt the **least environmentally damaging practicable alternative**; and the National Environmental Policy Act requirement to carefully evaluate reasonable alternatives to help “fulfill the responsibilities of each generation as trustee of the environment for succeeding generations” and ensure that all Americans have “safe, healthful, productive, and esthetically and culturally pleasing surroundings and their ACCESS to nature resources are not overly restricted by new emerging industrial development offshore.”

Recommendations for Effective Engagement with Communities and Tribes: It is essential that the Agencies adopt policies and procedures that will ensure effective and meaningful engagement with communities of color, economically disadvantaged communities, and Indian Tribes. This will require the Agencies to:

1. Direct Agencies to invest the time, cultural respect, and regard needed to build authentic relationships with communities of color and economically disadvantaged communities and Tribes to facilitate effective consultation, learning, and engagement; and provide Agency staff with the resources, training, and time needed to do so.
2. Engage with communities and Tribes up front, not after plans are already developed, to ensure that projects—including long-term operations and maintenance—redress instead of exacerbate environmental injustices. Direct Agency planners to change, modify, or adapt project recommendations to address community and Tribal needs and concerns.
3. Use all Agency programs and projects—including by improving project operations—to advance resilient solutions that will help communities and Tribes thrive and address multiple problems. Prioritize the use of self-sustaining natural and nature-based features and nonstructural measures that provide co-benefits to help communities thrive and incorporate the clean-up of decommissioned projects as part of all Agency projects wherever these projects are past their prime and need decommissioning.
4. Direct Agency planners to account for community and Tribal resource ACCESS constraints, competing priorities for community members, and the time needed to review and evaluate complex planning data, when developing public hearing schedules and public comment timelines. Agency planning schedules should accommodate requests for additional time to

provide comments to the maximum extent allowed by law which should not interfere with fishermen's fishing seasons. 5. Consult and coordinate with the National Environmental Justice Advisory Council (NEJAC) to the Environmental Protection Agency, the White House Environmental Justice Advisory Council (WHEJAC), and the Federal Interagency Working Group on Environmental Justice (EJ IWG) on methods and approaches for effectively implementing outreach efforts – NOTICE is the federal register is inadequate to reach Fish Dependent Communities. Utilize applicable public engagement-related recommendations included in the Environmental Justice for All Act (H.R. 5986), Promising Practices for EJ Methodologies in NEPA Reviews (March 2016) developed by the Federal Interagency Working Group on Environmental Justice & NEPA Committee, and the Model Guidelines for Public Participation (January 2013) developed by the National Environmental Justice Advisory Council. There is absolutely no reason to leave Fishing Communities out in the cold in the engagement process of establishing any offshore industrial development that has an effect on nearby or distant water communities from establishment of OSW facilities.

6. Create a new position of Senior Advisor for Environmental Justice with BOEM and establish a standing Federal Advisory Committee on Environmental Justice to provide recommendations for improving community engagement and increasing the equitable delivery of services, projects, and project benefits through all BOEM programs and projects.

7. Engage in robust and extensive consultation with Tribes to develop and implement procedures for ensuring that the Agency Tribal consultation process respects and fully accounts for the principles of "Tribal sovereignty and self-governance, the Federal trust and treaty responsibilities to Tribal Nations, and regular, meaningful, and robust consultations with Tribal Nations", as recognized in Executive Order 13175 ("Consultation and Coordination With Indian Tribal Governments"), and other issues identified by the Tribes. Prohibit a determination of Tribal consent to a proposed action unless the Tribe provides such consent in writing.

8. Establish a Tribal Liaison in each state in which BOEM engages projects and a formal continuity program for Corps Tribal Liaisons and other Corps staff who interact regularly with Tribes to ensure that knowledge about general and specific Tribal issues, policies, and contacts are not lost due to Agency staffing changes. Evaluate Tribal interest in a standing Tribal Advisory Committee to provide long-term input into the agency's Tribal consultation process, and establish this Committee if requested.

9. Strengthen the Agencies technical assistance and resiliency planning assistance programs for Tribes, **economically disadvantaged**

communities, and communities facing repetitive offshore industrial developments to help identify communities most in need of such assistance and set affordable community costs for assistance in even addressing the totality of the information that they need to comprehend the final outcome associated with FOSW development in their region. .

10. Quickly implement the Pilot Programs for Economically Disadvantaged and Rural Communities established by Section 118 of the Water Resources Development Act of 2020. These programs facilitate the study and delivery applicable to industrial projects affecting communities, including through full federal funding for up to 10 studies that evaluate significant use of AVOIDANCE of impact to only MINIMAL features affecting the affected communities.

Full and effective implementation of the updated PR&G combined with robust engagement with affected communities and Tribes will help ensure that Agency planning can address the nation's most pressing water resources needs while protecting and restoring the environment and redressing long-standing environmental injustices that have been effecting coastal communities for decades. We urge BOEM and all other agencies involved in the permitting of any offshore industrial projects to adopt the recommendations outlined in this document to help make that happen. The Fishing Industry will continue to work constructively together, but there will be things we will disagree on." Indeed, it's standard operating procedure for democratic leaders to find SOLUTIONS to problems which inflict MINIMAL HARM on communities through reasonable COMPROMISE whose OUTCOME provides benefits to communities that may experience HARM, especially HARM that will be long lasting and destructive to the overall impacted communities.

Washington Coastal Marine Spatial Use maps are currently divided into 1 mile polygons with fish harvest quantities evaluated. These polygon assignments have not been appropriately groundtruthed with the fishing fleet for accuracy. Interannual species abundance variability has not been evaluated where species abundance variability dictates annual use of the area depicted by the polygon use which need accuracy determination and verification by the fishing fleet for individual species weighted-population determination that could be significantly different on an interannual basis for some species and fairly constant for others. No Environmental Justice Cumulative RISK framework or evaluation metrics have been developed to evaluate well-reasoned Thresholds that leads to a NEPA NO Action Alternative necessary to protect Fish Dependent Communities from

high levels of displacement from Cumulative Effects is detrimental and toxic to the wellbeing of communities dependent on ACCESS to fish/crab for their socioeconomic stability and viability. The Washington legislature called out specifically in the ORMA legislation to guide specific ocean policy in:

RCW 43.143.060 (2) (b) – “The protection and preservation of existing sustainable uses for current and future generations, including economic stakeholders reliant on marine waters to stabilize the vitality of the coastal economy.”

Washington is ahead of BOEM in development of offshore planning and project **review criteria and regulation** which can be refined and adopted by BOEM including state and local county regulations.

RCW 43.143.030 Must be met or exceeded when developing offshore wind projects:

(2) Uses or activities that require federal, state, or local government permits or other approvals and that will **adversely impact** renewable resources, marine life, **fishing**, aquaculture, recreation, **navigation**, air or water quality, or other existing ocean or coastal uses, **may be permitted only if the criteria below are met or exceeded:**

(a) There is a demonstrated significant local, state, or national need for the proposed use or activity;

(b) There is no reasonable alternative to meet the public need for the proposed use or activity;

(c) There will **be no likely long-term significant adverse impacts to coastal or marine resources or uses;**

(d) All reasonable steps are taken to avoid and minimize adverse environmental impacts, with special protection provided for the marine life and resources of the Columbia River, Willapa Bay and Grays Harbor estuaries, and Olympic national park;

(e) **All reasonable steps are taken to avoid and minimize adverse social and economic impacts**, including impacts on aquaculture, recreation, tourism, navigation, air quality, and **recreational, commercial, and tribal fishing;**

(f) Compensation is provided to mitigate adverse impacts to coastal resources or uses;

(g) Plans and sufficient performance bonding are provided to ensure that the site will be rehabilitated after the use or activity is completed; and

(h) **The use or activity complies with all applicable local, state, and federal laws and regulations**, including Pacific County SMP.

If BOEM honors the legislative INTENT these Washington criteria in dealing with the establishment of WEAs and or responding to unsolicited lease requests such as that which Grays Harbor Wind/Olympic Wind or Cascadia Wind may submit there would at least be a minimum floor to establishing any offshore industrial development leases in federal waters that could supply some protection and preservation of coastal fishing as intended by the Washington legislature and congress in development of OCSLA. Some of the coastal counties have incorporated RCW, ORMA and additional requirements into their local SMPs that MUST be available and applied to all offshore industrial development from 0 – 200 miles offshore as intended by congress under the CZMA. The problem with the above criteria although well intentioned is the FACT that the criteria is subjective and open to agency some interpretation and has no specific legislative threshold that would lead to the NEPA No Action Alternative. **Meaningful protective Standards and THRESHOLDS still need to be developed** that include cumulative impacts including but not limited to the adverse impacts of the Rafeedie Decision that lead specifically to the NEPA No Action Alternative. Washington CMSP criteria MUST be applied as regulation governing the new emerging industrial developments in Washington offshore waters as intended by the Washington legislature when they extended ORMA expecting CZM Certification. One of the primary deficiencies in the BOEM lease process is that compensatory mitigation is voluntary since it is not as specific as it MUST be and put into the Washington/NOAA CZM Certifications. The OUTCOME of Principles, Regulations, and Guidelines is the most important result of the formulation of well-reasoned PR&Gs that provide basic protections and preservation of fishing and all other existing marine water uses as new emerging Industrial uses invade our offshore areas where AVOIDANCE of Adverse Impacts is the RESULT.

BOEM/NOAA needs to develop a rational criteria evaluation program in conjunction with affected states and LOCAL communities including affected stakeholders by region where adverse impacts may be considerably different in degree of nearby community impacts and needs. Each region needs an area specific set of criteria that is specific to that region. This program needs to be based on realistic scientific methodology to design research tasks outlined in a project workplan associated with confirming or denying a lease of ocean area to the highest bidder for offshore industrial development which AVOIDS deleterious effects on fishing and only incur MINIMAL adverse impacts on Fish Dependent Communities that will be affected:

Task 1. Develop work plan to **develop a well-reasoned Threshold** that would lead to either leasing an ocean area or denying the lease due to excessive

accumulation of adverse impacts on the nearby communities that fully accounts for past, current, and future impacts to the communities

Task 2. Scoping Meetings: Select **pilot application sites** – all proposed sites offshore individual coastal states – This does not mean jumping to huge 1000 – 2000 MG facilities with NO analysis of impacts as is the current case in the US, as the only small OSW facility is a 30 MG facility at Block Island. Block Island is a good test facility for beginners but even their failures are feeble compared to the tribulations that will be associated with a massive Floating Offshore Wind facility.

Note: Washington CMSP found NO acceptable place to predesignate OSW or other industrial developments that did not interfere with existing uses including but not limited to fishing after over five or more years of Coastal Marine Spatial Planning in Washington and now in its 12th year.

Task 3. **Pilot Application Planning** and Design meetings and training workshops evaluating consistency of methodology across states which may not apply to the UNIQUE situation found in Washington offshore waters affected by the Rafeedie Decision with its huge area and time displacement of historical fishing BOEM fishing maps that eliminating 90% of fish harvest is completely unethical, immoral, and may even be illegal.

Task 5. Analyze Data for consistency of application of individual metrics across states

Task 6. Hold Community meeting workshops to review results and policy implications that includes ALL major users in individual areas where new emerging industrial use of ocean waters is proposed – **it is vital that those most affected from displacement (fishing) are firmly at the decision table** and not relegated to the outside looking in as with all BOEM/state taskforce compositions where members of the public have NO voice until after the official BOEM/State Taskforce meetings are closed and decisions often made - unacceptable.

Task 7. Prepare Threshold revisions based upon feedback and review. These thresholds should be established that prevent disaster declarations – 35% reduction in catch is way too high for coastal communities to sustain year after year especially where this level of disparaging impact currently exists on the Washington coast due to Rafeedie Decision. NOAA has ignored this metric in failing to consider the CZM Certification of the Pacific County SMP. Washington fishing is so restricted that a Preferred Fishing Area (PFA) must be established in the 38 miles of ocean south of Westport to the Columbia as the only place left to fish in the Washington coast that is NOT under the tribal 50/50 sharing requirement of the Rafeedie Decision that is a UNIQUE situation in the nation that MUST receive special Fishing and Navigation privileges not necessarily found elsewhere.

Task 8. Draft professional journal article preparation for peer review.

Task 9. Submit journal article for unbiased review and final report

Task 10. Apply newly developed Threshold analysis to approve or deny any request for leasing ocean space to new merging industrial applications that AVOID, have MINIMAL adverse impacts on nearby communities, and are able to be remediated through sufficient mitigation measures that are acceptable to the nearby communities, especially those that are fish/crab dependent as described in Washington ORMA and can adhere to the Pacific County SMP Ocean Section 6. Threshold criteria MUST be strong enough to protect and preserve current and future generations of fishing families with good paying JOBS.

Task 11. Lease only in ocean areas where effects of displacement are able to be shown remediated for loss of ACCESS to fish/crab based on honest analysis that accounts for NO Net Loss of Ecosystem Function which includes but not limited to current and future viability of Fish Dependent Communities' function. Simple analysis would lead to NO NET LOSS of Fishing INCOME after remediation efforts are put in place that not only protect and preserve existing navigation and fisheries but those of the future generations as well which are currently diminished by existing CUMULATIVE adverse impacts such as reduced ACCESS to salmon due to effects of the MMPA and ESA since 1990, both of which should be modernized to allow extended fisheries ACCESS without diminishing the sustainability of the salmon resource. Example: Washington troll salmon fleet is not even a shell of its former self with harvest levels at <1% of historical salmon deliveries in the 1970's due to adverse impacts on fisheries from the enactment of the MMPA and ESA. Example of sea lion population growth has exploded since the MMPA was put in effect and sea lions became a protected species with NO top end on that protection or an declaration of the species had been recovered to such an extent that the protections could be eliminated.

Note: the NOAA 35% disaster determination of a loss is excessive considering the disaster determination is a temporary condition and lost ACCESS to WEAs to abundant fish is long term. Industrial Displacement of fishing is long term and has a far longer duration of fishing disruption resulting in excessive loss of coastal economic viability. Fishing Disruption may result in increased conflict over other fishing grounds, localized turmoil over fishing grounds, increased operating costs for vessels, and lower revenue (e.g., if the substituted fishing area is less productive, supports fewer valuable species, poses greater challenges for minimizing bycatch, increases competition with or displacement of other harvesters, or risks increased interactions with protected resources such as change in area of ESA listed whales into primary fishing areas inshore could become extremely problematic).

MOU BOEM/NOAA to install 30GW of offshore wind by 2030 is just another recent action (January 2022) that falls far short of the congressional

INTENT to protect and preserve fishing and navigation from displacement, let alone the 2050 projection of 110,000 MG of offshore wind power.

[MOU NOAA BOEM SIGNED - 011222.pdf](#)

This MOU is really weak to nonexistent on prevention and preservation of existing ocean uses (JOBS) including but not limited to fishing – **the word fishing is not even in the MOU**. Any Memorandum of Understanding that omits the people dependent of marine waters for their economic viability is a DEFICIENT MOU. NOAA is neglecting their primary reason for even being in existence, the preservation of fish and FISHERMEN. NOAA's primary job is to take care of the fisheries resources for sustainability and ensure fishing for the future, not make room for BOEM to displace fishing which is a tremendously misplaced objective for NOAA. Administrative mandates MUST not be used to abuse NOAA's primary reason to exist – sustainable fisheries.

BOEM is taking the position that the sole reason for mitigation is impact on the environment and that there must be a "thorough" analysis and that analysis "must" support mitigation before it can be considered. In taking this position, BOEM is abdicating its responsibilities to commercial fishing, which is the existing and far more economically beneficial to user of the areas where BOEM is allowing the placement of offshore wind energy facilities by arbitrarily placing a lower value on existing use of the ocean which was never intended by congress or the legislature. **The legislative intent was for new emerging industrial use of the ocean was to AVOID CONFLICT with fishing and navigation as the primary outcome of OSW** which was to be placed in areas of marginal existing uses, not eradicate fishing out of choice fishing areas with a similarity of placing a "Junkyard" in the middle of a prime residential metropolitan area which normal zoning would NEVER approve. When there is NO ocean ZONING ORDINANCES, displacement atrocities occur due to misplaced OSW complexes will occur. The Pacific County SMP Ocean Section 6 is in FACT a zoning ordinance that must be NOAA CZM Certified into the EEZ to prevent a serious incompatible mismatch of new emerging industrial development displacing fishing in a very active Fishing Income Zone that the coastal people are dependent upon for their health, SAFETY, and wellbeing. This current form of disparate treatment to fishing and navigation occurs when there is NO viable ocean zoning with loose and/or NO reasonable permissible site requirements, lessee NO code of conduct via regulation to be enforced, and in addition outright subsidies for these atrocities causing huge **environmental injustices** to occur where vulnerable communities are disenfranchised by oversized disproportionate noxious OSW

sites that eliminate a primary source of coastal income where vulnerability and new incompatible ocean use intersect and fishing is suppressed.

This new emerging industrial incompatible ocean use is more problematic when the affected communities are beleaguered by a large agglomeration of other sources of substantial elevated CUMULATIVE RISKS from multiple sources.

BOEM/NOAA offshore lease MOU is flawed!

Also the recent MOU that BOEM and NOAA agreed to completely ignored any rational that OSW had to advancing adverse impacts to fishing communities adversely affecting coastal demographics from illegitimate OSW siting that would cause HARM and could easily lead to increased marine casualties that are already the highest of any occupation in NW Dungeness crab fishing of any occupation in the nation as a result of an accumulation of excessive regulation is numerous fisheries magnified in the dangerous midwinter crab fishery that MUST trigger Environmental Justice parameters necessary to provide additional protection to the affected communities nearby any offshore wind facilities that may be proposed as a result of BOEM activities. Everyone needs to understand that BOEM has a built in conflict of interest in their mission with the fishing industry as they only do one thing, "lease ocean to the highest bidder." NOAA has advanced no reasonably foreseeable rationale for supporting the BOEM mission and abandoning impact analysis to nearby communities suffering from displacement of their fishing grounds that support a wide network of community businesses. This BOEM/NOAA MOU is a clear notice of suppression to coastal communities, totally out of character for the **originating NOAA mission which was to protect and prevent the depletion of both fish and fishermen.**

BOEM/NOAA MOU is pure collusion that will suppress significant ACCESS to fishery resources that nearby and distant Fish Dependent Communities depend upon for their health, SAFETY, and wellbeing. The MOU also completely ignores the NEPA mandate to fully consider the **considerable adverse cumulative impacts to communities before actions are taken.** The BOEM/NOAA current suppressive actions stack the deck against nearby communities that will suffer gross indignities from the agency biased decisionmaking that substantially favors offshore wind development that is being driven by the current administration's 30X30 policy directives with little to NO deference or regard to consequences to existing ocean uses which are displaced.

Everyone needs to understand there are two 30X30 proposals for the ocean: the 30X30 installation of 30GW of offshore energy by 2030 and the 30X30 installation of 30% of the ocean put into marine preserves by 2030. **CUMULATIVE impacts MATTER** and 30X30 X 2 is total destruction of the

Coastal Fish dependent Communities' economic base. The 30X30 GW expansion of offshore energy is an excessive plan that would bring about an enormous and transformative expansion of BOEM regulatory authority and is a major rule that will in accumulation of WEAs across the US will cost the taxpayer and ratepayers 100's of billions of dollars and would be excessively disparaging in its effects to the citizens of SW Washington. To ensure the 30X30 mandate becomes a reality to meet President Biden's goal by 2030 using not yet in production, one 14 MG turbine would need to be installed every 32 hours for the next nine years, an extremely high and totally unrealistic expectation. This impossible schedule also does not include the high price of financing the projects or high rate of inflation we are currently experiencing. In addition, upgrades to the onshore transmission system are required to accommodate the additional generation beyond what could be accommodated on the coast that will only be able to utilize a small portion of the 4000 MG capacity of the proposed Olympic/Cascadia Wind facilities. Restrained power transmission will add substantially to the overall cost of production to upgrade power transmission lines beyond the very high prices predicted by NREL. In addition, there will need to determine the amount of reserve capacity—whether generators on standby or large-scale storage batteries with new technology being developed (chitosan-zinc battery) — where crab shell and Zinc become batteries is still in the concept stage at the University of Maryland. The chitosan-zinc battery is the most earth friendly invention yet as the battery can be broken down via biodegradation in about 5 months. We only pray this breakthrough can be commercialized at capacity to store wind and solar energy to help promote the going green movement. To make the carbon free revolution become earth friendly a non-lithium ion battery that will take 1000s of years to break down is not really a solution for going carbon free in the future, biodegradability will be needed to meet U.S. government 24/7 reliability standards with significant additional costs to ratepayers and taxpayers that still needs to be properly controlled. As the world transitions towards deploying green energy solutions and electric vehicles, the batteries being used for such technology also need to become significantly more eco-friendly to accomplish stated goals without defiling large strip mining super pits scarring the planet in search of scarce minerals like cobalt, nickel, and lithium, all necessary for today's electric vehicles that are NOT currently as ecofriendly as they possibly could be to reach carbon neutral reliable energy sources. UM chitosan-zinc battery may be on the brink of finding a better solution for the future of our planet, but still a far from proven commodity.

Wind power is not only inherently intermittent, but — unlike many fossil-fuel generators that can load follow — wind turbines cannot “load follow,” that is, ramp their output up or down in response to instantaneous changes in overall electricity demand of the system as time of day and demand for electricity alters substantially. California is already facing brown outs and black outs in an attempt to go totally green and area long ways from being able to supply the electrical load following capability our citizen’s demand. Typically, today this means having more gas-fired generators operating on standby. (Think of this as equivalent to a car engine idling so that it can drive off immediately, when needed.) This 30X30 U.S. energy policy, including green energy mandates, is completely divorced from reality and offshore wind reality gets murkier as the 2050 goal of 110,000 MG is a very significant expansion of the OSW goal that will have reasonably foreseeable impacts on the future viability of Fish Dependent Communities all across the nation. The Paris Climate Agreement completely handcuffs United States energy policy all the while China has 176 gigawatts of coal capacity under construction in 2021, and more than half of that was being built in China. Read more: <https://www.newscientist.com/article/2317274-china-is-building-more-than-half-of-the-worlds-new-coal-power-plants/#ixzz7UKs2hAw2>

The 30X30 GW plan is preposterous in its assertion that the plan “will lower ocean levels; preserve glaciers; reduce asthma; make hearts healthier; slow tropical diseases; abate hurricanes; temper wildfires; reduce droughts; stop many floods; rescue whole ecosystems; and save from extinction up to ‘half the species on earth.” **Preposterous Claim!** FACT, the existence of the Olympic/Cascadia Wind farms will have an immeasurable impact on the world’s climate. The 30X30 mandate is also preposterous and will still have an immeasurable impact on global warming that has been going on through cosmic interactions for the last 19,000 years when the glacial ice sheet extended south to Portland, Oregon. Sea level rise has been over 400 feet since the beginning of the end of the last ice age.

New displacement of fishing over a large area is caused by the **insidious lack of any Threshold** and inadequate RISK analysis associated with displacement of fishing over these huge areas when added to many other existing nearby displacement of fishing over multiple areas and times where these seemingly disconnected displacements are never properly made accountable for their contributions to unsustainable practices adversely affecting the coast where the total magnitude and prevalence of the existing elevated RISK zones are never quantitatively linked to the coastal wellbeing and resiliency. In SW Washington existing **cumulative RISK is concentrated** into only 38 miles of coastline.

This area begs for much closer analysis due to 1000s of miles of NO Fishing NO Income Zones on the Washington coast that have concentrated and inundated fishing effort south of Westport to the Columbia River ostensibly **triggering environmental justice concerns** that must be adequately addressed before any offshore industrialized complexes jeopardize the local economic base of the area, especially in Pacific County that has been recognized as the 4th most Fish Dependent Community in the nation where a single major 2000 MG let alone a second OSW facility will have a more than ordinary adverse impact on the nearby communities; it could/will be devastating. SW Washington has a serious intervention strategy currently in place by the county SMP to protect this important fishing area from displacement – Washington ecology and NOAA have dropped the county SMP from CZM Certification and refuse to reinstate the SMP for CZM Certification. **Dropping the CZM Certification of the Pacific County SMP was done without proper public notice** suppressing the reach of the SMP that was put in place to protect local values and the fishing industry from HARM exposing the community to detrimental vulnerabilities from OSW and other displacive industrial offshore developments. The stealth with which the SMP CZM Certification was dropped was unconscionable, it was years before it came to the attention of those most affected, the fishing industry.

Vulnerability is defined as “combined RISKS from aggregate exposures to multiple agents or stressors,” that must be more explicitly defined in terms of the socioeconomic fabric of the coast that has multiple adverse loss of fishing area, fishing time, and increased restrictive fishing regulations that over time have resulted in major suppression of the entire fishing industry. Maybe the worst example of near extinction of an industry is found in the Washington offshore troll salmon fishery. In a single lifetime ACCESS to troll salmon for coastal Fish Dependent Communities offshore Washington has dropped from over 21 million pounds per year in the 1970’s to around 200,000 pounds or <1% of historical values. UNACCEPTABLE increase in vulnerability toward total industry failure. Salmon fishing has historically been the entry point of past fishermen. Fact every fisherman in my generation got their start in salmon fishing where there was ample harvest opportunity diminished by a multitude of stressors including but not limited to the initiation of the ESA which has had a profound adverse impact on coastal and inland salmon fisheries where recovery of salmon populations will always be in jeopardy as the human population in the NW continually expands the impacts on salmon habitat much faster than it can possibly be rehabilitated.

NOTE: offshore floating wind is mutually exclusive of many types of fishing, especially bottom contact fishing like crabbing which is adding to the

vulnerability of the fishing community that will be displaced over extremely large areas of current fishing grounds covering hundreds of square miles with WEAs (**Wind Energy Areas**) AKA Morrow Bay example where almost 400 square miles of **NO Fishing No Income ZONE** will have an adverse socioeconomic impact on the nearby affected communities. New emerging industrial takeover of the area is totally incompatible with existing ocean use and will have a negative impact on the vulnerability of nearby communities in such a manner to raise **significant environmental justice concerns**.

The recent Coastal States Organization letter to BOEM states clearly that "Offshore energy projects are sited, built, and operated in ways that **AVOID**, minimize, and mitigate adverse effects on environmental and EXISTING USES, including commercial and recreational fishing." This statement was included to help protect disadvantaged fishing communities from aggressive build out of OSW into areas of fishing dependency. Threshold standards for an accumulation of WEA areas that displace fishing and other ocean uses over the coast are nonexistent. WEAs even in other states can have deleterious effects on other areas that are locally dependent on ACCESS to fish/crab where ports are adjacent to multiple states affected by extreme fishing effort transfers.

Mitigation sequencing starts with AVOIDANCE of adverse impacts. The BOEM unsolicited ocean lease process negates avoidance and minimization measures as the potential ocean industrialization developer simply boxes out an ocean area for industrial takeover without any significant avoidance analysis of existing uses including fishing. Fishing displacement analysis is forgone, and that displacement is enhanced by the **BOEM illicit fishing maps** where suppression of 90% of the fish harvest is aimed only at destruction of fishing over a wide footprint that places historical fishing grounds off limits to fishing.

Everyone involved in the development of OSW WEAs needs to consider the FACT that once Cumulative Adverse Impacts reach a significant Threshold of displacement many fishing families' businesses will simply FAIL due to lack of viable ACCESS to sufficient sustainable fisheries resources to THRIVE – they simply starve to death. Testing the limits of existing displacement Threshold is simply irresponsible ocean management. Due to interannual fish resource abundance variability any Threshold that MUST be established needs to be conservative in its impact values and account for the very nature of offshore resource abundance variability that is commonly found on the fishing grounds and only visible to analysis if many years of fishing data is exposed for inspection. The variability of salmon returning to individual rivers and streams provide window into the viability of the species that can be incorporated to the ocean productivity as a whole as ocean conditions are extremely variable over

time and space. Threshold analysis must include the precautionary approach to properly accommodate the varying magnitude of fish/crab interannual variability of the various species and investigations must also account for the seasonal movements of the various species that may be present at various times of the year. Recent USACE/NOAA/EPA studies on crab at the Mouth of the Columbia River show that the vast majority of crab radio tagged (over 90%) move north so the longer the crab fishery is closed due to accommodating tribal treaty rights the larger the loss to the state fishery. Example: one crab tagged south of the Columbia River was recovered offshore Quileute. That same sample year all of the radio tagged crab recovered later in the fishery were north of Klipsan Beach and unavailable for harvesting by the fishermen that open with the rest of the west coast Dungeness crab fleet from Klipsan to Southern California. Multiple Closures have differential consequences that are very very difficult to quantify and therefore, near impossible to accurately mitigate or compensate for the loss in multiple fisheries or how adverse impacts can accurately be measured on any individual community.

Analyzing cumulative effects from multiple stressors allows realistic evaluation of risks from multiple exposures from a large number of potential fishery time closures or lost fishing area. In a conventional risk assessment, failure to account for cumulative exposures from sources results in underestimating the combined loss of area and time effects, to the extent that such exposures are experienced in the real world effects. Without an accurate assessment of cumulative risks and probable cumulative effects, a regulatory authority charged with protecting human health, wellbeing, and the environment may be unable to fulfill its mandate to adequately protect and preserve fishing in offshore waters due to the complexities of the unknowns in any ecosystem.

Our fishing industry deserves better treatment than to be simply discarded as last week's moldy bread without remorse – unfathomable unethical behavior by agencies that fails to even understand the INTENT of both congress and the Washington legislature to preemptively protect and preserve fishing which requires a much deeper dive than recording exvessel annual landings. This is especially true on the SW Washington coast that houses the 4th most Fish Dependent Community in the nation. SEAFOOD is the quintessential lifeblood of these coastal seafood dependent communities and displacing fishing over large areas required by 4000 MG OSW facilities (Olympic/Cascadia Wind size proposals) is detrimental to the health and wellbeing of the coast that not only has a negative impact on fishing, but the entire coastal community supported by good family wage fishing JOBS that will be displaced. These Olympic/Cascadia Wind OSW developments have the strong potential to

increase dramatically if the Morrow Bay example of WEA establishment happens. The vast majority of any new JOBS that “may” be created via offshore industrial development of OSW will be created in Puget Sound widening the rural/urban divide to new highs further suppressing coastal demographics which currently reflect the lowest median family incomes in the state and the highest rate of unemployment among other ill demographic effects. Other demographics on the coast are also lousy due to significant lost access to seafood harvest over time including but not limited to the Rafeedie Decision and will suffer further declines as fishing is displaced and that fishing revenue is lost forever which will further deteriorate the coastal socioeconomic fabric leaving it in tatters – very difficult to realistically measure other than by guesstimate. The addition of another potential 2000 MG Cascadia Wind will only magnify the adverse impact potential dramatically and not 300 but 700 square miles of lost fishing grounds is potentially at RISK of fishing displacement. This 700 miles of lost fishing ACCESS is problematic for the long term viability of the coastal Fish Dependent Communities of Washington.

How can the United State lack of experience in Offshore Wind with only a small single OSW facility of 5 turbines automatically leap to any realistic CRASS conclusions as to impacts of a 1000 MG facility or multiple such industrial complexes displacing fishing over huge areas of ocean. Five turbines in offshore waters jumping to 100s/1000s of square miles of displaced fishing offshore Morrow Bay and extending up to Oregon and Washington is not a leap of faith, it is totally irrational irresponsible decisionmaking that has NO basis in FACTUAL impact analysis, only hope for decreased change in carbon output and is an illicit dream that is sacrificing hard working families on to the coast to an offshore industrial outcome that will not be measurable on a worldwide scale is open for serious criticism and is a shortsighted decision negatively affecting nearby communities. China is building hundreds of coal fired power plants all over the world including 43 coal plants in China and 18 new coal fired blast furnaces equivalent to 1.5% in current annual carbon emissions. This is an unequivocal reality which is turning into a “Code Red reality to fishing” as the United States sacrifices our existing uses including but not limited to fishing for a worldwide carbon reduction goal that can never be obtained by the US alone as coal dominates the global scene with NO end in sight. Even Germany has recently built several new coal power plants as they shut down their carbon free nuclear plants after the Fukushima disaster in Japan. China, India, Indonesia, Japan, and Vietnam account for 80% of all the runaway coal power stations planned across the world as their FAKE promises at the Paris Climate Summit is not matching the reality on the ground. It should also be noted that if the US builds 86, 1000 MW offshore wind facilities by 2050 we will reduce our US

greenhouse gas by a whopping 1.8%. Big projects with minimal impact on our carbon footprint that will produce a very significant socioeconomic impact on our coastal Fish Dependent Communities that NO one is willing to analyze in order to put the Cumulative impacts into reasonable perspective that certainly ignores all aspects of the Environmental Justice parameters that will levy a toxic legacy of displacement that is egregious in some coastal low income communities facing numerous inequities that will remove some of the highest coastal income JOBS driving the poverty levels to extremes, thinking otherwise is a misnomer and will lead to additional disproportional socioeconomic stressors on our coastal people. The entire BOEM process is built on a Conflict of interest because the OUTCOME BOEM is seeking is not protection of coastal communities, it is to lease ocean area to the highest bidder that **places fishing on the bleeding edge of change** that may not honestly be a better place for our society in the future. Pushing excess OSW and contracting the existing fishing industry is a bit like a WORDLE puzzle where NO clues are allowed, and we are purely guessing at what the future honestly holds. One thing is however certain, Fishing JOBS will be lost and increased poverty on the coast will result. Extensive offshore wind facilities are a sure place a fire creating a major Coastal Poverty Program.

SW Washington fishermen are currently bearing the national burden without any compensation whatsoever on their backs of lost ACCESS to fish/crab over thousands of square miles of marine waters in all of northern Washington as a result of the Rafeedie Decision. Adding any additional lost fishing area to a world's problem of carbon reduction will be economically crippling and could eliminate the next generation of Washington coastal fishermen currently chafing under the yoke of excess loss of ACCESS to fish/crab on most of the Washington coast. **Adulterating environmental justice and increasing intergenerational equity RISK for fishing is not an imperative put forward by congress where the social cost of FOSW is significant** and assurances to ACCESS to marine waters is marginalized by OSW is an unacceptable adverse effect where the anticipated HARM is misguided and out of touch where regulatory overreach is excessive and suppressive with a significant nexus to nearby coastal communities where unprecedented BOEM activities in WEA selection process is unreasonable by unelected officials when the very lifeblood of the coast is put at RISK from total and MASSIVE displacement as anticipated in the oversizing of the southern Oregon call area where there are NO cumulative thresholds on adverse impacts to protect the coast from ABUSE where the precious RIGHT to navigation and fishing is lost. **When congress authorize OCSLA congress did not intend for BOEM to have limitless power** over every square inch of the high seas to manipulate and curtail precious FREEDOM of navigation and fishing where

coastal communities FEAR BOEM actions even before the 1st OSW turbine hits the water on the west coast. Coastal people MUST not be forced to live in FEAR of agency actions whose primary responsibility is to make peoples' lives better and to protect their SAFETY not completely dismantle their existing way of life and displace their JOBS over huge ocean areas destroying historical uses of the high seas. The coast deserves better where there is an accumulation of coastal benefits not just battered by adverse effects from OSW where U.S. energy policy is a horrible impoverishment of all our people exemplified by the size of the call areas in southern Oregon where it is obvious accountability to the public is foregone. It is obvious that BOEM omitted honest sunshine laws where public accountability is the cornerstone of good governance. The government's business is the public's business and with **RARE exception** it must be conducted with full public view and participation which is obviously missing in current BOEM WEA designations where American values are completely AWOL. This fast tracking of OSW that neglects sunshine law is irresponsible activity that needs to be stopped in its tracks before irreversible damage is done to coastal communities.

It should be noted that Washington is producing far more carbon free electricity than any other state in the nation and is producing 2X more carbon free power than the next carbon free electricity state, California that has 4X the population than Washington. Hydropower should be reclassified so that the rest of the nation can understand how far behind they are in carbon free power production compared to Washington. Washington is NOT behind Europe. Washington leads the world in a decarbonized electric grid and has NO need to sacrifice our offshore fishing fleet for high priced, intermittent offshore power that needs alternate source of baseload power over 50% of the time when the wind is too calm to exceed offshore wind speeds to generate electricity. Sacrificing fishing to offshore wind in Washington is simply unethical and sinful and should be off limits.

Not one reference is made to protecting and preserving existing good paying fishing JOBS in the BOEM/NOAA MOU on developing offshore wind energy, only creating new Jobs in wind energy – **Cutting Fishing cannot and MUST not be a continual answer to every perceived ocean problem or fishing obstruction to a lease, or even a pathway to decarbonizing our electric grid at any cost. Destruction of our coastal Fish Dependent Communities must not be an option.** Our fisheries are well managed by the Magnuson/Steven FCMA and state fisheries management but cannot withstand the external illicit pressures placed on fishing by loss of large fishing areas to WEAs that at this time over promise and under perform in every category. On the West Coast, not one watt

is to shore after multiple FAILED attempts at establishing WEAs. We must ask why are we as a nation are investing in an offshore ocean energy test facility near Newport, Oregon if we are jumping straight to very large offshore new emerging wind energy facilities of a 1000 or more MG capacity? **WHY are we omitting this test phase of development?** At a bare minimum WEAs should be established as small OSW sites and only allowed to expand once real world effects and analysis become well known and protection criteria is put in place to protect Fish Dependent Communities from over displacement in areas they need for future resiliency.

The BOEM unsolicited lease process has NO realistic understanding of potential impacts of OSW development, equitable economic development, environmental justice, congressional and/or legislative INTENT and Coastal Fish Dependent Communities sustainability. The NOAA/BOEM MOU has not one word about protection/preservation of nearby Fish Dependent Communities from displacement and continual CUMULATIVE erosion of ACCESS to sustainable fisheries necessary to maintain the lifeblood of our Fish Dependent Communities. **INAPPROPRIATE to continually place Fish Dependent Communities on the BLEEDING EDGE OF CHANGE** that has the effect to deny them ACCESS to fish/crab! BOEM has a built in "Conflict of Interest" because their primary outcome they seek is to lease large tracts of ocean to the highest bidder which has deleterious effects on nearby communities. The UNANIMOUS 9 – 0 Supreme Court Decision in the Grays Harbor oil terminal case is also being ignored by BOEM/NOAA offshore lease process by not properly acknowledging coastal community NEXUS to fish/crab in federal waters. The NEXUS to Washington coastal waters and ocean uses is protected by the CZMA where coastal uses are affected if denied ACCESS to seafood harvest. Fishery protections need to MATTER and there MUST be some pathway to the **NO Action Alternative** that is seriously brought into the lease process when the Cumulative impacts over time are fully considered. The large scale lease process may be the final nail in the coffin of fishing and must be safeguarded so that the lid is not nailed shut. Once the OSW facilities are built it is too late to backtrack and the adverse community impacts cannot be corrected.

During the Grays Harbor oil terminal case in the fall of 2016 the ecology attorney aptly described for the court that the Washington Ocean Resources Management Act is meant to stop projects that adversely impact fishing. His words were honest, but his conclusion was colored when he stated that ORMA should not apply to the GH crude by rail terminal. **The 9 justices disagreed when they delivered a 9 – 0 Unanimous decision when all the justices found conclusively that fishing is to be preemptively protected.** Fishing was at the

table and helped turn the tide from displacement to protection as intended by the legislature. The 9 justices understood the reality of the "Fish or Go Hungry INSANITY", of the crab fishery that every additional loss of ACCESS to fish and crab elevated the RISK of fatality to the fleet and decreased the margin of safety that is narrow today before any additional lost ACCESS occurs, NO matter the cause. This oil terminal case is GOOD NEWS for coastal communities that are highly reliant on offshore waters for their economic viability associated with federal waters that provide reasonably foreseeable stability for coastal citizens that depend on fish/crab for their livelihoods.

State law including but not limited to ORMA and the Pacific County SMP that were put in place to safeguard fishing cannot and MUST not be disregarded/ignored by BOEM/NOAA. The entire industrial ocean lease process is not only flawed it is pushing up against a serious tipping point that is crossing the line into nearby community suppression as nearby communities are disparaged and cut out of a significant portion of their livelihoods when ocean leases lead to denial of ACCESS to the SEAFOOD HARVEST potential necessary for the vitality of the nearby coastal communities. It is highly problematic when hundreds of miles of ocean lease blocks to become exclusionary off limits to fishing, especially when the area in SW Washington has already accumulated multiple curtailments to ACCESS to fish/crab necessary to sustain the nearby communities.

Environmental Justice must become into full view requiring appropriate federal actions in SW Washington offshore waters. In recent history Pacific County has been dead last in Washington median family income and has sustained some of the highest rates of unemployment in the state. Any additional loss of fish/crab ACCESS will only further exacerbate those horrendous demographics forcing **economic terrorism** deeper into the communities crossing the line into an uncertain future for the coast. When the protection for fishing/navigation preemptive activities are foregone and not properly protected by AVOIDANCE of adverse impacts they result is a significantly diminish fishing opportunity through lost ACCESS to large swaths of ocean for the next generation of fishermen to succeed as environmental justice parameters are ignored as opportunities to protect fishing are set to the side. The threat of significant and increasing loss of ACCESS to fish is real and has an unlimited potential to displace large amounts of fishing all over the west/east/gulf coasts and that potential for significant lost ACCESS to fish/crab in SW Washington is especially egregious on top of other HARMFUL Cumulative exclusions that have been perpetrated on coastal Fish Dependent Communities.

EO 12866 is a policy statement that needs to be honored in the development of our nation's offshore waters. "The American people

deserve a regulatory system that works for them, not against them: a regulatory system that protects and improves their health, safety, environment, and well-being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society; regulatory policies that recognize that the private sector and private markets are the best engine for economic growth; regulatory approaches that respect the role of State, local, and tribal governments; and regulations that are effective, consistent, sensible, and understandable. We do not have such a regulatory system today.” The BOEM process needs to come in line with this Executive Order of President Obama. EO 12866 further states, “to restore the integrity and legitimacy of regulatory review and oversight; and to make the process more accessible and open to the public.” Which is not the case of the BOEM process of leasing the ocean today when an EIS is not effective when the EIS is not injected into the process until after the lease is already in place. EO 12866 also echoes the protection of human health and safety put into the 2007 WRDA bill to update the 1983 Principles and Guidelines of the USACE that the President also ordered to the CEQ to update and extend to almost all federal agencies including but not limited to BOEM and NOAA. The 2007 WRDA update to P&Rs was put in place by congress to protect nearby sensitive communities from federal actions that often have disproportionate adverse consequences on many nearby local communities that result in environmental injustices from increased RISKS from Cumulative socioeconomic factors caused by conflicting uses such as OSW displacing fishing. HR 1495 (WRDA 2007) was initially passed by an overwhelming majority vote in the House by 394 – 25 and was vetoed by the President and then overrode by a majority House vote of 361 – 54 and 79 to 14 in the Senate. **WRDA 2007 is truly a congressional mandate**, not like some of the votes in congress that require a Vice Presidential tie breaker in the Senate which some consider a mandate. Updated PR&Gs were called for on an overwhelmingly, bipartisan basis in the 2007 WRDA not once, but twice, **because of Congressional override of the veto WRDA 2007 is truly a congressional MANDATE**. Congress sent a clear and very strong signal that the PR&Gs in effect since 1983 (and still today) are outdated and MUST be incorporated into government activities effects on people. The last WRDA bill in 2020 went even a bit further mandating Environmental Justice and other parameters to become a part and flavor of agency actions moving forward.

SW Washington is a “Special” Fishing AREA (SFA) that is a local, crucial coastal economic driver and those in a position of authority MUST be mindful of the needs of those that rely on marine waters for sustaining not just their individual families directly affected by offshore industrial development but also everyone on the coast also dependent on the fishing community for their

viability as well. The Washington legislative INTENT of SB 6263 specifically called out the “required conservation of areas particularly of high value to fishing and to respect existing uses.” FOSW that leaves the coast behind is unacceptable leading to the potential loss of our coastal heritage and is a SOBERING reminder of consequence of large industrial development at any cost that places fishing as expendable is unacceptable ocean management. Current Displacement of time and area in Washington coastal fishing waters is excessive and past any reasonable THRESHOLD of lost fishing ACCESS to even consider any more cumulative impacts to the fishing industry. Any OSW facilities offshore Washington will need to specifically AVOID areas of conflict with fishing due to the excessive cumulative impacts that surpass any reasonable Threshold of loss of ACCESS to fish/crab that NO other state in the nation should have to endure.

We are currently facing a challenging **Don Quixote moment in time** where the Coastal Fish Dependent Communities are jousting at windmills with a similar effect of this historical character aided and abetted toward poverty by BOEM potential impacts from extended WEAs placed in productive coastal waters that nearby communities need for their stability and viability. Low Income Fish Dependent Communities face disproportionate adverse economic HARM by not only losing “Major” ACCESS to fish/crab that will also shatter vulnerable coastal communities that need low cost power to maintain any semblance of vibrancy. This current OSW development is especially egregious to SW Washington communities that actually supported an onshore wind turbine facility locally on Naselle Ridge that was submarined by persistent NGOs from Seattle that were overly concerned over a potential take of an endangered murrelet that after two years of investigations did not identify even one murrelet on the ridge. Additional anecdotal information is collaborated by my father that logged on the Naselle Ridge for several years in the 1940s and not once spotted a Murrelet. This same degree of concern is also not shown by these same NGOs for the endangered short tailed albatross that has been spotted recently in Washington offshore waters and is far less abundant on the coast than the Murrelet, both ESA endangered species that could easily become “take” casualties by OSW turbine blades. **Any OSW development MUST obtain an ESA Incidental TAKE PERMIT for Short Tailed Albatross.** In addition, any leases need to develop a reliable detection and recording system for all bird takes so that these significant mortalities can be successfully accounted for and appropriately remediated. Today no such recording system exists and must be developed to accurately account for any short tailed albatross or other ESA listed species TAKES. There must be a Threshold that could shut down the turbines if the presence of ESA listed birds reaches a minimal threshold value. California has

a trigger to close down the crab fishery if too many ESA whales are spotted in the fishing area. In 2022 the Dungeness crab fishery was shut down over 2 months prematurely simply due to endangered whale presence in California waters, not even because of any fishing related mortalities – presence = shutdown. Offshore wind needs to offer this same level of protection to ESA listed bird species like the short tailed albatross. The economic activities of the crab fleet can suffer economic setbacks due to ESA species potential interactions so can offshore wind. In California this crab season in 2022 California crab fishermen had to stop fishing months early due to just the presence of whales. The offshore wind lessee must submit results of its site characterization surveys to BOEM, but those surveys need to be thorough enough to capture the presences of ESA animals year around. BOEM must require ESA consultation with NOAA that develops a monitoring program at individual turbines to ensure limited take of ESA birds known to frequent the area as a part of a required incidental take permit for the short tailed albatross. USFWS also needs to ensure that ESA listed species are fully protected and the proper “incidental” take permits with maximum “takes” are in place before construction of OSW facilities occurs. BOEM must prepare a Biological Assessment (BA) to evaluate the potential effects of any offshore wind farm that may affect any ESA listed species. If, based on the BA, the action is likely to adversely affect a listed species, formal consultation with FWS is required. BOEM must prepare the proper list of ESA species that must be considered for a BA as prescribed in 30 CFR part 585 Subpart F.

<https://www.boem.gov/sites/default/files/environmental-stewardship/Environmental-Studies/Renewable-Energy/Avian-Survey-App-Profile.pdf>

For all proposed projects on the OCS, the lessee should use <https://ecos.fws.gov/ipac> (and any other legitimate sources) to obtain a list of migratory bird species that “may” be in the project area; especially pre-identify any ESA species known to be present. For all projects, lessees should also describe the measures to be taken to minimize or eliminate potential impacts to migratory bird species in their COP, SAP, or GAP and other required analysis. In addition, for projects involving the installation of wind energy turbines on the OCS, the lessee should prepare an avian year around survey plan that describes its methods for collecting sufficient information on the biology of the survey area to allow BOEM and other agencies with jurisdiction to make well-founded decisions in context with the regional biology. The amount of latest information needed to be collected should match the scale and/or complexity of the proposed project. For example, a project to install 300 to 400 square miles of

wind energy turbines will need additional site-specific survey work prior to the submittal of a plan to build the massive energy generating structures proposed for hundreds of square miles of industrial development. Assumptions that technological advancements are made, and costs of analysis significantly decrease in the future are totally unwarranted as there is NO information available to collaborate these assumptions in this time of massive national inflation that has not occurred in the last 40 years in this country. Pure speculation is not a responsible action to be making in the face of ESA TAKES.

The public MUST be allowed to attend and interact during the pre-survey meeting with BOEM to discuss the plan prior to conducting survey activities in the leased or granted area to ensure that the survey will be comprehensive and protect both the marine ecosystem and the socioeconomic needs of coastal Fish Dependent Communities so that all necessary baseline collection studies provide information scientifically valid to become a well reasoned part of the decisionmaking process and the RIGHT decisions to approve, modify, or stop an industrial development before damages are accrued to the existing ecosystem, which includes adverse impact potential to humans as well. There needs to be established a pre-construction baseline for all fish, birds, mammals, and other species which may be used to assess whether detectable changes associated with proposed operations occurred in post-construction abundance and distribution of all species in order to remediate damages. Noise alone from these humongous turbines could cause shifts in species behavior that we are currently unaware. Build an industrial offshore complex first and study later is an inappropriate method to establish a baseline that has never been accomplished, a baseline that the turbine array itself may cause change in species behavior.

BOEM/NOAA need to slow down in developing these industrial nascent floating offshore wind energy projects until well-reasoned protection criteria for environmental and nearby communities' effects are scientifically determined and adequate protections are put in place. Jumping from only one 5 turbine fixed bottom offshore wind facility off of Rhode Island to 400 square miles of WEA offshore Morrow Bay or a 4000 MG 700 square miles WEA facility off of SW Washington with over 2000 square miles in between is more than an excessive leap of faith; it is irrational and irresponsible jump that is extremely difficult if not impossible to substantiate the potential impacts associated with such a huge change in necessary data to properly analyze project impacts. Floating Offshore Wind Turbines need proof of concept and thorough testing on the west coast, preferable where the wind blows hard, and the swells are tall. Jumping to 27,000 MG facilities on the west coast is an exceptionally BIG leap

of faith that everything will go as stated. Undoubtedly there will be challenges that will need to be fixed. We need to find out real flaws before we manufacture a real debacle on our hands. The only offshore energy device deployed offshore Newport sank and spent a year on the bottom until it was recovered. The only anchor put out for OPT Power Buoy sank prematurely and cost over a \$1 million to recover a single anchor. The Power Buoy was built and never installed, left to deteriorate on the dock in Portland. With this lack of success on the west coast it is quite honestly imperative that deploying these offshore wind devices be done incrementally and to **GO SLOW with much needed Proof of Concept development** before going whole hog directly to 1,000s of MGs; there are obviously too many issues that need to be proven. BOEM has more responsibility to our coastal ecosystems including existing human uses than allow an OSW process that could be fraught with proven opportunities for failure as has been the west coast offshore energy development history. **Go SLOW avert disaster.** BOEM has done a number of studies, but they do not necessarily translate to known effects in individual circumstances on the NW coast of the US. In addition, the Washington WCMAC studies of economic impacts on coastal communities was a TRUNCATED version of that approved by the council and only used 20% of the study dollars made available by the council and did not show potential JOB loss of a 700 square mile OSW facility displacing existing JOBS on the Outer Continental Shelf (OCS) or other indirect effects of these JOBS lost to nearby and distant water communities. This direct study now needs to still be done and the dollars are NOT available to do it. Placing this responsibility on the project developer will not result in a decent proof of concept due to the fact that the developer has a built in BIAS to building the project and NOT protecting the JOBS currently in Fish Dependent Communities.

<https://www.boem.gov/renewable-energy-research-completed-studies>

The BOEM/NOAA MOU may mention mapping but has **ZERO Thresholds** associated with the fishing maps – The BOEM fishing maps shown at the recent fall of 2021 BOEM/Oregon Taskforce meeting were despicable deficient renderings that only displayed the top 10% of fishery harvest production burying 90% of production from public view, SHAMEFUL, unethical and simply WRONG, immoral if not illegal. Protection of 10% of any industry is promoting a rapid path to a DEAD INDUSTRY. This is especially vial to the fishing industry in Washington where our fishing fleet is SUFFERING significantly under the extreme yoke of the Rafeedie Decision that is suppressing coastal Fish Dependent Communities which has led to the highest fatality rate of any occupation in the nation in Dungeness crab. D Crab is fished at the height of an extremely dangerous midwinter fishery under increasingly BAD weather

conditions. Washington coastal fishermen are vulnerable to worst weather conditions fished on the West Coast. Weather conditions can be compared utilizing the highest Mass Weather Index (MWI) on the west coast. Example: San Diego = 10, Neah Bay = 131 – Washington coast has over 13X the weather intensity and frequency of storms as that found in S. CA. which equates to the WA fishing fleet being exposed to extreme weather conditions that leads to marine casualties simply attempting to remain economically viable in nasty midwinter fishing conditions that are EXTREME compared to areas south of the Washington coast. It is usually the young inexperienced small vessel navigators that fail to realize the capabilities of their own experience and push the seaworthy limits of their usually smaller, older vessels that has all too often ended in marine tragedy. Agency personnel have absolutely no idea of trials faced annually by the Dungeness crab fleet nor what it takes to daily face an angry ocean in midwinter that has produced the highest mortality rate of any job in the United States in Dungeness crab and attempt to wrestle a living wage in the face of nature's fury. When a small vessel marine water mariner makes a mistake affecting his safety, it is often his last, there is all too often no opportunity for adaptive management. On the water the mariner has to be "right" every time or there is no next time; adaptive management does not exist for the fishing industry in the dangerous midwinter crab fishery.

Agency personnel do not adequately understand the extreme and dangerous conditions forced on to the fishing fleet as ACCESS to fish/crab is reduced via regulation or displacement from a number of management measures by a number of different agencies that FAIL to understand the CUMULATIVE adverse impacts placed upon the fishing fleet over many years and sometimes decades that eventually reach a peak that places a "FISH or Go Hungry INSANITY" into their daily "Safe or SORRY" decision making to go expose themselves, their crews, and vessels to fish in tough dangerous midwinter weather conditions or push small acceptable weather windows beyond their own capabilities as midwinter storms approach. Working on the edge of survival in a midwinter fishery when you are WRONG you are GONE to the Graveyard of the Pacific claimed by Davy Jones permanently.

BOEM and NOAA have NO Cumulative Thresholds associated with Cumulative lost ACCESS to fish/crab that is related to the viability of the coastal Fish Dependent Communities. There is NO magic number that can be achieved to place a Threshold that is well reasoned based on FACT. Part of the PROBLEM is that the ocean sea state conditions are asymmetrical with what is commonly known to the lay public as Rogue Waves. Rogue Waves can be generated hundreds of miles from the location they wreak havoc on unsuspecting coastal

navigators where it is often the fact that nearby dredge disposal mounds generate additional sea state amplitude caused by mound induced wave amplification multiple times even normal Rogue Wave conditions. It is not the average ocean wave that are usually symmetrical that become KILLER WAVES, it is the asymmetrical unpredictable naturally generated ROGUE wave that causes the havoc.

Cumulative Threshold Analysis MUST BE CONSERVATIVE to be of any use to saving lives; SAFETY AT SEA starts by recognizing the ocean is not harmonious. Cumulative adverse impact analysis that is not specifically accountable to human health and safety required by all agencies in their decision-making process is out of touch with the reality on the ocean that the fishing fleet faces every day and especially out of touch with fishing conditions that occur in an angry ocean in midwinter fisheries. Agencies must also factor in the FACT that all fisheries are interconnected and loss of ACCESS to fish/crab in multiple fisheries translates into added pressure to fish in midwinter dangerous sea conditions to pay the annual bills accumulated throughout the year increase the vulnerability to increased marine casualties that is NEVER adequately addressed by agency analysis that encompasses the real cumulative nature of adverse impact effects on coastal Fish Dependent Communities over long periods of time that gradually place back breaking weight on existing fishing communities. Forcing additional new emerging industrial development into non-existent co-ocean use in a very busy ocean is promoting environmental injustice, an injustice punctuated with excessive closures to fishing like the WFWC has placed on the offshore trawl fleet where they prohibited trawling inside of 3 miles from shore the entire length of the coast of Washington. WDFW has also maintained the Rockfish conservation zone that follows the 100 fathom curve that also places sustainable fish pout of reach for fishing. FACT – some displacement of fishing grounds cannot be mitigated, PERIOD, without severe economic damage to the fisheries that will contribute to additional fatalities. Agencies MUST realize their actions have fatal consequences and MUST organize their actions in such a manner that MINIMAL fatalities result from their actions.

No amount of early, meaningful, and consistent coordination can compensate for the insidious oppressive displacement of primary fishing grounds by new industrial offshore development that fails to AVOID concentration of fishing effort like that excess effort found in SW Washington offshore waters that is the only place that the entire fishing fleet has left to fish that 50% of their ACCESS to all fisheries is not compromised by the Rafeedie Decision where reciprocity of lost fishing ACCESS on the coast has never been mitigated in any manner

that did occur as a result of the Boldt Decision through multiple salmon buybacks that were designed to reduce economic pressure on the remaining fleet after a buyback was accomplished. The Boldt Decision even included \$30 million reciprocity of our US tax dollars put into a Canadian salmon buyback to accommodate the Canadian loss of access to salmon from the upper Columbia River dam construction mitigation efforts. This lack of reciprocity for the Rafeedie Decision on the coast **causes greater tension** on the Washington coast that fails any semblance of ethical policy where coastal community values, concerns over people's health and safety in reality end in real life and death decisions that are reflected in the marine causality rate in the very dangerous Dungeness crab fishery as the highest fatality rate in the nation of any occupation that is occurring as a result of these coastal communities being overburdened by existing circumstances before any more cumulative displacement is forced onto the fisheries. **Rafeedie impacts MATTER** to affected communities and these noxious impacts extend down the entire Oregon coast. Crab fatalities have been more penetrating at Oregon ports than Washington in recent years due to long range effort shift out of Northern Washington crab grounds further to the south, even into California.

Side bar true story: Many years ago, WDFW biologist Paul LaRevere made a fishing trip on the Thora S to witness the fishing operation that was test fishing crab pots over top of USACE dredge Disposal Site B to factually document the serious loss of harvest capacity due to the over mounding from dredge spoils placement that documented a 50% loss of crab production 6 years after the last dredge disposal at the site. The weather that day was highly marginal, some would have said unfishable weather. Fact, the weather was narwly, Paul was a real trooper with his investigation of the fishing operation. Shortly after that trip however, **Paul transferred to eastern Washington**, his days observing the offshore fishing operation were over. Paul understood firsthand the DANGER associated with the midwinter crab fishery and that was before huge tracts of ocean real estate and time were eliminated from the Washington fishing fleet by the Rafeedie Decision that puts considerably more pressure on the fleet to fish tougher weather every year just to make ends meet.

BOEM/NOAA MOU Mission statement is shortsighted where people impacts are omitted.

a. NOAA's mission is to understand and predict changes in climate, weather, oceans, and coasts; to share that knowledge and information with others; and to conserve and manage coastal and marine ecosystems and resources. **This NOAA mission statemen is fallacious.** One of NOAA's PRIMARY missions is to carry out the Magnuson/Stevens FCMA which Senator Magnuson aptly

described as **the job of fisheries management is to PREVENT the depletion of both fish and fishermen** which has deviated from the original INTENT of congress when the EEZ (Exclusive Economic Zone) reaching out 200 miles from shore was created by congress with the FULL INTENT to stop the depletion of both fish and fishermen. NOAA should NOT deviate from their core mission of protecting fisheries. BOEM/NOAA agreement that undercuts that core fisheries mission of NOAA is an illegitimate use of NOAA's core fisheries mission.

b. BOEM's mission is to manage development of the U.S. Outer Continental Shelf energy and mineral resources in an environmentally and economically responsible way. Again, **BOEM has a responsibility to ensure that their actions do not cause HARM to nearby communities affected by their actions.** BOEM's stated MOU mission omits on the ground environmental justice parameters that must encompass, not suppress coastal values and needs.

Both of these BOEM/NOAA mission statements associated with the MOU are exceptionally and unacceptably narrow minded in that both display a lack of understanding or caring that their actions have major effects on people and that people are a definite part of the ocean ecosystems which their mission statements are ignoring completely. This lack of people impacts in their mission statements is indicative of how the coastal people are being left on the outside looking in as their life needs are being shortchanged and eliminated. Both of these mission statements **abuse environmental justice in decisionmaking** and do not employ the "best science available" principle by completely omitting impacts to people as a significant part of the decisionmaking process which will lead to unequitable economic offshore development on the coastal plain where existing uses (existing JOBS) including but not limited to fishing are stepped on until they are unceremoniously eradicated over very large ocean areas causing excessive effort shift into other areas of high use fisheries causing everyone on the coast to suffer lost income reducing their overall viability toward BANKRUPTCY. It is quite unnecessary to explore the exact Threshold between the two extremes – moderate solvency and bankruptcy. Once the bankruptcy line is crossed there is NO salvaging the fishing fleet. Once the fleet is gone, it is gone forever. In order for Fish Dependent Communities to remain viable, ample ACCESS to harvestable fish/crab at sustainability levels MUST fully realize that there is a considerable amount of interannual fish resource variability and the fact that it is not uncommon for fishery resources to be highly variable from place to place over time. Continually forcing fishing into a smaller and smaller box to fish will eventually reach a point of futility for the fishing fleet economic survival which will trigger increased fatality rate in the

Dungeness crab fishery by default as the very best fishermen from multiple failed fisheries further collapse into crab placing unsustainable pressure into the fishery until fatality rate is rising to new heights. UNACCEPTABLE.

Moving into the future the coastal people need community-based participatory action in placement of Offshore Industrial Development including but not limited to OSW. Community Fish Dependent Needs must be fully addressed when siting these offshore industrial complexes. Experiments in pedagogy must include agencies as well so that they actually understand and accommodate the needs of coastal people, not just installing places for ocean industrial complexes to displace the local nearby community assets in the natural resources that they cannot ACCESS to drive their economy. **Vulnerable areas** must have AVOIDANCE of additional and cumulative adverse impacts to nearby and distant communities as the **first consideration** of any offshore industrial action. Note: SW Washington is such a vulnerable fishing area at extreme RISK of failure. Additional RISK to communities is not simply site specific even though RISK has been applied in systemic fashion of a single situation considerations across the offshore area must be fully considered, **not just considered but actions that reflect the needs of those most affected** by agency actions. Cumulative RISK assessment requires direct affected community participatory interaction to ensure no stone is left unturned in the **new ocean zoning** that is occurring by default no matter the label put on the agency actions where the BOEM process is distorted in a major way toward industrial development where **BLUNT force trauma** is initiated to nearby communities that eliminates hundreds of miles of fishing areas that will have a significant adverse socioeconomic impact that the Fish Dependent Communities cannot continue to absorb without MAJOR adverse consequences **including increased marine casualties** and other adverse socioeconomic impacts like increased poverty, job loss, higher unemployment that may not be realized by agencies since fishing unemployment in Washington is optional and not always noticeable in state statistics, and more. **SW Washington is at a turning/tipping point** where any additional adverse impacts will stifle the coastal Fish Dependent Communities viability and overwhelm them if Environmental Justice concerns are dismissed by BOEM and NOAA as they FORCE the Fishing Footprint to contract by a large amount as the Olympic/Cascadia Wind industrial complexes have a strong potential to do and will inflict excessive economic PAIN with little if any measurable common good for society. **Very high priced offshore floating wind is definitely not a benefit for our society** and can only be measured in negative impacts on our citizen's quality of life. National Energy Policy MUST consider the adverse impacts on all Americans including those on the lower end of the economic scale that will SUFFER the most from significantly higher energy costs not just as the pump

but also at their incoming electrical meters. Current US Energy Policy horrible impoverishment of all our people and is significantly **increasing the divide between the haves and the have-nots** triggering Environmental Justice concerns, especially for some low income communities on the coast affected by displacement of fishing JOBS via industrial offshore development that needs to become a vital concern of government. Even suggesting and rapidly removing huge call areas in southern Oregon is a total abuse of agency power. Proposing 2200 square miles of near contiguous NO Fishing NO Income Zones is totally inhumane to the fishing industry and associated Fish Dependent Communities. Even the 1811 square miles still on the table is obscene, especially in light of the 3000 MG proposed by Oregon. It may be far more advantageous to our society to place limits on power hungry Bitcoin miners than to place a national urgency on expanding OSW where Bitcoin is placing copious uncertainty into the power grid needs when heating our homes in winter of cooling is summer is far more important to our society overall.

Washington has always protected our fishing industry even when the Olympic Marine Sanctuary was initiated to reroute oil transport further offshore, fishing was protected and preserved as a significant part of the coastal culture within the new Marine Reserve. Maintaining fishing in the Olympic Sanctuary was exercising public accountability which is the cornerstone of good governance which respects local public needs. To date, BOEM lack of respect for existing uses of the high seas is very evident in the massive call areas of 2200 square miles initially placed in ALL southern Oregon and definitely had NO regard for the historical uses in the entire area. BOEM taskforce initiation where the public, fishing, and other uses including the tow industry are excluded using an exception in the FACA laws to accomplish suppression of public involvement until after the administrative record was closed and decisions are already made. Reprehensible!

In order to move offshore industrial development in a **kindly manner** that respects the RIGHTS of the historical fishing industry agencies MUST include those affected throughout the process in such a manner that the final **OUTCOME is protective of the existing uses in offshore waters** before actions to move new emerging industrial activity forward are initiated and adverse impacts can be AVOIDED as INTENDED by congress and the Washington legislature. As ocean industrialization moves into the future the facts call for new ways to **reform agency actions** that have a significant adverse impact with unreasonable interference with fisheries (such as the huge call areas errantly placed in primary fishing grounds in Southern Oregon) so that the fisheries ACCESS to fish/crab is not degraded. Any degradation of fisheries through lost ACCESS to

fish/crab must ensure FULL compensatory mitigation to fishing participants after all reasonable steps are taken to **AVOID CONFLICT with fishing** and other legitimate uses of the ocean for the entire life of the offshore industrial development and for a reasonable time after the offshore facility is decommissioned successful to preconstruction ocean conditions, not just for those displaced but also for those that receive the additional fishing pressure in the new area that the displaced fisherman transfers his fishing effort to the new area reducing overall revenues in that different fishing area.

How do we compensate for young fishermen that are then unable to get into fishing due to lack of ACCESS to fish/crab or highly reduced ACCESS in areas where the fishing effort is transferred to a result of large areas of the ocean being placed off limits by industrial take over of many areas. Entire areas of the coast could/will shrivel and die as a result of excessive misplaced ocean industrialization and severe obstacles that result in sufficient next generation fishermen to become successful and are forced to abandon fishing due to excessive loss of ACCESS to fish/crab. This is a significant concern that BOEM/NOAA cannot and must not dismiss as a trivial matter. **Loss of the next generation of fishing families on our coast is no trivial matter**, especially in SW Washington that has been recognized as the 4th most SEAFOOD dependent community in the nation. Agency actions have consequences, and, in some areas, those adverse consequences can not only be life altering they can become deadly to some and an affront to human decency to many. Fishing fatalities will result directly from loss of ACCESS to fishing grounds where each individual loss may not be the catalyst to fatality but an accumulation of lost ACCESS will lead to additional fatalities as the "Fish or Go Hungry INSANITY" that has a unique effect on every individual and his circumstances.

The current process of unsolicited lease request of BOEM for offshore industrial development for an **ocean lease is BROKEN** and needs **TOTAL REFORM** in a manner that regulatory strategies **incorporate an ethic of care** for the most vulnerable elements of our coastal society so as to AVOID all but minimal impacts that can be compensated to our coastal Fish Dependent Communities as we all move into an uncertain future so that **Cumulative RISKS do not cross a Threshold** that does not exist and that is extremely difficult to properly prevent fishing failures due to incompatible new ocean use that neglects existing JOBS on the ocean that currently support shoreside communities. Not only do the coastal communities need certainty of **a minimal RISK future** but the new developer also needs some regulatory certainty that will lead to a final determination that is protective of them as well. Without being able to guide new ocean development to areas that **AVOIDED CONFLICT** or very MINIMAL

CONFLICT with existing uses including but not limited to fishing the tension between developers and nearby communities will continue to be excessive. Best solution is to move offshore wind outside of 1300 meters or further to AVOID CONFLICT with existing uses including fishing. Outside 1300 meters also has an outside limit as well so that the new emerging industrial developments AVOID CONFLICT conflicts with the albacore fishery. In some areas of the coast the albacore fishery actually is fished inside of 1300 meters. A close examination of logbooks will be required to also avoid these areas. The western regional office of BOEM is employing this 1300 meter artificial barrier that has been recently breached on the east coast at 40 to 50 miles offshore. There must be a sweet spot for development that avoids most fishing inshore and inside of albacore fishing offshore. Albacore fishery may be able to fish amongst offshore wind turbines but will pose obstacles to the albacore fleet that must drift at night as it is too deep to utilize the anchoring systems on all albacore fishing vessels.

Refusing to pars words, The BOEM process is BROKEN where fishing has NO defined protective standards that safeguard them from emerging industrial development that has resulted in exuberant oversized industrial invasion of the ocean which embraces huge area displacement of fishing and their necessary sustainability and viability. BOEM has no process that leads to a **DO NO HARM STANDARD** but does provide a significant uphill fight for nearby coastal communities. The public is being desensitized to disparate treatment of the fishing community as they have been incrementally displaced from their historical range of fishing opportunities as they have been pressed to the canvas unable to wrestle a living on inferior fishing grounds without incurring substantial losses in some fisheries like salmon. Loss of most of the ocean salmon fishery started the slide to obscurity for fishing and is pushing ever so close to disaster today. Every loss of ACCESS to fish/crab is extremely meaningful today on top of all other CUMULATIVE adverse impacts piling higher and higher with every additional loss of ACCESS to fish making a sustainable fishery off Washington extremely troublesome.

Washington or any other state conducting a consistency determination at the time of a BOEM lease does not describe or consider potential effects related to the future construction and operation of any commercial wind power facility even though US dept of Energy is projecting 110,000 GW by 2050 placed in the ocean. BOEM erroneously considers the impacts from any such actual construction and operation activities to be too speculative to analyze at this time, given that the location, layout, and other design parameters of any future projects are unknown at this time and that environmental effects of the projects

will depend in part on factors such as turbine size, foundation type, project layout, installation methods, mooring lines, and location and type of associated onshore facilities. **This BOEM process is totally BROKEN!** To anchor a large floating wind turbine will require multiple anchor lines stretching out in multiple directions from the floating turbine. These turbines will be spaced a mile or more apart to accommodate the long anchor lines that will in effect become entanglement points for almost any fisheries attempted within the wind turbine array effectively eliminating fisheries within the array. This deleterious effect of floating wind turbine arrays is a given and nondisputable and is of course reasonably foreseeable at the time of any leasing of an offshore floating wind energy facility. Ignoring this fishery displacement in the early stages of the BOEM lease process is a heinous omission of fact that raises serious objection from the fishing community and **MUST** be corrected immediately. State consistency determinations **MUST** be allowed to make these reasonably foreseeable determinations and include **ALL** reasonably foreseeable effects to the state use of the coastal zone that the state fisheries depend upon for their sustainable fisheries. Waiting until the COP portion of the analysis is not in accordance with prudent jurisprudence. This ill placed BOEM process is further evidence of the fact that the **BOEM lease process is BROKEN** when reasonably foreseeable effects are not addressed in a timely manner and the actions move forward with the full intent to lease the ocean area to a developer that has invested millions of dollars into moving the OSW facility forward to fruition. **BROKEN, BROKEN, BROKEN!** The only time that precise effects from a wind energy facility will have on the marine ecosystem and effects to coastal communities is real time comparison of baseline data gathering is after the OSW facility has been in operation and compare the effects generated to the presite condition is after disruptions are analyzed after construction is completed and the site has been in operation. This before/after is counterproductive to a rational mind that would encourage deleterious effects to occur before determining if the federal consistency determination is valid. Consistency determinations are carried out to prevent deleterious effects from occurring and in most cases to determine if the impacts associated with a large OSW facility can be done with or without impacts to the existing resources and uses before the facility is permitted. Any other action is ludicrous and is **NOT** in accordance with the congressional or Washington legislative intent of the OCSLA or ORMA legislations that as the policy previously cited in **43 U.S.C. §§ 1331-1356** - "the character of the waters above the outer continental shelf as high seas and **the right to navigation and fishing therein shall not be affected**"; specifically (43 U.S. Code § 1332 (2). Washington ORMA also mandates a similar policy statement that cannot and **MUST** not be ignored by a **BROKEN** BOEM process

that proceeds in such a manner that it is impossible to provide a valid NEPA analysis that could possibly lead to an NO Action Alternative. WRDA 2007, 14, 16, 18, and 20 all play as a baseline congressional INTENT to follow religiously.

<https://obamawhitehouse.archives.gov/administration/eop/ceq/initiatives/PandG>

https://obamawhitehouse.archives.gov/sites/default/files/docs/prg_interagency_guidelines_12_2014.pdf

https://www.doi.gov/sites/doi.gov/files/elips/documents/707_dm_.pdf

43 U.S. Code § 1332 (5) the rights and responsibilities of all States and, where appropriate, local governments, to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity should be considered, recognized and deleterious effects AVOIDED; and

Based on past BOEM leases and authorizations for wind development on the east coast, it is reasonably foreseeable that the west coast leases will lead to construction and operation of offshore wind facilities unabated. It is no wonder that the 1st Vineyard wind project is in court with multiple cases, the BOEM lease process is constructed in such a manner as only divine intervention could quell the **BOEM process that is designed to have only one outcome – a secured ocean energy facility**. It should be noted that not all OSW impacts can be mitigated. How does anyone mitigate for the bankruptcy of a new young next generation fisherman? Once that community is gone, it will never come back. The huge disruptive 2007 early December storm that destroyed 5 new young fishermen's careers never came back, why would anyone expect any other outcome, once the young are stepped on and their ACCESS to fish/crab is denied their fishing careers are terminated for the bad effect for the future of the entire community. Unforgiveable EFFECT that is reasonably foreseeable and reenforced by history. History has many other lessons for us that show what can and does happen to fishing communities that are denied ACCESS to fish/crab. WEAs have many other potential adverse impacts other than to fishing. Although the WEAs have the greatest potential to interact with or have effects commercial and recreational fishing the WEAs also impact avian species, marine mammals, primary productivity, recreation, vessel traffic, deep draft shipping, historic properties, visual resources, tourism, and military activities necessary to keep our nation safe from foreign invaders like is going on right now in Ukraine.

CEQ interagency guidelines unfortunately has NO standard set of metrics used in analyzing sustainable economic development. Rather, agencies should use measures that apply to the nature of the investment, as well as the desired outcome which is the preservation of existing uses. Since BOEM has NO applicable standards except loose subjective nondefinitive standards it is incumbent on appropriate state agencies to set the standards that should be observed during an CZMA evaluation of any offshore projects. All state laws including local SMPs must become effective limiters, for PR&G analysis, the measures should be used to evaluate the performance of viable alternatives against the Guiding Principles. Some measures suggested by CEQ circulars that could/should be considered include, but are not limited to:

1. **Economic measures:** These include net economic benefits and their distribution across **vulnerable** populations; personal income effects; household income; median personal income; **median household income**; distribution of income; **unemployment rate**; average duration of unemployment; estimates of the number or percent of discouraged workers; establishment churn; establishment sizes; job growth (e.g., over the past year, over the past 5 years or more); employment distribution by sector; percentage of firms in each sector; revenue by sector contributing to gross state product. There are more economic measures these are just starting effects that should be anticipated from any offshore industrial projects permitted by BOEM.

2. **Social (including health) measures:** These include unemployment rate (by gender, by age, race/ethnicity); labor force participation rates (by gender, age, race/ethnicity); **household poverty rate**; educational attainment (for the population, by gender, by race/ethnicity); average commute time; crime rate (property crime; violent crime); disease disparities; **health-adjusted life expectancy**; access to health care and prevention opportunities. Life expectancy in SW Washington is already some of the lowest in the state of Washington before OSW injects more coastal HARM.

3. **Environmental measures:** These include measures of environmental impacts like loss of ACCESS to seafood via displacement should be addressed and remediated completely if AVOIDANCE measures are not put securely in place. Agencies should make best their efforts to ensure nearby local economic development is not put at RISK when offshore wind facilities MUST consider effects geographically, socioeconomically, to local governments, and intergenerationally not just in the immediate impact zone. Disproportionate Impacts to affect minority, low-income, or vulnerable populations; or fail to consider relevant current, future, and potential economic, environmental, and social risks, costs, impacts cannot be overlooked as well.

USCG has a responsibility to ensure public safety and efficient vessel transit routes are preserved.

The recent release of southern Oregon call areas that truncate offshore crabber towlanes leases the industry with NO place to tow and is a total disruption of existing vessel transit agreements that have been in place for 51 years. In addition, transit routes MUST include vessels of all sizes from huge deep draft shipping to personal runabouts that transit offshore waters. CCF/CRCFA recently met with USCG to discuss how crabber towlanes and fishing transit zones could be preserved as new industrial uses encroach on historical vessel transit routes which will be potentially disrupted by ill placed oversized offshore industrial facilities like those proposed for southern Oregon, and especially those industrial complexes originating from unsolicited lease requests of BOEM that have not undergone any public process to AVOID impacts on existing uses including fishing. The USCG vessel transit route map at the end of this document clearly shows the extreme density of VMS and AIS routes but do not show the routes of small vessels not utilizing VMS or AIS tracking devices. The map also shows the potential location of the Olympic Wind industrial development proposal for offshore wind lease. USCG has a responsibility to maintain safety at sea in a busy ocean that cannot accommodate intensification of vessels in some areas. USCG is considering designation of large traffic zones that could extend up to 20 miles offshore with additional deeper lanes for traffic required to be further offshore due to other congressional mandates associated with OPA 90 and more recent requirements as a result of massive oil spills like the Exxon Valdez and closer to home the Nestucca oil spill at the entrance of Grays Harbor which triggered the enactment of Washington Ocean Resources Management Act in 1989 that was never tested in court until 2016 when big oil wanted to expand oil transit and agencies failed to appropriately recognize the breadth of ORMA that was put in place to preemptively protect fishing. The same **legislative INTENT to preemptively protect fishing** was on full display when the Washington legislature expanded ORMA in 2010, 2012, and 2013. Burt Hamner's Grays Harbor Energy company offshore energy proposal that that would have displaced fishing was exactly what the legislature was responding to when Washington CMSP legislation was put into place. **Fishing was to be preemptively preserved.**

Public SAFETY must not be shortchanged especially where RISK of increase to the health and safety of the Dungeness crab fishery is placed at RISK. Agencies should incorporate reasonable and appropriate public safety practices in formulating and evaluating water resources investments. Appropriate risk-based analysis techniques to identify, address, and avoid potential public safety issues resulting from water development investments should be used in evaluating alternatives. Quantitative risk analysis facilitates risk communication

and improves both agency recommendations as well as decisions made to protect the public and avoid loss of life and property due to increased marine casualties due to the loss of ACCESS to fish/crab via displacement by inappropriately placed oversized WEAs that lead to OSW leases. Assessing, analyzing, and managing marine safety risk improves the agencies decision process by:

1. Developing better risk reduction alternatives or recommending more appropriate courses of action to address potential safety issues by placing WEAs in areas of AVOIDANCE of fishing areas; generally further offshore is better to AVOID CONFLICT with existing uses of the ocean.
2. Improving capability to plan, prioritize, and implement appropriate public safety risk reduction actions across the planning process as a high priority; and
3. Identifying and communicating residual risk that AVOIDS Conflict with existing uses including but not limited to fishing.

As articulated in the CEQ PR&Gs, analysis to support Federal investments in water resources should utilize the best available science, data, analytical techniques, procedures, models and tools in hydrology, engineering, economics, biology, ecology, risk and uncertainty, and other fields to put forward the very best alternative available in NEPA analysis that offers protections and preservation of existing ocean uses including fishing. CZM analysis MUST not only look at the legally approved NOAA state CZM Certification but MUST go beyond that strident regulation and fully embrace local regulations that are extended into the ocean. **The BEST ALTERNATIVE is the one that AVOIDS impacts to nearby Fish Dependent Communities.**

Environmental Justice MUST successfully address the concerns of overburdened populations that may be unique to each community, such as those located in SW Washington where each agency's analysis should include information to address the following:

1. How the agency provides transparency and meaningful engagement and participation for minority, low income, and other disadvantaged communities on their terms and their times available and incorporates their concerns into actual NEPA outcomes reflected in community viability;
2. How the agency identifies and addresses existing and new disproportionate environmental and public health impacts on minority, low income, and other disadvantaged communities; and

3. How impacts to communities are honestly remediated for unavoidable impacts to the communities so that their socioeconomic impacts are not adverse impacts through AVOIDANCE.

4. PR&G analysis MUST include the local affected public and fishing industry in the official BOEM/state taskforce to represent their environmental justice concerns and ensure that those concerns are properly addressed to the satisfaction of the potentially local disparaged communities to their satisfaction that at a minimum does not lower the nearby community's quality of life or wellbeing.

5. In analyzing each alternative's potential environmental justice impacts, agencies should also use these Environmental Justice tools to ensure a holistic view of the potential broader social effects in the nearby communities are at a minimum sustained.

6. Analysis MUST incorporate a holistic approach to determine environmental justice the potential broader social effects due to additional transfer of fishing effort to more distant water communities. To prevent marine casualties in other coastal communities impacted by displacement of local fishermen to more distant water communities. The Network marine casualty at Garibaldi, Oregon was the result of large allweather crab boats abandoning their traditional fishing area North of Westport and relocating offshore Garibaldi which enticed the "Fish of Go Hungry INSANITY" to induce the marine casualty causing multiple fatalities on the Tillamook Bar. The video of this tragic incident may be found on the internet.

7. Analyses should always strive to incorporate the best available science and methodology even if new methods need to be adopted similar to how the Lower Columbia Solutions Group analyzed the impacts of establishing new nearshore disposal sites at the mouth of the Columbia River that put SAFETY of both the natural resources and fishermen as the 1st priority where the OUTCOME was a win for the crab, a win for the fishermen, a win for the USACE and the American taxpayer where long term disposal options cost less than disposing of the sediment outside the littoral drift line many miles offshore.

8. Win wins are possible and need to be thoroughly vetted – this will require some moderation to the existing BOEM offshore lease process discussed elsewhere in this document. The win win formula MUST incorporate the needs of nearby communities and AVOID losses to ACCESS

of fish/crab. Appropriate placing OSW is vital to the best possible **OUTCOME** to produce a win win situation wherever OSW is located.

9. In updating the BOEM PR&Gs for leasing ocean area to industrial development the agency must consult with CEQ, OMB, NOAA, EPA, USACE, USFWS, and other federal agencies and address the needs of the individual states and local governments to include enough certainty for industrial developers and protections for affected nearby and distant water communities regardless of CZM requirements. The local communities that are affected the most including the fishing industry must be a significant part of the lease process to ensure that the outcome is a win for all.

Ocean ecosystems are complex, changeable, and interconnected to the land. Proposed water resources actions like offshore industrial facilities must be considered in a holistic, ecosystem, or systems context to identify the **best alternatives for achieving desired public benefits that AVOID adverse effects, as well as to reduce the likelihood of undesirable or unintended consequences.** Agencies' procedures must reflect systems approaches that explicitly recognize the interconnectedness within and among physical, ecological, economic, and social/cultural systems that their actions will have an effect upon. CRCFA/CCF suggests that BOEM and associated agencies review and incorporate the interagency guidelines in consultation with state and local governments the guidelines in:

https://obamawhitehouse.archives.gov/sites/default/files/docs/prg_interagency_guidelines_12_2014.pdf

Agencies should work together and should project the future conditions of the study area using a holistic, ecosystem, and systems approach to ensure all relevant impacts, derived from a similar methodology used to determine baselines, are analyzed. The period of projection should be comparable to the expected service or operational life of the investment for a minimum of 25 years. To improve transparency and understanding of the long-term effects of a federal investment in its local or regional context, projected water/land and resource use patterns should be assessed when projecting future conditions as appropriate and applicable to the specific investment in a specific area. Agencies should project the future conditions of the study area absent the investment but include reasonably foreseeable actions by public and private entities to properly assess the reasonably foreseeable effects of each proposed industrial investment alternative by the project developer that includes impacts to Fish Dependent Communities. Because uncertainty projections of future conditions are inherently uncertain, the degree of uncertainty should be characterized

(quantitatively and/or qualitatively at the commensurate level of detail) for all projections. **Key assumptions used in the projections should be explicitly stated.** Where uncertainty may meaningfully affect the baseline and could affect the investment decision, multiple baselines can be used, with a clear explanation of the basis and assumptions underlying each. Agencies are expected to explain the residual risk that remains to the decision makers. Climate change and climate variability are key sources of uncertainty for water resources that could have a high probability to have less effect on nearby communities than on the immediate displacement of fishing in the area affected by new emerging industrial developments.

Agencies must provide an explicit list of the services including but not limited to fisheries resources that flow from the existing study area ecosystems and infrastructure with identification of those services that are likely to meaningfully change within the larger context of the ocean lease area because of the federally permitted industrial development. The inventories facilitate analysis of ecosystem services and contributions to coastal socioeconomic condition which are necessary to evaluate and select the best alternative in the NEPA documentation which may be the No Action Alternative. Agencies should appropriately document the relationships and linkages of key resources and services, drivers of change, and impacts of proposed project. One method is a conceptual model. A conceptual model is a simplified visual representation and written description of interactions among natural, social, and economic systems that affect or are affected by identified actions such as installation of an OSW facility. Such documentation helps analysts and the public clearly understand how interventions in ecosystems contribute to the provision of services that are altered by industrial projects in the ocean.

To improve transparency and public understanding of the long-term effects of federally authorized projects in ocean waters in its local or regional context, projected ocean and resource use patterns should be assessed when projecting future conditions as appropriate and applicable to the specific project developers lease request. Agencies should project the future conditions of the study area absent the project investment but must also include reasonably foreseeable accumulated future actions in the region. Agencies should strive to include the appropriate level of information needed to make a well-reasoned decision that is fully transparent to the public that takes into account.

Agencies **MUST** fully account for adequate MITIGATION/REMEDATION in developer design alternatives and locations to achieve environmental, economic, and social (including health) goals that protect nearby communities. In most cases, alternatives must include how to avoid, minimize, or mitigate

these effects as described in the Principles, Requirements and Guidelines. Social and socioeconomic impacts—particularly those impacting tribal and or low-income, or other disadvantaged communities — MUST also be mitigated/remediated.

The Pacific County SMP when NOAA CZM Certified would bring necessary certainty of OUTCOME for maintaining all existing uses of the ocean to both the nearby Fish Dependent Communities and industrial OSW developer before an excessive amount of time and money is poured into a Broken BOEM lease agreement that ultimately will need to be rejected to preemptively protect fishing that both congress and the Washington legislature INTENDED in the search to establish an ethos that incorporates care for the most vulnerable of ocean users receive proper environmental justice as the future norms begins to gel. This is why CRCFA/CCF has suggested serious revision of the BOEM lease process to begin with an EIS in any ocean area that WEAs or even illicit unsolicited lease requests are to be considered. BOTTOM line, if ill effects are AVOIDED in OSW before large sums of money are expended everyone including the ecosystem and the coastal ratepayers will be far better served.

Certainly, the current BOEM unsolicited lease process is BROKEN and needs a complete reform if not total elimination. The MOU between BOEM and NOAA did nothing to aid in stopping the depletion of fish and fishermen that is one of NOAA's primary functions that is being neglected. Fishermen, their families, and their entire communities are being segregated from mainstream society and targeted for significant socioeconomic degradation that is totally unethical in SW Washington where the atrocious loss of ACCESS to fish/crab on the coast is abysmal and has already produced the highest fatality rate of any occupation in the nation in Dungeness crab in Washington and Oregon. Even minimal spatiotemporal analysis should easily show that the coastal Fish Dependent Communities are in BIG trouble to produce the next generation of fishermen on the coast of Washington. Agencies and court decisions have already syphoned an excessive LOSS of ACCESS to fish/crab on the coast **to a point of disaster** according to NOAA disaster declarations at 35% loss of fisheries ACCESS is a tremendous degree of socioeconomic HARM to the communities. Our coastal fishing families cannot absorb additional loss stressors and be expected to survive long term disparaging disadvantages forced on them by biased BOEM/NOAA policies that produce CUMULATIVE and additional lost ACCESS to their necessary seafood is a **horrendous environmental injustice** that will suppress the entire Washington coast where "equal protection for all" is blown away by a very narrow focus on initiating OSW at any cost, the decimation of our coastal Fish Dependent Communities MUST not be tolerated but protected

from further HARM as intended by congress and the WA legislature. The continual and gradual loss of ACCESS to fish/crab will be a continual loss of coastal vibrancy, resiliency, and quality of life that will destroy family wellbeing and eventually the entire fishing industry support system as well. This is FACT that is occurring today before any additional loss of ACCESS to seafood resources is perpetrated on the communities of SW Washington. Many fishing support businesses have already been lost and additional loss of business will escalate with any additional loss of ACCESS to seafood on the coast.

The broken BOEM lease issuing policy needs a far deeper dive than the current process which calls for an immediate reconceptualization and new measures to establish some **basic Cumulative Thresholds** that lead to a NEPA policy with easily recognizable parameters that can trigger the use of the No Action Alternative. The No Action Alternative is essentially foregone when an EIS is not consummated in the BOEM process until very very late after a lease has already been issued, ridiculous abuse of power. CRCFA/CCF believes a NOAA 35% negative impact Threshold is actually too high and should be lowered especially for actions that we can control like issuing industrial leases in ocean areas. Industrial leases in areas that currently are overburdened disproportionately by a myriad of CUMULATIVE lost ACCESS to sustainable seafood are simply immoral and unethical. The Washington coastal fishing fleet is currently highly marginalized before any additional lost fishing grounds are confiscated. The biased BOEM industrial toxic lease process is obviously and purposefully discriminatory toward fishing. This discrimination is highlighted in the recent BOEM Fishing Maps displayed at the BOEM/OREGON Taskforce meeting in the fall of 2021 only portrayed the upper most 10% of seafood production on the coast – deceptive and CORROSIVE to Fish Dependent Communities.

BOEM lease policy REFORM necessary for the Pacific Coast Region:

1. Use the best-available/attainable science in decisionmaking that portrays 100% of the information available or attainable. Employ environmental justice parameters to protect Fish Dependent Communities. OSW Shall not unreasonably prevent other permissible uses of the continental shelf. **Simple consultation will not place necessary protections and preservation of existing use in place to ensure socioeconomic success of nearby communities.**

2. Offshore wind turbines blades are more efficient than onshore blades that are made to produce less noise. Offshore turbine blades do not attempt to reduce noise and therefore are much noisier and could definitely have more impact on surrounding ecosystems including feeding whales that may vacate the area thus losing necessary feeding grounds which could be detrimental to some ESA species recovery like endangered blue whales that frequent the area. When these noise affected whales move inshore the conflict with fixed fishing

gear will be increased placing a secondary impact on the fishing fleet which may suffer additional widespread closures unnecessarily. Currently no one has any idea how multiple species of whales will react to these very loud offshore turbines that will interfere with the whales' senses, interwhale communications, and feeding habits. Whale use areas must establish a baseline to evaluate impacts over a number of years to establish a viable baseline use. Interannual variability needs to be accounted for before steel goes in the water or the whale baseline will be inadequate.

3. Employ equitable economic offshore development that is accountable to maintaining existing uses that **account for all CUMULATIVE adverse impacts** affecting the existing offshore industries including but not limited to fishing. **The Vineyard Wind Project Final EIS confirmed that the project would significantly HARM the ecosystem, marine life, the fishing industry, shoreside business, and other statutorily protected interests.** Why would we expect any different conclusion in an EIS accomplished on the west coast including the Olympic and or Cascadia Wind projects?

4. **Apply meaningful Thresholds** of accumulated impacts that are protective of nearby communities, currently BOEM and NOAA have NO Thresholds that lead to the status quo alternative, the NO Action Alternative. This needs to be addressed ASAP before excess damages are accrued by communities nearby these new industrial displacive take overs of the ocean that would be excessive Cumulative adverse impacts of displacement that would be EXTREME on the SW Washington coast where fishing effort transfer has already highly condensed the existing fishing effort more than any other state in the nation due to Rafeedie Decision.

a. Thresholds must include better methodologies including but not limited to full accountability of ALL fishing to properly evaluate risks and cumulative impacts in overburdened communities like those found in SW Washington. Dollar values displaced in an area only portray a small part of the damages accrued and do not tell us to what extent the damages will impact the next generation of fishing families which will suffer irreversible economic injury that may cause them to fail as a result of even small impacts to their economic future. The damages will not be exclusive to fishing but will be extended to fish processing and distribution, trucking of seafood, supply chain businesses, local restaurants, local contractors, and simply damage the entire coastal communities' viability.

Employ sustainability measures to prevent the depletion of both fish and fishermen as offshore industrial development progresses – pay special attention to the adverse impacts on new young fishermen that cannot and must not be FORCED into suppression. These young people are the future of our seafaring fishing families that cannot be replaced once they are displaced permanently

due to offshore wind leases where injury is in fact suffered by the fishing industry as “an invasion of a legally protected interest” that is “concrete,” “particularized,” and “actual or imminent, not conjectural or hypothetical.” *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1548, 194 L. Ed. 2d 635 (2016), as revised (May 24, 2016). Loss of ACCESS to fish/crab is an actual injury that is not hypothetical and actually exists. Intangible injuries also occur to other fishing families that receive the displaced fishing vessels in their historic fishing grounds as well where those displaced and those receiving the displaced vessels in their historical fishing grounds all receive loss of fishing income economic damages. These damages are concrete, particularized, and imminent where an offshore wind lease is granted by BOEM the link between the injuries accrued are easily traceable to the loss of ACCESS to fish/crab thus the loss of overall income to the entire fishing industry from the lease of federal waters to the highest bidder of offshore wind facilities that definitely connects the entire fishing industry with court standing by the causation of the lease that displaces fishing in a large ocean area. The Dungeness crab fishery has already witnessed the adverse effects of being displaced from the Rafeedie Decision and the shift in fishing effort to the area of SW Washington, the only place offshore industrial development can occur off the Washington coast. This is NOT conjecture or an assumption but the bare reality the crab industry already faces. Crab fishing historically was divided 50/50, half north of Westport and half south of Westport until the drastic court decision that has now forced about 90% of the fishing fleet to fish south of Westport cutting into the bottom line of every fisherman in the state significantly.

5. Employ collaborative outreach to joint stakeholders early, often, and meaningfully that lead to equitable solutions that prevent the depletion of fishermen – This does not mean a BOEM/State Taskforce where the public and fishermen are excluded from the decision table – the BOEM interface with Washington MUST have a different structure – one possible solution is the **Lower Columbia Solutions Group model** where members of the public are equal partners at the decision table – this group works on the **MURT Principle – Mutual Understanding Respect, and Trust**. The BOEM process could use a lot of MURT which is missing when an EIS only becomes into play very very late in the lease process where the developer has invested millions in development and cannot take a No Action Alternative levied on their process without significant loss of potential investment capital. Although the DC Circuit Court did affirm that an offshore wind lease does not trigger a NEPA review, this is a technicality that Congress must address since in *Fisheries Survival Fund, et al. v. Sally Jewell, et al* the court declared a lease did not trigger a NEPA analysis even though all the coastal citizens all over the nation believe that it should become a NEPA review prior to leasing any offshore waters. In addition, the tribes offshore Washington hold special rights that could be adversely affected

by the development of offshore industrial development even though not directly in their U&A area. The court held that the lawsuit was unripe for NEPA review upon issuance of a lease since BOEM maintains that the lease action itself does not automatically lead to steel in the water and that expenditure of capital did not give rise to a de facto commitment on the part of BOEM to approve the project even though BOEM has never failed to follow through an authorize offshore wind facilities to be constructed even though the environmental review process is fraught with complexity. Early planning and communication with relevant agencies and stakeholders are essential components to a successful NEPA strategy. The decision here raises the stakes for developers because public involvement in the NEPA process is delayed even though the disposition of the lease where steel is finally put in the water is a “taking” of rights secured to fishing that congress did delegate to the states of Washington, Oregon, and California in the **Dungeness Crab Act of 2017 where the states were given the responsibility to protect and preserve the crab fishery from 0 – 200 miles** offshore of the named states in alteration of the Magnuson/Stevens FCMA. In addition, the Washington legislature gave the Washington Department of Fish and Wildlife authority to weigh in heavily on actions under Coastal Marine Spatial Planning to Protect the state’s Dungeness crab fishery from HARM; harm that is sure to occur if BOEM issues a lease that is consummated by Hecate Energy in crab fishing grounds off of Washington where HARM is sure to flow from displacement of the fishery by placing offshore wind turbines in fishing area. It must not be overlooked that the Congressional policy in the OCSLA legislation is very clear to AVOID HARM to navigation and fishing, both of which will occur if BOEM leases come to fruition.

6. Federal administrative agencies are required to engage in reasoned decision-making. *Allentown Mack Sales & Serv., Inc. v. N.L.R.B.*, 522 U.S. 359, 374, 118 S. Ct. 818, 139 L. Ed. 2d 797 (1998). If an administrative agency does not engage in reasoned decision-making, a court, under the APA, shall hold unlawful and set aside agency action, findings, and conclusions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. 5 U.S.C. § 706(2)(A). This reasoned decisionmaking includes full consequences to fishing due to an accumulation of adverse impacts to fishing from other federal actions like the Rafeedie Decision impacts. A lease action by BOEM which results in industrial development of the high seas does not exempt the agency from the APA’s reasoned decisionmaking requirement to consider the HARM done to nearby or distant water Fish Dependent Communities. BOEM’s responsibilities extend beyond just provided a place in the ocean for new emerging industrial uses of the high seas to exist and failure to fully consider adverse impacts to existing uses of the ocean is arbitrary and capricious actions under the APA.

7.Improve efficiency for offshore wind energy permitting through proper ZONING that directs new emerging industrial use to areas of MINIMAL impact to existing uses including fishing considering industrial development in neighboring states – interstate analysis is especially important to fishing areas overlapping state jurisdictions. The WEAs proposed in southern Oregon are EXCESSIVE in size and will have a substantial adverse impact on the nearby communities over time that will cripple their viability and rob them of their resiliency forever more and the high price power will negatively affect those on the coast significantly and contribute to increased POVERTY and make workforce housing much more difficult to obtain further damaging the communities support system.

8.Fully consider land based alternatives to OSW that are cheaper and a better use of taxpayer and ratepayer resources [Naselle Ridge WEA, or Hydropower pump up facility east of Goldendale, WA.] example of wind energy projects that do not cost people their JOBS and do not cost the ratepayer and taxpayer nearly as much as offshore floating wind and still lend considerable renewable energy for the future. Offshore Floating Wind will be COST PROHIBITIVE for the electrical ratepayer even with excessive federal subsidies for a long time into the future.

9.Some areas of the ocean are too existing use intensive to even consider new industrial use in the ocean, AKA SW Washington only accounts for 38 miles out of a 1500 mile long west coastline. Pacific County coast is 32 of those 38 miles that must have the county SMP CZM Certified by NOAA.

10. BOEM/NOAA Must collaborate with state, local officials, and the public including fisheries representatives to reach equitable solutions that protect the existing coastal ecosystems and coastal economy from disparaging impacts.

11. Additional prudent actions to reform BOEM lease process

a. Agencies MUST ascertain the FULL Intent of the legislature/congress and carry out that INTENT as interpreted by the Washington Supreme Court in the Grays Harbor oil terminal case

b. ORMA is to be interpreted broadly

c. Fishing is to be preemptively protected

12. Existing Use Maps must display all uses fully and especially the current BOEM fishing maps that only show the upper most 10% of harvest must be expanded to 100% - slanted presentation of fish harvesting is unethical and is certainly immoral if not illegal portrayal of the real fish harvest.

13. **USCG MUST establish wide fairways** that protect all vessel traffic including but not limited to small vessels that do not show up on AIS or VMS analysis. Coastwide the Dungeness crab vessels travel 20 – 40,000 or more

miles every day at the beginning of the crab season. This vessel traffic MUST be protected just as much as deep draft shipping.

14. BOEM guidelines require adaptive management measures be put in place, however, adaptive management measures DO NOT address impacts until after a project is put into operation and impacts become apparent, it is then too late to prevent and only ineffective mitigations measures can be put into effect after the fact and severe damages are detected, damages which should have been avoided in the 1st place and probably could have been under original CEQ PR&Gs for Interior Depart. that have been avoided in the BOEM process as Interior Secretary delegated authority to BOEM instead of maintaining sufficient oversight. The AEAU – Alternative Energy and Alternative USE has entirely too much discretionary authority which has resulted in abuse of authority where nearby communities suffer adverse impacts without being properly AVOIDED or pending impacts relieved. Recent BOEM rhetoric in NW meetings stating that all BOEM does is provide a place for OSW to develop is simply abuse of power where consequences to Fish Dependent Communities are absolutely shortchanged where focus on the real impacts to real people is definitely completely subordinate to the ocean lease where they claim they have NO control over what happens on land as they ignore the NO Action Alternative that would prevent land based consequences as they initiate actions that displace prime fishing grounds hurting real people. OSW development victimizes Fish Dependent Communities preying on those less fortunate in society that do not have the capacity to stand up to big brother, the federal government which has unlimited financial resources of the United States which in the case of offshore wind will result in soaring energy costs. BOEM has NO REJECTION process to stop or reasonably modify new emerging Industrial Complexes that have the capacity to deform socioeconomic stability of communities robbing them of resiliency.

Congress must intercede in the off the rails BOEM process that puts lease before protections of nearby and distant water Fish Dependent Community needs. BOEM current process only looks at managing ocean CONFLICTS which is a misnomer as can easily be seen from their excessive “call areas” initially placed in Southern Oregon at 2200 square miles of productive fishing grounds.

These reforms are not all inclusive but a starting point for further discussion to bring people’s equality and wellbeing to the front of the stage to correct the built in bias and discrimination which negatively affects coastal communities as the BOEM lease process, especially the unsolicited lease process that unequivocally suppresses nearby communities rather intentional or not.

Offshore Wind requires more ocean area than this Chinese land based hybrid renewable energy facility (see end of document) when the floating wind anchoring systems are deployed the offshore floating wind facilities consume a lot of area surrounding every turbine, more than the area consumed by these solar panels. **Offshore floating wind turns the ocean into a No Fishing No Income Zone** that is incompatible with nearby communities eliminating offshore fishing JOBS. What is never discussed about OSW facilities is that even at 1000 MG the facilities will lead to on land adverse impacts to construct high voltage power lines and other sources of energy when the wind is not strong enough to produce power that will have negative impacts in and around many communities that are incompatible with Ecology WACs demanding **NO Net LOSS of Ecological function**. The 2022 Washington legislation in E2SHB 1117 outlines significant changes in addressing all loss of ecosystem functions including loss of fishing ACCESS. Each new 500,000 KV transmission line will consume land areas similar to those in the picture below with associated adverse ecological impact and huge costs of construction in addition to loss of ocean economic input to coastal communities. Cost of the north coast electricity estimated by NREL is more than \$0.75/kW as far out as 2032 in the NW. Loss of Fishing Grounds and Electricity at this exorbitant cost is nothing more than a **Coastal Poverty Program**.



Block Island Rhode Island wind farm is not all peaches & cream. Our nation's first "small" foray into offshore wind has hit numerous setbacks and added costs that someone will be forced to pay more, much more than anticipated initially.

Offshore floating wind is a new underdeveloped concept in our nation's renewable portfolio that is currently receiving excessive regulatory support from BOEM and NOAA that is being accelerated by the green new deal over zealously before it is a ripe need for development and is creating a **green RAW deal for west coast water dependent communities**. Globally, there have only been 18 floating offshore wind turbines installed, one of which is in the US in Maine. Of these 18 turbines, only 11 are currently active, which, is not a glowing success story. This relatively poor success rate on installed floating wind turbines speaks to utilizing the Precautionary Principal and NOT jumping immediately to 1000 MG facilities or larger in our offshore waters.

Washington Public Utility Districts were formed to provide their power customers with reasonably priced reliable power at the lowest possible price to the end consumers which to date has been hydropower that is well proven. Offshore floating wind needs to be developed slowly in a manner that can prove its worth to the coast at a better price than that projected by NREL to date which ran as high as \$1.60/kW in 2020 with maintenance costs of monopole wind turbines (not offshore floating turbines) run in the neighborhood of \$45,000/year that only hopefully will pay for themselves over time if they last long enough; that is a BIG if. The Humboldt WEA California Coastal Commission Staff Report states that that the Floating Wind Turbines will require a decoupling from their offshore moorings and towed to shore for maintenance at least every 10 years with rotor maintenance at sea every 2 – 5 years. It should be noted that turbine blades in European offshore wind facilities have recently request a strict exclusion of all vessel traffic due to turbine blades disintegrating and flying off the turbines in recent weeks. Theoretical projections on turbine life may not pan out as projected, especially in weather conditions normal to the NW.

The **Block Island offshore wind farm**, our nation's first offshore wind farm has had 80% of its turbines out of service since June of 2021 significantly reducing long term capacity and undercutting projected economic returns of the significant investment to put the turbines into production. The wind farm was shut down due to "Stress Lines" identified in the turbines. In 2019, reports emerged that a high-voltage undersea cable linking the Block Island Wind Farm to the mainland was surfacing on Block Island beaches. National Grid, which owns the power line joining New Shoreham to Narragansett, said line reburial would cost

National Grid \$30 million for its share of the reconstruction, in effect cost the local ratepayers an additional \$30 million. The transmission cables were originally installed in 2016, after National Grid and Deepwater Wind, now Ørsted, were given a break by Rhode Island's Coastal Resources Management Council (CRMC) when the agency granted the use of a cost-saving method for burying the power cables that allowed the cables to be buried only 4 feet deep utilizing a cable plow instead of more expensive horizontal drilling and conduit placement much deeper in the sea substrate. Approval of the lower-cost jet plow to bury the cable at Crescent Beach was granted against the advice of CRMC staff and former executive director Grover Fugate. Repairs were incomplete and [paused](#) entering this summer's tourism season in 2021. Last fall and winter, National Grid and Ørsted conducted a horizontal directional drill and installed a conduit for the new length of onshore cable, including a new access pit. Unexpected material in National Grid's conduit was discovered during the past few weeks, just prior to the cable attempted being pulled through the conduit. It appears burial depth and other problems must be addressed wherever offshore power cables come ashore. The state's primary electric utility is likely to recover the expense through an undetermined surcharge on ratepayers' bills. However, that is on top of other surcharges that National Grid customers already pay for the cable and [has been the source of recent controversy](#). The chairman of the state Public Utilities Commission has excoriated the company for a [fee that he has described as wildly inflated and unjustified](#). National Grid is in the midst of determining a new rate structure that will be detrimental to all those associated with the Block Island sputtering offshore wind facility. Offshore floating wind will be far more expensive to maintain than even nearshore monopole turbine construction common on the east coast offshore wind development.

We must also remember that wind turbines do NOT put out their rated capacity like a hydropower plant does as the wind does not blow at the speed necessary to produce maximum turbine output a lot of the year. Part of the public participation process should include upfront charges that the public will be expected to finance rather through taxpayer or ratepayer fees. Any equipment placed in service in marine waters will be far more difficult and costly to maintain at its intended function than anything placed on land. In 2018 Block Island Wind Farm was purchased by a Danish multinational utility company Ørsted; foreign owned which will siphon dollars out of our nation if the facility ever turns a profit. If any benefits ever accrue from OSW foreigners will be the

beneficiaries. The US did not nationalize the EEZ to permit foreign ownership of our national assets. **OSW should be treated like the Jones Act**, where US citizens own the energy assets in our offshore waters not just the use of American build vessels to install offshore wind facilities. The EEZ was created to remove foreigners from the new US waters out to 200 miles. We as a nation should not surrender our sovereign offshore ownership to foreign energy companies, simply un-American. Ørsted paid \$510 million for Block Island 5 wind turbines that cost \$290 million to build to gain a foothold in US offshore wind energy race. This is a \$220 million profit in only two years. It is any wonder that there is interest in establishing an OSW facility on the west coast? Raha ratkaisee – Finnish for money talks. This is especially true in the case of Rhode Island where the National Grid rejected a price of \$0.244/kW with a guaranteed annual increase in rate of 3.5% as OUTRAGEOUS and excessive. The Rhode Island General Assembly and governor changed the state law of what constituted “commercial reasonability” and the Block Island wind farm moved forward as the first true commercial OSW venture in the United States in spite of the excessive cost of the power from the Block Island wind facility.

Foreign ownership of US offshore wind should not significantly benefit from US taxpayers with built in benefits from the federal government. In early 2021, the Biden administration increased the financial benefits that offshore wind project developers and financiers can obtain. Specifically, offshore wind projects will be able to collect both a production tax credit (PTC), currently about \$24/MWh, and a 30% investment tax credit (ITC). Previously, developers could collect only one of the credits. For example, the **Danish and Spanish developers of Vineyard Wind will be able to recover an estimated \$1.4 billion from U.S. taxpayers** because of their eligibility to recover the ITC. This is unconscionable benefit to foreign owners of offshore projects. This is about 50% of the entire project cost greatly reducing the RISK to foreign owners of our OSW. Is the “Green New Deal” that great that we have to line the pockets of foreign owners? REALLY? These enormous subsidies do not include “guaranteed bank loans” that means banks will never be on the hook for failed offshore wind projects and developers will be able to take enormous RISKS that an ordinary industrial development cannot access making the probability of a new offshore wind venture to declare bankruptcy and walk away from failed projects leaving the ratepayer and taxpayer liable for huge decommissioning costs that the developer new they would never have to face. **This entire offshore wind development system is pure usury of the public purse** and total abuse of the US taxpayer’s taxes and the local electrical ratepayers. There is a

reason that each and every offshore wind development is an organized LLC, Limited Liability Company, to limit the company's financial exposure to individual loss at each facility.

BOEM needs to make a diligent effort to involve the public and especially those members of the public involved in the fishing industry when preparing an ocean lease. BOEM also must ensure that the public is well informed and has sufficient opportunity to allow adequate public input in a timely manner that can protect the needs of nearby communities. This public input that ~~MUST~~ ~~be allowed~~ encouraged must be meaningful so that the quantitative level of participation should not be given greater priority than the quality and balance of participation that includes those most impacted by the project instead of deferring this critical duty of the public to the private developer that has already discriminated against the fishing industry by not ensuring the disparate impacts were avoided just by locating in the area that is best and cheapest location for the developer. In Washington we need to do a better job of the advisory committee to BOEM. In Oregon not even one member of the fishing community, not one member of PFMC, only one member of ODFW is on the BOEM advisory committee which has strongly influenced the overall OUTCOME much more favorable to developing OSW than it is protective of existing uses of the ocean including fishing that will be suppressed and a high RISK that the people on the coast are financially abused overall. **Balance is a scary word** which always results in cuts to fishing area where fishing always comes up the loser and this is the **"Darkside"** of BOEM establishing WEAs. New emerging industrial uses must be based on "REAL" need, avoid conflict, and inflict NO HARM to existing uses.

BOEM is currently using command control meeting format where the public is excluded and is NOT an essential ingredient of FACA where the agency has discretion to ~~allow~~, no encourage members of the public to be officially on the State/BOEM taskforce. The public and especially members of the fishing industry that has spent years on the ocean interacting with fisheries resources in a manner never done by agency personnel that live in inland areas and only occasionally even visit the ocean and visit only from the shore. Excluding the public from interacting at BOEM/State taskforce meetings is also an arbitrary and capricious actions under the APA where the public is NOT allowed an opportunity to participate in the offshore lease process at the taskforce meetings rule-making process where ocean is leased to the highest bidder without adequate public participation especially where public interest is ignored by excluding the public participation at the meetings where significant decisions will be made affecting the public's ability to continue their open and free use of the high seas violating peoples' rights of navigation and fishing without adequate participation in the process where existing RIGHTS and Privileges are removed from citizens without due process where the citizens displaced will be

irreparably HARMED by the displacement of fishing and navigation over large areas of previous open access areas. Those injured may be future next generation fishing families that will suffer substantial injury by denied ACCESS to fish/crab that cannot be undone by monetary remedies because they will have no standing to receive them due to their inability to show they ever fished the area in the past damaging their ability to even gain a business loan to get into the fishing business and results in unrecoverable economic damages.

Indeed, the “Smart from the Start” regulations BOEM has developed anticipated this iterative cozy relationship between agency and developer that cuts the public out of their reasonably foreseeable participation at BOEM/State Taskforce meetings is if nothing else simply unethical behavior and is really evident in the BOEM unsolicited lease process. “With regard to leasing, the ‘Smart from the Start’ policy merged the first three steps of a lease process, leaving only one opportunity for public comment upon receipt of an unsolicited lease proposal, removing any pre-bid opportunity for public comment on the lease locations, and torpedoing any on-site evaluation of environmental impacts or fair evaluation of existing ‘reasonable uses,’ including fishing, prior to lease issuance.” Placing an EIS after a lease has been granted is irresponsible agency activity and kills all reasonableness in the lease process. The Smart from the Start process “purports to authorize BOEM to lease large areas of the Outer Continental Shelf to private companies, **many with foreign ownership** without adequate process and without consideration of alternative sites.” The NO Action Alternative then becomes null and void which is only a part of the Due Diligence that BOEM has forgone in their lease process. Smart from the Start did not anticipate that the offshore wind facilities would immediately become foreign owned as both the Block Island and Vineyard Wind facilities are currently. An unsolicited bid is a non-competitive bid and is an irrational use of federal waters that will become a socioeconomic cost of decarbonization levied to coastal communities and the nation. **Foreigners MUST not benefit financially from our US subsidies to build projects.** Creating Equitable, Healthy, and Sustainable Coastal Communities needs to become a significant part of our nation’s Strategies for Advancing Growth, Environmental Justice, and Equitable Development in offshore waters; if nearby communities are left out of the process and only allowed minor comments late during a NEPA process the communities will be assaulted by displacement and will have disparate socioeconomic impacts on nearby and distance coastal Fish Dependent Communities. UNETHICAL!

There is a group of offshore wind proponents that may be characterized as “true believers.” For them, there is a looming climate catastrophe that must be addressed immediately. **Preventing that climate catastrophe is more important than any other societal value,**

be it democracy, free speech, adverse socioeconomic harm, or existing laws. This group believes that any attempt at preventing climate change requires massive investments in green energy, eliminating all fossil fuel consumption immediately, and other draconian changes to a society that is still searching for equity across the nation. For this group, the extensive environmental damage caused by the mining and processing of rare-earth minerals, or the child and slave labor that is used to mine cobalt in the Congo, is irrelevant. Similarly **irrelevant are concerns about adverse impacts on fisheries** and endangered species, as well as MUCH MUCH higher energy costs and their impacts on those less fortunate in our society that will feel the PAIN of inflation driven by national energy policy that forces locked in POVERTY in this country. This group is impervious to evaluating reasonably foreseeable tradeoffs that stifle our people's American Dream and, often, any rational argument is left on the sideline, nondiscussable as those in the lower rungs of society feel the PAIN of being forced behind. **OSW is a war on working men and women of the coast** that has no Thresholds on the elimination of their fishing rights to ACCESS fish one OSW farm at a time until fishing is destroyed one family at a time over time. The entire BOEM process of eliminating one fishing area at a time makes coastal fisheries feel like the lone individual standing in front of a Chinese tank in Tiananmen Square as it fails to put on the brakes to spare a life.

Washington CMSP Mission Statement

"Protect and Preserve Sustainable Existing Uses including marine based economies, recreation, and ecosystem function, which maintains open public access to marine waters for current and future generations while "conditionally allowing" new emerging uses that **avoid conflict and harm** which also supplements, not displaces the existing coastal job base." This mission statement should be the starting point with any BOEM actions in waters offshore Washington state. **It should be noted that Washington has held over 100 meetings dealing with Coastal Marine Spatial Planning and NOT once has ocean energy production been identified as a preferred use of ocean to displace fishing or navigation, not even once.**

Rules/criteria/Metrics for successful CMSP/BOEM interaction with coastal states

Rule # 1: Protect and Promote the Existing marine water JOB BASE including fishing.

Rule # 2: Protect and Promote the Existing marine water JOB BASE including fishing

Rule # 3: Public ACCESS to marine waters is essential to protect and preserve sustainable exiting use of marine waters and maintains marine water SAFETY.

Rule # 4: "Conditionally" allow new emerging industrial development that AVOIDS CONFLICT AND HARM to existing JOB BASE and the marine water

ecosystems that supply a multitude of goods and services to our coastal region.

Rule # 5: Emerging Industrial development of our marine waters **MUST** supplement, not displace Existing Sustainable Use of our marine waters.

Rule # 6: Keep all the coastal planning/leasing process negotiations located in one room that includes all stakeholders (Feds, State, Local, Tribal governments, affected businesses including fishing representatives, recreational enthusiasts, conservation interests, interested citizens, and new emerging use advocates)

The “Ignored” Dark Side of CMSP/BOEM lease policy

The price of fish measured in LIVES LOST not \$\$\$

Life Safety Must Matter in CMSP/BOEM actions!

Dungeness crab fishing has had the highest mortality rate of “any” occupation in the nation; a mortality rate 4X the national fishing average and 400X the average US worker. This cannot and must not be ignored in the BOEM process of issuing WEAs in offshore waters.

When a fisherman makes a mistake in judgment it is often his last. Personal safety judgment is becoming all too often extremely colored by decreased ACCESS to fishing grounds increasing the intensity of the localized fishing effort. In 2010 over 50% of the entire Washington crab fleet fished in just 13 miles of the 140 mile Washington coast between the Columbia River and Klipsan Beach – result - 3 casualties that year alone.

Access denied to fishing areas and fishing related mortality rates are directly connected. Fishing SAFETY to date has not been a part of the Marine Spatial Planning process and a major safety issue that BOEM seems to totally dismiss.

Reduced Marine Water ACCESS = INCREASED INSANITY which all too often leads to increased fatality. Lost ACCESS to fish and crab via offshore energy displacement will cost lives and cannot be ignored.

How many of you get up to go to work in the morning and your first consideration is, “If I go to work today will I make it home safely to my family this evening or will I become a casualty lost at sea today?”

Think about that question. “If I go to work today, will I make it home safely to my family this evening or will I become a casualty lost at sea today?”

What is the other consequence of not going to work? The family goes hungry. Work or Hungry? This Work or Hungry dilemma breeds insanity and increases the RISK involved in a very dangerous occupation that only rewards production, not time at work. Natural resource coastal jobs only pay for production, which is based on “natural ecosystem

variation” within the marine water food chain and all too often very short wintertime weather windows of opportunity tied directly to a short tidal cycle.

When a fisherman makes a mistake in safety judgment it is often his last. Personal safety judgment is becoming all too often extremely colored by decreased ACCESS to fishing grounds in multiple fisheries increasing the intensity of the localized fishing effort. In many seasons over 50% of the entire Washington crab fleet fished in just 13 miles of the 140 mile Washington coast between the Columbia River and Klipsan Beach – result - 3 casualties that year of 2010 alone. Repeat – 3 casualties.

Access denied to fishing areas and fishing related mortality rates are directly connected. Fishing SAFETY to date has not been a part of the Marine Spatial Planning/BOEM leasing process.

Reduced Marine Water ACCESS = INCREASED INSANITY which all too often leads to increased fatality.

How many of you get up to go to work in the morning and your first consideration is, “If I go to work today will I make it home safely to my family this evening or will I become a casualty lost at sea today?” Midwinter marginal weather conditions often make this a reality for every fisherman.

Think about that question. “If I go to work today, will I make it home safely to my family this evening or will I become a casualty lost at sea today?”

What is the other consequence of not going to work on the ocean? The family goes hungry. Work or Hungry? This Work or Hungry dilemma breeds insanity and increases the RISK involved in a very dangerous occupation that only rewards production, not 8 hours of time at work. Natural resource coastal jobs only pay for production, which is based on “natural ecosystem variation” within the marine water food chain and all too often very short wintertime weather windows of opportunity tied directly to a short tidal cycle.

I am quite positive that none of you ever consider going to work a fatal consideration as your waking thought. For over 40 years I had to answer that question correctly. In that time, 28 of my close fishing friends failed to assess correctly the work or hungry dilemma contributing to making Dungeness crab fishing in the northwest the most dangerous occupation in the nation. The “TERROR” associated with being trapped inside and upside down vessel from an immediate onset accident that produces a marine casualty is impossible to convey. Once you have been “there”, holding your last breath fighting for survival your entire perspective on life changes forever. Since July 11th, 1980, I have dedicated tremendous energy and time to insuring no one else faces their maker unnecessarily from the indifference that produces the horrible consequence of facing the “TERROR” of that last breath before Davy Jones Locker becomes their permanent resting place. This TERROR produces PTSD, and it was 25 years before I was able to

even talk about this horror that is unimaginable, and it is impossible to fathom unless you have experienced this personally.

Coastal Marine Spatial Planning/BOEM lease policy has to answer the LIFE SAFETY question as well. How will an action taken affect the coastal mortality rate? **“Doing it with the coast and not to the coast” has real life AND DEATH consequences.** All too often marine policy looks only at net national economic gain, all too often employing the current “least cost alternative” where human health and safety is over the horizon, out of site out of mind; negative impacts to the local coastal communities have always been subordinated to the point of elimination, increasing fatal decisions making by agency personnel sitting a cushy desks many miles inland unaffected by their decisions but all too often affecting more than economic decisions for coastal communities that all too often end in marine casualties that are never connected back to their decisions that may have been years earlier..

BOEM leasing (Coastal Marine Spatial Planning) must elevate SAFETY as a primary goal and make the connection that as important ACCESS to marine waters is reduced marine casualties increase in direct proportion to the shift in concentration of fishing effort to other areas that are already over-capitalized due to existing Cumulative adverse impacts affecting the SW Washington coast. Industrialization of our marine waters will have “reasonably foreseeable fatal consequences” if marine real estate conflicts are not properly addressed in a manner that the question, **“If I go to work today will I make it home safely to my family this evening or will I become a casualty lost at sea today?”** This **MUST become a BOEM reality check, period, this MUST be done.** Without a directed government intervention to put “SAVING FISHING” as a top priority, our coastal fishing culture and heritage will slide, not slip, into history in the near future. BOEM must fully consider this possibility with every WEA initiated.

Protecting and Preserving Sustainable Existing Use, i.e., FISHING begins and ends with ACCESS to sustainable abundant fish population. CONSERVATION as opposed to restrictive PRESERVATION is the key ingredient to healthy coastal communities. The world population has gone from 2 billion to over 7 billion people in my lifetime alone. We all consume 1.5 X the natural production of the earth today. Locking up our oceans without consideration of the potential goods and services we will need in the coming decades with denied ACCESS will be detrimental to future generation’s health and welfare. **Food, not energy will be our planet’s largest driver as its population doubles again.** BOEM WEA placement MATTERS and food production needs to MATTER as well.

Agencies MUST respond to the needs of fisheries far better than the USACE did in the Columbia River Channel Deepening where CRCFA submitted over a hundred pages of pertinent PUBLIC comment and the USACE responded with, **“Comments noted.”** The USACE Failure to respond to CCF/CRCFA comments

or incorporate these comments its NEPA review is arbitrary, capricious, an abuse of discretion, without proper procedure required by law, or otherwise not in accordance with the law. The process also violated Washington state law HB 1125 that ensured that the crab fishery would be protected before the state matching funds could be spent on the channel deepening. **HB 1125 was a very STRONG statement of INTENT by the Washington legislature** that FISHING was to be protected before industrial activity commenced. When considering whether OSW effects are significant, agencies "analyze the potentially affected environment, impacts on fisheries, and the degree of the effects of the action," and consider connected cumulative actions as well that have placed a considerable amount of lost fishing ACCESS to fish/crab over a large portion of the coastal waters historically relied upon by fishing to sustain the historical and cultural identity and wellbeing of the coastal Fish Dependent Communities. **CUMULATIVE impacts MATTER** and accumulate to disparage water dependent communities over time! The unsolicited lease requests by Olympic and Cascadia Wind are just two in a long line of connected cumulative adverse impacts diminishing Washington/Oregon fishermen's ACCESS to harvestable seafood on the coast that deflates the coastal economy. One example of historical impacts to Fish Dependent Communities is the loss of electronic technicians. Our community of Ilwaco/Chinook had three electronic technicians in the past and today due to a combination of fisheries suppression in the past, there are NO local electronic businesses to service electronic needs of the fishing fleet today. Small vessel Refrigeration business and machine shops are also in trouble and disappearing. The disparate contraction of the coast support system cannot withstand additional assaults on lost ACCESS to sustainable fish/crab that still support a large section of our coastal economy.

The Biden Administration 30X30 ocean electrification mandate is totally unrealistic, has abundant disruptive consequences, counter intuitive results, and will only make some developers RICH while the ratepayer and taxpayer will SUFFER significant adverse economic consequences not to mention the loss of coastal fishing JOBS as ACCESS to incumbent marine resource industries will also SUFFER as this controversial OSW is pushed off onto unsuspecting Public, most of who will feel the tragic increase in electric rates associated with high priced offshore wind energy capture. The 30X30 offshore wind directive is a fantasy that will have next to zero effect on climate change as the BOEM procedurally defective process is pushed relentlessly onto an uninformed public where the gravity of the resulting CONFLICT with fishing is under reported as historical ACCESS to fish/crab is displaced. **Course correction needed badly.** Affected coastal communities must be brought into the OSW lease process as soon as possible as active members of any group or taskforce established and BOEM

must realize and act accordingly that NOT all lease areas are compatible with nearby communities and must be abandoned to ensure good quality of life for all residents in nearby overburdened communities’ approaches to shape offshore development that respond to their needs and reflect their values long before any offshore lease is granted. As offshore wind is moving forward, we all need to protect coastal communities’ health and wellbeing of our coastal families and communities, especially those places often left out and left behind as costs to some communities will be excessive and an existential threat to low income high unemployment communities like those in SW Washington.

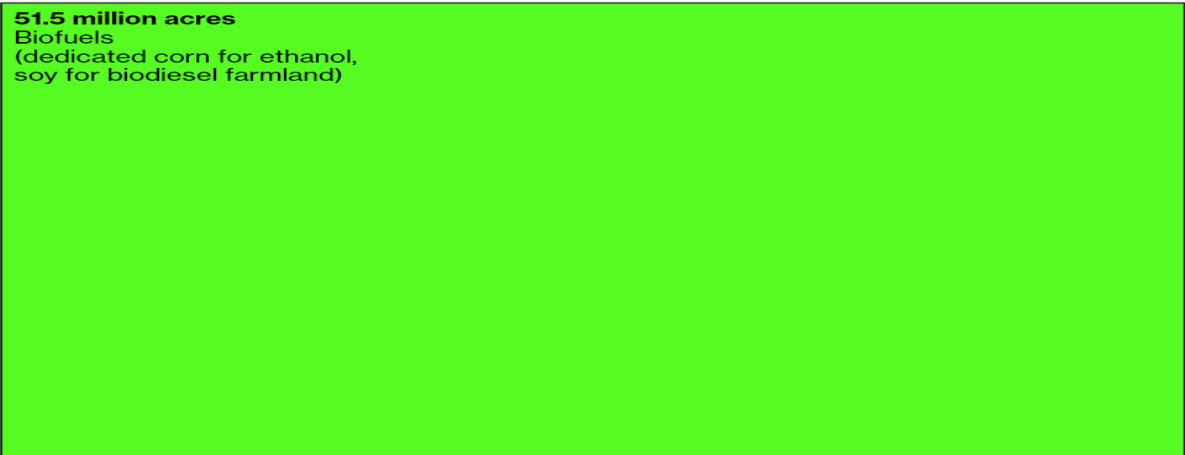
Our nation runs on base load power that is available 24/7. Wind power is another source of energy but is not base load, but intermittent power that will always need backup power. Congress realized this when both the House and Senate each passed S.J. Res. 24, a Congressional Review Act resolution of disapproval executive branch over exuberance to crush base load power other than hydropower. S.J. Res. 24 was the legislative branch reminding everyone who makes the laws and that the executive branch enforces them when agencies have a clear overreach of their authority.

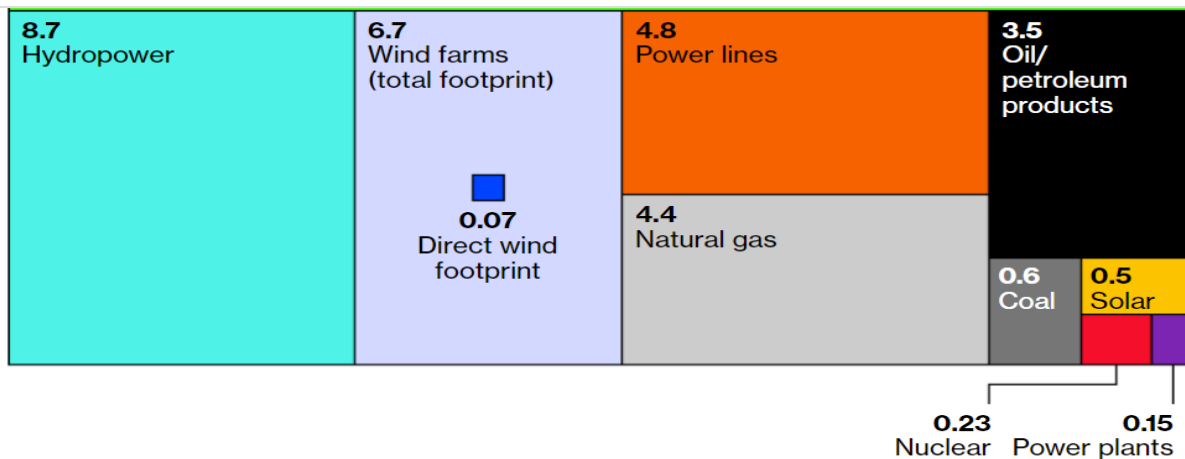
[The Biden Administration’s Offshore Wind Fantasy | Manhattan Institute \(manhattan-institute.org\)](https://www.manhattan-institute.org/the-biden-administrations-offshore-wind-fantasy)

Attempting to reach net zero carbon emissions in our electric grid is a laudable but land/sea surface intensive endeavor.

Energy Land-Use Framework

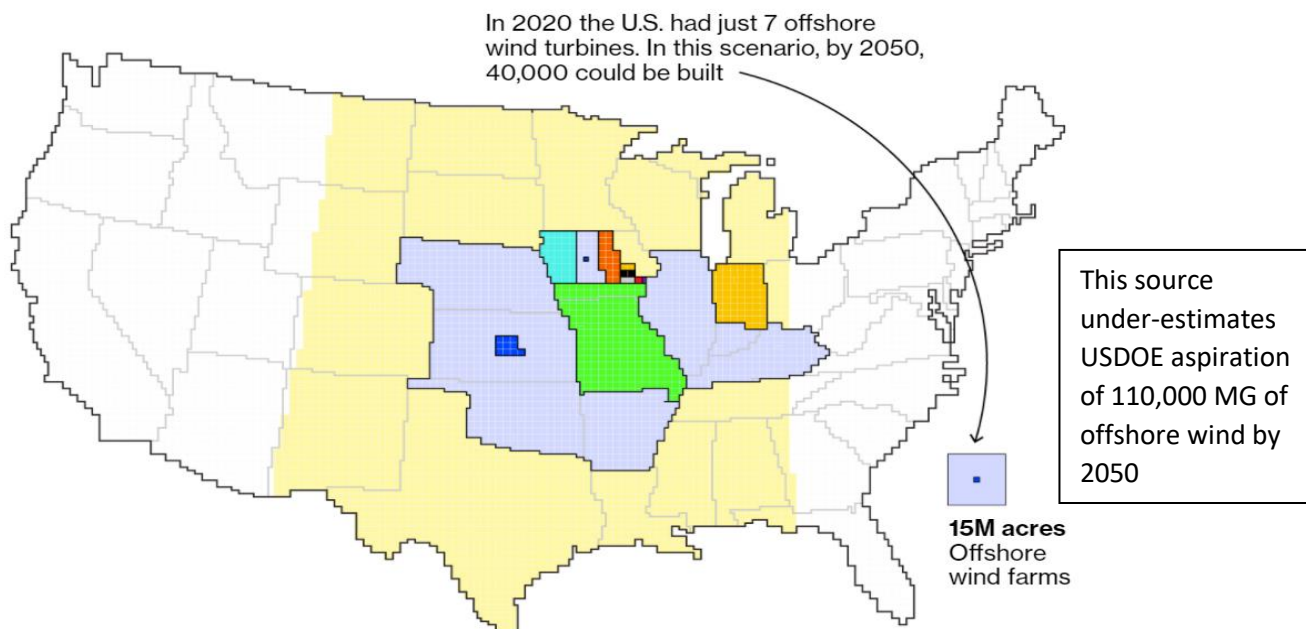
81 million acres





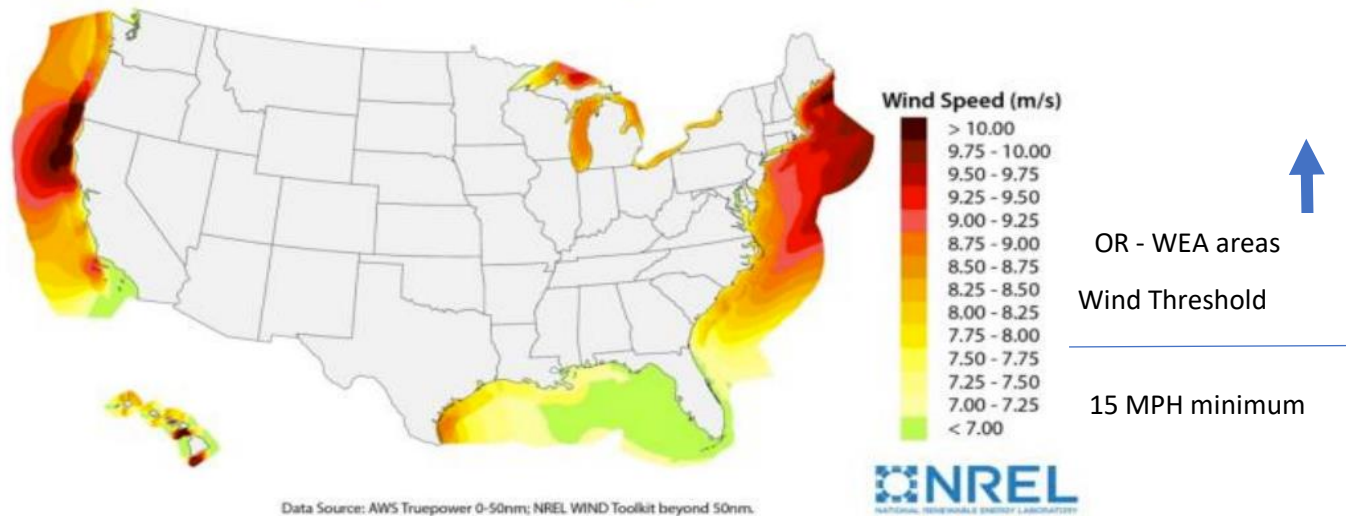
Note: Wind's direct footprint includes only turbine bases and access roads.

Source: Current land-use estimates are based on a Bloomberg News analysis of data from several sources, including the U.S. Departments of Energy, Interior and Agriculture and the Nuclear Regulatory Commission. A methodology and complete list of sources is available at the end of the story.



This graphic should have been produced showing the loss of fishing area to the 30X30 program and projected to show the 110,000 square miles of offshore wind turbines displacement of fishing area by 2050 that will substantially undermine coastal Fish Dependent Communities.

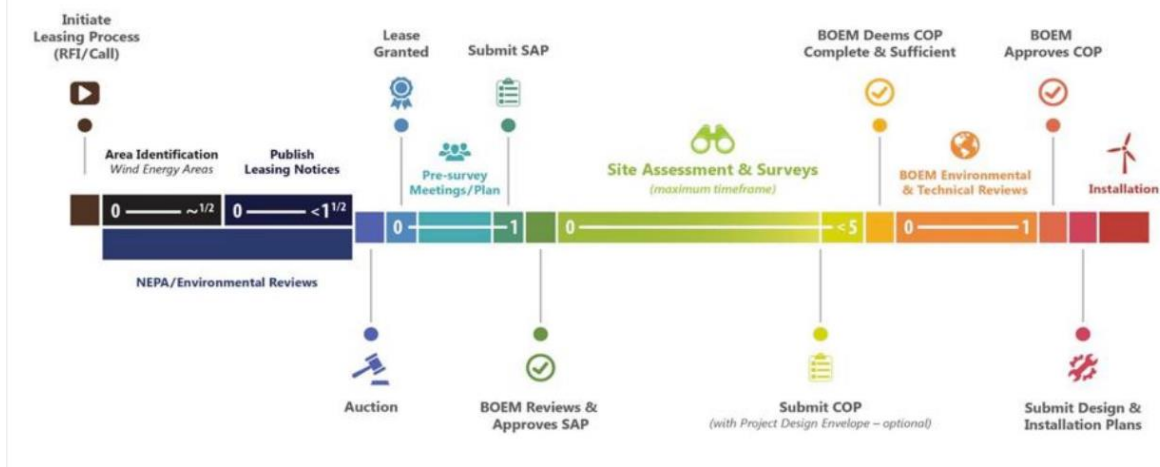
Figure 5: U.S. Wind Map of Areas w/ High Offshore Wind Resource Values²⁵



Price/kW decreases to North from about \$0.55 to \$0.75/kW N OR, More cost in WA at GH Wind Area

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/PublicTestimonyDocument/22263>

Figure 8: BOEM's Renewable Energy Outer Continental Shelf Leasing Process (in Years)⁴⁸



<https://www.nrel.gov/docs/fy20osti/74597.pdf>

Technical Report NREL/TP-5000-74597

October 2019

The BOEM offshore lease process is BROKEN. Offshore Wind at any price will have disparaging effects on those on the lower rungs of society the most and will lead to increased POVERTY, lower coastal median family income, higher rates of coastal unemployment, significant reduction in fishing opportunities, lower coastal business investments, loss of cultural identity, and a host of other demeaning demographic suppressions of our coastal people with extremely little if any measurable

decrease in our national carbon footprint. Foreign owners of our offshore wind facilities will be direct recipients of subsidies from the American taxpayers and ratepayers bleeding American resources to bolster foreign owners bank accounts at taxpayer and ratepayer expense like has already happened with our first two national offshore wind projects at Block Island and Vineyard Wind. The United States fishing industry from all over the nation fought long and hard to secure the 3 – 200 mile EEZ to free the offshore area of foreigners depleting our ACCESS to sustainable fish. Forty five years later we are once again in a fight with foreigners to secure ACCESS to sustainable fish that the fishing industry has SACRIFICED plenty to rebuild many fish stocks depleted by foreign fishing in our waters. It is really difficult to watch our government turn that same offshore area back over to foreign control as foreign companies are purchasing American companies that pioneered our meager steps into offshore wind. Successful resolution to this CONFLICT where American fishing families are being suppressed by their government is not ending well for coastal Fish Dependent Communities where BOEM just let 6 more lease areas in the NE United States totaling close to 500,000 acres of lost fishing opportunity. Was our fight in vain to secure fishing rights for US fishermen out to 200 miles from shore? Why is NOAA making an MOU with BOEM to suppress offshore fishing to convert our precious fishing grounds into No Fishing No Income ZONES where real effects will occur to real people whose heritage and livelihoods are tied directly to ACCESS to fish/crab.

The INTENT of congress and our Washington legislature to prevent the depletion of our fish and fishermen will become a fairytale, an historical memory as our fishing fleet is forced to contract from offshore industrial development and our national healthy food security is significantly diminished and yet the reduction in the world's carbon footprint will be immeasurable as the coast loses significant economic viability. The carnage to many coastal communities will suffer incalculable economic disparaging HARM from displacement of their historical fishing grounds. The price our nation will pay for losses to our fisheries will not be realized until the damages are done and irretrievable aided abetted by the BOEM fallacious unsolicited lease request process allowed to propagate in compressed fishing areas found in SW Washington waters. Many many fishing families will SUFFER unnecessary financial difficulties if not outright ruin through bankruptcy. Our young next generation fishing families are the most vulnerable and will have the least resiliency to struggle on and will disappear as CUMULATIVE adverse displacive impacts continue to mount on top of an existing mountain of lost ACCESS to fish/crab that is especially acute in Washington fishing grounds today due to Rafeedie Decision where 50% of ACCESS to all sustainable fish/crab is torn from those people that risked it all to develop fisheries in our US EEZ that many previous fishing families fought long and hard to secure our American fisheries for American utilization and conserve them for our nation from foreign decimation that was occurring in the late 1960's and early 1970's. Is this really the American way to suppress one disadvantaged section of society with a national energy policy that will put a lot of existing coastal rural Fish Dependent JOBS in jeopardy in America and increase inland urban benefits widening the urban/rural divide as foreign ownership bleeds our vulnerable coastal Fish Dependent Communities toward economic decimation?

Here in Washington our legislature put coastal marine spatial planning expansion of ORMA in place to protect and preserve our coastal fishing heritage as the first priority of offshore use under assault by the new emerging industrial takeover of the coastal plain. The federal government put the CZMA in place to support state rights in federal waters and to protect coastal interests. BOEM and NOAA need to honor that commitment to the states and protect the states' interests in federal waters that helped build our nation. Further displacement of the fishing industry in offshore Washington on top of the extensive loss of ACCESS to fish/crab on our coast will be a tremendous and harmful disruption to our economic foundation, especially right here in Pacific County which has been recently recognized as the 4th most Fish Dependent Community in the nation. Additional loss of ACCESS to fisheries resources on top of extensive loss to fish/crab will exacerbate the exiting "Fish or Go Hungry INSANITY" prevalent in the Dungeness crab fishery in the NW that has caused the highest fatality rate of any occupation in the nation where the Mass Weather Index is also the highest in the nation exacerbating this most dangerous job in the nation in an extremely dangerous midwinter fishery.

The Washington fishing fleet is at serious RISK of jeopardy as CUMULATIVE loss of ACCESS to fish/crab continue to mount from a variety of sources and the only place available for emerging new industrial offshore development is in direct CONFLICT with existing use including but not limited to fishing on the SW Washington coast where 90% of the entire Washington crab fleet is crowded into a very small area of our marine waters south of Westport to the Columbia River in just 38 miles of coast in an attempt to sustain our families economic security which has been and is under assault as Olympic and Cascadia Wind companies are threatening unsolicited lease of ocean area off of our coast. There is NO pressing need to place an industrial displacive complex offshore Pacific County where the NEED is not nearly as great as may be prevalent in Rhode Island that is about the same physical size as our county, yet Rhode Island has 60 times the population and 60 times the need as we do right here in our area. Washington currently produces double the carbon free electricity than any other state in the nation. Washington has already sacrificed more than enough of our ACCESS to fisheries resources lost to dam construction and yet our local people fully support the retention of the Snake River dams so that the heart and soul of other communities are not torn from them like has happened to our salmon fisheries associated with the Columbia River hydro system that has bought prosperity and clean carbon free CHEAP electricity to the nation from which everyone gladly accepts the fruits of these dams hydropower output that is cheap, plentiful, highly reliable 24/7 electricity that is base load power that is not intermittent over 60% of the time like wind energy that is offline needing a shadow secondary power supply ready at a moment's notice to produce power at significant standby expense.

At what point is the excruciating PAIN of a shrinking offshore fishing footprint enough to cross the THRESHOLD of no return? Is that what this state and our nation want to do, eliminate fishing grounds to the point of no one on the coast being able to produce a living wage for their families and terminating the underpinnings of our county's SEAFOOD socioeconomic base that our previous fishing families fought to sustain our Fish Dependent Communities. BOEM/NOAA/Washington

ecology have in their hands the fate of our county's and all of SW Washington fishing family's economic soul. We pray they do the RIGHT things to preserve our fishing cultural heritage and ensure that any industrial new emerging offshore wind facilities AVOID CONFLICT with fishing as INTENDED by the Washington legislature as they expanded ORMA – Ocean Resource Management Act and congress when they enacted the CZMA, Magnuson/Stevens FCMA, and OCELA over 40 years ago. In the words of Senator Magnuson and I quote from a letter he sent to me in 1974, **"In closing, let me say I share your concern for the fish resources near our shores and for the men that catch them. We must act now to prevent the depletion of both."**

Washington started to work on a coastal marine spatial plan earlier than the 2010 legislative session. Over the years there has been over a hundred public meetings to discuss the option of new emerging offshore industrial facilities. **Recognize that NO public process involving our Washington citizens has ever identified new ocean industrial development as even an option, let alone a preferred use of the Washington coast.** Every meeting has identified the first priority use of our coast is preservation of fishing where CONFLICT AVOIDANCE is the **preferred option** where public ACCESS for fishing and navigation is preserved as the **primary outcome**.

In the beginning of the Oregon process of CMSP development shortly after OPAC was established Oregon Senator Johnson inquired at a meeting on offshore wind if any offshore energy development could be done in a community that wanted the industrial facilities in their area. The Oregon DLCD official responded without hesitation, **"NO one wants these offshore energy facilities located in their area!"** Truer words were never heard again as multiple agencies force offshore energy forward without remorse that will adversely affect nearby and distant water Fish Dependent Communities with a process that to date is shrouded in an opaqueness that undermines TRUST in the outcome where all metrics are subject to agency judgement that is biased toward industrial development. To date, there is no apparent limit to the cumulative effects of continually adding more and more obstacles to fishing sustainability in the ocean. This deficiency MUST be addressed to protect and preserve the future of the coastal cultural, heritage, and economic backbone of the coast before it is too late and the fishing industry and all support businesses are totally disparaged.

Far too many agencies deem untold numbers of adverse cumulative effects acceptable even though the **EXCESSIVE PAIN** levied on coastal socioeconomic demographics take a direct broadside undermining coastal viability. Cumulative adverse impacts are continually removing needed economic resiliency as ACCESS to fisheries resources are forced to shrink, shrink and shrink some more and eventually erode the total underpinning of our coastal community's viability destroying the intrinsic worth of our coastal fisheries through cumulative displacement of fisheries that are already over taxed by these existing losses especially apparent in offshore Washington where Rafeedie has placed many fisheries in imminent peril of failure. It is pure FRUSTRATION with the FACT that BOEM always insinuates ALL adverse OSW displacement of fisheries can be mitigated. **However, the savage truth is that mitigation NEVER equates to remediation** especially where data gathering, and scientific information will significantly lag decisionmaking. Decisionmaking based on generalized guidelines that are lacking and are NOT specific enforceable regulations leads to

flexible nonrepeatable decisions that will lead to effects that are harmful to coastal people. Agency OSW decisions MUST always AVOID Conflict with Fishing and Navigation that MUST be protected as intended by both congress and the Washington legislature. USCG fairways in the NW honor congressional policy with hard policy of protection, NOT soft meaning words like should, consider, recommend and other such terminology that MUST become more prescriptive.

Until our nation develops some well-reasoned threshold metrics that are protective of our Fish Dependent Communities from displacement by these new emerging uses there will be unrest on the coast as our historical fishing industry fights to remain economically productive and contributing members of society instead of the alternative being relegated to the garbage heap of downtrodden humanity.

Federal, State, Local officials MUST include the public and fishing representatives in all taskforce actions as equal partners in discussions of establishing new emerging industrial uses in offshore waters as an intimate part of the PROCESS moving forward. Fishing in our coastal communities must be able to THRIVE not be forced to just BARELY SURVIVE or worse, simply die from suppressed ACCESS to fish/crab. At the table or on the Menu will become a truism that will not end well for Fish Dependent Communities as these communities are forced to remain on the outside of the BOEM process looking in as decisions about their lives moves forward. The future of BOEM Coastal Marine Spatial Planning needs to include those most affected by industrial offshore expansion. BOEM must have integrity. BOEM must honor their commitments, take ownership for their actions, even those that occur on land as a result of their actions offshore, and stand behind their words. BOEM must own their successes as well as prevent their failures and remediate HARM that they cause to Fish Dependent Communities by over developing in the outer continental shelf area that the fishing industry fought long and hard to SECURE the EEZ for future sustainable fishing on our offshore waters. Loss of ACCESS to fish/crab all too often results in a BOB = Boat on Bottom. Below is an example of working too hard to make a living wage in too short a time frame in midwinter dangerous NW crab fishery. Life Safety has never been but needs to become an important part of the BOEM mission to prevent BOBs. This is one more aspect of the Dark Side of agency policy that continues to restrict ACCESS that leads directly to marine casualties and fatalities.

Result of **"Lost ACCESS to Fish"**

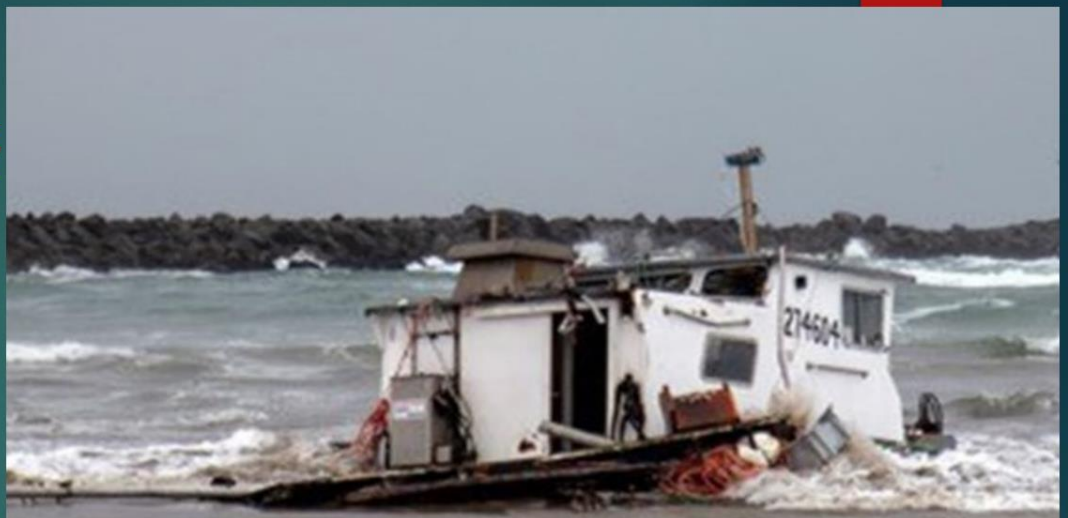


BOB

Boat on Bottom

PREVENTING Fishing Disaster

MARY B II
Capsized crossing
Newport bar
1/9/2019
3 fishermen lost
Weather Conditions
Beyond Marginal



Marine Casualties Every Year -Result of Lost Access to Fish

Dungeness Crab has had the highest FATALITY RATE of any occupation in the nation! **WHY?**

What actions can be taken to **ensure offshore industrialization AVOIDS CONFLICT** with existing ocean uses including but not limited to fishing and work positively to protect and preserve existing uses of the ocean including fishing to THRIVE not become marine casualty increases in the fishing

industry. BOEM MUST take responsibility for all consequences of their actions even those consequences that occur on land as a result of BOEM activities. BOEM MUST begin to focus on clarity of OUTCOMES not just process that is currently the case where process is the knee on the neck of fishing and an invasion of fishing grounds where DISPLACEMENT is the OUTCOME. The fishing industry is getting snookered by agency rhetoric where the OUTCOME of the BOEM process of leasing fishing grounds to the highest bidder where the OUTCOME is less seafood on the consumer's dinner plate. BOEM must take reasonable precautionary measures to ensure that coastal Fish Dependent Communities are protected and preserved as nascent industrial development is injected into coastal areas: **OUTCOMES MATTER** and existing uses of the ocean including the Fish Industry must not become casualties moving into the future as our WAR on CARBON expands ruthlessly suppressing Fish Dependent Communities to the point of becoming terminal on the Washington coast that currently has excessive loss of fishing opportunity and is over concentrated in SW Washington coast to just 38 miles south of Westport: What should we do moving forward to fight carbon and SAVE our coastal Fish Dependent Communities:

1. BOEM needs to fully comply with **43 U.S.C. § 1332 (2)** congressional ocean policy
2. BOEM needs to fully comply with **RCW 43.143.060 (2) (b)** Washington ocean policy
3. **Washington is the only state in the nation to legislate Coastal Marine Spatial Planning with the express INTENT to protect and preserve FISHING – all other states initiated CMSP to install OSW**
 - a. WA ORMA/CMSP law is UNIQUE in the Nation with a 1st priority to protect fishing
 - b. Must protect public navigation through these HUGE offshore industrial complexes
 - c. WA ORMA/CMSP law was legislated to **“Do NO Harm”** and protect and preserve fishing from potential new emerging offshore industrial HARM specifically
4. Washington is UNIQUE in the nation with significant loss of ACCESS to fish/crab due to the federal court Rafeedie Decision requiring 50/50 sharing of all fish/crab on 70% of the coast
 - a. Rafeedie has cost the WA crab industry over \$240 million and growing annually (2022 estimate)
 - b. There is no Cumulative estimate of the magnitude of lost coastal income due to Rafeedie
 - c. This 50/50 sharing is a significant displacement of fishing that BOEM MUST address specifically as a Threshold Metric which is CUMULATIVE over and above any other place in the nation that MUST qualify as a NEPA NO ACTION ALTERNATIVE
5. As fishing is displaced via OSW fishing freedoms get hammered – BASIC constitutional freedom of movement impinged by massive offshore industrial facilities
6. **Coastal socioeconomic impacts MUST be a 1st order of business consideration of OSW**
 - a. Not ignored like was heard by the fishing industry during the 4 March 2022 PFMC/BOEM teleconference of the ad hoc PFMC committee
 - b. BOEM call areas in southern Oregon were 2200 square miles as least 7 X the request of OR to investigate, not install ocean energy

- c. BOEM stated clearly that they only provided WEAs for offshore industrialization
 - d. BOEM clearly stated they did not address onshore consequences of WEAs – **DISTURBING**
 - e. BOEM must become ACCOUNTABLE for the consequences of the establishment of WEAs to ensuring **coastal communities MUST THRIVE with NO fisherman left behind**
 - f. BOEM designation of WEAs MUST be accountable for NOT increasing the Urban/RURAL divide. The welfare of RURAL coastal people must not be sacrificed to BOEM WEAs
7. OSW that displaces fishing will definitely produce significant ADVERSE EFFECTS on nearby communities due to lost income with significant downward pressure on coastal demographics
 8. Large area OSW facilities of 1000 MG (100 square miles or more) will have a huge “effect” on coastal communities with increased POVERTY, increased unemployment, and less of and lower median family wage JOBS within the fishing industry and all other support industries will be an abuse of discretion that will be crushing to the sanctity human spirit that has driven the American Dream
 9. Potentially this loss of ACCESS to fish could result in USACE to deny dredging into coastal ports **costing additional JOB loss** in coastal communities deteriorating coastal demographics further
 10. Denied dredging will affect viability of multiple ports with loss of recreational fishing, not just commercial interests will lose revenue
 11. Simple engagement of stakeholders does NOT protect them from displacement and JOB loss; our observation of fisheries involvement to date is that fisheries input is considered less than fan mail
 12. Loss of ACCESS to fish/crab will **trigger EO 12898** in SW Washington due to low income communities’ negative “EFFECTS” to beleaguered fishing industry where the fishing footprint is projected to decrease over large areas of ocean; at this point, 700 square miles of lost fishing area is projected by Olympic and Cascadia Wind development.
 13. **Environmental Justice** concerns must be addressed coastwide as OSW advances confiscating ocean
 - a. Agency actions cannot turn their backs to adverse impacts to coastal communities
 - i. BOEM action consequences do not stop at the shoreline, as BOEM stated they have no interest in shoreside activities as a result of BOEM increases OSW WEAs to meet the 30X30 administrative goal that expands radically by 2050 toward 110 GW of OSW over 8,800,000 acres of ocean on top of the push for a 30X30 assault to put 30% of the ocean into marine preserves continuing to squeeze fishing off the ocean.
 - ii. **Cumulative adverse impacts MATTER to coastal communities**

- b. As Americans we can do better than crush our neighbors and erode enormous fishing areas in our offshore waters that will have extreme disparaging contraction of our historical sustainable fisheries.
- c. **OSW if not properly controlled will stain our national soul** as fishing is sacrificed on the altar of carbon producing a massive Coastal Poverty Program
- d. Lots of OSW “Happy Talk” does not offer any protections for existing use of the ocean
- e. Lots of OSW “Happy Talk” does not compensate for the exorbitant cost of floating OSW and is exploitation and usury of the entire coastal population not just the displaced fishing industry
- f. Fishing is a critical economic driver of many coastal communities that NEEDS protection especially in SW Washington that is already suffering under the extreme yoke of Rafeedie
- g. Desired OUTCOME of OSW must include sustainability NOT hardship of Fish Dependent Communities
- h. We as a nation cannot and must not leave fishing communities behind
- i. Cumulative impact analysis on Fish Dependent Communities with a reasonable **THRESHOLD on adverse metrics** where adverse impacts cannot be allowed – MUST establish sensitivity of the needs of fishing industry through primary AVOIDANCE measures that are not currently occurring
 - i. Fishing is dying of a 1000 cuts, OSW is not a small cut, it is a significant GASH that will cause the draining of the lifeblood of Fish Dependent Communities - UNACCEPTABLE
- j. Washington CMSP failed to establish any WEAs compatible with reasonably foreseeable conflict with fishing during the five years spent developing CMSP with a GLD out to 700 fathoms that has been an artificially induce metric by NOAA
- k. OWS displacement of larger vessel causing fishing closer to shore could increase cutoff crab gear in nearby and distant water fixed gear fishing areas increasing hazards to whales besides adverse economic effects on Fish Dependent Communities due to the displacement
- l. Safety of all existing users of the ocean must be a priority – lost fishing grounds will pressurize fisheries and cause increased “Fish or Go Hungry INSANITY” as fishermen make their “Safe or Sorry” decisions to fish or stay home out of seriously increasing need fish inclement weather days
- m. Induced effort shift due to industrial displacement of fishing affects the entire fishing fleet
- n. Environmental Justice will include an ongoing compensation package for current **and future** fishing families that will be extremely difficult to assess FAIR compensation to all fisheries participants

- o. Tradeoff analysis that will increase industrial displacement of fishing dashes the hopes and dreams of existing good paying fishing jobs of the future
- p. Suggest exploration of a state owned permit purchase program for long term cheap lease to next generation fishermen as a cost of OSW development – a program needs development that also compensates those that have already purchased multiple permits at grate sacrifice of their own future retirement planning
- q. BOEM fishermen meetings should be scheduled during slack fishing times – late spring mid fall is acceptable, midsummer midwinter unacceptable timing
- r. **Environmental Justice** calls for initiation of the **precautionary principle** – GO SLOW Expand Slowly to examine real impacts slowly – jumping straight to 1000 or more MG facilities is too much too fast to realize impacts until it is too late, and fisheries are irrefutably damaged
- s. **Environmental Justice** requires an exceptional “**HARD LOOK**” at consequences of OSW or other industrial action that will irrefutably deteriorate coastal demographics that are currently poor
- t. **Environmental Justice** needs to CARE about the wellbeing and quality of life of future generations of coastal people, especially vulnerable low income communities such as those in SW Washington
- u. **Environmental Justice** must include a “**HARD LOOK**” to ensure communities are NOT forced to live on the vulnerable edge of viability but need a reasonable buffer to accommodate natural variability
- v. **Environmental Justice** includes EO 12898 where adverse impacts to low income communities must be addressed and prevented
- w. **Environmental Justice** includes EO 14008 and Justice 40 where 40% of the benefits accrue to underserved and low income communities’ ‘**BENEFITS**’ does not include excessively high priced power
- x. **Environmental Justice** includes EO 13990 holding OSW developers accountable, including those who disproportionately harm nearby communities through revenue reductions from displacement will occur – BOEM must be forced to deal with negative consequences onshore where additional damages will occur to our people
- y. **Environmental Justice** would ensure that revenues from OSW be shared with those communities that are disproportionately affected by OSW or other industrial development including the fishing industry and all other support businesses that will lose revenue and pay higher electric bills
- z. **Environmental Justice** would include the present administration move to restore past NEPA process to include past, present and future CUMULATIVE IMPACTS of multiple activities that may not reasonably consider long-term or geographically remote impacts as CEQ and agencies are stuck with that requirement because of case law until the 2020 revisions are rescinded by new regulations

- aa. **Environmental Justice** is giving more prominence to consideration of alternatives including the No Action Alternative earlier in analysis of impacts from OSW development – Programmatic EIS
 - bb. **Environmental Justice** rollbacks of the 2020 NEPA regulations which “opens it up to analyzing all impacts without regard to significance.” This is a MAJOR change in analysis from the current BOEM activities impacts will occur on land as well as in the sea
 - cc. **Offshore Environmental Justice** should include onshore opportunities to decarbonize our onshore electric grid – examples – Naselle Ridge, Goldendale pump up hydropower
- 14. **OSW electricity is very expensive** – north of Florence OR cost as much as \$0.75/kW to at least 2032. True cost chaotically intermittent offshore wind power is staggering; the cost of offshore wind power is astronomical. OSW is 20 times the cost of Washington hydropower & we have people discussing tearing down Snake River dams that are 24/7/365 reliable and cheap. The public must be informed before they get the bills and/or lose stable cheap baseload power. Not a good idea.
- 15. **OSW is very area intensive** – OSW requires 6 times the area of a solar array of the same capacity at today’s turbine size in southern Oregon, cost a lot more offshore Washington
- 16. **Land base Wind or Solar** to decarbonization the grid is far more “bang for the buck” than OSW –
- 17. **Land Base Solar Shingles** need to be developed and subsidized like offshore wind energy – No extra loss of land or water than we currently have done – ecosystems remain in tact
- 18. **Offshore Wind MUST factor in land based transmission to the GRID – expensive and regulatory time consuming**
 - a. Minimal amount of Olympic or Cascadia Wind will be used on the coast – Grays Harbor only uses about 200 MG or 10% of just the Olympic Wind output at most
- 19. **BOEM Unsolicited lease requests MUST be banned**
 - a. Unsolicited lease requests have not attempted to AVOID CONFLICT with other users
 - b. Morrow Bay area call for interest expanded OSW from 100 to 400 square miles – unconscionable
- 20. BOEM must establish an early Programmatic EIS to at least give the impression of protection of coastal people as a priority and protect fishing from displacement of valuable fishing grounds
- 21. BOEM has far more responsibility than simple establishment of WEAs – impacts of those WEAs must be remediated in full which MUST include not only impacts at sea but also adverse impacts on nearby and distant communities that will suffer consequences of offshore industrial development displacement of all existing uses over very very large tracts of ocean

22. BOEM/state taskforces need to have qualified members of the public and fishing as official members of the group or injustices will occur to those that will be most affected by industrial takeover of the high seas
- a. **The easiest way to force people off the ocean is to be forced off the decision table** from the beginning of the BOEM lease process as it currently exists
 - b. Loss of TRUST is a failed process when those most affected are denied access to the decision table directly – allowing minimal public venting after the fact is really poor democratic process – this must change and the public needs inclusion before actions are taken
23. Offshore industrial developments need to be owned by US Citizens, our ocean cannot be leased/owned by foreign owners – similar to restrictions in the Jones Act for vessels the offshore wind must be required American ownership
- a. The first two OSW facilities have foreign owners – Block Island and Vineyard Wind.
24. BOEM needs to establish metric thresholds on OSW **decommissioning BONDING**, or the taxpayer will be on the hook for that expense as the LLC declares bankruptcy as has occurred in numerous places around the world
- a. **NO TRASH left behind** is being left out of the BOEM lease process as removal of defunct OSW facilities could cost more than installation costs which are currently projected to cost between \$3 – 6 billion/1000 MG
 - b. **Current** energy policy for offshore development will promote shell companies that will too easily declare bankruptcy when their insufficient funds run dry.
 - c. Cost to remove a single OPT anchor from shallow water off Reedsport Oregon cost over \$1 million, that cost will expand exponentially as industrial developments occur in deeper waters
25. BOEM MUST ensure ESA listed species are protected and preserved as intended by the ESA
26. The **Regulatory Flexibility Act** needs to be triggered and small fishing businesses need to be protected from losing their most valued asset, ACCESS to sustainable fish/crab
27. Regulatory Flexibility Act request of the SBA to the Department of Energy is to do a complete economic analysis of impacts associated with the introduction of new emerging industrial developments on a myriad of small business including fishing ensuring only minor impacts on nearby communities at an increasing rate due to high rates of inflation affecting the nation – to date NO response by BOEM
28. Washington is UNIQUE with significant loss of ACCESS to fish/crab due to the Rafeedie Decision
- a. 50/50 sharing of all fish/crab on 70% of the coast has cost the WA crab industry over \$240 million and growing annually
 - b. Washington fishermen are baring the entire **national burden** of Rafeedie on their backs alone – additional lost ACCESS to fish/crab will be devastating to those people that sign the front of a check to pay bills, not simply sign the back of the check to collect pay

29. CUMULATIVE adverse impacts to fisheries are currently highly significant in WA offshore waters
30. USCG vessel traffic analysis shows most WEAs and unsolicited lease requests are in high density traffic areas. USCG high density vessel traffic map shown at the end of this document
31. USCG preliminary analysis also indicated that OSW developments may be considered essential activities and vessel traffic prohibited in the area making it not even available for transit
32. USCG initial analysis shows most proposed OSW facilities are in direct CONFLICT with other legitimate existing uses of the ocean – it is totally unreasonable to displace other common uses of the ocean
33. USCG will regulate vessel transit fairways to protect and preserve existing traffic routes are proposed to stretch from 3 miles offshore to almost 100 fathoms from shore off Northern Oregon and SW Washington
34. **NOAA needs to CZM Certify the Pacific County SMP to protect fishing**
 - a. Pacific County SMP has some regulation NOT found in any other law, state or federal
 - b. Pacific County SMP has been approved by WA ecology as NON-Discriminatory
 - c. **Washington ecology has REFUSED to include the county SMP in a request of NOAA to CZM Certify the SMP**
 - d. This is at juxtaposition to NOAA determination that has not be qualified as to how NOAA determined that the county SMP is discriminatory – simply stating is not proving
 - e. This NOAA determination of the SMP as discriminatory needs EXPLANATION
35. Washington was the 1st state in the nation to address and achieve NOAA CZM Certification
36. Washington legislative INTENT for CMSP must be fully incorporated into any BOEM action – where fishing industry is preemptively protected from displacement of fishing grounds necessary to sustain coastal Fish Dependent Communities
37. Washington ORMA – Ocean Resources Management Act – applies to only 4 Pacific Coastal Counties
38. Washington Supreme Court Grays Harbor oil terminal decision based on ORMA must be upheld by agency actions at both the state and federal waters
 - a. **Agencies have a mandate to ascertain the INTENT of the legislature and carry it out**
 - b. ORMA is to be broadly interpreted (Washington Ocean Resources Management Act)
 - c. **Fisheries are to be preemptively protected**
39. Washington is the only state in the nation to initiate CMSP legislation to put protection of fisheries as a 1st priority, all other states imitated CMSP to install ocean energy
40. Recognize that after 5 years of building a Washington CMSP no area for OSW could be identified that could AVOID CONFLICT with existing uses of the marine waters

41. Washington is UNIQUE in the nation as the only state subject to the federal court Rafeedie Decision
42. Washington has large military practice zones where new industrial development is prohibited
43. Washington has a very large Olympic National Marine Sanctuary where industrial development is prohibited
44. Washington only has a very small 38 miles of coast into which fishing effort has shifted
45. These 38 miles of coast are also the only area that industrial development is reasonably foreseeable which is a strong CONFLICT with multiple existing uses and where there will be a major physical displacement of concentrated fishing
46. Windmill blades on land and ocean are different, ocean blades make more noise, impact to marine species is yet to be determined??? Analysis is still necessary to acquire.
47. Crab are negatively affected by EMF exposure - <https://www.mdpi.com/2077-1312/9/7/776/htm>
- 48. BOEM has NO metric Threshold that could lead to a NEPA NO Action Alternative – change required**
49. BOEM allows project developers to write their own EISs that will slant the bias outcome to allowing any project to move forward unabated even though BOEM assures otherwise – so far, NO projects in the USA offshore projects have been cancelled due to NEPA process – there is a 100% move forward outcome where agency accountability has been removed and communities endangered – every BOEM investigation has resulted in a FONSI – Finding of No Significant Impact – unrealistic outcome but when the only thing BOEM does is lease ocean to the highest bidder, a lease at the end of the process is all that is expected of BOEM
50. Industry produced EIS documents will tend to be incomplete analysis of adverse impacts laden with deficiencies, honest transparency will be shrouded in incomplete analysis, and will limit the public to be informed and participate in a meaningful manner
51. The Existing language in NEPA review is significantly limited to effects analysis – with existing language about “direct effects, indirect effects, and cumulative effects limited to just “effects”. This truncated language has consequences beyond what congress intended NEPA to accomplish in a NEPA EIS review that should curb abuses that the nearby communities will be subject to receiving
52. BOEM must realize that coastal county SMPs are approved state law and supersede WA ecology WACs which calls for a deep dive into coastal collaboration to help prevent current deficiencies in NEPA and incorporate local SMPs into the overall collaboration
53. CZMA calls for Federal, State and **LOCAL** cooperation
54. CZMA is based on reasonably foreseeable EFFECTS – nearby communities have a STRONG INTEREST in federal waters from 3 – 200 miles offshore that they fought long and hard to get a 200 mile limit with the **express congressional INTENT to stop the depletion of both fish and fishermen**

55. Congress authorized management which includes protection of Dungeness crab out to 200 miles offshore in 2017 to ensure that coastal communities were protected from federal fisheries standards that were incompatible with the lifecycle needs of Dungeness
56. Federal agencies must be consistent with local laws with minor exceptions in CZMs Certification
57. BOEM needs to supply a list of the 30 or more permits that need to be acquired to construct OSW with adequate notice when each is to be addressed and the public comment period for each
58. Offshore wind will produce MINIMAL jobs on the coast, if the Principle Power wind style platforms are utilized, they draw 60' of water, Columbia is deepest channel on the coast at 43' – NO coastal assembly of turbines in coastal onshore areas will occur due to channel restrictive depths
 - a. Coos Bay USACE channel will need to blast solid rock in order to deepen their channel
59. OSW is intermittent over 50% of the time and will require 100% backup for OSW
60. SW Washington has had the 4th most FISH DEPENDENT COMMUNITY in the nation
61. Dungeness crab has had the highest fatality rate of any occupation in the nation at 466/100,000, higher than any state fatality rate of Covid 19 – additional lost ACCESS to fish/crab will exacerbate this excessive fatality rate due to the current “Fish or Go Hungry INSANITY” in the crab fishery due to existing loss of ACCESS to fish/crab
62. Washington legislature confirmed their INTENT to protect the ocean environment and existing uses from additional industrial development in 2021 by banning offshore seabed mining, Oregon put this ban in place years earlier
63. 2007 congressional action on WRDA mandated the USACE to upgrade their Principles and Guidelines
 - a. President Obama mandated that the WRDA 2007 update be moved to CEQ and extended to most federal agencies including BOEM, NOAA, EPA, USFWS, and USACE
 - b. WRDA 2020 added to the 2007 update and mandated Environmental Justice parameters
 - c. 2007 WRDA was the only WRDA bill between 2000 and 2014 due to these highly controversial impacts associated with federal actions and **unacceptable effects on local communities from federal actions** – BOEM needs to understand the effects of 2007 WRDA on their actions today in establishing WEAs so that their effects are NOT punitive to nearby and distant water communities – BOEM WEAs will have real world OUTCOMES not just idealistic theory on coastal communities
 - i. WRDA 2007 is notable for the congressional move to reign in federalism that stepped on communities that were unable to interact with the federal government to protect themselves from HARM that was deemed OK by federal agencies claiming “National Interest” as a superior to local needs – **Congress mandated local needs must be protected**

- ii. WRDA 2007 consequence was INTENDED to stop the BLEEDING in rural communities
 - iii. WRDA 2007 was implemented to increase, not restrict or stymie public participation to bolster reasonable principles, guidelines, and sensible regulations for new projects and to protect the public locally
 - iv. The principles that came out of WRDA 2007 should be a significant influence on any OSW development with a heavy slant to protecting the needs of nearby and distant water communities that could feel the negative effects of offshore industrial development
 - d. **BOEM needs a FUNDAMENTAL CHANGE in their approach to WEAs** to fully incorporate the INTENT of congress to protect smaller coastal communities from large federal activities that were expanded to reign in federal activities under CEQ supervision after the 2007 WRDA
 - e. FUNDAMENTAL CHANGE must occur so that BOEM actions that have effects on People MUST MATTER Too, even if intervention is required by congress once again
 - f. Rural Fish Dependent Communities are petrified of troubled waters ahead where potentially ill placed WEAs GUT and displace fishing JOBS that could easily make Washington fishing go extinct in less than a generation severely aggravating coastal economic viability as a reasonably foreseeable effect of expanding WEA footprint on top of existing diminished ACCESS to sustainable fish/crab.
 - i. BOEM/NOAA MOU neglects the injustice of loss of coastal JOBS and increase rural coastal POVERTY which will increase the rural/urban economic divide
 - ii. Why should rural communities be FORCED to endure economic HARDSHIP and DECAY caused by excessive displacement due to industrial expansion in the sea
 - iii. Recent PFMC ad hoc/BOEM teleconference indicated that the current attempt to initiate 3 MG of WEAs was only a beginning of WEA demand
 - iv. Treating fishing like an unwanted stepchild from an illicit affair is NOT acceptable.
 - g. It is absolutely necessary to stop terrorizing rural natural resource based communities by excessive industrial takeover of the seas – loss of over 300,000 square miles to offshore energy is highly PROBLEMATIC for victims of fishing communities’ ability to THRIVE
 - i. Loss of over 300,000 square miles of fishing area is based on estimates to reach the Biden Administration’s 2050 offshore energy demands
64. Success in offshore industrial development is to locate OSW through finding opportunities that AVOID impacts to existing uses including but not limited to fishing – Offshore Washington that will be extremely difficult where genocide for some is not JUSTICE for ALL
65. BOEM lease management is not just about locating WEAs, it is about effects of those WEAs on people and their communities that rely on ACCESS to fish/crab for their wellbeing and

quality of life whether for fishing enjoyment or earning a living wage for coastal families that both rely exclusively on opportunities to ACCESS to sustainable fish/crab to Thrive, not barely SURVIVE by reducing fishing area.

66. Opportunities are usually disguised under a lot of “hard work” requiring considerable “hard look” to analyze catch data from harvest to the consumer’s dinner plate. Most analysis I’ve witnessed from BOEM offshore fishing investigations are minimal exvessel values that only portray a minimal part of the journey from harvest to the dinner table and never examine the value added to seafood on its way to the consumer.
67. This minimalist smoke blowing investigative technique of BOEM that portrays fishing by OMMISSION if any capital increases after exvessel is superficial at best; dishonest at worst giving the mistaken impression and erroneous justification that the loss of hundreds of square miles of displaced fishing grounds is not a social injustice even though the entire community standard of living is suppressed as the nearby communities are further apoplectically disadvantaged as another CUMULATIVE IMPACT is levied to the coast.
68. Outer Continental Shelf Lands Act directs BOEM to study and consider coastal, marine, and **HUMAN** Environmental impact in BOEM decisionmaking. Coastal communities need protection from abuse
69. Special attention must be given to the coastal socioeconomics associated with filling WEAs with OSW turbines that displace fishing effort over huge areas negatively affecting the lives of fishing families and rural Fish Dependent Communities’ future viability and resiliency.
70. BOEM decisions are legacy decisions that will change the future of the coast. The legacy MUST include the **precautionary principle** that is protective of these Fish Dependent Communities.
71. The Fact that there are already several lawsuits against the first BOEM OSW leases is ample evidence that BOEM could have done better at avoiding fishing grounds of the fishing industry and is producing coastal injustices.
72. Moving forward BOEM needs to establish the “Best Achievable Protection” for Fish Dependent Communities as their “**Standard of Care**” in the future led by AVOIDANCE of IMPACT that look for “Common Ground” with REAL SOLUTIONS that are protective of coastal communities as WEAs are formulated that are attentive to Cumulative IMPACTS currently denying nearby communities ACCESS to fish such as those disturbances located UNIQUELY on the Washington coast that has been on the BLEEDING EDGE of CHANGE for several decades with little if any lifeblood left to sacrifice.
73. BOEM MUST closely reexamine their policies vs. resulting effects on coastal communities as a major outcome anticipated – BOEM’s job is more than to established WEAs – BOEM must ensure that fishing is NOT depleted due to ACCESS denial. When fishing JOBS go someplace else, they do not come back
74. BOEM must become far more objective in WEA establishment so that existing use including fishing is not marginalized through numerous ill placed WEAs that damage coastal integrity.

75. A reasonable alternative in the NEPA process to protect and preserve existing uses of the ocean is the “no action alternative” which MUST not be dismissed as a viable alternative.
76. BOEM and other agencies involved in the development of the offshore wind facilities has not reached active fishermen, the methods being used to contact MUST be improved – federal register notice is inadequate even though legal the contact methodology needs to be changed to reflect better and more inclusive contact that leads to results that are protective of coastal Fish Dependent Communities
77. Decommissioning OSW funding needs to be an upfront consideration and solved so that the taxpayer is no longer responsible
78. Decommissioning OSW must include the final resting spots for defunct wind turbines for proper recycling including the composite turbine blades other than landfills
79. OSW development MUST not unreasonably interfere with fishing operations as required by the Outer Continental Shelf Lands Act – Displacement over hundreds of square miles is unreasonable if not located outside of fishing areas
80. Attempting to provide input to OSW developers after they have gained control of site access is anticlimactic as the die is cast to development
81. BOEM/state taskforce that excludes public participation during the taskforce meetings is denied public participation and a truncation of the administrative record
82. BOEM/state taskforce that excludes the public participation is being exercised under an exemption in the FACA law – this needs to change
83. BOEM lease process is operating under an exemption of utilizing the CEQ principles, requirements, and guidelines (PR&Gs) established at the direction of President Obama mandating WRDA 2007 updating of the USACE 1983 PRs be sent to the CEQ and extended to almost all federal agencies including BOEM and NOAA.

This is not a standard form letter sent in on a click of a computer check the box and it is sent after a signature is attached. This is thoughtful comment letter that needs to be addressed individually and applied nationwide to the MODIFICATION needs of BOEM creation of fill in the blank process of BOEM to industrialize our oceans and displace multiple coastal JOBS that are often necessary to sustain Fish Dependent Communities by creating excessively large WEAs that displace fishing over huge areas with negative effects on coastal communities overall. GOAL of BOEM must become not just the simple installation of WEAs where industrial developers want to be located but equally important to the nation is sustainability of our coastal Fish Dependent Communities viability and resiliency that will be greatly diminished if the WEAs are not placed in ocean areas that AVOID impacts to nearby and distant water communities to prevent their denigration. All coastal Fish Dependent Communities are very worried about what they have witnessed on all our coasts where OSW has landed and BOEM is proposing additional OSW areas for construction. One of the first priorities that must be brought to fruition is the establishment of a more transparent process that has some precise metrics with TRESHOLDS of security for the fishing industries not just preservation but lend to their THRIVING future. All coastal Fish Dependent Communities pray for protection of their fishing industry that prevents the depletion

of both fishing and the industries that are necessary to ensure the viable fishing industry future free from PAINFUL effects of critical displacement that undermines coastal fishing JOBS MUST be avoided. BOEM needs to **only move forward at the speed of TRUST**, and BOEM has a long way to go to develop TRUST with the coastal Fish Dependent Communities that will receive the negative effects of oversized or misplaced Offshore Wind Facilities in fishing grounds that our communities need to THRIVE. Certainly, moving the WEAs further offshore is helpful (beyond 1300 meters) BUT the placement and size of the WEAs is vital to coastal maintain coastal economic security, and offshore industrial development MUST AVOID CONFLICT with existing uses including fishing as a first priority of meeting the needs and safety of the American people and any offshore wind facilities should at a minimum be able to at least break even so as to protect the integrity of a process that must not end in significant loss of the public purse. Simply supplying a public liaison from the project proponent is inadequate to gain the TRUST of the coastal communities that stand to sustain significant economic damages from the loss of ACCESS to their fishing grounds which could be catastrophic to the future of the Fish Dependent Communities even if all documents are publicly available. As recently as 23 May 2022 the Oregon Legislative Coastal Caucus held a series of public listening sessions all up and down the Oregon coast. Shocking revelation from one of the BOEM/Oregon Taskforce members, at one of the hearings, “Taskforce did not get any inkling of the 2200 square mile “call area” in Southern Oregon until 18 hours before BOEM made the official announcement” – this is a **TOTALLY FAILED PROCESS** and total lack of collaboration of this decade long process and so called cooperation between BOEM and the Oregon taskforce. **BOEM is acting like an out of control ocean CZAR** where other uses of the ocean and the people of the coast are simply stepped on and squished like a bug on the sidewalk – unfathomable disregard for the historical and cultural historical uses of the ocean and a total violation of the congressional and legislative INTENT. TRUST in the BOEM process is completely obliterated. **This totalitarian BOEM top down approach is in complete need of REFORM – this will be done even if congress is forced to make drastic changes.**

The Attached letter is extremely timely from the House Transportation and Infrastructure Committee chaired by Rep DeFazio, which references many of the concepts put forward in this document and calls out the 2007 WRDA bill which mandated the USACE to update their 1983 Principles and Guidelines. President Obama sent this update mandate to the CEQ and extended the mandate to most federal agencies including those responsible for leasing sections of the ocean for industrial development – yes BOEM. The updates were broadened and became known as the PR&Gs (Principles, Requirements, and Guidelines) which were supposed to be the PR&Gs that guided federal agency actions toward national water development projects with recommendations to incorporate the PR&Gs into required NEPA documents to provide transparency, **involve the public early and often in the NEPA process**, provide a **thorough well-reasoned scientific analysis**, **provide for public safety** and inform the proper OUTCOME at the end of the water resource development projects. The PR&Gs are designed to change the focus for federal water resource investments from essentially an economic-based analysis to encompass a much broader perspective including but not limited to the safety of people

exposed to federal actions. The PR&Gs require that economic development, environmental, and **social effects all be considered and evaluated in determining which if any alternative to recommend for implementation.** The PR&Gs state that agencies “should strive to **maximize public benefits, with appropriate consideration of costs.**” Public benefits are defined as encompassing environmental, economic, **and social goals**, including “monetary and non-monetary effects and allow for the consideration of both quantified and unquantified measures.” Later WRDA bills extended the INTENT of congress to involve **Environment Justice and protect local communities from HARM** as new federal involved projects were proposed and either brought into fruition or lead to the No Action Alternative to be recommended. The last four words of the attached letter are especially important to put into action, **“responsive to local needs.”** The decision rationale should be clearly explained so the public can understand how the final selection alternative was made to benefit more resilient communities and avoiding conflicts. Placement of offshore industrial complexes **MUST AVOID CONFLICT** with existing uses if they are to honestly become a part of the ocean.

Respectfully submitted,

Dale Beasley, President Columbia River Crab Fisherman’s Association/Coalition of Coastal Fisheries

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crabby@bakerbay.org



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington DC 20515

Peter A. DeFazio
Chairman
Katherine W. Dedrick
Staff Director

Sam Graves
Ranking Member
Paul J. Sass
Republican Staff Director

February 10, 2022

The Honorable Michael L. Connor
Assistant Secretary of the Army for Civil
Works
Department of the Army
108 Army Pentagon
Washington, D.C. 20310-0108

The Honorable Brenda Mallory
Chair Council on Environmental Quality
Executive Office of the President
730 Jackson Place NW
Washington, D.C. 20503

Dear Assistant Secretary Connor and Chair Mallory:

We urge your immediate action to finalize implementation of the “Principles and Requirements for Federal Investments in Water Resources” and the associated interagency guidelines for the U.S. Army Corps of Engineers (Corps).¹ In the Water Resources Development Act of 2020, Congress directed the Corps to issue final agency procedures necessary to implement the new Principles, Requirements, and Guidelines (PR&G).² Prompt implementation of the PR&G is essential to ensure the Corps maximizes sustainable development, promotes environmental justice, transparency, and meaningful engagement, and considers the full range of benefits for future water resources development projects.

In 2007, Congress recognized that the rules governing how federal agencies evaluate potential water resources development projects had become antiquated—focusing on an overly narrow set of parameters to evaluate federal investments that made it difficult for federal agencies to address unique local water resource needs, or worse, precluded agencies from recommending project alternatives favored by local communities. In the Water Resources Development Act of 2007³, Congress directed federal agencies, including the Corps, to update and modernize the 1983 Principles and Guidelines⁴, and specifically required that water resources projects maximize sustainable economic development, avoid the unwise use of floodplains, and protect and restore natural ecosystems, while ensuring the consideration of environmental justice concerns.

The Council on Environmental Quality (CEQ) led the comprehensive effort to modernize the guidelines, involving the full range of federal agencies engaged in water resources planning. CEQ

¹ See Updated Principles, Requirements and Guidelines for Water and Land Related Resources Implementation Studies

(<https://obamawhitehouse.archives.gov/administration/eop/ceq/initiatives/PandG>).

² P.L. 116-260, Division AA, Section 110.

³ P.L. 110-114, Section 2031.

⁴ See https://planning.erdc.dren.mil/toolbox/library/Guidance/Principles_Guidelines.pdf.

issued final “Principles and Requirements”, 5. for all federal investments in water infrastructure, as well as final “Interagency Guidelines”, 6. for implementing the updates. Both included public comment periods, incorporated stakeholder input, and utilized interagency collaboration. Together, these documents comprise the PR&G that was meant to replace the 1983 guidelines and constitute the framework for analyzing federal investments in water resources. With these efforts, CEQ incorporated a full-spectrum approach to projects and successfully aligned water investment policies across the federal government.

It is our understanding that every federal water resource agency, other than the Corps, has formally adopted the PR&G. In WRDA 2020, acknowledging that the Corps had still not implemented the PR&G into its missions, Congress included a provision that required the Secretary of the Army to issue final agency procedures to formally adopt the PR&G for the Corps. This legislation included a 180-day deadline for the issuance of these procedures, meaning they are now more than seven months late. We urge you to complete this work, now twice statutorily required, and implement these long-awaited updates.

The impacts of the PR&G are not as simple as “modernization” alone. These updates will allow the Corps to fully identify the national, regional, environmental, and societal benefits of future water resources development projects. They will promote better investment of federal funds by analyzing a broader range of long-term costs and benefits. The PR&G will increase community engagement and collaboration, leading to stronger local support and more desirable outcomes. They will also promote the consideration of climate change, extreme weather, and resiliency in studying and planning Corps projects. Project consideration will, in short, be far more inclusive and flexible.

Finalizing the PR&G is also a critical step to align the administration’s priorities with the Corps’ mission areas. They will ensure that federal dollars invested in water infrastructure are spent responsibly, and on projects that are designed for 21st century issues such as drought, floods, rising tides, and preserving our natural resources. Once implemented, the PR&G will allow the Corps to consider wider perspectives when evaluating projects, such as community risk, ability to pay, and long-standing environmental injustices. Full implementation of the PR&G will also help ensure that the important work of the Corps is accessible to all communities, ensuring that rural, Tribal, and economically-disadvantaged areas can benefit from the Corps’ expertise to address local water resource challenges.

As you know, the PR&G applies only to the Corps’ project and programmatic authorities and does not modify the Corps’ regulatory actions and authorities. Accordingly, implementation of the PR&G will have no impact on permitting timelines, consultation, or scope. Corps actions under the Clean Water Act and Endangered Species Act, for example, are outside of the scope of the PR&G. Thus, these changes can be incorporated without any concerns for project or permitting delays.

5 See *supra* note 1.

6 See *id.*

We must ensure that the historic investments in the Corps' water resources infrastructure being made through the Infrastructure Investments and Jobs Act and other critical funding programs are not formulated using a 1980's perspective. As this administration seeks to #BuildBackBetter, it is essential that you, finally, put in place the tools for water resources project development that are more comprehensive, more inclusive, and more economically, socially, and environmentally responsive to local needs.

Accordingly, we urge your immediate action to finalize implementation

Sincerely,



PETER A. DEFazio
Chair
Committee on Transportation
and Infrastructure



GRACE NAPOLITANO
Chair
Subcommittee on Water
Resources and
Environment

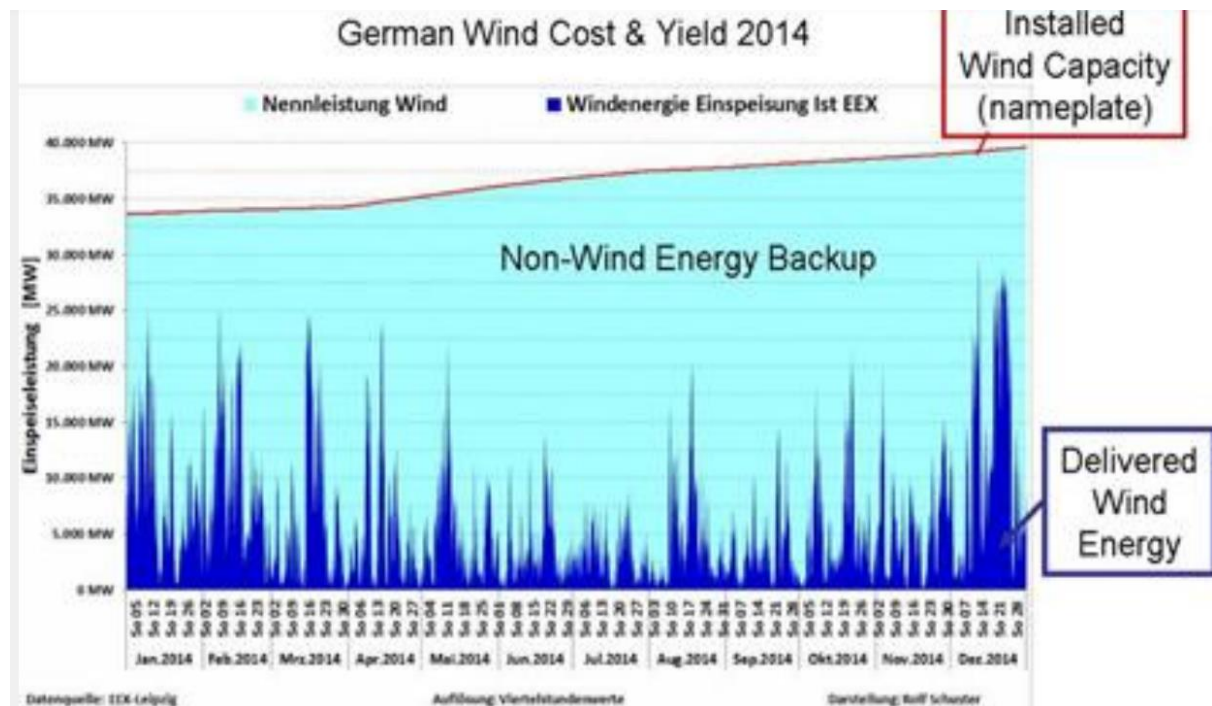


JESÚS G. "CHUY" GARCÍA
Member of Congress

cc: Ms. Candice Vahlsing
Associate Director for Climate, Energy, Environment, and Science
Office of Management and Budget

This is why fishermen and the public need to be at the BOEM/State Taskforce meetings.

Before we all get too excited about Wind Energy maybe we should all investigate this type of graph of Wind compared to Actual MG of useable output to power our homes and businesses.



For an honest portrayal of the actual wind energy delivered to the grid this is the type of analysis that needs to be available to every US citizen to look at cost/benefit remembering all the light blue is covered by alternate baseload electricity like natural gas or coal, in Washington this may be hydropower but even though it is carbon free energy it is not termed "green energy" why??.

Never doubt that a small group of thoughtful, committed citizens can change the world, indeed it is the only thing that ever has. Margrett Mead

CCF/CRCFA is not out to change the world but we sure are out to protect and preserve what small fishing area that the Washington fishing fleet has LEFT in which to fish, only 38 miles south of Westport, the rest is compromised by the Rafeedie Decision and other adverse cumulative impacts negatively affecting our fisheries some but not all which have been listed throughout this document.

Offshore energy development must move at the **speed of TRUST** – currently TRUST is not developed between BOEM and the affected coastal communities.



Coalition of Coastal Fisheries

Coastal Office: PO Box2472, Westport, WA 98595 – 360 642 3942, Cell 360 244 0096

Administrative Office: 806 Puget St. NE, Olympia, WA 98506 – ofc: 360 705 0551

.....Serving the needs of the coastal fish dependent coastal fishing communities...

Officers

Dale Beasley, President
David Hollingsworth, VP
Libbie Cain, Secretary
Doug Fricke, Treasure
Coordinator

Directors

Bob Alverson
Bob Kehoe
Mark Cedargreen
Bob Lake
Kent Martin
Scott McMullen
Dick Sheldon
Butch Smith
Ray Toste
Louie Hill
Brian Allison
Carl Nish

Organizations

American Albacore
Fishermen Association
Bandon Submarine Cable
Council
Columbia River Crab
Fisherman's Association
Fishing Vessel Owner
Association
Grays Harbor Gillnetter's
Association
Ilwaco Charter Association
Puget Sound Crab Association
Purse Seine Vessels Owners
Association
Salmon For All
Washington Dungeness Crab
Fishermen's Association
Washington Trollers
Association
Western Fishboat Owners
Association
Westport Charterboat
Association
Willapa Bay Gillnetter's
Association
Willapa-Grays Harbor Oyster
Growers Association
Many associate businesses

Executive Director

Tom Echols, Executive
Director
Echo Enterprises NW
Olympia WA
Cell: 360 951 2398

RE: BOEM Newport PROUA discussion

20 May 2014

Correcting FLAWS and “process” over-reach before it is too late

Suggest a **MORATORIUM** on development until this is resolved

The Coalition of Coastal Fisheries would like to remain “optimistic” that this meeting between BOEM and the people of the Coast of Oregon/Washington can result in a positive “change” from business as usual where the coastal communities’ reliance on ACCESS to public natural resources, fish, for the economic and social wellbeing of the coast is fully protected and that conflicts between new emerging use like ocean energy and existing sustainable fishing are acceptably resolved and that energy is not automatically given a “pass” to locate in prime fishing grounds just because it is convenient and cheaper for the new ocean energy companies to develop industrial facilities in their chosen location. History of BOEM leases has not necessarily been kind to the coastal communities or considered their health and wellbeing in historical processes.

- COASTAL WATER DEPENDENT PEOPLE MATTER
- MUST BECOME A “DIRECT” PART OF THE PROCESS!
- FISHERY RESOURCES MATTER TO THE COAST!
- MARINE ECOSYSTEMS MATTER!
- **AVOIDANCE OF IMPACT MUST BE A FIRST PRIORITY!**

We the people of the coast are willing to work hard to identify NO CONFLICT NO HARM areas for industrial energy development that avoids:

- **Prime fishing grounds**
- Ecological important areas
- Fisheries resources nursery grounds
- Important migration routes of sea animals and BIRDS
- Protects and Preserves Existing Sustainable Uses & ECOSYSTEMS

In order to realistically AVOID industrial development in these very important areas to **AVOID CONFLICT AND HARM** to coastal fisheries and ecologically sensitive areas a better database of these five areas of concern is required. Acquiring vital information must start with a

paradigm shift in information gatherings that provides a comprehensive, transparent, objective data set that is developed “cooperatively” to protect the coastal communities from abuse from ill-placed and oversized industrial facilities and “unnecessary” loss of open public access to marine waters that have historically been protected by the “Public Trust Doctrine” since Roman times.

- Assemble leading team of marine scientists and all fishermen as willing participants from all fisheries and other marine water dependent uses in an open and transparent dialogue for information exchange and validation of “all” existing datasets including field verification where required.
- Assemble an existing database that everyone agrees is representative of the existing uses, fishing areas, and important ecological areas to AVOID during industrial ocean energy development.
- Identify gaps in the database.
- Identify and hire willing fishing vessels to do “cooperative” research with the scientific community
- Acquire the funding for the cooperative research from mile 0 to a bare minimum of 700 fathoms.
- Fill the data gaps necessary to **AVOID CONFLICT AND HARM** to the coastal fishing communities as new industrial uses of coastal and OCS waters are industrialized in a manner that protects coastal communities’ lifeblood.
- After all relevant comprehensive information is assembled, do the required “hard look” comprehensively at the coast to identify **NO CONFLICT NO HARM** areas for emerging new use (ocean energy) to develop in a manner that protects coastal communities as **“thee 1st priority”**.

New emerging use of marine waters is not entering a vacuum in Pacific coastal waters. Cumulative impacts do matter. New ocean use cannot and must not be the only consideration in evaluating overall impacts to the coast. This is NOT a balancing act. Many competing uses and complications are already co-existing in our offshore waters that affect “suitable” energy development areas that must **AVOID CONFLICT AND HARM** to historically existing uses:

- **Fishing areas**
 - Deep draft commerce
 - Tug and towlanes
 - Dredge disposal sites
 - Olympic National Marine Sanctuary
 - Federal obligations to four coastal treaty tribes
 - Ecologically sensitive areas and important migration routes
 - Critical marine habitats & nursery areas
 - Marine Reserves/Sanctuaries
 - Weather buoys
 - Scientific instrumentation
 - Aesthetic viewsheds
 - Bird and mammal migration routes
 - Buried electrical cables & routes
 - Other considerations

Thank you for giving the Coalition of Coastal Fisheries an opportunity to provide BOEM our critically important views on this extremely important consideration that affects the very being and lifeblood of the Coastal communities.

Additional data and funding to acquire that data is required to make informed decisions that “Protect and Preserve Existing Sustainable Uses including but not limited to fishing and ecosystem function of our coastal marine waters and allows emerging new use to develop in areas of NO CONFLICT NO HARM preserving the wellbeing of the coastal communities as a first priority as the Washington legislature INTENDED when they put CMSP legislation in place.

Concerned for the wellbeing of coastal Fish Dependent Communities,

Dale Beasley, president Coalition of Coastal Fisheries

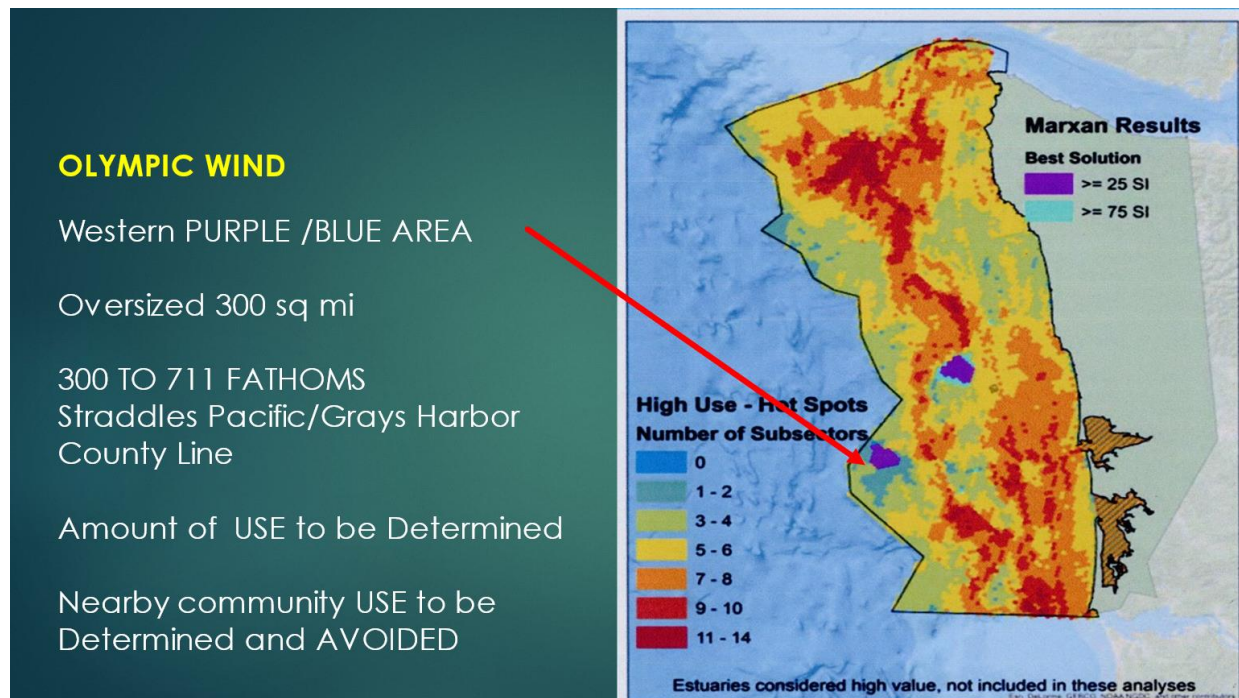
PLEASE RESPOND

NOTE: even though hand delivered BOEM did not respond to this letter!

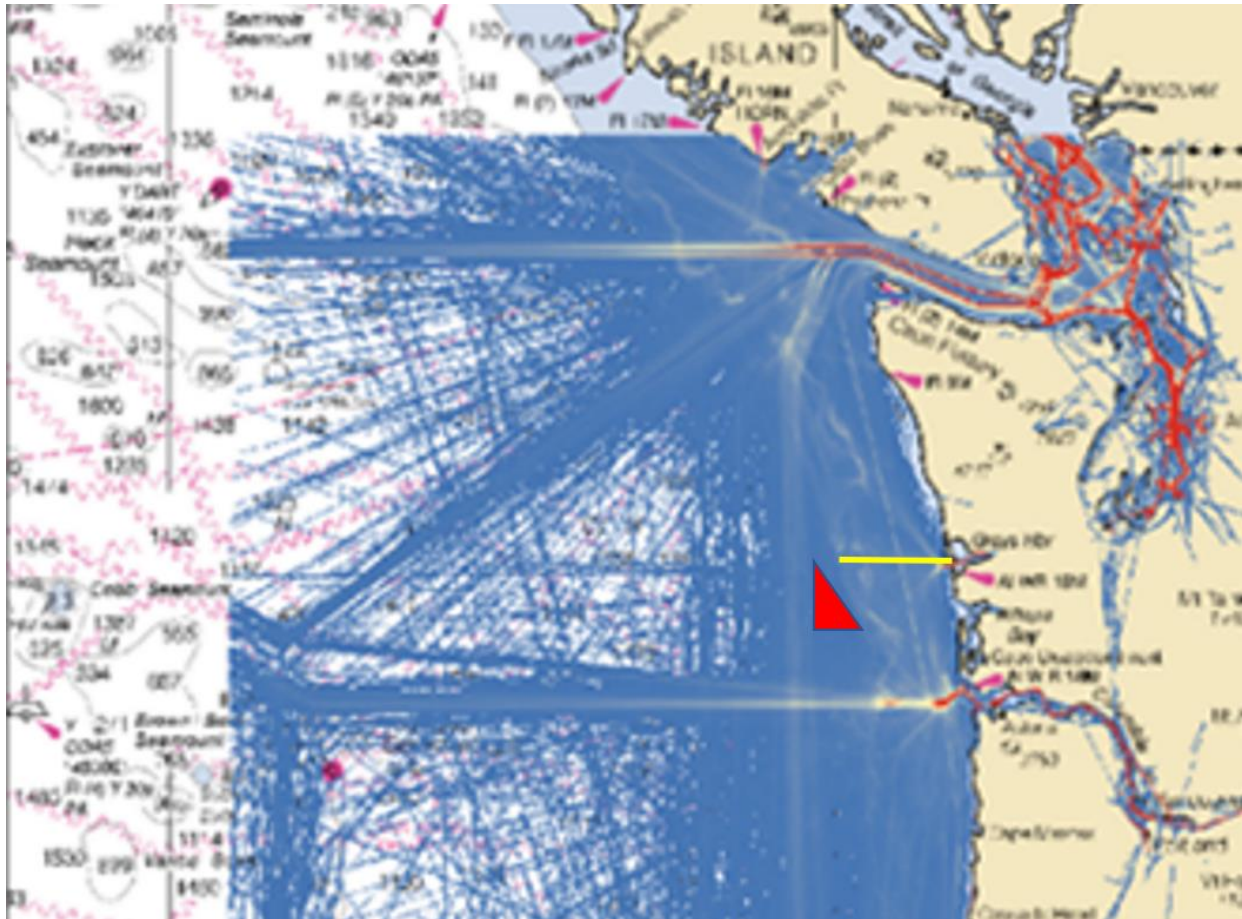
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<https://www.nrel.gov/docs/fy20osti/74597.pdf>

<https://www.govinfo.gov/content/pkg/CFR-2011-title33-vol3/pdf/CFR-2011-title33-vol3-part322.pdf>



USCG analysis of existing offshore vessel traffic 2022 – exclusive of small vessels



Bright red triangle is approximate position of Olympic Wind industrial facility

Bright yellow line is southern end of tribal U&As

Light cream lines are very high density vessel traffic

585.641 (d) – these passages show up multiple times in the CFR 585

(a) Conforms to all applicable laws, implementing regulations, lease provisions and stipulations;

(b) Is safe;

(c) **Does not unreasonably interfere with other uses of the OCS**, including those involved with National security or defense;

(d) Does not cause undue harm or damage to natural resources; life (including human and wildlife); property; the marine, coastal, or human environment; or sites, structures, or objects of historical or archaeological significance;

(e) Uses best available and safest technology;

(f) Uses best management practices; and

(g) Uses properly trained personnel.

30 CFR 585.647 (7)

(7) Social and economic conditions. Employment, existing offshore and coastal infrastructure (including major sources of supplies, services, energy, and water), land use, subsistence resources and harvest practices, recreation, **recreational and commercial fishing** (including typical fishing seasons, location, and type), minority and lower income groups, coastal zone management programs, and viewshed.

(8) Coastal and marine uses Military activities, vessel traffic, and energy and non-energy mineral exploration or development.

(9) Consistency Certification If required by CZMA, as appropriate:

(A) 15 CFR part 930, subpart D, if the GAP is submitted prior to lease or grant issuance;

(B) 15 CFR part 930, subpart E, if the GAP is submitted after lease or grant issuance.



Also see enclosed CCF/CRCFA testimony at the Oregon Coastal Caucus listening session at several major Oregon ports, Astoria, Newport, Coos Bay, Brookings. At the Astoria Session, a member of the Oregon BOEM Taskforce spoke to the efficacy of the BOEM process of establishing offshore wind areas. The taskforce member state clearly that BOEM did not notify the Oregon side of the taskforce about the position or size of the southern Oregon “call areas at 2200 square miles of ocean in primary fishing grounds. The taskforce in existence for over a decade was a complete SHAM when the collaboration was totally misplaced – NOT at all, a one sided process with NO consideration of the needs of the nearby communities in southern Oregon. The Oregon side of the collaboration was totally dismissed by the new ocean CZAR that definitely overreached its authority to ignore Oregon coastal needs.

Offshore wind is ALL PAIN AND NO GAIN. Washington has plenty of carbon free power sources available and in ample supply to meet all our needs for the foreseeable future if we use our Washington power in Washington instead of shipping it out of state. By 2025 Washington power supply will be very close to 100% carbon free electricity except for the gas backup power necessary when the sun is not shining, or wind is not blowing. Baseload power is a must to avoid area backouts, blackouts Washington can avoid unless our power supply is completely run off the rails that will hurt those in

our nation in most need of assistance. Energy policy MUST be compassionate to those in need.

See attached – CCF/CRCFA testimony hand delivered to the Oregon legislators who also testified against offshore wind at the hearing. I also spoke at the hearing and did not repeat my hand delivered letter. The CRCFA/CCF mission is to STOP the depletion of both fish and fishermen and to ensure the congressional INTENT of the OCSLA policy is upheld, “the right to navigation and fishing therein shall not be affected”. The initiation of the southern Oregon call areas definitely is a complete VIOLATION of the congressional INTENT and definitely in VIOLATION of the Washington legislative INTENT of the CMSP legislation that was UNIQUE in the nation and legislated to 1st and foremost Protect and Preserve existing ocean uses including fishing as a 1st priority and only allow ocean energy if the new merging industrial complexes could AVOID CONFLICT with existing uses. It should also be noted that the Washington Supreme Court got the INTENT of the ORMA legislation correct in their UNANIMOUS 9 – 0 decision in the Grays Harbor oil terminal case where the court opinion state 3 notable issues:

1. Agencies have a duty to ascertain the INTENT of the legislature and carry it out
2. ORMA is to be interpreted broadly
3. Fishing is to be preemptively protected

The legislature directed coastal counties to also include ORMA in their SMPs. Pacific County has incorporated ORMA, and ecology has approved the Ocean Section 6, ALL of it including the “Prohibition on fixed structures in ocean waters currently in effect only 0 – 3 miles from shore. The county is waiting for ecology to request of NOAA full CZM certification. It should be remembered that the Prohibition on Fixed Structure language was a broadening of language to eliminate any “discrimination” against a single industry like ocean energy. NOAA has never explained how this language that was broadened to avoid discrimination is at odds with the intent of the SMP to not single out any particular industry for discrimination. The onus must be put on NOAA to explain their opposition to preservation of fishing which the US EEZ was put in place to do two things, “1. Prevent the depletion of fish 2. Prevent the depletion of fishermen” as Senator Magnuson, father of the creation of the EEZ stated in a letter to me in 1974 of which I still have and have shared with others.

Also, I'd appreciate a timeline of the history of Pacific County SMP ocean section that was initially sent to ecology in 1990 including the year of initial SMP approval and termination date of the SMP from previous CZM Certification including the reasons involved including NOAA involvement.

At the recent Oregon legislative caucus public hearing on offshore wind in Astoria, one Oregon Taskforce person's testimony stood out above the rest, a current member of the Oregon/BOEM Taskforce stated clearly, "The taskforce was not informed of BOEM's intention to put out a "call for interest" for 2200 square miles of ocean to lease for OSW until 18 hours before BOEM made the public announcement." UNFATHOMABLE! This speaks directly to the uselessness of even engaging BOEM like the Oregon Taskforce has done for over a decade – local state interests were not considered important to the BOEM process that completely ignored state input into the process when 200 square miles of ocean was put up for consideration of full offshore development. Reprehensible breach of any TRUST that "may" have been developed. BOEM evidently views themselves as the new ocean CZAR with full power to do as they please no matter the impact on coastal communities. This was a very scary statement BOEM made in southern Oregon. It is beginning to look like we'll need congressional action to reign in BOEM or our coastal communities will suffer gross indignities in the future as the soul of the coast is lost in any preemptive action that failed due to BOEM pernicious disregard of coastal needs.

Several years ago, the BOEM western regional director, Ellen Arneson, told me after a BOEM/Oregon Taskforce meeting in Portland that "Fishing is everywhere so it makes NO difference where BOEM issues offshore energy leases". **WRONG WRONG WRONG.** This statement led directly to CCF initiating Washington legislation in 2010 so that Washington is the only state in the nation to have a UNIQUE law that puts preservation of existing uses as a 1st priority and only allow new emerging industrial development that AVOIDS CONFLICT with fishing, all other state initiated ocean energy legislation to install ocean energy.

CUMULATIVE impacts on fishing MATTER! Washington is UNIQUE in the nation as the only state to endure the Rafeedie Decision where our state fishing fleet lost 50% of ACCESS to all fish/crab on 70% of the Washington coast concentrating 90% of the crab fleet to the very small area south of Westport in only 38 miles of coast which has cost the crab fleet in excess of

\$240 million dollars which has forced a "Fish or Go Hungry INSANITY" into the crab fishery that has produced the highest fatality rate in Dungeness crab in WA & OR of any occupation in the nation at 466/100,000. This fatality rate is higher than any state in the nation due to Covid 19. Costs of lost ACCESS to fish are not only measured in dollars but must also consider the death rate, a discussion sorely lacking to date. Restricting fishing ACCESS does have deadly consequences.

BOEM rogue actions can only be stopped or even curbed by CZM Certification of the Pacific County SMP, the southern Oregon mess is an indication of what is to come if we do nothing. The US Dept of Energy is predicting 110,000 MG of offshore wind by 2050, we are just at the being of significant BOEM adverse activities that will destroy historical fishing culture all over the country and it should be noted that CUMULATIVE existing curbs on fishing are highly significant be BOEM takes more fishing area in SW Washington, the only place possible in Washington which is a MAJOR area of CONFLICT with fishing that is overly concentrated in the area. Washington fishermen are currently at RISK long before Olympic Wind showed up requesting additional CUMULATIVE ocean. Currently our fishermen are denied major ACCESS to fish/crab on 70% of the WA coast. Only so much lifeblood, ACCESS to fish/crab can be drained from the existing industry before collapse which is imminent in our young next generation of heavy debt fishermen. Every citizen FORCED to purchase the extremely expensive offshore wind which NREL estimates as high as \$0.85/kW off WA through at least 2032 is nothing but a coastal poverty program for our people. The cost/benefit ratio of offshore wind is totally UNREAONABLE and punitive to anyone forced to purchase it – a coastal poverty program, no other way to describe offshore wind. NO ONE in their right mind would pay 15X or more the sticker price on the window of a new car, why would anyone in their right mind be willing to pay 15X or more for offshore wind compared to the BPA rate of about \$0.04/kW. Fishing has overpaid for hydropower in Washington already with a heavy toll of lost ACCESS to salmon. Our offshore troll salmon fleet is currently fishing on < 1% of the salmon available for harvest when I entered the salmon fishery in the 1960's. CUMULATIVE adverse impacts MATTER and must be not just considered in the future activities in Washington offshore waters but MUST be the basis for full denial of any more Lost ACCESS to fish for the coastal fleet that is already bearing the full burden of Rafeedie on their backs, an oppressive overload.

See below CCF/CRCFA comments to the Grays Harbor Commission in support of their "JUST SAY NO" to offshore wind letter to BOEM. The GH Commissioners understand that offshore wind is a NO Fishing No Income Zone wherever it is installed.

Any additional lost ACCESS to fish will be fatal to young fishing families struggling to survive and the other shoreside businesses fishing supports, Fishing needs the full protection the legislature INTENDED when CMSP legislation was enacted, CZM Certification is the only sure way to put the brakes on BOEM that only does one thing, erase fishing when they officially place WEAs in the ocean. Currently BOEM has NO bounds, NO conscience for who they hurt, and NO empathy whatsoever. **Offshore wind is ALL PAIN AND NO GAIN!**

Ecology holds to keys to the success or failure of SW Washington, the coast can THRIVE or barely survive or worse if ocean energy moves forward as the US Dept of Energy actions to install 110,000 MG by 2050 moves forward with abandon displacing fishing without bounds, shoreside support business will also feel the significant pain.

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Astoria listening session presentation

23 May 2022

RE: Offshore Wind is punitive to the NW – all PAIN NO GAIN

BOEM Offshore Wind lease process is BROKEN, flawed in many ways & in serious need of a MAJOR makeover by congress. BOEM only does one thing, lease ocean to the highest bidder with little if any regard for existing ocean uses or negative effects on nearby coastal communities. The BOEM process needs to produce NO HARM to communities or deleterious effects on the marine ecology. BOEM has NO thresholds on MAXIMUM PAIN they perpetuate on communities. BOEM has NO Fisheries Protective Standards in place. Definitely, BOEM fails all tests of the MURT principle of community interaction – Mutual Understanding Respect and TRUST of the waters they invade. It is utterly shocking that BOEM fails to AVOID CONFLICT with existing ocean uses and they move forward as if those existing uses did not exist. Quite honestly unconscionable misuse of federal authority to unceremoniously displace existing fishing grounds and other existing uses like towlane truncation shown in one of the maps of Southern Oregon. The current BOEM process is not only BROKEN, it is Total government OVERREACH at its worst where the public is not allowed to speak at BOEM/state taskforce meetings **utilizing an exemption** in the FACA law.

The BOEM process certainly neglects the congressional plain text policy statement that is extremely clear to any lay person in the OCSLA legislative statute that clearly states, **"The right to navigation and fishing therein shall not be affected."** Displacement of valuable fishing grounds over hundreds/thousands of square miles of productive ocean is a clear violation of congressional intent as stated in the BOEM originating statute. The sands on the shore of maritime law have shifted far afield in the last decade but not so far that, **"The right to navigation and fishing therein shall not be affected,"** can be dismissed by any agency.

United States Coast Guard is currently in the process of establishing vessel traffic zones that would preclude offshore wind from encroaching on these offshore traffic fairways on the west coast and the fishing industry should get on board ASAP to protect their vessel traffic zones.

My name is Dale Beasley, a lifelong 4th generation commercial fisherman, successfully retired after 45 years at sea. Fishing was very good to my family. Fishing is the lifeblood of our coastal communities and is highly sustainable into the reasonably foreseeable future. After a 150 or more years, fishing remains highly sustainable if not derailed by new emerging offshore industrial development displacing the historical uses of the ocean. The recent BOEM call areas are only the beginning of Offshore Wind placing our communities at RISK as the US Dept of Energy is projecting 110,000 megawatts in production by 2050 a massive industrial invasion that will completely destroy our coastal culture. The future of fishing is totally at RISK if this 2050 US Energy Department vision of ocean destruction comes to fruition.

Carbon ideology is pure hubris relative to offshore wind developments that will not stop or even put a tiny dent in global warming that has been going on for the last 19,000 years. Might sound good to the uniformed but is nothing more than poppycock. People like Al Gore have already made many many millions peddling this myth. Our nation's current Energy Policy is seriously damaging our nation's people, especially those that cannot afford to put food on their family's dinner table or gas in their old beat up vehicles. Their American Dream is being shattered by an energy policy that is forcing inflation toward the moon for every American. US energy policy MUST be changed where it is companionate to all of our society with no one left behind, including our Fish Dependent Communities.

Wake up America, current US Energy Policy is a horrible impoverishment of our people. America is not yet ready to scuttle our current fossil fuel economy for hope and change relative to our carbon based transportation. Diesel and gasoline drives America, it certainly drives the fishing industry and there is NO substitute for diesel engines in our fishing vessels that is reasonably foreseeable any time in the near future. In my wildest dreams I cannot see placing heavy weight batteries or converting to hydrogen any time soon in our fishing vessels.

I'd like to thank Heather Mann and Lori Steele for having the foresight to put this series of public testimony opportunity together on the entire Oregon coast in mid 2022 for our coastal legislators to hear and understand that our coastal way of life, our families' income from fishing is being put at SERIOUS RISK by massive displacement and HARM from offshore wind driven by energy policy that fails to put the American people first. Almost all fishing will be displaced wherever these offshore wind industrial developments are allowed and by the 2050 US Dept. of Energy projections of 110,000 MG of installed offshore wind all fishing will be gone if our congressional legislators do not bring this extremely expensive energy policy back to earth before it crushes our people completely, and especially those rural people that do not have ready access to or cannot afford to go carbon free. Slow down move more deliberately at the speed our American people can adjust to in reasonable time frames where NO ONE is left behind. US Energy Policy must work for all Americans, not just those that can afford to overspend to obtain energy at any price.

We are currently facing a challenging **Don Quixote moment in time** where the Coastal Fish Dependent Communities are jousting at windmills with a similar effect of this historical character aided and abetted toward poverty by BOEM potential adverse impacts from over extended WEAs placed in productive coastal fishing waters that nearby communities need to sustain their stability and viability of future fishing families. Fish Dependent Communities face disproportionate adverse economic HARM by not only losing "Major" ACCESS to fish/crab that will also shatter nearby vulnerable coastal communities that need low cost power to maintain any semblance of vibrancy. Oregon and Washington have NO need for expensive intermittent offshore power that will need 100% BACKUP power 60% of the time to keep the lights on in all our homes statewide.

Offshore Wind is a Coastal Poverty Program, not just for fishing but the entire coastal community. The National Renewable Energy Laboratory projects the price of offshore floating wind in the Columbia area to exceed \$0.75 kilowatt through at least 2032 and probably much longer with the raging inflation we are currently experiencing in this nation. The cost of everything is on the rise, a lot these price increases are due to our **national energy policy that is not in tune with the needs of the majority of our American people.**

This past crab season is the best season on record bring new dollars into our coastal communities, a strong testament to the health and sustainability of our fishing industry. These new dollars generated by fishermen will be spent many times locally by the people that fishing supports -processors, trucking companies, fish distributors, gear supply stores like Englund Marine, Coast diesel mechanics, AMCO shipyard, Junas hydraulics, electronic technicians, home builders, concrete masons, lumber stores, car and truck dealerships, local restaurants, grocery stores, Wilcox Fuel Supply, and more. All these businesses have many employees that benefit from fishing's success. Fishing can continue to drive our coastal economy if not derailed by new emerging offshore wind industrial development displacing the historical uses of the ocean.

BOEM ocean offshore wind lease process is seriously flawed, especially the unsolicited lease request and is extremely dangerous for the long term viability and wellbeing of our coastal Fish Dependent Communities.

BOEM has NO accountability for their destruction of our coastal Fish Dependent Communities; all they do is lease fishing grounds to the highest bidder according to recent remarks by Doug Borne, Western Regional BOEM director. Contrary to Mr. Borne's remarks BOEM lease actions do have considerable consequences on land where fish/crab is denied over hundreds/thousands of square miles of ocean.

BOEM has NO burden of proof that their lease process is compatible with anything, least of all with existing use of the high seas, including but not just limited to fishing but significant adverse impacts on the ocean ecology that are yet to be discovered. We have NO IDEA how for example ESA endangered Blue Whales will react to the noise, if they will abandon their feeding in these WEA areas due to the excess noise.

BOEM process of lease now and ask questions later is an upside down illicit affair.

BOEM process leads to millions, or billions of dollars being spent to lease ocean promoting a system that once those huge dollars are committed to industrial development makes it near impossible to put the brakes on at a future date as meaningful monitoring and where science is yet to be developed.

FACT, BOEM has never rejected, nor do they have any intent to ever reject any ocean lease request.

FACT, the BOEM lease process is BROKEN, is a serious threat coastal people's wellbeing, and in serious need of major repair.

BOEM taskforce process was intentionally developed by utilizing an exemption in federal law to ensure the public and fishing is excluded from being any part of the taskforce proceeding where decisions are made.

BOEM lease process utilizes an exemption in the law bypassing the CEQ principles, requirements, and guidelines developed for all federal agencies that were mandated to incorporate the WRDA 2007 congressional directives into all water development projects.

BOEM process is an affront to our democratic process where BOEM operates under exemptions in the legal system that slides safeguards necessary for fishing to thrive off the discussion table completely in the BOEM/state taskforce process.

BOEM must be slowed down and congress is the only vehicle capable of placing reasonable restraints on BOEM as all other agency activities have failed to produce any well-reasoned curbs on this errant out of control ocean gobbling process.

Last February the US House Committee of Transportation, chaired by Oregon representative DeFazio sent a letter to the US Army Corp of Engineers to get off their backside and initiate the WRDA 2007 congressional mandate to update the 1982 water project principles and guidelines. Offshore wind will need a Corps permit to move forward. If the Corps requires offshore wind to adhere to all the requirements that congress has put in WRDA bills between 2007 through 2020 Fishing has an excellent chance of surviving this current onslaught by BOEM and offshore wind projects will be required to AVOID CONFLICT with existing uses of the ocean including but not limited to navigation and fishing. In these WRDA bills adverse impacts to people MATTER and MUST be AVOIDED. In 2007 CRCFA worked hard to get improvements to SAFETY of people placed into the WRDA bill, the only WRDA bill between the year 2000 and 2014. There was only one WRDA bill in 13 years due to the extreme CONFLICT to bring the PR&Gs into existent to "Protect People" from HARMFUL actions by federal agencies that forget their mission is to be responsive to ALL the American people's needs and that some water resource projects that HARM some people need to be stopped or at a minimum placed in areas of "MINIMAL HARM" to existing uses of the high seas

where “MINIMAL” means next nothing, close to ZERO HARM. This congressional directive changes the age old avoid, minimize, and mitigate sequencing of any action where almost any action moves forward if mitigation that almost NEVER mitigates damages is allowed.

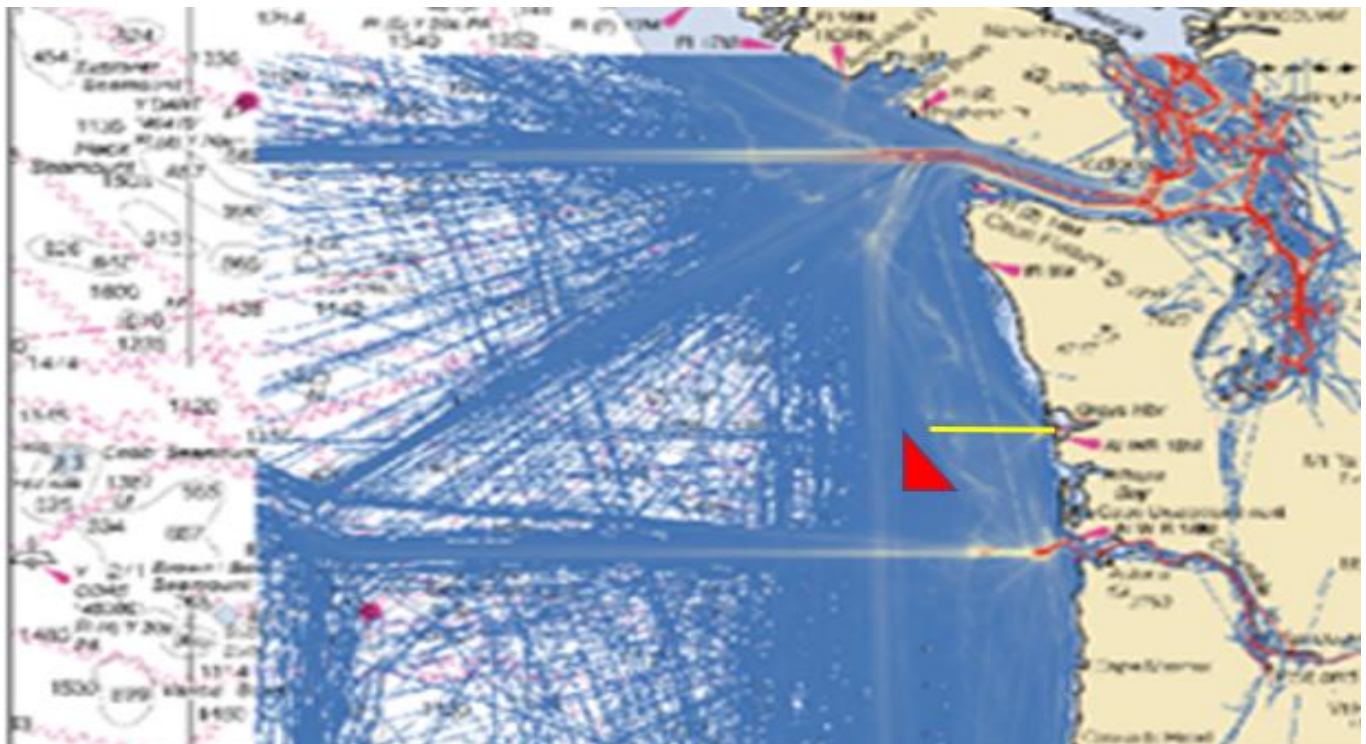
In the Columbia region many Oregon fishermen depend on the SW Washington coast to sustain their families, likewise, fishermen on both sides of the state line fish regionally, not constrained by artificial state boundaries that BOEM addresses independently. BOEM’s process must change so that all boats are made to float buoyantly, not sink some. BOEM process must not shatter our existing coastal economy and offshore wind MUST complement our coastal economy and slow down until the bum’s rush to over build offshore wind so that our people are able to flourish as economical wind is developed in areas of MINIMAL HARM. In the NW we are definitely NOT behind Europe in the development of carbon free electricity. Our coastal people have already paid an extravagant price in lost access to salmon from damn construction as a result of federal legislation, US Energy policy must reflect the needs of our coastal society, not just carbon ideology moving forward. And as a lifelong fisherman that has sacrificed plenty to our NW energy development, we MUST leave the Snake River dams in place to provide energy when the wind does not blow hard enough to spin offshore turbines which is over 60% of the time. We should also note that at least two Columbia River dams have empty turbine bays that we need to fill. The last time I visited Bonneville Dam, Bonneville was only putting out 100 Megawatts of power, less than 10% of capacity. When the Columbia Gorge Wind facilities were developed 47% of the energy was shipped to California. Development of massive offshore wind in the NW is way ahead of its time, not needed, and is punitive to the wellbeing of our coastal people and anyone forced to purchase the extremely high priced energy from offshore wind facilities will be forced to suffer economic HARM.

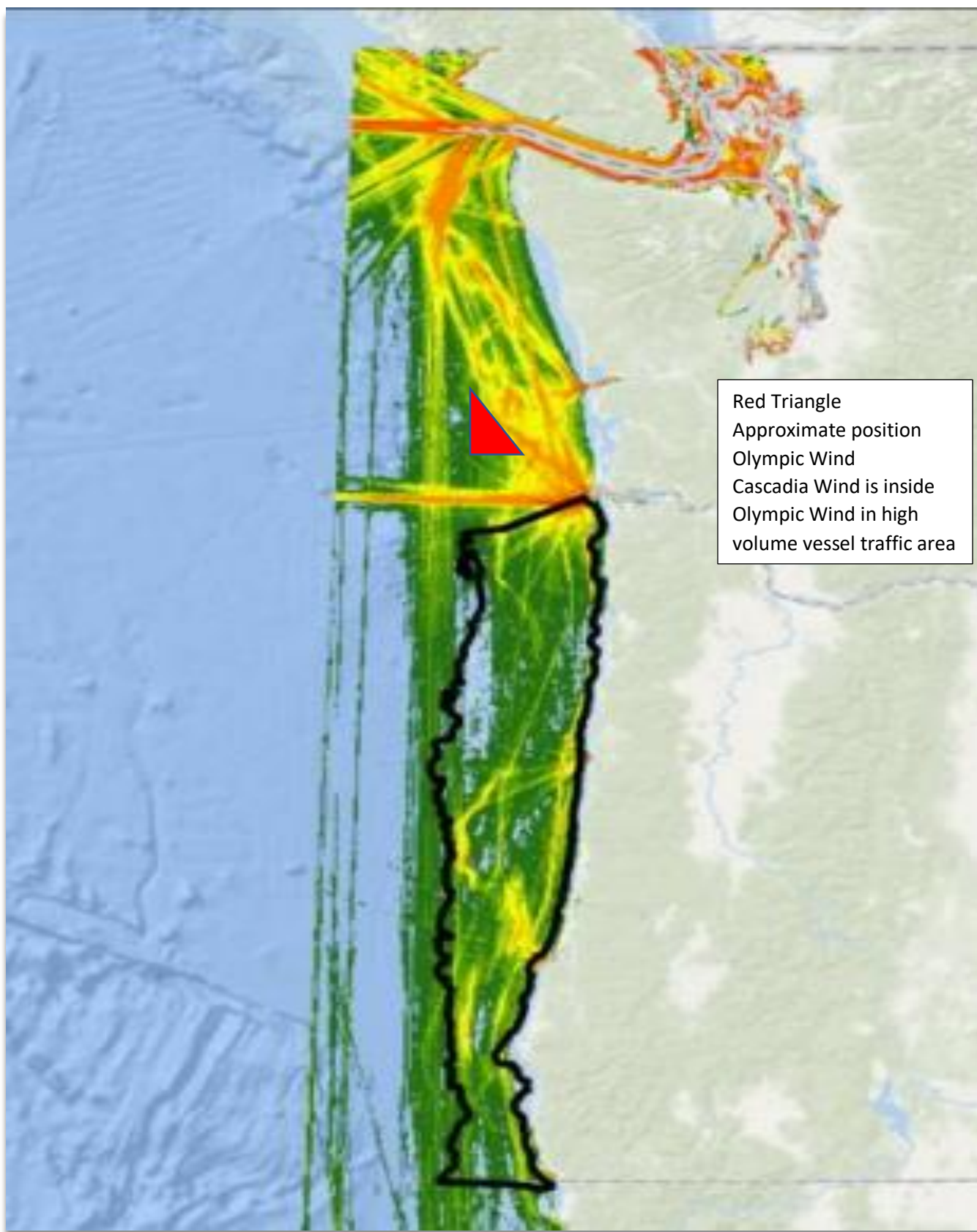
It is ludicrous for Oregon and Washington to allow BOEM to even contemplate development of very expensive offshore wind in our nearshore waters, Many Coastal JOBS will be lost, families will suffer indignities. Our food security will be undermined. There will be NO economic benefit from offshore wind, it will be **ALL PAIN NO GAIN** for every citizen in the NW. Our national US Energy Policy must accommodate the needs of all our people, not force many to be left behind in a

BOEM mad bum's rush that will hurt all our people and especially those on the lower rungs of society that will force many to choose between lighting/heating their homes or feeding their hungry children. We must put a stop to this offshore wind nonsense in fishing grounds before it is too late. We must put a stop to this coastal offshore wind Poverty Program while we still can. Our people deserve far better than this BOEM process designed to put the needs of our people LAST. Offshore wind is certain to KILL the American Dream of a better future for many of our nation's families. **US Energy Policy must float all boats, not sink some.**

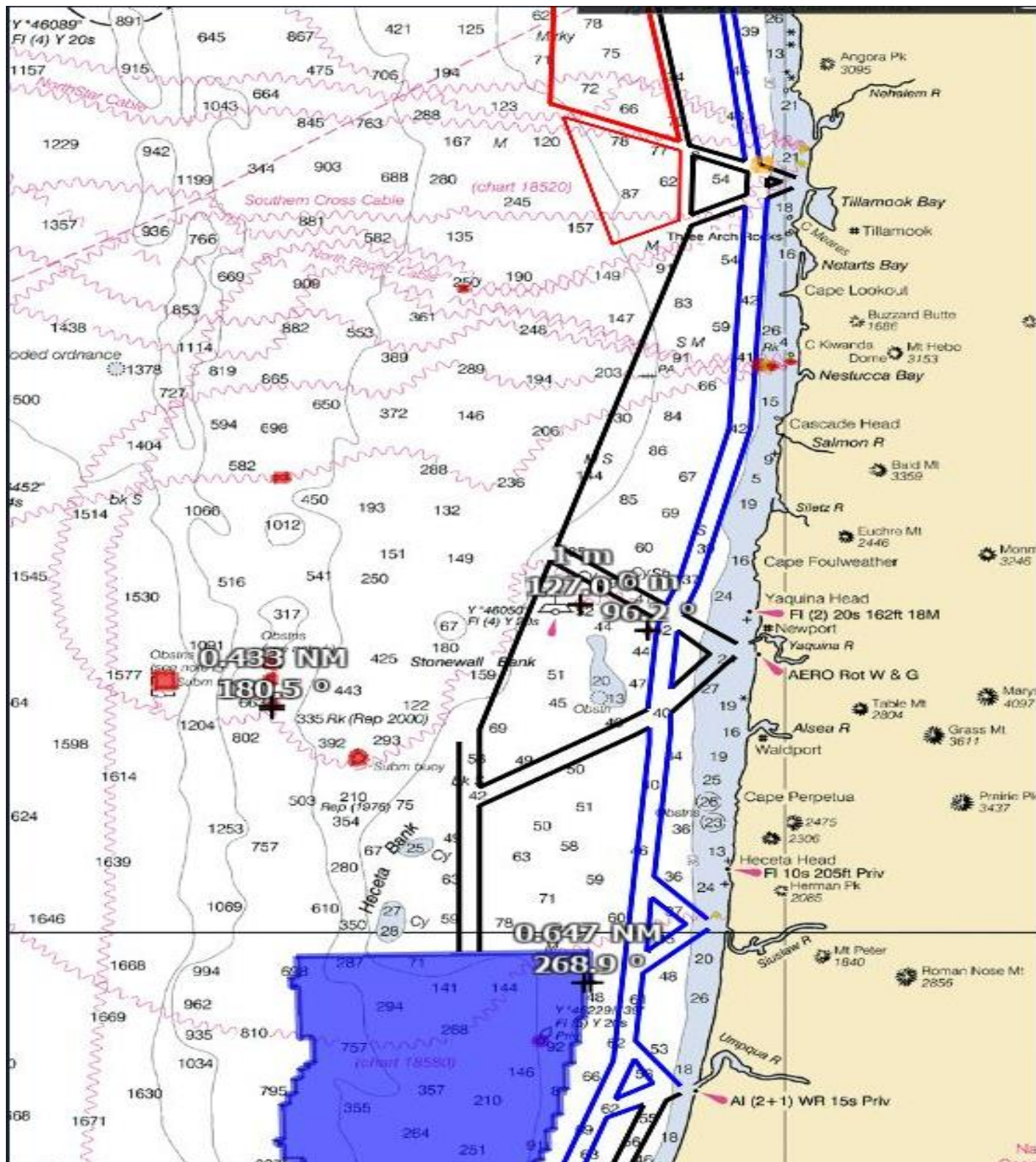
North coast USCG vessel traffic map that shows why the USCG is proceeding to Protect Vessel Traffic ZONES which all of fishing needs to support while we still can. USCG plans to have a draft regulation out by September. The regulation will have a prohibition on Fixed Structures in these zones which overlap a lot of our coastal fishing areas and include the crabber towlanes for protection. USCG is contemplating vessel traffic Fairways for 0 – 12 miles or more offshore. Fishing needs to encourage USCG to more than 12 miles from shore. Twenty is better than twelve to protect and preserve existing vessel traffic from DISPLACEMENT.

USCG Vessel traffic density offshore WA and OR – AIS tracks

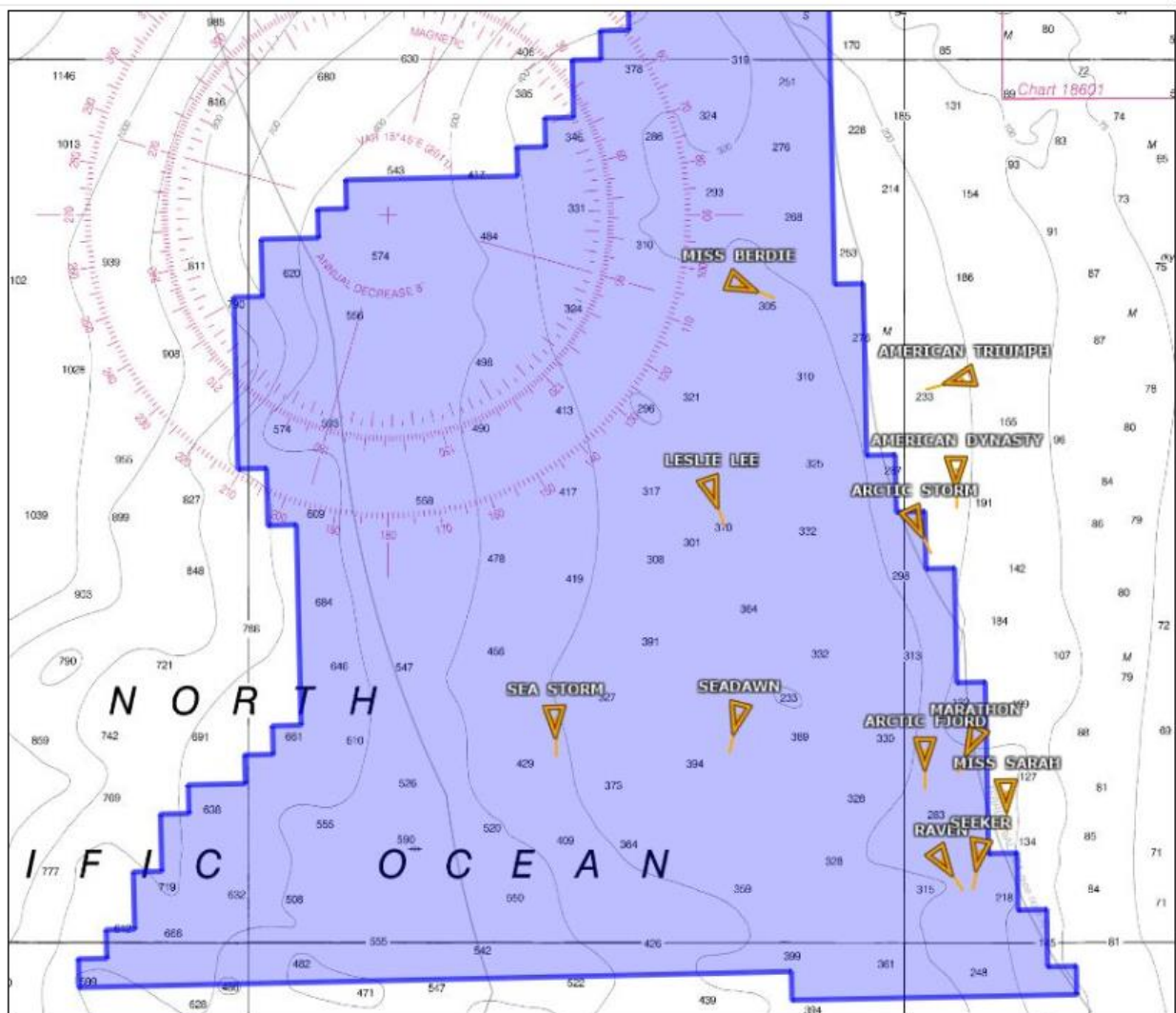




BOEM Southern Oregon call area disregards offshore crabber topline truncating the agreed to lanes



Current Whiting Fleet vessel positions 18 May 2022 utilizing their historical fishing grounds invaded by the recent BOEM call area that disregards this fishing activity



Offshore wind on the west coast will create serious consternation and economic **CHAOS** wherever it invades fishing grounds. That economic **CHAOS** will suppress the economic future of the coastal people. BOEM has NO threshold standards, NO checks and balances, NO accountability to the coastal people's adverse impacts, and only elastic wind energy areas that expand whenever several wind energy companies express any interest in setting up several offshore wind facilities similar to what happened offshore Morrow Bay, a fourfold expansion from the original Castle Wind unsolicited lease request. The BOEM ocean lease process utilizes exemptions in the law that prohibits public and fishing participation on the BOEM/State Taskforce to prevent any public outcry that will surely follow the sale

of fishing grounds to the highest bidder by new emerging extremely expensive offshore wind that will cripple the coastal culture and economic pillars that support the coast that is now under serious attack. The BOEM threat to fishing knows no bounds as we look out to 2050 and 110,000 GW of projected wind.

The Congressional Western Caucus is a group of 75 members who represent rural communities across the United States that knows full well that decisions made in D.C. impact rural America that understands America is not ready for instant change in our nation's historical energy supply. The current US Dept. of Energy policy is forcing oil prices to the highest level in history and placing our oil based economy energy supply chain at total RISK that will substantially increase price of supplies of everything across our nation, let alone raise prices of everything we need in society. Domestic oil production is integral to our national security and more important now than ever that we as a nation ensure a reliable energy sector for the American people. **Our national security is at RISK as oil supplies are artificially demolished** and reliance on dictators that do not like America control our people's need for oil. Our nation's fighter jets do not run on wind or solar energy and never will. Offshore wind may contribute to our nation's total energy supply but at the cost of lowered oil production is highly detrimental to our people's wellbeing. National demand for natural gas has not decreased and will be necessary to maintain supply especially when the wind does not blow and is needed to prevent rolling black outs across the country. The present administration needs to listen to voices of rural communities who are severely impacted by excessive rising costs of energy. Offshore wind is so expensive that anyone FORCED to purchase it will suffer severe economic setback from this failed portion of the energy policy. **Offshore wind will never become baseload source of power but if done right can supplement our total energy needs across the nation as HARM to the coast is AVOIDED.**

Change to offshore wind done right is highly problematic.

Offshore wind done right means at a cost of production that everyday Americans can afford.

Offshore wind done right means consideration of who pays and how much.

Offshore wind done right means that ocean area lost in the northwest does not allow the power to be shipped to states that have NO or little loss of fishing area due to the offshore wind facilities.

Offshore wind done right means that coastal fishing JOBS are not eliminated and not displaced.

Offshore wind done right means that members of the public and the fishing industry become participating members of the BOEM/state taskforce everywhere in the nation.

Offshore wind done right means BOEM includes updated PR&Gs into their lease process that is appropriately applied to ALL agencies involved in offshore wind.

Offshore wind done right means that unsolicited lease requests are NO longer a source of siting offshore wind which has been a BOGUS lease process.

Offshore wind done right means that the needs of coastal communities come first in siting offshore wind – AVOID CONFLICT as a first priority in siting OSW.

Offshore wind done right means vessel traffic fairways are able to be preserved so that coastal fishing vessel traffic lanes are also preserved.

Offshore wind done right means Crabber towlanes are preserved with flexibility to change as needed.

Offshore wind done right means that the ecology of the ocean is preserved.

Offshore wind done right means ESA listed animals do not become windmill casualties or displaced from existing feeding and migration routes.

Offshore wind done right means every offshore wind tower is surveilled to detect avian mortalities 24/7/365.

Offshore wind done right means offshore wind does NOT become all PAIN and NO GAIN for coastal Fish Dependent Communities.

Offshore wind done right means that Fish Dependent Communities maintain the majority of their current ACCESS to fish/crab that is the lifeblood of the coastal communities.

Offshore wind done right means that, **"The right to navigation and fishing therein shall not be affected,"** which is congressional policy laid out in the OCSLA legislation. Congressional policy MATTERS!

Offshore wind done right means that the MURT principle is followed by BOEM where coastal communities are given Mutual Understanding Respect and TRUST in preservation, not excluded from participating in taskforce meetings.

Offshore wind done right means that offshore wind does not turn into a "Coastal Poverty Program."

Offshore wind done right MUST acknowledge that NOT one public process on the coast has recognized offshore wind as a legitimate use of the nearshore ocean.

Offshore wind done right means that the economic importance of the coastal fishing industry represents vessel harvest by fishing vessels until the fish/crab reaches the American consumer far more than exvessel landings.

Offshore wind done right means that fishing data and fish area maps are NOT distorted by dropping 90% of the harvest as was done at the fall 2021 BOEM/OR taskforce meeting.

Offshore wind done right will set some CUMULATIVE impacts Thresholds that lead to the NEPA "NO Action Alternative".

Offshore wind done right needs to proceed utilizing the Precautionary Principle in a phased in approach, not leasing hundreds of square miles of ocean praying everything is OK – "SLOW DOWN".

Offshore wind done right that existing benefits of open ACCESS to the high seas once lost through displacement of fishing area cannot be fully mitigated and thus AVOIDANCE measures MUST be put in upfront to ensure NO NET LOSS of productivity for coastal fishing families.

Offshore wind done right means that development is based on NEED that cannot be filled by other alternatives like increased shoreside power production from many sources.

Offshore wind done right means that at the end of the day offshore wind AVOIDS CONFLICT with other historical uses of the high seas with only MINIMAL adverse

impacts that are able to be fully mitigated over the long term so that future fishing families will be able to enjoy a cultural lifestyle of today before the installation of massive offshore wind industrial facilities.

Offshore wind done right means that offshore wind does not deplete fish/crab or deplete the fishermen that depend on ACCESS to harvestable seafood; the reason for the enactment of the EEZ in the first place back in the mid 1970's.

Offshore wind done right must reflect the existence of need for additional electricity over the Pacific Northwest's existing 64 gigawatts of existing generation capacity.

Offshore wind done right ~~must~~ can have a place in NW energy to meet the carbon free synthetic demands of legislatures as carbon free electrical generation will require 100 gigawatts more power by 2045, but **fishing must not be sacrificed once again on the altar of carbon to reach these very lofty goals.**

Offshore wind done right will not fall into default like the WHOOPS nuclear bonds that defaulted on \$2.25 billion at great cost to the taxpayer.

Offshore wind done right will not result in numerous lawsuits to ensure that existing uses are adequately protected from loss of fishing grounds – Vineyard Power wind suits should NOT be necessary to protect and preserve fishing grounds.

Offshore wind done right will ensure ongoing compensation to lost fishing ACCESS for the foreseeable future of the offshore wind facilities until they are properly decommissioned and the . This compensation also needs to be contributed to the affected shoreside business as well.

Offshore wind done right will capture correctly the full scale and magnitude of loss to the totality of the Fish Dependent Communities after all AVOIDANCE measures are put in place and ocean ecosystem returned to preindustrial condition. There MUST be mandatory complete remediation of any fishing area lost to ocean industrialization that addresses the next generation of fishing needs.

Offshore wind done right is NOT captured in the BOEM southern Oregon call areas.

Offshore wind done right will ensure all the data and studies are peer reviewed for full inclusion of necessary data and the validity of all the data presented, not just

BOEM reviewed where BOEM's primary mission is to lease ocean area to the highest bidder.

Offshore wind done right will require peaking capacity and grid balancing services once fossil-fueled generation is no longer available that may not be possible to reach 100% fossil fuel freedom, especially our gas powered electrical plants, hard to call these standby when they run 60% of the time when the wind is not blowing.

Offshore wind done right MUST remove many unfounded assumptions in the literature that offshore wind relies upon for its unfounded assertions like promoting unrealistic price points to the consumer; ignoring NREL predictions on power costs will be costly considerably over \$0.75/kW well into the 2030s and inevitably higher to adjust for current rate of rampant inflation.

Offshore wind done right will give the public ample access to ALL studies and permit applications for open public comment and scrutiny; possibly over 30 permits and untold numbers of scientifically valid studies. **The public needs that permit and studies list and ability to comment freely on all permits before any leases of ocean are granted.**

Offshore wind done right must address the FACT that there is an assumption that all HARMS to coastal communities can be mitigated which is a fallacy due to the fact that most mitigations are never carried out fully and most never meet the original goals the majority of the time.

Offshore wind done right will not only consider subsidies to offshore wind developers but MUST also provide subsidies for lost ACCESS to Fish Dependent Communities utilizing the Biden Administration's Goal 40 where 40% of all benefits from offshore wind go directly to the affected low income communities.

Offshore wind done right will maintain all fishing industry operations at the current level of net cash income as reflected by inflation – **NO NET LOSS of income.**

Offshore wind done right will put in place mechanisms to identify which producers would be eligible for a direct payment to affected individuals that have fished in the area historically from southern California to the Bering Sea. Those affected by displaced vessels will need reimbursement as well; much more difficult to verify

but must be done. Result = **NO NET LOSS of Coastal Fish Dependent income for individual businesses.**

Offshore wind done right simply does NOT have any existing west coast wind facilities with which to judge impacts to people or ocean ecology. That verification takes time, lots of time that only moves forward as small offshore wind areas are evaluated and gradually put into operation so that REAL data can be evaluated. This type of realistic verification of FACTS means offshore wind must be done incrementally, not whole hog full blown buildouts without as projected by the few offshore lease proposals of today.

Offshore wind done right means it will take time, massive funding, years long planning, additional analyses to ensure loss of ocean benefits can be mitigated fully, governance decisions and cooperation at the federal, state, and local levels, technological advances (energy) to help reduce impacts on people and ocean ecology, and implementation of significant infrastructure program on the ocean and on the greatly increase transmission capacity on land where energy will need to flow at great additional cost further driving the price of FOSW even higher.

Offshore wind done right means that the nearer the region gets to a zero-carbon grid, the steeper the slope of the buildout required to maintain grid reliability. This is a problem far from solved. It may have to wait until the world has actual nuclear fusion plants up and running safely, which will be over a generation away.

Offshore wind done right means it does not turn into a nightmare for coastal communities.

Offshore wind done right means that BOEM MUST slow down and fully consider the multitude of issues that offshore wind brings to the table for analysis so that moving forward the Fish Dependent Communities suffer NO HARM.

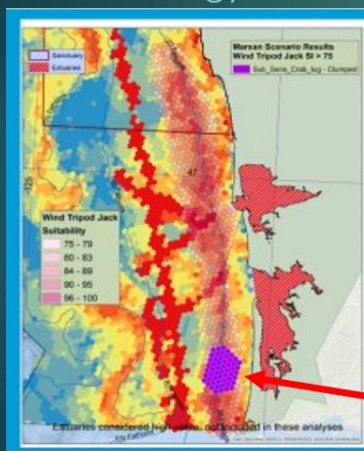
Below are fishing effort maps develop in advance of offshore wind development which are still relevant today if mapped currently. Even though the map on the left was produced by WDFW it is where numerous Oregon vessels fish in SW Washington. The WDFW map placed a 50 square mile ocean energy site in the middle of heavy crab fishing grounds fished by both Oregon and Washington fishermen and is total illegitimate representation of ocean energy placement. Center map was produced from direct fisherman interviews that show where

Columbia River fishermen fish in both Oregon and Washington. Map on the right was done by fishermen placing orange dots on a NOAA chart at a CRCFA annual dinner meeting and if produced today would be the same map. NOTE: Washington trawl fleet is virtually nonexistent and ocean trawling offshore Washington is done by the Astoria/Warrenton Oregon trawl and shrimp fleets that fish regionally.

Washington Coastal Marine Spatial Planning About coastal communities' economic survival

Pacific County 4th most fish dependent community in the nation

WDFW Marxan
Ocean Energy 2016



Oregon Ecotrust
Fisherman 2010



CRCFA High Value
Fishing Area 2014



Voodoo Mapping showing what's best for ocean energy— **NO NO AND NO AGAIN!**

SW Washington is heavily fished by both Oregon and Washington Fishermen and must be included in the thinking of all Columbia River fishing representatives. The 38 miles of SW Washington is the only place fishing exists on the Washington coast where all fish/crab can be harvested at a 100% sustainable effort, north of Westport all fish/crab is shared 50/50 with 4 tribal nations on 70% of the Washington coast. In addition, the north Washington coast has 60% of the coast in Olympic National Marine Sanctuary where all industrial development is prohibited which concentrates all industrial development centered on the Columbia River port areas making it extremely difficult to locate any new emerging industrial development that AVOIDS CONFLICT with existing ocean uses including fishing anywhere on the continental shelf. Due to this recognized CONFLICT

between fishing and new emerging industrial development the USCG fairways as adopted should be put in place to protect both navigation and fishing from displacement.

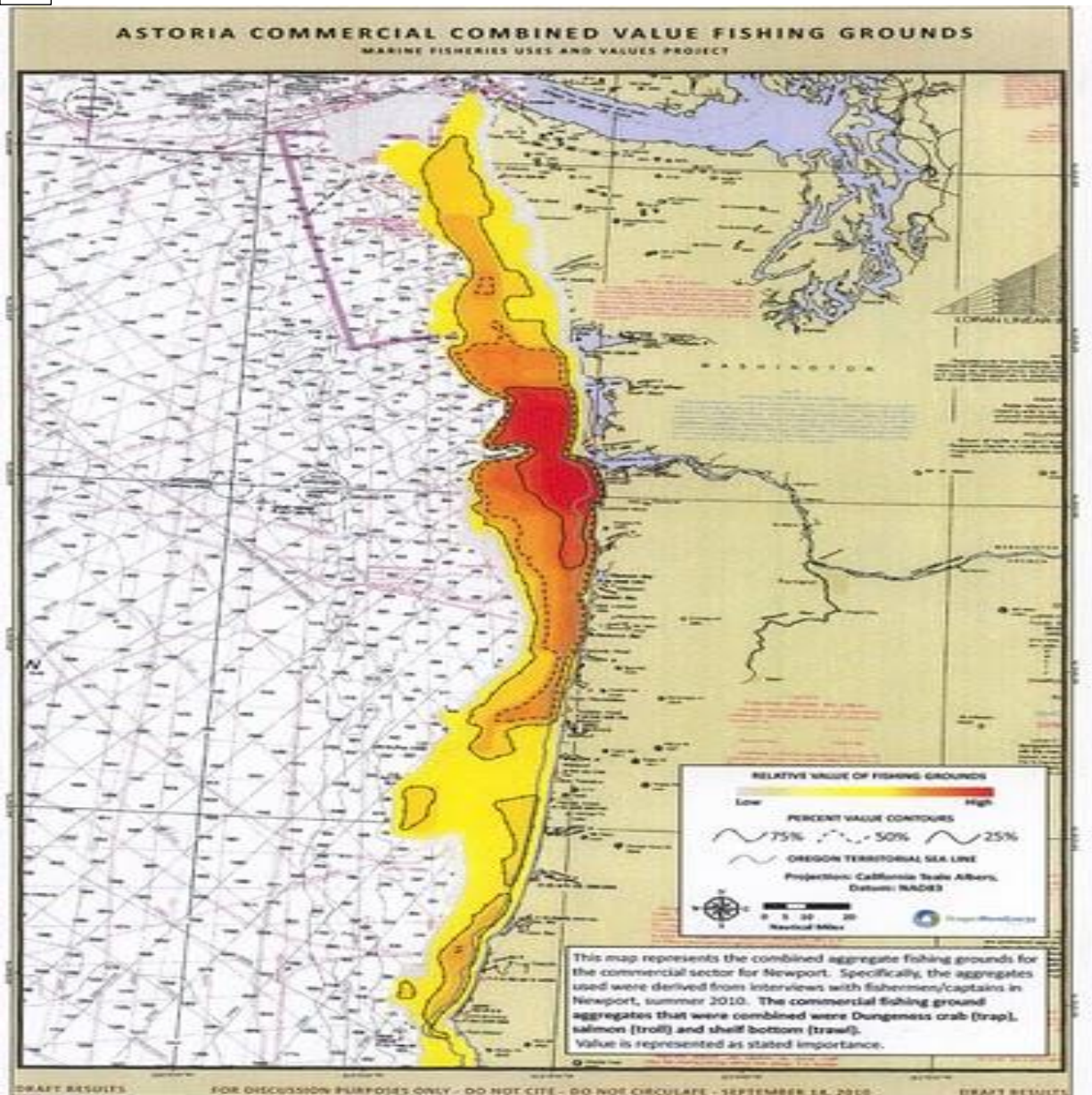
Thank you for fully considering the multitude of unanswered questions to ensure that Offshore Wind is done right or NOT at all to protect and preserve existing water dependent industries including fishing.

Local Fishermen fish both sides of the Columbia River; some many miles from home port N and S

MAP - Ecotrust interviews with local fishermen – WA side high value constrained by Rafeedie Decision

Rafeedie removed 50% of all fish/crab on 70% of the N WA coast = 90% of the crab fleet south of Westport

Offshore wind will contribute to CUMULATIVE loss of ACCESS to Fish/crab = Fishing DISASTER



Results of a very dangerous midwinter crab fishery when fishing opportunity is displaced, and fishing effort is overly concentrated into smaller and smaller areas = often fatal marine casualties – Agency Actions have consequences

Offshore Wind will reduce fishing opportunities over very large areas – Nationally 110,000 sq mi by 2050

UNPLEASANT 90% REALITY

Effort Shift to accommodate federal obligations



101

Result of "Lost ACCESS to Fish"

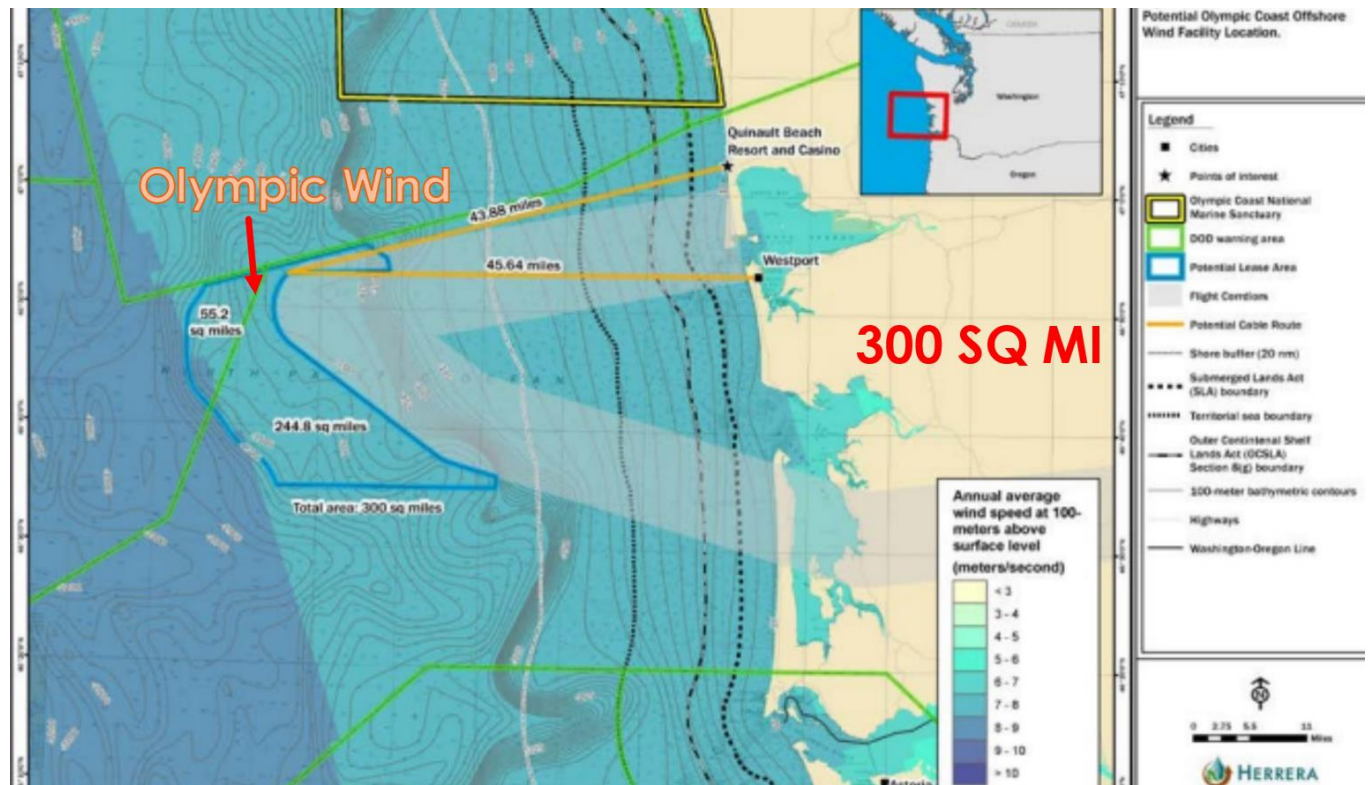


BOB

Boat on Bottom

Olympic Wind is brought to you by the same people that tried to sell
Principle Power offshore of Coos Bay and now Morrow Bay

BOEM will put out call for interest and this area could expand multiple times =
Decimated Fishing Opportunities



National Renewable Energy Lab estimates cost of Offshore Wind power at \$0.75 - \$0.85/kW = Coastal **Poverty Program – Olympic Wind** or other large offshore wind farms placed in fishing grounds

Oregon legislative Coastal Caucus held a series of 6 coastal meeting in May 2022 with over 600 concerned citizens participating in the caucus listen sessions. CRCFA/CCF listened to some sessions on ZOOM and participated directly in the Astoria session. The sessions were attended by Caucus members that moderated the meetings and listened intently to the citizen input. This interest in getting additional input from those citizens most affected by offshore wind was precipitated by the oversized “call for interest” by BOEM centered on the southern Oregon coast where BOEM put up for consideration 2200 square miles of ocean to potentially develop Floating Offshore Wind (FOSW). This series of listening sessions precipitated this Caucus letter below:



Oregon Coastal Caucus

Rep. David Gomberg, Chair
Sen. Dick Anderson, Vice Chair
Sen. Rachel Armitage
Rep. David Brock Smith
Sen. Dallas Heard
Rep. Boomer Wright
Rep. Suzanne Weber

May 27th, 2022

Mr. Douglas Boren
Pacific Regional Director
Bureau of Ocean Energy Management
US Department of the Interior
Pacific OCS Region
760 Paseo
Camarillo, CA 93010

Dear Director Boren:

The Coastal Caucus is a bicameral bipartisan caucus of Oregon State Legislators that represent all Oregon Coast legislative districts. We look at issues facing the coast based on geography rather than partisanship. More importantly, our lens identifies how a particular issue affects our constituents as a whole, their communities, industries, and the economies of our coastal legislative districts.

Leading up to the Department of Interior's intent through BOEM to create areas for offshore wind development off the Oregon Coast, we were engaged with stakeholders. After the announcement of the current proposed call areas, we immediately began hearing from constituents within our coastal legislative districts with concerns.

To better receive input from our coastal constituents and garner needed broad engagement from our stakeholders, throughout May the Coastal Caucus partnered with the Coquille Indian Tribe and others where we initiated six listening sessions along the Oregon Coast from Brookings to Astoria. There was great attendance at each listening session from a broad group of community members including tribal, commercial and recreational fishing, fish/seafood processors, environmental organization representatives, business owners and community members at large. The overwhelming consensus across stakeholder groups were serious concerns and great apprehension of the existing call areas. During the 2021 Oregon Legislative Session, the Oregon Legislature passed HB 3375. This legislation directed the Oregon Department of Energy to study the benefits and challenges of integrating up to three gigawatts of floating offshore wind energy into Oregon's electric grid. The legislation in part says, "Section 1 (g) Understanding the impacts, benefits, opportunities and barriers of floating offshore wind energy with respect to Oregon's fishing communities, ocean and shore-side recreational users, tribes, ports, coastal ecosystems, natural resources, manufacturing industry, maritime sector, disaster recovery planning, workforce development and electricity ratepayers can maximize the benefits to this state, while minimizing the conflicts between floating offshore wind energy, the ocean ecosystem and ocean users." Additionally, "Section 1 (2) (b) It is further the goal of this state that the planning described in this subsection be conducted in a manner that will maximize benefits to this state while minimizing conflicts between floating offshore wind energy, the ocean ecosystem and ocean users."



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Through the process of engagement with stakeholders along the coast, the overwhelming consensus was again serious concerns with the existing call areas regarding impacts to existing and future user groups, negative environment impacts, as well as barriers to the accessibility of our exceptionally sustainable fishing habitat.

The commercial seafood industry alone is an over \$700 million-dollar economic driver to our state and generates approximately 7,000 full-time jobs, most of which are in our districts along our coast. These numbers do not reflect the support industries to these fishermen, such as welders, ship builders, pipe fitters, engineers, hydraulic workers, industry store staff and more. Additionally, the economic multiplier of these fishing dollars is in upwards of 7 times in our coastal communities and around the state. This supports families through living wages across our coastal community's business sectors. Unfortunately, many of our coastal communities have seen generations of poverty and have struggled economically particularly in recent years, and they simply cannot afford another blow that will impact their economies through the loss of fishing grounds and associated jobs.

Along with the fishermen, seafood processing workers, related marine business owners and others who have a stake in fishing that overwhelmingly spoke with great apprehension, environmental groups and individuals echoed serious concerns of the existing call areas as well. These concerns were regarding the call area locations and the incredible ocean ecological resources off Oregon, which is the 4th best in the world. This is caused by two main factors: the California Current and Upwelling. There were serious concerns expressed again, by all stakeholder groups, that the existing call areas could have serious negative impacts on these two main factors that drive the abundance of Oregon's ocean ecosystem.

We recognize that data is critically important and we also have serious concerns regarding the BOEM process in these and other areas. Our coastal commercial and recreational ocean users are subject to some of the strictest science-based regulations in the world. They have strict no kill and other limits on bycatch and whale entanglement, to name a few. Through their industry process, fishermen must deal with several federal and state agencies, including NOAA and the PFMC. These two agencies lead the science-based regulations on our ocean users, yet they are subsidiary and only somewhat advisory to BOEM. This is a serious problem on multiple levels as BOEM consistently disregards concerns from NOAA and the PFMC in their process. BOEM also does not have to work through an EIS until after call and lease areas are identified, which is unlike the process for any other user. Even then, the process is not nearly extensive enough to detail the concerns laid out in the previous paragraph. We call on our Federal Elected Delegation to draft and pass legislation in Congress to regulate BOEM's process in relation to offshore wind so that NOAA and the PFMC have regulatory input in BOEM's siting authority, as they do with other ocean users. We ask that an EIS conform to that of other ocean users, and that BOEM adhere to their existing plain text policy statement governing their process which reads, "The right to navigation and fishing therein shall not be affected." While wind energy fits in the state's goal

of moving toward a more renewable future for Oregon, steps must be taken to ensure that existing



Oregon Coastal Caucus

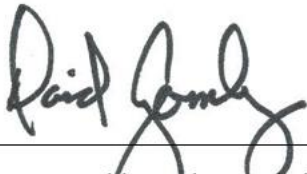
Rep. David Gomberg, Chair
Sen. Dick Anderson, Vice Chair
Sen. Rachel Armitage
Rep. David Brock Smith
Sen. Dallas Heard
Rep. Boomer Wright
Rep. Suzanne Weber

As legislators who represent the fishing/seafood industry in our districts, it is important to listen closely to the sport and commercial fishermen, processors, related marine user businesses, our environmental organizations and individuals to make sure that both wind and the seafood industry can thrive, and that our world renowned and uniquely abundant ocean ecosystem is not harmed. The Oregon Legislative Coastal Caucus agrees with much of Governor Brown's letter of January 13th, 2022. After extensive stakeholder and community input, we believe for FOSW to move forward off Oregon, the following suggestions would help avoid economic and environmental conflicts so that both industries could work productively:

- Slow down the process to better understand the risks and uncertainties to the ecosystem, economics and coastal communities. Over six hundred citizens representing the seafood industry, ocean users, environmental groups, and other stakeholders participated in our recent listening sessions. Clearly there is broad interest, and a need to better hear these concerns.
- Locate turbines beyond 1300 meters in depth. In this regard we agree with Governor Brown. The best available data suggests that this would reduce the impact on the California Current and Upwelling. Technology continues to improve for FOSW, and placement at these depths would mitigate related issues by the time turbines are actually manufactured and placed off Oregon.
- Fully review all the concerns about marine habitat, marine bird and mammals and environmental impacts. Fully review the effect of longer transmission lines on energy costs. Fully review any effect on ocean navigation. Fully review commercial fishing outside 1300 meters.
- As Governor Brown also stated in her letter, prioritize the specific location of Call Areas or any Wind Energy Areas identified in the future to achieve the highest gain, but with the least amount of geographic ocean coverage.
- Prioritize the best use of the areas in terms of economic benefit to Oregon and the Oregon Coast. The seafood industry plays a huge part in our coastal communities and is an important economic driver for our entire state. Reduction in the ability of the commercial fishing fleets to access fishing grounds also reduces the public's access to a publicly held resource.

While we recognize the potential benefits of offshore wind development, we are deeply concerned about the impacts to our coastal economy, the marine environment and to the entire state of Oregon. Please consider to the greatest extent possible, the concerns coming from our fishing community and all of those who are stakeholders in one of the best-managed, most sustainable fisheries, and one of the most ecologically abundant and diverse ocean ecosystems in the entire world. We stand ready to weigh in and work constructively on this matter, however, it should not come at the cost of family wage jobs and the commercial seafood industry that is so critical to our Oregon Coastal constituents, their communities and the businesses that support them.

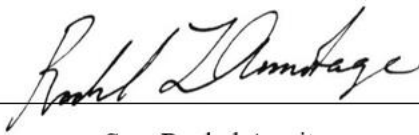
Sincerely,



Rep. David Gombert, Chair



Sen. Dick Anderson, Vice Chair



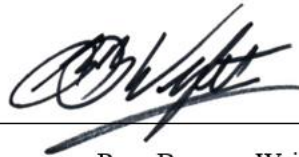
Sen. Rachel Armitage



Rep. David Brock Smith



Rep. Suzanne Weber



Rep. Boomer Wright



Sen. Dallas Heard

CC:

Oregon Department of Energy

Oregon Department of Land Conservation and Development

Oregon Governor Brown

US Senator for Oregon Ron Wyden

US Senator for Oregon Jeff Merkley

US Representative Peter DeFazio

US Representative Kurt Schrader

US Representative Suzanne Bonamici

US Representative Cliff Bentz

US Representative Earl Blumenauer

OFFICE OF
COUNTY COMMISSIONERS

JILL WARNE
FIRST DISTRICT
KEVIN PINE
SECOND DISTRICT
VICKIE L. RAINES
THIRD DISTRICT
WENDY CHATHAM
CLERK OF THE BOARD



STATE OF WASHINGTON

Item Page 3 of 8

100 West Broadway, Suite #1
MONTESANO, WASHINGTON 98563
PHONE (360) 249-3731
FAX (360) 249-3783

June 7, 2022

Douglas P. Boren, Pacific Regional Director
Bureau of Ocean Energy Management
US Department of the Interior
Office of Environmental Programs, Division of Environmental Assessment
760 Paseo Camarillo, Suite 102
Camarillo, CA 93010

Dear Regional Director Boren,

The Grays Harbor County Board of County Commissioners opposes the Trident Winds project, Olympic Wind. The Olympic Wind project has submitted an unsolicited lease request to develop a floating wind project off the coast of Grays Harbor, Washington. The Quinault Indian Nation states this project will severely impact the Nation's Treaty which secures fishing access, certain rights and resources. Equally as important are the many local businesses, employees, and communities that will be adversely affected by the project.

Just a few businesses we have heard from in opposition are the Washington Dungeness Crab Fishermen's Association in Westport which has estimated that the most valuable single species of crab fishery on the west coast which garnered income in excess of \$100,000,000 this season expects it would see a deep decline based upon diminished access; Englund Marine Supply with multi-state stores knows that their business cannot sustain the displacement of open fishing otherwise protected by the U.S. Exclusive Economic Zone of 200 miles of ocean (which would also displace fishing fleets); the Coalition of Coastal Fisheries has voiced a united concern over the loss of access to seafood that supports our coastal communities, loss of jobs and the expectation that the cost of electricity from this source will greatly exceed the current cost sustained by our community; and other support businesses such as boat yards, small manufacturers, marine electricians, welders, hydraulic specialists, painters, fiberglass workers, refrigeration specialists, machine shops, net builders, and others who would suffer the trickle-down effect of lost fishing revenue.

The Quinault Indian Nation, Pacific County and citizens in Grays Harbor County are all opposing this project for these reasons as well as the potential for damage to marine life and seabirds.

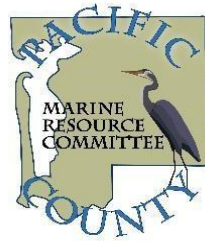
The Grays Harbor Board of County Commissioners support the Citizens of Grays Harbor, Coastal Coalition of Fisheries, Columbia River Crabbers, Ocean Companies, Ocean Gold, Quinault Indian Nation, Washington Crab Association, Washington Trollers, in addition to local, regional, commercial and recreational fisheries' opposition to the Trident Wind proposal.

Douglas P. Boren
June 7, 2022
Page 2

Sincerely,

JILL WARNE, Chair
Board of County Commissioners
Grays Harbor County
State of Washington

cc: Guy Capoeman, President
Quinault Indian Nation



To our Honorable U.S. and Washington State Legislators, as well as our local leaders,

Rising sea levels and ocean changes means our coastal communities are facing a climate emergency. Our community is dependent upon our challenged fishing industry, and our region is among the most economically disadvantaged in the state with some of the poorest health outcomes and greatest unemployment among all of the counties. We recognize the need to reduce fossil fuel use and that offshore wind could be a vital component of an energy solution. However, placement of wind towers must not put an undue burden on our fishing industries and the communities they sustain. We must explore alternatives that allow for rigorous public participation in the process of any development.

Pacific County Marine Resource Committee (PCMRC) is one of four Coastal County Marine Resource Committees. Then PCMRC coordinates with diverse partners, supporting creative and action oriented solutions, and providing a platform for education and outreach on local issues. In accordance with our mission, the PCMRC advocates for our fishing industries in Pacific County and other counties up the Coast. But we need additional support from local leaders and State and Federal lawmakers to assure that fishing, one of our predominant industries, will not be encumbered by off-shore wind development. Please consider:

- Washington is unique as the only state in the nation to adopt Coastal Marine Spatial Planning (CMSP) with protection and preservation of fishing as its first priority; all other states initiated CMSP to install ocean energy.
- Washington Supreme Court has clarified the Washington Ocean Resources Management Act (OMRA) preemptively protects fishing.
- After 6 years of Washington CMSP research there was no area identified to prevent conflict with existing ocean uses, including fishing.
- 43 U.S.C. § 1332 (2) clearly states, "right to navigation and fishing therein shall not be affected". This is the same basic premise of WA ORMA and the findings of the Grays Harbor oil terminal case that went even further stating that, "Fishing shall be preemptively protected."
- Washington has ample land-based carbon free electricity alternatives to extremely expensive and high maintenance offshore wind.
- Coastal ports need commercial tonnage to receive channel maintenance by the USACE that is funded by Harbor Maintenance Trust Fund (HMTF) annually. If the fishing fleet decreases, so does the tonnage.
- Agencies in Washington have stymied Pacific County Shoreline Master Program Coastal Zone Management Certification by NOAA shortchanging available protections in place from 0 – 3 miles offshore.

The Bureau of Ocean Energy Management (BOEM), the federal mechanism which leases ocean lands has been meeting with Trident Energy (Olympic Wind) to explore the feasibility of offshore wind off the Pacific Coast. Recent encounters with BOEM, despite its regulatory realm, show that this agency is insensitive to fishing and crabbing businesses. For example, BOEM fishing maps, including Washington, submitted this fall at the Oregon/BOEM Taskforce meeting only portrayed the top 10% of fish harvest and left 90% unacceptably missing. Unsolicited bids by offshore wind are unmerited and unjust as they choose the best place for offshore wind, ignore current sustainable uses, and expect fishing to simply go elsewhere. Cumulative impacts, which through the current process are being ignored, matter to Pacific and Grays Harbor communities' ecological, economic, and cultural imperatives. There are only 38 miles of coast in SW Washington available for installations of offshore wind structures, limited by the Olympic National Marine Sanctuary, Rafeedie defined tribal treaties, and military practice zones to the north. These 38 miles put offshore wind in direct geographical and economical conflict with fishing south of Westport.

BOEM is in the process of determining a mitigation policy that will affect both the Pacific, Atlantic and Gulf shores. On December 14, 2021 a meeting hosted by the Small Business Administration was held to hear US fishermen and other interested parties voice their concerns about ocean wind energy projects. Testimony came from all three coasts. What was heard:

- BOEM is concentrating on mitigation but has not provided any analysis of what adverse impacts might occur, and if there are limitations or thresholds on development;
- Details about these giant projects are unknown; BOEM is attempting to write mitigation policy without following mitigation sequencing that begins with avoidance;
- BOEM leases the ocean before an EIS is even begun and bypasses processes that determine areas of least conflict with fishing, which is poor ocean policy;
- Proponents of wind industry gloss over what impacts can be expected trusting that "engineers" will solve unanswered critical questions as the project moves forward;
- Fishermen and those in related industries are asking to be included in decision-making and want clarity as to how their input can be heard;
- Fishermen representative of America's coasts are asking for BOEM to slow this mitigation policy process to facilitate a more thorough exploration of issues, and
- BOEM must consider that each coastal area is unique, and this needs to be reflected in policy.

Pacific County is the 4th most fish dependent community in the nation. Please recognize that Pacific County suffers from low median family income and high rates of unemployment. Presidential Executive Order 12898 is to ensure that federal actions do not put undue burdens on minority or low-income communities. BOEM risk analysis does not consider new dangers to fishing or displacement of jobs, an additional handicap to coastal fisheries. In addition, NEPA, which is charged to review Environmental Impact Statements, should take Order 12898 into account before any lease action is taken. A large wind project could cause irreparable harm to fish and fish-associated industries just by squeezing fishermen from their fishing grounds.

We in the PCMRC are composed of diverse representatives from the scientific community, local and tribal governments, local citizens, and economic, recreational and conservation interests. appeal to

you, as our representatives, to consider coastal communities' livelihoods and what would be a grave injustice to choose ill-defined wind jobs for proven fishing jobs. Previous offshore wind projects both successful and failed need study to assure offshore wind is a good fit. Fishermen should be at the decision table and have a voice as to what constitutes minimal harm to their industry. Adequate bond should be required to protect coast communities that might be left with environmental cleanup for failed installations or bankrupt projects. Most importantly we are asking you to examine BOEM ocean leasing process to assure that impacts to fishing be carefully analyzed and shared before any leasing occurs.

It is understood that renewable energy is an important tool to curbing climate change, but our coastal communities' viability has precedent. Protecting what small fishing industry we have left is essential to sustain SW Washington's economy and the communities it supports.

Thank you for your consideration.

Doug Kess, Chair
Pacific County Marine Resources Committee

Governor Jay Inslee <https://fortress.wa.gov/es/governor/>
United States Senator Maria Cantwell sarah_kohout@cantwell.senate.gov
United States Senator Patty Murry anthony_pena@murry.senate.gov
United States Representative Jaime Herrera Beutler colin.swanson@mail.house.gov
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Rep. Walsh, Jim <https://jimwalsh.houseRepublicans.wa.gov/>
Rep. McEntire, Joel <https://joelmcentire.houseRepublicans.wa.gov/>
State District 24 Legislators
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Port of Peninsula jay@portopeninsula.org
Port of Willapa <http://www.portofwillapaharbor.com/>

"Stop this overly displacive Offshore Wind foolishness before it is too late" and we lose our ACCESS to the seafood that supports our coastal communities and feeds the nation with healthy, nutritious seafood. As important as some believe Offshore Wind is to the future of the nation it is paramount that we do not destroy our nation's first industry that has been a productive offshore business for over 400 years helping build this nation and feed its people. Offshore wind MUST Avoid Conflict with other existing uses of the high seas including fishing. CUMULATIVE Adverse Impacts MATTER in UNIQUE Washington where the Rafeedie Decision has eliminated 50% of ACCESS to fish/crab on the majority of the Washington coast – BOEM must address this significant THRESHOLD as a HARD NO for adding any additional suppression of FISHING on the Washington coast that is currently overly laden with No Fishing No Income Zones today that NO other state in the nation has to even consider this huge DISPLACEMENT of fishing due to federal treaty obligations.

Very concerned for the future viability of our coastal Fish Dependent Communities, CUMULATIVE loss of ACCESS to fish/crab removes significant coastal Fish Dependent Community viability and stability of the 4th most seafood dependent communities in the nation,

Document prepared by:

Dale Beasley,

President Coalition of Coastal Fisheries & Columbia River Crab Fisherman's Association

Submit comments to:

Call 360-244-0096

Or email crabby@bakerbay.org

The Intelligent Choice

Inconvenient Truth” - Actions have Consequences so do Inactions

Protect and Preserve Washington Coastal Fishing Industry from additional DISPLACEMENT & DESTRUCTION

Columbia River Crab Fisherman's Association



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Coalition of Coastal Fisheries

5 May 2021

Washington/NOAA CZM Certification: legally complicated currently a disparaging injustice

Pacific County Shoreline Master Program **Reincorporation** into WA/NOAA CZM Certification – Prioritize Protect and Preserve Existing Marine Water Uses/Fishing

- CZMA - Coastal Zone Management Act – enacted 1972 numerous updates
- ORMA - Ocean Resource Management Act – 1989, 2010, 2012, 2013 – Protects and Preserves Fishing
- Pacific County SMP - Shoreline Management Program Ocean Section 1997, 2016
- Ecology WACs fill in gaps in Legislative actions
- Washington Supreme Court Unanimous 2017 Decision – Grays Harbor Oil Case UNANIMOUS
- A Rule by the National Oceanic and Atmospheric Administration Procedural Changes 08/06/2019
- NEPA- National Environmental Policy Act
- APA - Administrative Procedures Act
- WA Regulatory Fairness Act
- **National Regulatory Flexibility Act** – Requires Economic Impact Analysis
- Executive Orders including but not limited to **12898**, 13777, 13771, 13563
- Environmental Justice for vulnerable, Low Income, and disadvantaged coastal communities
- OCSLA – Outer Continental Shelf Lands Act - require only that the BOEM strike a rational balance?
- Public Trust Doctrine
- Legislative/Congressional INTENT
- Inaction is a pejorative/disparaging action that will suppress coastal communities
- Torturing of the Chevron Doctrine
- Inclusion of the WRDA 2007/2014/2020 & updated Principles, Requirements, and Guidelines
- Laws and regulations include but not limited to above

CZM Certification of the Pacific County SMP Ocean Section 6 is a pivotal move to preserve the remaining wellbeing and quality of life of the coastal Fish Dependent people in SW Washington

without contributing to prevent further widening of the urban/rural divide and carry out the INTENT of the legislature and congress to preemptively protect and preserve the economic wellbeing of coastal Fish Dependent Communities from **adverse possession** of their primary fishing grounds. The coastal people depend on this high value fishing area of SW Washington; the only place left on the WA Coast where fish/crab are not subject to 50/50 sharing of all fish/crab making this area fish dependency extremely UNIQUE not only for Washington fish community but also fishermen that ply these waters that are from California to Alaska. There are many areas of crosswalk regulations in agreement between the SMP and the agency WACS, however there are some critical regulations of the SMP that should be CZM Certified that are not found in any other Washington law, RCW or WAC specific. In some circumstances the SMP is more direct than the WACs and MUST be utilized in the CZM Certifications. CCF/CRCFA addresses several of these SMP Specifics missing in any other law; NO crosswalk available in the ecology document and are discussed in the last few pages of this document. These primary differences not available in any other fisheries protective regulations were briefly discussed at our most recent ecology, Pacific County commissioner, PC Planning Committee, and CRCFA meeting at the end of April 2021. CCF/CRCFA would also like to raise the question why Washington Ecology would choose to rely on WACs when the SMP is superior law in Washington?

CCF/CRCFA number one goal is the health, safety, and economic wellbeing of our Fish Dependent Communities that promotes safety at sea of our Washington/Oregon fishing fleet that is under extreme duress from cumulative adverse effects affecting the economic security of our coastal Fish Dependent Communities. REALITY check – FIXED STRUCTURE INDUSTRIALIZATION of the local ocean, the only place left on the Washington coast to fish unimpeded is **an identified reasonably foreseeable Significant RISK (effect) of future HARM** significantly depressing the economic viability of our SW Washington fishing fleets, a cruel and punitive injury to the entire coast will ensue, and is inconsistent with both the INTENT of what the Washington legislature and congress sought to “take care of” and preserve – a **viable sustainable fishing industry** which is quite clear in the “administrative record and consistent with the APA standard of review; to do otherwise is in excess of statutory jurisdiction by agencies over ruling the INTENT of the legislation. Industrialization of the local SW Washington ocean is inappropriate as it will create excessive additional economic HARDSHIP and not only excessive economic INJURY to fishing but also have the negative effect to increase the **highest fatality rate of any occupation in the nation** in Dungeness crab from new mutually exclusive use of the only place left to fish unimpeded on the entire Washington coast. Industrialization of the SW WA coast is too dangerous to Fish Dependent Communities to realistically consider as a viable optional use of SW WA coastal marine waters which are UNIQUE in the nation as the only state in the nation under the Federal Rafeedie Decision which requires a 50/50 sharing of all fish/crab on 70% of the north Washington coast which has currently had a devastating economic effect without adding more cumulative negative “takings” actions further suppressing the fishery economic viability while producing little if any benefit to society when all the people in the nation lose the benefit of access to sustainable, highly enjoyed, and healthy seafood for their dinner plates. Please note that that the Dungeness crab fishery currently has approximately **1000 square miles of existing NO Fishing No Income Zones** of Tribal SMA’s and tug and barge towlanes in coastal waters. In addition, the long side channels into Ilwaco/chinook require commercial tonnage to receive federal dredging dollars which we have worked hard to secure through 10% carveout of HMTF account that is being really taxed hard by large all-weather crab vessels from Westport shifting effort south cutting deeply into the necessary tonnage that used to go to these ports to support dredging. Also affecting tonnage over the channels is a loss of 15 crab permit holders from the local communities in the last few years. This UNIQUE Situation requires a

UNIQUE SOLUTION to provide adequate socioeconomic equity and social justice for the people of the coast of Washington that have been the only state citizens in the nation to have their ACCESS to marine fish/crab significantly suppressed by ancient United States treaties in a manner not anticipated on INTENDED by the congress over 150 years ago. Agencies have a responsibility to make a rational connection between facts found and choices made. During the development of the Washington Coastal Marine Spatial Plan agencies actively suppressed development of factual economic impacts from placement of industrial development in SW Washington offshore waters even though the WCMAC voted to supply \$750,000 to develop those specific FACTS, undercutting a rational outcome of reasonable decisionmaking. CZM Certification of the Pacific County SMP resulted as a direct result of agencies' failure to investigate reasonably foreseeable economic and social effects from industrialization of Fixed Structures in the SW Washington ocean that would have the effect to significantly interfere with ACCESS to the local UNIQUE fishing grounds **causing a major social injustice**. Relative to CZM Certification there has been NO rational connection made between the facts found and the choice made when the SMP update became state law in 2016. The SMP update Ocean Section 6 was put into effect to further protect fishing that has been under assault from multiple agencies accumulative effects suppressing the fisheries often where the agencies path to certain regulations is difficult to discern where the reasonable statutory interpretation is lost in revocation of a formerly CZM Certified SMP and is a refusal to promulgate state adopted standards in the SMP making the decision **less than "fully consistent"** with state law in the 3 – 200 mile exclusive economic zone as the agencies involved changed their mind out of pure convenience of "excessive" work load expensed to fishing. This claim that Certifying Washington SMPs was an excessive regulatory burden of over 130 statewide SMPs, but there are only 4 coastal counties under ORMA jurisdiction and in reality, only Pacific County has a strong ocean section that carried forward the legislative mandate and affirmed by the Washington Supreme court to preemptively Protect Fishing when ORMA was scrutinized.

Demystifying Pacific County Concerns: Lost fishing area/opportunity MATTERS to demographically challenged Pacific County where unemployment and poverty rates are both quite high compared to Washington as a whole. One of our largest challenges in management of offshore marine waters is that Fishing is basically "Out of Sight" therefore "Out of Mind". People really need to see the PROBLEM to bring the SOLUTION to life. Bottom line to Solving the Problems of marine waters in SW Washington, **Clarity of OUTCOME not PROCESS is what really matters**. The DARKSIDE of PROCESS reliance is that all too often the FACT that restricted ACCESS to fish/crab leads to increased fishing fatalities as the Safe or Sorry decision facing the Fish Dependent Community is that current lost ACCESS to fish/crab has created a "Fish or Go Hungry INSANITY" into the dangerous midwinter Dungeness crab fishery that has produced the highest Fatality Rate of any occupation in the nation due to increased loss of ACCESS to crab as expenses continue to rise. Agency decisions often have consequences that may seem unrelated to marine casualty RISK, but that RISK is real and MUST become a significant part of the PROCESS of offshore management to fully consider this RISK increase resulting from any additional loss of access to fish/crab has the effect of reducing SAFETY and increasing RISK of marine casualties as crab fishermen fish worse weather annually out of economic necessity as they lose more ACCESS to crab/fish year around. It is the young high debt fishermen most vulnerable to this escalating CRISIS affecting their very existence.

Washington coast is UNIQUE in the nation where the Darkside of PROCESS has not accounted adequately for the UNIQUE overall coastal situation where new area intensive industrial use in offshore waters will create an APEX PREDATOR where Industrial Fixed Structures will increase

lost ACCESS to fish/crab that will end up eating the Fish Dependent Communities Alive causing inordinate HARM when added to existing Unique Cumulative effects.

Unique Cumulative Unflattering Attributes of SW Washington - **adverse effects** on water dependent JOBS:

1. Rafeedie Decision required 50/50 sharing of all fish/crab on 70% of the Washington Coast.
2. Highest Mass Weather Index in the nation – San Diego 10 Neah Bay 131 relative storm frequency and intensity increases ocean RISK of marine casualties and is very high in Washington offshore waters.
3. Washington currently has approximately 1000 square miles of No Fishing No Income Zones (Tribal SMAs and tug/barge to lanes) on the 140 mile long coastline
4. Crab abundance north of Pt. Grenville has declined significantly in recent years, possibly due to an increase in sea otters.
5. Loss of 160 million hatchery salmon in recent decades has cut salmon fishing past the bone.
6. Washington trawl fish industry is virtually EXTINCT.
7. Ghost Shrimp are creating a serious CRISIS for oyster growers and ecosystem diversity loss.
8. Existing Pacific County has really poor demographics due in large part to lost ACCESS to Fish/Crab
9. Marine Sanctuary precludes industrialization on 60% of the North Washington Coast ensuring any industrial development must be south of Westport where fishing is now concentrated
10. CEQ updated NEPA 15 July 2020 -
11. Effort shift has occurred from north to south in Washington – 90% of crab fleet fishes south of Westport.
12. Dungeness crab has had the Highest Fatality Rate of any occupation in the nation.
13. Washington is the only state in the nation to develop CMSP to protect fishing as a 1st priority, all other states initiated CMSP to install ocean energy. UNIQUE!
14. Pacific County is the 4th most Fish Dependent Community in the nation – to maintain that coveted status ACCESS to fish/crab MUST be maintained – Fishing JOBS MATTER in SW Washington
15. Fishing battle scars manifest in huge cumulative losses of ACCESS to fish = increasingly BAD demographics where the urban/rural divide is accentuated even more when irreplaceable fishing JOBS are lost through displacement.
16. ACCESS to sustainable Fish/Crab is KEY to the future economic viability of SW Washington.
17. Cumulative EFFECTS of ocean management is at a threshold that is Reasonably Foreseeable and is at an **unacceptable Tipping Point** from cumulative **ADVERSE POSSESSION** of ACCESS to fishing grounds pushing major portions of Washington fishing toward EXTINCTION – any additional loss of access to fish/crab will have highly detrimental effect of an industry that is being crushed.
18. Failure to CZM Certify most of the county SMP is a short-circuiting of the legislative INTENT to preemptively protect fishing.

Disclaimer: obviously CCF/CRCFA are not attorneys, however this document does have a significant basis in law. The Washington Supreme Court Decision in the Grays Harbor oil terminal case reaffirmed our understanding of the law where we were able to overturn two lower court decision by changing the presentation of the laws which we helped develop with the legislature and thoroughly understood the INTENT of the **ORMA legislation** as CCF/CRCFA were the primary drivers in the updates to ORMA that was put into law to **PREEMPTIVELY PROTECT FISHING from adverse effects** of ocean industrialization. Did we make some mistakes, YES, but we had NO template to follow because all other states in the nation initiated CMSP to install new ocean

uses. Washington was the only state in the nation to initiate CMSP under ORMA to Preemptively Protect Fishing from adverse impacts to ocean industrialization. The new ORMA standard was **AVOID CONFLICT** and allow only minimal adverse effects to fishing.

Updated Washington ocean Standard of Review initiated under **ORMA is a No Conflict NO Harm Standard** & is not adequately embraced or properly understood by agencies. ORMA is purposed driven legislation targeted to protect and preserve coastal Fish Dependent Communities into perpetuity. There are many **self-executing standards** in the legislative ORMA update that the legislature gave to fishing with several new legal tools to protect fishing. In these new ORMA updates the legislature fully understood that Fishing could no longer be the sacrificial lamb to correct all ocean ills and that fishing needed a focused intervention which was the ORMA updates. The legislature understood that the introduction in the limited area that fishing had to fish unimpeded was marginal to protecting coastal fishing JOBS. The legislature also understood that introduction of Industrial development would be an APEX PREDATOR that could eat the coastal fish dependent communities ALIVE. No one including fishing really knew how much of the ocean was used by fishing. No one had produced a comprehensive fishing map to understand existing use in the coastal marine waters. The Legislature did, however, understand that saving our coastal fishing heritage is a solid investment in coastal community wellbeing that **MUST** be protected and preserved as these remanent fishing JOBS were quite honestly irreplaceable on the coast. The legislature also understood that Dungeness crab was the only coastal fishery left on the coast capable of sustaining fishery infrastructure through production of commercial tonnage required to secure federal funding to dredge channels into our ports. The latest ORMA legislation was **OUTCOME** oriented, not **Process** oriented, and the **OUTCOME** anticipated by the Washington legislature was the protection and preservation of fishing.

In the past the old standard of “significant adverse impact” has been replaced in the four coastal counties affected by ORMA and agencies have failed to make this necessary adjustment to more recent legislation and properly add accountability to the new higher marine water standards now in **EFFECT** in coastal marine waters because of the 2010 -13 ORMA legislative updates. The New Legislative Standard of review for new marine water projects - Avoid Conflict and only permit Minimal Adverse Impacts to existing marine water uses. This new Standard replaces - Avoid, Minimize, and Mitigate which basically also **changes mitigate to REMEDIATE** as intended by the legislature in the recent ORMA legislations which is shortchanged in the agency WACs associated with offshore marine water management. Mitigation is rarely ever honestly accomplished, and the New Standard in Washington offshore waters should reflect **REMEDIATION** which essentially meets the ecology required SMP update with **NO NET LOSS** of **FUNCTION** which includes **NO LOSS of Fishing OPPORTUNITY** which is never given adequate stead.

The new additions to ORMA instituted a **NO Conflict NO Harm Standard**. This new standard even changed the language used to describe allowable impact. Historically the word “minimize” was used which starts with a project that may cause 100% impact and “minimize the impact” which could simply mean a slight decrease in the impact to meet the minimize standard which has an infinite variable. The new word “minimal impact” starts with **ZERO** impact and allows just an exceedingly small amount of impact. Under minimize the fishing industry has always been considered “Expendable”. Under “minimal effect” the fishing industry is to be protected and preserved and is **NO** longer expendable and displaceable by new use. Grays Harbor oil terminal case emphasized **“Fishing is to be preemptively protected”** and this is currently in question especially relative to the significant omission of the Pacific County SMP from CZM Certification which is a preemptive protection for fishing if enacted.

Federal Guidelines for ocean industrialization have been getting modernization in recent years as well and federal agencies have been terribly slow to upgrade and embrace their new corresponding Principles and Guidelines. **There are few exemptions from the CZM “Fully Consistent” requirement** – national security and major projects related to oil and gas facilities. Washington is fortunate that there is an extremely small amount of proven oil/gas reserves on the WA coast to worry about development.

In addition to the Washington legislature raising the bar for new use to get over in the ocean, starting in **WRDA 2007** congress also mandated development updating Principles, Requirements, and Guidelines (PR&Gs) that affects most federal agencies as expanded under the Obama Administration, not just as in the agency slanted 1983 P & G’s of the USACE – this update includes NOAA Fisheries and BOEM among other federal agencies. WRDA 2007 demanded an update and upgrade to the existing “standard of review”. CRCFA in conjunction with the national Water Protection Network played a significant role in this update and is well aware of the INTENT of Congress that had held up all new WRDA bills between the year 2000 and 2007 without a single WRDA bill until environmental & **safety concerns of the public were forthrightly addressed**. The 2007 WRDA responded to update and contained portions of the bill that specifically addressed the Insanity of the “Fish or Go Hungry” spawned by increased fishing fatalities due to unprecedented lost ACCESS to fish/crab and USACE mound induced wave amplification at small EPA dredge disposal sites. **The Congress specifically added Public Health and SAFETY as a major consideration in agency rulemaking** as a result of CRCFA insistence. In WDRA 2014,2016,2018, and 2020 congress issued some additional guidance that MUST be included in the consideration for the NOAA CZM Certification of the Pacific County SMP Ocean Section 6. Bottom line on many of these recent policy changes was a baring of the congressional conscience to **include protections for underserved and disadvantaged communities as a significant federal interest** to maintain our coastal cultures including fishing and responded to fishing families’ raw emotions of their pain from vanishing fishing JOBS. Failure to address the Pacific County SMP for CZM Certification has a high probability of violating the State Farm judicial legal standard by refusing to fully implement the SMP by denying specific sections of the state law from CZM Certification and substituting agency WACs instead of the SMP that supersedes the WACs. The Pacific County SMP has several especially important protective regulations that are NOT found in any other state or federal law. The recent ecology crosswalk paper helped identify these important protections that are in need of elevation to CZM Certification.

Recent WRDA bills have Included key policy provisions that have directed agencies to:

1. Full consideration of economic needs of disadvantaged and underserved communities (Demographics confirm Pacific County is a disadvantaged community)
2. Update Environmental JUSTICE policies dictate SPECIAL consideration of the SMP to ensure Environmental JUSTICE practices are in place to Protect and Preserve the Seafood economic base of these coastal disadvantaged community negatively affected by cumulative effects of federal actions.
3. Potential disproportionate and adverse health or environmental effects program, policies, and activities required by WRDA 2014 & 2018 where this disadvantaged community is easily projected to be properly protected from fishing displacement in this small section of the ocean that the county SMP supplies.
4. The PR & G’s are to also include Presidential Executive Orders including but not limited to 12898 and other EOs.
5. The PR & G’s express expectations of agencies to enact policies consistent with WRDA bills that account for disadvantaged communities, environmental justice, cooperation

- between local, state, and federal agencies where local SMP state law is not totally disregarded but must be properly imbedded in CZM process.
6. Multiple Water Resource Development Acts clearly lay out the INTENT of Congress to Protect and Preserve local coastal communities as a significant Federal Interest to improve public health and wellbeing of disadvantaged communities to be fully implemented.
 7. CRCFA was instrumental in ensuring Public Health and Safety was included in WRDA bills to stop the lethal carnage that was occurring on our coastal fishermen causing excessive fatality rate increases from industrial uses causing extremely dangerous navigational hurdles in the ocean whether dredge disposal mounds or other industrial developments displacing fishermen from their critical fishing grounds and historical navigation routes.
 8. Recent WRDA bills have reembraced the Public Trust Doctrine hallmarks of Fishing, Commerce, and Navigation as the primary uses of the public waterways.

Coastal Economic Resiliency for our fishing ports is dependent on abundant ACCESS to sustainable fish which is in jeopardy of total failure in Washington due to cumulative adverse effects over decades that are reaching a pivotal tipping point for the very survival of Fish Dependent Communities, that in order to THRIVE in the future must have retention of maximum fishing opportunity in the 38 miles of coast where open access fishing is still available. Continued suppression of ACCESS to fisheries resources from malignant ocean policy that precludes CZM Certification of the county SMP will translate into negative real world shameful effects of further degrading deplorable demographics of real people if unaccountable agency personal interests fail to carry out the INTENT and Spirit of the laws as written that were originally written to meet the needs of coastal Fish Dependent Communities where unchecked power is tyranny when local social justice costs of agency actions are ignored or suppressed. Agencies are required to improve the “Federal Standard” of national interest to fully consider the adverse vs beneficial effects on rural and disadvantaged communities such as Pacific County. This is especially poignant where the fishing Cumulative adverse impacts are crippling to the county’s economic resource access of our Fish Dependent Community.

Access to sustainable fish is currently compromised by the Rafeedie Decision to meet UNIQUE federal obligations to 4 coastal treaty tribes on the Washington coast which is the only state in the nation with this highly significant legal requirement. Agencies should attempt to stand in the shoes of those they effect when applying their regulations (or in this case failure to apply regulations of the SMP in offshore waters beyond 3 miles from shore) which must uphold the law as written and that agencies only get their authority from the legislature or congress which have both stated clearly that agencies should protect and preserve fishing, this is especially poignant in SW Washington as the only unimpeded fishing/navigation area on the Washington coast. Industrialization of the offshore waters will have a significant chilling effect on the coastal economic existence with far reaching effects into the coastal demographics.

Washington Supreme Court Grays Harbor UNANIOUS 9 – 0 Oil Terminal Decision

CZM Certification of the Pacific County Ocean Section 6 is an essential lifeline to securing a viable and stable coastal Fish Dependent economy as INTENDED by the Washington legislature when they instructed only the 4 Pacific coastal counties to incorporate ORMA into their SMPs, specifically omitting the other 100+ Washington SMPs across the rest of the state. **ORMS’s primary outcome is to protect and preserve existing marine water uses including fishing** which

was clearly reenforced by the unanimous Washington Supreme Court Decision in January of 2017 delineated in the 24 page Grays Harbor oil terminal case which interpreted ORMA in this precedent setting decision with specifics including but not limited to:

1. Agencies are to ascertain the INTENT of the legislature/congress and carry it out.
2. ORMA is to be interpreted broadly.
3. ORMA is to preemptively protect and preserve fishing.
4. <https://www.documentcloud.org/documents/3284686-Grays-Harbor-Decision.html>

CCF/CRCFA recognizes that CZM certification of the Pacific County SMP is not the only way to Fishing security intended by the Legislature, but it is the most straight forward and most positive method available to positively guarantee salvation for existing fishing that is currently under tremendous duress from the UNIQUE cumulative stressors as the only state in the nation required by the Rafeedie Decision to share all fish/crab 50/50 on 70% of the Washington coast to meet federal obligations to treaty tribes. The **Rafeedie Decision disadvantages all our coastal Fish Dependent Communities in SW Washington** like no other place in the nation. Other approaches including the Washington CMSP PROCESS that involves BOEM starts out biased toward leasing offshore waters for industrialization which can only occur in any meaningful quantity in the 38 coastal miles south of Westport to the Columbia River where 90%+ of the entire Washington Dungeness crab fleet is now concentrated. BOEM's primary reason for existing is to make leases for new uses of the ocean. This sets up an automatic CONFLICT between new and existing uses including fishing which is contrary to the Washington Legislative INTENT and congress's INTENT to protect and preserve both fish and fishermen which is well documented in a letter that Senator Magnuson sent to me in 1974 when he was the primary author of this nation's FCMA legislation that was highlighted and preserved in the history of the FCMA of 1976 prepared at the request of Senator Magnuson, chairman of the Commerce Committee. Interesting historical document outlining the current history of the time.

Ellen Aronson, who served as Regional Director for the Pacific OCS Region of the Bureau of Ocean Energy Management once stated to me that "Fishing is everywhere so it makes no difference where we lease industrial expansion of the ocean". WRONG! This statement shows the indifference to fishing BOEM has displayed early in the rush to grab as much ocean for industrialization as possible in the early days of ocean energy where there were originally 243 applications for ocean energy permits. Everyone was hoping to secure federal dollars to develop their own bank accounts and industrialization was quite honestly a secondary objective, as it is with some ocean developers on the Pacific Coast today. There is one ocean energy developer on the west coast that has been a principle in 5 ocean energy companies off WA, OR, and now CA without putting even one watt to shore or even one energy device successfully deployed but has commandeered millions for her bank account at public expense and phishing for more. This is reminiscence of Fisker Karma electric car development sucking millions from the government to help end the 2008 recession and using the US taxpayer money to develop the car in Finland before the government suspended additional free payments. Fisker Karma followed the Solyndra effect – Bankrupt fleecing of America. BOEM's mission is to ensure safe and environmentally sound development of offshore energy and mineral resources and fishing takes second fiddle to BOEM's mission. Renewable energy is a new responsibility for the bureau, and the Pacific OCS Region is working to provide access to the OCS for wind and wave energy development offshore California, Oregon, Washington, and Hawaii with insufficient deference to disparaged Fish Dependent Communities where efficient cost is not an objective. Currently there is NO compelling public need in Washington for offshore energy and there are ample

opportunities on land including the Naselle Ridge project in Pacific County that was killed over the exaggerated Seattlite threat to the endangered marbled murrelet that was never spotted on the ridge in two years of recent study but is found extensively in offshore waters nearby after \$5 million in development costs of public funds were incurred. Added note, my father logged on the Naselle ridge in the 1940's in virgin forests and never once spotted a single marbled murrelet, anecdotal but collaborates recent findings.

Adverse Effects of any more cumulative loss of fishing opportunity will have significant adverse human consequence (effect) for not just Pacific County Fish Dependent Communities but to fishermen from all over the state and NW that ply these waters. Offshore industrialization is especially terrifying for our young aspiring fishermen and their families who will not be able to maintain Pacific County as the 4th most Fish Dependent Community in the nation who are the highest debt fishermen with the least access to fish of any generation in our nation's history. We can take two different paths, one to security via **SMP provisions where OUTCOME is definite** or one to an indeterminant agency process that may or may NOT come to a similar OUTCOME as defined in the county SMP. The bias of the BOEM objective to lease large tracts of ocean put Fish Dependent Communities at significant RISK and disadvantage from the outset of the process. It is quite evident from BOEM lease tracts in the NE United States that fishing is given little if any deference as witnessed by the sheer volume of leases with the only open ocean left unleased for freedom of navigation and fishing is the international shipping lanes which immediately places fishing in conflict with shipping for open space to operate and loss of primary fishing grounds everywhere else. To NOAA's credit at least they are beginning to question the adverse effects of excessive ocean industrialization on fishing in the NE US, OUTCOME to be determined. RODA is challenging the total loss of primary fishing grounds.

Pacific County SMP Ocean regulations - WA/NOAA CZM Certification

It must be recognized that the Pacific County SMP Ocean Section was previously CZM Certified and was eliminated out of what ecology/NOAA termed "unnecessary, cumbersome, and overly burdensome to the agencies' workload and glossing over significant adverse effects to coastal disadvantaged Fish Dependent Communities' needs to maintain a viable and stable coastal fishing community mandated by the Washington state legislature in the RCWs of ORMA (Ocean Resource Management Act). It should be noted that the dropping of the Pacific County SMP from the coastal CZM Certification and failure to reinstate has been **done without proper public notice and No public hearings** in the area most affected by these CZM actions. Further, the Pacific County Commissioners sent ecology a letter to stop sweeping the SMP under the carpet in a recent attempt to neuter the SMP buried deep in a housekeeping notification that nearly slipped by without notice. Reinstatement of the updated SMP should be done to correct these inequities done to the disadvantaged Fish Dependent Communities which is a significant breach of Environmental Justice. This injustice was perpetrated on an extremely vulnerable low income community with the current highest unemployment rate in the state where loss of additional primary fishing grounds would further suppress the coastal people's wellbeing. The last Pacific County SMP update was accomplished with over 50 rigorous well guided Public Meetings led by an extremely competent well organized facilitator that captured the will of the people affected and constructively involved in solving the basic needs of their communities while meeting the letter of the law of the land which was approved by Ecology as directed by the Washington state legislature. This last update process even consulted with NOAA Coastal Marine Management Sector in regional and national headquarters who have been at odds. Recently **NOAA CZM Session has declared the SMP discriminatory without justification** lacking any data and not siting any federal law or regulation; **NOAA needs to explain how their discriminatory determination**

supersedes their “Fully Consistent” mandate, which has not been done and without public participation. CCF/CRCFA is sounding the alarm that NOAA’s discrimination determination skews and elevates RISK to fishing and slants the table in favor of ocean industrialization without good cause explanation. In fact, causing discrimination against fishing. During the last SMP update WA ecology made the county broaden the language to avoid singular discrimination against just ocean energy and insisted on providing ocean space to provide long term industrial development to occur. This qualification was in line with “No NET LOSS” of ecosystem function mandate and like the other industrial expansion allowed in the county SMP limiting industrial development to relatively small areas in just port district areas. We must remember that ecosystems include people, which mandates “NO NET LOSS” of peoples’ prime irreplaceable fishing grounds in offshore waters.

Everyone needs to look at the **BIG Picture**. Washington coastal fishing is concentrated offshore SW Washington in just 38 miles of coast due to federal actions. There are NO other area options for fishing available that are not significantly compromised by the Rafeedie 50/50 fish/crab sharing Decision. Pacific County SMP only affects 32 miles of the 1500 mile long west coast where multiple options exist for industrial development that will not have as much adverse effect on fishing where 90%+ of the entire state crab fishing fleet fishes these precious marine waters today. Crab is the only fishery on the Washington coast capable of maintaining our coastal ports’ economic viability. This area of **SW Washington coastal waters are SPECIAL/UNIQUE** like NO other small section of coastal ocean in the entire United States; it is so special that this area needs these special protective measures found in the Pacific County SMP to survive both literally and economically to **ensure the public wellbeing, health, and safety**. The entire future of our coastal Fish Dependent Communities hangs in the balance of continued fishing or total destruction of this vibrant coastal JOB opportunity that will not be replace once squashed. There is NO viable alternative to crab fishing to support our ports that requires commercial tonnage over the channels into the ports to receive federal dredging of the long channels that the local disadvantaged community cannot support on their own. Note: most moorages in the Ilwaco/Chinook ports are out of area, most from the interior I-5 corridor so this determination supports far more than just local needs, it supports a wide state need and interstate need for fishermen that fish these waters from San Diego to Kodiak.

Synopsis of thoughts/actions on the 26 Oct 2020 ZOOM meeting between Pacific County Commissioners, Ecology, NOAA, and a couple of others including CRCFA that was productive to continuing open discussions and a hunt for a viable SOLUTION(s) to Protect and Preserve WA coastal Fish Dependent Communities and fishing as a viable industry in the face of lost access to ocean primary fishing grounds to offshore industrialization. The Primary Action currently in contention is the county SMP Ocean Section regulation “Prohibition of Fixed Structures” in coastal marine waters. This Prohibition has been Ecology approved and is in effect from 0 – 3 miles from shore in WA state waters. NOAA is resisting CZM Certification of this Fixed Structure Prohibition. Ecology is standing firm that this Prohibition is NOT necessary to Preemptively Protect disadvantaged Fish Dependent Communities. Avoid CONFLICT and MINIMAL” adverse impact to fishing in ORMA legislation appears to be lacking sufficient definition and has not been put into proper context of other CUMULATIVE impacts that currently exist in a manner that is necessary for WA ecology/NOAA to once again CZM Certify the SMP. Both agencies MUST review their entrenched positions to once again CZM Certify the SMP to help preserve and protect these fishing grounds vital to ensure a future for fishing in SW Washington.

1. All agreed to review Pacific County SMP Ocean Section and add new regulations “if appropriate” to the WA/NOAA CZM Certification – “appropriate” will need to be addressed through a legal lens with the aid of the WRDA bills since 2007, WA Supreme Court decision in the Grays Harbor oil terminal case, ORMA updates and INTENT, Pacific County SMP and other pertinent legal authorities that all point to NOAA being “Fully Consistent with state and local law”.
2. WA CMSP Fisheries Protective Provisions will be added to both the Ecology WACs & Pacific County SMP and CZM Certified sometime in the future – Pacific County SMP update is scheduled for 2022 – 2023. These Fisheries Protective Standards are still subject to interpretation and may be quite helpful but we must put them in context of BOEM only reason to exist, lease ocean area.
3. WA/NOAA will incorporate WA GLD (Geographic Description Location) out to 700 fathoms to the CZM Certification in the Washington Coastal Marine Spatial Plan to add further protections for fishing, commerce, and navigation that is also protected by the Public Trust Doctrine. Again the fishing concentrate in the Marine Spatial Plan maps are subjective and subject to interpretation that is overall biased to new use and does not incorporate the needs of SW Washington Coastal Fish Dependent Communities area compression on the coast that has severe compression of the available area to fish into just 38 miles of coast.
4. NOAA maintains that a “Prohibition on Fixed Structures in the federal zone 3 – 200 miles offshore is prohibited due to discrimination – NOAA did not cite any legal basis – needs clarification and appropriate legal citations as well as any supporting reliable information, and any public hearings on this matter which have NOT occurred yet. Turning the equity lens around from a coastal perspective it is the fishing industry that appears to be discriminated against as they are further displaced and disadvantaged from additional loss of fishing area.
5. NOAA was willing to move forward with language changes to the Pacific County SMP that could become compatible with NOAA regulations (Can we see a NOAA pathway to include “Prohibition of Fixed Structures” in these 32 miles of coast in question”???) No additional communication has occurred to enable this to move forward. Next meeting with the Pacific County Commissioners to further discussions on CZM Certification is on 29 April 2021 which occurred without fanfare, and everyone once again agreed to continue the dialogue. Ecology prepared a 50 page crosswalk document for discussion which was useful to highlight where the WACs and SMP differed. The Crosswalk also highlighted some perceived weaknesses in the SMP that will need to be beefed up in the next SMP update in 2021 – 2023.
6. NOAA added that their job was to protect the “National Interest” and energy was in the National Interest yet there was NO analysis of need to protect the national interest or if there were adequate other alternatives that the national energy interest could be accommodated in some other area including land based areas available. There was also NO discussion of the National Interest in seafood production for all our citizens base food supply that they not only wanted but actively support.
7. NOAA failed to recognize that WRDA bills in recent years directed agencies to address disadvantaged communities’ needs as a national interest and to actively begin to rectify injustices that some coastal communities are facing that are found in SW Washington.
8. No one discussed that feeding our citizens with healthy wild caught seafood was also in the “National Interest”.
9. Plenty of discussion about Navy activities and the WA Ecology objection – No one discussed that National Defense was one of those “National Interests” that TRUMP other activities where court action would be dubious – NOTE CRCFA has had an open

discussion with the Undersecretary of the Navy a number of years ago about ocean energy projects offshore WA, his remarks were very clear – “Ocean energy projects will only be allowed in the National Interest close to shore, VERY close to shore” with added emphasis on CLOSE. This discussion with the Navy was relative to industrialization of Washington offshore waters. National Defense is one of those issues that TRUMPS all other ocean projects. CRCFA has testified in person on the Northwest Navy Training and Testing EIS and thanked them for maintaining “FREEDOM of the SEAS” for protecting and preserving our coastal marine waters for OPEN ACCESS for our fishing fleets to remain viable.

10. Dredge Disposal SMP Prohibition on mounding limited to no more than 10% Wave Amplification was not discussed – will be in future CZM discussions. Mound Induced Wave Amplification was briefly discussed at the end of April meeting. USACE has maintained this 10% maximum wave amplification at the Pacific County Ocean dredged disposal sites first agreed to in federal court as a settlement agreement with CRCFA and carried forward as good policy protecting human life and safety but not put into regulation until the last update of the Pacific County SMP. Again the 2007 WRDA bill mandated human health and safety be included in projects and President Obama expanded to most federal agencies including NOAA and BOEM. Human Health and SAFETY MUST rise to the top in future discussions.
11. Direct congressional ACTION to allow some “PROHIBITIONS” within the CZMA MUST be elevated as an option for “No Fixed Structures” for extenuating circumstances and cumulative effects, needs to be addressed further. Congressional ACTION needs further development as a distinct option that is necessary in this particular case if the SMP remains CZM uncertified.
12. There was mention of an ocean industrial project only taking up one acer of ocean – NOTE only a monopole wind turbine is in this capability limit. A single wave energy buoy to anchor would require over ½ square mile and a single floating wind turbine would require at a minimum 1 square mile of ocean. NO one is going to propose a single unit project when there is an offshore energy test unit area already designated off Newport OR that is being approved with an electric cable to shore – Reality check.
13. WA coastal waters are UNIQUE as the only state in the nation that has Federal Court Judgement of the Rafeedie Decision where all fish are required to be shared 50/50 on 70% of the WA coast with only an exceedingly small 38 precious miles of coast available for the WA fishing fleet to fish unimpeded by Rafeedie sharing.
14. Commercial tonnage is required to receive federal funding to dredge the long channels into Ilwaco/Chinook – EFFECTS of ocean industrialization could reduce tonnage significantly to the point channel dredging would stop, eliminating the ports as viable economic engines – this effect is extreme but reasonably foreseeable further disadvantaging our Fish Dependent Communities and not in the national public interest. Current Rafeedie effects already removes considerable crab tonnage from the Columbia to Westport due to unparalleled crab fishing effort transfers from north of Westport to Pacific County offshore waters making the continued dredging of Ilwaco/Chinook vulnerable to losing federal dredging, killing the local Fish Dependent Communities economic viability.
15. The initial October 2020 ZOOM meetings to discuss SMP CZM Certification did not get down into the weeds of the SOLUTIONS, but everyone agreed to begin examination of the PROCESS within a reasonable time frame to establish Fisheries Protections to keep our county SEAFOOD BUSINESSES from going EXTINCT – a distinct and reasonably foreseeable effect of any industrialization of the offshore SW Washington as our young next generation fishermen are currently struggling to remain solvent and economically

viable. Trading off the best paying JOBS available on the coast to future **industrialization is not a Solution it is a travesty** that will further suppress this low income area inflicting additional economic PAIN perpetrating further indigent injustice on a significantly stressed community. **Intolerable EFFECT** on those that sign the front of the check at the end of the month that will not have sufficient economic resources to remain in business. The early December strong winter storm exemplified what could/would happen we the Columbia region lost all five new young crab fishermen that did not survive their crab gear being scattered all over the ocean and most stuck in the transient sand movement

16. When addressing the Pacific County SMP additions to the WA/NOAA CZM Certification we must also include the UNANIMOUS WA Supreme Court Decision that contained 24 pages of interpretation of the BROAD Definitions in WA ORMA legislation that should be "Fully Consistent" with state and local regulations in association with the CZM Certification process. **Elimination of the SMP from CZM Certification is NOT "fully consistent" with state law.** The county SMP is state law, not just a local expression ordinance. The Supreme Court decision is **unanimous 9 - 0**:
 - a. Agencies have a responsibility to ascertain the INTENT of the legislature and carry it out.
 - b. ORMA is to be interpreted broadly.
 - c. ORMA is to be utilized to preemptively Protect Fishing.
 - d. Added NOTE: Legislature mandated that ORMA Shall be incorporated into coastal SMPs including the legislative INTENT.
17. 2010 ORMA legislative additions had the legislative INTENT to protect fishing from ocean industrialization and keep any **industrial projects offshore WA to MINIMAL impacts to fishing without conflict** – this was clarified in the 2013 ORMA legislation in RCW 43.143.060 (2) (b) proceeded with a SHALL. NOTE: Washington CMSP/WCMAC legislation in the only state in the nation to initiate as a 1st priority the preservation and preventing the depletion of fishing; all other states initiated CMSP to install ocean energy in offshore waters.
18. Fortunately, there are NO imminent industrial projects slated for development in SW Washington and WA has time to develop sufficient Fisheries Protections to prevent further depletion of WA Fish Dependent Communities that quite honestly only have one fishery today capable of maintaining our ports channel access – Dungeness Crab that in recent years has experienced many season closures and area restrictions. 2021 was the longest season delay in history and did not open until February 16th, 78 days of lost fishing opportunity making a dangerous midwinter fishery even more dangerous and resulted in multiple marine casualties including 2 fatalities at Garibaldi strongly influenced by the Washington crab closure after northern crab vessels began plying waters normally fished by the local Garibaldi fishermen increasing the "Fish or Go Hungry Insanity" inherent in the fishery coastwide in WA & OR which led to the fatalities which cannot be continually ignored as a reasonably foreseeable effect on coastal Fish Dependent Communities.
19. SMP updates are due starting in 2022, this SMP "hard look" at incorporating some additional regulations into the CZM Certifications should be completed before the SMP update begins.
20. The 2016/17 Pacific County SMP update was focused by Ecology required "NO Net Loss of Ecological Function", also by definition ecosystems include NO Net Loss of Human Function, i.e., Fishing. Pacific County SMP's Prohibit Fixed Structures in offshore marine waters where loss of function is assured if the coastal marine waters are industrialized where conflict is not avoided; impossible due to in the high concentration of fishing forced

offshore Pacific County by the Rafeedie Decision where excessive fishing effort transfer currently exists.

Shoreline policies and regulations must meet a standard of “no net loss of ecological functions; Ocean Section 6 aspires to meet that “high standard.” At this point in fisheries development in Pacific County where Dungeness crab is the only coastal fishery capable of maintaining coastal disadvantaged Fish Dependent Communities where it is reasonably foreseeable that industrialization of the offshore waters is impossible to mitigate the losses that will be assured to the crab industry from displacement that is already one of the largest displaced fisheries in our nation’s history. The high No Net Loss Standard ecology insists on is to ensure that the economic and environmental benefits of healthy marine waters are preserved for current and future generations. Our next generation of Washington offshore fishing families are struggling to survive both literally and economically from denied ACCESS to multiple fisheries. Example: In the decade of the 1970’s Washington offshore troll salmon fleet numbered about 7000 fishing vessels, today barely 100 trollers even attempt to fish for salmon in offshore waters. During the 70’s the average yearly troll salmon fleet delivery was over 21 million pounds of salmon, today about 200,000 pounds, < 1% of the historical harvest; coastal communities are in serious economic trouble and cannot stand any additional deterioration of their fishing base and be expected to survive. To punctuate the point at the Port of Ilwaco there was at the high point 16 trawlers the homeported there. Today ZERO, IFCO lost 50 employees the day that the last trawl vessel Mistasea left town with the last remnant of ecological function displaced and fifty families were driven out of year around work where there was NO reasonable replacement jobs; these families left town cutting deeply into the local Fish Dependent Economy further disadvantaging the community. Further disadvantaging SW Washington Fish Dependent Communities would create additional effects exacerbating the existing deplorable economic condition in this already demographically challenged area of the state. Clearly additional displacement of fishing will have adverse effects on nearby communities. At the end of April 2021 ecology/Pacific County Commissioners CZM ZOOM discussion the facilitator of the last county SMP update highlighted the ocean industrialization effects the SMP Ocean Section approved that were tied directly to effects – many of which cannot be mitigated and require complete REMEDIATION to address the effects standard to further address depredation/plunder of local socioeconomics:

1. Sustainability of Fishing – Fishing Displacement unacceptable
2. Restrictions on dredge spoils – life safety – limits mound induced wave amplification to 10%
3. Cumulative effects MATTER – existing loss of 50% of all fish on 70% of the WA coast
4. Feds evidently do not have offshore birds impact regs – have one on land – short tailed albatross
5. Realistic Bonding for removal of failed industrial development
6. Protect Public ACCESS which will be lost – protect Fishing, Commerce, Navigation
7. CZM Certification of the SMP protective provisions

The Washington/NOAA CZM Certification is a significant agency action/inaction that will have a reasonably foreseeable strong potential for adverse impact/effect on a substantial number of small entities (fishing families) economic wellbeing if Pacific County Ocean Section 6 if not CZM Certified as currently enacted, especially when that action OMITS state approved law/regulations that contains a number of fisheries protective measures found only in the Pacific County SMP and NOT found elsewhere in the state or federal law that are being specifically omitted by both state and federal agencies failing to act and that part of the **CZM Certification has NOT had a business economic impact analysis** as required by the state Regulatory Fairness Act and the federal Regulatory Flexibility Analysis or public hearings on the action and NO supporting

FACTUAL information has been disclosed as to the validity of the current Omission or past removal of the prior Pacific County SMP that was a worthy part of prior CZM Certs. This current snub of county SMP for CZM consideration is a tragic misplaced action that omits state law that supersedes agency WACs. The Action to exclude the coastal SMPs from the Washington/NOAA CZM Certification has also not included an ecosystem impact analysis as well that includes potential adverse impacts (effects) to humans as a result of this deleted CZM action that has not had any Threshold determinations for the major assets for the local seafood industry which is a powerful economic driver required for such an action which certainly is well beyond nonsignificance potentially causing EXTINCTION of the next generation of young Washington fishermen and the potential loss of the entire offshore Washington fishing industry. REPREHENSIBLE. (REPEAT) In **Pacific County seafood access MATTERS** to these fishermen, their families, and the larger community that are at significant RISK from the adverse impacts of the Rafeedie Decision where 50% of all harvestable sustainable fish including crab have been reallocated to honor federal obligations to treaty tribes that NO other state in the nation is subject to this highly significant loss of ACCESS to 50% of all fish including crab that occurred when Judge Rafeedie extended the Judge Boldt Decision into Washington coastal federal waters that were not even a part of the United States when the treaties were made about 170 years ago. These treaties are the law of the land and remain in effect until congress acts specifically to nullify them which is highly unlikely. The Pacific County SMP is a clearly defined protective chart to the future of SW Washington to safeguard existing marine water uses including fishing. Failure to CZM Certify the SMP is an abuse of agency discretion torturing the Chevron Doctrine and ignoring the MEAD Doctrine of plausibility that simply shocks the conscience of our people bypassing state law excessively narrowing the INTENT of the legislature/congress that was clearly articulated in the **Unanimous 9 – 0 Washington Supreme Court Decision** interpreting ORMA in the Grays Harbor oil terminal case that has **a significant nexus to preemptively protect fishing** from agency overreach which also removed significant agency deference to interpret and attempt to narrow ORMA's broad reach which the legislature directed to be incorporated into the coastal county/cities SMPs untarnished by BOEM'S bias of offshore industrialization. The Grays Harbor oil terminal case reaffirmed that administrative regulation does NOT TRUMP established Washington legislative or congressional law; Pacific County SMP is state law. Unelected officials have a responsibility to carry out the law as written, every word MATTERS where the practical effects test is grounded in statute with the natural reading of the statutory structure and context makes the meaning of the law clear utilizing the statutes plain language. There is NO uncertainty in the statutory language that mandates that agencies are to enhance and improve commercial, recreational, and tribal fishing and that the WA Supreme Court's unanimous decision relied on the word "any" as clear meaning of the word to sweep broadly.

The Washington legislature enacted legislation to make the Shoreline Master Programs state law realizing that different parts of the state need different regulations to protect differences in local shorelines and adjacent waters and their uses. The Legislature also enacted ORMA with SPECIAL protections to only apply to 4 Pacific Coastal counties that authorized the Pacific Coastal counties EXTRA SPECIAL protections not offered to other counties in the state. The Washington legislature also directed coastal counties to incorporate ORMA into their local county/city SMPs to provide unity of regulation across the coastal marine waters and adjacent uplands with the ability to add local variation to address specific nuances and needs in the specific local jurisdiction to address local peoples' needs. Elected officials in coastal jurisdiction have responded with different regulations depending on the needs of the local jurisdictions by examining the totality of the needs of their constituents and the potential impacts from various developments that may come to place EFFECTS on the citizens in a specific locality. Some

communities like Pacific County have more reliance on marine waters than other areas of the state which is made clear by the FACT that **Pacific County is the 4th most Fish Dependent Community in the nation** making them UNIQUE that requires UNIQUE solutions to their need for protection that is not necessary in other areas of the nation that have considerably more diversity in their overall JOB base. **FISHING MATTERS HERE!** Additional **No Access NO Fishing Zones are systemic complicit dismantling of Fishing**, which is the cornerstone of our coastal communities that are at RISK from failure to CZM Certify the county SMP which is a law of direct protection that is clear and concise that eliminates an uncertain agency Process that has variable and uncertain outcomes with serious concerns as to the future of economic insecurity on the coast where their needs are too easily deep sixed with a biased by BOEM primary interest to lease ocean with the causal effect of lost ACCESS to fish undermining the pillar of economic sustainability of the coast.

What is at STAKE? We are very concerned and fearful that entire Fish Dependent Communities could have dangerous consequence of losing the American Dream and failure of not only independent fishing families but also grave economic damage to the entire 4th most Fish Dependent Community in the nation as a direct result of this hostile decision by agency officials to omit the coastal SMPs from CZM Certification that will in all probability have significant negative effects on fishing revenues that that is reasonably foreseeable to have **dire ripple effects of socioeconomic fallout resulting in a rural injustice** in an area of the state that has current special demographical challenges which are among the worst in the state. This CZM omission is a troubling erosion of the intent of both congress and the Washington state legislature to protect and preserve Fishing as the coastal ANCHOR of economic stability. This regulation omission of the coastal SMP just because agencies think they can in this instance is highly insensitive to the existing plight of our coastal citizens' JOBS that depend 100% on ACCESS to sustainable fish in a biologically important area of SW Washington that is the only place these citizens have to fish that is not depleted by 50% before they even get to wet a crab pot or a FISHING LINE each season that is extremely suppressed compared to the rest of the nation's access to fish that are NOT under a federal court edict to share all fish including crab 50/50 with over sovereign nations – UNIQUE – requiring a UNIQUE solution for the special area offshore Pacific County that advanced a results oriented law to **ensure local fishing to THRIVE not just barely survive** if at all as well as to provide a bridge to reduce the significant urban/rural divide by championing the needs of the disadvantaged rural coastal people to ACCESS sustainable fish/crab in the only place they have left to fish unimpeded and promote rural social justice as the preferred solution as opposed to continual erosion of seafood ACCESS with its significant loss of JOB opportunity.

This Action of discriminatory censorship of the law by omission of the Pacific County SMP from CZM Certification has grave potential for irreparable HARM to coastal people through significantly increased CONFLICT for very limited ocean space with little if any measurable benefit to the national interest. Example: the size of a single wave energy buoy array large enough to put out the energy of Bonneville Dam (1100 MG) would require 7800 OPT Power Buoys, 23 – 2400 square miles, and cost a king's ransom and more to construct. Principle Powers Floating Wind proposal is just a little less disruptive relative to area/kW consumed in comparison at approximately 500 floating turbines at about 1 square mile per 6 MG wind turbine. Floating wind at Coos Bay OR failed for lack of a Power Purchase Agreement that would have bankrupted many marginalized coastal people that are struggling economically to survive and those in the service industry which cannot even find reasonably priced housing on the coast. The Washington Coastal Marine Advisory Council had an opportunity and the legislature authorized enough state funding to examine these high costs and potential area requirements of

offshore energy development but attendant agencies refused to authorize the money in an adequately described RFP even though the WCMAC authorized a substantial spending plan (\$750,000) to examine these parameters and potential adverse impacts to coastal Fish Dependent Communities and make the public aware of the significant consequences of placing fixed industrial structures in offshore SW Washington marine waters. Hiding this invaluable information from the public that would be affected is a deplorable action of deceit that the public has a right to know before area leasing begins further diminishing their economic stability as an effect.

This serious and calculated Omission of a layer of legal protections found in the Pacific County SMP for coastal seafood businesses could lead to industrial development of the SW Washington coastal marine waters where huge wind turbines or other fixed structure industries could have an inadvertent potential to not only have adverse effects on coastal communities by this omission but could also end in TAKINGS of ESA endangered **short tailed albatross**. If any fishery in these offshore waters has two takes of a short tailed albatross in any two year period that fishery is shutdown – will these wind turbines also be shut down if they have 2 short tailed takes in any 2 year period and how will these turbines be monitored to ensure that NO take of this ESA listed albatross occurs? The short tailed albatross problem was brought up during the PROCESS of adopting Washington's CMSP and was not even recorded in the meeting summaries and is NOT inconsequential to some types of offshore industrial development. This decision by agencies to OMIT the SMPs from CZM Certification is a troubling erosion of the INTENT of both congress and the Washington state legislature to not only prevent the depletion of marine species but also prevent the depletion of fishing. In this area of SW Washington coastal waters, the BEST alternative is the NO ACTION Alternative that prevents further **RFAs – Fishing Restricted Areas** and BEST done through the CZM Certification of the Pacific County SMP Ocean Section 6 even though agency PROCESS may eventually come to the same conclusion, a prohibition of fixed structure development, the PROCESS will take years of time and effort not to mention the large expense of the PROCESS which is unnecessary if the SMP is CZM Certified.

Our agencies need to look through the windshield to the future adverse effects of an ill placed industrial complex located in SW Washington coastal waters. Our coastal disadvantaged Fish Dependent Communities in Washington are facing really RAW and UNIQUE Cumulative ACCESS problems to our marine waters natural resources and need SPECIAL protections found in the Pacific County SMP that dictate POSITIVE PROTECTIVE RESULTS, not just tired rhetoric and an infinitely malleable PROCESS that finds in favor of TANGIBLE industrial results involving BOEM 95% of the time the biased PROCESS is triggered by a request to industrialize and local communities SUFFER heinous effects to the local society from these actions. Our coastal communities MUST MATTER too, especially when these waters are the ONLY PLACE on the Washington coast that the natural resources are not depleted by 50% before our local state fishermen get to even begin to fish every season.

The CZMA was originally conceived by congress to help protect local adverse impacts to socioeconomic vulnerable disadvantaged coastal marine water dependent communities from total preemption of federal action that have a reasonably foreseeable financially toxic adverse effect on not only natural resources that local communities depend upon those resources for economic sustenance but also to **protect existing marine water USES including fishing from HARM** and excessive smothering coastal communities in the name of overall “national interest” when the truth is not exposed only by fishy FACTS or not at all. Congress made it clear in the plain language of the CZMA that there were few exceptions to the “Consistency” provision that federal actions MUST be FULLY CONSISTENT with state law (Pacific County SMP Ocean

Section 6 is state law, not just a local ordinance); not arbitrary and capricious decisions to omit specific entire sections of state law from CZM Certification which is in question here. Once again reminding those concerned that the coastal county SMPs are state law that preempts agency WACs in Washington which is not in legal dispute but an uncomfortable truth that is being ruthlessly sidestepped. Agencies have a responsibility to interpret the laws as written and have a duty to ascertain the INTENT of both congress and the state legislatures and carry out that INTENT as written in plain language in the legislations. Federal law sets a floor of legal protections, the states have a RIGHT to issue more stringent regulations than the federal legal floor and congress fully INTENDED that the state laws be FULLY CONSISTENT not suppressed just because agencies believe they can get away with this censorship of the law by omission and cause serious erosion of the INTENT of both congress and the Washington legislature is pure abdication of duty and responsibility. Failure to CZM Certify the Pacific County SMP provisions will place the coastal communities even further on the WRONG side of the Rural/Urban Divide, magnify injustice, and the county unfortunately has the demographics that bear this out with the uncomfortable human carnage of the county's economic crown jewel, fishing. We do not need any further gap forced into this egregious urban/rural divide driving further this stark inequity which is NOT in the best public interest moving forward. Common Sense needs to be fully applied in this situation and Protect and Preserve Fishing as intended – 43.143.060 (2) (b) “The protection and preservation of existing sustainable uses for current and future generations, including economic stakeholders reliant on marine waters to stabilize the vitality of the coastal economy” this was added in the Washington 2013 legislative session due to the fact that agencies had not offered adequate preservation of fishing in marine waters that the legislature INTENDED when ORMA was expanded in Washington to address the “GOLD RUSH” where there were 243 applications for permits in US federal waters for ocean energy including the large wave energy proposal of Burt Hamner's Grays Harbor Ocean Energy venture that was totally rejected by the Washington Legislature when Mr. Hamner came trolling for state dollars to further his misadventure. The legislative INTENT was clear as GH Ocean Energy was sent packing and ORMA was extended with the INTENT to protect and prevent the depletion of fishing.

The analysis of this proposal to OMIT existing state law (Pacific County SMP provisions) has not had a cost-benefit or adverse effects analysis and has NO scientific basis underlying the State/Federal Agencies rulemaking decision to OMIT the county SMP. No notice of the proposed rulemaking has been made available to the public or individuals that have a vested interest in the CZM Certification rule making that has filtered down to the ordinary citizen or even the local county elected officials that are responsible for making state law relative to the SMP lack sufficient notification to respond. The overall Public has been omitted from this non Process of failure to CZM Recertify the county SMP.

No public hearing on this specific and highly significant issue to omit the county SMP from CZM Certification has been scheduled that is evident to the affected public.

RCW 34.05.320 conditions notice of a proposed rule or rule change. At least 20 days prior to a hearing, the agency must publish an NPRM. The NPRM must include, among other administrative information: citations to the agency's statutory authority for adopting the rule; a “short explanation of the rule, its purpose, and anticipated effects”; agency comments regarding pertinent statutory language, implementation, enforcement, or fiscal matters; whether the rule is necessary under federal law; a small business economic impact statement or explanation for why one was not prepared; a statement of whether or not the proposed rule constitutes a “significant legislative rule”; and, if the rule is a “significant legislative rule,” the agency's preliminary cost-benefit analysis of that rule; in this case OMISSION of the regulation.

Washington/NOAA CZM DROPPING Certification was a SIGNIFICANT agency action that needs scientific support and has NO peer-reviewed scientific literature posted online to support the Action which has not been offered that can be easily located by the affected public. This action to suppress the Pacific County SMP Ocean Section 6 is willful blindness mangling the legislative and congressional intent and is an emotionally explosive issue affecting the wellbeing of the coast. This nefarious behavior moving the goal posts by removing the SMP from CZM Certification and refusing to reinstate is out of sight potentially creating a tipping point of literal survival as legislative guardrails are removed by this inhumane treatment of the disadvantaged Fish Dependent Communities is irreconcilable and is crossing the line as an evil in our time by tearing the front steps off the fishing family homes is the wrong direction and we already have the dubious demographics to prove our concerns for hostile actions with adverse effects on our citizens more than just fraying the edges of our communities but an unhinged metastasizing is an **indefensible assassination of our local economic seafood base** for which cannot come to terms with the consequences that will remove substantial food for our nation diminishing the fisheries yield from diminished ACCESS to fish/crab that has not undergone a reasonable vulnerability assessment causing lost Public Trust as ocean industrialization's footprint expands forcing Washington coastal fish dependent Communities one step closer to extinction as freedom of navigation and fishing has its lifeblood drained by exculpatory agency actions. **It takes courage to do the RIGHT things** by our coastal people that need to have their HOPES reignited so that our communities can Thrive not just barely Survive on the edge of economic destruction that the Pacific County **SMP Ocean Section 6 is a pragmatic solution** for the future of our communities where people can continue to harvest seafood without a terrific implosion of our SEAFOOD JOBS. Industrial development of our local coast is a Trojan Horse leading to a steep loss of Seafood JOBS that will not be replaced reeking onerous HARM on the coastal communities for years to come as SEAFOOD production is reduced which will have a long term effect on the next generation of fishermen that need to see economic success firsthand to get excited about entering fishing at all. Everyone needs to understand that fishing is like investing in the stock market with need for diversity but with a high likelihood of drowning which increases with each loss of access to fish as the "Fish or Go Hungry INSANITY" is irritated further; a human FACTOR that must be considered in this PROCESS to get the Pacific County SMP Ocean Section 6 CZM Certified as the best pathway to securing a viable future for the coastal communities and the valuable Seafood JOBS our coast depends upon for our wellbeing and dignity as they triumph over coastal failing demographics that will be accentuated if agency actions remain untethered from the INTENT of the legislature and congress.

CZM Denial Process needs public participation:

In a significant rule making like the Washington/NOAA CZM Certification or lack thereof, the public MUST be provided an opportunity for public comment in the Open Public Meetings Act – RCW 42.30.010 – none to date on the original decision to eliminate the SMP from the original elimination of the SMP decertification of the original CZM Certification of the Pacific County SMP. Reprehensible.

After Public Comments are received, the Agency MUST respond to the public comments and reasoning how the public comments made any differences to the proposed final rule. If the final rule/regulation is substantially different than the proposed rule MUST file a supplemental public notice and accept further public comments. This PROCESS procedure was also omitted when Washington agencies adopted the Washington Coastal Marine Spatial Plan. Several in the public commented on the draft WA CMSP and there was no acknowledgement of the comments and NO changes made to the final CMSP that reflected substantial public comments submitted.

Scheduling a public process MUST make it in such a manner those most affected by an action/inaction should be able to respond that does not cut excessively into their ability to make a living for their families. For the fishing industry to have any realistic opportunity to respond adequately the hearing(s) should be conducted in the Fish Dependent Communities and in a time of year that fishing is at its low point. On the Washington coast the best time of year for a significant public hearing that affects fishing should occur in October/November or April/May of the year. The peak of Dungeness crab fishing occurs in December through April. The Peak of Salmon/Albacore fishing occurs May through October. Many in Washington's Coastal/Rural Fish Dependent Community members fish in Alaska June through July and unavailable to participate in public hearings at this significant time of the year. Albacore is at its peak in August, September time frame and starts generally in July, sometimes earlier and may in the future occur earlier tied to global warming overall.

Agencies MUST maintain an official rule-making file for an administrative record for the purpose of any judicial review of the agency's actions. Providing summaries of proceeding/meetings shortchanges the actual events that have occurred – AKA - things like the shorttailed albatross concerns at the WCMAC meetings never addressed. The APA specifies the contents of the file, which include, among other items, comments received on the proposed rule and citations to all data, reports, and other sources of information on which the agency relied in making the rule/regulation that justified on an economic and policy basis. AGAIN, AKA the entire Tacoma Power and Light analysis for current turbines in Tacoma Narrows was submitted as an example of what the WCMAC could have produced for offshore industrial development of other fixed structure developments and again did not make the truncated shortened meeting discussions notes, summaries. The agency must also determine that the probable benefits of the proposed rule outweigh its probable costs and that the **proposed rule is the least burdensome alternative**; determine that the rule does not conflict with federal or state law or discriminate against private entities in favor of public ones; and justify any differences between the proposed rule and any federal statute or regulation applicable to the same subject matter. In our humble opinion none of this has been done to put sunshine on the decision to Omit coastal SMPs from CZM Certification. Just because agencies got away with omitting certain laws in California is not sufficient justification for omission of the Pacific County SMP provisions in Washington offshore waters.

Ecology failed to analyze the disproportionate impact potential of this administrative rule (Washington/NOAA CZM Certification) on small businesses where the impact of industrialization of our coastal marine waters would likely have a probable significant adverse effect on many small entities and is reasonably foreseeable effect to cause the EXTINCTION of the next generation of high debt fishermen with the current least access to sustainable seafood products of any generation in the history of our nation which would be an excessive economic burden on not only fishing families but the entire coastal community that has been identified by the Brookings Institute as the 4th MOST Fish Dependent Community in the nation which is considerably more significant than just in Washington where the failure of submitting the county SMP for CZM Certification which will cause businesses to lose significant sales revenue when their crab gear is irretrievably entangled in any multi-directional anchoring of fixed structures developed in high value fishing grounds on the continental shelf and this ACTION to suppress the SMP has NO assurance of preventing a Significant Disproportionate Impact on these small fishing entities. There is NO obvious steps that have been taken to reduce the burden of the proposed omission of the rule to reduce the extreme burden on these small businesses and there is no justification that is reasonable for OMITTING the county SMP and its protective provisions for fishing and other existing uses of our coastal marine waters in the 0 – 200 mile EEZ. The

agency in addition has NOT notified these small businesses that would be impacted by industrialization in prime fishing grounds of the proposed rule potential adverse effects on their businesses and have additionally failed to notify the small entities a statement of good cause reasons underlying its rule/regulation omitting the SMP provisions that the Regulatory Flexibility Act demands of agency actions affecting small business.

CCF/CRCFA contends that NOAA/Ecology's attempt to OMIT the Pacific County SMP provisions from the State of Washington/NOAA CZM Certifications is arbitrary and capricious and has NO foundation in the law for this omission. This omission of the SMP is a willful and unreasoned action without FACTUAL analysis taken without adequate regard to attendant facts and circumstances of significant loss of income from a substantial number of small water dependent entities due to large flower gardens of crab gear irretrievably entangled in any fixed structure industrial developments in offshore marine waters that is reasonably foreseeable to occur in ANY large wintertime storms that are well documented to move crab gear over long distances in a single storm that and this pertinent information has not been incorporated into the decisionmaking process to properly protect and preserve fishing in offshore waters as INTENDED by the Washington legislature and specifically in the plain language of RCW 43.143.060 (2) (B) which is preceded by legislative language, "SHALL consider".

Washington Open Public Meetings Act (OPMA) requires that state agencies act and deliberate openly to keep the public informed and ultimately in control of government action. "All meetings of the governing body of a public agency [e.g., Washington Ecology] shall be open and public and all persons shall be permitted to attend any meeting of "that governing body, except when the body goes into executive session. No agency governing body may "adopt any ordinance, resolution, rule, regulation, order, or directive, except in a meeting open to the public" and of which the public has been properly notified. In this case the public is not aware of any public meeting notice that specifically addresses the omission of the coastal county/cities SMP requirements. The Fishing Industry, the portion of the public most affected also needs specific notice. The Coalition of Coastal Fisheries and the Columbia River Crab Fisherman's Association request specific notice of any meetings with any content in marine waters whether they MUST be scheduled for public hearing and further request that these hearings be held in a time of year that the fleet can attend, not in the middle of major fishing seasons. Contact information for both CCF and CRCFA is prominently in the letter heading page. During the construction phase of the Washington CMSP personnel from the WCMAC and Pacific County MRC used to attend Washington Ocean Caucus Meetings routinely until Governor Gregoire vetoed sections of the ORMA bill and agencies got brazen and quit notifying the coastal people of the meetings removing potential public involvement as the CMSP advanced.

Both Ecology and NOAA will be building an administrative record when we move forward with discussions to establish the Pacific County SMP provisions into the Washington/NOAA CZM Certification and we will want to supplement the record with additional evidence and require answers to specific issues requiring a FACTUAL basis for denial of the SMP in the CZM Certification. At the September 2020 meeting of the WCMAC both WA Ecology and NOAA stated that they would make themselves available to discuss incorporation of the Pacific County SMP into the Washington/NOAA CZM Certifications. That was a good first step BUT, little real process has occurred toward SMP/CZM Certification. Those discussions need to be scheduled ASAP so that the fishing industry can attend prior to the start of Dungeness crab season that could begin by December first if the crab meat content reaches 23% pickout; this time frame was lost for discussion. The additional discussions have been delayed until the end of April and are not scheduled for an open public meeting, and CCF/CRCFA is not demanding at this time but

will need to have public meetings scheduled that allows those most affected to participate fully in this important agency decisionmaking process that will have a dramatic adverse effect on fishing families if industrialization of local fishing grounds does occur sometime in the future that displaces them from the only place left to fish unimpeded on the Washington coast. These public interactive meetings MUST occur before decisions are made to continue the omission of the SMP from CZM Certification.

Equal Access to Justice Act should apply to Agency Actions that affect the lives of our disadvantaged Fish Dependent Coastal Communities that will be impeded by any industrialization of this specific small area of SW Washington that is Prime Fishing Grounds that fishermen of the entire NW rely upon specifically since much of the NW State waters are under the 50/50 sharing requirement that has a significant cumulative adverse economic effect and more federal disruption on these communities than anywhere else in the nation is placed on all NW fishermen of both Washington and Oregon that fish these waters and is much more important to our citizens than just local significance that has produced substantial suboptimal economic opportunities and outrageous OUTCOMES with inordinate RISK of vulnerability to total bankruptcies in our communities. The CZM Certification of the county SMP is a bridge to safeguard the future to reduce fear of inopportune fatal coastal storm of rising industrial projects and provide for success to calming the waters in these limited coastal primary fishing grounds.

National, State, and Local programs are not static—laws and issues change: Currently in Washington state law, the Ecology approved Pacific County Master Shoreline Program (SMP) supersedes the agency WACs, incorporates the Washington Ocean Resources Management Act criteria as directed by the legislature into the SMP, and needs to be re-incorporated into the Washington/NOAA CZM Certifications as “Enforceable Policies”. The only court review of ORMA which only affects the 4 Pacific coastal counties was 24 pages of instructions on the effects of ORMA to protect Pacific coastal waters and fishing. The Washington Supreme Court in a UNANIMOUS 9 – 0 Decision stated clearly that an agencies responsibility is to ascertain the INTENT of the legislature and carry it out. ORMA was to be interpreted broadly and to preemptively Protect Fishing. NOAA criteria stresses “EFFECTS” and evidently those ADVERSE EFFECTS potential on fishing from industrialization have not been adequately considered in deliberations on including the Pacific County SMP into the CZM process. The agencies to date have not exercised proper discretion in their decisionmaking relative to potential Loss of the entire next generation of crab fishermen that are the future of the Washington coast fishing industry and needs additional consideration that includes this reasonably foreseeable effect. Total extinction of the local coastal family owned fishing industry is a distinct possibility. This is not uncharted territory; the southern Washington ports of Ilwaco/Chinook have lost approximately 1/3 of the locally owned crab permits in just the last decade without losing any more primary fishing grounds to any industrialization of the nearby fishing grounds. CCF/CRCFA objection to agency denial of CZM Certification of the SMP has sufficient substance to require reasonable minds to inquire further and reconsider the suppression of the SMP CZM Certification and remove the heavy thumb on the scales of justice that is part of the PROBLEM, not part of the SOLUTION. The omission of the SMP is untethered from the INTENT of both the legislature and congress and is not properly servicing the unambiguous reading of the clear INTENT of the underlying legislations and demonstrates suppression of democratic accountability and violates the fundamental aspects of social justice thwarting the public will, pushing the Chevron Doctrine legal limits beyond reasonable expectations resulting in agency overreach. The legislature took notice of this overreach, in this case, underreach, as the WCMAC was advancing a Washington CMSP that was progressing outside the legislative INTENT to be sensitive to the coastal citizens’ needs by downplaying the importance of fishing and other existing uses. Fishing has been

treated with less deference than walking the dog on Long Beach and put forward as equal in evaluating the coastal marine spatial plan. The legislature took notice and added language in ORMA in 2013 to shine a BRIGHT LIGHT to reduce RISK of coastal community evisceration and Mandate protection of fishing, the strongest part of the social fabric of the coast by inserting RCW 43.143.060 (2) (b) to specifically put into **legislation their INTENT to battle for the soul of the coast to DO NO HARM** to coastal Seafood Dependent Communities so that they could THRIVE and clarify the unreasonable legal dodgeball that was going on where fishing/oystering were not being properly preemptively protected and preserved and avoid creating additional poverty, showing their empathy and care that coast people MATTER too! In addition to ORMA criteria incorporated into the Pacific County SMP there are especially important and vital additional vital criteria to Protect and Preserve Coastal Fish Dependent Communities added in the SMP and NOT found in agency WACs. **These Pacific County SMP provisions are self-executing and do not require extensive prolonged expensive PROCESSES** that may or may not come to the same OUTCOMES and assure fishing RIGHTS are secured in Pacific County Coastal Waters. These listed SMP legal provisions are a required intervention that also add stability and viability to local communities and add protections to our low income disadvantaged rural communities' living wage JOBS that are impossible to replace by **placing prudent limitations on government actions** that strengthen local ACCESS to the coastal waters and stop the BLEEDING. Rural people are petrified at even the thought of losing their marine water JOBS and need to MATTER too. We MUST advance this humanitarian movement to secure RURAL JUSTICE! The Pacific County SMP is making a necessary ACTION toward sustainable JOBS with a **clear sense of purpose and choice between two futures; one with a viable fishing industry and one without** where this genocide causes more rural decay as our vulnerable natural resource access is pushed off the economic cliff; this is a landmark decision to embrace the last remaining vestige of our local prosperity that drives our county's fishing heritage with opportunities that can continue to fill peoples' dinner plates with "wild" nutritious marine harvested seafood all across the nation. The Pacific County SMP was updated by leaders who were able to put community principles into regulations that adapted to pending circumstances adverse to local community needs that had a strong possibility to further suppress and lower the county living standard. **Fish ACCESS matters greatly to SW Washington**, fishing is worth fighting for, No other state in the nation has had to SACRIFICE as much ACCESS to fish as Washington state fishermen due to federal treaty obligations that has produced REAL and quantifiable adverse economic impacts to Real People breaking BAD reflected in Real Demographic Depression. Continuing to suppress the Pacific County SMP is like hugging an ISIS suicide bomber and ignoring the Best Achievable Protection available placing the entire community on the bleeding edge of destructive change where false prophets fail to promote this neglected policy ending in TRAGEDY. Both federal and state agency personnel need to stand in the shoes of the coastal people long enough to understand the consequences of their actions are potentially quite destructive to the coastal peoples' wellbeing and quality of life and that the policy decision to omit the Pacific County SMP from CZM Certification will have real world significant life-changing adverse effects on their lives when the pillars of their economy are destroyed by lost ACCESS to sustainable seafood in the only place they have left to fish in SW Washington. OUTRAGEOUS and DEPLORABLE! This would be a complete travesty of justice where administrative regulation somehow was allowed to TRUMP both Legislative and Congressional Law and the INTENT of those laws legal content as written. The practical effect of the county SMP omission from CZM Certification is the untethering of the statutory text plain language found in ORMA - RCW 43.143. 060 (2) (b) "The protection and preservation of existing sustainable uses for current and future generations, including economic stakeholders reliant on marine waters to stabilize the vitality of the coastal economy" which definitely was INTENDED to mean FISHING. This language was agreed to in the legislative process in direct discussions between CCF/CRCFA members and key legislators prior

to even being submitted to legislative committee for approval and moved on to the legislative floor for a strong affirmative vote.

Pacific County SMP Provisions needing CZM Certification:

1. "Prohibition on Fixed Structures" in marine waters with minor exceptions
 - a. The Fixed Structure Prohibition is NOT discriminatory to any single activity as it applies broadly to all activities requiring Fixed Structures in marine waters such as oil drill rigs, ocean energy production, open ocean aquaculture, water cooled hard drives, etc.
 - b. Minor exceptions to the Prohibition of Fixed Structures includes USCG navigation buoys, weather buoys, scientific buoys, etc., all of which use single point mooring systems, not area consuming tripoint moorings like many floating industrial uses require.
 - c. Other – needs to be determined by utilizing the ecology useful crosswalk document. If a regulation is in the SMP and not in the WAC it needs to be included in the CZM Certs to comply with the CZMA Consistency requirement fully.
2. The county SMP provides a specific area for industrial development where fixed structures could be erected in a specific well defined Geographical Location that minimizes adverse impacts on fishing as directed by the Washington legislature in recent additions to ORMA. This industrial zone in marine waters could affect some fishing but it would be minimized and localized. This industrial zone has had Public Hearings and well attended and supported by the Pacific County fishing public; several of whom testified at the public hearing. Please refer to the Pacific County SMP maps of areas dedicated to industrial development that mirror industrial development on land in small areas of the several port districts in the county.
3. Limits Dredge Disposal Mound Induced Wave Amplification to no more than 10% over predump baseline conditions – this equates to approximately 1 foot of mounding in 40 feet of water.
 - a. USACE chronic historical over mounding at ocean disposal sites is well documented and has been in federal court to Protect both fishermen and crab from fatalities which has been highly problematic in the past before federal court actions forced the USACE/EPA to modify their mortality laden over mounding at numerous ocean disposal sites located in SW Washington offshore Pacific County and northern Oregon. The 10% mound induced wave amplification guidelines have been in effect for 5 succeeding MCR managers of the USACE as common practice first applied to settle a CRCFA federal lawsuit to stop the wave amplification that was well documented to be a LARGE factor in small vessel marine casualties in and around the Mouth of the Columbia River taking a large number of small vessel mariners' lives tragically.
 - b. Excessive crab mortality has occurred when two dredge disposal sites (B & E) were dredged to lower the DEATH POTENTIAL from excessive mounding at these sites that was causing tremendous wave amplification and causing tremendous numbers of marine casualties producing adverse effects for entire communities, including numerous fatalities associated with excessive mound induced wave amplification. WDFW weighed in on this redredging of ocean disposal sites as totally unacceptable practice to be AVOIDED to stop the crab fatalities from dredging.

The Pacific County SMP Ocean Section 6 was designed specifically to address a UNIQUE and Extraordinary coastal situation in SW Washington coastal waters found NO place else in the

nation that was inadvertently created as a direct result of federal actions affecting 70% of the northern Washington coast (Rafeedie Decision, Olympic National Marine Sanctuary). Historically, Pacific County has been recognized as the 4th most Fish Dependent Community in the nation by the Brookings Institute using NOAA fisheries data adding to the UNIQUENESS. The 4th most Fish Dependent Community in the nation has several cumulative existing effects that require a “Hard Look” that are causing significant economic distress accelerating marine casualties (2021 local marine casualties were numerous at the start of the protracted delay in crab season opening forcing extraordinary pressure on the crab fleet to “Fish or go Hungry” on our entire crab fleet and especially egregious on the next generation of young fishermen that are the highest debt fishermen with the least ACCESS to sustainable fish of any generation in the history of our nation. After that “Hard Look” the agencies MUST articulate a rational conclusion supported by the FACTS found and conclusions made and cannot disregard potential significant pending adverse effects that are reasonably foreseeable to produce momentous collateral HARM from offshore industrialization on nearby communities economic viability and stability that has been clearly articulated displaying large social injustice potentially perpetrated throughout his presentation from consequences of any additional lost ACCESS to fish that totally disrespects the needs of the coast for this ACCESS which has been significantly truncated by past accumulation of stringent fishing restrictions, many directly associated with federal tribal treaties and federal court decisions. The most reasonable and prudent alternative is to retain the status quo of Open Public ACCESS and Freedom of Navigation for this small 38 miles of coastal ocean south of Westport free from industrial development with a tangible benefit to the coast and the nation as a whole to foster and promote the general welfare of the coast by PROHIBITION of industrial fixed structures in offshore marine waters that will jeopardize the lifeblood of coastal Seafood Dependent Communities and stem the Systematic Dismantling of the Washington Fishing Industry. SW Washington needs this added economic survival cushion provided by the SMP to help maintain fishing as a viable industry supporting our communities. Remediation of an accumulation of strident fisheries impacts need CZM Certification of the Pacific County SMP Ocean Section 6 to help prevent jeopardy facing our coastal Fish Dependent Communities.

1. Rafeedie Decision reallocated 50% of all fish including Dungeness crab to 4 federally recognized tribal nations – This has a direct adverse effect and cost to the state crab fishermen a significant loss of \$240 million before the 2021/22 crab season and highly significant adverse impact on the entire Coastal Fish Dependent Community and is increasing annually undermining the stability and viability of the young high debt fishing fleet in Washington with long term consequences to the coast that need NO further issues to further depress their tenuous viability situation.
2. This loss of ACCESS to crab alone as a direct result of the Rafeedie Decision has cost the crab fleet over \$240 million and increasing annually to the total – this is income that would help buffer normal downturns in harvest abundance which would have added dramatically to the overall viability of the entire crab fleet but is especially difficult for the vulnerable younger high debt fishermen in the WA crab fleet. This significant amount of fishing income is only the exvessel loss which destabilizes the entire coastal community economic base adding to other vulnerabilities and does not include losses at the processor level when crab are transported to other ports outside of Pacific County for processing and retail sales that are lost locally. This is an additional cost to the Pacific County processing businesses of between \$8 - 10 million per year. Further analysis is needed by the state to verify these large losses to the SW Washington coastal Fish

Dependent Communities but are reflected in loss of 1/3 of the local crab permits in the last decade with adverse consequences including the bankruptcy of Ilwaco Fish Company which will diminish available processing and hoist capacity continuing to erode the local crab dependent fishing fleets' economic viability, destabilizing the entire community as one of the largest employers in the area is now gone and those JOBS have left the county. The loss of IFCO also shut down the shrimp processing plant in South Bend affecting more people in our seafood dependent county eroding our significant fishing industry. This loss of IFCO is currently under change where Pucci Foods has established Safe Coast Seafoods and has been unable to develop local TRUST in the new business but has added hope for the future if they can survive the past atrocities of Alber Seafoods.

3. This vulnerability from lost ACCESS to crab has translated into numerous crab SHARECROPPERS where many (10% or more of the active fleet) crab fishermen have had to HOCK their crab permits to local processors in exchange for operating dollars unavailable to them from the banks due to excessive RISK of non-payment due to substantial loss of ACCESS to crab. These folks forced to HOCK their crab permits to the company store are highly vulnerable to complete loss of JOBS and subjugated to a single crab processor that controls their fishing livelihoods completely destabilizing family security causing extreme stress at home which is unhealthy for families under severe economic duress. This also destabilizes the entire coastal crab price as these fishermen could be required to go fishing even when the entire coast from CA to WA are negotiating coastal crab price at the beginning of the season. This is a terrible situation that currently exists and would only be exacerbated by displacive industrial development in nearby fishing grounds that would exclude the crab fleet from fishing and would also pose a serious irretrievable gear entanglement situation which has been explained to government agencies on numerous occasions. What's not to understand that very real effect of additional lost access to fish/crab??
4. Loss of ACCESS to fish/crab on 70% of the Washington coast caused excessive fishing effort transfer to the area unaffected by the 50/50 sharing requirement to the 38 miles south of Westport, 32 coastal miles of those invaluable and extra precious fishing grounds are offshore Pacific County. This huge shift in fishing effort was by the larger allweather crab vessels putting extreme pressure and significant vulnerability on the younger high debt fishermen that have the least navigational aptitude making them especially vulnerable to making poor safety decisions that exceed the seaworthiness of their commonly smaller fishing vessels that are often the oldest vessels in the fleet with increased vulnerability or failure at inopportune times like crossing overly agitated river bars which is often the case in a midwinter angry ocean where if they miss a tide are then forced to endure a waging midwinter storm for the next 6 – 8 hours before they can seek harbor safety from agitated ocean conditions that could overcome the seaworthiness of their mostly smaller vessels. This fishing effort transfer is adding significantly to the "Fish or Go Hungry Insanity" that is plaguing the fishing fleet and increasing fatalities as a result. An Accumulation of adverse impacts on fishing's access to fish is forcing personal safety to the sidelines with significant increased RISK of additional marine casualties which was very evident at the start of the 2021 crab season that was delayed by 78 days until mid-February. USCG was kept remarkably busy at the excessively delayed opening of the 2021 crab season answering distress calls to save life and property under extenuated circumstances of an extremely agitated sea state and winds in excess of 45

knots in adverse weather conditions that more prudent operators would have stayed safely in port out of harm's way.

5. USACE Abandoned over mounded dredge disposal sites A & B at the Columbia River that posed significant excessive navigational safety RISKS increasing the vulnerability to arrhythmic ocean conditions that frequently produce excessive large ROGUE KILLER WAVES that increase the vulnerability to RISK of marine casualties in the very dangerous highly competitive midwinter crab fishery where maximizing fishing time on narrow weather windows is necessary for economic survival putting them at RISK of personal survival – NOT a good choice to be forced to navigate in this very dangerous midwinter fishery.
6. Vulnerability of RISK associated with ROGUE WAVES is increased in hours of darkness when the arrhythmic ocean reduces visibility and there is no way to see the larger arrhythmic ROGUE waves and adjust operations in advance of the SNEAKER WAVES overwhelming the vessel fishing in shallower waters or associated with legacy USACE over mounded disposal sites. RISKY BUSINESS! This is forced on them by the Cumulative adverse effects facing multiple troubled fisheries and the fact that the very best fishermen from all other failed fisheries have collapsed into the only significant fishery in Washington that can sustain Fish Dependent Communities viability in Dungeness crab – there are NO marginal fishermen left in the industry, everyone is an exceptionally capable fisherman and increases the competition for the available fish in the small area south of Westport substantially. The pressure to fish worse weather every winter is increasing with each additional new challenge facing the fishing fleet. Whale/Fishing gear interaction is just beginning to raise its ugly head with increasing restrictive fishing regulations significantly increasing the RISK pressure on the fleet to fish in weather that is beyond marginal to extreme sea conditions substantially increasing the RISK of marine casualties. Any additional adverse pressure caused by displacement by industrialization of offshore waters on the fishing industry in SW Washington will without a doubt raise the marine casualty rates to new highs.
7. Limited Entry 200 bifurcates the fishing grounds at the WA/OR border requiring expensive separate fishing permits in both WA and OR doubling the cost of fishing permits/operations for those that historically fished in both southern WA and northern OR where half the major fishing grounds are in each state. The price of these invaluable permits is rising at an alarming rate. This significantly increased debt load increases the overall vulnerability of the local fishing fleet members and loss of access to precious fishing grounds due to industrial development with its associated RISK of crab gear moving and getting irretrievably entangled is real and could be economically devastating to the entire local Fish Dependent Community. This is not a hyperbole, but a well-documented FACT that CRCFA/WDCFA have brought to agency and WCMAC attention on several occasions.
8. Limited Entry increases the cost of not only maintaining both WA & and OR fishing permits but also adds dramatically to the cost of operations in each state to be competitive with the number of crab pots fished depending in the size of the individual state pot limits. Increased expense increases the pressure to fish in increased angry oceans conditions making the vulnerability to marine casualty RISK increase in an area of the Pacific Ocean known as “Graveyard of the Pacific” (area surrounding the mouth of the Columbia River) that every winter adds to the LOOOOONG list of marine casualties that can NO longer

be ignored, the extensively delayed season opener in mid-February was especially marine casualty laden which included an additional two marine fatalities.

9. Washington has the highest Mass Weather Index in the nation that has translated into the highest fatality rate of any occupation in the nation in Dungeness crab in WA and OR at 466/100,000 and is 4X that compared to the very high Covid – 19 fatality rate in New York at 119/100,00 which is the highest in the nation that was accelerated by forcing Covid patients into vulnerable nursing homes where those most vulnerable died due to this incompetence when there was ample space for the covid patients at the Javits Center. Forcing the crab fleet to fish in smaller and smaller areas is akin to forcing the Covid elderly into vulnerable nursing homes with a certainty of increased fatalities resulting; completely unnecessary. Agency actions have consequences that can no longer be ignored; fatality rates matter and matter most to those with the highest fatality rate of any occupation in the nation in the NW in Dungeness crab.
10. The massive effort transfer (90% of the entire WA crab fleet fishes south of Westport), coupled with the highest Mass Weather Index (frequency & severity of storms – San Diego 10 – Neah Bay 131), with cumulative high debt with reduced ACCESS to crab, higher operating costs at the WA/OR border has translated into a “Fish or Go Hungry INSANITY” effect where crab fishermen are fishing in INSANE and EXTREME midwinter angry ocean conditions that did not occur before ACCESS to fish/crab was curtailed by the federal government imposition of the 50/50 fish sharing to honor federal government obligations to tribal treaties. **Fishing LIVES are at INCREASED RISK in Washington.** Additional loss of fishing area and time can be addressed through the protections available if the Pacific County SMP Ocean Section 6 when CZM Certified. Failure to include the SMP/CZM protections will have a significant ADVERSE impact (effect) on increased fatalities as RISK caused by more losses to their livelihoods is increased from additional lost access to fish/crab confiscated by new use industrialization of local coastal waters. In effect, failure to CZM Certify the SMP is signing additional death warrants which is NOT the INTENT of either the Washington state legislature or congress of the United States; especially egregious in this area of the coast where RISK is significantly increased by existing conditions without additional displacement by industrialization of local fishing grounds. No amount of RISK communication skills or simply allowing at RISK people to participate will address the adverse impacts foisted on the fishing industry by any industrialization of marine waters in the only place these fishermen have to fish that is not already highly compromised by existing lost access to sustainable fish/crab on the Washington coast.
11. Dungeness crab has a number of other major factors forcing additional vulnerability, uncertainty, and considerably more RISK (both economic and loss of life) into the fishery UNIQUE to Washington: Tribal season opening delays averaging 45 days or more and Tribal Special Management Area closures (559 square miles) increasing dramatic fishing effort transfer to Pacific County, Softshelled meat closures, Domoic acid health closures, potential whale entanglement closures, and more that cumulatively inject INSANE fishing conditions locally that increase annually where the fishing fleet now fishes in 20 foot or more angry and very dangerous seas and over 30 knots of wind making the fleet excessively vulnerable to marine casualties. Pushing tidal bar crossing windows is not uncommon and RISKY business adding to the overall potential for marine casualties just to maximize limited fishing time between frequent storms increased and exacerbated by climate change. This crab fleet is on DANGER OVERLOAD without adding any

- additional pressures on the fleet that is at overcapacity for continual increase in marine casualty potential.
12. The Washington crab fleet has lost over a 1000 square miles of prime fishing grounds to Tribal SMAs (Special Management Areas) and tugboat towlanes before any additional loss occurs from fixed structure industrialization of coastal marine waters. There are additional lost fishing grounds in northern Oregon which are cumulative to adverse impacts with total effects on the fleet that a desk jockey in Olympia or Washington DC cannot begin to fathom. The Washington crab fleet needs absolute protections for their safety that is above and beyond other regions of the nation unaffected by numerous adverse impacts only found in Washington offshore waters. **The Pacific County SMP NOAA CZM Certification would be a large injection of sanity to protect this fleet** from continually increasing the fatality rate that is currently remarkably high, a FACT that has inescapable consequences of Davy Jones clutch affecting this disadvantaged Fish Dependent Community.
 13. This “Fish or Go Hungry INSANITY” forces poor judgement into some fishermen RISKING increased deck loads of crab gear on dump days just prior to the start of crab season which was evident when the Starking capsized off North Head recently waiting for dump time to commence emphasizing the excessive vulnerability of the fleet to increased pressure to get the gear out as quickly as possible. Increased RISK is always lurking for this vulnerable fishing fleet with NO Risk Reduction in sight, only additional cumulative effects that will not be reduced with the addition of any industrial fixed structures confiscating more fishing grounds increasing RISK of fatality besides reduced access to fish increasing fleet jeopardy exponentially, which cannot be muted by simply holding a public hearing – **real protections MUST be put in place to protect the life and safety of the vulnerable disparaged crab fleet NOW**. Pacific County SMP CZM Certification tows the line necessary to mute a magnification of marine casualties that is imminent associated with any additional loss of access to fish/crab as more fishing area is lost.
 14. This “Fish or Go Hungry INSANITY” forces poor judgement into MOST fishermen RISKING extended hours of fishing that causes additional marine casualties related to sleep deprivation; several local crab vessels have sunk as a result of this in recent years. One hit Jetty A and sank another ran aground on the beach, both vessels lost; fortunately, no lives were lost in either of these recent marine casualties.
 15. Crab Fishermen and Vessels that fish out of the Columbia River at the WA/OR border have an excessive amount of towlane use that by industry-to-industry agreement adds to the NO fishing No income zones where towboat/barge traffic is extremely high compared to many other major fishing ports such as Westport or Newport.
 16. It is well documented that crab gear will move from set position in large winter storms with catastrophic consequences in normal situations, it is reasonably foreseeable that this storm moved crab gear would become irretrievably entangled and stuck in the mobilized bottom sediments causing excessive loss of fishing capability and could cause total loss of income for the season or longer for many. The recent loss of Airport Crab Company means there are even less pot manufacturers available to replace gear irretrievably entangled in fixed structure anchoring systems with additional adverse effects on the fishing industry.

- a. In the early December storm in 2007 I had an OR tagged pot returned to me from North of Westport, that pot travelled over 50 miles in a single storm; extreme but a good example of what the crab industry is facing in mid-winter storms.
 - b. In the early December storm in 2007 Ilwaco/Chinook had 5 new young crab fishermen that has just bought into the fishery that had their crab gear scattered all over the ocean in an overwhelming circumstance that their new fishing businesses FAILED and NONE of the 5 succeeded to ever fish again which was a singularly devastating event not just for the 5 fishermen but also for the overall future of the fishing communities as the younger fishermen that had homes locally and eventually had to move away to find work. This is a reoccurring story that plays out over and over again until there are NO more young fishermen to fill the older fishermen's retirement void and the local Fish Dependent Community fails for lack of trained deckhands graduating up to new business ownership locally. BIG PROBLEM and reasonably foreseeable! Fishing is a JOB that must be learned by active hands-on experience; book learning is impossible to impart the knowledge to not only be able to harvest fish in quantities that are economical but also to maintain the vast array of technical devices and machinery that needs routine servicing, and special learning is required to gain sufficient knowledge of navigational aptitude to bring the captain and crew home to safety in an extremely dangerous midwinter fishery without incident. Agency personnel cannot reasonably understand this knowledge required to survive mid-winter fishing conditions driven by excess pressure to fish tougher weather every winter due to increased closures and areas currently lost to fishing.
 - c. These crab permits from the 5 failed new fishermen in 2007 were eventually sold out of the local community and added to the loss of 15 crab permits in the last decade or so. These lost community permits have not been replaced and compound the problem of maintaining enough commercial tonnage over the long local channels that need annual dredging by the USACE that requires commercial tonnage to receive federal channel maintenance dollars to keep the channels dredged that provide ACCESS to the marine water fishing grounds. Cumulative adverse impacts and denied ACCESS to fish/crab also makes the recreational vessel ACCESS to fishing grounds vulnerable to lack of channel maintenance. Once this happens our local ports that are significant local economic engines are also vulnerable to failure as well. Cumulative adverse effects are crushing the future of the 4th most Fish Dependent Community in the nation without additional displacement of fishing by new industrial use in local fishing grounds that have been compromised by other displacements.
17. Other alternate fishing opportunities are also significantly depleted, and excessively impacting RISK of Fish Dependent Communities failure exemplified by the recent bankruptcy of Ilwaco Fish Company (Alber's Seafood) a long time local industry icon.
- a. Failure of IFCO removed the potential whiting tonnage, commercial tonnage necessary to maintain channel dredging.
 - b. Failure of IFCO removed the potential sardine tonnage, commercial tonnage necessary to maintain channel dredging as sardines rebound and become again available for harvest.
 - c. Failure of IFCO removed two thirds of the hoist capacity in Ilwaco necessary for the local crab fleet to participate in getting the fleets crab gear out SAFELY in the

ocean at the start of the season increasing the pressure to overload vessels and dump crab gear in excessive weather increasing the fleet VULNERABILITY to increased marine casualty as witnessed this winter in 2021.

- d. FAILURE of IFCO reduced local crab processing capability increasing the loss of fishing capacity when other local fish plants are overwhelmed and crab fishing is curtailed for lack of processing capability transferring additional tonnage away from local ports necessary to maintain economic viability and tonnage necessary of federal channel dredging.
 - e. Failure of the trawl fishery contributed to the FAILURE of IFCO – at the height of the local trawl fishery IFCO had 16 local trawl vessels, today, ZERO. Tragic loss of economic sustainability for SW Washington disadvantaging the entire community.
 - f. I was one of the last fishermen to quit trawling for IFCO, when I quit trawling 50 people at IFCO lost their year around JOBS directly and that huge loss rippled throughout the Fish Dependent Community causing other local businesses to close for good as well.
 - g. Even though IFCO has been purchased by Pucci Foods, Pucci hired a high ranking employee of the Defunct Albers Seafood that has led to industry skepticism and reluctance to embrace Safe Coast Seafoods (Pucci) and overcome the fear of getting stiffed again for delivering seafood to Safe Coast without getting paid for the seafood delivered that happened via Alber Seafoods.
18. **Cumulative impacts** of severely reduced salmon fishing opportunity which is suppressed by approximately 99% since the height of the salmon fishery in SW Washington. In the 1970's the Washington troll salmon fleet harvested approximately 21 million pounds/season; in recent years, the troll salmon harvest has been < 1% of historical harvest at just over 200,000 pounds. Salmon gillnet fishery in SW Washington has been similarly decimated basically eliminating the historical fishery that Fish Dependent Communities no longer must provide income necessary to survive normal fish abundance fluctuations and this lack of fishing alternatives that used to relieve the external pressures on the crab fleet to fish BAD midwinter weather is a legacy effect of the current available fisheries that have been significantly diminished over the decades.
- a. Example: at the height of the recreational fishing in Westport there were 240 charterboats, today just 17 – we do not have specific local Ilwaco numbers but similar.
 - b. In recent years WDFW has discontinued salmon smolt production by 160 million smolts annually which is causing not only local salmon dependent communities to starve to death, so are the SRKW Orca whales that also depended on these 160 million smolts to grow up and contribute to the food supply of the community and the iconic Orcas – GONE = starvation effects. This huge reduction in hatchery salmon production crab has surpassed salmon as the iconic species that Fish Dependent Community must now rely upon to supply the basic economic backbone on the coast.
 - c. WDFW has closed salmon JOB mitigation salmon hatcheries at the Elochoman and Grays River – other salmon hatcheries west of Bonneville Dam have cut salmon smolt production by 75 million smolts annually in the Columbia hatchery system severely cutting local fishing opportunities and shifting excess effort into the dangerous midwinter crab fishery as the only fishery left on the Washington

coast to maintain the Fish Dependence Community and supply necessary tonnage to maintain federal dredging of the side channels into our ports.

- d. Forks Creek Hatchery in the Willapa Basin is down from a high of 5 million salmon smolts to approximately 400,000 or less today = NO Fishing No Income = increased economic RISK = increased FATALITIES simply trying to make ends meet. Salmon production MATTERS to our Fish Dependent Communities and is currently unavailable to reduce the “Fish or Go Hungry INSANITY”.
19. Other cumulative impacts affecting fishing are included but not limited to adverse impacts to salmon in Puget Sound from Fish Farms that transmit sea lice to outbound salmon smolts, the result in mortality. In addition to control these sea lice attacking pen raised Atlantic salmon or other fish species the use of **excess quantities in open water cypermethrin** is also known to kill Dungeness crab reducing some of the commercial viability in inland crab industry as well that is additive to overall adverse impacts in all fisheries that eventually contribute to the “Safe or Sorry” decision in a dangerous midwinter crab fishery that induces fishermen to take excessive RISK to feed hungry families that have been denied ACCESS to fish in many other fisheries coast wide. <https://www.arcjournals.org/pdfs/ijrsb/v6-i3/2.pdf> This study has many references and has strong attachment to probable mortality to Dungeness crab. It is also well documented the Cook Aquaculture illegally use cypermethrin in New Brunswick and large quantities of dead lobster, another Cretacean, resulted. Cook paid huge fines for these violations of cypermethrin misuse.

New Industrial Development in marine waters offshore Pacific County where the majority of the fishing fleet in Washington relies almost exclusively on ACCESS to these extra precious fishing grounds will only COMPOUND the RISK and VULNERABILITY of failure of the 4th most Fish Dependent Community in the nation. This failure RISK effect is reasonably foreseeable when even a dim light is shined on the CUMULATIVE excess adverse number of RISKS facing the Washington fishing community today without adding to this major PROBLEM by loss of more fishing opportunity through displacement by industrial development in local waters. This is a reasonably foreseeable effect that any additional displacement from primary fishing grounds would have catastrophic economic impact. Additional effects could occur from offshore fish farms and deadly lice impacts that are well documented in the scientific literature and the use of lice control pesticides that must be used in **highly toxic concentrations** to the lice would also have a detrimental effect on other species in the ocean that come in contact with the type of pesticides used to control the lice, cypermethrin – reasonably foreseeable EFFECT more dead salmon and crab.

In the early 2010s the Washington legislature added additional requirements to ORMA instructing the Washington Coastal Marine Advisory Council (WCMAC) which includes several state agencies including Washington Ecology to design a Coastal Marine Spatial Plan with an express mandate to specifically protect and preserve existing marine water uses (fishing, oystering, etc.) RCW 43.143.060 (2) (b) – “The protection and preservation of existing sustainable uses for current and future generations, including economic stakeholders reliant on marine waters to stabilize the vitality of the coastal economy.”

FOR FURTHER INFORMATION on federal CZM Consistency/Certification CONTACT:

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It is our strong opinion that NOAA has not adequately incorporated the WRDA directives of congress and the Obama administrative directives still in effect to federal agencies required to incorporate new PR & G's into their operations including their operations to include the CZM certification of state law in Washington. Failure to CZM certify the Pacific County SMPs does not meet the improvement of health and **safety standard required** in the 2007 WDFD legislation that was extended to most other federal agencies including NOAA and BOEM.

If a Federal agency asserts that full consistency with the management program is prohibited, it shall clearly describe, in writing, to the State agency and Pacific County the statutory provisions, legislative history, and other legal authority which limits the Federal agency's discretion to be fully consistent with the enforceable policies of the state management program. This same deference should also apply to the CZM Certification of the Pacific County SMP Ocean Section 6. The reasons for not Certifying the SMP should also clearly describe in writing, to not only the state agency but also why the SMP statutory provisions should be ignored, the legislative history clearly demands CZM Certification, or other legal authority to supersedes the SMP precluding it from CZM Certification. NOTE: when CRCFA first inquired about the failure to CZM the SMP we were told that there were too may SMPs in Washington and it would be too much work to address every SMP in the state. We were also told that in California they ignored local law and so they simply did the same in Washington; the SMP however is NOT just local ordinance, the SMP is state law that superseded agency WACs. Since that time only one more comment has been made in a feeble attempt to justify the lame justification for NOT CZM Certifying the county SMP which is state law. Pacific County is the only county on the coast with broad regulations to protect fishing as a first priority that aligns with the INTENT of the Washington legislature to preemptively protect fishing. It is really difficult to wade through the rhetoric and come to the conclusion that the SMP should not be CZM Certified; certainly, the lame justifications presented to date are inadequate to deny certification, especially without siting specific legalese that prohibits such a CZM Certification.

CZMA and its authorities beg to protect and preserve the cultural resources and uses of SW Washington by extending the SMP through the CZM Certs.

16 USC ch 33 §1451 – 1466

16 USC§1451. (e) Congressional findings - Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost. [Washington coast tops the list of water dependent citizens that are being irretrievably damaged by excessive Cumulative effects destroying fishing opportunity on our coast; bar none.]

Findings and Purpose of Coastal Zone Act Reauthorization Amendments of 1990

(6) Coastal planning and development control measures are essential to protect coastal water quality, which is subject to continued ongoing stressors. Currently, not enough is being done to

manage and protect our coastal resources. (and USES) [The stressors currently in place on the coastal Washington Fish Dependent Communities is growing and incredibly significant, additional stressors will have catastrophic ADVERSE effects].

40 CFR § 1506.2 (b) - To the fullest extent practicable unless specifically prohibited by law, agencies shall cooperate with State, Tribal, and local agencies to reduce duplication between NEPA and State, Tribal, and local requirements, including through use of studies, analysis, and decisions developed by State, Tribal, or local agencies. Except for cases covered by paragraph (a) of this section, such cooperation shall include, to the fullest extent practicable:

- (1) Joint planning processes.
- (2) Joint environmental research and studies.
- (3) Joint public hearings (except where otherwise provided by statute).
- (4) Joint environmental assessments.

NEPA's Goal is to foster excellent actions and understanding of consequences of those actions where information **MUST** be made available to the public officials and the citizens before decisions/actions are made that not only carry out the letter of the law but also the SPIRIT and INTENT of the legislation. Dropping CZM Certification of the Pacific County SMP did not have proper notice or public participation (hearings) required when the certification was dropped and the information necessary to make this decision was not properly shared with the public and the public was not given any opportunity to have a public hearing on this vital decision that will have an adverse effect on the future viability of the coastal communities.

Federal Register / Vol. 84, No. 151 / Tuesday, August 6, 2019 / Rules and Regulations 38135

<https://www.govinfo.gov/content/pkg/FR-2019-08-06/pdf/2019-16513.pdf>

This paper has listed numerous adverse coastal effects that new fixed structure industrial development would have on the nearby communities. **The most consequential effect would be the potential FATALITY RATE INCREASE.** Dead Fishermen will decrease economic productivity. Dead Fishermen have terribly negative effects of family life and add to the already extremely poor local demographics found in SW Washington, some of the most deplorable demographics in the state. Cumulative Adverse Effects will be magnified by new fixed structure industrial development displacing fishermen in the 38 miles south of Westport to the Columbia River as additional fishing area is jeopardized. The importance of balancing the competing uses of coastal resources does not sit well when new industrial use displacing fishing to the extent of possible total elimination due to the fact that Washington is **UNIQUE** in the nation with excessive adverse federal Rafeedie effects and other major federal court decisions that **NO** other state in the nation must navigate.

- (d) Changes to a management program's Federal consistency list or a new or revised geographic location description under part 930 of this subchapter, subparts C, D, E, F or I. For changes to a management program's list of Federal actions or a new or revised geographic location description, the state's effects analysis shall be based on information that would allow NOAA to find that the listed activity, either within the state's coastal zone or within a geographic location described outside the state's coastal zone, would have reasonably foreseeable effects on the uses or resources of the state's coastal zone. A state's analysis asserting impacts to uses or resources outside of the coastal zone shall not, by itself, demonstrate a coastal effect; rather, the state shall describe a causal connection of how an impact outside the coastal zone could result in a coastal effect. A state's effects analysis shall not be based on unsupported

conclusions, speculation or the mere existence of coastal uses or resources within a geographic location. A state's coastal effects analysis shall, to the extent practicable, identify:

- (1) The affected uses (e.g., commercial and recreational fishing, boating, tourism, shipping, energy facilities) and resources (e.g., fish, marine mammals, reptiles, birds, landmarks).
- (2) Where and in what densities the uses and resources are found. Even where the fishing concentrations anywhere on the continental shelf are adversely effected and fishermen are forced to be dislocated into more concentrated fishing grounds closer to shore the pressure on those high use areas will become more overloaded cutting even deeper in to the fish/crab pie of everyone where these BAD effects are felt in more reductions in annual income for every fishing family cutting beyond the bone of economic sustainability for multiple communities.
- (3) How the state has a specific interest in the resource or use. States should be specific in showing the connection to the coastal zone of the state (e.g., economic values, harvest amounts, vulnerabilities, seasonal information relevant to the proposed activity). There are multiple areas of this paper that document multiple specific adverse effects on SW Washington coastal Fish Dependent Communities from displacement and irretrievable entanglement of crab gear in industrial complexes placed in valuable fishing grounds. Tangled irretrievable crab gear is LOST income and detrimental to families and communities.
- (4) Where the proposed activity overlaps with these resources, uses and values. Refer to WA CMSP maps and concentrations.
- (5) Impacts to the resources or uses from the proposed activity. (this paper has outlined numerous adverse effects associated with lost access through displacement to fish/crab on the disadvantaged Fish Dependent Communities of SW Washington that NO other states in the nation must endure.) The Fishermen of SW Washington are overburdened with adverse consequences of multiple regulations/issues that are crushing the lifeblood from our communities and forcing the most vulnerable young next generation fishermen into a deplorable situation where paying annual financial obligations is becoming extremely problematic. During the 29 April 2021 ecology, Pacific County Commissioners and support staff the example of the failure of all 5 new next generation crab fishermen occurred when their crab gear was scattered all over the ocean and loss of gear and income from the scattered pots were not exposed to the additional potential HARM of offshore industrial complexes to become irretrievable when entangled the industrial development and stuck in the mobilized sediment. Gear recovery was complicated by an angry ocean reducing visibility and adding dramatically to the recovery time which cut down on fishing time. Recovery time does not pay the bills at the end of the month, crab production is required and without crab deliveries or greatly reduced deliveries puts an inordinate strain on individuals' financial liabilities that are not getting addressed. When you sign the front of the check instead of the back of the check the money has to be in the account before checks can be written. Irretrievable gear entanglement is detrimental to financial success and leads to financial failure and if the situation is large enough could even cause well established long time fishermen to fail, not just the young new inexperienced fisherman that has been proven by example to lead to financial failure.
- (6) A reasonable showing of a causal connection to the proposed activity, including how the impacts from the activity results in reasonably foreseeable effects on the state's coastal uses or resources. (this paper has outlined numerous effects associated with lost access to fish/crab on the Fish Dependent Communities of SW Washington that NO other states in the nation must endure. Washington is UNIQUE in the nation and MUST have a UNIQUE solution to maintaining the sustainability of SW Washington coastal Fish Dependent Communities as INTENDED by both the Washington legislature and congress.)

- (7) Why any required mitigation may be inadequate. (There is NO reasonable mitigation that can compensate for the depressed condition of fishing found only in Washington where the fishing fleet is subject to the Rafeedie Decision and other effects like the highest Mass Weather Index among other existing detriments UNIQUE to Washington listed throughout this document.)
- (8) Empirical data and information that supports the effects analysis and: Can be shown to be reliable; visualizes the affected area, resources, and uses with maps; and shows values, trends, and vulnerabilities. The Washington Coastal Marine Spatial Plan documents fishing use of the entire continental shelf and is most concentrated in SW Washington that relies exclusively on Dungeness crab to maintain viable fishing ports.)

These Federal agency requirements are not exactly in lockstep with Washington state law and are making it significantly more difficult to become “Fully Consistent” with state and local regulations. Previously the legislature passed in 2010, 2012, & 2013 additions to ORMA with instructions to create a Washington Coastal Marine Spatial Plan and in 2013 ORMA directives for the CMSP to protect and preserve fishing which were additive to the original ORMA that was legislated to PREEMPTIVELY PROTECT FISHING.

- ✓ RCW 43.143.060 (2) (b) “The protection and preservation of existing sustainable uses for current and future generations, including economic stakeholders reliant on marine waters to stabilize the vitality of the coastal economy.” This clause was added specifically to highlight the protection and preservation of coastal fishing and oystering. The Coastal Marine Spatial Plan was intended to go out 200 miles from shore via legislative definition, expecting that the state of Washington would get full CZM Certification. The primary legal author of the recent addition to ORMA once said the legislature gave a lot of protections for Coastal Fish Dependent Communities written into the bill – it is up to the state to put those protections into place. Failure to CZM Certify the provisions in the Pacific County SMP Ocean Section 6 undermines the INTENT of the legislature to Preemptively Protect and Preserve Fishing which would be at significant RISK if the small ocean area offshore Pacific County is not protected from industrialization as INTENDED by the county SMP Ocean Section which has incorporated ORMA into regulations which currently supersedes Ecology WACs. The county SMP embraces the INTENT of the legislature. Build the industrial offshore project and then attempt to deal with adverse consequences is NOT in the best interest of the coast or for that matter the nation as a whole.
- ✓ The legislature at the time of enactment of new additions to ORMA knew there were 243 applications to convert fishing grounds into ocean energy projects displacing fishing grounds. In addition Burt Hamner’s Grays Harbor Ocean Energy project fully illuminated the full intent of the project was to place so many ocean energy buoys in the marine offshore waters to lower the entire wave climate by 11% between Westport and the Columbia River – The legislature knew exactly why they were adding protections to ORMA – to preemptively protect the SW Washington Fish Dependent Communities from economic annihilation and to protect and preserve the coastal fisheries as the **primary standard of care** for the needs of the coastal Fish Dependent Communities. The legislature did not completely close the door on any industrialization of our offshore waters but did fully intend for any fixed structure projects to produce **MINIMAL adverse impacts and AVOID CONFLICT** to existing uses including fishing. The legislature left this industrialization option open at the time of legislation since no one, including the fishing industry, did not fully understand just how much of the coastal ocean was in use at the time of the legislation.
- ✓ Washington legislative bill HB 1125 provided funding for the Columbia River Channel Deepening project and the appropriated funding could not be accessed/spent until there was clear protections established to protect the crab industry from adverse effects of the dredging and disposal. Multiple legislation over the years has been adopted to preemptively protect our state Fish Dependent Communities from HARM.

- ✓ More recently the Washington legislature requested a Ruckelshaus Report based on listening sessions throughout the state. Ruckelshaus personnel interviewed over 2500 Washington citizens including over 400 elected officials that produced a single common thread across all jurisdictions that articulated a vision that **our citizens want and need to achieve the American Dream to keep our communities safe to provide a better future with economic security assured that contributed significantly to quality of life** through a road map to Washington's future. <https://ruckelshauscenter.wsu.edu/a-roadmap-to-washingtons-future/> that included a path forward for among other things a deep commitment to place provided in the Shoreline Management Act to reach a desired future for our state citizens ability to make choices that maintain local community identity which in the case of SW Washington is SEAFOOD DEPENDENT. Following this roadmap, the citizens of Pacific County utilized the legislative SMP local legislatively granted authority in their recent SMP update to extend the county/state values to protect and preserve fishing by enacting a broad Prohibition on Fixed Structures and enactment of the prohibition on mound induced wave amplification over 10% in coastal waters offshore the county with minimal exceptions.
- ✓ The Columbia River Channel Deepening Protections were misplaced as the USACE refused to issue an SEIS to deal with an EIS that stated in plain language NO deepening sediment would come to the ocean and still allowed every cubic deepening yard from river mile 0 – 30 came to the ocean without proper NEPA analysis and the material facts that were collected were illicitly NOT shared with the public until after the deepening was complete. WRONG! The case involved expanding existing dredge disposal sites B & E which would have increased the fatalities to the members of the fishing community. As a result, the Columbia River Crab Fisherman's Association legal action against the USACE/EPA in federal court and won court ordered PROTECTIONS for the Fish Dependent Community that included:
 - Prohibition on Mound Induced Wave Amplification over 10% above baseline conditions
 - No dumping on softshelled crab in Site E after August 15th
 - No Expansion of sites B & E
 - Federal Court Case number C98-0359D which had 20 volumes of information, about 3.5 feet thick – USACE tried to overload the legal record and hide their dirty deeds to no avail.
- ✓ USACE did NOT honor the 10% Mound Induced Wave Amplification federal court order and CRCFA was forced to go to federal court again after several additional fatalities occurred to seek Equity and once again correct "Least Cost" INJUSTICE to protect the fishing industry. This time CRCFA enlisted the BEST Wave Theory Scientist in the nation, Dr. Jim Kirby at the University of Delaware to analyze real effects associated with over mounding utilizing appropriate wave models. Analysis showed that the USACE STWAVE model underestimated long period high amplitude ocean wave amplification at and near dredge disposal mounds by over 2 meters; 2 meters of additional fatality potential on top of the 10% allowed by existing federal court order. This was followed up by CRCFA hiring Dr. Tony Dalrymple of Johns Hopkins University to represent our vital interests in the Lower Columbia Solutions Group Cape D technical analysis and recommendations for addressing dredge disposal at ocean disposal sites where continued chronic mound induced wave amplification persisted. This analysis was

carried out by about a dozen qualified ocean engineers and academic scholars that came to unanimous conclusion that the best method of addressing the coastal erosion problem and eliminate dangerous mounding was to place the dredged MCR sediments directly on the beach or adjacent surf zone inside 20 feet of water. In addition, Golder and Associates deployed wave monitor equipment at the Shallow Water Site and compared the results to offshore weather buoy information and found wave amplification at the site was excessive and significantly much more than the USACE had maintained. USACE further underestimated wave amplification by only examining the average wave height and neglecting to portray wave amplification of the upper height of the entire wave spectrum that included the extreme wave heights associated with the natural arrhythmic nature of Pacific waves that may have been generate by massive storms generated hundreds of miles from the MCR. Average waves are not generally the killer waves, it is the upper end of the arrhythmic wave field that does the real HARM.

- ✓ Please NOTE: Both sites B & E were both dredged to decrease the severe over mounding to protect from additional fishing fatalities but killing additional crab with adverse effects on the economics of the fishing fleet after more marine casualties occurred; doubling the INJUSTICE perpetrated on our Fish Dependent Communities where both dead fishermen and dead crab were sacrificed to the USACE “Least Cost Option”; disgraceful.
- ✓ In more recent years where that the USACE has meticulously adhered to the maximum 10% wave amplification guidelines, fatalities in and around the MCR have been reduced significantly and this is NO accident that marine casualties have been reduced by this adherence to the 10% guideline that has been best disposal practice and was not in regulation until enacted by the most recent update of the Pacific County SMP. Actions have consequences, in this case reduction in dredge disposal mounding height has resulted in SAVING LIVES – TERRIFIC!
- ✓ Continuing to willingly sacrifice the lives of fishermen through industrialization of our coastal marine waters is NOT acceptable and we all need to do whatever is necessary to PREVENT the depletion of our Fish Dependent Communities moving forward, even if we need to change the law at state and federal levels to ensure the health and safety of our coastal fishing fleets in this UNIQUE small area of SW Washington coastal waters where loss of any additional precious fishing grounds are in jeopardy from any additional industrialization outside the small area prescribed for industrial development in the 2016/17 updated Pacific County SMP.
- ✓ In the 78 day delayed season opening on February 16th, 2021 the fishing fleet experienced Numerous marine casualties, several near miss marine accidents and just after the season start had two fatalities on the Garibaldi bar as fishermen attempted to cross a rough bar as fishermen from north were fishing in grounds that were historic to the local fishermen. This is the “Fish or Go Hungry IINSANITY” that is permeating the fleet prior to being displaced by any additional industrial development in offshore waters. This pressure to fish rougher weather every year is REAL and undeniable that fishermen are disregarding their own personal safety just to pay the fishing bills in an angry midwinter ocean. Further displacement of fishing in local waters will have the effect that would only aggravate this deplorable situation increasing fatalities to new highs. How can agencies ignore this reality effect of increased fatalities and sleep at night?
- ✓ RCW 43.143.010 (6) “The state shall participate in federal ocean and marine resource decisions to the fullest extent possible to ensure that the decisions are consistent with

the state's policy concerning the use of those resources.” Also remember ORMA was 1st legislated in 1989 and never tested until 2016; Washington Supreme Court Unanimous Decision in the Grays Harbor oil terminal case – 24 pages of clarification of ORMA reversing lower court rulings stating in plain language that the fishing industry was to be preemptively protected.

- ✓ RCW 42.143.020 (2) definitions – “Coastal waters” means the waters of the Pacific Ocean seaward from Cape Flattery south to Cape Disappointment, from mean high tide seaward two hundred miles.” The clear language in the legislation is that the legislature INTENDED that ORMA should extend 200 miles offshore. WA Ecology is the lead agency with responsibility to ensure that Washington “Enforceable Policies” are included in the Washington/NOAA CZM Certification. Failure of ecology to even request CZM certification of the county SMP is subversive to the intent of the legislature and increasing the increased RISK of danger to the midwinter fishing fleets and can even become deadly to smaller recreational craft in the summertime, especially around Labor Day in early September when fishing season is open and the historical storm almost always occurs increasing wave amplification that has not occurred during the summer months.
- ✓ RCW 43.143.030 (2) (h) Planning and project review criteria – “The use or activity complies with all applicable local, state, and federal laws and regulations.” The plain language of the ORMA legislation is crystal clear that the local county/city SMPs were intended to be included in offshore project review criteria including the Pacific County SMP Ocean Section 6 in full. Without CZM Certification the local SMP is no more than window dressing, eye candy to confuse the public on the law which is NOT applicable in the 3 - 200 mile zone until CZM certified. Failure to CZM Certify the Pacific County SMP is a poke in the eye of the legislature in Washington and a total miscarriage of justice with effects that will translate into higher fatalities, reduced economic income, and could lead to total destruction of the 4th most Fish Dependent Community in the nation as our next generation of fishermen go bankrupt or worse meet Davy Jones and taken to his deep six locker permanently. Without CZM protections the effect is to increase vulnerability of the disparaged local community is dramatically increased and could easily result in TRAGIC loss of many fishing families forced to give up fishing all together for lack of abundant fishing opportunity as their primary fishing grounds are confiscated by new industrial uses through displacement; not intended by either the Washington legislature or congress when the spirit of the law is ignored besides the INTENT.
- ✓ When Pacific County SMP was updated WA Ecology was adamant that “No Net Loss of ecosystem function” be allowed as a result of the SMP update from any development in the Coastal Zone, 200 feet upland and out into marine waters which the legislature deemed out to 200 miles from shore by definition. Ecosystem management includes existing people that use the coastal zone that includes fishing. This NO NET LOSS of the marine ecosystem includes NO NET LOSS of fishermen as well; how do you measure Net Loss when the family bread winner no longer comes home at the end of a hard work session.
- ✓ The Olympic National Marine Sanctuary via its charter allows fishing and is UNIQUE in this aspect. The Sanctuary originating charter has fishing as integral requirement that is not found in other national marine sanctuaries. The Sanctuary primary purpose was to prevent offshore oil spills and mandated oil transport circumvent any areas close to shore, is this not a discriminatory action that has not been challenged. It is not the INTENT of CCF/CRCFA to cause our oil movement friends trouble, it is our intent to show that NOAA

is inappropriately applying their jurisdictional powers in an uneven manner when they determine that the Pacific County SMP is discriminatory without justification. The sanctuary charter clearly defines Washington values to protect and preserve fishing. Washington values are to be fully considered by NOAA and must put fishing as a priority in SW Washington where our fishing fleet carries the weight of federal obligations to several treaty tribes on the backs of the fishing fleet where the federal government has promoted a “taking” of massive proportions of fish/crab from the state fishermen without compensation. The weight of the Rafeedie Decision is unbearable and crushing the economic lifeblood out of the fleet, with an accumulated lost value in just Dungeness crab of approximately \$175 million and growing at \$10 million/year or more annually – a tremendous amount of exvessel lost revenue crushing the next generations of fishermen’s aspirations to even try and get into fishing – DEVASTATING EFFECT.

- ✓ BOEM policy Prohibits industrial development in National Marine Sanctuaries = NO Fixed Structures and is not discriminatory to oil drilling only, it includes offshore ocean energy, open ocean aquaculture, mega water-cooled hard drives, and other industrial fixed structures just like Pacific County SMP. NOAA’s comment at the WCMAC meeting that the Pacific County SMP Ocean Section 6 is discriminatory does not hold water, in fact leaks like a sieve, is without merit, and contrary to WA ecology determination that the SMP had to include numerous other examples of fixed structure prohibition beyond just ocean energy which it does today. The Pacific County SMP prevents fixed structure development just as the BOEM policy in the National Marine Sanctuary and is comparable language in the “Prohibition” language found in the county SMP. NOAA’s preliminary determination that the SMP “Fixed Structure Prohibition” in fact is skewing RISK assessment to the crab fishery and is discriminatory in favor of industrialization of coastal marine waters and denying ACCESS to fishing grounds necessary to provide ACCESS to statewide fishing grounds that are already compromised on 70% of the coast. How can one area nondiscriminatory and the other area that has the same prohibitions be deemed discriminatory, this is uneven application for policy from NOAA is inappropriate to single out fishing for displacement and allow industrial development to cause HARM and suppress economic activity of nearby communities that both the WA legislature and congress intended to protect and preserve for current and future generations of Fish Dependent Communities in SW Washington.
- ✓ Every action of the legislature or congress associated with Washington offshore waters recognize the area as UNIQUE and the UNIQUE relationship of the coastal communities to the FISHING that occurs as a result of the sustainable fish in these waters and has prioritized fishing as a UNIQUE cultural heritage that is in need of UNIQUE PROTECTION and PRESERVATION as a result of the UNIQUE broad situations (Marine Sanctuary & tribal treaties) found in Washington offshore waters that are not found in any other state in the nation. Washington coastal waters deserves UNIQUE and TOTAL PROTECTION and PRESERVATION that the CZM Certification of the Pacific County SMP will help supply once CZM Certified in this small sliver of national ocean.
- ✓ Arbitrary and Capricious omission of the Pacific County SMP from CZM Recertification is unacceptable and subject to successful and unnecessary legal challenge. It is WA Ecology’s responsibility to request of NOAA the SMP certification which cannot occur unless Ecology requests it. NOAA is required to be “Fully Consistent” with state law, the County SMP, state law, MUST not continue to be shortchanged and trashed through

- unjust omission of CZM Certification perpetrating injustice on coastal fishermen that fish in this area from all over the Pacific Coast including as far away as Alaska and California.
- ✓ The Washington legislature and congress have provided special protection for the Dungeness crab fishery specifically giving the state sole jurisdiction out to 200 miles from shore that MUST not be ignored.
 - ✓ CRCFA strongly suggests that the CZM Certification that omits the inclusion of the Pacific County SMP undergo the required SBA “Flexibility Analysis” to fully expose the extreme RISK industrialization would pose to the fishing fleet and a significant number of small entities that would be put at extreme RISK of total failure including the ultimate supreme loss through increased fatalities. The loss of ALL new young crab fishermen in the 2007 early December storm is sufficient evidence to warrant such an undertaking.; this loss occurred without “Fixed Structures” in the ocean irretrievably entangling their crab gear that is well documented to travel long distances in large winter storms. IN that early December 2007 mega storm I had one of my OR crab pots returned from north of Westport, pot travel distance – over fifty miles in a single storm event.
 - ✓ Senator Magnuson wrote a letter to me in 1974 where he eloquently expressed the **INTENT of Congress relative to ocean management was to prevent the depletion of BOTH fish and fishermen.**
 - ✓ Congressman Don Bonker of Washington expressed the long standing congressional INTENT of offshore management to conserve our natural resources and to promote and protect commercial and recreational fishing for current and future generations by increasing fishing JOB opportunities by 50% at the House oversight committee hearing in Astoria in 1978. History MATTERS and that INTENT of congress has not changed in more recent years. **Legislation does not lose it tenure just because it has been existence for a long time.** The INTENT of both congress and the Washington legislature was to protect and preserve fishing. Industrialization in this small area, the only place Washington fishermen have to fish south of Westport is priceless fishing grounds and MUST be preserved so that fishermen are not further displaced.
 - ✓ At Washington’s 1st and only Ocean Energy Conference Washington Sen. Hargrove was BLUNT and to the point, **“Fishing is to be protected as a 1st PRIORITY in Washington CMSP.”** Senator Hargrove carried this basic CMSP statement forward as the additions to ORMA occurred in 2010, 2012, and 2013.

CZMA is a **form of Reverse Preemption** of federal law and “fully consistent” is an immensely powerful legal tool that congress has authorized for state and local governments to VETO/modify federal actions with limited exclusions but for this to occur there must be an active Washington/NOAA CZM Certification that includes the Pacific County SMP that has been resisted without good cause up to this point. The CZMA was designed by congress, modified several times to be utilized in certain UNIQUE situations like those found offshore SW Washington to protect local communities from certain uses/abuses of the ocean that conflict with existing well established uses (fishing) so that national actions would not jeopardize the wellbeing of local communities and ensure that local uses were not overrun by federal preemption. There are just a few minor exceptions to this activity that do not apply to the Pacific County SMP CZM Certification.

At the WCMAC special meeting on CZM Consistency Ecology and NOAA on 28 September 2020 left the door open to move forward to find a pathway to incorporate the Pacific County SMP

regulations into the Washington/NOAA CZM Certifications and would work on establishing open discussions on how this ACTION could move forward with a POSITIVE RESULT to protect and preserve the 4th most Fish Dependent Community in the nation; Pacific County. CRCFA/CCF suggests that we take the bait to keep the door open and begin open communications on ensuring the county SMP achieve a turning point to CZM Certification maintaining local JOB opportunities with “Dinner Plate Results” in this epic battle for fishing’s survival instead of letting the county’s entire natural resource based economy burn to the ground by denial of ACCESS to prime fishing grounds from “fixed structure” industrialization of coastal marine waters that will displace fishing and cause additional HARM by irretrievable entanglement of crab gear.

CCF/CRCFA has a good faith mission driven purpose to shamelessly promote informed fact based legal decisions, weed out what is not working, reduce RISKS, and to under sell and over deliver ACTIONS that focus and make a difference to a better future for our Washington coastal Fish Dependent Communities to rely on the best SOLUTIONS for positive OUTCOMES and minimizing adverse consequences (effects) for our local Seafood Dependent People that are currently at a TIPPING POINT, walking a fine line to the last supper leading to extinction that we can reverse so that our people THRIVE not just barely survive. CZM Certification of the Pacific County Shoreline Master Program is REAL progress to protect, preserve, and reduce interference with OPEN PUBLIC ACCESS and FREEDOM of NAVIGATION necessary for sustainable seafood products for the Health and Safety of all our citizens to enjoy from all over the nation. The national public benefits of CZM Certification of the county SMP far outweigh the alternative of SACRIFICING our small family seafood JOBS that are currently struggling that will be gone leading to the deterioration of the local demographics that will occur as a result of pushing fishing beyond the edge of EXTINCTION already under siege from an Accumulation of Adverse EFFECTS that currently produce a “Fish or Go Hungry INSANITY” in the crab fleet that has produced the Highest Fatality Rate in Dungeness Crab of any occupation in the nation; extending this untenable legacy is an unreasonable consequential effect and reasonably foreseeable. We can and MUST do better than continuing demonic sacrifice of our fishing heritage and coastal quality of life through phishing for expensive questionable outcomes that callous industrial assault of our coastal waters are certain to ultimately turn into pernicious genocide deeply scarring nearby community viability, leaving an ugly legacy of significantly reduced opportunities for our communities, and egregiously deny true freedoms a fishing life style provides that very few Americans are actually able to realize lost in procedure and process ashore that could be easily protected by the CZM certification of the Pacific County SMP.

As exigent as CZM Certification is to the county SMP ocean section, it will provide optimism that tomorrow will be a better day stabilizing the long term needs of the economic vitality of coastal marine waters natural resource dependent people. We MUST seek resolution of this significant legal issue consistent with the legislative INTENT in found in the statutory requirements that in the end produces a fair and equitable solution for the future of the SW Washington coastal Fish Dependent Communities that will NOT have the effect to jeopardize fishing by offshore industrialization that is the only place Washington state fishermen have left to fish in Washington coastal waters without the significant adverse impact of 50/50 fish/crab sharing of the Rafeedie judicial decision in a manner INTENDED by the legislature/congress in this UNIQUE situation that only affects the coast of Washington and NO other state in the nation. These miles north of the Columbia River are priceless to the Washington coastal economy that could easily be put into devastation by even a modest industrial complex in these small waters where the Washington fishing fleet has already been compressed to fish. Some years over 50% of the

entire Washington crab fleet fishes in just 9% of the state waters south of Klipsan Beach, unconscionable compression of fishing power into such a small ocean space without compressing it further through displacement by additional industrial development.

Today we will end this presentation by repeating the principles of President Obama's EO that was promulgated to improve regulations and regulatory review that improve the RESULTS of a regulation. Section 1. General Principles of Regulation. (a) Our regulatory system must protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation. It must be based on the best available science. It must allow for public participation and an open exchange of ideas. It must promote predictability and reduce uncertainty. It must identify and use the best, most innovative, and least burdensome tools for achieving regulatory ends. It must consider benefits and costs, both quantitative and qualitative. It must ensure that regulations are accessible, consistent, written in plain language, and easy to understand. It must measure, and seek to improve, the actual results of regulatory requirements.

EO 13563 & EO 12866 beg for the Pacific County SMP to become Washington/NOAA CZM Certified.

"The American people deserve a regulatory system that works for them, not against them: a regulatory system that protects and improves their health, safety, environment, and well-being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society; regulatory policies that recognize that the private sector and private markets are the best engine for economic growth; regulatory approaches that respect the role of State, local, and tribal governments; and regulations that are effective, consistent, sensible, and understandable."

<https://www.archives.gov/files/federal-register/executive-orders/pdf/12866.pdf>

<https://obamawhitehouse.archives.gov/the-press-office/2011/01/18/executive-order-13563-improving-regulation-and-regulatory-review>

Regulatory philosophy of these executive orders: Section 1. Statement of Regulatory Philosophy and Principles. (a) The Regulatory Philosophy. Federal agencies should promulgate only such regulations as are required by law, are necessary to interpret the law, or are made necessary by compelling public need, such as material failures of private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people. In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

EO 12866 has been the regulatory planning and review compass to guide policy and agendas which empowers the "office of Information and Regulatory Affairs (OIRA) housed under the Office of management and budget (OMB) that requires a positive cost/benefit analysis. The BOEM ocean lease process stretches the statutory authority where the process abdicates the general welfare of all the coastal citizens not just those fishermen that lose open ACCESS to fish/crab. BOEM MUST do far better to achieve Environmental Justice where disproportionate HARM is currently

dispensed to coastal Fish Dependent Communities who are forced to bear the brunt of an ocean quest to evolve to a carbon free society in the face of a recognized climate crisis that has failed to create equitable electric rates that will create low income citizens out of our coastal people. EO 12866 demands that BOEM be far more attentive to Environmental Justice concerns of all our citizens. BOEM has a responsibility to account for affordability and equity to all electric rate payers including those on the lower end of society where high power rates disproportionately impact coastal overburdened communities that will suffer economic stress from expensive offshore floating wind power. EO 12866 demands those most affected by the BOEM lease process (fishing industry) have a meaningful seat at the decision table that is meaningful and are NOT left on the outside of the process looking on while their fate is being decided by agency personnel that have absolutely no stake in the proposed outcome of the BOEM process to lease ocean to the highest bidder. The participation of the fishing industry must be meaningful in a manner that their interests are incorporated into the eventual outcome of the process.

Fish Happens - we all need to ensure Fishing in coastal waters Happens into perpetuity for all our state citizens that use these waters extensively anything less is an injustice to vulnerable coastal/rural communities that will produce inequities and in blunt language is an atrocity to further widen the Urban/Rural Divide in communities that are currently overburdened by really poor demographics including but not limited to just wealth and health disparities: highest unemployment rate in the state of WA, poor health outcomes, low life expectancy, substance abuse, LOW median family income, over 50% of currently available jobs are tied directly to government, and more.

Addressing Coastal/Rural INJUSTICE

Pacific County SMP Reintegration into Washington/NOAA CZM Certification – A Significant Agency Action needs to occur to rectify BOEM activities in local offshore waters.

Environmental Justice effects of industrialization of offshore fishing grounds and result of significant loss of fishing opportunity with associated adverse socioeconomic impacts of displaced people and their JOBS will have significant adverse impacts on the 4th most Fish Dependent Community in the nation must have opportunity to address and eliminate ANY specific adverse effects proposed that will debilitate the coastal communities economic base, seafood.

Failure to CZM Certify the Pacific County SMP Ocean Section 6 Is a decision or activity with significant foreseeable environmental effects from loss of ACCESS to more fish/crab will overburdened communities with extremely vulnerable populations that are currently under major DURESS not from just the lack of access to fish but also the recent Covid – 19 pandemic as frosting on a horrible cake baked up by the state's salmon economic debacle and resulting chaos adding to the loss of vision for our next generation of coastal Fish Dependent Communities with a reasonably foreseeable effect of furthering the exit of our children from the coast as their future good family wage fishing JOBS are eliminated without any concern for their welfare causing umbrage to the entire community by this torturing of the law as INTENDED to wreak havoc on our coastal communities by forcing potential additional growing CRISIS by further loss of ACCESS to our sustainable fisheries resources which will place an exceptionally heavy burden on coastal people who live on the edge of financial survival – people for whom the difference between a \$100 car tab and a \$30 car tab is a meaningful difference; lightening this financial CRISIS for coastal communities would be **moral quest worth pursuit** to reduce not increase the inequalities that exist on the coast perpetrated by empty concerns inland that will predictably plunge the coast deeper into economic peril from losing more fishing area that will produce

circumstances that are worse than WRONG and economically and culturally debilitating to the coast of SW Washington. Team Washington ecology/NOAA are currently overplaying their hand at the expense of the coastal wellbeing, plain and simple that will wreak additional economic RUIN and PAIN on the coast if industrialized.

"Vulnerable populations" means population groups that may be more likely to have adverse health outcomes in response to environmental harms, due to: (i) Adverse socioeconomic factors, such as unemployment, high housing and transportation costs relative to income, limited access to nutritious food and adequate health care, linguistic isolation, and other factors that negatively affect health outcomes and increase vulnerability to the effects of environmental harms; The American transition to renewable energy does not have to land on the backs of the local coast people; Access to fish/crab is too important to the fragile coastal economy to sacrifice on the altar of economic austerity that will result from industrialization of SW Washington waters, the only place left to fish without the federal tribal 50/50 sharing of all fish burden weighting down the fishing fleet that NO other state in the nation must endure.

"Vulnerable populations" includes racial or ethnic minority, **low-income**, tribal, indigenous populations, and populations of workers experiencing environmental risks that offshore industrialization will bring to hard pressed coastal rural communities, especially those that are Fish Dependent, this is not conjecture or a talking point it is FACT that is easy to point out in other places in this presentation that show JOB loss as salmon has declined significantly by over 90% in some fishing sectors as salmon harvest potential has declined due to discontinuation of salmon hatchery smolt production of over 160 million smolts from WDFW salmon hatcheries, several of which have been bulldozed. This extreme loss of salmon hatchery production is even witnessed in the Orca whale struggling for survival.

All state agencies should strive to apply the laws of the state of Washington, and the rules and policies of the agency, in accordance with the policies of this chapter including, to the extent feasible, the incorporation into agency decisions of the principles of p. 4 of SSB 5141 environmental justice assessment processes which passed in the WA legislature in 2021.

ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF ECOLOGY. The department must apply and comply with the substantive and procedural requirements.

EQUITABLE COMMUNITY ENGAGEMENT AND PUBLIC PARTICIPATION. (1) An agency must create and adopt a community engagement plan that describes how it will engage with overburdened communities and vulnerable populations as it evaluates new and existing activities and programs.

Plan MUST evaluate and understand the nature and needs of the people who may/will be impacted by agency decisions.

ENVIRONMENTAL JUSTICE ASSESSMENT. (1) 2 When considering a significant agency action, an agency must conduct an environmental justice assessment - overburdened and vulnerable populations when making decisions and to assist the agency with the equitable distribution of environmental benefits, reduction of environmental harms, and the identification and reduction of environmental and health disparities (including such effects as increased fatality rates on coastal Fish dependent Communities)

Use cumulative environmental health impact analysis; [Fatality rates of coastal fishermen included]

Data that considers the effects of a proposed action on overburdened communities, in conjunction with other qualitative assessments and evaluation of other factors, including both environmental and socioeconomic stressors that may cumulatively affect health and the environment and reduce environmental benefits or contribute to persistent environmental health disparities; [Increased fishing fatalities and marine casualties]

c) Identify overburdened communities and vulnerable populations who may be affected by the proposed action and the potential environmental and health impacts; (SW Washington)

(d) Identify any local and regional impacts to tribal treaty reserved rights and resources; [and their effects on nearby communities]

To obtain information for the purposes of assessments, an agency should consult with members of overburdened communities and vulnerable populations to assist in the accurate assessment of the potential impact of the action and in developing the means to reduce or eliminate the impact on overburdened communities and vulnerable populations. [check the local USCG response log at the start of the 2021 crab season for marine assistance]

Eliminating disparities and the unequal effect of environmental harms on overburdened communities and vulnerable populations; (b) Reducing or ensuring the action does not add to the cumulative environmental health impacts on overburdened communities or vulnerable populations;[i.e. increased fatalities] (c) Ensuring the action contributes to reducing the cumulative environmental health impacts on overburdened communities or vulnerable populations; (d) Providing equitable participation and meaningful engagement of vulnerable populations and overburdened communities in the development of the agency action; (e) Prioritizing equitable distribution of resources and benefits to overburdened communities; (f) Ensuring positive workforce and job outcomes for overburdened communities;

Meeting a community need identified by the affected overburdened community; (h) Modifying substantive regulatory or policy requirements; and (i) Any other mitigation techniques, including those suggested by the council, the office of equity, or representatives of overburdened communities and vulnerable populations. [need for access to fish/crab]

An agency must incorporate environmental justice principles into its decision processes and focus on creating environmental benefits, including eliminating health burdens, creating community and population resilience, and improving the quality of life of coastal overburdened communities and vulnerable populations that have suffered from loss of access to fish/crab due to circumstances well beyond their control; Rafeedie Decision. Eliminating additional access to offshore fishing grounds is tantamount to coastal economic destruction like the 160 million smolt reduction in our state salmon hatcheries over the last 2 decades and as our inland population expanded eliminating more and more salmon spawning and rearing habitat that will never be replaced. Puget Sound area is the largest old growth forest clear cut in the nation that has removed significant salmon habitat. This habitat is gone and gone forever. The only method to replace that spawning habitat is to artificially spawn salmon in hatcheries that now should be placed in areas that at least have a chance for the young juvenile fish to survive, like that found in the Willapa Bay estuary stream/river headwaters or Columbia tributaries west of Bonneville Dam.

Clearly articulate environmental justice goals and assessment metrics to communicate where, why, and how environmental justice will result from the action taken by the agencies that propose to take even more access to fish/crab on the coast by the installation of fixed structure industrial development that will remove additional access to fish/crab on the coast that is already in horrible decline from denied access to sustainable fish/crab.

Using outcome-based methodology to determine the effectiveness of agency programs and services on reducing environmental disparities, again reinvigorating the Washington coastal salmon populations not continually increasing salmon populations that migrate Alaska and contribute to foreign nations salmon production (Canada). Chinook tle and Toutle River Coho are two species that have been neglected by salmon managers that would address both coastal Fish dependent Communities and our friends, the Southern Resident Puget Sound ORCA whales. This is but one cumulative impact adversely affecting the coast.

Review existing environmental laws and make recommendations for amendments that will further environmental justice to build back better for coastal communities. ESA/MMPA need to be modernized to produce far more salmon for coastal harvest not just by coastal and rural salmon fishermen but also to improve salmon availability for our declining ORCA populations that have been slow to recover from aquarium acquisitions in the late 1960's. Salmon decline has added to effects pressurizing the "Fish or Go Hungry INSANITY" exemplified in the mid-winter dangerous crab fishery that will only increase significantly as with additional lost access to crab from industrialization of the fishing grounds offshore Pacific County. Cumulative impacts have consequences and effects on fishing behavioral activities with detrimental outcomes.

Recommend funding strategies and allocations to build back better capacity in vulnerable populations and overburdened coastal communities to address environmental justice issues that the Washington coast has been subjected to as a long term solution to the parasitic drag on coastal communities as a result of lost access to fish/crab in leu of additional sucking of the lifeblood of fishing businesses that rely on the small area to fish south of Westport where access to fish/crab is paramount to saving the coast that is struggling to survive economically. Build back better would include building additional salmon hatcheries on the lower Columbia River west of Bonneville Dam and on rivers of coastal estuaries with adequate water supply to merit such construction could also decrease tensions.

Our coastal Fish Dependent families deserve better than to be further displaced by ocean industrialization from the only place they have left to fish unimpeded by federal obligations to tribal treaties in the 38 miles south of Westport. Our young next generation of coastal fishing culture is at total RISK of extinction from any further displacement which would be excessively tragic for our coastal people that must MATTER too in the large scheme of things. Fishing people MUST also be a significant part of this American Rescue Plan just announced by the Biden administration, where fishing is essential to maintaining our coastal economy that also must be valued. We must remember that fishing is not just a past generational JOB base, it is also a great Future for coastal Fish Dependent Communities – we need to find a way to get new fishermen financed in expensive fishing permits that keep the permits local hands instead of allowing them to bleed to out of town interests that are better financed. Continuing to lose good family wage fishing JOBS must not be tolerated; especially by displacement of our fishing family to industrialization of our offshore waters that are extremely limited in scope compared to any other state in the nation. Good paying Coastal Fishing JOBS and opportunities must be valued,

and the only small area left to fish must be treasured, protected, and preserved maintaining JOBS that could easily be displaced by industrial injustice in this low income area that is plagued by the highest unemployment in the state among other poor demographics. CZM Certification of the Pacific County SMP is a significant piece of the coastal legacy, in fact CZM Certification is a legacy decision to protect and preserve our coastal fishing culture. The new Biden Plan to Build Back Better plans to invest in rural communities and communities impacted by transition to clean energy that can place wind turbines on Naselle Ridge where once planned instead of in coastal fish dependent communities primary fishing grounds north of the Columbia River that will displace the local fishing families increasing environmental disparities of injustice. Washington has plenty of land based options that are more efficient and far less costly for clean energy without confiscating local fishing grounds. Simple engagement of local stakeholders and community consultation will NOT maximize equity, health, or environmental benefits; these consultations must result in positive community benefits and on coastal Washington that means ACCESS to sustainable fish/crab. The Administration will need to do more than supply support to local, state, and tribal governments by world class training, technical assistance, and procurement best practices the Administration will need to rebuild infrastructure like pile dikes in just the Ilwaco Entrance Channel estimated at over \$ 18 million dollars which is probably a low estimate by the USACE. Currently almost all local National Weather Service sensing devices are not properly functioning and have been down for quite some time increasing the RISK DANGER of an extremely dangerous midwinter crab fishery, especially in 2021 with a 78 day season delay dramatically increased pressure to fish in any weather driven by excessive INSANITY of the "Fish or Go Hungry" attitude increasing annually as additional season and area closures engulf all our fisheries. This lack of weather service infrastructure resiliency has contributed to the degradation of fishing safety and loss of additional fishing grounds will compound this increasing maintenance backlog increasing life safety situations magnifying industrial displacement of our fishing fleet. The fishing industry is not nearly as concerned about climate change as it is to industrial displacement of our fishing grounds. Climate change is real but a slow moving train wreck to the coast. Industrialization of primary fishing grounds is an immediate economic onset head on collision with immediate loss of fishing opportunity even at small scale when inappropriately placed anywhere on the continental shelf will destroy local economic resiliency becoming an immediate disaster. We must not overlook our Washington hydropower opportunities. Some dams have old turbines and propellers, some dams even have empty turbine bays that should be filled long before displacing the fishing fleet of SW Washington. Removing the Snake River Hydro Dams would only compound the NW energy resiliency and add to a Texas style power outage with over reliant on intermittent power sources. In Washington multiple cheaper alternatives abound for increased energy besides destroying SW Washington's Fish Dependent Communities through neglect of environmental injustice displacing of fishing grounds with industrial offshore projects like ocean energy that will only widen the urban/rural divide as the coast suffers increased indignities of substantial extinction of irreplaceable Good Family Wage Fishing Jobs in our coastal distressed and disadvantaged communities of coastal Washington.

National Environmental Policy Act – Inaction is also an action with devastating outcomes.

The National Environmental Policy Act ("NEPA") "is a procedural statute that requires the federal government to carefully consider the impacts of and alternatives to major environmental decisions." Failure to offer protection to vulnerable and overburdened coastal communities will have significant future downside for the citizens of the coast and have a significant nexus to

increased fatality rates on the Dungeness crab fishery when there is unreasonable interference by displacing fishing which fixed structure industrialization will cause if any industrial structures are allowed in the invaluable fishing grounds south of Westport on the SW Washington coast.

Native Ecosystems Council v. Weldon, **697 F.3d 1043 , 1051** (9th Cir. 2012) (citing **42 U.S.C. §§ 4321 , 4331**). NEPA has "twin aims. First, it places upon [a federal] agency the obligation to consider **every significant aspect** of the environmental impact of a proposed action (or in this case inaction). Second, it ensures that the agency will inform the public that it has indeed considered environmental concerns in its decisionmaking process." All. for the Wild Rockies v. United States Forest Serv., **907 F.3d 1105 , 1110** (9th Cir. 2018) (quoting Kern v. U.S. Bureau of Land Mgmt., **284 F.3d 1062 , 1066** (9th Cir. 2002) (alteration in original) (internal quotation marks and citation omitted). "NEPA requires agencies to take a **'hard look' at the environmental consequences** of proposed agency actions before those actions are undertaken." All. for the Wild Rockies v. Pena, **865 F.3d 1211 , 1215** (9th Cir. 2017) (citation omitted). **The "Hard Look" includes adverse effects to existing uses (fishing)** that the Washington state legislature sought to protect and preserve when enacting the Washington Ocean Resources Management Act (ORMA) and when adding the WCMAC to the ORMA legislation. Washington **RCW 143.43.060 (2) (b)** It should also be specifically noted that the only ORMA court challenge resulted in a unanimous 9 – 0 Washington Supreme Court Decision ensuring that the legislative INTENT was properly ascertained and carried out fully by agencies, that ORMA was to be interpreted broadly, and that fishing was to be preemptively protected and preserved as intended. The Pacific County SMP Ocean Section 6 was designed specifically to preemptively protect fishing from displacement and considered the tremendous existing cumulative negative effects currently damaging fishing in Pacific County offshore waters from 0 – 200 miles offshore.

To meet these twin aims, NEPA requires that an agency prepare a comprehensive Environmental Impact Statement ("EIS") for "major Federal actions significantly affecting the quality of the human environment." **42 U.S.C. § 4332(2)(C) ; 40 C.F.R. § 1501.3** . Not every federal action or proposal requires preparation of an EIS. Where the environmental impacts of an action are less than "significant," an agency may comply with NEPA though preparation of an environmental assessment ("EA") and a Finding of No Significant Impact ("FONSI"). **See 40 C.F.R. §§ 1501.3 ; 1501.4(c) , (e) ; 1508.9** . Failure to CZM Certify the Pacific County SMP Ocean Section 6 requires an EIS due to the potential for a MAJOR agency action with **SIGNIFICANT adverse effects** that will cause considerable HARM to coastal Fish Dependent Communities that are currently experiencing **numerous CUMULATIVE adverse** impacts from existing circumstances such as but not limited to the Federal Court Rafeedie Decision, Meat Quality closures, Biotoxin Closures, Whale gear restrictions, Most inclement weather in the continental USA according the Mass Weather Index, Excessive fishing effort shift to south of Westport, Multiple failed fisheries collapsing into crab, Federal required commercial tonnage to keep federal channels into ports dredged, WDFW decreased salmon smolt production over the last couple of decades by 160 million salmon smolts, Tremendous loss of coastal trawl fishery, Fishing permits bleeding out of our local communities, Small culverts blocking 1000's of miles of salmon spawning and rearing habitat, misguided HSRG salmon hatchery theory, elimination of salmon JOB mitigation hatcheries (Grays River, Elochoman), and more forcing **Washington Coastal Fish Dependent Community fishing on the bleeding edge to extinction** – Failure to recertify the Pacific County SMP is a MAJOR AGENCY ACTION that requires agencies to take a "hard look" at the **significant consequences** of their decision. See Conner v. Burford, **848 F.2d 1441, 1446** (9th Cir. 1988)

While NOAA may be entitled to some deference, NOAA has not adequately explained to the public how they reconcile their opinion to omit the county SMP from CZM Certification that will lead to fishing as expendable is not a significant adverse effect on the coastal human environmental need for ACCESS to seafood of their decision without producing an EIS. Additional curtailment of fishing that is significantly stressed raises a "substantial question" as to whether the action would cause a significant impact to the Fish Dependent Community. See Native Ecosystems Council v. U.S. Forest Serv., **428 F.3d 1233, 1239** (9th Cir. 2005). **This failure to CZM Certify is arbitrary, capricious, and an abuse of discretion, and not in accordance with the law.**

An EA is a "concise public document" that "[b]riefly provide[s] sufficient evidence and analysis for determining whether to prepare an [EIS]. " Dept. of Transp. v. Pub. Citizen, **541 U.S.752, 757 , 124 S. Ct. 2204 , 159 L. Ed. 2d 60** (2004) (quoting **40 C.F.R. § 1508.9(a)(1)**). If, pursuant to the EA, an agency determines that an EIS is not required under applicable CEQ regulations, it must issue a FONSI, which briefly presents the reasons why the proposed agency action will not have a significant impact on the environment and significant adverse effect on the Fish Dependent Communities of SW Washington. **Id. at 757-58 ; 40 C.F.R. §§ 1501.4(e) , 1508.13 .**

"The NEPA process involves an almost endless series of judgment calls," and "the line drawing decisions [*3] necessitated by the [NEPA process] are vested in the agencies, not the courts. Duncan's Point Lot Owner's Ass'n v. FERC, **522 F.3d 371 , 376 , 380 U.S. App. D.C. 346** (D.C. Cir. 2008) (quotations omitted). "NEPA's goal is satisfied once ... information is properly disclosed; thus, NEPA exists to ensure a process, not to ensure any result. " Inland Empire Pub. Lands Council v. U.S. Forest Serv., **88 F.3d 754 , 758** (9th Cir. 1996) (citation omitted). **This is an unfortunate situation that allows actions to occur knowing full well there will be untenable consequences foisted onto Coastal Seafood Dependent Communities.** NOAA's only justification, and a very weak and not properly supported that the Pacific County SMP Ocean Section 6 is discriminatory. Please note that Washington ecology made Pacific County broaden their SMP to expand the "Prohibition on Fixed Structures" beyond only ocean energy to all offshore industrialization to avoid being discriminatory toward a single entity to AVOID being discriminatory before the Ocean Section 6 was approved and in accordance with state law (RCWs) and agency regulations (RCWs).

A court reviews final agency actions under the "arbitrary and capricious" standard of the Administrative Procedure Act, **5 U.S.C. § 706 (2)(A)**. Friends of Endangered Species v. Jantzen, **760 F.2d 976 , 980-81** (9th Cir.1985). Under the APA, the court "shall" set aside any agency decision that it finds "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." **5 U.S.C. § 706(2)(A)**.

An agency action is arbitrary and capricious if "the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." Motor Vehicle Mfrs. Ass'[*6] n v. State Farm Mut. Auto. Ins. Co., **463 U.S. 29 , 43 , 103 S.Ct. 2856 , 77 L.Ed.2d 443** (1983).

Review under this "arbitrary and capricious" standard is narrow, and the reviewing court may not substitute its judgment for that of the agency. League of Wilderness Defenders v. U.S. Forest Serv., **549 F.3d 1211 , 1215** (9th Cir.2008). Despite this narrow scope of review, the court's inquiry must be "searching and careful." Marsh v. Or. Natural Res. Council, (1989). **Ultimately,**

"the agency must articulate a rational connection between the facts found and the **490 U.S. 360 , 378 , 109 S. Ct. 1851 , 104 L. Ed. 2d 377** conclusions made." Or. Natural Res. Council v. Lowe, **109 F.3d 521 , 526** (9th Cir.1997) (citing U.S. v. Louisiana— Pac. Corp., **967 F.2d 1372 , 1376** (9th Cir.1992)). Agencies have not made this careful determination in failing to CZM Certify the Pacific County SMP.

CCF/CRCFA argue that NMFS's failure to consider reasonable alternatives to mitigate the loss of fishing area has significant environmental impacts, failure to take a hard look at the cumulative impacts including loss of 50% of all fish access on 70% of the Washington coast, and failure to prepare an environmental impact statement violates NEPA. **NOAA's decision to fail to CZM Certify the Pacific County SMP Ocean Section 6 is unreasonable considering the Environmental Justice implications of that decision.** Friends of Endangered Species v. Jantzen, **760 F.2d 976 , 985** (9th Cir.1985); Foundation for North Am. Wild Sheep v. United States, **681 F.2d 1172 , 1177** (9th Cir.1982). It should be noted that Washington is the ONLY state in the nation subject to the federal Rafeedie Decision that reallocated 50% of all crab/fish on 70% of the north of Westport on the Washington coast that has cost the Washington crab industry over \$240 million in lost crab ACCESS alone. Taking \$240 million out of a single fishery has caused the **Washington fishing fleet to bear the total federal obligation on the backs of the Washington coastal Fish Dependent Communities** (Highly Cumulative IMPACT) that has less than 200 active vessels is HIGHLY significant adverse effect to the Washington fishing industry that has placed the coastal fishing families at considerable RISK of total failure, especially the new young fishing families that are the future of the industry placed at RISK of total failure. This loss of ACCESS to fish/crab is serious and has caused tremendous fishing effort shift to the south of Westport where 90%+ of the entire crab fleet now fishes excessively shrinking each family income. The SMP provisions affect 32 of those 38 miles are offshore Pacific County where the CZM Certification of the SMP would offer necessary economic protections to the 4th most fish dependent community in the nation, a community that overall, outside of fishing is over 50% employed by the government and has the highest unemployment rate in the state besides an excessively high poverty rate. **Industrialization of our local waters would be horrific loss of the best family wage JOB potential available on the coast** and a total Economic SHOCK to our coastal Fish Dependent Community that ~~should SHOCK the CONSCIENCE of agencies involved~~ in this decision to put coastal impossible to replace jobs at Significant RISK by adding industrialization to ocean waters increasing the excessive federal burden already overloading the backs of our local communities. **At some point common sense must reign even if it takes state and or federal legislation to rectify.**

This is a clarion call to ensure that the Pacific County SMP Ocean Section 6 is CZM Certified. Failure to utilize existing enforceable approved policies to better protect our very last remaining open access ocean is a proverbial 9:29 knee on the neck of the last gasp of the coastal Fish Dependent Communities of SW Washington where new ocean use plans could significantly and physically alter the existing uses of the coastal zone. This is a matter of social justice, a battle for the soul of our Fish Dependent Communities, and to ensure that our family fishermen come home at the end of a hard day's work on a dangerous midwinter agitated ocean. If there is no law currently in existence to protect and preserve the coastal justice, become accountable for our people, then we must summon our courage to put compassion ahead of ocean use change that has copious other alternative areas on the west coast to exploit without ending our fishing culture and suffocating our coastal ports. If there is no existing legal solution, then we should all

work together to create supplemental law that RIGHTS the social injustice and preserves the fishing culture of the SW WASHINGTON coastal Fish Dependent Communities that are already carrying a significant federal burden on their backs to meet the Federal Court Rafeedie Decision.

Extras

[BOEM resumes final environmental review for Vineyard Wind | National Fisherman](#)

[RODA circulating comment letter on offshore wind policy | National Fisherman](#)

Block Island monopole/jackstand wind farm pictured below.



Please note this vessel is NOT fishing, the net and doors are on board, the lines going into the water are stabilizer lines and only down rig shallowly.

Offshore industrialization of local coastal waters is unreasonable interference with fishing. If these wind turbines in the picture above were floating wind that vessel, if fishing would already be entangled in the turbine anchoring lines. Everyone also must put in their conscience that to equal just 1 Bonneville Dam electrical output it would eliminate ALL fishing between Westport and the Columbia River and out 15 miles from shore, the only place left for the fishing families to earn a living with excessive closure effects on all waters north of Westport on 70% of the Washington coast. Smaller "Fixed Structure" ocean industrialization will also displace fishing and will act as an irretrievable sneer entangling crab gear in huge flower gardens costing millions to replace, millions the industry has left on the alter of the Rafeedie Decision paring family incomes to the bone.

Below is a WA map of existing NO Fishing No Income zones that have had considerable negative effects on coastal Fish Dependent Communities. Also pictured is a typical wave energy buoy array that is a similar anchoring of any offshore floating industrialization of our offshore marine waters that will also become additional No Fishing Zones but with the additional effect of acting as giant snares to irretrievably entangle crab gear moved by midwinter storms putting the entire crab fishing industry at severe economic RISK of trauma with the high potential to even make fishing go extinct due to the fact that the next generation of fishing families in Washington are the highest debt fishermen with

the least current access to fish of any generation in the history of our nation. **FISHING AT RISK OF TOTAL EXTINCTION!**

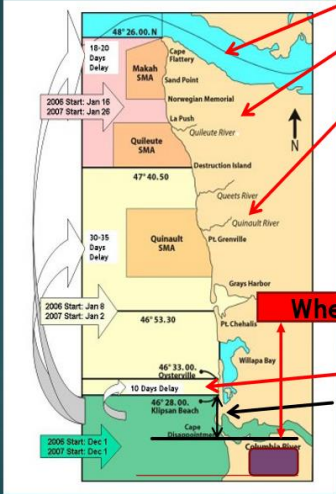
Coastal Marine Spatial Planning

Washington is DIFFERENT and cannot fit the National Mold

The crab fleet has lost 559 sq. miles already

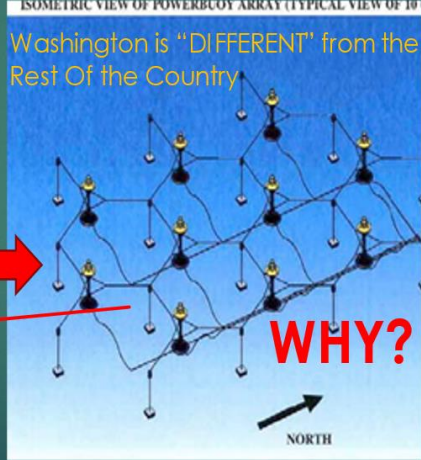
WA only state with federal tribal obligations and SMA's

2



UNIQUE

Washington is "DIFFERENT" from the Rest Of the Country



WHY?

Loss of ACCESS To FISH in WA has Consequences To all the coast

Where?

50% Fleet
9% of coast

"Offshore Industrialization" will promote additional NO FISHING ZONES

WA Marine Spatial Plan "Fisheries Protective Standards"

- (b) Definition of adverse effect for fisheries: Adverse effects can be direct, indirect, or cumulative. Adverse effects for commercial or recreational fisheries are defined as any of the following:
- i. A significant reduction in the ability of commercial or recreational fisheries to access the resource used by any fishery or fishing community(ies).
 - ii. A significant increase in the risk to entangle fishing gear.
 - iii. A significant reduction in navigational safety for commercial and recreational fisheries.
 - iv. Environmental harm that significantly reduces quality or quantity of marine resources available for harvest.

Finally, the MSP also identifies Necessary Data and Information that are additional to the requirements for projects that require a federal license or permit as outlined on page 2 above. While the Necessary Data and Information requirement is not an Enforceable Policy, the information is required for those projects and used to ensure that projects are consistent with the CZMP Enforceable Policies.

Enforceable Policies include a short description about how an existing Enforceable Policy might be used to during the State federal consistency review to achieve the same outcome or address the same identified concern.

In our analysis and based on feedback from NOAA, these sections do not meet the federal definition of Enforceable Policies (see pages 2-3 above), particularly the requirement that Enforceable Policies must not assert jurisdiction over federal agencies, lands, or waters.

All Washington Coastal Communities are possibly at RISK from ocean industrialization. Currently POET – Pacific Ocean Energy Trust has a current webinar series upcoming on 12 May 2021 that contemplates laying an ocean high voltage line from southern Oregon to Los Angeles, California. This has been one of my largest concerns in all of these ocean energy PROCESSES is that the energy would be produced in local fishing grounds and transmitted to California, now that possibility is gaining traction as far north as Coos Bay, Oregon. BEWARE, local Fish Dependent Communities lose their fishing grounds, and the benefit is transmitted elsewhere.

The CROSSWALK - Addendum Pacific County SMP CZM Certification

Ecology's crosswalk is a good example to help people understand what is being omitted by NOT having the Pacific County SMP NOAA CZM Certified. Instead of ecology making Pacific County comply with just ecology WACs relative to CZM Certification it could be more prudent in many circumstances to utilize the county SMP provisions that were developed in accordance with heavy public involvement written in ordinary language that ordinary citizens understand. The county held 50 public meetings in updating the county SMP in 2016/17 to discuss every aspect of the current SMP spearheaded by multiple ordinary citizens on the SMP subcommittees where individual citizens with specific expertise and all too often direct effects affecting them were on the subcommittee with intimate knowledge of issues they were tasked to address and write pertinent SMP provisions applying their expertise into regulations with supervision of WA Ecology and their very thick SMP guidebook with multiple interactions directly between ecology and the citizen led committees. Some SMP provisions were rewritten multiple times after considerable compromise to meet Ecology guidelines. **Language is important and it should be in terms the average citizen can understand without interpretation** and total review of many crosscutting regulations from various places in the law that have multiple slants that may or may not come to the desired outcome to protect the coastal people from abusive exploitation depressing the coastal demographics even deeper into the abyss. Agency regulations had little if any public input, example, the question that needs to be answered, how many public hearings did the decision to remove the County SMP from CZM Certification. None that the fishing industry was aware of, disgraceful use of authority by both ecology and NOAA to omit such an impactful set of regulations from the Washington/NOAA CZM Certification **- momentous decision without public input of any kind.**

SMP 6.2.5 - Existing resource-based uses, like fishing and navigation, ecological and ecosystem functions, processes in the coastal zone, and public access to ocean waters should be protected and preserved for current and future generations sustainable utilization. This is direct and certainly implies that fishing shall be protected and preserve (along with other uses like navigation, (green is a potential future update of the SMP). **Often less is more in getting directly to the desired outcomes that ordinary citizens understand**, desire, and need to maintain coastal JOBS which are irreplaceable. SMP 6.2.6&7 Also prioritize existing ocean uses, especially natural resource existing uses like fishing and navigation over new ocean uses that have an adverse effect on coastal communities' wellbeing. The SMP is direct and is in language that is easy to understand for the average citizen without wading through pages and pages of regulations to "maybe" come to a similar outcome when the pages are interpreted. The agency WACs often refer to potential "mitigation". Mitigation is NEVER 100% effective at replacing the

existing use that was lost and the community all too often simply is forced to eat the consequences which in the case of many new industrial ocean uses could be dire for many fishing families and in turn the overall coastal community beyond the remnant Fish Dependent Community.

The people of the coast feel the same way that many in the Tricities area feel about the proposed Horse Heaven wind farm on the ridges just south of town. The common theme from Save Our Ridges expressed that the 1150 MW renewable energy facility is “not wanted and it’s not needed.” In the case of ocean energy displacing valuable fishing grounds, the industrial facility is “not wanted, is not needed”, will significantly increase coastal electrical rates, eliminate good paying family wage fishing JOBS, and deteriorate the demographics of the coastal counties with little if any real benefit to the state and nation as a whole. Other better land-based industrial alternatives exist to loss of our Fish Dependent Communities where seafood production is definitely in the national public interest. In Pacific County the proposed Naselle Ridge wind energy facility was nixed by the same people from Seattle that mandated excessive renewable energy projects when there was only support for the project in the county, yet those same people are willing to surrender primary fishing grounds without consideration of the adverse economic impacts that widen the rural/urban divide cutting coastal resource dependent JOBS past the bone negatively affecting local demographics ruthlessly without remorse.



Building on these efforts, we invite you to join a discussion on the next steps in the AOA planning process. It is always about inclusion of the affected community until the project is ready to be put into operation, then the local community is told you have had your voice heard and therefore it passes muster, the project moves forward the community suffers.

NOTE: Any notices of any CZM projects or regulation change on the Washington coast must notify CCF & CRCFA. Any notices of any CZM Changes to the state enforceable policies must notify CCF & CRCFA. The best method is via –email - crabby@bakerbay.org to maximize ability to respond to changes in enforceable policies or projects that could in any way have an effect on our fishing industry. Agencies should maintain their own data base of potentially affected people that need notification of projects or change of regulations in the coastal zone. **Notices in official registers will NEVER be notice to average citizens.** All licensed fishermen are catalogued by WDFW and can be notified and should be.

RCW 90.58.900 - Liberal construction—

This chapter is exempted from the rule of strict construction, and it shall be liberally construed to give full effect to the objectives and purposes for which it was enacted.

WA ORMA mandates that adverse impacts/effects on fisheries are to **AVOID Conflict** & cannot be found explicitly in the “enforceable policies” of the WA/NOAA CZM Certifications.

WA SMPs are state law that supersede agency WACs, they are crying out for CZM Certification to reach beyond 3 miles from shore in the 3 – 200 mile offshore zone. Ecology is the lead agency in the state to request CZM Certification of the county SMP; unelected officials are stepping on elected officials’ jurisdictions/authorities by NOT requesting CZM Certification of the SMP. Agency regulations should fill in the gaps in the RCWs and SMP. It is our hope that we can select a committee to work through these issues line by line and a to achieve a more protective CZM to help prevent the depletion of ecosystem function and existing uses including fishing that depend 100% on a Properly Functioning Ecosystem (PFE) that is accessible to the public for sustainable utilization. People from all over the nation come to fish in these waters that need protection.

WA CMSP selected sections are included in the CZM Certification: Washington’s CZMP: Section 4.3.3 for Important, Sensitive and Unique Areas (ISUs) and Section 4.6 for Fisheries Use Protection. To date the area between Westport and the Columbia River has not been identified as an important UNIQUE area that is the only place that Washington and other west coast fishermen have left to fish that they are not under the thumb of the Rafeedie Decision where all fish are shared 50/50 on 70% of the Washington coast. UNIQUE! Why is this not listed in the Washington CMSP document.

The Washington Coastal Marine Spatial Plan Fisheries Use Protection Standards are worth highlighting as they were designed to minimize negative impacts to fisheries if new ocean uses with fixed structures are proposed: (a) Protection Standards for fisheries: Applicants proposing new ocean uses involving offshore development, as defined in the SMA, must demonstrate that their projects meet the following CMSP standards to protect fisheries located at and nearby the project site:

- There are no likely long-term significant adverse effects to fisheries.

- ii. All reasonable steps are taken to avoid and minimize social and economic impacts to fishing. Additionally, other factors must be taken into consideration when assessing adverse effects on commercial and recreational fisheries and whether all reasonable steps have been taken to **avoid conflict and minimize such effects**. (the word Conflict needs to be added to this section as intended in BOLD)
- (b) Definition of adverse effect for fisheries: Adverse effects can be direct, indirect, or cumulative. Adverse effects for commercial or recreational fisheries are defined as any of the following:
 - i. A significant reduction in the ability of commercial or recreational fisheries to access the resource used by any fishery or fishing community(ies).
 - ii. A significant increase in the risk to entangle fishing gear.
 - iii. A significant reduction in navigational safety for commercial and recreational fisheries.
 - iv. Environmental harm that significantly reduces quality or quantity of marine resources available for harvest.
- Finally, the MSP also identifies Necessary Data and Information that are additional to the requirements for projects that require a federal license or permit as outlined on page 2 above.
- While the Necessary Data and Information requirement is not an Enforceable Policy, the information is required for those projects and used to ensure that projects are consistent with the CZMP Enforceable Policies.

Washington/NOAA federal consistency review absent the Pacific County SMP provisions may or may not achieve the same fisheries protection outcome as if the SMP were included in the Certification; This preferred OUTCOME is not assured in the NEPA/SEPA Process and all too often the project proposed moves forward causing adverse effects on Fish Dependent Communities with disparaging consequences to coastal people.

One issue that may not overcome necessary fisheries protection is particularly the requirement that state "Enforceable Policies" must not assert jurisdiction over federal agencies, lands, or waters, but "federal consistency" is a powerful tool with few exceptions that if properly exercised can provide a tremendous amount of good protection for coastal Fish Dependent Communities.

The Fully Consistent Policy in the CZMA is a powerful tool BUT the Fisheries Protective Standards in the CZMA could/should be improved to fully account for UNIQUE Washington conditions. The CZM Standards MUST be available that can distinguish when there is a UNIQUE situation like that found in SW Washington where the Standards can directly address UNIQUE situations that are found here. Let us repeat, NO other state in the nation is under a 50/50 fish sharing federal court order, Washington is UNIQUE in the nation and deserves a UNIQUE SOLUTION to protecting fishery conditions that are not be found anywhere else in the nation. Attempting to force the same standards on SW Washington as the rest of the nation will result in further disadvantaging the Washington Fish Dependent Communities to the point of pending extinction and at the very least aggravating and deteriorating the deplorable demographics on display in SW Washington Coastal Communities. The Federal Standards MUST adjust to accommodate this UNIQUE situation and offer the protections vital to sustaining our special needs.

CZM Certs MUST be adjusted to a new enhanced coordination standard/process that fully supports the SPECIAL NEEDS of our local Fish Dependent Communities that are subject to

inordinate suppression found nowhere else in the nation. Continuing to force one size fits all national/state standards in this special place will be extremely detrimental to our peoples' wellbeing. Dramatic JOB loss will be community crushing.

3. SMP provisions that prohibit permanently anchored or fixed structures (Sections 3.2.G.3(b) and 6.7.B.2). NOAA has advised that these policies would be considered discriminatory and would not meet the NOAA definition of an Enforceable Policy. This assessment CCF/CRCFA challenges as an invalid critique of the CZM process without any supporting federal regulation or data. REPEAT, SW Washington has special needs and cannot be forced into national standard purview – Special NEEDS require special accommodations found only in the county SMP provisions.

CZMP Enforceable Policies “may” apply to justify conditions or an objection to such a project: “May” is not a positive action and in 95% Of the cases projects move forward without adequate weight applied to the **NO Conflict standard** needed of CZM Certification to protect this area of Special Need. Everyone needs to take a fresh examination of the Special Place and reevaluate the situation that is becoming critical to the survival of the Fish Dependent Communities found here. If the existing regulations do not adjust to this UNIQUE area everyone needs to reexamine what is necessary to help the area THRIVE not be suppressed by ordinary regulations that are insufficient to meet the special needs of this special place. Everything else in this paper is simply addressing existing regulations at the local, state, and national level without consideration of the honest needs of this UNIQUE situation. **REPEAT there is a reason that Washington is the only state in the nation to legislate Coastal Marine Spatial Planning with a priority to protect fishing, not install ocean energy as a 1st priority - # 1 objective in ORMA Is to protect fishing.**

Define: All reasonable steps

WAC 173-26-360(7)(f) Impacts on commercial resources, such as the crab fishery, on noncommercial resources, such as environmentally critical and sensitive habitats, and on coastal uses, such as loss of equipment or loss of a fishing season, should be considered in determining compensation to mitigate adverse environmental, social and economic impacts to coastal resources and uses. In this situation, mitigation normally never makes a loss whole, this situation needs REMEDIATION into perpetuity.

Who is the mitigation compensation paid to? State or injured party? Any compensation paid MUST go directly to the injured parties, but this is not specified in any of the regulations that appear to address CZM Certifications.

Define: should be considered – just mention in a document or talk about a problem or **solve the problem satisfactorily to those affected by a project.** “Should be considered” is a nebulous term that for the most part does not end in any positive action that honestly protects ecosystems or existing use like fishing.

25,000 gallons of storage oil product prohibited in SMP jurisdiction. This is not a regulation that local SMPs can address??? – this needs clarification and a specific federal law that overrides this local SMP provision to limit oil spills if a rupture in line or storage tank should occur. WA Supreme Court Decision in the Grays Harbor oil terminal case would disagree with the finding that oil quantities stored on water's edge can and should be restrained.

7. SMP provisions that require that ocean disposal locations to supplement sediment transport processes to protect developed areas from shoreline erosion (SMP Section 6.3.A.2) or that limit ocean disposal to 1 foot mounding and 10% wave height increase as described in SMP Section

6.3.B.4. It is possible that, if rewritten, these policies could be approvable as Enforceable Policies, if they were written as effects-based policies. This is an important lifesaving issue that should be in the CZM Certifications. Changing this language MUST not lose the INTENT to protect small vessel navigators from abuse of over mound induce wave amplification capable of causing a marine casualty, which the Mouth of the Columbia River has experienced way to often as a consequence of over mounding.

Ecology concludes that additions to the NOAA-approved Washington State Coastal Zone Management Program are not necessary to implement the purpose and intent of almost all the referenced Pacific County SMP coastal/ocean management provisions and are NOT included even though the SMP is state law superseding agency WACs and many of the county SMP provisions are found in no other state or federal law.

CMSP GLD limitations out to 700 fathoms for the most part cover most coastal fishing operations but leave the offshore albacore fishery vulnerable to lost fishing grounds.

SMP provision g. Ocean uses should be timed to minimize impact on ecosystem functions, sensitive species, and particularly vulnerable life stages of ecologically and commercially significant species. Corresponding WACs OK – but how is this applied (it has been ignored at the SWS). When CRCFA & USACE agreed to prevent dumping on soft-shelled crab after August 10 of each year in the SWS that agreement lasted for several years – CRCFA anticipated Ecology would continue the Prohibition due to the vulnerable soft-shelled crab in the dump zone. This prohibition should still occur but if the “Enhanced Dumping” method of disposal was adopted at the SWS due to the new science that the LCSG has helped develop for initiating nearshore disposal sites the prohibition may no longer be necessary to prevent damage to the crab resource that may have been occurring for quite some time now. Enhanced dumping is a method of ocean disposal that slowly meters sediment out of the hopper dredge over a mile of dump zone instead of a mere 5 – 700 feet of disposal would have 10X less impact on soft-shelled crab as the current dump and run at the SWS. In addition, shallow water disposal via “Enhanced Dumping” has never routinely videoed the sand coming out of the hopper from the top side of the sediment in the hopper. The MCR Sand tends to clump in the hopper and often cascades out in large deposits, our current methods of discovery have neglected this clumping during disposal because it is erratic and does not meter like dry sand slipping through your bare toes on a hot sunny day at the beach.

c. Disposal of dredge material through direct beach enhancement and at locations based on best available science is preferred. The 2007 Cape Disappointment Technical Forum gathered the foremost coastal engineers and coastal scientist in the nation, and they discussed disposal options to maximize ocean disposal sand accretion on the beach. That group of renowned scientists/engineers concluded unanimously that dredge material must be deposited directly on the beach or adjacent surf zone to maximize the beach benefit. This direct beach disposal also meets the best safety requirement to avoid mound induced wave amplification offshore. Recent discussion of sand movement from the North Head Site is deceiving. Yes sand may move toward shore and a bit south in the early fall when it is first deposited, but major midwinter storms quickly change the direction of the sediment and the crab fleet can verify the sand movement by the number of time they have had to chase down 100# seabed drifters (crab pots) moved by mega storms in the winter time.

e. Where feasible, visual, and physical public access should be required. This is the one area that the WACs do a good job of potentially protecting the public's right of access to the marine waters.

WAC 173-26-221(4)(b) Principles. Local master programs shall Protect the rights of navigation and space necessary for water-dependent uses. The problem with even this good provision is that there is NO honest evaluation of the potential adverse impact on the Fish Dependent Communities. Industrial uses of the ocean that are tripoint moored are mutually exclusive of most fishing operations where the fishing gear would become entangled in the moorings.

iv. Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize, insofar as practical, interference with the public's use of the water. The SMP demands a more direct approach to the protecting public use of the waters because the use of terminology "in so far as practical" definitely begs the question of protection offered and lease this protection of public uses very loopy and not at all definitive in the protection honestly provided. Loose terminology is quite honestly a provision that ends up displacing public use (fishing) of the area that is industrialized. This section needs to be rewritten to become more definitive in its protection.

The master program should seek to increase the amount and diversity of public access to the state's shorelines consistent with the natural shoreline character, property rights, public rights under the Public Trust Doctrine, and public safety.

Public rights under the Public Trust Doctrine where fishing rights are revered is not in the forefront of agency activity but hides behind a lot of rhetoric that may or may not actually get applied appropriately to ensure public access to public waterways and fishing is all too often displaced as BOEM issues permits to industrialize vast areas of the public domain in marine waters. Checking offshore maps of lease potential areas in the NE United States is instructive to the extent the leases will be issued where fishing will be excluded – area is enormous and fishing will lose invaluable fishing grounds that will definitely diminish economic returns to many rural coastal communities that will only benefit large urban growth areas that have an insatiable and growing demand for energy; especially if the unrealistic carbon mandates are even attempted to be met in the coming decades. In order for these mandates to be honestly met the world will have to supply a lot more rare earth mineral mines than currently exist or that mineral reserves are even known of in the world, and a lot of the known rare earth minerals are in CHINA that can be ruthless in its distribution of these minerals in the future.

Another citation in the document states, "while protecting generally public rights of navigation and corollary rights incidental thereto" would be stronger and more direct if the document simply stated, "Protect the rights of public navigation" which in turn protects fishing that depends on open navigation. Again, BOEM lease blocks in the NE United States only appear to save navigation for large deep draft cargo vessels and disregard the needs for navigation of small vessels and fishermen who support the smaller coastal rural communities.

7. Protect current economic activity (e.g., shipping, marinas, agriculture, aquaculture, fishing, etc.) that is consistent with the policies of the SMP. This provision again is not sufficient to PROTECT fishing that will be displaced in the only area the Washington fishing fleet has left to fish unimpeded where 50% of the fish/crab resource is denied access on 70% of the Washington coast. This reality has been missing in action to date relative to the SMP discussions. SW Washington is UNIQUE in the nation and it has not been allowed the deference necessary to preserve the last remnant fishing available, the economic importance of this area to securing

any future whatsoever for Washington fishermen has been drastically underestimated by agencies who have been loath to provide the real protections necessary found in the Pacific County SMP Ocean Section 6. During the development of the Washington CMSP agencies mapped ocean energy facilities where it was best for the developer and continually mapped projects for proposal in high value fishing grounds which gives undue deference to industrial development at the expense of Fish Dependent Communities. These maps of potential development areas should have sought to AVOID CONFLICT as demanded in the latest ORMA legislation and the INTENT of the legislature.

RCW 90.58.020 – used many times and is incorporated into the county SMP to help get to a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines. To put things in proper perspective, the SMP had ample public meetings in its last update, the WACs had little if any public input by affected public even though the regulations of both in many instances are identical if not in exact wording in the actual meaning of numerous passages. Beings that both the SMP and the WACs were directed by the legislature we should not be surprised that many regulations are of similar construction and results even if not worded the same. However, the WACs depend on Process that may or may not come to the same place as the **OUTCOMES prescribed in the SMP** that are self executing and need little if any interpretation and the WACs will result in a lot of time and money; often taking years to get to a place that may or may not AVOID CONFLICT with fishing, the lifeblood of the coast.

SMP provision - 3. New development shall be located and designed to ensure no net loss of ecological functions and preservation of existing uses.

Instead of ecology making Pacific County relay on just ecology WACs it could be more prudent in some circumstances to utilize the county SMP provisions that were developed in accordance with heavy public involvement written in ordinary language. The county held 50 public meetings in updating the county SMP in 2016/17 to discuss every aspect of the current SMP spearheaded by multiple ordinary citizens on the SMP subcommittees where individual citizens with specific expertise in community needs and all too often direct effects affecting them were on the subcommittee with intimate knowledge of issues they were tasked to address and write pertinent SMP provisions applying their expertise into regulations with supervision of WA Ecology and their very thick SMP guidebook. Some provisions were rewritten multiple times to meet ecology guidelines. Language is important and it should be in terms the average citizen can understand without interpretation and total review of many crosscutting regulations from various places in the law that have multiple slants written by inland personnel with little or NO knowledge of local conditions necessary to JOB retention or growth in rural areas that have few if any JOB options that pay a real family wage. Pacific County is a natural resource based economy. Even tourism is rooted in the natural resource harvest whether fishing or clam digging. When natural resource ACCESS is limited the economic potential in the area squeals as the loss is intense and the effects are adversely felt by the entire community.

Pacific County SMP Ocean Section 6 - 6.1 B.3 New development shall be located and designed to ensure no **net loss of ecological functions and preservation of existing uses (including fishing)** – This is an extremely high standard that is not directly available in the WACs or RCWs even though these RCWs & WACs aspire to make this occur. Again, **PROCESS vs. OUTCOME** – SMP prescribes OUTCOME, ecology WAC's prescribe PROCESS with indeterminate OUTCOME. Then when the feds enter the mix, the PROCESS becomes more convoluted and

leans heavily toward an OUTCOME definitely slanted against fishing as most industrialization, if not all, will displace fishing area with only negative effects on local nearby communities.

WAC 173-26-360(4) - After inclusion in the state coastal zone management program, these guidelines and resultant master programs will be used for federal consistency purposes in evaluating federal permits and activities in Washington's coastal waters. Even though the WACs clearly state that the master programs will be included in the federal consistency they are conspicuously absent as the result of ecology/NOAA collusion to specifically omit the SMP provisions is unconscionable and suppressive of an already challenged Fish Dependent Community. The SMP omission needs to be corrected and included with minor exceptions listed elsewhere in this document.

WAC 173-26-360(3) - subsequent amendments to master programs will not preclude state and local government from opposing the introduction of new uses. The only way these WACs can be fully met is to include the county SMP into CZM Certification which ecology is resisting. In addition, the ORMA RCW anticipated that the regulations be enacted through CZM Certification. The state legislature anticipated that the 4 Pacific coastal counties would enact SMP provisions would extend out 200 miles from shore and that the 4 coastal counties that are managed different than most of the state as enacted under ORMA. It is clear that the WA legislature INTENDED that the SMP would become CZM Certified by the plain language by ORMA area definition.

This most recent Crosswalk of the Pacific County SMP/ecology WACs fails to include the OUTCOME of the unanimous Washington Supreme Court Decision in the Grays Harbor oil terminal case interpreting the legislative INTENT and clarifying the natural reading of the legislation to preemptively protect fishing from HARM. This consideration is a serious omission that needs to be reconsidered with an affirmative action to include the SMP provisions in the CZM Certifications.

The legislative INTENT in adopting additions to ORMA in 2010, 2012, and 2013 was specifically to prevent the depletion of fish and fishermen which was an extension of the original senator Magnuson vision off offshore ocean management. The guidelines in ecology WACs are intended to clarify state shoreline management policy regarding use of coastal resources as stated in WAC 173-26-360(1), however, we all need to remember that the specific INTENT of the legislature when ORMA was recently extended was to protect and preserve fishing for current and future generations. The 2010 ORMA addition was to directly address Burt Hamner's GH Ocean Energy FIASCO that the legislature soundly rejected without hesitation. This legislative rejection was also cognizant of the 243 applications for ocean energy permits in all US waters at the time. The primary legislative INTENT was to protect and preserve fishing in Washington offshore waters from being overrun by new industrial uses and prevent any further decay in the coastal Fish Dependent Communities that are currently under considerable threat of being wiped out and are only surviving due to the Dungeness crab fishery supplying tonnage to maintain federal channel dredging that requires commercial tonnage. We must all be cognizant of how important commercial tonnage across our channels is to maintain our coastal economic engines, our ports. NO tonnage, NO dredging, NO Ports = deteriorating coastal demographics that are already some of the poorest statistically in the state. This potential loss of channel dredging into our ports is definitely a potential EFFECT of additional loss of ACCESS to cumulative adverse impacts already plaguing the coastal Fish Dependent Communities, one of which is Pacific County. The Pacific County Commissioners realized this serious demographic condition when they updated the 2016/17 SMP with numerous new protective fishing regulations. Commissioners routinely attended the public SMP UPDATE meetings to ensure that the update

was inclusive of the necessary preventative measures to protect fish and fishermen from depletion so that the 4th most Fish Dependent Community in the nation, Pacific County would THRIVE not just barely SURVIVE if at all. Other communities that fish in this invaluable fishing area from both north and south of the county also benefit from this fishing protective SMP Update.

Regulations do not clearly clarify what statewide or national interests are: The Public Trust Doctrine as put forward by the state of Washington clearly places public interest in ocean waters to protect both navigation and fishing as top priorities. Other new uses of the ocean are clearly to minimize effects on those priorities (navigation and fishing) and to specifically AVOID CONFLICT with navigation and fishing as outlined in ORMA and the SMP. The state of Washington was instrumental in developing the book published by the Coastal States Organization, Putting the Public Trust Doctrine to Work which of course elevated Public Uses of the offshore waters led by navigation and fishing.

WAC 173-26-181 7) (f) (g) though laudable in language is not sufficient to recognize or prevent the real threats to the young high debt fishing families that will be forced into bankruptcy or out of the fishing business from loss of ACCESS to fish/crab due the effect of new fixed structure industrial development especially when their storm ravaged crab gear is irretrievably entangled in new use tripoint anchored facilities as the storm moves the gear from set position miles to the north. The WACs may if properly “interpreted” in the future “may” produce similar results but the SMP more directly spells out the desired OUTCOME in NO uncertain terms and do not need a Philadelphia lawyer’s guidance to ensure the OUTCOME that is intended by the elected representatives of the people spelled out in Specific terms that ordinary people can read and understand what was meant in the language of the regulations to explicitly protect and preserve open access to fishing and navigation for all the peoples’ existing use.

Pacific County SMP 6.2.10 – Prohibition on Fixed Ocean Structures should be rewritten from a should to a shall in the future SMP update in 2022-23. This Prohibition on fixed structures was not controversial with people in Pacific County, in fact well supported and was highly modified by ecology recommendation to allow up to a three year pilot program to gather information and FACT pertinent to protecting the interests of industrial development shortchanging the economic viability of all of SW Washington coastal communities. If this is currently at odds with NOAA regulations, we all need to work with congress to correct this specifically in Pacific County offshore waters to increase protection for our disadvantaged remanent Fish Dependent Communities. Something similar was done with the congressional Sea Lion Bill that allowed lethal take of marine mammals that were having a detrimental effect on ESA listed salmon populations east of Bonneville Dam. Overall Ecology WACs have NO direct appeal to aggressively protect and preserve disadvantaged remanent Fish Dependent Communities currently suffering cumulative effects on fishing that have been highly suppressive of the fishing industry that has lost massive fishing opportunities over recent decades described elsewhere in this document. The FACT that crab gear moves long distances in major midwinter storms when most crab fishing occurs means irretrievable entanglement in fixed structures is devastating to all fishermen but has a strong potential to eliminate the young high debt next generation fishermen from fishing altogether – DEPLORABLE UNIQUE situation that faces NO other state in the nation.

This UNIQUE situation found only in Washington needs a UNIQUE Washington solution. Cumulative impacts of multiple adverse impacts on the coastal fishing community is suppressing our communities: Rafeedie Decision, loss of 160 million salmon smolt production from state salmon hatcheries, concentration of trawl IFQs, total prohibition on trawl fishing in the 0 – 3 mile zone

offshore WA, excessive predation on salmon from multiple sources (avian, marine mammals, introduced scrap fish), climate change warming rivers, dam impacts, adverse salmon stock selection in hatcheries, closing salmon JOB mitigation hatcheries, rising price of vessel operation, huge insurance premiums, loss of necessary support businesses, whale restrictions, Domoic acid season closures, Meat Quality season delays, excessive fishing permit prices, and on and on and on; **cumulative adverse impacts matter** and all negative fish ACCESS regulations and prohibitions contribute to making SW Washington fishing communities disadvantaged communities that have the poor demographics to prove it. Industrialization of the last place our Fish Dependent Community fishermen have to fish without sharing all fish 50/50 with 4 tribal nations is south of Westport to the Columbia River where 90% of the Dungeness crab fleet is now concentrated with the individual crab pie shrinking with every additional vessel that moves into the area. To put it simply without additional protections of the last unimpeded section of ocean our Washington coastal Fish Dependent people have to fish it will not be too long, within a generation, our fishing fleets will disappear. **Disappearing fishing fleets is Not in the national interest and deleterious to our national food supply that people from all over the nation enjoy on their dinner plates.** NOAA and the FCMA exist to prevent the depletion of both fish and fishermen as their primary congressional intent clearly written in a 1974 letter to Dale Beasley from the father of the FCMA, Senator Magnuson in response to multiple visits with the senator on both coasts while the FCMA was under legislation.

6.2.B.5 - 5. All proposed ocean activities and uses with potential to significantly affect the coastal ocean areas under the jurisdiction of Pacific County will require a socioeconomic assessment to analyze and describe the long- and short-term effects of the proposed action on the local economy. [this is a vital assessment to protect the local citizens from adverse effects of issues like increased electrical rate increases that could be substantial if an ocean energy facility was put in place with a PPA (Power Purchase Agreement) requiring a substantial increase in electric rates. Our poor disadvantaged, poverty ridden county cannot stand to pay high electric rates like those in Germany at or near \$0.40/kW where this rate could easily eat up most of a retired persons social security check making them chose between electricity and food for their dinner plates.] [page 18 of crosswalk document]

1. Public input is necessary any time an offshore project is proposed, this must not be optional or as needed as in the regulatory language in the WACs. Not only is public input advisable agencies need to respond and show how the public input is incorporated into the project criteria to carry out the legislative INTENT to protect and preserve fishing. Example: when the WA CMSP document was written CCF/CRCFA submitted an extensive comment letter with numerous suggested changes to better protect fishing from displacement and other HARM. At no time did we get any changes made to the CMSP Document that incorporated any of our suggestions. Not even an explanation as to why these suggestions were not acceptable for inclusion in the CMSP. The WCMAC that helped write the document did not even review the final version to offer any changes that were needed, **agency completely ignored the final opportunity for public input prior to publishing a final version of the Coastal Marine Spatial Plan; reprehensible.**
2. Public input is required anytime there is a change in the SMP, agency WACs, legislation by either state or federal government. Public input is required and MUST not be left out of these vital public documents that govern peoples lives.
3. Ensure that the SMP 10% mound induced wave amplification is CZM Certified to protect human health and SAFETY. Far too many sailors (both commercial and recreational) have died in the vicinity of multiple dredge disposal mountains that have significantly increased wave amplification related to these over mounded ocean disposal sites. The 10% criteria

was initially proposed by the USACE as a court settlement agreement with CRCFA and incorporated into the Pacific County SMP in 2016 so that wave amplification regulation would not be lost to future change in agency staff as is often the case when issues are not directed in the law. Since this lawsuit there have been 5 changes in USACE MCR managers and the original agreement to limit the dredge disposal mounding wave amplification to a 10% limit and no more than one foot of accumulation over baseline conditions has been lost as there was a proposal to raise the mound to 2 feet at the North Head Site in 2020 which if contained to outside of 40 feet would probably not violated the 10% agreement but is a creeping mound height that is unnecessary to maintain the agreement. CZM Certification is important to meet WRDA human safety as INTENDED in the WRDA bills that were extended beyond USACE PR & Gs to almost all federal agencies including NOAA and BOEM which have not adequately address the WRDA update demands to include human health and safety required in the federal laws. It is a sad commentary on agency reactions to the 2007 WRDA legislation that once again the 2020 WRDA legislation instructs agencies to address disadvantaged community needs.

4. Ensure SMP industrial Fixed Structures are prohibited in coastal waters offshore Pacific County. This regulation MUST be more protective of fishing as intended by the legislature and become CZM Certified even if we need to change the CZMA by congress to accommodate this protection as this area is significantly UNIQUE and is the only place left for WA coastal fishing industry has left to fish unimpeded. This is a direct straight forward regulation that is easy to implement and has an assured defined OUTCOME that is protective of fishing as intended by the legislature and interpreted by the WA Supreme court interpretation of ORMA that fishing is to be preemptively protected. Process alone does not guarantee OUTCOME of projects. The Pacific County SMP has specified OUTCOMES that MUST not be violated and provides protections as intended. NEPA/SEPA only provide a process and NO OUTCOME is assured where a ton of agency regulations prescribe process actions that may or may not lead to the desired community protections in the regs.
5. 6.2.B.4.b. – Compensation for mitigation of adverse impacts could be substantial and could amount to replacing hundreds of individual fisherman's gear loss and loss of income for an entire year or more when crab gear is irretrievably entangled in a fixed structure industrial complex. This also needs to be assured/guaranteed through bonding, since when push comes to shove the industrial project proponent will simply declare bankruptcy and hide behind their legal shield LLC subdivision of the parent company.. BAD example of bonding requirement in Oregon, OPT was only required \$250,000 to pay for an entire wave energy facility removal, the actual cost to simply remove one single anchor of a single wave energy buoy was over a \$ million. Removal of a single tripoint anchored wave energy or floating wind turbine facility could easily run several million per buoy or floating turbine and depending on the size of an abandoned facility could run into million if not billions of \$\$\$. Personal guarantees of LLC companies only protect companies and often result in bankruptcy when developments go sideways and then debt is forgiven via bankruptcy and the effects of the mess are left to nearby communities or the state to clean up the mess or simply suffer the adverse consequences of abandoned marine water facilities. This is what happened already in Australia. This is a reasonably foreseeable event, OPT in central Oregon has shown us the REAL costs of removing their garbage from ocean waters and OREGON FAILED miserably in their bonding requirements which were a JOKE relative to the actual costs of cleaning up the mess.
6. 6.2.B.7 - Bonds shall be required prior to permitting new ocean uses. [See above. Bonding needs to be proportionable to the number and size of the units of an industrial complex and REAL costs of removal. Deeper water removal will add significantly to the overall removal costs and may be so problematic as to not occur no matter the bonding requirements. In

addition: Bonding must include enough dollars to FULLY compensate fishing families for not only loss of fishing gear and lost fishing production, but the total cost of gear replacement and assembly cost as a fair market value/hour/employee that is beyond minimum wage and commensurate with average dollars earned/day by both the vessel owner and individual crew members based on recent years incomes. If there are mitigating circumstances like a Covid – 19 Pandemic allowances should be made appropriately. Example: in 2019 a vessel grossed \$300,000, fished 45 days – average loss/day would be \$6666.00/day. At 10% a crew member would make \$660/day of actual fishing; rest goes to vessel owner. This income loss is not an average annual loss but should be adjusted to the real costs at the time of loss which could be more or less than the example shown.

7. 6.2.B.4.c must be amended to include more than the ecology SEPA checklist and MUST identify any possible Harm to existing uses including but not limited to fishing. Crab gear entanglement RISK must be a harm that is specifically identified and how those losses of gear and income from that gear will be ~~mitigated~~ remediated in full at cost to the project proponent. Loss of gear and Lost fishing income could result for over a year as the gear cannot be replaced in large quantities due to failure of local crab pot company, Airport Crab Pot Company, leaving only one quality pot builder for local people to utilize and that company is located in Whatcom County. Recent price of a single barebones pot from the manufacturer just increased to \$275 per pot with NO rope or buoys and other essentials. Individual fishermen have different specifications to build a pot to and cost vary widely depending on attributes added to the individual's pots. The pots are not like Nike tennis shoes that can be purchased at multiple locations and are identical. Pots are tailored to individual fishermen's specifications and cost is associated to these specs.
8. 6.2.B.4.g – Some offshore energy facility development could for example raise utility rates to local citizens – when the City of Ilwaco accepted sewage from the local Cape Disappointment State Park the result was a required expansion of the sewer plant and a doubling of sewer rates on all city citizens to accommodate the increased sewage treatment from the park, an increase in facility size the general city citizen did not need and did not want. An industrial development that adversely effected tonnage over the channels into Ilwaco/Chinook and lead to USACE suspension of federal channel dredging as tonnage requirements over the channel was significantly reduced could cause a tremendous loss of community stability as an effect of the project. Offshore industrial development should not increase utility rates on shoreside citizens, this is in addition to the direct damages to the fishing industry for fishing displacement besides irretrievable gear loss. No one has ever examined the total cost to nearby communities from industrialization of the ocean. Agencies stopped this analysis during Washington Coastal Marine Spatial Plan even though the overall WCMAC authorized this investigation by limiting the RFP they put out to exclude such realistic potential analysis.
9. 6.2.B.10 & 13 – transit zones to nearshore disposal sites only become important when the crab or other fishing season is ongoing. In recent years USACE has limited disposal in nearshore areas after the season closes on September 15th, which is the best alternative available to avoid conflict with fishing and has been timed to accomplish this to the maximum extent feasible and is beneficial to both USACE and the fishing industry avoiding conflict – great example of USACE actually working appropriately with fishing even though this is NOT explicitly in law and could be an additional requirement in the upcoming SMP update to ensure this continues and will be helpful as the USACE continues to change MCR Managers on a fairly regular basis; this current after season disposal could be lost and would have considerable conflict with fishing that is often centered south of Seaview in the late summer fishery making Peacock Spit fishing conflict problematic and a great loss of late season income for the crab fleet.

10. Avoid and minimize are quite honestly nebulous terms when used together that are not readily defined. **Avoid should mean NO measurable effect.** What does minimize mean? Lessen, reduce, diminish, but by how much – minimize could result in barely discernable effect or could mean a significant effect with a very significant effect overall approaching NO reduction in impact with a range of impact ranging from zero effect (Avoid) to 99.99% of the original baseline situation; at what point is a mitigation effort actually minimized – this is too subjective to actually make a determination if a project should/could be allowed to move forward. **WORDS MATTER** and the effect they impart to a project is vital to the intended OUTCOME and effect on the coastal socioeconomics of a localized project. Relative to WA Coastal Marine Spatial Planning and installation of proposed projects in the offshore waters the “AVOID CONFLICT” clause is well understood from the INTENT of the legislature to ensure NO measurable effect on existing use, i.e., fishing. This issue gets back to 6.2.B.5 economic assessment of a proposed project where the legislature prescribed that impacts shall AVOID CONFLICT with existing uses like fishing. Minimize is a nebulous term and could mean a significant adverse impact.
11. 6.2.B.15 – This gets back to BONDING to ensure that the failed or abandoned project is fully removed so that the effects of bankruptcy on an LLC is not leaving a MESS on the ocean bottom to cause coastal Fish Dependent Communities HARM in the future. **Cost of decommissioning an ocean project will have a high probability to exceed installation costs by a considerable margin,** this needs to be fully accounted for in the initial assessment of the project. Again, refer to the Oregon OPT expense to remove a single ocean energy anchor buoy at over a million \$\$ in a failed attempt to position a single wave energy buoy which would have taken a tripoint moor system to anchor a single buoy. We have very few data points on which to draw well-reasoned decisionmaking and realistically assessing real world costs in the ocean, but my experience dealing with ocean machinery for 45 years **it is always more expensive than initially analyzed and the equipment is usually in need of replacement at 7 years or less.** Project proponents often project at a minimum 20 year life cycle of their proposed equipment. Some replacement parts like ordinary shackles need annual replacement to assure integrity of the connection so that anchoring cables remain secure. It is possible to design longer wearing connection points but that will drive up the installation cost considerably and agencies unfamiliar with marine water equipment are ill equipped to honestly analyze projects in this detail to ensure their integrity for years.

Applicability of chapter 90.58 RCW to federal lands and agencies.

WAC 173-27-060. (1)

..... The Shoreline Management Act is incorporated into the Washington state coastal zone management program and, thereby, those direct federal agency activities affecting the uses or resources subject to the act must be consistent to the maximum extent practicable with the **enforceable provisions** of the act, regulations adopted pursuant to the act **and the local master program.**

RCW 90.58 and agency WAC 173-27-060 (1) clearly directs that the local master program become a part of the Washington state coastal zone management program and definitely insinuates that the local master program is included in the CZM Certification program.

NOTE: the reference numbers in this document were pre-2022 Pacific County update.

6.3.B.4 – Pacific County SMP gives extremely specific guidelines on **Mound Induced Wave Amplification** with a maximum of 10% which originated out of a federal court agreement suggested by the USACE as reasonable criteria on mound safety. Typically, this would be no

more than 1 foot of mounding in 40 feet of water. Past technical analysis has shown that the USACE STWAVE model under estimates wave amplification of long period high amplitude waves by up to 2 meters = 15 foot swell would increase to over 21 feet and the danger to navigation would be significantly increased with potential to cause immediate onset marine casualties that have a strong potential to cause fatalities similar to the disappearance of the New Janet Ann on Peacock spit inside of Dredge Disposal Site B offshore the North Jetty of the Columbia River. STWAVE is an inappropriate model to determine the real world mound induced wave amplification. STWAVE is a wind driven mathematical model that is not associated with long period waves. Agency WACs have NO specific mound induced wave amplification to accurately assess or influence the safety of the mound induced wave amplification that will cause HARM to small vessel navigators that get caught in an asymmetrical wave pattern common on Peacock Spit in midwinter ocean conditions. USACE wave amplification is muted by looking at the average wave in an asymmetrical ocean wave climate that produces regular larger wave series that are unpredictable. **It is not the average wave that causes marine casualties, it is the larger wave generated in normal ocean conditions.** Omitting the SMP requirement from CZM Certification will be HARMFUL to the local navigators subject to increased wave amplifications of the past that have caused many marine casualties and plenty of fatalities contributing significantly to the highest fatality rate in the nation in Dungeness crab that is a very dangerous midwinter fishery without dredge disposal mountains causing completely unnecessary marine casualties that could be avoided/reduced with this 10% mound induced wave amplification and the one foot mound rule kept in place and CZM Certified. CZM Certification is also available for interstate certification and would be entirely appropriate associated with Mouth of the Columbia dredge disposal mountains. I personally have never understood the real reasons behind Ecology limits on their potential CZM reach that is at times necessary to protect Washington citizens from other state malfeasance subjecting Washington citizens to increased RISK and DANGERS of actions allowed in Oregon that has taken several Washington citizen's lives. **Interstate federal consistency is available and should be fully considered as a viable option** especially in dealing with USACE dredge disposal options that in the past have caused considerable number of marine casualties, loss of life and loss of property to Washington citizens caused by actions in Oregon waters.

6.4.A.3. – Mandates the use of escort tugs for petroleum being transported in Pacific County waters which includes all deep draft traffic north of buoy # 8 which is 100% in Washington waters and subject to Pacific County SMP. This is an ecology approved regulation that has been **completely ignored** – Escort Standards for petroleum is not an unreasonable mandate considering the potential impact of a major oil spill on our coast, especially at the Mouth of the Columbia River which is one of the most dangerous river bars in the world and the area in and around Peacock Spit is known as graveyard of the Pacific where marine casualties have been prolific in the past. This **escort standard** needs to be fully implemented instead of ignored. Escort tugs are required in other places and is an appropriate precaution necessary to protect against marine casualties like the Nestucca oil spill at Grays Harbor. Tandem tows must also be addressed. The oil barge on North Head a few years ago was the result of a tandem tow that could have been a real natural disaster for the shellfish industry except for the fact the barge was empty. Eleven of the 16 tanks on the barge were breached on the rocks and could have been devastating to local shellfish harvest in SW Washington including oyster harvest and production in Willapa Bay – devastating to the local seafood businesses that are never adequately compensated for this type of damage in any meaningful time frame. The Exxon Valdez oil spill in Alaska has shown how lax compensation can be when a BIG corporation fails to act expediently. Many of those economically damaged fishermen in Alaska were dead from old age before a settlement agreement and funds were dispersed to those injured in the oil spill.

6.4.B.1. – Ocean mining is currently under legislation this year and this SMP provision may need to be brought into compliance with the new state RCW. If this passes this provision will need CZM Certification to reach the full INTENT of the law. Pacific County should consider beefing up this provision for future SMP updates.

6.7.A.1. – Ocean energy facilities gets back once again to the definition of “MINIMAL”. Both SMP and Ecology WACs do not consider the RCW relative to ORMA that dictates NO Conflict with existing uses which includes fishing. More work is necessary in this area. The Prohibition of fixed structures if CZM Certified could address this issue. Remember the difference between minimize and minimal. Minimize starts at the 100% adverse impact and grades down toward zero impact that is never reached, ever. And minimal impact starts at 0% impact and moves up just a little above ZERO impact. The difference between minimize and minimal impact could be a tremendous difference. Definitely minimal impact is the preferred alternative in any scenario.

RCW 90.58.020 any interference with the public's use of the water – this is inescapable regulation that applies to offshore waters and virtually impacts all new uses that could interfere or have an adverse effect on navigation and fishing. The Washington legislature has consistently over the decades since the inception of ORMA in 1989 been highly protective of fishing and required navigation as a priority in offshore marine waters over other uses.

6.7.B.2. Prohibition of Fixed Structures in marine waters is appropriate considering the potential effect to eliminate the next generation of coastal fishermen which is REAL and can be documented. New fishermen have LOOONG TERM contracts to fulfill and need long term stability of harvest fisheries products to continue servicing long term debt. Lending institutions have requirements to pay back the money they loan and if loan payments are not met, they foreclose in the debt and the fisherman is left with no opportunity to continue fishing. FACT of Life never adequately calculated in issuing offshore permits that displace fishermen from their historical fishing grounds that are productive year in and year out. Lending institutions demand repayment of the loans they make. Simple and unavoidable just like industrial development must AVOID CONFLICT with fishing and navigation.

CLARIFICATION - This prohibition does not include single point anchored systems commonly associated with USCG navigation buoys, weather buoys, scientific buoys, etc., are permitted in marine waters offshore Pacific County. It is the tripoint anchoring systems for fixed structures that interfere with and prevent fishing by entangling fishing gear and displacement of fishing in the spider webbed interconnecting cables. Prevents trawling, shrimping, crabbing, charter fishing, recreational fishing, and other fisheries. Single point structures are still problematic if put in in large numbers and may need to be further addressed in an SMP update.

6.7.B.3 is at odds with ORMA that calls for NO conflict with existing uses including fishing where the SMP calls for sequencing Avoid, Minimize, and Mitigate – we should defer to the RCW which calls for NO conflict with fishing and other existing uses. This section will need updating in the next SMP update to reflect the latest ORMA criteria of AVOID Conflict more accurately and only allow minimal adverse impact to fishing and navigation.

6.8.A.3. Research reports should be mandatory to share with the public, should, must be replaced with Shall as a future update to the SMP. The Lower Columbia Solutions Group suffered this lack of information and report sharing when the USACE was initiating a new nearshore disposal site at the South Jetty and new Deepwater sites. USACE did research and refused to share the information to make well informed decisionmaking. CRCFA requested that information with the USACE had available and refused to share at every meeting of the LCSG

for over 3 years until after decisions were made. Deepwater offshore studies were also carried out at the WRONG time of year when crab were absent from the area and made decisions based on faulty analysis with NO opportunity to achieve better factual information upon which to make well informed decisions. This omission of shared FACTS precluded the public from making informed comments on the project and was also kept secret from other agencies as well. Actual failure of FACT sharing has clouded considerable amount of USACE decisions at the Mouth of the Columbia River in the past. CRCFA admits that more recent studies for nearshore disposal have been far more forthright in sharing information but when push comes to shove, the jury is still out on how future decisions will be made relative to securing stability of the coast, especially at Benson Beach where direct beach placement is being shunned even though the best scientific consensus on preventing coastal erosion calls for direct beach placement as far back as the 2007 Cape Disappointment Technical Forum.

6.9.A.2. - Ocean Salvage does not require a permit and must be carried out as expeditiously as possible to minimize any detrimental effects associated with any marine casualty. Example would be the oil barge stranded on North Head with the imminent threat of additional oil spill utilizing all necessary procedures including immediate pump off of oil in the barge to tankers on shore. The ocean salvage issue should get additional attention in future SMP updates but is only a partial solution unless the SMP is CZM Certified to ensure reduction of future marine casualties. The escort tug stationed at Neah Bay is not a solution for misfortune at the Columbia River Mouth and the one time that the Neah Bay escort tug was deployed to the Columbia the tug took over 24 hours to arrive on scene and its assistance was not rendered in a meaningful time frame to avert a potential calamity such as an oil barge on the rocks of North Head.

6.9.B.3.b. Since salvage operations are given immediate action and there is often inadequate time to remove fishing gear and it is lost consequent to salvage operations the owners of fishing vessel gear must be compensated for lost gear and lost opportunity of utilizing their gear for fishing. Salvage operations need preferential treatment to expedite the salvage operation, but local fishermen MUST not suffer HARM and must be REMEDIATED for any loss due to the marine casualty being immediately addressed as is necessary. During the latest oil barge on North Head the gear lost to salvage operations was replaced due to the unavoidable HARM to fishing gear and was well justified. This is an example how it should have and was handled appropriately by the tow company.

There are many areas of cross regulations agreement in the SMP and the agency WACS, **however there are some critical regulations of the SMP that should be CZM Certified** that are not found in any other law, RCW or WAC specific. In some circumstances the SMP is more direct than the WACs and should be utilized in the CZM Certifications; **OUTCOMES are important & NEPA does not lead to specific OUTCOMES.** If RCWs are the overriding law of the land and self-executing, then the RCW must be the supreme law that needs to be CZM Certified with NOAA. If a regulation is really important to protect and preserve ecological function and existing use including in offshore marine waters is contrary to NOAA regulation or federal law, **we may need to approach congress to regulate in such a manner as to meet the requirements necessary to protect and preserve marine water ecosystem function and existing marine water uses** dependent on those ecosystems so that they are enforceable policies capable of CZM certification. We must also be cognizant of the fact that ORMA and only 4 coastal county SMPs are controlling on the Pacific Coast and DO NOT apply to inland waterways, that is why the legislature divided the CMSP legislation into 3 segments. Suggest that our meeting results in a trilateral committee to work through all the pertinent legislation from the state and federal government to attempt to come to a reasonable agreement on synchronizing the best regulation possible to promote the prevention of the depletion of fish and fishermen on the coast of Washington that is UNIQUE in the nation as the only state with a federal court order (Rafeedie

Decision) and a Grays Harbor oil terminal case to guide our decisionmaking. This crosswalk also gave us all an opportunity to begin working on the upcoming SMP update and has exposed some gaps in the existing SMP Ocean Section 6 that should be improved. We all need to look at this special area of ocean through new eyes and work together to protect and preserve our historical cultural fishing opportunities that are under extreme duress like no other place in the nation. Working together at the federal, state, and local jurisdictions we can all come to agreement that fishing and navigation are vital to our local coastal communities that could be lost if not properly protected and preserved as intended by both the Washington Legislature and Congress. The courts in recent years have begun to reign in the past over extension of the Chevron Doctrine and we can all benefit from a thorough examination of the FACTS necessary to save our local fishing communities from total loss which is pending if not addressed adequately. **SW Washington has special needs that are UNIQUE in the nation.**

New thoughts – 5 May 2021

Environmental Justice – community participation in decisionmaking of the magnitude to put out the GREEN ENERGY necessary to replace the 4 Snake River Dams if done in the ocean would totally eliminate all fishing in SW Washington marine waters.

<https://www.epa.gov/sites/production/files/2015-02/documents/recommendations-model-guide-pp-2013.pdf>

The recommendations presented herein are not intended to be universally applied; rather, they should be customized for application based on the priorities and characteristics of each unique community.

Regardless of the language used, what is critical to understand is the emphasis that any and all persons and groups who are potentially interested, concerned, or affected by an action should be included (or given equal opportunity to participate) in the decision-making process.

Many affected communities are considered to be vulnerable or sensitive populations and have historically been left out of decision-making processes.

The quality of community engagement should be based more on what is “uploaded from” the community than what is “downloaded to” the community; and how well agencies are able to practically apply the input received from community members.

An approach that is tailored to the specific, unique needs of the particular community where activities are being implemented. Common elements of engagement should not overshadow the uniqueness of every community.

The purpose is to give the local populace reasonable opportunity to participate in the decision-making process in a **meaningful manner that has a direct effect on the OUTCOME, not just checking the box.**

Ultimately, flexibility is needed when customizing the plan for engaging with each community.

Agencies often average communities from census tract data, thus diluting the demographics of environmental justice communities. This applies to other data as well where **averages distort OUTCOMES.** Example would be the USACE using the average wave and omitting the largest waves in an asymmetrical ocean wave pattern and knowing full well it is the largest asymmetrical waves that cause marine casualties.

It is not just comparing models it is comparing the models in such a manner that the potential for marine casualty is revealed BEFORE DECISIONS ARE MADE.

community stakeholders often do not have the technical understanding or assistance to effectively participate in environmental decisions that impact their lives. Therefore, CRCFA sought out the best wave modeler in the nation and hired Dr. Jim Kirby of the University of Delaware as the acknowledged “BEST” scientist in modern wave theory in the nation to help us understand what the USACE was doing at the MCR with their distortion of the FACTS that used averages thus dampening the mound induced wave amplification results by a huge reduction in their presentation.

Maintain honesty and integrity in the process and articulate goals, expectations, and limitations.

Need to develop a community-specific engagement plan - Preparation time before a community meeting will ensure better outcomes and better communication throughout and should **engage the community in developing the agenda** for public meetings and other community engagement activities.

Engaging Rural Communities

<https://blog.vanillaforums.com/customer-success-3-steps-to-design-a-community-engagement-plan>

Customize engagement with each community.

Utilize a facilitator who is sensitive and/or trained in environmental justice issues and other issues important to the community.

Community engagement process should be accessible to all who wish to attend. All stakeholders should be engaged in the planning process.

Salmon are in peril of further decline as our Washington human population increases. By 2100 the West Coast population could easily surpass 200 million – Salmon will decline. Hatchery enhancement will be mandatory moving into the future.

<http://osu-wams-blogs-uploads.s3.amazonaws.com/blogs.dir/2961/files/2017/07/Salmon-Degradation-in-Western-North-America-Historical-Context.pdf>

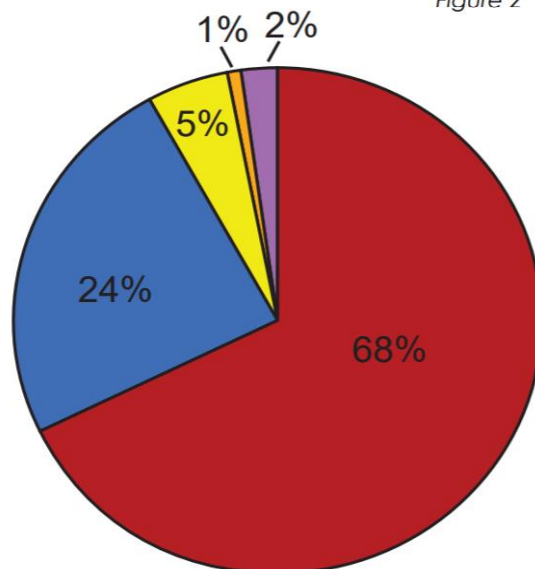
Last Wild Food = FISH No current information available, but due to less mounding at dredge sites the fatality rate is down at the Columbia River Bar

weather conditions contributed to 78% of vessel disasters. During 2000-2009, 21 Dungeness crab fishermen died in 10 separate vessel disasters. There were also 16 other vessel disasters in which all the fishermen survived. Crossing a bar in hazardous conditions led to 40% of fatal vessel disasters (Fig. 5). None of the non-fatal vessel disasters involved crossing a bar. Vessel instability led to both fatal and non-fatal disasters, but was slightly more likely to be involved in fatal disasters. Several initiating events only resulted in non-fatal vessel disasters, such as flooding and striking rocks.

Falls overboard accounted for 24% of all fatalities in the West Coast commercial fishing industry during 2000-2009. Falls overboard were caused most often by tripping or slipping on deck and by entanglement in fishing gear (Fig. 6). Factors that contributed to falls overboard were: working alone on deck (52%), using alcohol or drugs (19%), and poor weather conditions (14%). None of the victims of falls overboard were wearing a Personal Flotation Device (PFD).

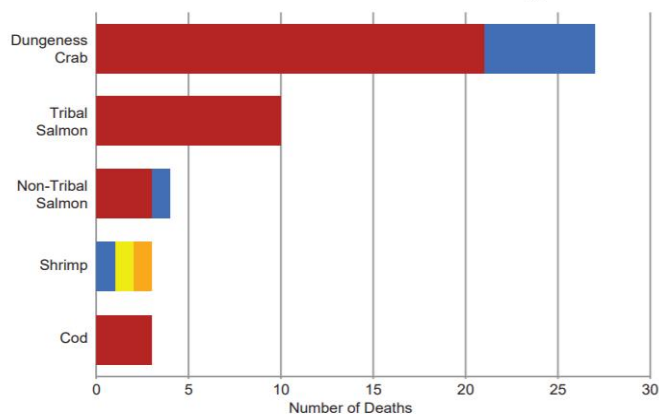
West Coast Commercial Fishing Fatalities by Incident Type (86 Total)

Figure 2



West Coast Fisheries with Three or More Fatalities During 2000-2009 (47 Total)

Figure 3



Data Key

marine safety training and increasing PFD usage (Read full report at <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5716a2.htm>). Since the report, the US Coast Guard implemented stricter safety guidelines for all vessels crossing river bars, and

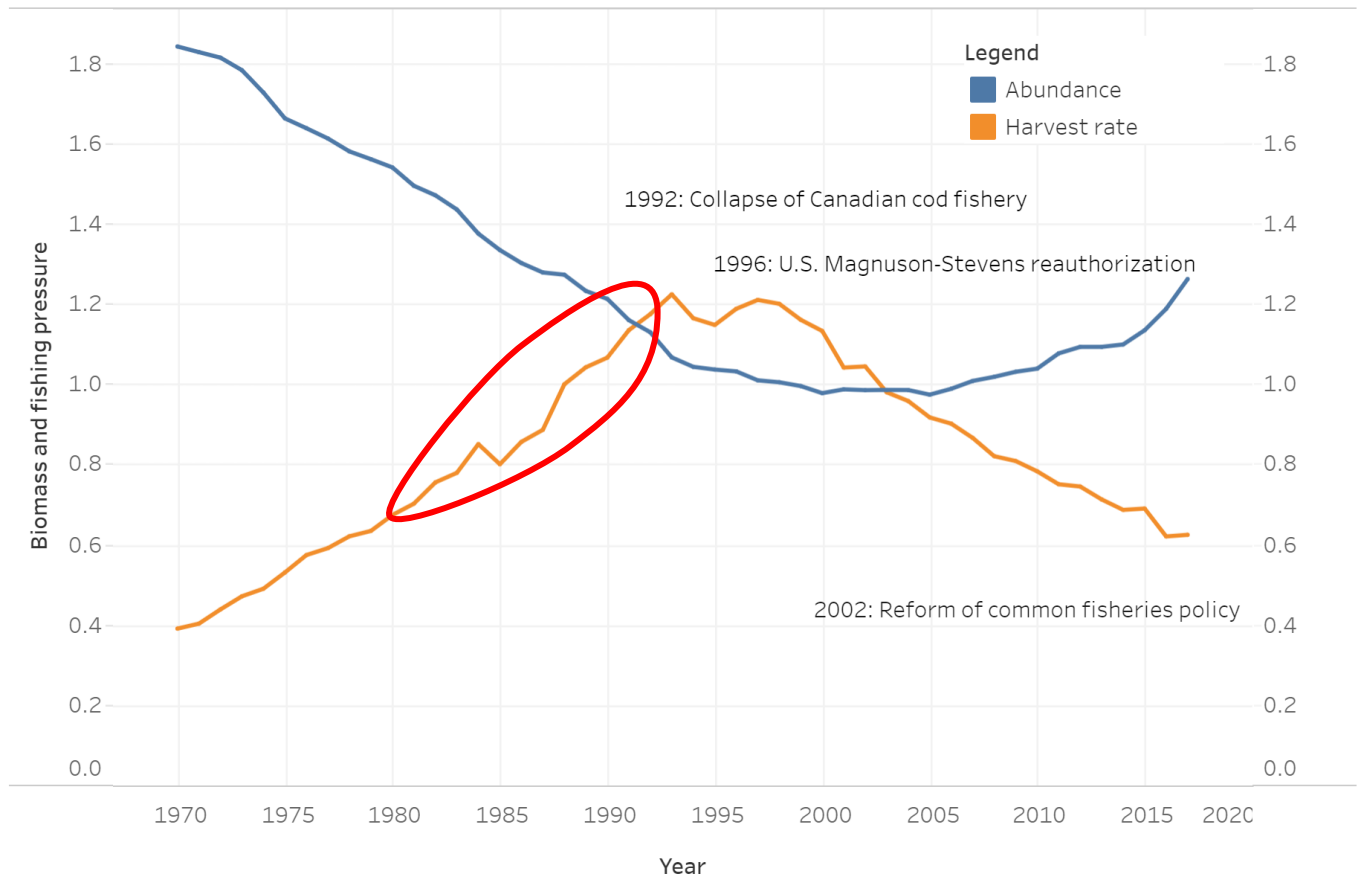
Conclusions

The Dungeness crab and tribal salmon fisheries have the highest number of fatalities on the West Coast. In 2008, NIOSH reviewed commercial fishing deaths that occurred along the West Coast and Alaska. The report identified the Dungeness crab fleet as having a higher fatality rate than the Bering Sea and Aleutian Island crab fleet and made recommendations including activities that would result in better weather reporting, safer procedures for crossing river bars, continued

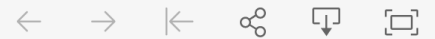
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<https://www.washington.edu/news/2020/01/13/fisheries-management-is-actually-working-global-analysis-shows/>

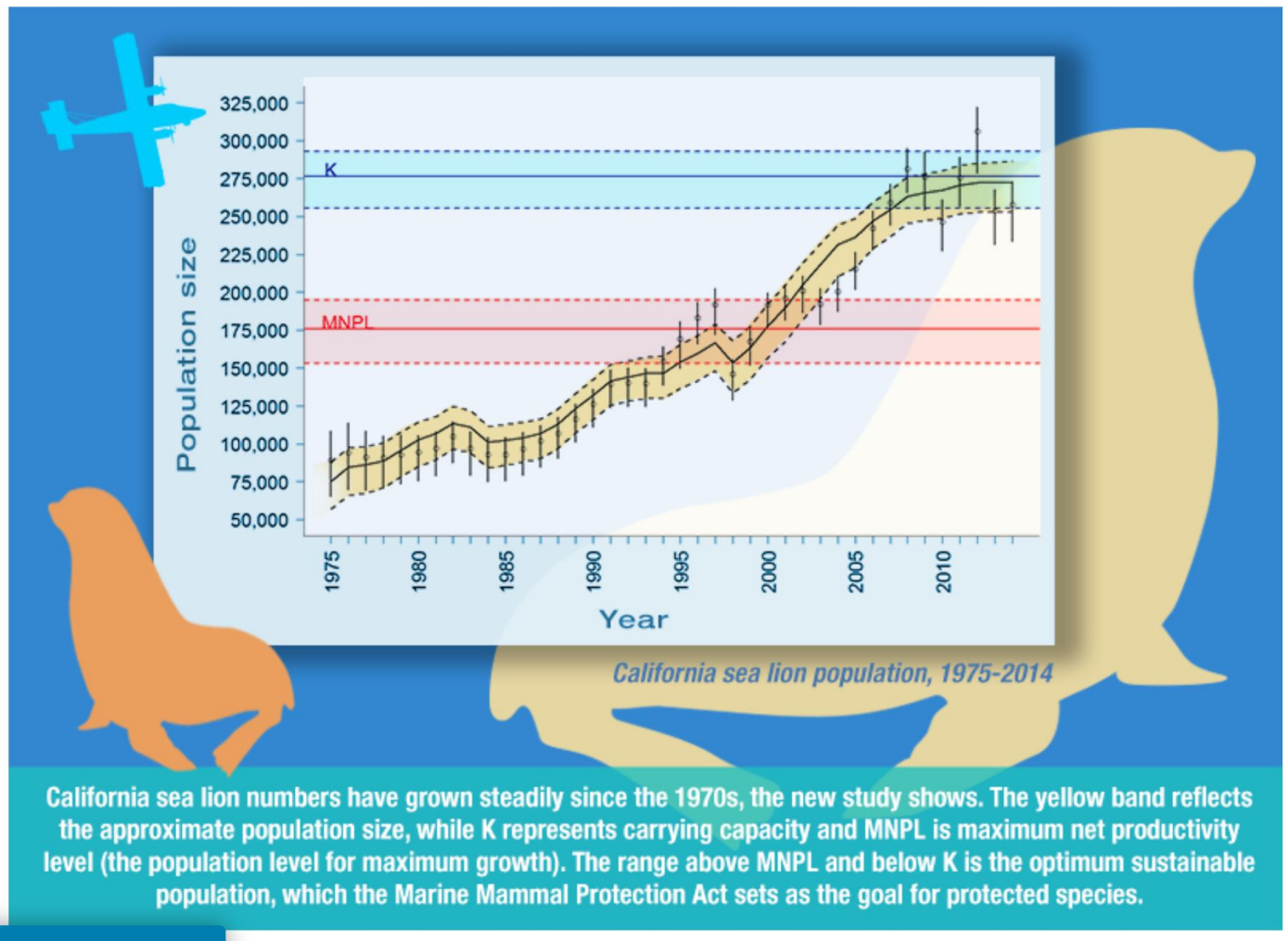


+ a b | e a u



ince the mid-1990s, catch has generally declined in proportion to decreases in fishing pressure for the fish stocks assessed in the database. By 2005, average biomass of fish stocks had started to increase.

Red Circled AREA is when I was a trawl fisherman, quit in 1990 – not because of fish quantity, but change in fishing contract

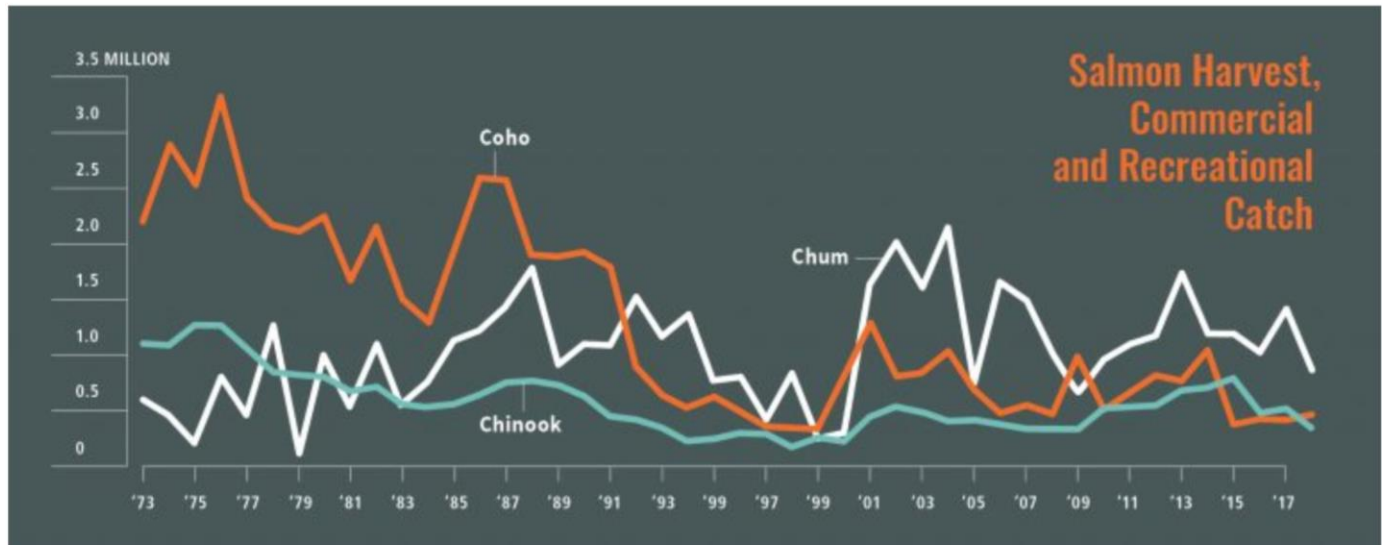


Inconvenient Truth” - Actions have Consequences so do Inactions.

All Fishing is interrelated. Historically salmon fishing has been the entry point for young new fishermen that gradually work their way up to the more expensive fisheries for entry. Rafeedie Decision, Sea Lions, depressed hatchery production, lost salmon habitat, dams, cormorants, dredge disposal mountains, **Rice Island**, offshore fixed structures, and more are all contributors to lost

ACCESS to FISH/CRAB that are CUMULATIVE adverse impacts depressing the fisheries overall. All contribute to the “Fish or Go Hungry Insanity” in the fisheries today.

salmon fishers struggle.



The harvest of coho and chinook salmon has dropped since the mid-1970s. Source: Washington State Governor's Salmon Recovery Office

Vineyard Power Offshore Wind Project
2021

May

<https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/Final-Record-of-Decision-Vineyard-Wind-1.pdf>

Interior Solicitor, “Secretary’s Duties under Subsection 8(p)(4) of the Outer Continental Shelf Lands Act When Authorizing Activities on the Outer Continental Shelf” (M- 37067)2 . M- 37067 provides that “subsection 8(p)(4) of OCSLA and similar statutes require only that the Secretary strike a rational balance between Congress’s enumerated goals, i.e., a variety of uses. In making this determination, the Secretary retains wide discretion to weigh those goals as an application of her technical expertise and policy judgment...” M-37067, p. 2.

Subsection 8(p)(4) requires the Secretary to ensure that activities authorized under subsection 8(p) of OCSLA are carried out in a manner that provides for these twelve different goals. As stated in M-Opinion 37067 “...subsection 8(p)(4) of OCSLA imposes a general duty on the Secretary to act in a manner providing for the subsection’s enumerated goals. The subsection does not require the Secretary to ensure that the goals are

achieved to a particular degree, and she 9 retains wide discretion to determine the appropriate balance between two or more goals that conflict or are otherwise in tension.”⁵

Specifically, “[t]he Secretary shall ensure that any activity under [subsection 8(p)] is carried out in a manner that provides for—

- (A) safety;
- (B) protection of the environment;
- (C) prevention of waste;
- (D) conservation of the natural resources of the outer Continental Shelf;
- (E) coordination with relevant Federal agencies;
- (F) protection of national security interests of the United States;
- (G) protection of correlative rights in the outer Continental Shelf;
- (H) a fair return to the United States for any lease, easement, or right-of-way under this subsection;
- (I) prevention of interference with reasonable uses (as determined by the Secretary) of the exclusive economic zone, the high seas, and the territorial seas;
- (J) consideration of—
 - (i) the location of, and any schedule relating to, a lease, easement, or right-of-way for an area of the outer Continental Shelf; and
 - (ii) any other use of the sea or seabed, including use for a fishery, a sealane, a potential site of a deepwater port, or navigation;
- (K) public notice and comment on any proposal submitted for a lease, easement, or right-of-way under this subsection; and
- (L) oversight, inspection, research, monitoring, and enforcement relating to a lease, easement, or right-of-way under this subsection.”

CCFF/CRCFA has shown a reasonably foreseeable adverse effect on fishing from industrialization of the only place on the Washington Coast that fishing has left to fish where they do not have to share all fish/crab to meet the requirements of the Rafeedie Decision. We have focused on “safety” and the resultantly high fatality rate in Dungeness crab due to a cumulative of existing effects from season and area closures, Many closures related to the Rafeedie Decision, reduced gear restrictions to accommodate whales, Meat Quality and Domoic Acid closures, Loss of towlane fishing areas, and more related to the Public Trust Doctrine and maintaining some semblance of freedom of fishing and navigation in the very small area to carry out these activities in SW Washington waters south of Westport to the Columbia River. Dungeness crab fishing is a very dangerous midwinter fishery that is plagued by the daily “safe or sorry decisionmaking” that currently has a built in “Fish or Go Hungry INSANITY” that it is reasonably foreseeable will increase significantly if more trauma of loss of additional fishing area will magnify as the fishing fleet makes an attempt to remain solvent, provide for their families, and the entire coastal Fish Dependent Community. The area in question is the area south of Westport and Pacific County offshore waters where fishing and navigation are overly concentrated where industrialization will have a significant and unreasonable adverse effect on existing uses of the local ocean. It appears in OCSLA that the Secretary of Interior has excessive discretion that does not require the Secretary to ensure that the goals are achieved to a particular degree, and she retains wide discretion to determine the appropriate balance between two or more goals that conflict or are otherwise in tension.” **This discretion, however, needs to be tempered by a multiple of other laws and regulations presented throughout this document and these cannot be disregarded as the reasonably**

foreseeable EFFECTS will devastate the 4th most Fish Dependent Community in the nation. CZM Certification of the Pacific County SMP will provide the protections for fishing intended by the WA legislature and congress.

Document prepared by Dale Beasley, President Coalition of Coastal Fisheries and Columbia River Crab Fisherman's Association May 2021

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Coalition of Coastal Fisheries

In February 2006 CRCFA wrote to the chairwoman of the NEPA review to stop the NEPA remodel insanity that eventually cost Richard Pombo his CA seat in Congress over this issue. The letter stated clearly the primary objective of NEPA – “The National Environmental Policy Act is the public’s only interface with most federal actions; is our basic national charter for protection of our environment; is supposed to insure environmental information is available to and used in decision-making BEFORE decisions are made. NEPA is designed to promote BETTER decisions and proceed with the best alternative that must be environmentally sensitive and compared to NO action at all.”

Most agency action does not bring the public into the NEPA process HONESTLY soon enough to make a SIGNIFICANT contribution to the final outcome; setting up a climate ripe for litigation where the very process leads to adversarial positioning of us against them = litigation.

Far too many agencies have a predetermined outcome and develop ALL their science to support that outcome even to the extent of manipulating facts during the public process. A classic example is always averaging results instead of revealing the full range of impacts; a procedure that distorts the picture completely and often leads to increases in environmental impact and the WRONG decision when a reasonable alternative that could have minimized impact is purposefully concealed = litigation.

More often than not many agencies actively attempt to circumvent the spirit of NEPA and set out from the onset of a proposed project by asking the WRONG question. They do not ask, “How can we comply with the law?” they ask, “How can we get around the law?” When your total emphasis and actions are designed from the very beginning to circumvent the law instead of complying with it = litigation.

The educational level of the average citizen in the United States is increasing exponentially in that the Internet provides a tremendous resource available instantly. Ideas can be shared across a broad spectrum of affected parties instantly. The public can educate themselves on a broad range of topics instantly. Experts in any field from around the world can be accessed instantly. Agencies are no longer the Guru’s that cannot be challenged as they perpetrated command-control actions prevalent in the past. The public now knows every time when the wool is being pulled over their eyes = litigation.

Agencies command-control activities of the past are no longer acceptable to the affected public, a public that has NEVER been accepted into the collaborative process in any meaningful or timely manner = litigation.

Individuals within an agency are never held accountable for their actions. There are no consequences for falsifying a report or presenting facts that do not reveal the true nature of the impact or blatantly omitting critical information or refusing to supply the public with requested information; pay day is still on Friday, every time = litigation.

To put it bluntly, the educated public has had enough and is banding together in alliances that supply necessary funding to litigate their way into the process that is out of control. Either these agencies are going to accept the public into the process in a meaningful manner from the beginning to build a truly collaborative partnership or = litigation.

Lip service to the collaborative process will fail. All affected parties must be accepted as partners in the process. In every project there are actions that are deal breakers that = litigation. These actions that = litigation must be identified very early in the process and addressed in such a manner that the affected party concerns are not automatically rejected. Most action groups have impact thresholds they can accept if HONEST avoidance measures are visibly in place; actions have HONESTLY attempted to minimize impact; and unavoidable impacts have some degree of HONEST replacement mitigation. Avoid, minimize, mitigate impacts are very, very important concepts that all too often ignored with the final result = litigation.

Access by the PUBLIC to all information used in the decision-making is a critical component. That information must be well indexed, fully page numbered so that anyone can find a specific bit of information readily, and must be electronically searchable in a fashion that ordinary citizens can readily use. As long as documents are scanned, non-readable, purposefully composed to hide vital information, and no way of cross-referencing = litigation.

Some agencies understand that information is POWER, power they are quite determined to maintain even resorting to ruthless tactics. They will restrict e-mail correspondence. They will place embargos on their employees that prevent the employee from responding to information requests. They will reduce correspondence to telephone answering machines they never answer. They will demand use of snail mail (US Postal Service) and will even in the best of circumstances take two to three months or more to respond to information requests that could easily be handled in 24-48 hours using modern electronics, and in some instances even refuse vital information or place excessive charges to obtain, purposefully forcing litigation knowing the time frame of the public process for a project will be over before the information becomes public and will not be available for consideration in the final decision-making process = litigation.

The opportunity for agency discretion in decision-making involving scientific integrity is way out of bounds and actual flim-flam is supported by court decisions to the extent agencies are under NO obligation under NEPA to ensure scientific integrity and are allowed to rely on opinions that allow unreliable studies and information even when the agency experts lack proper qualifications and rely on flawed data that is often manipulated which is evidenced and supported by in many court cases such as: Hells Canyon Preservation Council v Jacoby (1998); Price Rd. neighborhood Ass'n v US Dept of Transportation (1997) ; Greenpeace v Franklin (1992); and Marsh v Oregon Natural Resource Council (1989); cases all cited in the Draft EIS response of the Columbia River Deepening Project responding to Paul King's comments spawning ROGUE attitudes in agency actions that solicit = litigation.

All too often current "least cost" is the over-riding and final decision factor in too many projects. Environmental concerns are almost always relegated to a position of insignificance, in effect a FONSI, time and time again. When the comparison of impact is compared to the entire universe of ecological range, FONSI is always the outcome. Local cumulative impacts over time are never adequately adjusted into the current project which is almost always considered in isolation, and often huge projects are broken down and advanced as several smaller projects so as to avoid dealing with cumulative impacts and the TRUE significance of impact avoided = litigation.

At times the requirements are changed mid-stream and the public process response time is not extended meaning that the new requirement is not publicly addressed = litigation.

Adaptive Management is a new "RUSE" that means the project will move forward and negative impacts will not be addressed. A very high percentage of US Army Corps Projects never complete the stated mitigation let alone Adaptive Management concerns related to ecosystems. The public is catching on to this tactic and it will = litigation.

The majority of the public realizes that public infrastructure, especially related to transportation of the public, goods, and services is vitally important to our everyday standard of living and are more than willing to accept SOME degree of environmental impacts to maintain our very high standards that consume a disproportionate percentage of the global resources. There is a small element within our society that places preservation of the

environment to such a high standard that process alone will never satisfy; there is probably nothing we can do and must accept this as a fact of life that some litigation will always exist = litigation.

Fact: the United States has approximately 7% of the world's population, 70% of the world's attorneys that are all hungry for high paying jobs, and a legal nightmare that is growing exponentially as thousands of new laws are enacted each and every year. Without limited entry on new attorneys, litigation will continue to proliferate at an escalating rate = litigation.

We could site many examples to support our suggestions of what = litigation, but we believe these comments are a common thread you will hear over and over again and will demand action to correct. The PUBLIC is the new federal agency that will no longer be denied access to the process of environmental protection. Until this new "PUBLIC AGENCY" is recognized and accepted as a significant partner in the entire process of complying with NEPA regulation = litigation.

All affected and interested parties must be at the table in a significant decision making capacity from the beginning to end of a project, scientific integrity must be promoted, environmental impacts must be avoided, minimized and mitigated, cumulative impacts need to be continually addressed, Current "LEAST COST" must not be the exclusive driver of a project, ALL decision-making information must be made available to the public in such a manner that the information actually is able to be used to make the best informed decisions, public hearings must be conducted in such a manner that all involved are given adequate time to present their testimony that is able to be shared with all others in the process as it advances, not after it is done, and above all else pre-determined outcomes must not be the beginning premise. In a word, all-inclusive TRANSPARENCY of process that upholds the integrity of its action has to become central to reduce litigation; the public in general has had enough and is more than capable of sniffing out projects that are not in their best overall environmental interest. The new "PUBLIC" agency will not be denied and their RIGHT to litigation must be upheld or our democratic process will continue to fail – our forefathers got it RIGHT – there are three branches of government for a reason – to protect the "PUBLIC" from an over-bearing government, a government that at times forgets they are there to serve, not dictate the course or lack of environmental conservation.

As our population expands, environmental conservation (not preservation) will continue to come to the forefront of "PUBLIC" demands on government. In Oregon this past year a super-majority (61%) of the states voting population voted against lock up of the Clatsop Forest, and offered an indictment that sustainable use of our natural resources and ecosystems is essential to maintaining our standard of living that demands a high degree of conservation into the future that is protected by agency transparency and inclusion of the PUBLIC from beginning to end of a project that thoroughly protects local communities from federal abuse or the result will be escalating = litigation.

Open public processes that willingly embrace the full NEPA affect, timely presentation of the real well supported facts, accountabilities at the local level, consistent with national objectives and a process that allows all those affected and interested to participate in the process of accepting or, yes, even rejecting a federally funded project using HONEST transparency will greatly reduce litigation. ROGUE agency actions certainly need to be reigned in and an HONEST collaborative effort that includes the NEW PUBLIC is essential, thanks to modern internet, a tremendous resource that will direct a lot of government in the future, not just NEPA.

In addition to these specific comments CRCFA has signed on to the letter from Corps Reform Network and believe that to be a very good presentation.

Paul King Syndrome

Flaws in the Law

"Process" not scientific integrity drives the "End Result" always a FONSI

Corps "Least Cost" is the primary driver and does not adequately address coastal sand deficits, ecosystem functional loss or small vessel navigational safety. End Result – original intent of some very good laws are able to be end run by process alone with some very, very expensive unintended consequences that are never factored into the cost to society.

“Least Cost” is the primary driver

- ✓ Procedural Process - Not Scientific Integrity Drives the End Result
- ✓ NEPA imposes procedural requirements on agencies and does not mandate substantive scientific outcomes
- ✓ Alternatives that are not absolute “least cost” are routinely rejected with sub-standard investigations and prematurely truncated
- ✓ Scientific integrity and best available science is secondary to agency opinion
- ✓ Management decisions develop “improperly oriented facts” to achieve the wanted End Result
- ✓ Necessary science does not have to be of a quality that will pass scientific peer review
- ✓ Selective science that shines on the wanted End Result is often manipulated into the Process
- ✓ Courts uphold substandard End Results short-circuiting well intentioned laws
- ✓ If information is not a part of the administrative record new evidence is not allowed in court review
- ✓ The Paul King Syndrome effectively usurps the intent of a lot of good environmental laws
- ✓ The Wrong question is always asked – How do we get around the law instead of comply with it
- ✓ FONSI (Finding of No Significant Impact) is always the End Result

Hurricane Katrina was a history lesson in New Orleans of immense proportion that current “least cost” can and does produce some very, very expensive “End Results”. The Corps system is broken and needs serious reform. Locally, Rice Island is the example of a very, very expensive “least cost alternative” gone horribly wrong with an End Result where dredge spoils produced the largest salmon-eating colony of Caspian terns in the world costing taxpayers billions.

Defects exploited in the NEPA, CZMA, EIS, MPRSA, RFA, Washington SMP, Oregon Goal 19 coupled with Court Decisions results in sub-part scientific analysis denying the original protective intent of the enabling legislation to protect and preserve our invaluable marine ecosystems, safety and why escalating local coastal erosion will not be addressed in a timely manner and will produce our next very, very expensive “End Result” as our natural resource, sand, is not strategically and beneficially used to augment our coastal shoreline maintenance.

Paul King: Response by Corps: Volume II: Draft EIS Comments and Responses, no page numbers are provided in the document so good luck locating the underlying verbage.

Note the extra-ordinary opportunity to manipulate discretionary power by the Corps & upheld by the courts - the total use of discretionary power eliminates the best science and allows for manipulation of the data to always result in a FONSI (Finding of No Significant Impact) related to dredging activities and will eliminate the Benson Beach Project sand needed for replenishing our eroding beaches, decrease small vessel navigational safety through mound induced wave amplification, increase crab mortality through direct burial, and contribute to continuing loss of PFH (properly functioning habitat) by continually burying mature habitat crab and other marine life depends upon through ecosystem depravation over areas larger than the city of Longview. This white paper is to help people better understand the dredge process and why it is drastically flawed and why reform is needed.

Corps of Engineers Response to Paul King - Basis for the **Paul King Syndrome**

“[21 (continued) The Corps has NO legal obligation under NEPA to “ensure the scientific integrity of its studies.” As federal court have frequently held in the context of preparing EIS’s, “when specialists express conflicting views, an agency must have discretion to rely on the reasonable opinions of its own qualified experts even if, as an original matter, a court might find contrary views more persuasive. “Price Rd. Neighborhood Ass’s. Inc v. US Dept. of Transp., 113 F.3d 1505,1511 {9th Cir. 1997}, quoting Greenpeace Action v. Franklin, 14F.3d 1324, 1332 (9th Cir.1992) (Internal citations and quotations omitted) Marsh v. Oregon Natural Resources council, 490 U.S. 360, 378 (1989).

The Corps is entitled to rely upon its own experts’ studies, and under no circumstances need it affirmatively defend those studies’ “scientific integrity,” “Even when a [opposing party] presents expert opinions raising questions regarding an agency’s analysis, methodology, and conclusions, such opinions have been viewed by the courts as ‘a difference of scientific opinion.’” Hells Canyon Preservation Council v. Jacoby, 9 F. Supp. 2nd 1216,m 1239 (DS, Or. 1998), quoting Greenpeace Action, 14 F.3d at 1333

According, to the extent of the comments question the Corps’ experts, the difference of scientific opinion “will not render the EIS inadequate. NEPA does not require a reviewing court to decide whether an agency’s evaluation is based on the best scientific methodology available or to resolve disagreements among various scientist as to methodology. Hells Canyon, supra. Even if the Corps’ expert lack proper qualifications of relied upon flawed scientific methods (which they failed to do), that evidence would not discredit or otherwise render the Corps’ studies unreliable or its EIS legally inadequate.]”

This interpretation of Corps’ discretionary power leads to tremendous potential for abuse of their power and we see it continually in dealing with dredging actions at the MCR where the Washington State Legislature “GUARENTEED THE CRAB INDUSTRY WOULD BE PROTECTED FROM ILL EFFECTS OF THE DREDGE FROM OCEAN DISPOSAL” in authorizing channel deepening funds legislation.

Disposal Site Designation and Site Management Failures as a result of excess discretionary powers and are arbitrary and capricious [5 U.S.C. § 706(2)(A); see *Nat’l Wildlife Fed’n v. Army Corps of Eng’rs*, 384 F.3d 1163, 1170 (9th Cir. 2004)] if an agency’s action is arbitrary and capricious if the agency fails to consider an important aspect of a problem, if the agency offers an explanation for the decision that is contrary to the evidence, if the agency’s decision is so implausible that it could not be ascribed to a difference in view or be the **product of agency expertise**, or if the agency’s decision is contrary to the governing law.

- 1) Refusal to examine additional wave model criteria with no field observations at the Shallow Water Site – ignoring Dr. Kirby’s 2001 analysis
- 2) Refusal to release Deep Water Site crab data in raw form while public process for designation of 103 site was open & averaging crab information slanting and distorting data favorably while public process open
- 3) Ignoring very substantial differences of crab pot data between inter and outer edges of site
- 4) Refusing to re-test site using crab pots, instead did follow up work with trawl, which does not show crab differential in prior tests and only at a small percentage of catch rate of pots.

- 5) Additional tests performed in mid-summer always show NO crab, as crab are not caught in the mid-summertime as they are buried up molting and next to impossible to catch in physiologically changed molt state.
- 6) Most comments made in the EIS process received NO substantial reply. Example: CRCFA submitted over 80 pages of concerns and Corps only response was “comments noted”; a very substandard reply, just a legally technical response. All the concerns remain unresolved even today, even after the Washington state legislature directed that the ocean crab fishery be protected from ill effects of the dredge in authorizing state matching funds for the deepening project.
- 7) As soon as the conditions of the CRCFA lawsuit went away the Corps immediately eliminated the 15 August no dump biologic timing window designed to avoid soft-shell crab mortality reducing protections in place for over 5 years and one year into the 5 year CZMA consistency determination given by the states of Washington and Oregon.

Recent 9th Circuit Court of Appeals Adverse Effects

Additionally, the recent 9th Circuit Court of Appeals has ruled on the Channel Deepening lawsuit using the above referenced “under no circumstances does the Corps need to defend their studies for scientific integrity referenced in the Paul King Response” clause resulting in a court decision that did not include all the evidence available and especially did not include relevant information relative to the dramatic impacts on the ocean and the crab industry. The upriver Ports entered the lawsuit as interveners. CRCFA did not file as an intervener in the channel deepening lawsuit even though the crab fleet has lost both navigational safety, sustained substantial loss of the crab resource, and loss of several square miles of PFH (Properly Functioning Habitat). We are the party most directly affected by the impacts of sediment redistribution from the dredging process. CRCFA has never taken a stance for or against channel deepening. CRCFA has only worked diligently and relentlessly to achieve the goals of protection offered under the authorization of the state’s channel deepening funds where the crab industry was supposed to and has not, receive protection from the dredging process as a result of the funding authorization. **We continue to work toward dredge project solutions including the SW Washington Littoral Drift Restoration Project at Benson Beach that provide strategic, more sustainable, SAFETY ORIENTED, beneficial disposal that produce less environmental harm through avoidance, minimization, and replacement mitigation of resource (crab) impacts.** Below are excerpts from the Deepening law suit which relies on procedural requirements and suppression of reasonable evidence which further suppresses the crab industry ocean protections and supplements the Corps’ “least cost process” which is often deficient with slanted science related to small vessel navigational safety, commercial crab production, and sediment transport pathways which supplies sediment to Washington and Oregon coastal beaches, pathways that have been substantially altered by over 100 years of anthropogenic interference cutting off and re-directing meaningful sand supply. Hurricane Katrina should have been a recent lesson learned that cutting off the natural sediment supply does have devastating consequences to communities. Cutting off the very limited coastal sand supply to the Columbia littoral cell in the face of dramatically rising sea level is a recipe with disaster potential to equal New Orleans locally and cannot continue to be ignored by the states. Strategically placed sediments in the very near shore environment (**directly on the beach or surf zone through direct pump ashore**) is the only hope available considering the extremely limited sand supply available.

- 1) The court refused to admit additional expert witness testimony related to economic justifications, which would have shed more light on the adequacy of the FSEIS by

providing analysis of if the Corps had provided misleading description of the Project's potential impacts that were the subject of a long investigation by the Oregonian that found an economic cost/benefit ratio considerably less than the national standard and less than the project needed to proceed. The court ruled that use of declaration and materials outside of the EIS process would be improper under *Asarco, Inc. v. EPA*, which held that a court may not consider extra-record evidence "to determine the correctness or wisdom of the agencies decision." 616 F.2d 1153, 1160 (9th Cir. 1980). This type of a court decision in effect means that process is much more important than actual facts that may or may not mean the weight of the evidence justify the action and that the evidence may be less and even far less than the best scientific information available.

- 2) NEPA imposes procedural requirements on agencies and does not mandate substantive outcomes *NORTHWEST ENVIRONMENTAL ADVOCATES v. NMFS* 10079 outcomes. *Natural Res. Def. Council v. U.S. Forest Serv.*, 421 F.3d 797, 811 (9th Cir. 2005); *see Klamath-Siskiyou*, 387 F.3d at 993; *Dep't of Transp. v. Pub. Citizen*, 541 U.S. 752, 756-57 (2004); *Vt. Yankee Nuclear Power Corp. v. Natural Res. Def. Council*, 435 U.S. 519, 558 (1978). For "major Federal actions significantly affecting the quality of the human environment," 42 U.S.C. § 4332(C), NEPA requires an agency to prepare an environmental impact statement. *Klamath- Siskiyou*, 387 F.3d at 993. An environmental impact statement "shall provide full and fair discussion of significant environmental impacts and shall inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment." 40 C.F.R. § 1502.1.
- 3) The Court did not address the Supplemental EIS or adequacy of the Dredge Material Management Plan, and did not examine why NO supplemental information relative to ocean disposal of deepening sediments ALL came to the ocean up to RM 30; nor did the court address the protections guaranteed the crab industry that have not materialized. The Corps maintained NO supplemental EIS on ocean disposal was necessary since NO sediments were to come to the ocean from the deepening. During the EIS public process, CRCFA requested the line item in the EIS that allowed ocean dumping be removed if NO sediments were to come to the ocean, we knew better and that they would come once the project was funded and the smoke & mirrors disappeared.
- 4) The Court recognized that the Shallow Water Site affected ocean habitat outside of the site, "Some amount of sediment placed at the dispersive site naturally migrates out of the site and settles elsewhere, thus increasing these sites dynamic capacity." There is NO information available to quantify impact on habitat or crab resource associated with the dynamics or sand leaving the site. In years of continuous dumping an area of 3 to 6 square miles is significantly impacted by sterilizing the fishing grounds to commercial production.
- 5) The SEI review of channel deepening did not address ill effects of the dredge in the ocean and specifically did not address crab impacts or small vessel navigational safety at or beyond the site even though the site was designed to have a dynamic capacity that transferred the majority of the sediment outside the site in an undetermined pathway (approximately 82% transported since expansion in 1997). The Courts inferred incorrectly that the SEI process addressed the problems associated with crab. CRCFA addressed this particular concern directly with each contributing SEI scientist. ESA

salmon was their only very narrow focus and nothing can be inferred scientifically beyond that very narrow focus.

- 6) The 9th Circuit Court of Appeals also ruled that the channel deepening and the Mouth of the Columbia River projects are not “connected actions” under 40 CFR § 1508.25(a)(1) thus eliminating the cumulative impact concerns even though the loss of crab in the ocean was over doubled, as a result of multiple dump zones in the deepwater area. Again, this is not true. The first release of funds from the Washington State matching funds clearly ties the effects of the channel deepening and MCR maintenance together related to the legislatures guarantee of crab industry protection & is even listed so in the document. If CRCFA had been an intervener in the lawsuit that point would have been cleared up.
- 7) According to the 2 assenting judges in the 9th circuit court, “ The Corps took a hard look at the anticipated disposal of 4.5 mcy of dredged sediment per year from the MCR project and planned appropriately to minimize coastal erosion.” This “hard look” did not quantify which percentage of the 4.5 mcy would actually accumulate on coastal beaches nor did they have any relevant information relative to actual sediment pathways which of the recorded geologic history of the NOAA bathymetric ocean mapping over the last hundred years clearly shows that the vast majority of all MCR sediment moves mainly offshore and to the north with a very small portion of the discharge actually reaching coastal shorelines and offshore Oregon has actually suffered a very severe deepening of the Clatsop Littoral Cell. Outside analysis of MCR sediment pathways by Pacific International Engineering collaborates the offshore & north geologic processes indicated by the historical NOAA bathymetric surveys and is very difficult to overlook and ignore. The assenting judges did not have this wealth of scientific information to examine as it was not a direct part of the EIS process and will make it more difficult for the states of Washington and Oregon to certify CZMA consistency who must begin to more closely examine sediment pathways which were a requirement of the last round of certifications, but never fulfilled leaving a glaring crack with which to insist on more strategic beneficial placement of sediments directly on the beaches to directly offset loss of sediments that contributes significantly to increasing coastal erosion potential.
- 8) According to the 9th circuit court of appeals decision “technical and scientific analysis that might require further explanation can become a part of the court proceedings *Lands Council*, 395 F.3d at 1030 (*quoting Sw. Ctr. for Biological Diversity*, 100 F.3d at 1450). However, mound induced wave amplification at the shallow water site, was not addressed, and continues to grow each year since the Corps original EIS analysis was more hopeful than factual. The outer portion of the site has a mound that is growing every year and does not go away as portrayed in the initial EIS documentation. The crab fleet is forced to navigate the growing dredge disposal gauntlet of dredge disposal mounds that have been growing since 1985 in the dark of night in a mid-winter fishery in an area well known as the “GRAVEYARD OF THE PACIFIC” without adequate safe guards afforded by “outside” peer review to include additional wave amplification models or field verification which CRCFA has continually requested and been denied.

After all the marine casualties in 2001, the Corps strengthen their agency opinions by producing a large document to internally allow them to switch from the more conservative RCPWAVE model to the more liberal STWAVE model without benefit of public procedures process and NO supplemental

EIS. Their peer review is another Corps district review, not outside review like Dr. Kirby's. CRCFA calls this internal review, not peer review. As Dr. Kirby explained the ST model does not adequately analyze the long period waves that advance or linger from a significant winter storm that propagates across the entire Pacific. It is these long period waves that most concerns experienced vessel navigators, not the wind driven smaller steeper waves analyzed by the ST model. The long period waves can and do propagate in the MCR area without benefit of direct wind involvement and are drastically affected at water depths much deeper than wind driven waves. Also associated with the long period waves are anomalously larger waves, known to mariners as "ROGUE WAVES" which no known analysis is equipped to handle; yet are a fact of marine life that everyone knows about and at times must deal with. ROGUE WAVES associated with dredge mounds turn into KILLER WAVES if vessels are near the mounds and caught. Many, many mariners at the MCR have been subjected to mound induced wave amplifications that caused marine casualty. Included at the end is a poem I wrote naming just a few of my friends that faced their maker at the MCR and most lost the battle and succumbed to Davy Jones Locker – another fact omitted in the EIS – how many lost their lives to the dredge mounds.

On 31 Aug 2006, CRCFA received a three-page letter from Colonel O'Donovan, commander of the Portland District Corps of Engineers explaining that CRCFA did not supply our Dr. Kirby analysis so the Corps would not consider expanding their analysis. We concur with some of the Corps SWS management plans at the site, but not the overall disposal blanket of a target height that is often over the target by 60 to 80% or the recent dumping on soft-shelled crab after the August 15th biologic timing window that was imposed on the site for the 1st five years of the expanded site E. We received the rejection based mostly on the proceeding insulation that the Corps has from the court system in that they are allowed to rely on their own experts even if other more qualified experts find a much more aggressive wave patterns at the Shallow Water Site then those portrayed by the Corps and are not inclined to adequately address potential loss of life associated with the wave amplifications from the excess mounding.

CRCFA continues to work toward dredge project solutions that provide strategic, more sustainable, safety oriented, beneficial disposal to produce less environmental harm through avoidance, minimization, and replacement mitigation of resource (crab) impacts that provide measurable sand to the coastal shorelines in meaningful timeframes through projects like the Benson Beach SW Washington Littoral Drift Restoration Project. CRAFA supports moving forward with a 2007 direct pump ashore project to regain political momentum for the project. Long term we firmly believe that up to 2 mcy per year could be placed on Benson Beach through the sump – re-pump process and that the State of Washington should be dedicated to that end as well.

Further it should be noted that CRCFA has withdrawn our support for the Oregon South Jetty Experimental Site since it has lost its' experimental focus and has been converted to a Corps "least cost" berm building to "hopefully" protect the South Jetty without proper controls on small vessel safety and no mitigation of crab resource losses. Rainbow Spray is no longer on the table as an experimental option for investigation, prematurely truncating this alternative without scientific investigation. The experimental site has been totally contaminated by the first enhanced dumping test by dumping over the entire site with only one of the four suggested disposal methods. The depth of depositional accumulation was not measurable as promised and Corps' best inferred judgment was substituted as per above legal requirements, not scientific accuracy again breaching the scientific integrity of the

experiment. At this time there is NO alternative on the table that will salvage meaningful sand for the Oregon Coast. Even if every single yard of sediment that has ever been dredged at the Mouth of the Columbia River had been placed in the 200 square mile Clatsop Sub-cell the total deposition would have been paltry compared to the rate of offshore erosion which is approaching 20 feet in some areas (see Washington DOE, USGS, NOAA analysis of historical bathymetry dating back to time before Columbia River Jetty construction). When the SWS was under development NO consideration was given to any more than 4 ½ feet. As soon as the site was used the 4 ½ feet was rounded to five feet, then 6 with routine dumping over 60 or 70% of the site at 8 to 10 feet of accumulation. History speaks volumes, the Corps has DANGEROUSLY OVER-MOUNDED every dump site outside of the deep-draft channel at the MCR – why does anyone believe they will do differently at the South Jetty Site?

CRCFA requested the Corps wave and current information from deployed wave gauge at the South Jetty site for over two years at every LCSG subcommittee meeting to NO avail. The Corps refused to give the information, even in raw form to the group. That current meter showed without a doubt that the substantial and predominating current would move sediment offshore just as it does at Grays Harbor and contrary to would the Corps wanted the group to think adding to poor decision-making without benefit of available information. Even the raw data could have been analyzed by members of the subcommittee for the relevant and all-important current direction, which is offshore as its strongest component.

CZMA Fix is the only path to getting a handle on the sediment supply

Common dredging practices are to use the “least cost” close, cheap, quick, & dirty disposal area available. Our goal is to change business as usual and create an improved standard of dredge material use that provides crab industry protections guaranteed in the authorizing legislative actions that provided matching funds for the deepening and to provide strategic sediments to help abate coastal erosion.

- 1) Demand scientific peer reviewed information quantifying erosion abatement of current dredge practices.
- 2) Re-evaluate dynamic capacity of the inner and outer portions of the shallow water site separately
- 3) Evaluate the mound induce wave amplifications at the Shallow Water Site that is peer examined by those outside the Corps that are familiar with the MCR. CRCFA suggests three outside reviews, Dr. Kirby, Vladimir Shepsis, and Pacific International Engineering using a variety of world class models.
- 4) Commercial crab baseline is already contaminated with sediment disposal of the entire site over the objection of CRCFA, but without a baseline to begin with, impact will be impossible to access, only “best judgment” can be established.
- 5) Make sure that available information is available to decisionmakers and the public at large before decisions are made and as soon as possible in the process.

Thank you for considering CRCFA comments. The health of our oceans and coastal communities depends on your support. We need to demand better science that will pass peer review, be willing to change Corps authorities and associated regulations instead of the ineffectual current “least cost process” that is producing excess loss of our invaluable sediment supply.

The “Paul King Syndrome” where the “least cost” process, not scientific integrity drives the end result to a FONSI must be changed or our coasts will reach increasing erosion rates from severely deficient sand supplies that the potential for recovery is irreversible. The “inconvenient truth” is pay now or much, much more later and later may be too late at any price.

Paul King will be a hero to his grandchildren for saving his special place for sand hill cranes,

Paul King deserves to be all our hero and example,

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Washington Department of Ecology Washington State Ocean Caucus
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RE: **Washington Ocean Action Plan** July 11, 2007, Ilwaco coastal meeting

- ✓ Preservation of coastal communities that depend on the ocean
- ✓ **WARNING** Employ the precautionary approach, not adaptive management
- ✓ Always consider cumulative effects of all ocean actions
- ✓ FONSI is seldom the correct determination
- ✓ Ecosystem management will lead to legal paralysis – **BEWARE**
- ✓ **ACCESS** to fish is everything to coastal communities
- ✓ **Minimize NO FISHING ZONES**
- ✓ **Salmon MUST become KING – WATER RIGHTS REQUIRED**
- ✓ Next generation fishermen must have a pathway to the fisheries
- ✓ Do not abandon the Public Trust Doctrine
- ✓ Grab full control of the CZMA authority to Neutralize the Paul King Syndrome that has hampered NEPA in recent years

To all those concerned:

The Columbia River Crab Fisherman's Association has read the final draft of the Washington State Ocean Policy Work Group, attended the Ocean Caucus meeting in Aberdeen, WA on June 26th, and is pleased to see Washington stepping up to the plate and embracing an ocean action plan and has the following observations and suggestions to offer from a commercial fishing organization that works for fishing community vitality and long-term survival of all coastal fishing that we know more than most is highly dependent on a healthy sustainable ecosystem that our fisheries products depend upon throughout all life-stages to be successful and contribute to coastal economies.

WARNING: Contrary to what the media and a lot of environmental groups would lead agencies to believe our oceans ecosystems off Washington are quite healthy and productive lead by the crab industry that has produced several record landings over the last 5 years compared to a 100 years landing history. Sardines, tuna, shrimp, whiting, and many bottom fish species are healthy. Salmon continues to have its ups & downs but is rooted in inland waters for survival and is continuing to be challenged by dams, water withdrawals, logging, industrial and city point & non-point pollutions, continual population encroachment, and other habitat detractors including increasingly significant avian & marine mammal predation caused by over-protecting small segments of the ecosystem. Granted problems exist but they are not of the proportions indicated by sensationalism in other parts of the world. Good news evidently does not sell. Fisheries management success stories are always over-shadowed by catastrophic events elsewhere and insinuated locally. Our

oceans need a balanced tone, not always the negative dramatic dialogue of the press. NEW uses just arriving on the ocean scene will have far reaching cumulative effects far beyond current usage that will need the precautionary approach to management, not the adaptive management style that attempts to correct mistakes once made.

- 1) **Washington Ocean Action Plan #1** priority must be to preserve the flavor, character, heritage, and economic viability of our state's coastal communities for present and future generations by conserving, not necessarily preserving, coastal ecosystems, take the precautionary approach to new ocean uses, always examining cumulative effects for total impacts. Always remember we lost our state's second largest industry, salmon, one small inconsequential decision at a time until we came to a point that recovery may be irreversible as a result of cumulative impacts that are irreversible once put into action. A lot of new uses of the ocean are on the horizon and impacts will not readably be obvious until the consequences need correction with some very expensive fixes, if fixable at all. Rice Island, a "least cost" Columbia River dredge disposal option transplanted every Caspian tern in the Northwest to this NEW use with unintended consequences that have contributed greatly to loss of millions of salmon and continue to impact ESA listings that make recovery difficult at best. Wave energy parks, offshore windmills, open ocean aquaculture, marine protected reserves, oil drilling, offshore mining, more offshore dredge disposal options, non-point pollution, oil spills, and more will have cumulative impacts that must be considered as a part of the whole. We can no longer place each action in a perspective that claims the ocean is SO LARGE in comparison that the action is a FONSI – it is not and we are impacting the ocean in ways we do not yet even understand – the **PRECAUTIONARY APPROACH** is far better and protective of the ocean ecosystem than adaptive management. Remember, Rice Island, adaptive management is costly and often ineffective; the terns are still here eating salmon for breakfast, lunch, and dinner every day.
- 2) **NO MORE DESKS** – they are just too expensive to maintain and do not lead to better ocean management. Better collaboration between local, state, and federal governments is encouraged. Put the extra Desk money into viable on the ground programs that sustain the coast. A good example of on the ground programs would be the eradication of Spartina from Willapa Bay, which is currently showing great promise of success. Another would be an ecosystem friendly solution to the ghost shrimp problem in the bay instead of carbaryl.
- 3) **Access to fish is a top priority for maintaining coastal communities.** Without access economies of the coast will suffer dramatically. It should be a very high priority of the state ocean policy similar to Magnuson/Stevens that fish stocks should be used to a sustainable yield and that these stocks should be sustained for present and future generations. Salmon must once again become KING of the ocean with ACCESS available to fishing fleets.
- 4) **Salmon needs to be a centerpiece of reconstruction for the economics of the coast with ACCESS** even to the extent of revising the ESA, marine mammal protection acts, or whatever it takes; similar to the bill Congressmen Baird & Hastings recently introduced for lethal take of sea lions. Salmon need water rights with guaranteed flows throughout their range. Avian predation needs to be controlled. Caspian terns have been concentrated at the lower Columbia through creation of artificial tern rearing grounds from dredge spoils islands. Pelican and cormorant populations in the area are also exploding and must not be downplayed in their salmon decimation capabilities as these populations grow, salmon populations contract.
- 5) **Best Science is a cornerstone to understanding the ocean and making well-reasoned decisions.** However, the report failed to negotiate and recognize what CRCFA calls the Paul King Syndrome (PKS), where the courts uphold mediocre or less science as long as procedural process is followed under NEPA (National Environmental Procedures Act). Without changes to the laws, best science will not dictate and may even negatively influence outcome on what should be well-reasoned ocean science. Further, the courts

do not demand accountability to best science and information. (See Paul King Syndrome attachment) The **Paul King Syndrome** simply stated is a NEPA breakdown so that "Process" alone not scientific integrity drives the "End Result" and always ends in a FONSI. The US Army Corps of Engineers have become masters at PKS to continually advance the "least cost option". Even if NEPA suffers from PKS, it is still the public's only interface with most federal actions and needs to remain central to most ocean actions with a heavy dose of the CZMA thrown in to get local & state perspective properly on the table. CRCFA believes best science has its greatest opportunity of advancing from the local level upward where the CZMA is fully utilized by local and state government to rein in federal activities that are only required to examine effects of actions on a national perspective where local effects are often small to the nation, yet highly consequential at the local level. At the Cape Disappointment technical forum on the 9th of July the Corps was in classic form by introducing their myth busters - #1 myth buster that jetties do not cause erosion. The next several scientific presentations graphically displayed the recent geologic history of sediment movement of the huge Columbia River Bar that existed between Cape Disappointment and Hammond, Oregon in the mid to late 1800's that showed that huge volume of sediment was moved as a result of jetty construction several miles to the west and eventually the vast majority further offshore and to the north over the next 100 years and lost from the near shore system. Further statements of the scientist related to sand supply discussed river flow manipulation that has essentially cut off all sand coming out of the river, since the flows needed to accomplish sand river exit were around 600,000 cu ft per second and the upriver Corps dam structures eliminated freshet volumes required to move sand out of the river and that the sediment was spreading out laterally and filling the bays, this filling of the bays eliminates a lot of the intermediate depths required to successfully transition salmon smolts to the ocean leading to further salmon decline, not only by changing their feeding habitat required for survival, but also making them more vulnerable to avian predation which is increasing dramatically. The overall science needs to connect all of these dots. **We can no longer be lead around by the nose of the Corps myth buster lobbying positions that lead to "least cost alternatives"**, which are starting to have profound and very very expensive consequences for the local communities through lost salmon and increasing rates of coastal erosion. Dismissing sea level rise by only analyzing and increasing trend in erosion rates progressing through 2020 is undermining the future planning policies and producing a terrible handicap that future generations will suffer under water. The science showed that 1951 was the largest extent westward on Benson Beach over fifty years after jetty construction began. It was the mid 1990's before a noticeable erosion began north of North Head and took a decade to be noticed as far north as south Long Beach, 6 or 7 kilometers and with a scientific projection of 13 or 14 kilometer effect by 2020 with no sea level consideration which may be only 2 to 4 inches by 2020. By 2100, less time than the jetties have been in existence with the sand supply cutoff completely and sea level having risen close to 3 feet, we will be seeing erosion rates on the Long Beach Peninsula on the magnitude that Benson Beach accreted at the time of jetty construction. Huge chunks of extremely valuable real estate will be falling into the advancing ocean and today's least cost alternative of belly dumping sediments a mile or more offshore to solve the growing coastal erosion problem will look awfully foolish and current generationally very selfish. All driven by the Corps myth busters of the July 2007 Cape Disappointment technical forum where the Paul King Syndrome was allowed to prevail over common sense which indicated that getting all available sediment to the beach was the only way to even have any chance of holding the status quo of a coastline without allowing erosion rates to increase in the future. **BEST SCIENCE** must include a full consideration of a

rising sea level by looking at time frames that exceed a minimum of a hundred years, consider the uncertainties of the future, and begin to fully utilize the only reasonable sediment supply we have currently available (MCR dredging) on the beaches. We further must realize that we have only two real choices, the Benson Beach sump project or rainbow spray on just the outside edge of the primary offshore sand bar in less than thirty feet of water along Benson Beach and South Long Beach Peninsula. Anything less will constitute a wasting of sediment with no assurance of measurable impacts on the shoreline maintenance. We will be reduced to speculation and hope, which will not keep pace with coastal erosion increases in the face of a rising ocean. Remember that back in the last major el nino in 1997 – 98 we had a temporary rise in sea level of about 18 inches on our coast and we suffered erosion rates that we have never recovered from. We had a small temporary taste of effects from a rising sea level caused by storm surge that did not retreat between storms that were frequent enough to hold sea level well above normal for an extended period of time. A third option presented for consideration was the offshore site on the north flank of Peacock Spit, which is going to be a difficult sell to the crab fleet. If however, the outer portion of the SWS is eliminated as a dump site, and the area returns to a safer navigation route opening up extra fishing days in mid-winter the loss of grounds on the north flank of the spit will be fully worth examining, especially if safety at the N. Spit site is assured with built in mounding criteria that meets the 10% wave amplification and the site is crowded shoreward as far as possible and SMP requirements of avoidance, minimization, and mitigation for unavoidable impacts are applied. CRCFA was further encouraged by the scientific recommendation to advance the Benson Beach Project as a primary option. Benson Beach is still the best alternative from our perspective as well with minimal safety and biologic impacts while providing the best opportunity to get coastal shoreline maintenance assured. The North Peacock Spit option will be harder to monitor and assure that the sand is actually getting to the beach and it is certain that 100% of it will not, with some being lost offshore. CRCFA was very disappointed by the Corps of Engineers attempt to discourage immediate resolution of the roadblock they created to getting the funds that have been appropriated by congress for the Benson Beach project made available to move the project forward. The Benson Beach funds were placed in the Corps RSM program at Corps direction as the best place to advance the beach project. After the funds were in the program, Corps threw up the authorization roadblock and has been very uncooperative in resolving their inability to act, which they conveniently created for themselves. All we need is a few words placed in the 2007 WRDA bill conferencing to clarify the authorization language; we have the members of congress willing to participate in providing the right language and yet the situation remains stymied by Corps failure to act in good faith with their collaborative partners. This is not the first time the Corps has acted intentionally to stymie the Benson Beach Project and it will not be the last. The Corps main objective is still the “least cost option” and they will act to continually discourage the Benson Beach project while promoting the North Peacock Spit belly dump spoils option and will not attempt to mitigate biological damages through the Rainbow spray in the near shore. The belly dump option will place sediments at least a mile offshore considerably outside the flanks of the near shore berm where scientist advocated as the better option. The spray alternative in connection with the North Peacock Spit would be a far better alternative for a variety of reasons. Spray in millimeters thickness is biologically compatible with marine biological conditions in the near shore areas. The spray option will allow the dredge to get considerably closer to the shore face berm and contribute more directly to shoreline maintenance with less material being lost offshore. The use of the spray option will allow for a larger site since

biological damages will be controlled. The larger site will mean that less mounding is required and therefore a SAFE operation. Closer to the shore face berm will mean higher dispersion rates and a less persistent mound. It is time for the Corps to be brought into the 21st century, be forced to abandon old spoils practices, and join a modern world that is capable of performing dredge disposal that accomplishes multiple use criteria including Safety first, preservation of marine biological resources (Dungeness crab), successfully contribute to controlling beach erosion, and still keep the upriver Columbia River ship channel well maintained within reasonable cost limits, and certainly no more expensive than the current DWS sediment wasting alternative. The July Cape Disappointment technical forum was a success in large part because all affected parties have learned a lot over the last ten years and are willing to examine better alternatives that offer smarter use of what is becoming a valuable resource – sand. One area of the Cape D tech forum that remained a little confusing for some was that of site wave amplification. It was only confusing because the Corps wanted to keep it that way. The Corps presentation showing 10% or less amplification was based on the September 26, 2002 data for the SWS using the STWAVE model when only 1.9 mcy of sediment remained in the site. The Pacific International Engineering presentation was based on October 5, 2005 data for the SWS using a different, yet equally sufficient wave model the Bousse 2D when 3.8 mcy of sediment was in the site. If either one had used the same criteria the mound induced wave amplifications would have been statistically similar, not showing the huge discrepancies that was not the result of the modeling or who presented them; it was the result of significantly different quantities of sediment within the site that were examined. The additional sediment in 2005 added to the mounding and consequently larger wave amplifications. CRCFA is very surprised that the scientists present were not able to communicate this simple explanation. We were similarly very surprised that so much confusion was allowed to remain about the SWS bathymetric baseline discussion as well. The concept of wave modeling is in reality simpler than the discussions at the tech forum lead policy makers to believe. Scientist in general are not teachers and communicating their expertise at times is a real challenge, which we witnessed at the tech forum.

Simple mound induced wave model explanation:

- a. All models are affected by differences in bottom bathymetry as the wave approach shore.
- b. All waves no matter what their size, shape, period, etc, are affected eventually at some shallowing bottom depth.
- c. Models are mathematical formulas & some formulas are more complex than others
- d. Some models are better at some formulas than others & produce varying results.
- e. Most models do not mathematically duplicate REAL WAVE CONDITIONS; they approximate wave averages and guesstimate wave conditions over areas examined.
- f. Decreasing depth without exception amplifies waves until they break.
- g. Long period waves will break in deeper water than short period waves of the same height
- h. Mounding changes waves shape, speed, and concentrates wave energy by increasing wave height, if that energy concentration is sufficient, it will cause the wave to break.
- i. The higher the mound, decreasing water depth, a much wider spectrum of normal ocean waves will have their energy concentrated and cause the waves to break.

- j. Other extenuating complications the Corps continually throws into the conversation is done for one reason – to make a simple concept seem so complex that policy maker will throw up their hands in confusion and by default fall back on Corps opinion, not base policy on the science of the situation, that is not really that difficult. The Corps completely understands the Paul King Syndrome, know full well that politics does not advance very well in the face of opposing views, and exploits the situation to remain in control. Knowledge is POWER and if the Corps controls the knowledge through foisted confusion, then they control the situation and are able to continue the “least cost option” which is fully the end result they are after & they do this by exploiting the Paul King Syndrome (PKS) to the max. CRCFA will guarantee the policy makers that any attempt to initiate a Rainbow spray option integral to the proposed North Peacock Spit Disposal Site with limited and safety oriented mounding will be met with excessive PKS and debunking their contorted science will be next to impossible and the spray option will face extreme opposition always pushing the old spoils belly dumping alternative relentlessly until the policy makers give up and fall into the old trap that any sand is better than no sand, ending a dumpsite that is too far offshore to effectively feed the beaches only the Corps budget and BEST SCENCE will again become BS through PKS.
- 6) **Fisheries Management: obligation** must first be to conserve and utilize all fisheries resources for present and future generations sustainably. The Washington Ocean Action Plan holds dedicated access systems for fisheries management up to a good light; CRCFA position on IFQ is to JUST SAY NO and PFQ's are purely detested and will KILL the free market system. Turning a public resource over to private commodities is a crime and breach of the public trust doctrine. **IFQ, PFQ; Just Say NO!** Limiting entry, gear restrictions, marine protected areas (similar to on land national parks that protect especially worthy marine areas) and normal fisheries management is enough. Note Pacific & Grays Harbor Counties who are highly dependent on seafood production are 30% below state per capita income and this needs to be rectified. The Corner stone of the county's income is fishing and oystering producing over 25% of Pacific County's earned income according to OSU economist Hans Radke and former chair of the PFMC studies selected coastal counties in 2000. Take care of what you have and find ways to improve returns to the fishing industry, not always trying to put them out of business by more and increasing regulatory schemes. Next generation fishermen need a pathway to enter the fisheries. CRCFA would suggest that returning black cod back to the communities through community quota by re-igniting the open access with purchase of black cod tiers from private individuals and returning a public resource back to the public not adding additional IFQ - PFQ. The Washington Ocean Action Plan calls for following Magnuson/Stevens guidelines in all fisheries including national standards. Washington's largest commercial fishery, Coastal Dungeness Crab has a special exemption from the Magnuson/Stevens FCMA and would be a DEAD fishery under the national standards, which dictates hard TAC (Total Allowable Catch) requiring stock assessments and rebuilding requirements under certain circumstances. Crab does not assess very well and attempting to run crab in this manner would not work, period. Currently crab is very well managed biologically; one of the best in the entire world, and NO federal guideline management is warranted. The state of Washington has the exclusive authority to manage crab out to 200 miles off our coast and is doing a good job biologically but is severely hampered by ancient Stevens Indian treaties and federal treaty obligations. In the 2007 Washington state legislature, addressed treaty crab re-allocations through SSB 5447. WDFW is currently in the process of beginning to put together with industry a coastal crab permit reduction program to bring harmony to tribal obligations by reducing the size of the historical crab fleet. Federal management of crab has been examined twice by the Pacific

Fisheries Management Council and twice remanded back to state control – very wise choice. **Best Science (BS)** Killed our offshore bottom fish industry. BS allowed fishing on spawning biomass fish even though industry asked for spawning season closures. Industry realized that when a fisherman is standing ankle deep in fish eggs squeezing out the vessel scuppers night after night that the future of fishing was in peril, BS did not act to prevent this atrocity it was the beginning of the end. BS claimed it did not matter when you killed a fish it was still dead. BS also continued daily quota fishing even though Industry requested quarterly or semi-annual quota to stop the wanton waste of dumping excess tows daily. The BS of the day again claimed it did not matter. It took years to get best science into reality and by that time the industry which attempted to save itself was DEAD, just like the fish the BS did not protect. At times best science is not good enough!

- 7) **Fish need WATER RIGHTS throughout their range for all life stages** as an integral part of the Washington Ocean Action Plan. CRCFA testified for Fish Water Rights at the first Senate over-sight hearing of the Magnuson Fisheries Conservation and Management Act, in 1977 to no avail. Thirty years later we can look back and realize how much better the salmon situation would be today if salmon would have had water rights throughout their range for the last 30 years. It is never too late to do the RIGHT thing – WATER RIGHTS FOR FISH. Last summer I was in eastern Oregon and saw forests of artificial cottonwood trees being watered with salmon water and was shocked to what extent government would allow salmon water to be redirected to contribute to ESA listings. The Northwest, Washington and Oregon has, more ESA listing than the rest of the United States combined. Most of those listings are salmon and salmon do not have water rights.
- 8) **Benthic mapping the ocean is somewhat an exercise in futility** as the inter-annual variability is so dramatic especially in shallow water as to be difficult to draw conclusions. Besides total accurate micro-benthic mapping is a very, very expensive & time consuming undertaking unless done in a cursory manner. Money could be used better to maintain & enhance coastal communities. The recent suggestion at the 26th June Grays Harbor College Ocean Policy meeting of the state obtaining an ROV for exploring the ocean has merit and will contribute significantly to ocean knowledge & much much faster than benthic mapping. Fish respond and congregate at ocean geologic structure. Timing however, is very very important as the fish are not present in quantity 24/7 but have specific timing for congregating that is variable. There is absolutely no substitute for EXPERIENCE. It takes years & years of experience to learn fish habits, and timing congregation at the various geologic features. Multiple visits to the same sites at different times of the day and seasons will be required to learn truly what variety and quantity of fish are present in today's ocean. And just when you think you are getting a handle on it, the inter-annual variability will throw a curve ball that is different. The business of fish is a year around 24/7 occupation and one ROV will only give a cursory examination of the real dynamics of Washington ocean conditions and dynamics of fisheries resources present.
- 9) **Washington State Shoreline Master Program (SMP): CRCFA supports the bottoms up approach to ocean governance and really approve of the local county governments developing local SMP's that meet state standards.** This system of governance allows for local variability and is more responsive to the people most affected. Special places like Willapa Bay need protections that SMPs can provide. If Washington is ever going to get control of an adequate sediment supply to begin to control coastal erosion the Washington Department of Ecology is going to have to fully utilize the CZMA authority given to the state by the federal government. **The restrictions on CZMA authority to Washington State waters only has to be removed and federal actions that occur in Oregon must come under the Washington interstate CZMA purview, related to MCR dredging and disposal; more specifically:** WAC 173-16-064 Ocean management section (2) - Geographic application.

The guidelines apply to Washington's coastal waters from Cape Disappointment at the mouth of the Columbia River north one hundred sixty miles to Cape Flattery at the entrance to the Strait of Juan de Fuca including offshore ocean area, the near shore area under state ownership, shorelines of the state, and their adjacent uplands. There broadest application would include an area seaward two hundred miles (RCW 43.143.020) and landward to include those uplands immediately adjacent to land permit jurisdiction for which consistent planning is required under RCW 90.58.340. **The guidelines address uses occurring in Washington's coastal waters, but not impacts generated from activities offshore Oregon, Alaska, California, or British Columbia or impacts from Washington's offshore on the Strait of Juan De Fuca or other inland marine waters.** The yellow highlighted area has to be removed from the WAC to obtain reasonable federal interstate consistency under the CZMA if Washington is to ever get control of its own destiny related to coastal erosion. Currently most dredging at the mouth of the Columbia River takes place in Washington waters between buoys # 8 – #10 and the sediment is then deposited in Oregon, much of it at the DWS and lost forever from our beaches. Even sediments deposited at the SWS have a questionable fate. The historical NOAA bathymetry mapping dating back to 1858, of the near shore zones adjacent to the MCR strongly suggest that the majority of historical sediment movement over the 150 plus years has been mainly offshore and to the north, an historical record that is hard to argue against. More recent coastal surveying by USGS & Washington DOE strongly shows that NO amount of dumping at the SWS will stem the erosion on our coast. Self-imposed DOE CZMA regulatory restriction to Washington waters only in WAC 173-16-064 will prevent the SW Washington Littoral Drift Restoration from becoming a reality since Washington's SMP regulations will not apply to interstate consistency under the CZMA. Washington controls the pathway to coastal erosion prevention through the CZMA process if they only take back controls they have relinquished, triggering a major change and review changes available under NOAA programs of interstate consistency, now denied Washington. This is one of the single most important Washington Ocean Actions that can and will make the most immediate impact on this state's coastline, full interstate enforcement of existing SMP's available if used. The West Coast Governor's Agreement on Ocean Health recognized that the ocean ecosystems do not recognize artificial state boundaries and that we must work together to promote effective implementation of ecosystem-based management of our ocean and coastal resources, this of course includes sediment management which definitely needs improvement, not only from physical management and placement but also for its biological impacts, especially those that can be avoided by simply re-applying biological dumping windows back to the SWS after August 15th as they were prior in the first 5 years of the sites expansion. It is time we acknowledge the ecological currency as a significant loss to local economies in computing "least cost" to the US Army Corps of Engineers activities related to maintaining our needed channel infrastructure. The CZMA is a very powerful tool the states can use to rein in the NEPA process that has gradually eroded over the years to make good science irrelevant to federal agency opinion that far too often leads to a FONSI when these actions in fact have consequences of dramatic proportions. Impacts of current dredge spoils disposal that ignore a gradual increase in sea level and refuse to make a measurable difference to our coastal shoreline maintenance if left unchecked will in time become irreversible. Both the states of Washington and Oregon need to work together to improve sediment management to enhance both coastlines stability. The limited sediment supply that we have available at the MCR dictates disposal on the beach as the first consideration, anything less is a total wasting of this precious resource. Sea level rise is an inconvenient truth we have been ignoring far too long since acknowledging it would require moral actions to do something about it to protect future generations from what we already know is coming as a result of global warming. Our actions today can and will make a significant difference. We can chose to continue to ignore rising sea levels with all the pending profound consequences or we can use all the MCR sediments to buffer these effects by changing the current sediments spoils practices into assets of protection necessary for shoreline

maintenance. The SW Washington Littoral Drift Restoration Project at Benson Beach is the only option currently on the table that really makes any sense and first choice of the scientist at the July Cape Disappointment Technical Forum. Total enforcement of the interstate CZMA can get us there, without it NEPA will be used to bury us on the coast in seawater as a “least cost alternative” that just lets the best science of our time get all wet as well. The last Cape Disappointment technical forum related to the science of the South Jetty Site was a huge disappointment for CRCFA where the Corps inserted their opinion, even pushing the Paul King Syndrome further than thought possible by completely ignoring the science presented that said without a doubt that a safe mound would not protect the jetty and that the sediment would very likely move offshore. Before the scientist even left the Cape the Corps recommended moving directly to a full MCR disposal site at the South Jetty, a recommendation that clearly ran counter to the science presented. Another alternative needs to be found for the Oregon coast, probably a sump – repump station near the Trestle Bay area to the Clatsop Beach, a decision that is far different than the Benson Beach area, since Benson Beach is ecologically a wasteland caused by the high erosion rates & Clatsop Beach has marine resources (clams) publicly available.

- 10) **ECOSYSTEM BASED MANAGEMENT:** is a sterling idea but impossible to legislate without turning all fisheries and ocean management over to the court system. **BEWARE! BEWARE! BEWARE!** The principle is fine, but the realities of practical consequences could be horrendous legal paralysis. Dr. Miller at the University of Maryland Environmental Studies at Solomon Island helped us get our arms fully around this concept. The gaps in our knowledge base related to ocean ecosystem management are too numerous to allow the concept to fly solo. New and competing interests which are currently increasing in the ocean will dramatically be able to question the science in court and render useless the ecosystem principle that we cannot even seem to define beyond a concept as evidenced by the June 26th comments at the Grays Harbor Washington Ocean Caucus meeting on the subject. Having said that however, we must not throw our arms in the air in total frustration, but embrace the sterling idea and advance ecosystem management where we can, as the entire biologic world is indeed interdependent on the entire ecosystem and our ocean management must move in a direction that recognizes and acts constructively to protect this interdependence within reason using a huge dose of **common sense** or the unintended consequences of total embracement will be excessive and unmanageable with legal complications beyond anything we have witnessed in the past.
- 11) **Weather Forecasting:** CRCFA agrees with the ocean action plan for increased weather & scientific data acquisition through more near shore sea buoys with multiple sensors through a newly designed NWS buoys and Doppler radar, even a coastal research station that refines predictions of storm front timing and strength. The topic needs to be aimed directly at better weather and seas forecasting. Weather buoys need to be completely re-designed to allow manned wintertime boarding from small cutters (47 foot USCG patrol vessels) for immediate repairs instead of waiting months and months for access time from the USCG buoy tender that is then too dependent on weather for making repairs. Interagency cooperation with multiple ocean sensors, not just weather data could then be employed, and a full range of coastal observations could be addressed collaboratively, since it is the buoy and anchoring system that is the majority of the expense.
- 12) **LCSG can become a vital link in producing regional management decisions** if the group ever begins to understand the governance process and the Paul King Syndrome. The group is too young and does not yet understand how the Corps “least cost” policy, existing authorities, and Corps over-arching approach to controlling agendas and information always finds a way to becoming a FONSI – Finding of No Significant Impact. CRCFA realized that Washington was under-represented at the LCSG and lobbied hard to get additional representation on the

group with inclusion of Pacific County and the Governor's office at the table. The group is still out of balance and heavy to Oregon in representation. A full legal analysis by attorneys outside the US Army Corps of Engineers needs to assemble and present to the group an educational forum on laws and regulations that affect the group's operations and possibilities for real constructive changes that could in reality influence how sediments are managed for our coasts well into the future generations. As always, it's the money, money always dictates actions and to date has overly influenced where investigations are allowed to go. Science has taken a definite back seat to cash flow, or lack of it.

- 13) **Derelict Fishing Gear:** Ocean crab pot retrieval represents problems not encountered in inland waters. CRCFA has suggested to WDFW, without success, that abandoned gear declarations be included with yearly license applications, and if fishermen did sign the declarations they would become exempt from post-season rules. This would allow gear recovery by other willing participants that could then keep the recovered gear as inducement to retrieve the derelict fishing gear. This needs attention. This program would require NO public funding and could be very effective if run through WDFW to prevent aberrations.
- 14) **"Washington Ocean Action Plan"** needs to make sure that the #1 priority of the plan is to preserve what we have first by keeping our coastal communities economically viable and taking a precautionary approach to **NEW uses of the ocean** that are always additional NO FISHING ZONES for existing communities whether they are wave energy parks, oil drilling, LNG facilities, wind parks, marine protected reserves, open ocean aquaculture or other future endeavors. Our state lost our second largest industry, Salmon one small inconsequential decision at a time – a dam here, there, & everywhere, logging too close to streams, road building, inadequate culverts, water withdrawals here, there & everywhere. **Cumulative impacts** examined one small peek at a time with multiple FONSI determinations that's the individual impact is so small and that the ocean is so big and failure to keep the **cumulative view** clearly in focus will destroy the ocean of today just as our state lost a major, major industry – SALMON. Salmon did not die from overfishing – fishing is just the easiest scapegoat to attach blame, warranted or not.
- 15) **"Washington Ocean Action Plan major deficiency"** coastal fishing representatives are needed as an integral part of any state ocean action body. Actual hands on representation will provide a perspective that cannot be achieved by any other means. Advisory capacity is just that, advisory only which does not employ the same deference needed at critical juncture points to protect coastal communities' needs.

Enclosed are three additional CRCFA comment segments related to Washington ocean actions:

- 1) Response to FERC **Makah Wave Energy Park** Application in which we requested intervener status.
- 2) Presentation of the **"Paul King Syndrome"** (PKS) - NEPA is a process that does not require substantiated science, can rely on agency opinion that is not scientifically valid or peer reviewed, and always ends in a FONSI, which is upheld by the federal courts. PKS undermines a lot of good local, state, and federal laws and regulations designed to perpetuate ecosystem conservation where process alone advances many projects without adequate controls or mitigation for known losses to the environment.
- 3) An **"Inconvenient Truth"** is a different perspective on sea level rise & past sediment starvation of our coasts that can no longer be ignored. We are fast approaching an irreversible point of no return for any fix to address coastal erosion rates by failing to utilize the only plausible source of sand – MCR dredge disposal practices effectively on the beach where it can make a measurable difference.

Thank you for providing opportunity to address the Washington Ocean Action Plan. CRCFA will continue to stay engaged in the process and hope our diverse comments are adequately incorporated into meaningful actions that contribute to **our #1 priority – sustaining healthy coastal fishing communities for present and future generations.**

Sincerely concerned for our oceans, our coasts, and our community's economic health,

Kimberly D. Bose Secretary
Federal Energy Regulatory Commission
888 First Street NE
Washington, D.C. 20426

RE: Makah Bay wave energy pilot project
Project No. 12751-000
Request for intervenor status
Request for permit denial
Request for continual notice of permit progress

To all concerned parties:

The Columbia River Crab Fisherman's Association (CRCFA) is registering our strong objection to permitting the AquaEnergy now Finavera proposed pilot wave energy project without compensatory mitigation for all ecosystem and fishing loss impacts.

Finavera must not be allowed to move forward without specified compensatory mitigation for the loss of fishing grounds, damages to marine ecosystems, especially loss of Dungeness crab and crab fishing grounds. As always, inland corporate intrusions into the marine environment want a free ride at someone else's expense. Why is it that fishing business economic well being is never appropriately considered and severely discounted as to even ignoring their very existence. In Pacific County on the south end of the state of Washington, fishing represents 25% of all earned income in the entire county. To the Makah, fishing may represent a much higher percentage of income. Many Washington state crab fishermen will be negatively impacted not only by this pilot program, but also, to a higher degree of impact by the full scale operations of many other proposed ocean intrusions. Development by non-fishing interests (Finavera) into the ocean must not be allowed set a BAD precedent of impacting and displacing existing business without compensation. Finavera is in fact proposing a "TAKING" without reasonable compensation. Finavera, and other companies (foreign and domestic) must not be allowed to trample existing businesses just because they think they can. The economic impact will be cumulatively larger than this initial pilot project, so it is important that these impacts are dealt with in an appropriate manner, take existing conditions into proper account, and

compensate for loss of ecosystem currency, no matter the seemingly insignificance of the project. It is the precedent setting event off Washington that is the greater importance.

It is not the initial pilot project that will have such a large impact on the other participants in the ocean; it is the cumulative effect that additional larger intrusions will have. It is not just the wave energy exclusionary zones; it is the wave energy parks, open ocean aquaculture, crabber tolane agreements, tribal SMA's, fiber optic cables, LNG exclusionary zones, ocean dredge disposal sites, and more to come that will have the greater cumulative economic impacts that will destroy our national fishing heritage.

Exclusionary "NO FISHING ZONES" have impacts to established businesses well beyond the exclusive zone by interrupting the normal flow of business. In most business, time is money. Wave parks not only represent loss of fishing grounds they will be "NO TRANSIT ZONES" which the fishing fleet will have to circumvent at a continuing additional cost of time, fuel, and general disruption of business as usual. The wave parks will break our crab pot strings into multiple strings forcing us to spend time (money) to transit around the wave park and spend time finding the end of the next string. This may seem trivial to those looking from the outside, but the impacts will soon begin to cost existing jobs that will multiply across the coastal community.

Hans Radke, Oregon State University economist, estimated that the loss of salmon businesses cost 25,000 family wage jobs in the Columbia Basin and half a billion dollars to the existing communities. This horrific job loss did not occur with the first pilot program. That job loss occurred over a number of years as cumulative impacts of dam building, water diversion, habitat degradation, and other impacts built up over the years. The same thing will happen in the ocean. Cumulative impacts will eventually cost lots of existing jobs as ecosystem currency is slowly eroded, bit by small bit without individually representing much as each is allowed to move forward.

We do not need to analyze the exact legal correctness of the Washington Department of Fish and Wildlife's demand for compensatory mitigation for ecosystem and fishing grounds losses. WDFW was correct in recognizing the potential cumulative effects of negative invasions into the exiting ecosystem and loss of ecosystem currency. WDFW recognized the precedent setting nature of the invasions to come. This recognition must not be allowed to pass without actions to correct and compensate the losses on a continuing basis.

Another complete over-sight in the Finavera proposal is the lack of attention to the Washington State CZMA authority, an authority that also demands mitigation for loss of ecosystem function. The Washington state Shoreline Master Program (SMP) demands that projects first avoid, minimizes, and then mitigate for unavoidable damages of the project. SMP considerations must not be allowed to pass without actions to correct and compensate the losses. Again the exact legal correctness of the application is not the issue,

it is the BAD precedent that allowing this project to move forward without acting appropriately is unforgivable and an overall breach of the public trust doctrine.

The electrical transmission line from shore to the wave energy park must be completely buried, just as all recent transoceanic fiber optic cables have been. The Oregon Fishermen's Cable Committee (OFCC), home based in Astoria, Oregon has successfully interacted with this type of installation for many years and must not be over-looked in this new precedent setting venture. The OFCC is a very good example of cooperative business-to-business interactions that mutual respect and understanding that allows businesses to work together to solve the inter-business conflicts to the satisfaction of ALL parties involved. Why should Finavera be allowed to ignore these negative impacts to existing businesses without addressing them in a manner that allows co-existence by compensating impact after minimization and avoidance measures are in place? The OFCC is a very good model to follow as more and more intrusive activities bite into and destroy existing ecosystem currency bit by bit until complete existing industries and fishing heritage that built the coasts are gone costing horrific losses to all coastal communities.

We could go over the application for the Wave Park line by line & comment on each individual inadequacy and impact, but that is not really necessary. It is the precedent setting nature of the application that is of greater concern. Finavera is setting up a program that is much larger than this initial application. Finavera is projecting an initial annual loss multiple times larger than their proposed annual income from the sale of electricity. This is a "for profit" business and the business will expand until it is profitable on a magnitude of scale that this project does not represent. The magnitude of the marine ecosystem currency loss will expand in proportion to the expanding electrical generation wave park expansion. It is the cumulative impact that will in the end be the devastation and contribute substantially to the loss of existing jobs from denied ecosystem currency.

CRCFA's fears are real, must not be discounted, and appropriate actions that addresses and successfully mitigates losses to our ecosystem based businesses must be forth coming or the permit as applied for **must be denied** until all avoidance and minimization measures are in place and compensatory mitigation is forth coming for unavoidable loss to both ecosystem function and lost fishing opportunity. Proper analysis and measures to correct project deficiencies associated with negative impacts to existing businesses for loss of ecosystem function and use that properly reflects future cumulative impacts cannot and must not be ignored or in the end, fishing business in the ocean will END the same way fishing business ended in the Columbia Basin with huge financial losses to existing communities for the benefit of inland jobs.

The recent loss of coastal salmon jobs in Oregon and California for water diversions in the Klamath River to water inland crops had a magnitude loss which no one anticipated appropriately as the Klamath water diversions added up one small project at a time. This cumulative loss was recently funded by the federal government as a \$60,000,000 disaster

relief package for only one year lost fishing opportunity. Yes, impacts do have consequences. Consequences that are seemingly small one at a time until the impact is tallied and found to be substantial way too late in the cumulative projects advancement to prevent them.

Why is it that fishing always pays and pays and pays until it is gone? It always happens one small seemingly insignificant, unreasoned decision at a time. Cumulative impacts are NEVER properly considered. Mitigation requirements are commonly ignored because as Finavera so apply insinuated in their application our project is so small and the ocean is so vast, how can we possibly have any impact?

Hog Wash – the cumulative impacts will come, the impacts small as they are, will accumulate just like they did in the Columbia Basin until they destroy entire ecosystems and existing industries. The Makah's will be the first to go, the crabbers will be next, as this wave park will expand and expand one small bite at a time over years and years in small chunks all seemingly insignificant until our fishing heritage is diminished into antiquity unnoticed until gone.

Is this really where our society wants to go, elimination of our coastal fishing heritage, a heritage that helped build the Northwest? It is happening one insignificant decision at a time. Finavera is a contributing factor and has NO regard for the magnitude of the impact they are spawning. At least WDFW came to the table with the proper outlook, which must not go unnoticed and an outlook that MUST become a part of all NEW intrusive impacts into the ocean that will have cumulative and substantial negative losses to ecosystem function.

Recently the federal circuit court found that power companies were liable for loss of cumulative impacts to fish from water intakes at the power plants and ordered a reversal of that loss. How large is the ocean loss going to get before we take notice? Now is the time for appropriate action before it is GONE one small bite at a time.

CRCFA is distressed, concerned, extremely disappointed in the total disregard for the ocean's future if this wave energy park is allowed to move forward as proposed without properly addressing ecosystem currency devaluation, preservation, and loss of use it will become a cumulative loss our nation will feel dramatically in time. A loss we must prevent now before it is too late.

Recommend denial of this permit as proposed, the cumulative implications are simply too great to ignore. Avoid, minimize, and compensate each and every unavoidable impact so that our national ocean treasure is not continually devalued by seemingly inconsequential impacts that are compared individually to the size of our global ocean. The INCONVENIENT TRUTH is our oceans are beginning to degrade to the point of highly significant global impacts that will become irreversible and eventually negatively impact

all mankind one insignificant, all-consuming impact at a time. Future generations need our help in preserving what we have today.

CRCFA representing one of the most affected industries in this Finavera application for electrical wave energy permit application is requesting an ongoing **Motion/Notice of Intervention**: Motion/notice of intervention is a pleading filed with the Commission by a party requesting intervener status (legal basis to participate in proceeding). The motion or notice may also include comments, a protest, or other pleading [18 CFR 385.214, 385.1306; see also 18 CFR 35.8(a), 154.210(a) and (b), 157.210, 157.106, 343.2(a), and 380.10].

Sincerely concerned, Dale Beasley, CRCFA

An Inconvenient Truth

Natural and Historical Geologic Processes at the Mouth of the Columbia River are currently disconnected from surrounding shorelines of the Washington and Oregon Coasts as a result of harnessing the Columbia River.

An **“Inconvenient Truth”** – Our Coastal Shoreline Maintenance Sediments are all but gone and we as a nation are doing nothing to help ourselves from the impending coastal erosion CRISIS.

We must first admit this **“Inconvenient Truth”** is an unintended consequence of our own actions and realize if we do not begin to reverse our past handy work we will reach a point that our actions will be irreversible and the consequences will be ever increasing shoreline erosion rates accelerated as a byproduct of global warming and resulting sea level rise.

To combat this **“Inconvenient Truth”** we need to accrete at a minimum 4 inches per decade on our shorelines within the Columbia River Littoral Cell; a sediment accumulation rate that is still possible if we begin to ACT immediately. Continuing to procrastinate and ignore this **“Inconvenient Truth”** is no longer an option unless we lack the courage and moral integrity to reform current “least cost alternatives” and actually take affirmative direct actions to make a difference that future generations can appreciate, even if it means we must change the current authorities and regulations that limit our needed response to stem and reverse the ever increasing coastal erosion potential in both Washington and Oregon. Further, we must accomplish this reformation in an ecological friendly manner that puts safety first.

The first step to a stable coastline is acknowledgement of where we are at and where we need to go. Policy change is imperative, and that change must be based on good and substantial science that can and must pass outside peer review without QUESTION. The stakes are too high, and we are fast running out of time to take meaningful corrective actions. We are fast approaching a **CRISIS** in coastal sediment deficit supply and to ignore this pending **CRISIS** is irresponsible.

Human beings are capable and have dramatically upset the balance of nature relative to coastal sediment distribution patterns adjacent to the Mouth of the Columbia River. Anthropogenic interferences in Columbia River natural geologic sediment distribution include:

- ✓ Jetty construction, which moved the MCR many miles to the west, away from the shoreline cutting off the direct path of shoreline accretion in both Washington and Oregon.
- ✓ Jetty construction provided very efficient NOZZLE increasing river velocities at the MCR shooting vast quantities of sediment OFFSHORE and operating exactly as engineered over a century ago.
- ✓ River deepening & channelization has channeled sediments to the NOZZLE to be shot offshore further compounding the sediment loss.
- ✓ Channelization and pile dike jetties have significant impacts turning the backwaters, Baker Bay, Youngs Bay, Grays Bay and Middle Sands into huge sediment traps denying sediments to the coasts.
- ✓ Dam construction has reduced river water flows by 60% reducing coastal sediment supply carrying capacity tremendously.
- ✓ Dam construction traps additional coastal sediment supply.
- ✓ Dredge disposal practices at the MCR have moved vast quantities of sediment outside the natural littoral zone that can feed our shorelines, and even the best chances of corralling sediments for the coast at the Shallow Water Site and the north Jetty site lose volumous amounts of the sediment deposits offshore.
- ✓ Current “least cost alternatives” are over-riding our common sense and seriously jeopardizing our grandchildren’s ability to address sediment needs relative to shoreline maintenance.

“Inconvenient Truth” - Actions have Consequences so do Inactions

Far too many are ignoring or confounding the TRUTH because acknowledging the TRUTH carries with it a MORAL imperative to ACT and that is INCONVENIENT. If one remains a “casual observer” and does not closely examine the geologic processes and recognize that these processes take time, lots of time, it is hard to recognize that a CRISIS is building slowly and cumulatively in such a manner that the “casual observer” is easily confused and mislead by the complexity of the science that is difficult to measure in time frames we are used to dealing with. What appears to be inconsequential from year to year is going to cumulatively erase a millennium of natural shoreline accretion and spawn an irreversible coastal erosion PROBLEM that will leave our coasts in a constant state of retreat as the sea advances to the EAST unabated, a fate that is unconscionable.

What is the science of sediment management really telling us?

- Our coastal sand supply from the Columbia River is essentially cut off.
- Current actions contribute to significant mounting coastal sand deficits.
- We need to change our ways of managing our sediments even if it demands a change in rules, regulation, and authorities.
- If we do not address the growing coastal erosion situation by taking whatever actions are necessary and appropriate we will short change our grandchildren.

The **“Inconvenient Truth”** is that our growing coastal erosion rates will not go away under current “least cost” sediment management practices. Our failure to take meaningful and significant actions to address this **“Inconvenient Truth”** through our inactions is no longer acceptable.

The only viable solution and meaningful intervention point to save our coasts and have any opportunity of stemming increasing coastal erosion rates on the table is the SW Washington Littoral Drift Restoration Project involving the sump option. No other option will put quantities of scale sufficient to address the problem with any degree of success. The time for study is over. The time for action is NOW.

This is not the first major warning CRCFA has delivered to the policy makers and the urgency is continuing to increase. Continuing to ignore the problem by following the OLD, cheap, dirty, wasteful spoils alternatives of the status quo without taking affirmative action to begin reversing over 100 years of consumptive sediment wasting of our precious irreplaceable coastal sediment supply is WRONG and an IRRESPONSIBLE choice that ignores the growing needs of our grandchildren. We can continue our selfish “ME NOW” choices or we can do what it takes to become RESPONSIBLE.

This “danger warning” that is stalking us all has to be faced by first recognizing we are in the beginning phase of a CRISIS that if we continue to ignore future generations will be over-whelmed by the extreme peril we are causing by refusing to connect the dots that are becoming glaringly obvious to even the “casual observer”, just take a drive from south Long Beach to North Head – the increasing erosion is so obvious the only way it can be ignored is if one refuses to even open ones eyes and acknowledge it.

Science also has an “Inconvenient Truth”

As our science gets more and more specialized the gap between the ever more refined science of narrowing sub-specialties that the majority of us have some difficulty making sense and translating into plain English easily also translates into uncertainties causing political paralysis which perpetuates the growing coastal erosion CRISIS while maintaining the “least cost” status quo. This sub-specialized science is then compounded by even more self-serving arguments of global warming and increasing rates of sea level rise further perpetuating the PROCESS as king and greatly diminishes legitimate peer-reviewed, outside scientific efforts in the end results in every action becoming a FONSI that is propped up by agency opinion resting on uncertain assertions as the gospel truth resulting in the dangerous path we have continued to follow for far too long.

One FACT is hard to dispute. Our coastline is beginning to starve for necessary sediment to maintain current positioning. Erosion rates are going to accelerate in the near future. To continue to ignore this increasing coastal sediment starvation is not only irresponsible, it is morally WRONG to allow erosion rates to accelerate to such rates that they become irreversible. The status quo sediment management will lead us all down the same tobacco road indefinitely into the future by always shaping doubt and confusion about the specialized science and extending the political paralysis of inappropriate non-action drawing of the FACT that politics does not advance well in the face of controversy exploited by fear of uncertainty.

Basing inaction on edited and confused science to maintain the “least cost” option has got to STOP.

“Inconvenient Truth”

This is not the first time CRCFA has challenged the established responsible parties to directly confront our coastal sediment starvation and change course to save the beach in the most ecologically sensitive and safety oriented alternative available – The SW Washington Littoral Drift Restoration Project can be at a scale able to make a measurable difference by utilizing direct beach/surf placement via the re-pump sump.

At the last meeting of Governor Locke’s Coastal Erosion Taskforce CRCFA warned of the eminent sediment starvation of the coast without a viable sand capture mechanism, considerably before the Littoral Drift was popular or championed by anyone.

Early in the search for a new dredge disposal site at the MCR we again pointed to viable sand capture mechanism at Benson Beach, which was quickly, and pre-maturely truncated as well beyond “least cost” with improper consideration or resulting consequences of lost ecological currency, safety of navigation, or coastal sediment starvation.

We did not give up; again and again we continued to support the Littoral Drift Project and many times helped educate state and federal legislators who responded with millions of dollars to begin moving the project to fruition. Somehow the allocations always seemed to disappear into the MCR black money hole, even once re-appearing as an upriver Locke repair, never to be re-allocated, just lost in the PROCESS.

CRCFA strongly represents coastal community values, which in the past always seem valueless to decisionmakers. Our ecological currency (Dungeness crab) always ends up under the spoils mounds without mitigation even though required. No one knows how much ecological currency has been destroyed, but we do know that 6 years after the last deposition at site B the site was still over 50% impaired for commercial production compared to surrounding non-spoils areas. In January 2007 of this year the 2nd circuit court ruled that EPA was in error allowing destruction of ecological currency by power plant intakes and that ecological currency **MUST BE PROTECTED** instead of reduced costs being allowed at the expense of fish kills. This ruling will have profound impacts on how dredging and disposal occur at the MCR and plans must begin to protect natural resources as required, business as usual will change sooner than later. These spoils mounds that have negative mortality impact to crab always seem to grow and grow until another small vessel navigator meets his maker and then and only for a while the mounding slows and even is re-dredged temporarily reducing the DANGER that was known all along, but only briefly does the mound subside. Coastal values have always been devalued and subordinated to **“least cost”**, a situation that must change.

This “danger warning” is stalking us all. We all have to begin seriously facing it, but first we have to face the denial and begin to face the CRISIS of an increasing coastal erosion PROBLEM that if we continue to ignore it will over-whelm future generations from irreversible consequences of our consumptive, selfish “Me Now” choices that will leave our grandchildren questioning our wisdom wondering why we ignored the warning signs and allowed our coasts to disappear placing them in extreme peril without so much as a second thought.

We must face these **“Inconvenient Truths”** with appropriate actions to negate increasing coastal erosion before our legacy of the future becomes a horrendous consequence that dwarfs what hurricane Katrina did to New Orleans as our coasts disappear unnecessarily. It is always easier and cheaper to

prevent destruction than contend with the aftermath, which we know is coming and can prevent with some affirmative direct action by placing sufficient sediment supply on the beach & in the littoral zone connected to the beach in quantities we can mechanically measure and track definitively not mathematically manipulate by theoretical hypothecations into scientific uncertainty and paralysis of action.

Oregon Department of State Lands
775 Summer St. NE
Suite 100
Salem, OR 97301

RE: Rules Governing Placement of Ocean Energy Conversion Devices Within the Territorial Sea

Attn: Louise Solidary Director Department of State Lands
Care of: Liz Bott

The Columbia River Crab Fisherman's Association is dedicated to preserving the economic vitality of fisheries off our coasts with emphasis on Dungeness crab and the fishing communities dependent on abundant sustainable ACCESS to resources for our communities.

We attended the initial Wave energy conference in Newport in 2006, attended local presentations of the wave park presentations by Oregon State University Sea Grant, met with WDFW officials and personally discussed the Finavera Makah Bay Wave Energy experimental park and sent FERC a notice of intervention into the Makah Bay FERC license proceedings; copy enclosed.

Cumulative impacts associated with ALL NEW USES of the ocean will dramatically and substantively impairs fisheries uses already in place within the requested area with a marked negative impact by adverse possession on Dungeness crab harvest by inclusion of NO FISHING NO TRANSIT ZONES. It is not just the initial wave energy experiment in its self; it is the continual assault of wave energy buoys, open ocean aquaculture, marine protected reserves, wind mills, dredge disposal sites, and who know what is next. Each one added will claim a FONSI, Finding Of No Significant Impact, and individually each only represents a small loss for the fisheries, but it is the cumulative effect in the end will DESTROY the ocean fisheries just as this state lost the majority of its salmon fishery one small inconsequential FONSI at a time until it was virtually gone.

OSU outreach showed that the projected use of wave energy buoys alone could exceed 545MW of power at numerous wave parks from one end of the coast to the other. If buoy sizes are in the 150 KW size there will be at least 35,000 electrical energy devices installed, all with bottom anchors, tethering lines, and electrical cords running all over the bottom making quite a clutter of the pristine ocean encountered today.

Many state crab fishermen will be negatively impacted not only by these wave energy pilot programs, but also, to a higher degree of impact by the full scale operations of many other proposed ocean intrusions. Development by non-fishing interests (Wave Energy in this case) into the ocean must not be allowed set a BAD precedent of impacting and displacing existing business without compensation. A wave energy park is in fact proposing a “TAKING” without reasonable compensation, as fishing grounds will no longer be available. Other companies (foreign and domestic) must not be allowed to trample existing businesses just because they think they can. The economic impact will be cumulatively larger than these initial pilot projects, so it is important that these impacts are dealt with in an appropriate manner, take existing conditions into proper account, and compensate for loss of ACCESS to ecosystem currency, no matter the seemingly insignificance of the project. It is the precedent setting event off Oregon that is the greater importance; significance of the cumulative impact will be enormous and irreversible once granted.

Many more will follow and the exclusionary “NO FISHING ZONES” have impacts to established businesses well beyond the exclusive zone by interrupting the normal flow of business. In most business, time is money. Wave parks not only represent loss of fishing grounds they will be “NO TRANSIT ZONES” which the fishing fleet will have to circumvent at a continuing additional cost of time, fuel, and general disruption of business as usual. The wave parks will break our crab pot strings into multiple strings forcing us to spend time (money) to transit around the wave park and spend time finding the end of the next string. This may seem trivial to those looking from the outside, but the impacts will soon begin to cost existing jobs that will multiply across the coastal community.

Hans Radke, Oregon State University economist, estimated that the loss of salmon businesses cost 25,000 family wage jobs in the Columbia Basin and half a billion dollars to the existing communities. This horrific job loss did not occur with the first pilot program. That job loss occurred over several years as cumulative impacts of dam building, water diversion, habitat degradation, and other impacts built up over the years. The same thing will happen in the ocean. Cumulative impacts will eventually cost lots of existing jobs as ecosystem currency is slowly eroded, bit by small bit without individually representing much as each is allowed to move forward.

The recent loss of coastal salmon jobs in Oregon and California from water diversions in the Klamath River to water inland crops had a magnitude loss which no one anticipated appropriately as the Klamath water diversions added up one small project at a time. This cumulative loss was recently funded by the federal government as a \$60,000,000 disaster relief package for only one year lost fishing opportunity. Yes, impacts do have consequences. Consequences that are seemingly small one at a time until the impact is tallied and found to be substantial way too late in the cumulative projects advancement to prevent them.

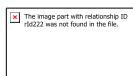
Why is it that fishing always pays and pays and pays until it is gone? It always happens one small seemingly insignificant, unreasoned decision at a time. Cumulative impacts are NEVER properly considered. Mitigation requirements are commonly ignored because as Finavera so aptly put it in their Makah Bay wave energy application by insinuating in their application our project is so small and the ocean is so vast, how can we possibly have any impact?

The tip of the iceberg is all that is visible now, the real consequence lies well in the future when the next generation is denied ACCESS to the vast ocean fisheries resources which will be OFF LIMITS and our Public Trust Doctrine lost one small FONSI at a time. The 545MW projection is based on today's projections, not realities of future demands that will increase as our population increases.

We have to find ways of dense packing these buoys, burying all transmission lines, making sure all buoys are properly lighted for safety, and especially compensating fisheries for loss of ecosystem currency. Area impacts must be minimized and situated out to the best fishing grounds for all fisheries.

Respectfully submitted,

Dale Beasley, CRCFA



Coalition of Coastal Fisheries

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Organizations

American Albacore
Fishermen Association

Bandon Submarine Cable
Council

Columbia River Crab
Fisherman's Association

Fishing Vessel Owner
Association

Grays Harbor Gillnetter's
Association

Ilwaco Charter Association

Puget Sound Crab Association

Purse Seine Vessels Owners
Association

Salmon For All

Washington Dungeness Crab
Fishermen's Association

Washington Trollers
Association

Western Fishboat Owners
Association

Westport Charterboat
Association

Willapa Bay Gillnetter's
Association

Willapa-Grays Harbor Oyster
Growers Association

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- **Intent** of the Washington legislature is to offer special marine water protections to only the four Pacific coastal zone fish/seafood dependent counties through ORMA from upland to 200 miles offshore. History also plays a major role in the legislative intent of a series of coastal legislations affecting the coast back to 2007 or further the original 1989 bill to Protect and Preserve Fishing and other existing preferred coastal uses. Recent Washington Coastal Marine ORMA legislation has become even more rigorous to **AVOID CONFLICT** and conditionally allow new use that produces **only MINIMAL ADVERSE IMPACTS** to Pacific coastal marine waters and existing uses to prevent large new marine water projects from disrupting and displacing existing use like the Burt Hamner Grays Harbor Ocean Energy (GHOE) project that is a different intent than any other Coastal Marine Planning Legislations in the nation that were legislated to install new use in the ocean by trading off existing uses. No tradeoffs, NO HARM to coastal communities in Washington – **Protect and Preserve Existing uses including fishing as the priority use of COASTAL marine waters.** The Plan and EIS need to better magnify this UNIQUE intent of the legislature to limit HARM to coastal communities so that it is crystal clear and easily understood by any potential new use arrivals. The large GHOE project prevention was the impetus of the legislation. HISTORY MATTERS.

- **Unanimous** ORMA Washington Supreme Court Decision affecting the Pacific coastal zone, only the four coastal counties, to preemptively protect and preserve fishing as well as reach as far as to prohibit harmful new use projects utilizing simple adverse impacts as the new higher protective standard for existing uses supports the AVOID CONFLICT directive to preemptively address the highest fatality rate of any occupation in the nation if the NW fisheries. The only Washington Supreme Court Decision relative to ORMA implementation and far reaching effect needs to be thoroughly reviewed and applied broadly to the Washington "Coastal" Marine Spatial Plan and EIS as the 9 justices' unanimous Decision is highly supportive of the legislative intent to preemptively stop HARM to coastal communities that does not have to be irreparable significant harm to be offered preemptive protection.

On watch serving the needs of coastal fishing industry and coastal fishing
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- **Unanimous** ORMA Washington Supreme Court Decision affecting the Pacific coastal zone, only the four coastal counties, to preemptively protect and preserve fishing as well as reach as far as to **prohibit harmful new use** projects utilizing simple adverse impacts as the new higher protective standard for existing uses supports the AVOID CONFLICT directive to preemptively address the highest fatality rate of any occupation in the nation if the NW fisheries. The only Washington Supreme Court Decision relative to ORMA implementation and far reaching effect needs to be thoroughly reviewed and applied broadly to the Washington “Coastal” Marine Spatial Plan and EIS as the 9 justices’ unanimous Decision is highly supportive of the legislative intent to preemptively stop HARM to coastal communities that does not have to be irreparable significant harm to be offered preemptive protection.
- **Pacific County** Commissioners request that the county SMP be included in the State/NOAA CZM certifications to better protect coastal citizens and fishing that has not been properly integrated into the CMSP as an existing authority as intended by the legislature. The Pacific County ocean regulations date back to 1997 and specifically omitted from CMZ certifications undermining and disrespecting the will and intent of the legislature and congress. The SMP update included serious curbs on new use to address new pressures on the coastal communities and to reduce excessive fatalities by initiating new use in specialized zones, areas for high intensity use only with minor exceptions. The EIS even fails to list the Coastal Jurisdictions SMP’s as local authorities that MUST be met as a part of the Plan.
- **Legislative history matters** to clarifying legislative intent and has been consistent since at least 2007 to protect and preserve coastal fishing communities from HARM (with special emphasis in fatality rates) and provide direct coastal input into coastal decisionmaking in all coastal bills passed by the legislature including SB 6350. The only coastal bill to fail, SB 5213 in 2007 was one that did not include coastal citizens in the decisionmaking process and was successfully opposed by CCF as a result of this omission further reflecting the intent of the legislature to protect and preserve fishing and water dependent coastal communities from HARM and provide the fish/water dependent communities a strong voice at the table in the outcomes associated with managing coastal waters of the 4 Pacific coast counties to result in NO HARM OUTCOMES to existing uses led by fishing. Washington is the only state to initiate Coastal Marine Spatial Planning to protect existing use including fishing as the primary intended outcome of the CMSP process. Dropping the C from CMSP in the Plan and EIS is offensive to the coast that is specifically protected by ORMA that only affects the four Pacific **coastal** counties. This is a **Coastal Marine Spatial Plan** and does not affect the other two marine areas in the legislation and this part of the states Marine Spatial Plan has added protections not available to the other areas in the state.
- **Executive Orders** – At least two executive orders should be incorporated specifically into the Washington Coastal Marine Spatial Plan/CZM certifications – 12898 and 13777 for full consideration in the mandated CZM state/NOAA certifications. 12898 gives low income coastal areas special protections similar to ORMA. 13777 mandates that all federal regulations and actions are reviewed in the long shadow of impacts to JOBS and that for every regulation that is added one needs to be removed. This aligns well with the mandate in the Washington CMSP law that dictates NO new regulations will result from the implementation of the CMSP process.
- **Basic defect** in the Washington Coastal Marine Spatial Plan is that a coastal needs assessment involving coastal citizens to inform decisionmaking utilizing evidence-based choices targeting the Big Picture of coastal needs was never accomplished so needs could not be directly addressed within the Plan. The John Kliem “Coastal Voices” report was buried and not utilized and did not specifically address All needs, but still had some valuable contributions that could have been much more closely addressed during the process.

- **Basic defect 2** – The Plan and EIS addresses “significant” adverse impacts of 1989 original ORMA to existing coastal uses and does not adequately address the much higher NO HARM standards to simply “avoid conflict” and “minimal adverse impact” found in the recent ORMA legislation which places a much higher standard on new use in coastal waters to protect the fisheries and more specifically address the insane fatality rate already occurring in the fisheries.
- **Basic defect 3** – the fate of the coastal fisheries that the legislature intended to protect and preserve is not secure in this draft CMSP where “process” alone that is inaccurately based on allowing up to additional significant impacts, not avoidance of impact to fish dependent communities is a serious defect that continually resets the baseline of cumulative adverse impacts already forcing the fishing industry toward bankruptcy from existing adverse impacts that are being ceremoniously ignored in this resetting of the impact baseline. Not acceptable, corrective action required. Continuing to ignore and continually resetting of the baseline impacts marginalizes the future of fishing on the coast and with it the entire economic stability of the coast which this draft Plan does and is totally unacceptable subverts the legislative intent and totally ignores the Washington Supreme Court interpretation of ORMA to preemptively protect and preserve existing use including fishing.
- **Basic defect 4 – NO needs assessment** was done to understand or act upon what the coast needed to occur in offshore of Washington to ensure the coastal communities’ wellbeing. Simple answer, rejuvenate the harvestable salmon to energize the coastal economy and add resiliency to make the coast great again. Salmon built the coast and the deplorable demographics of the coast occurred as harvestable salmon populations were allowed to deteriorate from suppression of production in the mitigation hatcheries that were built to make up for lost salmon spawning and rearing grounds that built the inland economy – It is all about JOBS, JOBS, JOBS, the JOBS that were discussed at the very 1st MRC Summit in Forks, not the number of hospital beds in Port Angeles or the number of carrots at the local Safeway that contributes to the wellbeing of a community. Salmon was KING on the coast in the past and Salmon can be KING again if the spatial access to the coast is still available when, not if, we get our harvestable salmon populations humming again especially salmon production in areas on the coast and west of Bonneville Dam on the Columbia River. We also need to rejuvenate as many miles of salmon streams as we can that are not adjacent to corrosive road runoff that is currently killing returning adult salmon before they can even spawn in the streams. No hatchery supplementation, no salmon for the future. Lesson here is that mitigation has been lost over time and needs to be increased significantly to address declining salmon populations.
- **Salmon recovery** key to coastal wellbeing needs to be sustainable with significant increased harvestable levels as a part of Washington CMPS is missing. As Domoic Acid threatens the major coastal use, Dungeness crab, alternatives to support coastal community economic stability and viability requires salmon recovery which will give added resiliency that needs to become a much more significant part of the Washington CMSP as indicated on pages 2 and 6 of SB 6350. Increasing harvestable salmon hatchery production will have positive impacts on the wellbeing of coastal communities and reduce the pressure to fish or go hungry in the dangerous midwinter Dungeness crab fishery reducing abysmal fatality rates in coastal fisheries by offering an alternative to participating at danger filled ragged edge of incoming midwinter storms. This response to the Plan would have been stronger and more fact filled if WDFW had honored their commitment to supply the materials in the CCF FOIA request of WDFW of last May 2017 relative to salmon. Working together to enhance salmon to strong harvest levels we can and **MUST make the coastal economy great again** through enhanced salmon production (both hatchery and natural spawning) that will contribute much needed coastal JOBS that will address the

deplorable coastal demographics that have deteriorated with the decline of salmon access in the coastal zone. Salmon can become infectious to coastal growth, stability, and economic viability like no other economic development can possibly accomplish. Please note that “monitoring” has not stopped the horrific loss of harvestable salmon on the coast that mitigation measures were designed to prevent JOB loss in fish dependent communities as preemptive mitigation measures of fully operational salmon hatcheries is being abandoned in the face of these massive declines that are going unmitigated and certainly not addressed by WDFW wild fish policy, a loser for fish dependent communities, just one more dismal failed policy led by the unproven HSRG theory that is failing people and costing JOBS that must be reviewed and revised under Executive Order 13777 to bring back the JOBS that have been lost due to this errant failed policy.

- **Draft CMSP** does far more than encourage the protection of existing uses enamored in the EIS, the Law demands that **Conflict be Avoided** and new use is conditional to only producing MINIMAL adverse impact to existing uses as much higher standard than the “significant” adverse impact listed in the EIS as well as standards to be placed much more prominently in the Fisheries Protective Standards in the Plan so that potential applicants understand up front that Washington Fisheries Protective Standards are much more protective than other states that have adopted a Coastal Marine Spatial Plan. The EIS focuses on Minimizing adverse impacts which is a mischaracterizes the legislative intent to AVOID CONFLICT and added emphasis was added by the Washington Supreme Court to Preemptively Protect and Preserve Fisheries which the newer ORMA legislation intended to do by introducing higher protective standards for all existing uses in just the four coastal county area. Review of the Supreme Court Decision and its application to the Plan and EIS needs to be fully integrated into the Plan and EIS.
- **Agency MSP cannot create new law**, but the Local Jurisdictions were mandated by the Legislature to update their Shoreline Master Programs which included the update of 1997 Pacific County SMP Ocean Section 6 that included a new adequate High Intensity Zoning Area specifically to protect existing industrial use (deep draft shipping and dredge disposal sites) and supply a new use location that will still need to obtain the required permits. See new SMP local maps for inclusion in the Washington Coastal Marine Spatial Plan that effects 32 of the 38 miles south of Westport that effectively addresses the legislative mandates in ORMA to avoid conflict with existing use and to only allow MINIMAL adverse impact to existing uses, the new standards in recent ORMA updates. The old standard of “significant adverse impact” has been replaced in the four counties affected by ORMA and the Plan and EIS has failed to make this adjustment and properly add accountability to the new higher standards (Avoid Conflict and only Minimal Adverse Impact replacing Avoid, Minimize, and Mitigate) as intended by the legislature in the CMSP ORMA legislations is sorely lacking in this draft Plan and associated EIS.
- **Crab Gear entanglement impacts** on communities in both the Plan and EIS are insufficiently portrayed by lumping this potential loss of any future fishing industry in Washington offshore waters which waters down the reality facing fishing by listing a real backbreaker of the fishing industry with marine debris and bird strikes by wind turbines. Deplorable presentation considering the dire consequence of potentially losing the Washington fishing industry completely.
- **Adequate Bonding** to ensure that failed or abandoned industrial facilities needs to be far better clarified to ensure that LLC bankruptcies do not leave the taxpayer on the hook for complete decommissioning expenses that need to be the complete responsibility of the industrial developer.
- **Ecological ISU’s set an AVOID standard to protect sensitive areas but** does not coordinate with coastal economic dependencies that the communities depend upon for their economic stability

and viability for which the SOC has failed to set adequate areas to avoid conflict existing uses leaving communities vulnerably unprotected by only an uncertain process that NEPA is not designed to adequately provide “certain” protective outcomes necessary to Avoid Conflict. Soft bottom which supplies over 90% of the fish tonnage necessary to maintain the fish dependent communities is devoid in the Plan or EIS and is a significant contributor to the wellbeing of the coast as an area to avoid leaving coastal fish dependent people extremely vulnerable to displacement, disruption, and ultimate failure of next generation fishermen.

- **Fisheries Protective Standards** are laudable, and this comment letter addresses this issue throughout. The Fishery Protective Standards miss the legislative intent to ensure that Conflict with existing fishing is Avoided, not just significant conflict avoided but **MUST** preemptively protect and preserve fishing from harm employing much higher minimal adverse impact standard before a project can proceed in the coastal marine waters. The Fisheries Protective Standard mischaracterizes and under protects the fisheries that the newer higher standards legislated in 2010 and after actually provide including outright prohibition directed by the only Supreme Court Decision ever issued to interpret and better define the legal implications of ORMA that must be fully address the broad protections of ORMA only offered to the four coastal county area marine waters and associated uplands covered by the coastal counties Shoreline Master Programs that have been inadequately incorporated into the Plan or EIS. The Supreme Court clarified that the agencies are not at liberty to alter existing laws of the state or counties, this includes ignoring them. Use of the term minimize in the fisheries protective standards could easily result in far more than minimal impact to fisheries the legislative intended as new standard of coastal protection especially considering the massive extent of new use in ocean energy required to extract even “minimal” amounts of available energy from offshore waters that was not shared with the public or the legislature in this draft Plan or EIS.
- **CZM state/NOAA certifications** – This Washington Coastal Marine Spatial Plan is not done until there is a successful and protective certification in place that adequately addresses the UNIQUE nature of the Washington Plan that has been put forward in the specialized ORMA law that is specific to the four coastal county areas with added protections not offered in the rest of the state or nation. The WCMAC, coastal local jurisdictions, MRC’s, and those most affected by this mandated integration of the Coastal Marine Spatial Plan fishing must remain fully engaged until the certifications accurately reflect the intent of the legislature to protect and preserve the existing uses including fishing that adequately address existing and future cumulative adverse impacts on the coastal communities not found any place else in the nation that the CMSP law intended to protect and preserve with added emphasis from the Washington Supreme Court to act preemptively to protect and preserve existing uses including fishing from reasonably foreseeable adverse impacts that will be difficult to achieve. This process is far from done, full engagement is still necessary. This Plan once complete is a living document that must not be put on the shelf and forgotten; it is to be used as intended to protect, stabilize, and preserve the economic viability of the coast by utilizing some of the added toolkit in the ORMA legislation that has not been addressed to date. **All aspects** above and more need to be better integrated into the outer coastal Washington CMSP to address and clarify legislative intent to protect and preserve existing sustainable uses including fishing from HARM in coastal marine waters of the outer coast from 0 – 200 miles offshore as directed by the legislature to Avoid Conflict and only allow minimal adverse impacts to existing uses including fishing as opposed to the more traditional process to avoid, minimize, and mitigate, mitigation that is never fully complete to issue new permits that almost always allow projects to move forward.

Thank you for the opportunity to present the Coalition of Coastal Fisheries and the Columbia River Crab Fisherman's Association to make recommendations for the continuation and improvements for managing the Washington Coastal Waters and how it will be incorporated from 0 – 200 miles offshore within the Washington Coastal Zone/NOAA Approved Certification Process. CCF/CRCFA acknowledges and appreciates the considerable work, time, and guidance by numerous individuals, groups, agencies, and legislators associated in producing a Washington Coastal Marine Spatial Plan and Programmatic EIS as an active participant in this project, colossal and challenging effort. Fishing is the existing coastal marine water user with the most to lose from initiation of any new use into extremely condensed available and valuable fishing grounds. This is quite honestly, uncharted territory in that Washington CMSP is UNIQUE in the nation with multiple federal obligations that NO other state in the nation must navigate; 70% of the coast is either Olympic National Marine Sanctuary and or under 1850's Stevens tribal treaty rights affecting most offshore waters with 50/50 fish sharing requirements found nowhere else in the nation, **disproportionately burdening** the Washington coastal fishing communities like NO other state in the nation as a cumulative adverse impact on coastal communities that is highly significant and not adequately put into proper perspective as such a large impact that new use may be completely incompatible with current existing uses of the coastal zone. Even minor additional tribulations could cause catastrophic, tragic consequences to current and future generations of fish dependent communities that are burdened by this adverse impact to the maximum extent pushing fishing extremely close to a major tipping point of no return. This is an extremely serious consequence that needs considerably more attention in a final draft EIS & Plan. The Plan does not present the "sensitivity" necessary to preemptively protect and preserve fishing as directed in the CMSP ORMA legislation.

Fishing MUST be directly at the table to ensure good faith deliberations to allow our unfiltered candid comments to help make better informed decisions to better protect those most affected by the Plan outcomes and to ensure **the intent of the Washington CMSP legislation that is UNIQUE in the nation is carried out to the full extent of the law and legislative intent**. This draft CMSP/EIS will translate into State/NOAA approved CZM program required by the legislature to be incorporated into CZM action for the benefit of national, state, and local coastal citizens' wellbeing. The legislature understood the importance and potential new effects of the not just the 0 – 3 miles offshore Washington but also the 3 – 200 mile federal exclusive economic zone to the coastal fish dependent communities of Western Washington and fully intended to ensure the economic viability and stability of these fish dependent communities well into the future as a high priority. Washington is UNIQUE in the nation in that Washington Coastal Marine Spatial Plan is built on top of the 1989 Ocean Resource Management Act with the express intent to "Protect and Preserve Fishing and other existing uses and only conditionally allow new use that first and foremost AVOIDS CONFLICT with existing uses, particularly high value fishing grounds and only allows MINIMAL adverse impacts from new use initiation in coastal waters of the four coastal counties that are expressly separated from the rest of the states' SMP's for **EXTRA PROTECTION. This extra protection is only offered by legislation to the four coastal counties most vulnerable, disadvantaged, and disproportionately burdened coastal water/fish dependent counties in Washington that will be disproportionately impacted by any additional onerous loss of fishing grounds**. High value fishing grounds in context of the Washington CMSP legislation means areas that the coastal fish dependent communities rely upon for their continued economic viability and stability not simply broken out by percentages of income or existing use in 25% increments as has been done by other state CMSP processes that did not have the primary outcome intended by the Washington legislature to Protect and Preserve existing use including fishing as the primary motivation of the CMSP legislation that

was a direct response to ensure that the Burt Hamner's Grays Harbor Ocean Energy style proposal, or other massive new use did not cause disruption or displacement of fishing in the marine waters of coastal the four coastal counties adjacent to the Pacific Coast covered by ORMA. These special protections are not given the necessary special deference the legislature intend by only including the four Pacific coastal counties. In reference to the upcoming additions to the state/NOAA CZM certifications the required integration of the state CMSP has already been suppressed to federal dominance and insufficient attention to UNIQUE details that the federal actions offshore Washington MUST be FULLY consistent with state and local authorities with only a couple of exceptions where adverse coastal effects can be easily demonstrated to effect natural resources or **use of those resources** that involves adverse impacts to fishing out to 200 miles from shore as intended by the Washington legislature. Adverse verses significant adverse impact is a very important distinction with added protection that needs to carry more weight in this upcoming CZM collaboration offshore Washington that is UNIQUE in the nation. Normal NEPA/SEPA processes sequence Avoid, Minimize, Mitigate; recent **ORMA legislation requires Avoid Conflict and only conditionally allows new use in coastal waters that has MINIMAL ADVERSE IMPACT to existing uses including fishing** which be definition precludes large industrial scale facilities in Washington Coastal Waters that by their very exclusive existence would more than impede existing uses that are especially vital to the future economic security of the coast south of Westport where heavy fishing effort transfers have concentrated fishing and as an example currently 85% of all crab harvest for the historical coastal crab fleet is now taken in the very precious very dependent area in less than 30% of the SW Washington coast; the only place that new use is known to be able to locate because of other federal obligations; sanctuary and tribal treaty U & A's. No other place on the Washington coast will have as much direct conflict competing for space to exist than the area south of Westport; Conflict that the legislature directed to AVOID, not minimize and mitigate but AVOID, a much higher protective standard in the law.

The History of the ORMA legislation and the intent of the legislature to ensure that CMSP history other state's that were willing to RISK coastal fishing did not repeat placing fishing at extreme RISK in Washington and was the primary impetus for the recent ORMA legislation with underlying intent to **DO NO HARM** to coastal fish dependent communities. The legislature put many legislative tools in place to accomplish that NO HARM standard that has been distorted but not completely abandoned by the CMSP process that did not fully understand this underlying NO HARM to fisheries intent, or simply disregarded or worse, defied the intent of the legislature. We prefer the use the "did not fully understand" rather than the defiance of the state legislature in order to give the agencies/council the benefit doubt of their wayward activities. Far too many have a huge misconception that there are limitless marine areas where displaced fishermen can go to earn a viable family wage and never examine or properly consider the cumulative effects of existing displacements led by the highly significant adverse impacts of the Rafeedie Decision that has taken 50% of all fish (income) away north of Westport on 70% of the Washington coast causing extreme fishing effort shift to the 38 miles of SW Washington offshore waters greatly reducing the individual fisherman's historical share of the fish pie contributing to the "significant" tipping point so pronounced for the next generation of high debt fishermen that currently have the least access to fish of any generation in history to service the largest debt in history and buffer against natural fluctuations in natural resource abundance. This Plan does not adequately address the **Significant HARM that has already occurred to the Washington fishing fleet that is UNIQUE in the nation** and found in NO other state that has enacted Coastal Marine Spatial Planning legislation. Any additional harm could easily lead to fisheries disaster because the fishing fleet is already at a tipping point that is not adequately addressed

in this Plan but recognized by the legislature when the Plan legislation was enacted with directions to Protect and Preserve fishing.

As long as the CMSP documents ignore the potential massiveness of the ocean energy FOOTPRINT required to produce any significant amount of energy and ignores the exorbitant costs associated with these new ocean energy uses any one reviewing the Washington Coastal Marine Spatial Plan and EIS is unburdened by FACTUAL REALITY that the ratepayer and taxpayer will ultimately shoulder untenable crushing debt as the existing coastal economy is flushed down the drain pushing more coastal citizens into deep poverty, lowering the median family income, and exacerbating the worst demographics in the state impinging on the DO NO HARM standard significantly. Not conjecture but FACT kept off the table during the CMSP process to prevent public outcry at the huge expense and massive loss of public access resulting in significantly diminished fishing grounds.

No proposed mitigation can alleviate deadly adverse impacts on particularly vulnerable coastal communities associated with any additional lost access to fishing grounds from introduction of exclusive new use on top of the Rafeedie impacts that are REAL and completely documentable in massive lost dollars in the fisheries putting excessive economic pressure on the fleet resulting in the highest fatality rate of any occupation in the nation in Dungeness crab in NW waters, at a rate twice as high as the now infamous Bering Sea King Crab Fishery sensationalized on national television, the Deadliest Catch. Fishing disturbances on the coast have already reached such a significant adverse cumulative impact the result is simply more fatal tragedy that is reasonably foreseeable on top of the significant fishing ground already in NO Fishing NO Income zones, tragedy reflected in the highest level of fatality in any occupation anywhere in the nation. This fatality rate increase is not conjecture or supposition it is current reality that is an effect of loss of access to natural resources that must be recognized and prevented from increasing that MUST be included in the Washington CZM state/NOAA certifications. The Fisheries Protective Standards must include methods to specifically address this miscarriage of justice that already plagues these coastal rural counties driving poor demographics further into the ditch. The Washington fisheries are currently soldering the entire marine water conscious burden of the nation for atrocities that occurred over 150 years ago when the Stevens Treaties were enacted and extended westward. PROTECTIVE ACTIONS are required to prevent any additional fatalities brought on by additional loss of any fishing grounds that are already highly compressed by the Rafeedie effects of the 50% loss of fish access. Minimizing additional adverse impacts is not enough protection, **Avoidance of Impact is essential** as intended by the legislature.

Ocean Zoning and directing new use to specific areas would be a far better way to direct potential new use in Washington coastal zone within the GLD to avoid conflict with existing uses or ecological function. Examination of the individual uses in the document are hard to discern. Uses that the coastal communities rely on heavily should be no new use zones or protections necessary for the coastal communities will not occur. Using the zoning concept is inappropriate on land to place an industrial development in a residential use area; in the coastal waters it would be inappropriate to locate an industrial facility in a high density marine vessel traffic area or a valuable fishing area. Pacific County addressed this by placing new use in a small explicitly dedicated industrial use areas where existing deepdraft shipping and ocean disposal activities were already well established and do not displace

recreational or commercial fishing except by only minimal adverse impacts that are part of the high intensity areas. Using process alone as found in this document is too easily manipulated and opaque a situation and similar to the Marxan mapping tool where the output that is desired can be decided by the input materials and not an open transparent process that the public or the legislature can follow easily to a realistic conclusion based on factual evidence presented.

In the Future, any BOEM or other **agency Taskforce** that may be established in relationship to leasing areas or establishing new use in the Washington Coastal Zone adjacent to the four ORMA covered counties **MUST include direct representatives of the coastal fishing industry** similar to the composition of the Washington Coastal Marine Spatial Plan to better protect and preserve, avoid conflict, and conditionally allow only minimal adverse impacts the coastal fish/water dependent communities as intended by the legislature by over a decade of protective coastal legislation involving a number of coastal protectionist bills. It is obvious that the legislative intent is to have everyone at a single table as equal collaborators and is self-evident in the legislation directed Washington Coastal Marine Advisory Council that is composed of agencies and primary coastal citizens including a heavy dose of 3 fisheries representatives; two commercial and one recreational. Past Federal/State Taskforce processes of other states have excluded this direct coastal citizen and fishing representation that is so necessary to accomplish the Washington legislative intent that has historically demanded DIRECT coastal citizen and fishing interests be directly at the decisionmaking table in multiple past legislative bills. HISTORY MATTERS. The Washington coastal situation is UNIQUE in the nation and demands this justified **EXTRA PROTECTION** not offered in other state/federal taskforce Coastal Marine Spatial Plan processes to ensure that the **DO NO HARM standard** is up front in any actions taken in the four coastal county area from 0 – 200 miles from shore as intended by the legislature and upheld UNANIMOUSLY by the Washington Supreme Court on January 12, 2017 to **PREEMPTIVELY Protect and Preserve Fish/water dependent coastal communities economic stability and viability from HARM that the legislature intended**. As early as 2007 the legislature enacted HB 2049 with the intent to specifically address **local** coastal challenges, provide for UNIQUE **local** solutions, and provide a direct voice for coastal citizens in future management and wellbeing of their **local** communities of the “outer” coast in waters MOST IMPORTANT to the **local** coastal fish dependent community. Also in 2007 SB 5213 (another ocean bill) failed to pass because the bill did not engage coastal people directly in the decisionmaking process, not that its underlying intent of developing an ocean stewardship policy and ethic that would have been good for the wellbeing of the Washington coastal communities. **The legislature has shown its intent to DIRECTLY involve coastal citizens including the fishing industry in the decisionmaking process** that has an effect on the wellbeing of the coastal fish/water dependent communities. To better understand the legislative intent to directly involve LOCAL citizens in the policy making and development of coastal activities one must read the original coastal oriented bills as introduced to the legislature to get a full understanding of the history and intent of the legislation, not just the resulting RCW’s or resulting WAC’s as put into regulation. CCF was at the forefront directly involved with the prime legislative sponsors and the legislature’s drafting attorneys behind the closed doors that drafted all this coastal specific marine water management legislation from its conception over all the bills for a decade or more. Consider, the only piece of ocean related legislation that failed to pass the legislature over the past decade did not directly include coastal citizens and fishing representatives in the bill as direct participants in the decisionmaking process. This is important historical information and context that has a direct bearing on the makeup of any coastal

decisionmaking body that effects the coastal zone that was placed into legislation that was supported by the Coalition of Coastal Fisheries with the express intent to Protect and Preserve seafood production and DO NO HARM to seafood producers on the coast underlying all coastal marine policy legislation. Historically any taskforce BOEM has been a part of has avoided FACA (Federal Advisory Committee Act) like the plague. In Washington, FACA MUST be triggered to allow those most affected by federal/state actions to be directly at the table as members of the committee in order to meet the legislative standards in setting up the WCMAC that placed everyone at the table as equal partners in the collaboration process.

Even though SB 5213 failed to pass for lack of directly involving coastal citizens and fishing interests directly at the table the legislative intent clearly stated in Section 7 to increase “**LOCAL**” review the state/NOAA CZM certifications, and I quote legislative intent in Section 7 (1) b, “Therefore, it is the intent of this section to direct a review of the state’s existing program and the submission of additional state and **local** government policies to the National Oceanic and Atmospheric Administration for inclusion in such a program and to direct that maximum state efforts be directed toward implementing the state’s role in federal consistency actions affecting the states coastal zone.” Quotes like this unequivocally and clearly lay out legislative intent found in the underlying Coastal Marine Waters Management bills that are not adequately on display in the state RCWs alone. SB 6350 directed that the final Washington Coastal Marine Spatial Plan be included in the state/NOAA CZM certifications and most certainly did not intend for ecology to refuse to place local authorities into the CZM certs or the Coastal Plan. In fact, the entire Coastal Marine Spatial Planning process was directed to rely exclusively on pertinent existing legislation including local authorities such as the Pacific County Shoreline Master Program that has contained an ocean management section since 1997, the only county in the state with management authority that currently supersedes existing ecology WACs in the coastal zone that is NOT adequately brought into this draft CMSP Plan. This needs correcting and full inclusion into the Plan before the final Plan is adopted. The state/NOAA CZM certification update should also include any other coastal SMP that is finished in the next few months as well. Several cities and Grays Harbor County are or have included an ocean section in their most recent SMP updates that have undergone considerable public input. In Pacific County over 50 public meetings/work sessions were held in conjunction with the most recent SMP update that modified and offered additional PROTECTION to fishing in coastal marine waters over the original protective standards which are not properly included in the Washington CMSP and improperly deleted from the state/NOAA CZM certification, a deletion that flew in the face of the legislative intent of multiple legislative bills over the last decade or more. CORRECTION NECESSARY in order to carry out the intent of the legislature and positively upheld by the Washington Supreme Court. This Programmatic EIS fails to even list the Existing Coastal Shoreline Management Act local authorities like Pacific County SMP as one of the set of regulations that would be triggered for any new use development in the coastal marine waters which puts on full display their misplaced bias that excludes the County SMP’s from those required to be addressed and illicitly omitted for about a decade from the state/NOAA CZM certifications – a serious breach of ethics that must be corrected ASAP as the coastal SMP’s not only provide more protection to coastal fish/water dependent communities, they supersede agency WAC’s which are the default if the SMP’s are not effectively in place, the Pacific County SMP has had an ocean section in place since 1997 that recent update MUST become CZM certified.

The Coalition of Coastal Fisheries represents thousands of local coastal community fishing families that depend 100% on access to sustainable local coastal fish and high value fishing grounds for their families' wellbeing and coastal businesses, and communities' economic sustenance that contributes to the overall wellbeing and economic health of the state and the nation.

By reference CCF/CRCFA includes all the multitude of presentations/correspondence, FOIA requests, and verbal communications and meeting interactions relevant to coastal issues affecting fishing in anyway and this Washington Coastal Marine Spatial Plan delivered including but not limited to the WCMAC/SOC, State and Federal agencies, Counties, SMP, LCSG, legislature, and congress over the course of the process leading up to and including this draft Washington Coastal Marine Spatial Plan dating back at least a decade or more that could have any bearing on the future of fishing resulting from execution of this Plan or Plan impacts now or in the future including the required CZM actions. This by reference is meant to be a broad brush of inclusiveness for the administrative record of the Washington CMSP process required to address reasonably foreseeable possible adverse impacts associated in any way with this or associated actions that may or may not be explicitly mentioned in this letter including effects of any actions to be taken in the future to adversely impact fishing.

All lists in this letter are meant to be all inclusive as well and not limited to just those specific items listed to ensure that this correspondence is excessively pigeonholed to these exclusive lists that we ran into time and again at the WCMAC meetings, especially surrounding the nomination of liaisons and particularly the past Grays Harbor PUD manager Rick Lovely that the agencies and some went to EXTREME and illicit lengths to exclude his expertise in the "coastal" renewable energy field that may have conflicted with some agencies ideology and shed necessary light on the subject in relationship to the Plan. Mr. Lovely's exclusion for WCMAC discussions obviously slanted the discussions to over exuberance for ocean energy that has been totally unwarranted and especially slanted in the presentation of ocean energy that was by legislation supposed to map areas for ocean energy that avoided impacts to fishing. **Corrective energy maps mandatory** to meet the express intent of the legislation so as not confuse or mislead the public and the legislature in the future.

CCF/CRCFA succinct opening comments:

Washington CMSP draft does not emphasize or accurately reflect the intent of the legislature's ORMA CMSP legislation that new use MUST avoid adverse impacts to fishing. This first public draft of CMSP overly reflects agency HOPE of installing new use in the ocean, does not adequately present reality of realistic potential area consumed by new use, ignores exorbitant cost/benefit lacking the public interest, placement of ocean energy, misplaces and underrepresents the legislative intent not only in the Washington CMSP legislation but also other coastal management legislation of the last decade or more:

PROTECT AND PRESERVE EXISTING USES INCLUDING FISHING, in marine waters of the coastal counties, Pacific, Grays Harbor, Jefferson, Clallam - deficient. The Fishing Protective Standards focus primarily on minimize adverse impacts, not AVOID CONFLICT as intended by the legislature. Senator Ranker, one of the prime sponsors of the Washington CMSP even attended one of the initial meetings of the original Coastal Marine Advisory Council meetings that was formed under ecology with the express message to Avoid Conflict – history and intent of the legislation matters and was emphasized by the Washington Supreme Court in their recent ORMA decision.

AVOID CONFLICT - existing use maps do not clearly portray areas to avoid for new use, particularly high value fishing areas as intended by the legislature. Energy maps are located in high value fishing areas, erroneously and do not portray the legislative intent to locate ocean energy in areas of MINIMAL ADVERSE IMPACT to existing uses including Fishing which may exist only outside of 125 fathoms in select areas of minimal existing use. CORRECTIVE ACTION REQUIRED.

MINIMAL CONFLICT/Adverse Impact areas with existing use is not portrayed adequately and in fact downplayed in the draft CMSP and does not adequately address the legislature's intended outcome of CMSP to Avoid Conflict.

MINIMIZE ADVERSE IMPACTS is over emphasized in the Fisheries Protective Standards that means a new use is permitted even though it may not Avoid Conflict or produce only Minimal Adverse Impact to fishing, and does not lead to any possibility of outright prohibition of a new use that potentially produces harmful impacts to fishing emphasized the under recent and only ORMA Supreme Court Decision.

WRONG OCEAN ENERGY MAP: The ocean energy placement in High Value Fishing Grounds flies in the face of the legislative intent to Avoid Conflict, and only produce Minimal Adverse Impact on Fishing. The intent of the legislature was to locate energy and other new uses in minimal impact areas, to protect and preserve existing use as the highest value in the CMSP mapping process in order to locate new use to be able to coexist in coastal waters without HARM to fishing. **CORRECTION NECESSARY**; the Marxan map of ocean energy potential location that has only MINIMAL ADVERSE IMPACT on fishing and other existing uses does NOT exist inside of 125 fathoms and needs to be the primary ocean energy map, not the existing map that is the best place for ocean energy location, but the one that does the very least HARM to existing uses including fishing as intended by the legislature. When the concept of Coastal Marine Spatial Planning was originally conceived at the legislature NO ONE knew just how highly used the coastal zone really was. Originally the untrained eye looking from shore saw what was perceived as vast stretches of the coastal zone readily adaptable to new use. Putting the multiple uses to MAPS has drastically changed that first blush view of the Coastal Zone to one of a very busy place with multiple overlapping existing uses making it quite difficult to even find a single place for new use expansion of even minimal extent to conditionally allow MINIMAL adverse impacts. The FACT that the Marxan mapping did not account for the value of an area to coastal community economic stability and viability with the Map presentations representing every use in the coastal marine waters being equal is an **automatic devaluation** of the most important coastal uses (fishing) that the legislature intended to protect and preserve. The legislature also understood that 70% of the Washington coast north of Pt. Chehalis was highly unlikely to house any significant ocean energy or other new use facility and that the Rafeedie Decision produced a tremendous amount of fishing effort shift to the 38 miles of coast south of Westport and that, that area was highly significant to supporting the coastal fish/water coastal economy. The Marxan mapping of ocean energy does not capture the intent of the legislation for new use including ocean energy to be located in areas of the coast that AVOIDS CONFLICT and only produces MINIMAL ADVERSE IMPACT on fishing and other existing uses in order to PROTECT AND PRESERVE FISHING, and the stability and economic viability of the coastal fish/water dependent communities in the four Pacific coastal counties that were specific and unique for ADDED PROTECTION in the state ORMA legislation as intended. In the maps there are about fourteen different uses indicated on the Marxan Maps but there is NO clarification of what those 14 individual uses are or how they relate directly or

indirectly to the four coastal counties wellbeing the legislature offered special attention for protection and preservation. These individual uses should be listed and their relevancy to the Stability and economic Viability of the four coastal counties reliance upon them for their economic success. Obviously, the Dungeness crab fishery for example looms much larger in its coastal economic contribution than to walk the dog on the beach to the coastal wellbeing.

Fishing was denied the opportunity to designate areas of high value to fishing during the Washington CMSP process even though the WCMAC authorized Sea Grant to do just that and sent packing by Command/Control edict by a single entity, WDFW without consult to the WCMAC that authorized the fishery mapping. Contrary, ocean energy received preferential mapping in high value fishing areas which was not the legislative intent. This was contrary to legislative intent listed above where new use was to be mapped in areas of MINIMAL CONFLICT and MINIMAL ADVERSE IMPACT areas which has not been done potentially slanting the table toward initiating ocean energy in high value fishing areas and certainly sends the WRONG message to the public as to where the legislature intended to locate new use in coastal marine waters. **Correction necessary.**

The energy maps in the Plan certainly will lend to misinterpretations as to where energy is best located offshore Washington to AVOID CONFLICT and produce only MINIMAL ADVERSE IMPACTS to FISHING in the future and lead to protracted and unnecessary legal battles similar to those being encountered on the east coast when an entity applies for an ocean energy or other new use lease from BOEM in federal waters sometime in the future which could be 25 or 30 years or more from the production of this Washington Plan.

The Washington Coastal Marine Spatial draft Plan needs a serious redraft to far better and directly reflect the legislative intent which is identified in many lines throughout the three legislations; 6350, 6263, and 5603 which contains many tools to ensure fishing is adequately protect and preserved which are not clearly self-evident in the Plan. The Plan is never identified as UNIQUE in the nation, designed to protect and preserve existing use including fishing from disruption and displacement by new use in coastal marine waters as its PRIMARY OUTCOME. It should also be made clear that ORMA was specifically intended by the legislature to provide special protection for the four coastal counties' marine waters not offered in other areas of the state, Pacific, Grays Harbor, Jefferson, and Clallam Pacific marine waters. The Plan also neglects the Washington Supreme Court 12 January Unanimous Decision that instructs agencies that certain adverse impacts by new use can be outright PRIHIBITED and that ORMA was designed to PREEMPTIVELY STOP more than MINIMAL ADVERSE IMPACTS to existing coastal uses, including fishing. ORMA, especially the last 3 legislative additions in 2010, 2012, and 2013 were specific to Avoid Conflict, allow only MINIMAL ADVERSE IMPACTS, as opposed to the original 1989 ORMA legislation that called out "Significant" adverse impacts to coastal uses; a much higher standard of protection for fisheries is now in effect than in the original 1989 version of ORMA. In the last three additions to ORMA the legislature recognized the huge intolerable impact on fishing of the Rafeedie Decision and the legislature took several steps to ensure no additional damage occurred to the coastal fishing communities by placing some pretty serious protections in place that go well beyond minimize impact to fishing, in fact as mentioned numerous time before: 1. Avoid Conflict with fishing, 2. Allow only MINIMAL impacts to fishing, a huge increase in protection from the 1989 Significant adverse impact standard, and 3. make new use conditional to the Avoid Conflict and only minimal adverse impact to fishing allowed to occur and the Supreme Court added the fact that if Conflict and Adverse Impacts that the fishing fleet has shown are reasonably foreseeable, especially to next generation high debt fishermen

then the fishery protective standard is to PROHIBIT the new use from occurring, especially in high value fishing areas that the coastal fish dependent communities depend upon for their economic stability and viability. Currently the Fishery Protective Standards are too subjective and not clear enough to honestly protect the fisheries from serious HARM that is reasonably foreseeable depending on the location of the new use in the area of crab gear movement that is UNIQUE in the nation with the Highest Mass Weather Index in the nation outside of Alaska exceeding 130 on a relative scale with San Diego a 10. NEPA/SEPA Process alone fails to stop new projects 95% of the time. There is strong reasons why fixed gear inside of the crab gear movement zone should be OUTRIGHT PROHIBITED inside 45 fathoms as the primary Fisheries Protective Standard. The responsible action on the **Marxan maps must have the 45 fathom curve etched into each map** to better delineate where maximum protection is enforced by the Fishery Protective Standards.

Ocean Energy Costs: the public has the right to know the probable dollar impact to them; who is going to have to pay and how much. Ocean energy is insanely expensive, and the public has a right to know before they receive the excessive bill that has far cheaper alternatives on land not adequately addressed in this Plan. Rhode Island Block Island wind turbine complex cost approximately \$150,000/household served. Principle Power Coos Bay wind turbine complex would have cost approximately \$225,000/household served. These types of costs are not in the public's best interest and the public and the legislature has a RIGHT to KNOW up front before a significant amount of time, energy, and public dollars are spent on projects destined to fail for lack of an **affordable Power Purchase Agreement, the ultimate failure point** in the Principle Power project at Coos Bay. This draft Plan has neglected this type of very important information that the public and the legislature needs to know to make informed decisions relative to future public investments in offshore vs. land based renewable energy which is cheaper by at least an order of magnitude. CCF requested this information be made available and presented the Tacoma Power and Light analysis of the Tacoma Narrows Current Turbine Analysis as an example of what information could have and should have been developed during the Washington CMSP process so a better understanding of the very high costs could have been readily available to anyone reviewing the Washington CMSP and EIS. The current turbine project analysis was determined to be uneconomical with negative cost/benefits requiring HUGE public subsidies from the taxpayer and ratepayer to even be built let alone maintained. This information and request was totally ignored, no suppressed by the SOC. The dollars allocated by the legislature was instead spent on a surf smelt survey (cost approximately \$500,000) that produced totally irrelevant information to making informed decisions relative to placing any new use in the Washington Coastal Marine Planning area that will never be used in any way to inform the location of any new use on the Washington coast. In two years of sampling the beaches of the coast, not one surf smelt egg was detected south of Pt. Grenville area to the Columbia River, where new use could be expected to be located, if at all. Any review of existing WDFW surf smelt required grain size of the sediments on the Washington coast would have exposed the outcome fully predictable outcome without spending the half million dollars which should have been spent on acquiring new economic data similar to the Gunnar Knapp Bristol Bay Economic Salmon Study that CCF requested to better describe coastal economic production well beyond existing data that fell far short of the real value of the coastal fisheries to the local coastal communities, state and nation.

Ocean Energy Area Consumption: Prohibitively area consumptive: Oregon examples: OPT power buoys 2400 square miles – Principle Power floating wind turbines 520 square miles, compared to Pacific County land mass of 939 square miles or the area south of Westport and out 15 miles at 570 square miles – both

preposterous area consumed for minimal energy to equal just 1 Bonneville Dam yearly energy output potential. **The public and the legislature has a right to know before these preposterously expensive proposals are off the drawing boards at ratepayer and taxpayer expense.** The Principle Power 30 MG proposed facility failed even after receiving a \$51 million grant from the federal government, failed for lack of a viable Power Purchase Agreement and NO reasonable method of ever paying for the extravagant high cost/low energy benefit project during its expected lifetime.

ORMA CMSP legislation was put forward to STOP exclusive consumption of marine waters by new use that had more than minimal adverse impacts to fishing. This fact was specifically called out by the ecology attorney at the October 2016 hearing at the Supreme Court review of the Grays Harbor Crude by Rail Terminal expansion who stated correctly that ORMA was designed to STOP projects; he got it RIGHT. The legislation does distinctly allow projects that potentially have adverse impacts to existing uses to be prohibited as called out in the Supreme Court Decision and not reflected in the Plan. Minimize impacts seems to be the overriding emphasis to the draft Plan; **Avoid Conflict and Minimal Impacts are shortchanged in the draft Plan.** There are NO thresholds established that would lead directly to Prohibition of a new use. The entire outcome of initiating a new project is left totally to discretion of agencies process which in the ORMA Grays Harbor Oil Terminal case were clearly deficient and ORMA was ignored, no, in fact suppressed by ecology.

These succinct comments were discussed with prime legislative sponsors of the CMSP legislation during this open public comment period for accuracy before sending in these comments. **Please note: Washington Supreme Court on 12 January 2017 directed ecology to ascertain the legislative intent of the ORMA legislation and carry out the intent of the legislature.** Listed above in the succinct comments is the SOC underlying responsibility. **This draft CMSP does not clearly carry out the legislative intent or the Supreme Court precedent setting case directives relative to ORMA.** This Washington CMSP and EIS needs some serious revision to fulfill the legislative intent to Protect and Preserve Fishing, Map existing use, establish “if” there is a viable NO Conflict zone available for new use like but not limited to, ocean energy, nearshore disposal sites, or other new use in some area offshore the Washington coast that has only MINIMAL ADVERSE IMPACT on fishing that AVOIDS HIGH VALUE FISHING GROUNDS and unique ecological areas. The SOC does not exercise due diligence in its duty to fulfill the legislative intent by eliminating local Shoreline Master Programs in the State/NOAA CZM Certifications. The legislature gave specific instructions that new regulations were not to be created in the Washington Coastal Marine Spatial Plan but that existing legislation was to be utilized, not selectively omitted as is currently being done in the CZM certifications. The exception to no new legislation was the fact that the legislature mandated Shoreline Master Programs be updated and the counties and cities on the coast in the 4 county area have either updated or are in the process of updating and including ocean sections in their SMP’s that must be included not only in the Plan but also the CZM state/NOAA CZM certifications when they become available. The current rush of the USACE is an illegitimate attempt to skirt this process since they also ensured no new scientific information in the summer of 2017 for failure to transfer funding from the USACE to NOAA so that any information could be collected at the North Head Site – intentional omission to delay to get a new start request is questionable skirting of the law and should be withheld until the science is complete and informed decisions can be made to move forward or not..

The basic problem is that if Washington CMSP does not correctly interpret the legislation and fails to correctly identify valuable fishing areas to avoid conflict the outcomes will be inconclusive and difficult to discern in this draft report. Washington CMSP is UNIQUE in the nation. Washington has the only

CMSP in the nation legislated to specifically protect and preserve existing use, fishing. All other CMSP legislation from Rhode Island to Oregon was enacted to install new use in marine waters through tradeoffs. Washington's was not, it was to protect fishing, and allow new use that did not conflict with fishing. This draft does not adequately fulfill that legislative intent with any degree of clarity to ensure that the intent is met in the future, which may be for 20 or 30 years in the future when no one is left to clarify the intent of the legislation. The Washington Plan must be clarified to reflect the legislative intent.

Washington CMSP draft does not emphasize in fact inaccurately reflects the intent of the legislature's most recent ORMA CMSP legislation to Protect and Preserve Fishing, **Avoid Conflict** with Fishing, and only conditionally allow new use that has **MINIMAL ADVERSE IMPACT** on Fishing: New use in coastal waters between 0 - 200 miles offshore is a **CONDITIONAL USE** that **MUST** meet these very significant and stringent ORMA requirements **NOT** the historical way to make projects happen by simple recommending ways to avoid and minimize significant adverse impacts and then applying mitigation that is never adequate to replace the losses known to occur. Newer ORMA legislation has much higher protective standards than historically that allowed projects to happen 95% of the time by applying conditioned ineffective mitigation that over 60% of the time never was enforced to be completed and HARM marched on unabated. The new standards are in place to **AVOID HARM** in the first place by requiring **NO NET LOSS** of ecological function. **CORRECTIVE ACTION REQUIRED.**

Practical application of ecosystem management almost always neglects the human element, and that new use will have the potential for extra significant, far beyond minimal adverse impact disruption and displacement of fishing that already has cumulative adverse impacts of lost fishing grounds that is the largest in the nation outside of the Western Pacific territories marine reserved where fishing is prohibited. The typical BOEM energy lease in US coastal waters almost, without exception is wherever the energy company requests it to be and of a size larger than requested. By not addressing specific area and size of the potential lease the project will cause undue harm and undoubtedly end up in valuable fishing grounds with significant adverse impacts. The Plan and EIS fails to locate any area whatsoever that could produce minimal adverse impact to fishing within the Plan which has been almost completely devalued to the stability and viability of the coastal communities through the Marxan mapping method that has placed equal value to all offshore uses – again valuing the crab fishery equal to walking the dog on the beach even when the Plan recognizes SW Washington as housing the 4th most fish dependent community in the nation.

Significant has taken on more specific meaning in recent court cases. The coal terminal case in Whatcom County valued significant adverse impact as a loss of 5 – 7% or less. This measure of significance did not however factor in any associated cumulative loss to the fisheries from existing adverse impacts. **At some point in cumulative impacts additional adverse impacts cross a threshold where the new use MUST be told NO! CCF strongly believes that Significant Adverse Cumulative Impact threshold exists offshore Washington where the Adverse Impact of the Rafeedie Decision has already issued a cumulative impact of a full loss of 50% of fishing revenues on a very significant 70% of the coast of Washington that is already occurring and not found in any other state in the nation.** The Marxan mapping even though flawed provides some measure of significance that can be measured. Not all fishing ground is created equal, some areas are of much higher value to fishing than others depending on community dependency that is not properly presented in the Marxan maps. Some valuable fishing areas produce a magnitude or more per square mile than others ranging down toward zero community dependency use to fishing, depending on the specific fishery. Example: in recent years according to WDFW data the coast

can be divided into four basic regions for the crab fishery moving down by one third at each division according to the use that the area received based on effort, only one measure of community dependency:

- | | | |
|---|------------------------------|----------|
| 1. Oregon border to Klipsan Beach | 2300 pots/mile + Oregon pots | 13 miles |
| 2. Klipsan Beach to Pt. Chehalis | 1000 pots/mile | |
| 25 miles | | |
| 3. Pt. Chehalis to Pt. Grenville | 375 pots/mile + tribal pots | |
| ?25 miles | | |
| 4. Pt. Grenville to the Canadian border | 75 pots/mile + tribal pots | ?77 |
| miles | | |

85% of the crab production of the Washington crab fleet is from the 38 miles south of Pt. Chehalis and only 15% is produced from 102 miles of the north coast due to the adverse impacts and huge fishing effort transfer as a result of the fleet reacting to loss of high value fishing grounds in tribal U & A's slicing the fish pie much thinner for the individual family fisherman south of Westport where the fishing grounds north of Westport have lost 50% of the harvestable fish – SIGNIFICANT ADVERSE IMPACT already exist to fishing on the Washington coast found NOWHERE else in the nation – SIGNIFICANT VERY VERY SIGNIFICANT loss of area before any additional loss of fishing grounds occurs. In some years when the state crab season is split at Klipsan Beach by area and date like will be the case in the 2017/18 season 50% or more of the Washington crab fleet will fish in just 13 miles of coast south of Klipsan Beach increasing the insane pressure for the fleet to fish in weather that is getting all too often imprudent and significantly raising the potential for additional fishing fatalities to occur as the fleet competes for the available crab. The FISH or GO HUNGARY pressure is exceeding prudent limits of the small vessel fleet to INSANE levels that is not part of the Marxan mapping exercise, in fact no way to put value on the pressure assumed by individual fishermen and their individual financial pressure to produce over 50% of their income for the year in just 7 – 12 days of fishing at the start of the crab season in a very dangerous mid-winter crab fishery with external pressures and cumulative impacts that have pushed the highest fatality rate into Dungeness crab of any occupation in the nation at 468/100,000. **How does anyone in all honestly overlook and refuse to evaluate that existing highly significant cumulative adverse impacts to the crab fleet to warrant any more adverse impact to occur at all to the condensed crab fishery on the Washington coast that is not measured in economic viability or stability but by the highest fatality rate of any occupation in the nation – the HEIGHT OF SIGNIFICANCE measured in fatalities already forced on the fishery by loss of fish access resulting from the federal obligations to treaty tribes and the Rafeedie Decision that has produced the WORST POSSIBLE UNINTENDED CONSEQUENCE IMAGINABLE – EXTREMELY HIGH FATALITIES. The implementation of the Washington Coastal Marine Spatial Plan MUST ensure that there is ZERO TAKE OF FISHERMEN as a result of this Plan or the rest does not matter.**

**SIGNIFICANT EXISTING ADVERSE IMPACTS ARE ALREADY DEADLY
ANY ADDITIONAL ADVERSE IMPACTS TO THE CRAB FLEET WOULD BE
INHUMANE BEYOND INSANITY
VALUE IS CURRENTLY MEASURE BY FATALITY RATE**

THE WORST POSSIBLE DEMOGRAPHIC MEASURE OF COASTAL
WELLBEING

ANY ADDITIONAL LOSS OF FISHING GROUNDS WOULD BE

HEARTLESS AND CRUEL

DEVASTATING TO FISH DEPENDENT FAMILIES

AND STRIKE AT THE HEART OF FISH DEPENDENT COMMUNITIES

SUFFERING FROM EXISTING DEADLY CUMULATIVE IMPACTS ALREADY

THE LEGISLATURE UNDERSTOOD THIS SITUATION WHEN

AVOID IMPACTS WAS PLACED IN RECENT ORMA LAW

DEATH OF THE FAMILY BREADWINNER IS NOT ABLE TO BE

MITIGATED

CORRECTIVE ACTION NECESSARY IN THIS CMSP

PROTECT AND PRESERVE

NO ADDITIONAL PRESSURE

NO ADDITIONAL LOST FISHING GROUNDS

TO

FISH OR GO HUNGRY = INCREASED FATALITY

REASONABLY FORESEEABLE EFFECT

Cumulative adverse impacts matter, existing loss of access to fish has already crossed the **HIGHLY SIGNIFICANT IMPACT THRESHOLD** on the Washington coast. Continually resetting the impact threshold and ignoring the wellbeing of the coastal communities is simply **WRONG!** This draft Plan and EIS misses, no totally ignores this most important metric and places the outcome of a misplaced evaluation process

into action potentially increasing coastal fish dependent community devastation and increased fatality rates. Additional pressure on the insanity already in the dangerous crab fishery is totally unwarranted and contrary to the legislative intent of the ORMA legislation. The legislature got it RIGHT when they included AVOID CONFLICT with existing uses, this CMSP draft team got it WRONG when they over focus on process and fail to honestly examine the BIG PICTURE of community need – NO MORE INDUCED INCREASE IN FATALITY RATE BY ALLOWING REMOVAL OF ANY ADDITIONAL FISHING GROUNDS FROM PRODUCTION INCREASING THE EXISTING INSANITY TO FISH OR GO HUNGARY IS WARRENTED UNDER ANY MEASURE. CONTINUING TO IGNORE THE POTENTIAL TO INCREASE FATALITIES WHICH HAVE BEEN AT THE HIGHEST RATE OF ANY OCCUPATION IN THE NATION IS GROSS NEGLIGENCE AND DELEITION OF BASIC GOVERNMENT RESPONSIBILITY TO KEEP THE CITIZENS SAFE, ESPECIALLY WHEN THE FATALITY STATISTICS SPEAK SO PROFOUNDLY, AND THE REASON IS EASILY IDENTIFIED AS CONTINUAL LOSS OF ACCESS TO FISH ACROSS THE BORAD, NOT JUST IN DUNGENESS CRAB. The wild salmon policy being pushed to WFWC is also culpable to this insensitivity to this horrendous outcome of continually squeezing the lifeblood out of our state fisheries reflected in fatalities.

Valuing fishing grounds can be done in many ways, and it is a year to year event as the highest value crab grounds are quite different from year to year making the determination of significance more challenging. The number of pots/mile above is an average of 3 years of pot data. Strictly using crab landings by pot masks this dramatic difference in where the crab were caught and the value of the grounds to the fishing industry. The landings from the Klipsan south area are divided into multiple ports of landing including as far north as Westport which has a considerable impact on the southern Washington ports similar to the loss of crab to the area north of Westport to the tribes so evaluating the value of the significance south of Pt. Grenville is next to impossible, but one thing is certain, the cumulative impact to the coastal crab fleet is highly significant and the cumulative pain to the economic viability can certainly be labeled significant without any additional loss of crab access that is sure to come as a result of new use that will have an additional significant impact on the coastal fish dependent communities anywhere inside of 100 fathoms of water. If the baseline of significance is always assessed to the next action cumulative impacts will never be considered. It is obvious that this CMSP evaluation of adverse impacts to fishing is a reset to zero in this process and the horrendous loss of fishing access that has amounted to over \$160 million loss in just the crab fishery alone is totally unacceptable as it continues to drive the insanity of FISH OR GO HUNGRAY into the last honestly viable fishery on the Washington coast capable of supporting coastal fishing ports that require tonnage across the docks to maintain side channels into ports which places both commercial and recreational access to coastal waters in severe jeopardy with total destruction of the fish dependent communities at stake – reasonably foreseeable effect of any more than minimal impact that does not avoid conflict with existing fisheries, the dominos are already falling; we must find a way in this CMSP process to stop the fall of fishing on the coast which is the primary intent of the recent ORMA legislation, not forcing additional loss of fish access on the coast through a CMSP process that was utilized in other state processes that do not have the existing cumulative impacts to fishing found on the Washington coast, the only place in the nation placed under severe economic duress by loss of 50% of the harvestable fish on 70% of the Washington coast – SIGNIFICANT VERY VERY SIGNIFICANT.

Commercial and Recreational Fisheries in the United States are vital economic drivers to coastal communities' stability and vitality across the nation. SW Washington houses the 4th most fish dependent community and the 10th most productive seafood landing port in the nation based on recent NOAA Fisheries data. This is only one of the many UNIQUE aspects of the Washington coast that makes CZMA

outcomes different in Washington from any other coastal area in the nation. **Fish ACCESS MATTERS** here to fish/water dependent communities more than ANY OTHER area of the nation and has been excessively tempered by cumulative existing UNIQUE federal obligations including tribes treaties with offshore fishing rights that are only found in Northwest waters that has **major existing significant adverse cumulative impacts** on Washington coastal fishing communities where federal treaties require 50/50 sharing of all fish on 70% of the Washington coast found NO where else in the nation – REPEAT - UNIQUE situation that needs a UNIQUE quality incorporated into the Washington CMSP that makes the final outcome of Washington CMSP UNIQUE in the nation requiring the highest degree of PROTECTION of state fisheries in the nation which is not adequately evident in this draft. This tribal treaty requirement adds a **tremendous existing cumulative SIGNIFICANT adverse effect** when added with the fact that 60% of the Washington coast is in the Olympic National Marine Sanctuary (no BOEM energy leases in the OCS within sanctuary boundaries), causing fishing to collide with excessive potential CONFLICT with new energy or other new uses condensed to only the southern 38 miles of the Washington coast. This extreme condensation of potential CONFLICT is not adequately highlighted in the CMSP document or associated EIS. The Washington Coastal Marine Spatial Planning legislation was enacted 1st in 2010 for the primary purpose to first and foremost to **“Protect and Preserve Existing Sustainable Uses including fishing”** as a 1st priority and new use in coastal waters was to AVOID CONFLICT with existing uses, particularly high value fishing areas with clear language and intent in the CMSP legislation. This legislative mandate is real murky in the draft Washington CMSP document and certainly not clear enough for potential new use applicants to understand the very high bar set by the legislature to **AVOID CONFLICT** with only **“minimal adverse impact”** to existing use and that it was the new use responsibility to **AVOID CONFLICT**. The most recent ORMA/CMSP legislation set a much higher bar of for fisheries protection, **MINIMAL IMPACT** compared to the original 1989 ORMA oil spill legislation that required a “significant” adverse impact to trigger protections for the fisheries. The more recent Costco Busan oil spill in San Francisco Bay has had numerous scientific studies associated with the effects of oil spill on coastal natural resources that have shown multiples of NO herring spawning in any area affected by the oil spill. The research also shows extreme birth defects in juvenile herring associated with spills. The Washington Coastal Marine Spatial Plan ignores public input throughout the CMSP process that identified the fact that oil spills have negative adverse impacts to fish dependent communities and that the Plan MUST include all possible avenues of oil spill prevent which is missing in the Plan. During the Plan process CCF listed a number of scientific studies showing the deleterious impacts to fish and especially salmon one of the historical mainstays of the coastal fish dependent communities. Fishing, the public, and the environment will pay the price of an oil spill for far too long and is just one more reasonably foreseeable cumulative adverse impact that the coastal communities will be forced to endure. The Plan needs to address situation now, not after the fact of an oil/chemical spill that degrades the natural environment and negatively impacts the coastal peoples’ wellbeing. The legislature intended to get an oil spill study of the Columbia River to decrease any spill potential from foreseeable impacts of billions of additional gallons of crude oil crossing the bar. The study punted and did not address any method of reducing the spill potential at the most critical juncture where the mighty Columbia collides and amplifies the waves dramatically increasing the potential for a spill significantly. The Fisheries Protective Standards in the Plan MUST include active escort tugs now to improve the prevention of an oil spill at the Mouth of the Columbia River which can easily be emphasized by the Millicoma oil barge hitting North Head in recent history through the parting of a tow cable; a potential defect in the plan that does not even mention a parted tow cable as a concern. Always delaying positive actions that are known to reduce a catastrophic spill is simply irresponsible, spill prevention must become a serious Fisheries Protective Standard that allows existing use, fishing to continue unimpeded as

the legislature intended. This is one area that the Plan cannot prohibit oil transport on the Columbia since the river is a shared river with Oregon and Oregon does not prohibit crude from transiting the river; however every drop of oil that transits the MCR crosses 100% in Washington waters and should become susceptible to increased prevention strategies that should be a part of the Plan.

Today, in a rush to install offshore floating wind in offshore waters the THREAT of an oil spill is not even an afterthought. The huge transformers at offshore wind facilities contain as much as 200,000 gallons of oil where it is subject to severe winter storms that could cause a catastrophe if a spill occurs. As offshore wind approaches fruition we MUST ensure that these oil laden facilities produce a “Oil Spill Response Plans” capable of preventing damages to juvenile fish anywhere an oil spill occurs which will be extremely impractical to recover. <https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/Appendix-I-D-Draft-Oil-Spill-Response-Plan.pdf> Prevention of an oil spill is still the best option available, not oil spill response. We witnessed how totally ineffective oil spill recovery is in the Gulf of Mexico when the Deepwater Horizon oil rig exploded sending oil spewing into the Gulf. We never have developed an understanding of the potential HARM oil dispersant chemicals dispensed by the boat load affected the marine ecosystems even after BP supplied many billions of dollars in retribution of the massive spill. Once an oil spill occurs dealing with the fallout is worse than attempting to put toothpaste back in the emptied tube.

The Rafeedie Decision relative to tribal treaties has caused SIGNIFICANT ADVERSE and CUMULATIVE IMPACTS to fishing on the Washington coast especially realized in the Dungeness Crab Fishery that is NOT adequately addressed and emphasized in the draft Plan that makes the Washington coastal fishery UNIQUE in the nation where additional protections for the fisheries MUST be afforded in order to meet the legislative intent to Protect and Preserve the fishery:

1. Substantial loss of crab season on 91% of the Washington coast for state licensed fishermen, 45 to 50 days and up to 85 days north of Destruction Island for the significant portion of the fleet that fish south of the Klipsan Line that opens with the rest of the California and Oregon coasts under Tristate fisheries agreement protocols. Extremely Significant Loss to the crab fishery.
2. Loss of High Value Fishing area to tribal Special Management Areas exceeding over 550 square miles, Extremely Significant Loss to the crab fishery.
3. Loss of Income exceeding \$160 million dramatically increases the next generation of crab fisherman’s failure rate affecting all fisheries in Washington disproportionately compared to any other state in the nation, Extremely Significant Loss to the crab fishery.
4. These UNIQUE NEGATIVE Washington crab fishery restrictions found in NO other state in the nation have caused an excessive number of crab permit holders (approximately 10% of the active crab fleet) to HOCK their right to fish state crab permits to fish processors causing them to become indentured servants and no longer in control of their ability to fish any longer. Significant loss of wellbeing. Extremely Significant Loss to the crab fishery.
5. These UNIQUE restrictions have resulted in the **Highest Fatality Rate** of any occupation in the nation in the Dungeness crab fishery at 468/100,000. Any additional loss of additional ACCESS to FISH on the Washington coast will only lead to additional fatalities further impacting **Dismal Demographics** in the coast that are already the worst in the state that have been dramatically affected by loss of fish access greatly reducing the wellbeing of the coastal people. Extremely Significant Loss to the crab fishery.

Deplorable Demographics of coastal counties are directly proportional to loss of ACCESS to FISH in these coastal fish dependent communities, much of it directly attributable to inhumane salmon policy that forgets that Coastal People Matter too, especially the forgotten and forsaken coastal fish dependent people, resulting in:

- Highest unemployment rates in the state
- Highest poverty rates in the state
- Poorest Health Outcomes in the state
- Shortest Life Spans in the state – some contributed directly to fishing mortality from lost fishing grounds
- Highest Suicide Rates in the state
- Lowest median family incomes in the state
- Longest and Least 2008 Recession recovery rates in the state
- **We must do better by the people of the coast! Additional loss of ACCESS to fish will only increase these Dismal Demographics and further suppress the wellbeing and quality of life of the fish dependent coastal communities.** The legislature was aware of these demographics when the recent ORMA legislations were enacted and fully intended the outcome of the CMSP process protect and preserve fishing; avoid conflict with fishing, and Only conditionally allow new use that has minimal impact on fishing so that the fatality rate in fishing would not be exacerbated by additional loss of valuable fishing grounds which they knew to be already HIGHLY SIGNIFICANT to the wellbeing of the coast and primary reason for initiating ORMA to provide additional protection for fishing not found in the rest of the state beyond the four coastal counties of the Pacific Coast.

These deplorable Demographics reflect the delicate state of the fisheries that has been overly suppressed eliminating thousands of coastal fish dependent jobs that quite honestly have NO reasonable replacement. Fishing is on the brink of total disaster and fast reaching a **Serious Tipping Point** of total failure. The coastal fishing community is just a single protracted Domoic Acid event away from collapse with the very high debt next generation fishermen currently clawing daily to stay solvent. A major shut down for months of the crab fishery, the state's only coastal fishery capable of still supporting coastal fish dependent communities would be a major disaster for the coast as other alternatives no longer exist to replace the income necessary to drive the economic base of the four coastal communities and service the long-term debt associated with the necessary limited entry permits that are key to existing fish access. REPEAT again, this Tipping Point is exacerbated by the Rafeedie Decision adverse economic impacts that have eliminated 50% of all fish access on 70% of the Washington coast costing the crab fleet approximately \$160 million dollars and growing significantly each and every year, dollars necessary to service large debt and provide a rainy day fund for major shutdown events like Domoic Acid that is sure to come. It must be noted that this Tipping Point is a trigger to be recognized that will produce profound impacts on major ports on the Washington coastal economy. Again, federally authorized dredging of the channels into the ports is predicated on tonnage of products across the channel. This tonnage is currently supplied by COMMERCIAL FISH (50% or more by crab) as recreational opportunity is NOT a part of the formula to trigger federal dredging funds to be expended to maintain the federal channels into the ports. If the fish tonnage decreases much further the federal dredging into our ports will be suspended and all recreational access to the coastal marine waters will also be in jeopardy forcing the coastal ports out of business and a highly significant economic loss to the coastal communities driving the current deplorable demographics through the roof of failure of the coastal communities. **Commercial Fish drive the major economic base** of these fish dependent communities and maintain the economic success or failure of

the entire coastal port system. The reasonably foreseeable Failure of our coastal ports would be a serious disaster for the coastal fish dependent communities. This Washington Coastal Marine Spatial Plan neglects this significant aspect of the Port/Commercial Fish interdependency that is so vital to the stability and economic viability of the coastal water dependent communities that the legislature intended to Protect and Preserve. Limiting commercial fish tonnage across the channel equals no federal channel dredging equals no ports equals greatly depressed coastal economy equals increased deplorable coastal demographics a terrible situation the legislature intended to prevent and why the legislature made such high standards for new use on the Washington coast in these recent additions to ORMA.

Increasing commercial salmon harvest opportunity is within our reach and must be initiated ASAP to counter balance the threat of Domoic Acid shut downs that will significantly reduce commercial tonnage across the channels and cause unintended consequences that are unthinkable for the coast. Loss of access to fish, especially Dungeness crab due to improperly located fixed new use such as ocean energy or open ocean aquaculture that could easily put entire crab fishing communities in total jeopardy from loss of massive crab gear entangled irretrievably in ill placed ocean energy or other fixed structures in the coastal marine waters from storm driven crab gear movements that will place the entire coastal water dependent coastal communities at severe RISK of total failure of the next generation high debt fishing industry. This **HIGH RISK OF TOTAL FAILURE** is reaching a Tipping Point of significance to coastal commercial fish dependent communities is inadequately portrayed within this Washington Coastal Marine Spatial Plan and certainly not able to be properly portrayed in the state/NOAA CZM certifications to offer the adequate protections that the Washington legislature intended and easily detected over and over again throughout ORMA. The UNIQUE fragile nature of the coastal fisheries in Washington is not adequately portrayed in the draft Plan, especially the significant adverse impacts associated with the Rafeedie and other federal court decisions adversely impacting the fishing industry's stability and economic viability significantly in Washington that NO other state in the nation is subjected to the degree of impact found in Washington that makes the Washington coast overly vulnerable to additional adverse impacts of placing new use in valuable fishing grounds. This extreme vulnerability to fishing reaching a tipping point is not adequately addressed. Example: Commercial troll salmon landings on the Washington coast are at less than 1% of the average troll salmon deliveries in the decade of 1968 to 1977. The loss of coastal salmon JOBS is corresponding to these deplorable salmon landings of today and can be visualized in the fact that in 2016 the active troll salmon permits have plummeted from over 7000 to barely 100 over recent decades and is directly proportional to a lot of factors but closely correlated to WDFW reduced salmon hatchery mitigation production in recent years brought on by again federal actions related to a failing HSRG theory that is proving to be the undoing of all salmon fishing in the Northwest with highly significant adverse impacts to public access for commercial and recreational salmon harvest. Trawl fishing is so decimated in Washington that only 3 active vessels are delivering bottom fish into the state, a travesty brought on by multiple factors but high on that list is a growing unwarranted bias against trawl fishing driven primarily by NGO organizations that use the term "overfishing" as a cash generator for their multiple antifishing organizations. These antifishing organizations sensationalize the worst case scenarios found anywhere in the world and imply that it is happening locally even though that is not the local situation and that NO serious overfishing is occurring in local waters where sustainable fishing is the hallmark of our local fisheries led by Dungeness crab the most ecofriendly fishery in the world.

By reference CCF includes all the multitude of presentations delivered to the WCMAC/SOC, LCSG, legislature, and congress over the course of the process leading up to this draft Washington Coastal Marine Spatial Plan dating back at least a decade or more.

Mass Weather Index: Washington coastal waters also has the highest Mass Weather Index in the nation increasing area required to anchor fixed structures increasing this potential CONFLICT compared to any other state outside of Alaska. Example: Central Oregon Mass Weather Index is 80, central Washington is 110 and Neah Bay at 131, which is 64% higher than New Port, Oregon and over an order of magnitude great than San Diego at 10. This much higher index means Washington has a lot more frequent and greater severity to the storms than our neighbor to the south increasing the difficulty of any anchored structures remaining in place. This much higher weather index also translates into a much higher failure rate of any anchored structures placed in Washington offshore waters **demanding significantly more bonding security for cleanup and removal of failed facilities** that need to be bonded at a rate equal to or greater than the cost of the initial installation, at a minimum. Adequate bonding requirements to fully ameliorate failed facilities helps incentivize smarter and cleaner operations offshore. The recovery cost of a single wave energy buoy anchor off Reedsport, Oregon cost over \$1 million. The Oregon bonding requirement of \$250,000 to remove an entire wave energy facility for OPT was a nominal gesture of a mere \$250,000, far far short of the cost of removing a single anchor, let alone a failed industrial scale ocean energy facility. It is impractical for an LLC to pledge assets which are not fully secured by the state prior to installation of an ocean facility since the LLC can declare bankruptcy and wiggle off the financial hook for the cleanup after failure of the facility leaving the citizen taxpayers/ratepayers responsible for the huge amount of cash to cleanup, probably more than the installation of the facility in the first place. **This significant RISK of ocean energy facility failure to the public treasury must not be downplayed.** The costs are so great that the legislature would have to appropriate the precious funds that could be used building roads, financing higher education, or some other important government function that we would need to forego. Our state tax structure is totally inadequate to address such enormous cleanup costs, costs which could easily double the state budget in any given biennium. So far, the record of need for recovery of failed ocean energy devices in the ocean has been 100% of all attempts to place ocean energy devices in the ocean. Finavera recovered the only wave energy buoy ever deployed on the west coast that sank off of Newport. OPT recovered the single errant wave energy anchor off of Reedsport – two attempts at placing energy devices in the water resulted in 100% failure rate of the intended actions – pretty enlightening when the anchor could not even be put in the right location and the underwater float also filled with water and sank. This **dismal 100% failure rate** of all attempts to put energy devices in NW waters screams for CAUTION and insurance adequate to remove all manmade devices from the water at failure or abandonment. **This upfront cost of facility removal MUST be mandatory** and adequate to cover reasonably expected removal costs considering the existing 100% failure rate of the devices in NW Waters, in waters not nearly as extreme as Washington weather conditions. In water disposal of these failed energy devices must not be allowed as they will leave significant impediments to existing uses. Removal from the water is the appropriate approach to these failed facilities. Just an added note; there are two Oceanlinx devices in Australia also sank and one was later removed at government/taxpayer expense when the company went broke; one is still causing a navigation hazard left rotting where it sank. These shaky companies use the LLC process to shield assets and shift the burden of removal of failed projects to the taxpayer/ratepayer which must be accounted for upfront in any new fixed structures placed in Washington coastal waters between 0 – 200 miles from shore. Please review:

<http://www.abc.net.au/news/2017-05-17/oceanlinx-generator-stranded-as-court-proceedings-continue/8529602>

This is why adequate bonding in realistic amounts is necessary to get failed ventures out of the water. \$4 – 5 million per unit installed plus all connecting cables at a minimum is the current cost plus inflation over time.

Washington Supreme Court Decision issued on 12 January 2017 in review of the Washington Ocean Resource Management Act which contains the Washington Marine Spatial Planning legislation for the 1st time since ORMA inception way back in 1989 totally upheld the CCF amicus brief challenging the lower court's erroneous reliance on agency deference that had overstepped their authority with an attempt to rewrite the RCW's through misinterpretation of ORMA, the premier law of the land intended to Preemptively Protect and Preserve Existing Uses of coastal marine waters including Fishing. The court in an unparalleled 9 – 0 Decision directed ecology (and this has bearing on all state agencies) to **ascertain and carry out the INTENT OF THE LEGISLATURE**; something CCF is very familiar with and not allowed to fully explain to the WCMAC/SOC during years of meetings dealing with recommendations to the State Ocean Caucus who is responsible for carrying out the legislative intent. CMSP legislation, 6350, 6263, 5603, and Budget Provision's primary intent was to "Protect and Preserve Existing Use including Fishing and to AVOID CONFLICT with those existing uses with only **MINIMAL ADVERSE IMPACT to existing uses and essential marine ecology that the coastal communities rely upon for their economic stability and viability**. The use of "Significant" language was found in the original ORMA legislation from 1989, but the legislature realized that the coast was quite vulnerable to any additional intrusive space conflict in addition to the multiple existing cumulative adverse impacts led by those of the Rafeedie Decision and did not impose a "significant" requirement on impacts from new use, legislature directed agencies to **AVOID CONFLICT** and only allow **MINIMAL ADVERSE IMPACT** to existing uses that are to be Protected and Preserved as a first order of business making Washington CMSP LEGISLATION IS UNIQUE in the nation in that it **requires specified outcomes** not just procedural analysis found in SEPA/NEPA proceedings and the agencies responsible for drafting the Washington Coastal Marine Spatial Plan are restrained to carry out the legislation in such a manner that dictates specified legislative outcomes and that agencies' ideology does not supersede the legislative intent and **MUST act to prevent encroachment** of new use more than MINIMAL adverse impact on reasonable and existing uses of the coastal marine waters that the four coastal counties rely upon for their economic stability and viability including NO harm to fishing. This draft Plan's hard look is insufficient to:

PREEMPTIVELY PROTECT AND PRESERVE FISHING

PREEMPTIVELY AVOID CONFLICT WITH FISHING

PREEMPTIVELY ONLY ALLOW MINIMAL ADVERSE IMPACT TO FISHING

NEW USE IS CONDITIONAL TO THESE SIGNIFICANT ORMA REQUIREMENTS

Washington legislation governing coastal waters is UNIQUE in the nation and specifically addresses these challenges and reacted with PREEMPTIVE legislation in 2010, 2012, and 2013 to Protect and Preserve Fishing when there were 243 initial applications for ocean energy facilities in the nation and two active energy permits in Washington coastal zone. Repeat, Washington is the only state coastal marine planning process legislated expressly to **Protect and Preserve Existing Sustainable Uses including**

fishing, Avoid Conflict, and only ALLOW Minimal Impact to Fishing. All other state CMSP processes were initiated to install new use, ocean energy, marine reserves, underwater self-cooling computer hubs, etc., and balance new use against existing uses, not protect and preserve existing uses including but not limited to fishing as a first priority as the Washington legislature intended and positively upheld by the recent 2017 Washington Supreme Court 9–0 unanimous Decision relative to ORMA, which out of necessity must be given the proper and complete deference the Washington legislature and the Supreme Court intended to not only cover coastal waters but the adjacent shoreline as well.

The US Congress also has given to the states additional authority under the CZMA in order to more closely align federal actions in the coastal zone, 3 – 200 miles from shore with local and state values and authorities as a mandate that in this case is lacking when CZM authorities do not adequately include and highlight the local SMP authorities into the Washington Coastal Marine Spatial Plan or the CZM state/NOAA certification as intended and directed by the legislature and congress. This serious omission of local law (Shoreline Master Programs) in the CZM certification leaves coastal communities EXCESSIVELY VULNERABLE to exploitation of idealistic ventures which are not self-sustaining and require excessive ratepayer and taxpayer subsidies to even begin exclusionary activity negatively affecting coastal communities' existing use JOBS that the legislature intended to protect and preserve. The legislature directed the SOC (responsible agents) for drafting the Washington Coastal Marine Spatial Plan to include the Plan in the State/NOAA CZM Certifications and that the Plan must rely on exiting authorities which includes the coastal counties and cities SMP's which they have neglected for over a decade, a neglect that can no longer be persecuted, by omission. Pacific County has put ecology on official notice that this SMP omission from the CZM is not acceptable and MUST be corrected (letter from Pacific County included at the end that clearly identifies the intent of the county to ensure that the county's fishing protective SMP is to be included in the CZM certifications as intended by both the legislature and congress and not relegated to the "will consult" or "ignore" as is currently the intolerable situation.

This draft CMSP and EIS need to be looked at from the BIG PICTURE and not in isolation in order to carry out the Legislative Intent of the SIGNIFICANT PROTECTION for existing uses including fishing. CCF/CRCFA will continually bring up **LEGISLATIVE INTENT, LEGISLATIVE INTENT**, until the intent is fully incorporated successfully in the final draft of the Coastal Marine Spatial Plan, the programmatic EIS, and local authorities into the state/NOAA CZM program successfully to provide the protections the legislature and congress intended to protect coastal existing uses, FISHING, and the marine environment as INTENDED and fully upheld by the recent Washington Supreme Court Decision.

The DNR official in August of 2016 was so overconfident of the deference that the SOC was illicitly exercising that did not properly reflect the intent of the legislature that he was so brazen as to say, "We'll let the courts decide." This overt, brazen display of failure to accurately understand and carry out the Washington CMSP legislative intent encouraged CCF to look for ways to get to court ASAP to see how the courts would interpret ORMA. Court action readymade, for interpreting ORMA and legislative intent, the Grays Harbor Crude by Rail Expansion. CCF worked through attorneys that are now a part of the new BD Diamond environmental attorney group of Seattle and wrote an amicus brief in support of the Quinault tribe based primarily on the ORMA RCW's and not the ecology WAC's that may have overplayed their hand in interpreting the RCWs into WAC's. The Supreme Court more than agreed with the CCF interpretation of the RCW's they reversed the course of lower court rulings by pointing out that agencies

had overstepped their deference by misinterpreting RCWs in their WAC's which effectively changed the outcome of the case. The Washington Supreme Court not only rendered a reversal of lower court actions, the **decision was unanimous 9 – 0 Decision by the Washington Supreme Court**, reflecting the proper intent of the legislature and fully supported CCF interpretation of the legislative intent. That decision of intent was nothing more than the reflection of CCF intent in the legislation which CCF helped the legislature to write even before being introduced into legislative committee for its first hearing of 6350. Initially when Senator Ranker brought his ideas of CMSP forward he knew in order for CMSP to move forward in the Washington legislative the support of the coast would be necessary. Coastal legislators and CCF members met in Aberdeen to discuss concepts to include in Washington CMSP legislation. NO one outright opposed new use of the Washington coastal marine waters including fishing as long as AVOID adverse impact to fishing was the driving force in the legislation. NO one knew how extensive the existing use was in the coastal waters. No one understood how large new uses, Ocean Energy, had to be to become economical. NO one fully understood the coastal dependency on coastal fish/water. **NO one on the coast or the legislature wanted new use to displace or disrupt existing fish/water dependent communities.** Every one of the original drafters of Washington CMSP wanted more information to make better informed decisions that would "PROTECT AND PRESERVE EXISTING USES and especially FISHING coastal communities relied upon. The legislature and CCF wanted to allow new use that AVOIDED CONFLICT and AVOIDED HARM to existing uses from 0 to 200 miles offshore "if" HARM to coastal fish dependent communities could be AVOIDED. Everyone, including Senator Ranker, was willing to put coastal fish dependent communities first and initiate new use "if" we could to enhance JOB opportunity on the coast "if" possible, not allow any of the existing coastal JOB situation to deteriorate. The legislature understood the deplorable demographics of the coast., the entire legislature understood that JOBS were the key to either helping or destroying the coastal wellbeing. **Avoid Conflict; Avoid Harm to existing uses, FISHING, and the marine ecology were the two leading factors driving the Washington Coastal Marine Spatial Plan;** adding new use was a bonus "if" the first two parameters to avoid Conflict and Harm could be achieved. The mapping of the potential ocean energy areas incorrectly interprets the intent of the legislature for the CMSP process to locate new use in minimal impact areas that avoid conflict to existing use and particularly high value fishing areas must be remapped to carry out the legislative intent to AVOID CONFLICT and HARM to coastal fisheries.

Washington is the only state in the nation to put the coastal people's wellbeing first in their Coastal Marine Spatial Plan. This coastal people's wellbeing first included a very broad coalition of people from all over the state.

The process of producing a Washington Coastal Marine Spatial Plan compatible with the legislative intent was unnecessarily slanted to the WRONG interpretation of the intent from day one. The process spent way too much time attempting to follow other state CMSP planning processes to install ocean energy or other new use and not enough process attempting to looked objectively at getting to the bottom line and BIG PICTURE of the legislative intent of coastal JOBS preservation and only permit new use that supplemented those existing uses without negatively impacting existing uses that the coastal communities need to maintain the fish dependent JOBS; this intent included the entire coastal marine waters including the entire exclusive economic zone, 0 – 200 miles from shore which is very clear in the ORMA legislation.

Washington CMSP process failed to produce a coastal needs analysis. CCF requested, not accepted.

This draft Washington CMSP Must be modified to prevent another protracted extremely expensive process that occurred in the Cape Wind Energy Project of 16 years of highly controversial legal battles. Cape Wind finally on December 4, 2017, withdrew its ocean wind energy permit and abandoned the ocean energy project in the Atlantic after costing the taxpayers and ratepayers huge amounts of time, effort, and funding over a 16 year period. This decision to withdraw the project from further development came on the heels of the withdrawal of Cape Winds' Power Purchase Agreement a few months ago. Post cancelation survey found that over 75% of the respondents supported the withdrawal of the Cape Wind Project from Nantucket Sound with attached statements that the project was too costly, would cause environmental harm and displace existing use and fishing JOBS. There should be a lesson learned from this experience where the regulatory climate was considerably friendlier to installing new use than here in Washington. The Washington legislation was adopted to protect and preserve fishing from encroachment by new use where any new use is far less likely to succeed at presenting lacking merits of new use that could possibly overcome the much more stringent requirements in the Washington CMSP law enacted to preemptively protect and preserve fishing. New Use is very very unlikely to proceed on the merits to outweigh the requirements of the legislation, particularly where fixed new use could easily cause irreputable harm standard to be breached beyond remediation, negatively affecting an entire high debt next generation of fishermen causing excessive bankruptcies as outlined in WCMAC discussions and highlighted by the fisheries representatives on the council on numerous occasions and somehow lost in this Plan and associated EIS. The fisheries advisors have shown that irreputable harm is imminent and certain to occur in Washington coastal waters from fixed structure facilities where it is a well-known certainty and collaborated by the highest Mass Weather Index in the nation, that crab gear will move in large winter storms with gear documented to move over 40 miles in a single storm event where Oregon pot tagged crab gear was recovered north of Westport moved by the early December 2007 hurricane force storm that moved almost all crab gear in SW Washington waters a minimum of ten miles from set location. If a fixed anchored new facility had been anywhere in this gear movement zone it would have irretrievably tangled and stuck the crab gear in any anchored, fixed facilities located in the nearshore ocean inside of 45 fathoms eliminating any opportunity by an entire crab community from participating in the crab fishery for an extended period of time, certainly well beyond the time required to meet financial obligations to lending institutions or maintain the wellbeing of affected families. There is not sufficient gear manufacturing capacity or expertise of employees to meet this huge loss of gear in a single season in time to prevent foreclosures on indebtedness = disaster for not just individual fishing families but an entire support community as well. Off the Washington coast these huge, significant gear movements occur often yearly and at least 3 times per decade. This gear movement area needs to be placed on a Map to clearly show where EXCESS CONFLICT between existing use, fishing, occurs and new fixed use MUST AVOID this CONFLICT to meet the fisheries protective standards found in the legislation. The Washington CMSP legislation does not set up a balancing act to see which use is more in the public interest for agencies to decide through their processes, the legislation sets up stringent legal requirements that MUST be met or exceeded to preemptively protect and preserve fishing's stability and economic viability for current and future generations of fishermen – new use MUST AVOID CONFLICT and only allow MINIMAL ADVERSE IMPACT to Fishing. The public interest does not include potential destruction of a coastal fish dependent community that is reasonably foreseeable by placing a significant new fixed use such as a wave energy facility in the middle of valuable crab fishing grounds as currently mapped by Marxan in the Plan. Correction Necessary.

The Plan and associated EIS must clarify these legislative mandates that results in these outcomes found prominently in the CMSP legislation to protect fishing and not adequately incorporated into the draft Plan and EIS. These legislative mandates are not to be manipulated out of existence by a bias process to initiate new use into the Washington Coastal Waters out to 200 miles from shore.

State agencies have through process directed WCMAC and ascribed “undue significance” to establishing a pathway to ocean energy and under ascribed “*Protect and Preserve Existing Sustainable uses*” from harm and to avoid conflict with existing ocean and estuary uses even though the first guiding principle of the Washington statute is to “*Protect and Preserve Existing Sustainable uses*”. There are NO mitigation conditions in any permit that would prevent unacceptable adverse effects to already highly stressed coastal communities as a result of the Rafeedie Decision with associated federal obligation to treaty tribal fishing rights which they deem incompatible with loss of fishing area and BOEM policy of NO energy leases in the Sanctuary that would force ocean energy into the highly used fishing area south of Westport that is clear in the history of the legislative intent by conspicuously adding specific language in the 3rd Washington CMSP legislation to “*Protect and Preserve Existing Sustainable uses*” which has had insufficient weight ascribed to this intent throughout the WCMAC process to establish recommendations of the WCMAC.

The Washington crab fishery advisors recently met to discuss the adverse impacts of meeting the Rafeedie Decision (5 December 2017). The advisory group was pretty addiment that giving up any more fishing ground is really the most distasteful concession available to meet the federal court 50/50 tribal sharing crab obligation. Fact is giving up any fishing ground anywhere anymore has untenable consequences, is extremely painful, and has a very high probably to be terminal especially for the next high debt younger generation of fishermen.

The crab fleet is already significantly crowded, the comments were almost 100% - **NO MORE LOSS OF FISHING GROUNDS.**

- Zero interest in expanding the western boundary
- Losing ground is a poor idea vs. time
- Appreciate No to moving the line to 40 fathoms
- Fearful of SMA expansion
- Preferred more days NO SMA adjustment
- Once we give it up we never get it back
- Absolutely oppose moving the western boundary
- No expansion, we have already given up too much fishing grounds
- Moving the western boundary is offensive and not acceptable
- Don't want to give up even one more mile on top of the 550 we've already lost
- No change to the western boundary

The loss of fishing grounds out to 40 fathoms is another 123 square miles of loss, this would be on top of the over 550 square miles of existing SMA loss north of Westport. The fleet is already at a tipping point

in solvency, especially for the next generation of high debt fishermen. There is NO way to justify any additional adverse impact associated with any additional loss of fishing grounds.

The crab fleet is already suffering excessive loss of fishing ground and compressing the fleet even more is untenable and will have highly significant adverse consequences where more gear will be lost to friendly fire (propellers) adding more to the cost/# of production and less take home pay at the end of the day. Losing more ground will undoubtedly have more adverse effect on the area south of Klipsan too where the fishing gear is almost 3X as dense/mile as north of Klipsan. Any additional loss of fishing ground will have untenable adverse consequences for the entire fleet as effort transfer will exacerbate already crowded fishing grounds further reducing pounds/pot adding to the cost of production and lowering the fleet's net take home pay even more toward ZERO. Loss of any more fishing ground which is already significant is totally untenable.

Washington CMSP process failed, no intentionally refused, the coastal fishing community to review the fishing maps and better incorporate the fishing fleets' designation of high value fishing areas significantly into the Plan, including but not limited to the non-existence a crab gear movement map to exemplify the entanglement CONFLICT certain to occur in Washington waters and not necessarily found in our neighbor's waters to the south where the Mass Weather Index is significantly lower and far less likely to occur. CCF submitted Oregon Ecotrust fishing evaluation maps of SW Washington high value fishing areas; dead ended by process, the Plan does not provide any analysis of how the fleet valued the fishing grounds for protection and preservation as intended by the ORMA legislation. The WCMAC authorized Sea Grant to carry out similar investigations of fleet valuations of their "high value fishing grounds". Sea Grant enlisted Portland State University to carry out Oregon Ecotrust style mapping which they have had recent experience in mapping use of the Olympic National Park and surrounding areas by visitors utilizing the successful Ecotrust mapping model. WDFW killed that WCMAC mapping authorization. The fishing community was denied that invaluable opportunity to portray what the coastal fishing fleet valued as high value fishing grounds. In contrast, the energy proponents were allowed to get their highest value energy grounds mapped as they requested. The energy proponent's maps placed their best places for energy to exist in extremely high value fishing grounds, not a place that may AVOID CONFLICT with existing use, including fishing as intended by the legislature throughout the three recent pieces of Washington CMSP legislation. This visual misinterpretation of the legislative intent is misuse of agency discretion extending deference far out of bounce that not even the Supreme Court Decision could bring back to reality of the legislative intent. This draft CMSP, MAPS, and programmatic EIS needs to be changed and portray new use opportunities that AVOID and have MINIMAL NO HARM impacts to existing uses including fishing that most likely occur west of the continental slope break and outside 125 fathoms.

The tone of the entire document needs to be upgraded to reflect this Protect and Preserve Existing Use Standard as the highest priority of the entire Plan as intended by the legislature. Yes, this protect and preserve is in the plan but not in such a manner that the general public or any new use proponent would find it or understand its importance that **new use is conditional on AVOIDING CONFLICT** "if" it is to ever be installed in Washington coastal marine waters. Of all the meetings that have been held in Washington on CMSP not one public meeting outcome identified new use in marine waters as a preferred use to tradeoff existing use, FISHING, NOT ONE. The Washington draft Coastal Marine Spatial Plan needs to

clarify these very important legislative intents and very high Fishery Protection Standards which go well beyond “minimize” impacts:

PREEMPTIVELY PROTECT AND PRESERVE FISHING

PREEMPTIVELY AVOID CONFLICT WITH FISHING

PREEMPTIVELY ALLOW ONLY MINIMAL ADVERSE IMPACT TO FISHING

NEW USE IS CONDITIONAL TO THESE SIGNIFICANT ORMA REQUIREMENTS

During this Washington CZMA review CCF/CRCFA will address several major areas of concern for coastal communities involving aspects of the Washington CZMA/NEPA/SEPA process affecting coastal ecosystems and coastal uses where real cumulative adverse impacts (many federally originated) to coastal communities are occurring. CZMA is a reasonable and necessary merger of cooperation of federal, state, and **local** authorities to provide a collaborative management structure to find SOLUTIONS that work best for individual coastal communities to prevent simple adverse effects so that federal mandates do not smother and discard local community needs accommodating federal, state, and **local** actions based on effects not only to coastal ecosystems but also the coastal fish/water uses that need to be protected and preserved for current and future generations sustainably that are dependent upon the coastal zone from 0 – 200 miles offshore to maintain the coastal stability and economic viability of the fish/water dependent communities. **Multiple existing cumulative coastal effects must temper CZMA activity substantially different in Washington than other state CZM programs.**

- Mouth of the Columbia River Lower Columbia Solutions Group Sediment Management Program still under development with sequential solutions slowly taking shape for the benefit of all involved. This process has taken well over a decade to reach fruition – lesson learned - patience required. Outcome is based on not only the “Best Science Available”, but went the extra mile to ensure a NO HARM OUTCOME and developed NEW SCIENCE that was necessary to understand the potential impacts of Enhanced Ocean Disposal on Fishing and to modify the ocean dumping if necessary. New scientific techniques were developed to better understand and make informed decisions in order to ensure Fishing was Protected and Preserved and the fish dependent communities would receive NO HARM from new ocean disposal sites. **True Collaboration, No Harm No Conflict Minimal Adverse Impacts Beneficial Solutions is Key takeaway, lesson to be learned, and applied to Washington Coastal Marine Planning to achieve a Win not only for the coast, but also the state and the nation.**
- Washington Coastal Marine Spatial Planning (currently in draft form so these comments will be preliminary and subject to change once the Plan and EIS are finalized)
- No more attempts to marginalize **local authorities** of Coastal Shoreline Master Programs through “housekeeping” that is also still under review and subject to change. Local authorities that extend into the EEZ, 3- 200 miles offshore were intended to be included in the CZM state/NOAA certifications is rather clear in the ORMA legislation as intended by the legislature and congress. This intent of both the state legislature and congress to place Shoreline Master Programs as a significant part of the outcome of offshore management is being short-circuited by unelected agency officials and short shifted in the Plan with only nominal mention. The Pacific County

Commissioners made their intent very clear to ecology that ignoring placing the county “Ocean Section 6” into the CZM certification was inappropriate. The SMP’s are underrepresented in this draft Washington CMSP and will as a consequence be underrepresented and not appropriately in the state/NOAA CZM certifications. The Pacific County SMP has assigned a “Coastal High Intensity Area” that new use is allowed that AVOIDS CONFLICT and keeps Adverse Impacts MINIMAL with existing uses including fishing as instructed within the ORMA legislation as intended by the legislature.

- Grays Harbor Oil Terminal expansion and application of the Washington Ocean Resource Management Act and its implications for CZMA effects on the Washington coast as recently reviewed by the far-reaching and precedent setting Washington Supreme Court Decision set forth additional instructions relative to the ORMA legislation which directly instructed the SOC via ecology to correctly ascertain and carry out the intent of the ORMA legislation. During the final hearing before the 9 judge panel the ecology attorney clarified any doubt about the intent of the legislation, “ORMA was intended to STOP PROJECTS”. That was the intent of the legislature, to STOP PROJECTS that had adverse impacts and did not AVOID CONFLICT with existing uses including Fishing. The ecology attorney got it RIGHT at the October 2016 Grays Harbor Oil Terminal Expansion hearing before the Supreme Court, but that revelation has not been adequately transferred to the Plan, in fact ecology has maintained over and over that projects cannot be prohibited, contrary to the Supreme Court Decision that states unequivocally that projects that adversely affect the coastal zone can be prohibited outright. This prohibition is possible where conflict with existing use, fishing is not avoided, the minimal adverse impact is surpassed, and Fishing is not preemptively protected and preserved for current and future generations. This Supreme Court Decision is precedent setting in its scope is to be broadly applied in water and on shore in the SMP areas of the four coastal counties out to 200 miles from shore as intended by the legislature and positively upheld in this landmark ruling which dramatically reigned in the agency deference to interpret ORMA and totally in line with CCF amicus brief in this case which MUST still be applied liberally in this Washington CMSP. It must be remembered that CCF helped the legislature draft the three recent additions to ORMA and fully understands the intent of the legislation in which the Supreme Court got it RIGHT to preemptively protect existing use and the marine ecology.
- Executive Orders 12898 and 13777 apply directly to any coastal water activity CZM certifications. 12898 is easily triggered by the deplorable coastal demographics presented in this presentation where federal actions must account for and prevent adverse impacts to low income communities. 13777 is triggered where regulation and implementation of those regulations negatively impact existing jobs, in this case, fish sensitive JOBS that require access to fish in an environment of cumulative federal actions that have already provided significant adverse impact to Washington coastal fishing JOBS associated with the Rafeedie Decision and loss of 50% of all fish access on 70% of the Washington coast forcing tremendous fishing effort shift to SW Washington coastal waters where any new use will be at increased CONFLICT with existing use, fishing, that is already highly condensed and reliant upon just 30% of the coast and in crab fishing often condensed to 50% of the crab fleet fishing in only 9% of the Washington coastal waters. Significant adverse impacts cannot be ignored by continually resetting the cumulative impacts already affecting the coastal counties that already enjoy extra protections not offered the rest of the state through ORMA.
- Washington values are progressive at protecting the majority of the natural coastal zone beyond that found in other states. Sixty percent of the Washington coast is dedicated to the Olympic Marine National Sanctuary adjacent to the Olympic National Park. A large portion of the Willapa

Bay is a National Wildlife Reserve. These Washington values also reserved the right of open public access and fishing within the sanctuary and the reserve; a value that is laconic to Washington and vitally important our state citizens. Fishing is sacred in Washington and these values are reflected in our dedication to protecting the natural environment from industrialization as lessons learned in Puget Sound and protecting fishing even in these wild preserves.

- CZM state/NOAA certifications must also specifically address the significant threat of Domoic acid which could easily adversely impact coastal use, fishing which will significantly magnify any additional adverse cumulative anthropogenic interference and dislocation of the coastal crab fishery caused by addition of any new use in coastal waters on the continental shelf.
- The Plan erroneously attempt to project some potential compatible uses in the Coastal Zone stating that fish rearing net pens may even be compatible with the co-location in marine protected areas. Example: ecology is fighting the Willapa Harbor Oyster Growers from utilizing a proven chemical use of approximately 250#/year as toxic to the environment while in Chile the salmon fish farms are polluting the area with over 557 tons of a much more deadly chemical treatment, over 2000 X more toxins in the water. Pacific County MRC supported remedial testing of chemicals in Willapa Bay and could find NO detectable imidacloprid residue in the bay in the areas of experimental treatment. This finding is significant and should be considered for use that also will result in additional rearing area for juvenile salmon and other fish that the coastal communities rely upon for stability and viability.

Lower Columbia River Solutions Group is currently supported by the Washington and Oregon CZMA programs and is a great model of cooperation between federal, state, local authorities and local people working together for common goals and needs of all levels successfully. This effective Coastal Zone Management support is finding common ground and allows people with divergent views to act collectively to solve everyone's needs with no one left behind suffering adverse impacts from solutions necessary to maintain deep draft shipping in one of the largest grain export areas in the nation that benefits the public from Ilwaco, Washington to Cedar Rapids, Iowa and beyond. This is a great success story. The LCSG is a science driven SOLUTIONS MODEL for the nation to focus attention on. This project started as a courtroom brawl and is ending with a peaceful resolution getting national attention. In the fall of 2015 CRCFA spoke at the national Water Protection Network in Washington DC about this transformational process in a presentation called, "From Dead Sailors to Science Driven Policy." WPN has about 240 member groups from around the nation and this national model will help drive meaningful, positive solutions wherever Federal, State, and **Local** needs collide. The primary ingredient in the LCSG process is that the people involved were all willing to put their differences to the side of the collision of needs and focus on benefits for everyone with an eye to a win for all – a situation that took commitment from everyone with NO hidden agendas. Will this work in every situation, absolutely not, but the LCSG has been a very good example of what can happen when everyone's health and welfare is the driving force where a benefit for everyone is the primary focus where **"REAL" needs are met beneficially** with no one left behind. This LCSG process now lead by Washington/Oregon CZMA officials is producing TRUST in future decisionmaking by replacing command control USACE decisions to a science based decisionmaking process and a positive model for the nation to utilize. Is it perfect, short answer NO, but a far better result and a major improvement over historical sediment management which has led to multiple court actions. The Washington CMSP process could utilize some of the principles found in the LCSG **NO HARM SOLUTION** process that has taken over a decade to produce positive, durable

results that have not risen in the Washington CMSP process because the needs of the coastal uses were not adequately addressed in the process to produce NO HARM SOLUTIONS with excessive deference given to unproven new uses that will disrupt and displace many on the coast with new uses that will not be beneficial to those impacted because the hunt for solutions has not adequately attempted to avoid conflict and keep adverse impacts to MINIMAL levels instead rely on “old time verbiage” to simply minimize adverse impacts which in the past is anything less than total displacement of the existing use. This verbiage is especially prevalent in the Fisheries Protective Standards.

Benefits of this close working relationship currently found in the LCSG example are spilling over into other areas of beneficial solutions for the entire region well beyond the direct sediment management plan. Dredge spoils are being converted to beneficial assets addressing a growing coastal erosion problem in the Northwest. New developing science driven through this process is meeting national/state/and **local** needs with no dead fishermen, no dead crab – a major, major improvement from past mound induced wave amplification in micro-sized very dangerous fatal, fatal to both crab fishermen and crab alike at small sized disposal sites where mounding is prevalent. Sediment is being spread over 10 times the distance associated with original micro-sized disposal sites in the nearshore allowing the crab to enter the fishery at a later date instead of facing immediate burial mortality, a major gain for rural coastal communities correcting historical injustices associated with dredge disposal sites that historically produced extremely dangerous mound induced wave amplification. The nearshore disposal is contributing to the littoral drift adding “some” sediment to coastal beaches but not enough to stem the growing coastal erosion problem associated with reduced Columbia River flows and the jetties acting as a nozzle to shot sand offshore beyond the littoral drift and non-accessible to beach maintenance and nourishment. This cooperation has led to the only new start USACE project in the nation with the A Jetty, Columbia River North and South Jetty rehabilitation program. Additional benefits have produced a 10% carveout of Harbor Maintenance Trust Funds for dredging small channels across the entire nation that will be a dedicated funding source supporting small rural coastal harbors at \$150 million/year by 2025 as a permanent funding source. This year this CZMA driven collaborative effort has resulted in the highest degree of collaboration I’ve witnessed in my 70 years – the Ilwaco Channel is dredged twice and the Chinook Channel received dredging even though NOT in the federal budget directly, but added to the Portland District Work Plan – this took a degree of enthusiastic collaboration aided by the Pacific Northwest Waterways Association to amplified this major collaborative effort that is being facilitated by the CZMA program – exemplary. These many accomplishments have been facilitated by Owens, Cogan, and Greene that has been the glue necessary to lead to these major wins for everyone at the local, state, and national level to provide a better coastal marine spatial plan that is based on beneficial impacts to all concerns. This is a major accomplishment of the CZMA program worth its weight in gold producing benefits beyond expectations of the original participants that started as a courtroom brawl and ending is a WIN WIN for all participants – simply amazing and most beneficial. Benefits beyond expectations accrue when everyone works together for a common goal that has at its heart **NO HARM BENEFICIAL SOLUTIONS** where all concerns are able to put their NEEDS on the table and a hunt for a solution that meets everyone’s needs. **Note: this CMSP never did a coastal needs assessment.** Without a needs assessment there is no way to meet the peoples’ needs of the local, state, and national level in marine waters of Washington in this Plan. If a needs assessment and a hunt for honest beneficial outcomes for all interests in the coastal zone this could have been accomplished. There must be someplace inside the GLD that new use, including ocean energy could coexist with all other existing uses with only MINIMAL adverse impact with a benefit to all ocean users, new and old, but this was impossible when the Plan mapped

ocean energy in high value fishing areas just because that was the very best place that ocean energy wanted to be placed. There was NO honest attempt to locate new use outside of high value fishing areas that exist in the narrow area south of Westport and inside the continental slope break inside of 125 fathoms of water.

Currently there is a new coastal marine water use proposed to extract ocean energy in the form of hydrogen that is proposing to locate west of the Washington shelf break by utilizing a medium sized anchored barge that may meet beneficial wins for all ocean participants that has recently been formed by the very coastal marine engineer that should have been hired to analyze the costs and area required by other potential uses of the Washington coastal offshore waters but was never considered in this Plan, in fact suppressed as cost/area benefit of other ocean uses was NOT allowed on the discussion table, let alone pursued so that the public and the legislature could have reasonable estimates to better understand the real prohibitive costs and areas involved in the most common examples of energy extraction that could have easily been bracketed by the Oregon examples of OPT and Principle Power, but denied the necessary public scrutiny to protect the ratepayer and taxpayer from getting gouged by illicit projects that would be prohibitively expensive and gobble excess area of the marine waters with very little electrical output for the uses displaced and coastal communities left mortally wounded.

Additional Notes on the CZM sediment management program: CRCFA/CCF are not obstructionist oriented as many environmental groups have become - our fishing industry needs dredging to occur just as much as our inland friends, but we may have a slightly different vision of future sediment management beyond just the "Immediate Least Cost" to dig & dispose of sediments at the MCR. We have never taken a NIMO - Not in My Ocean, approach, but CRCFA has consistently promoted coastal community well-being which is based on a properly functioning marine water ecosystem including additional parameters of human health and safety considerations which dictate open access to fish in the only waters that are not corrupted by other federal obligations on 70% of the north Washington coast. Crab is the last major coastal fishery capable of supporting coast fishing infrastructure and is larger than all other coastal fisheries in both Washington and Oregon combined most years. Saving crab contributes to saving our entire coastal fishing heritage and maintaining the coastal economic reliance on SEAFOOD for our coastal rural communities' economic stability and viability into the foreseeable future. We all need to consider the lesson learned in the loss of SALMON which occurred one FONSI at a time over a century. **Species preservation** is far superior to very very expensive and ineffective replacement mitigation. Rice Island has no comparison as a "Least Cost Option" gone terribly, terribly WRONG. Billions and billions of ratepayer and taxpayer salmon rehabilitation dollars have been eaten by the largest Caspian tern colony in the world, dollars that could have been used for saving our coasts from increasing erosion rates.

The CCF/CRCFA goal is to change MCR dredging business as usual, eliminate the Paul King Syndrome where "PROCESS" no longer trumps good science, and create an improved standard of dredge material use that provides crab industry LIFE SAFETY and natural resource protections while providing a wise forward looking strategic sediment handling plan that actually contributes to stabilizing coastal erosion in a measurable manner. **Measurable is the key qualifier**. Quantifiers associated with ocean disposal like some or better than nothing are unacceptable measurements.

We will continue to advocate for the best science and direct beach placement to become the focus of Washington CZM best practices relative to the MCR sediment management program that realistically places sediments directly on the beach that was recommended by the nation's BEST Coastal Scientist and Engineers including the USACE at the Cape D Technical Forum in 2007. "Current Least Cost" still dominates dredge disposal, and this prominent recommendation is still AWOL and erosion on the coast is still on the increase. This Plan almost completely ignores coastal sediment requirements and needs to incorporate the new concept of "Coastal Sediment Rights".

Everyone must realize that our goal is NOT current "Corps' Least Cost" and is in conflict with the historical USACE principles and guidelines which the CEQ has ordered changes. We do, however, strongly believe that forward looking use of a valid wider scientific community integration that the LCSG brings to the table for development of regional sediment management at the MCR will produce far better long-term results for our nation and in the long-term be more cost effective use of taxpayer money and the public trust. **A necessary change in the Corps' Principles and Guidelines as well as reasonable adjustments including CZMA re-consistency determination are necessary to accomplish this lofty goal.** The Pacific County SMP update addressed the anthropogenic interruption of the coastal sediment supply and demand social justice for the coast by those that caused the federal interests that truncated the historical coastal sediment supply that needs federal mitigation to directly address our growing coastal erosion. This CMSP should address through initiation of a new concept, "Coastal Sediment Rights". Federal actions have truncated the sediment supply to the coast causing a growing coastal sediment deficiency which began over a hundred years ago with the construction of the North and South Jetties that act as a nozzle and blew over 300 - 400 million cubic yards of sand offshore beyond the littoral drift, lost to the coast to balance a rising sea forever. Mitigation required and not in the Plan.

The Coastal sediment supply of the largest river on the west coast has been effectively truncated by federal actions of taming the Columbia River – Dam building, River flow manipulation with no more spring freshets, jetty construction in the shape of a nozzle that shot millions cubic yards of sediment offshore, channelization, upland disposal, hauling massive quantities of sediment offshore beyond the littoral drift, shifting channels that caused Baker Bay to become a sediment sink, and more. The Lower Columbia Solutions Group has been working on a temporary band aid with nearshore disposal that has not proven effective at abating coastal erosion anywhere it has been tried. The USACE maintained that this nearshore disposal would stop the breach at Halfmoon Bay up until the day it breached. USACE has in recent years trucked thousands of cubic yards of sediment to the beach at both the North Jetty at Cape Disappointment State Park and at the root of the South Jetty adjacent to Halfmoon Bay at Westport to augment the beach where nearshore disposal has not been able to adequately address the erosion problem hotspots. All this and more before any new use is contemplated in the coastal zone that will be affected by a rising sea associated with long-term climate change that is also negatively affecting the public's access to a declining salmon resource which make the coastal waters of Washington exceptionally challenging to manage without serious RISK of CONFLICT that could eliminate the fishing

industry completely on our coast when examined in conjunction with all the other adverse cumulative effects found in the coastal zone, especially those UNIQUE to only Washington.

A number of years ago Oregon Governor Kulongoski stated the issues affecting the coastal zone pretty well related to New Emerging Uses and Ocean Development that also fit Washington waters as well: **"The people who live and work on the ocean must have a place at the table" and "The new ocean uses must benefit - not disrupt - existing economic and recreational uses of our ocean."**

Another recent notable quote from Oregon's Senator Betsy Johnson, co-founder of LCSG, **"Do it with the Coast, not TOO the coast"**. Both of these statements were aimed at FISH FIRST in the development cycle of new uses and retention of iconic coastal fishing industries use of the precautionary approach and error in favor of the species and fishing through well-reasoned scientifically based decisionmaking that employ publicly open and accessible scientific approaches that use adaptive management measures by starting very SMALL and only expanding after multiple year study that teases out the nuisances of the marine ecosystem that are yet unknown using best worldwide monitoring practices associated with multiple new uses. **Even these small experimental new use sites MUST avoid conflict and harm to existing uses.** We must not learn at the expense of disruption to existing uses. Ocean ecosystem analysis is still in its infancy and major new science will have to be developed, similar to new techniques still developing cutting edge science at the MCR supported by both Washington and Oregon CZM programs working closely with local, state, federal entities, coastal citizens, and affected industry – sand tracer studies, Campods deployed on fishing style longlines, real time radio tracking of crab affected by ocean dumping, and more including development of the MABRI, video identification and counts of visible organisms in underwater video by the Portland District USACE and Monterey Aquarium utilizing video collected under the LCSG and ground truthed by visual counts of ocean species in the same videos use in the development of the MABRI computer analysis to verify the legitimacy of the MABRI system. These species identifications have been done visually by Oregon state University graduate students for oversight on the developing MABRI computer identifications and counts as a check on accuracy. The LCSG is gradually embracing a future vision of MCR sediment management regime that is reaching beyond "Least Cost". The ongoing South Jetty Site scientific investigations are a cut above anything done in this nation and those studies are continually over-turning past scientific assumptions and continuing to build a superior scientific base that is just beginning to realize the potential of injecting HONEST inquisitive science into the FACT BASED decisionmaking as we begin to advance 21st century science into informed decisions into an area of science that is still in its infancy in our coastal zone. Mistakes will be made, but if the precautionary principle is utilized and industrial scale development is slow, very slow at advancing we can learn and adapt to a "NO NET LOSS" policy of adequate scientific monitoring and continual correction is done at frequent enough intervals to prevent total disruption and displacement of "Existing Sustainable Uses" including fishing. The Washington/Oregon cooperative CZM programs at the MCR are proving their value year after year with beneficial practices that benefit the local, state, and national citizens in multiple ways providing a model for the nation that EPA is beginning to adopt and apply nationally.

Washington Coastal Marine Spatial Plan is mandated by state law to become a part of the CZMA in order for the plan results to primarily protect and preserve existing sustainable uses, including fisheries, while addressing the possibility of new use in the coastal zone if NO conflict areas can be exposed through the CMSP process. This CMSP process has been considerably more difficult where the collision of coastal needs with inland carbon ideology has been very rocky and is not yet complete but coming to CZMA fruition where it is our hope that the intent of the Washington state CMSP legislation is honored as described by the Washington State Supreme Court, explained later under the Grays Harbor Oil Terminal discussions deeper in this letter. The major problem associated with the Washington CMSP was that the coastal needs were never properly assessed and therefore could not be adequately addressed in the Plan to work collaboratively with LOCAL, state, and national interests leading to the best BENEFICIAL NO HARM solutions. The Plan however in its preliminary rough draft did state that there is NO room on the Washington coast for industrial scale ocean development which all the preliminary information supports and this will need to be adequately incorporated into the Washington/NOAA CZM program which is at direct odds with BOEM leasing procedures. The State/NOAA CZM Certifications are intended to look at reasonably foreseeable adverse impacts to coastal uses and prevent them from occurring while utilizing the informative science with NO important FACTS left behind to make informed decisions that protect existing uses including fishing from adverse impacts.

The very first Washington CMSP meeting started with a command control presentation by the governor's representative suppressing and crushing the voice of the coast in no uncertain terms with a distinct tone of disdain for coastal needs and starting from a place of total confrontation. Every issue became a fight for survival for the coast with a heavy hand of suppression from the state agencies at one point one of the agency personnel stating, "let the courts decide", that is exactly where the process went indirectly where the Washington Ocean Resource Management Act was interpreted by the Washington Supreme Court for the first time since its inception decades earlier at the Grays Harbor Crude by Rail Oil Terminal case. That court decision upheld all the issues the fishing industry had been advocating throughout the CMSP process where the plain language of ORMA directed legislative intent to PREEMPTIVELY Prevent HARM to coastal uses and the marine ecology that supported coastal fish dependent communities.

Federal obligations to tribal treaties were never objectively put into reasonable perspective that portrayed the reality of the adverse effects of fishing concentration in the 38 miles south of tribal treaty areas, south of Westport, the only place 50/50 fish sharing requirement did not apply. This tremendous effort shift south pushed Washington fishermen even out of state further south causing the **highest fatality rate of any occupation in the nation** in Dungeness crab fishery, that occurs in a dangerous mid-winter fishery where human health and safety never received adequate consideration that historical cumulative adverse effects caused before any additional loss of prime fishing grounds occur in the Washington coastal zone. BOEM has shown a callous disregard for displacing fishing almost everywhere they have issued energy leases and these issues are greatly magnified in the Washington coastal zone which is UNIQUE in the nation and MUST be treated with more respect for coastal fish dependent communities than anywhere else in the nation. Existing Adverse Impacts to the coastal fisheries are astounding and not properly addressed within this draft plan. The **local authorities** responded appropriately to this situation in Pacific County in their Shoreline Master Program Section 6 Ocean Section prohibiting almost all fixed structures to protect the fisheries from further adverse impacts (some minor exceptions apply). Section 6 also established zoning criteria with the inclusion of an industrial

high intensity area in the same manner as other water protections across the county where industrial development is concentrated in Port Coastal High Intensity areas only. The Washington CMSP ignored these “local” authorities and the intent of the Washington legislature which must become a part of the Washington/NOAA CZMA approved process as intended by both the Washington legislature and congress that mandates coordination between federal, state, and local authorities with only minor exceptions. Failure of Allocation of funds and time is not an excuse for ignoring these LOCAL AUTHORITIES as directed in the CZMA legislation. Emphasis ADDED – Local Authorities MATTER and MUST be included adequately in the Washington CMSP so that they can be placed with SIGNIFICANCE into the State/NOAA CZM certifications as intended by both the Washington legislature and congress.

Washington CMSP Marxan map products also fail the reasonably foreseeable effects test. There is NO way to determine coastal dependency on existing coastal uses as currently mapped with any degree of precision in order to avoid conflict from new use with only MINIMAL adverse impact that may come to the coastal zone that could be potentially inflicted by new use on fishing. Crab Fishing which supplies half the coastal fishing revenue on the coast most years is given the same weight as walking the dog on the beach as an existing use or sardine fishing that has not occurred in over three years and has NO coastal fishing vessels involved in the fishery. The entire basis of the current Plan maps is simply the individual number of uses that do not necessarily even contribute to the state or coastal economy in any meaningful manner. This map methodology is masking the reasonably foreseeable impacts on the coastal zone fish dependent communities and especially shortchanges the coastal dependency on fishing effects that both state and federal governments intended to utilize to protect and preserve coastal fishing stability and economic viability, particularly preserving high value fishing areas from future new development which was directed to AVOID CONFLICT.

The state agency in charge of the CZMA/State/NOAA process has said time and again that there is no way to say NO and prohibit new use that is foreseeable to produce adverse impacts to fishing to a federal action in the outer continental shelf beyond 3 miles. Historical CZM processes concur with this assessment 95% of the time across the nation. We all must realize that Washington CMSP is far DIFFERENT than any other state in the nation and the results of the CZM process MUST also be DIFFERENT and much more protective of existing coastal uses including fishing than any other state in the nation. Historical CUMULATIVE and UNIQUE Federal actions only found on the Washington coast have existing severe cumulative adverse effects on Washington’s coastal zone UNIQUE in the nation making decisions about new future uses much more unlikely to occur in Washington coastal zone waters. These existing cumulative UNIQUE adverse impacts on the Washington coastal zone need to be far better portrayed in this draft Plan before it becomes permanent. Washington/NOAA CZM certifications need to underline these nationally UNIQUE situations that will encourage new use to locate in areas not as extensively and adversely impacted by effects reasonably foreseeable on the Washington coast that are not found anyplace else in the nation.

Housekeeping by Washington Department of Ecology is currently in the process of updating guidance to the state Shoreline Master Program (SMP) through what Ecology describes as “housekeeping”. The people of the coast and legislature does not consider ignoring important state law that governs the coastal zone by unelected agency officials as simple “housekeeping”. Evidently Ecology and NOAA CZM officials have been ignoring state and congressional legislation that calls for federal actions to be fully consistent with state and “local” authorities out of convenience and the complications of how SMP pieces of Washington law has over 200 SMP’s throughout the state. However, there is only one county

(Pacific County) SMP authority in the state that has had an active ocean section and has had since 1997 which has been neglected by arbitrary and capricious actions erroneously shelved for over a decade through illicit unelected official practice contrary to legislative and congressional intent. State/NOAA CZM omitting “local authority is an arbitrary breach in handling the CZMA process and must be corrected ASAP before this substandard situation is tested by a project proposal in coastal waters. All the Pacific County Commissioners also agree, take this omission as a very serious breach of state and local authority, and sent Ecology a letter through their Prosecuting Attorney Mark McClain (attached to this letter) to correct this deficiency and reinstate the county local authority into the approved Washington State/NOAA program and include “local authority” as a functional primary part of the CZM program directly to ensure that local authorities are equal in the CZM approved program and the process works as intended down to the local level as an integral relationship as equal partners in this federal, state, and local CZM process as intended by congress and the state legislature. **CORRECTIVE ACTION REQUIRED** to reinstate the full local authority and integrity of the CZM program designed by elected officials and currently short-circuited by mutual agreement of agency personal from both Ecology and NOAA. **This is a MUST correction in the current NOAA/State approved CZM program** that is directed in the CMSP legislation as intended. Local authorities include slightly higher and more specific standards and offer a greater degree of protection for existing uses than Ecology WAC’s that MUST be directly assessed in determining validity and consistency of federal actions in Washington coastal waters. Pacific County recent update to their SMP is major milestone in the fight for the economic health of our communities and absolutely irresponsible to exclude it from the Plan and the CZM state/NOAA certifications.

Grays Harbor Oil Terminal Expansion was the first court test of the Washington Ocean Resource Management Act and its interaction with the State and Local Shoreline Management Act the primary foundation of the CZMA NOAA/STATE approved program. This Oil Terminal Expansion Permit process selectively omitted the major pieces of the CZM program for the effects test relative to Washington Ocean Resources Management Act. The Washington Supreme Court Decision in the case highlighted the many deficiencies found in the Ecology proceedings which attempted to again short-circuit the intent of the legislation.

Washington Supreme Court ruling - 92552-6 - Quinault Indian Nation, et al. v. City of Hoquiam, et al.

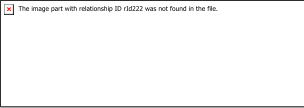
The Washington Supreme Court Rulings are applicable to other agency actions to many findings in this case; especially the NOAA/STATE approved CZMA program:

Washington Ocean Resource Management Act – Supreme Court Review 12 January 2017

- 1) Including but not limited to:
- 2) When interpreting statutes, fundamental purpose of an agency is to ascertain and carry out the **intent** of the legislation

- 3) ORMA "articulates policies and establish guidelines for the exercise of state and local management authority over Washington's coastal waters, seabed, and shorelines," [**emphasize local authority**]
- 4) Some uses may pose unacceptable environmental or **social risks** [including coastal fisheries]
- 5) Commercial endeavors may be prohibited if they are "potentially" destructive to the environment or adverse to existing coastal uses including fishing [adverse is a much higher standard than significant adverse impact]
- 6) apply the "plain language" of the statute [in establishing legislative intent]
- 7) legislature intended ORMA to preemptively protect and combat current environmental and existing use dangers and potential risks to the extent of prohibiting potentially adverse activities
- 8) ORMA is to be construed broadly and liberally in its applications to achieve statutes and legislative protective goals for the environment and existing uses (ecology has interpreted ORMA too narrowly)
- 9) ORMA does not apply to existing sustainable uses including fishing
- 10) ORMA gives preference to existing sustainable uses; energy extraction of any kind is a non-sustainable use by definition [this includes ocean energy – wind, wave, tidal, other]
- 11) ORMA criteria mandates that new use avoid conflict and only allows MINIMAL conflict with existing uses including fishing [Minimal is a much higher standard than minimize adverse impacts]
- 12) Actions that require government permits and (2) will adversely impact renewable resources, navigation, fishing, or other existing "ocean or coastal uses" are subject to ORMA and may be prohibited
- 13) Supreme Court further gives rules and regulations promulgated by administrative bodies a rational and sensible interpretation based on plain language and legislative intent of the underlying legislation
- 14) It is valid for an agency to "fill in the gaps" via WAC statutory construction as long as the agency does not effectively amend the underlying RCW statute
- 15) DOE's contrary interpretation incorrectly narrows the definition of "ocean uses," thereby improperly altering the intent of ORMA [eliminating local authority is arbitrary and inappropriate alteration of legislative statutes and includes exclusion of local authorities]
- 16) Supreme Court determined the meaning of undefined terms in regulation, we may look to standard English dictionaries.
- 17) ORMA is integrated into the state Shoreline Master Program **local** authorities
- 18) "ocean uses" apply to coastal waters, seabed, and shorelines under ORMA the primary interface associated with the NOAA/State approved CZM program

Washington CMSP incorporated into the CZMA is UNIQUE in the nation in that Washington CMSP is the only state coastal planning process legislated expressly to **Protect and Preserve Existing Sustainable Uses including fishing and to ensure new uses were conditional that avoided conflict**. All other state CMSP processes were initiated to install new use, ocean energy, marine reserves, etc.. Pacific County SMP incorporated their local authority in the mold of the state legislation to protect existing uses including fishing.



Dale Beasley, President Coalition of Coastal Fisheries & Columbia River Crab Fisherman's Association

Footnote: Additional notes some from our 2014 CZM evaluation that the Washington CZM program may consider

NEPA/SEPA Procedures do not guarantee Substantive Outcomes - PROBLEM

- 9) NEPA imposes procedural requirements on agencies and does not mandate substantive outcomes NORTHWEST ENVIRONMENTAL ADVOCATES v. NMFS 10079 outcomes. *Natural Res. Def. Council v. U.S. Forest Serv.*, 421 F.3d 797, 811 (9th Cir. 2005); *see Klamath-Siskiyou*, 387 F.3d at 993; *Dep't of Transp. v. Pub. Citizen*, 541 U.S. 752, 756-57 (2004); *Vt. Yankee Nuclear Power Corp. v. Natural Res. Def. Council*, 435 U.S. 519, 558 (1978). For "major Federal actions significantly affecting the quality of the human environment," 42 U.S.C. § 4332(C), NEPA requires an agency to prepare an environmental impact statement. *Klamath- Siskiyou*, 387 F.3d at 993. An environmental impact statement "shall provide full and fair discussion of significant environmental impacts and shall inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment." 40 C.F.R. § 1502.1. We do not yet know how WRDA 2007 will play into this coastal zone process that places substantial "new" federal criteria on all water resource developments in US waters by all agencies as mandated by CEQ and places a mandate on updating the USACE 1983 Water Resource Development Principles and Standards to apply to all federal agencies and not just the USACE. A major concern and in some circumstances welcome relief is the new administration and its numerous reversals of many formal presidential executive orders that need to be sorted out and applied which may place much greater responsibility on state and **local** consistency provisions to accomplish adequate protections for coastal ecosystems and existing uses including. Washington CZM needs to explore these potential changes & how our coast will be affected as a result and what we can do to help our coastal rural communities flourish in the coming years. Outcomes that protect and preserve both marine water ecosystems and existing uses including fishing must change where scientific integrity drives the end results of the NEPA/SEPA not process alone. The USACE has used this process to bury science during the Columbia River Channel Deepening and was aided by multiple court decisions which CRCFA has called the Paul King Syndrome. Future CZM processes must avoid similar falling into the Paul King Syndrome and further the current LCSG CZM process where science is being pushed to the forefront of decisionmaking and a much-welcomed situation for better collaboration with rural coastal fish/water dependent communities where "least cost" is still lurking significantly in the process clouding the placement of the nearshore North Head Site. Recent deceptive Corps diagrams limiting the existing authority of the Corps to move further north have been utilized illicitly. Historical analysis of haul distances to the Deep Water Site have always used River Mile 0 as the point of consideration for haul

distance analysis. The most recent diagram moved the haul distance center to River Mile 3, shortening the distance of haul considerably and the concentric haul distances by miles which gravely affects the north existing limits of current Corps authorities for remaining with existing spending authorities. In addition, the Corps could average the costs of shortened distances to disposal at the South Jetty Site and extended range of the North Head Site further north into the Mudhole as originally contemplated by the LCSG as acceptable. Some adulterated manipulation of FACTS is still in play and must be addressed before location and any disposal in the North Head Site is permitted. The CZM process needs to correct these FACTUAL deficiencies and keep pressing science forward into uncharted waters.

Washington CZMA needs to DIRECTLY address Coastal Erosion Hotspots

Change is like dancing with a hungry grizzly bear in the springtime, but it **MUST** be done

- 10) According to the 2 assenting judges in the 9th circuit court of appeals in the Columbia River Channel Deepening lawsuit, "The Corps took a hard look at the anticipated disposal of 4.5 mcy of dredged sediment per year from the MCR project and planned appropriately to minimize coastal erosion." This "hard look" did not quantify which percentage of the annual dredge spoils, up to or over 4.5 mcy would actually accumulate on coastal beaches nor did they have any relevant information relative to actual sediment pathways which of the recorded geologic history of the NOAA bathymetric ocean mapping over the last hundred years clearly shows that the vast majority of all MCR sediment moves mainly offshore and to the north with a very small portion of the discharge actually reaching coastal shorelines. Offshore Oregon has actually suffered a very severe deepening of the Clatsop Littoral Cell. Outside analysis of MCR sediment pathways by Pacific International Engineering collaborates the offshore & north geologic processes indicated by the historical NOAA bathymetric surveys and is very difficult to overlook and ignore. The assenting judges did not have this wealth of scientific information to examine as it was not a direct part of the EIS process and will make it more difficult for the states of Washington and Oregon to certify CZMA consistency who must begin to more closely examine sediment pathways which were a requirement of the last round of certifications, but never fulfilled leaving a glaring crack with which to insist on more strategic beneficial placement of sediments directly on the beaches to directly offset loss of sediment supply that contributes significantly to increasing coastal erosion potential. The recent USACE Corps tracer studies are a drastic improvement on past attempts at sediment pathways, but some major flaws still need to be factored into the final analysis before any definitive statements about sediment pathways out of the SWS can be determined. Dumping the tracers at the top of the hill instead of the bottom of the hill where most recent sediment has been discharged will considerably alter the end results and favor some reaching the beach as a pathway. The tracer study has some superior attributes over building a mound and attempting to follow it, to the Corps credit. In 2007 the best coastal scientist and engineers gathered at the Cape

Disappointment Technical Forum to evaluate Washington/Oregon coastal erosion and came to unanimous conclusion that the BEST scientific information available was to put dredged sediment directly on the beach or immediate adjacent surf line to combat a growing coastal erosion that is being exacerbated by climate change and sea level rise.

CRCFA continues to work toward dredge project solutions that provide strategic, more sustainable, safety oriented, beneficial disposal to produce less environmental harm through avoidance, minimization, and replacement mitigation of resource (crab) impacts that **provide measurable sand to the coastal shorelines** in meaningful timeframes through projects like the Benson Beach SW Washington Littoral Drift Restoration Project. CRAFA supported moving forward with a 2010 direct pump ashore project to regain political momentum for the project. Long term we firmly believe that up to 2 mcy per year ~~could~~ **MUST** be placed on Benson Beach through the sump – re-pump process or direct beach pump ashore and that the State of Washington and especially **Pacific County in their current local SMP update** mandated to that end as well. Direct beach placement is still in doubt as a result of the Corps manipulating the "PROCESS" and relying excessively on the "least cost option" instead of adequately mitigating for truncation of Columbia River sediment supply to the coast. Relative to Direct Beach Placement of sediments on Benson Beach prior to 2010 the USACE Portland District was consulted before advocating congress to fund a direct beach placement test at Benson Beach. USACE recommended placement of funds in the USACE Regional Sediment Management Program, which congress did. Immediately upon receiving the congressional appropriation the **Corps promptly marooned the cash and stated that RSM Program did not allow direct beach placement**. Congress was again approached after additional consultation with the Corps and re-authorized language in an appropriation bill aimed at freeing the marooned cash from the illicit deposit and makes it available for placement of sediment on Benson Beach. Again, the Corps waffled on the ability to free the funds. "PROCESS" and the Paul King Syndrome worked overtime in that NO sediment has been placed directly on the beach except that trucked in from over 80 miles away to shore up the North Jetty since 2010. Only a very persistent public advocacy and the State of Washington supplying 50% match to the Benson Beach direct pump ashore experiment allowed the direct beach placement of MCR sediment to move forward way back in 2010. Results of the Benson Beach sand tracer study were a miserable failure, seems the tracers magically disappeared??? Persistent and informed interaction of the fishing fleet directly in this CZM process on a day to day hands on approach that has forced new science to be developed that has not previously been available and forcing the "process" to move beyond the curtains of the "Paul King Syndrome" and continually demand FACT BASED DECISIONMAKING instead of hiding behind "process". The nearshore disposal (a mile or more offshore) is progressing, but this progression will only delay the inevitable action required to slow coastal erosion – DIRECT BEACH PLACEMENT. Washington CZM program needs to begin advocating for the Best Science Available that dictates better erosion control – direct beach placement of MCR dredged sediments. History Matters

and unless Washington starts to strongly advocate federal mitigation for a truncated sediment supply through direct beach placement of MCR dredged sediments the coastal erosion problem will continue to grow worse; the CZM program can help create better outcomes for the growing coastal erosion problem on the Washington coast.

Washington CZM MUST address Human Health and Safety

- 11) Human health and safety were specifically added by CRCFA through our membership in the National Water Protection Network advocacy to the WRDA 2007 federal legislation to require that coastal nearshore disposal be controlled and limited mound induce wave amplification MONITORED and upper limits of increased wave amplification be ensured as one of the new standards required for Water Resource Projects. At the conclusion of the 2016 dredge disposal at the South Jetty Site there was NO MONITORING of the increased bathymetry at the site and NO way to know if the 10% wave amplification criteria was exceeded or not. In order to better and more directly address these failures of ensuring human health and safety, Pacific County local SMP update added specific criteria limits of 10% mound induced wave amplification over baseline bathymetric conditions. Washington CZM program can and must ensure that these safety limits are strictly adhered to by including local authorities directly in the federal consistency requires as an approved NOAA/STATE CZM to ensure that human health and safety standards are specifically met as required by law. The fishing industry would advocate that the CZM permit conditions for any dredge disposal sites in Washington require post season monitoring and if that monitoring is not done, no dumping in the site is allowed until that immediate post season disposal is carried out in order to protect the health and safety of the midwinter dangerous crab fishermen and all mariners. Four more crab fishermen died this winter at Coos Bay as a direct interaction of the dredge disposal over mounding near the entrance to the harbor accentuating that human health and safety be more strictly addressed. This winter the crab fishing vessel Starking out of Astoria capsized and sank in the area proposed for the new Washington North Head Dredge Disposal Site, no lives were lost, but this marine casualty serves as a warning that the site is dangerous and that the mounding must be absolutely controlled. CZM permitting must be positive in maintenance of adequate controls on increasing disposal activity.

- 12) The fishing vessel Starking casualty during crab season this past winter in 2020 also poses significant safety RISK for any LCSG scientific investigations this year. Approximately 200 crab pots were dumped in a pile and never recovered with massive quantities of lines tangled together in the North Head Study area posing a threat to lost scientific instrumentation and or towed video equipment. The research vessel could also become seriously incapacitated with excessive amounts of rope sucked into the vessels main screw. The Starking's protrusion above the bottom could also pose a significant SAFETY RISK to the dredge Essayons as well if the dredge collides with the vessel in these shallower waters. The Starking final resting place or how far above the bottom it extends is not currently known. Previously CRCFA warned of the barge sank on the bottom at the southern end of the North Head Site location area and was found by the Corps so

that dredge safety could be increased – human health and vessel safety is always a top priority of fishing industry representatives and wants that safety concern extended to our other LCSG friends as well.

Last year scientific instruments were buried by sediments and much information lost as a result of underestimating effects of burial from excessive sediment suspension and movement compared to the South Jetty Site that CRCFA has attempted to warn of on multiple occasions. Any scientific instrumentation deployed in the area north of the North Jetty MUST be routinely monitored and information often downloaded and cannot be left for weeks at a time unattended which can occur south of the MCR. This is the second expensive monitoring device lost due to infrequent recovery of the instruments in this much more dynamic sediment laden environment. Lessons Learned from scientific study at the South Jetty Site will not automatically transfer to the North Head Site which is considerably more dynamic and under experiences the influence of the Columbia River Plume directly. Different study methods will need to be employed and pioneered to understand the dynamics associated with this much more energetic area of the ocean.

The fishing industry welcomes the continued improvement of the State/NOAA CZM approved program and sincerely encourages the program to include directly pertinent local authorities including the Pacific County SMP into the program as intended by both the Washington state legislature and congress.

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Pacific County
PROSECUTING ATTORNEY
Mark McClain, Prosecutor

April 25, 2017

Fran Sant

Washington State Department of Ecology

PO Box 47600

Olympia, WA 98504-7600

RE: Shoreline Management Act Rules

Dear Ms. Sant,

I write on behalf of the Pacific County Board of County Commissioners, and the community members who have painstakingly participated in the development of Pacific County's Shoreline Master Program (SMP) and, together, ask that the Department not amend WAC 173-27-060.

Pacific County spent a good deal of its very limited resources on the latest version of its SMP, now being reviewed by the Department of Ecology. We were proud of the amount of citizen participation in the process. We invest this effort because of our understanding of the statutory duties of the County and the Department. We understand Chapter 90.58 RCW as building the State's shoreline management atop the foundation of the individual counties' SMPs. We particularly appreciate being that foundation when state and federal shoreline management interests intersect.

Thus, the Commissioners were surprised to learn in recent meetings with constituent groups and stakeholders who actively engaged in the development of our SMP that the Department views the SMA and the SMP Guidelines as being the core enforceable policy and the County's SMP as merely its local expression. We find no legal authority for that interpretation. In fact, RCW 90.58.030(3)(b) states that "[g]uidelines' means those standards

adopted to implement the policy of this chapter for regulation of use of the shorelines of the state prior to adoption of master programs.” *Emphasis added.* (3)(d) states that the “[s]tate master program’ is the cumulative total of all master programs approved or adopted by the department of ecology.” On its face, the statute says that the counties’ SMPs are the enforceable policies. This is particularly important to our County when federal agencies look to act, regulate, or de-regulate in our coastal waters. 16 U.S. C. 1456(c)(1)(A) requires federal agencies to act “in a manner that is consistent to the maximum extent practicable with the enforceable policies of approved State management programs.” Pacific County depends on a healthy, well-regulated coastline. The fishing and tourist industries here are local, individual, and our continued interest and priorities are reflected in our SMP. As the only county that currently has an ocean section as a piece of our SMP, which, as a result, requires federal action in the Coastal Zone Management Act to be consistent with our local SMP. We believe this to be of critical importance to protect our community and we appreciate having State support protecting our citizens and their jobs.

Please do not change that by lessening our locally adopted SMP or the Act generally. And please let us know if the Department believes that our SMP is not itself an enforceable policy as contemplated by the Coastal Zone Management Act or the Shoreline Management Act.

Respectfully,

Mark McClain

CC: Maria Bellon
Senator Dean Takko
Representative Brian Blake
Representative James Walsh

Many cities and counties on the Pacific Coast have sent letters to BOEM requesting a STOP to fast tracking floating offshore wind, these are included by reference in our remarks. The City of Warrenton is a good representation of the large number of letters BOEM has received relative to the “call for interest” in developing Floating Offshore Wind on the coast. Common theme emanating from many of these letters is: SLOW DOWN, investigate before you leap, AVOID CONFLICT with existing uses including fishing, move WEAs outside of 1300 meters, enact a moratorium until relevant science is developed, Preform a specific PEIS, thorough analyze cost/benefits/impacts and make them public, put those most affected on the state/BOEM taskforce and stop utilizing a FACA exemption to do business that eliminates the public and fishing interests from the decisionmaking process.

file:///C:/Users/13602/Downloads/BOEM-2022-0009-0089_attachment_1.pdf

file:///C:/Users/13602/Downloads/BOEM-2022-0009-0093_attachment_1.pdf (Astoria)

CCF/CRCFA appreciates the opportunity to provide comments to BOEM for Pacific Coast new emerging unproven industrial development of floating offshore wind. We look forward to a thorough response to the multitude of comments submitted not just to the Oregon call areas but all OSW proposals in the Pacific Coast that we have addressed here in.

Sincerely concerned for the wellbeing of existing ocean uses,

Dale Beasley President CCF/CRCFA

Cc:

Honorable Sec Deb Haaland
Department of the Interior
1849 C Street, N.W.
Washington DC 20240
Debra.Haaland@doi.gov

Honorable Sec Jen Granholm
U.S. Department of Energy
1000 Independence Ave.
SW Washington, DC 20585
The.Secretary@hq.doe.gov

Honorable Amanda Lefton
Director BOEM
Bureau of Ocean Energy Management
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Amanda.Lefton@boem.gov

Assist Chief Council Sharma
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SBA Regulatory Flexibility
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prianka.sharma@sba.gov

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Honorable Assist. Sec. Janet Coit
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Honorable David Kaiser
Senior Policy Analyst
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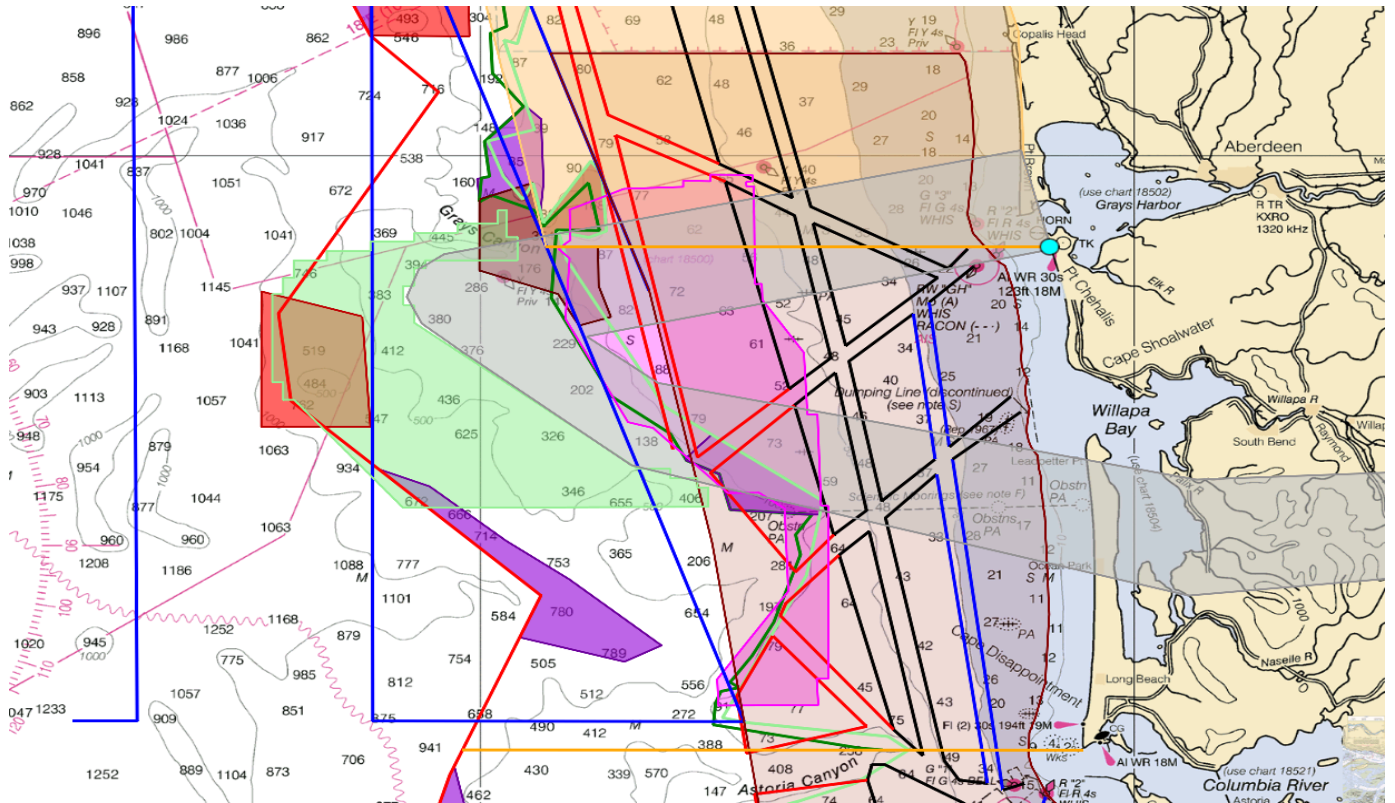
Honorable Kerry Kehoe
Federal Consistency Specialist
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10th Floor (N/ORM3)
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Kerry.Kehoe@noaa.gov

Honor Janine Benner
Director of Oregon Dept. Energy
503-378-4040

janine.benner@energy.oregon.gov

Honorable Casey Sixkiller
Regional Administrator, Region 10
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 155
Seattle, WA 98101
casey.sixkiller@epa.gov ??

Waters offshore Pacific/Grays Harbor Washington are very busy. The map below does not show the fishing effort in the area:
See chart below of SW Washington offshore marine waters of intensity of existing uses not including existing fisheries in the area. Map key below



SW Washington map key for very busy ocean existing use chart from page 6

This map does not show valuable fishing areas for Dungeness crab, salmon, albacore, whiting, shrimp, or other valuable fishing grounds

RED, Purple, Brown = Critical fish habitat as designated by Pacific Fisheries Management Council

Large light green = 300+ square miles of Olympic Wind lease request

Large pink = 400+ square miles of Cascadia Wind

Red, Black, Blue are designated crabber/towlanes

Large Blue offshore lanes are USCG designated fairways

Brown line north/south 3 miles offshore then east/west is broad USCG vessel transit area (30+ miles wide)

Gray east/west lanes are low level military flight practice zones

Blue dot with east/west yellow line is south end of Quinault U&A

Two different green lines surrounding 100 fathom curve is a closed trawl area only in WA, not in OR or CA

Red zig zag line on west map – No trawling outside of 700 fathoms

Light red thin line & north is the military practice zone (cuts through 945 high spot on chart)

NOTE: Olympic Wind avoids most fisheries except trawl and albacore; intersects military practice zones

Cascadia Wind is in direct CONFLICT with all major uses in the area including Quinault U&A

BOEM/NOAA/USCG conversation

1 Nov 2022 – issues of CONCERN

1. Electrical cable burial – BOEM stated only close to shore
2. Floating offshore wind substation construction, 200,000 gallons of oil onboard

Nichol Duff

From: Annette deleest <deleestannette@gmail.com>
Sent: Sunday, December 18, 2022 8:56 PM
To: Shoreline Master Program
Subject: SMP Public Input - Sean Humphreys

Categories:

December 18, 2022

Attention: Sean Humphreys, Director
Department of Community Development
Pacific County
smp@co.pacific.wa.us

Reference: Public Input to Shoreline Master Program

Dear Mr. Humphreys,

I submit the following input to the proposed Pacific County Shoreline Master Program (SMP).

During the December 1, 2022 County planning commission public hearing I expressed my concerns regarding the proposed County update. At this meeting, the county assured me that the proposed SMP update would not change Surfside HOA property rights as identified in the current SMP and CARL 180. After further review of the draft document, it seems clear to me there is no protection clarified for properties that were legally established prior to the effective date of the SMP. As I stated during the meeting, these are significant changes that affect the use and value of my property.

What do these proposed changes do?

Currently our water views are protected by language in the Critical Areas Resource Lands (CARL) which is incorporated into the SMP by reference. The CARL allows Surfside HOA the right to manage vegetation and tree heights per our Covenants. Our Covenants restrict our tree and vegetation height limits to our building heights, which in turn protects our water views.

Proposed changes to the SMP will restrict the cutting, crowning and topping of trees in Surfside. As a part of the proposed changes, the County had to prepare a SEPA Impact Statement which identifies impacts resulting from governmental decisions. On the SEPA impact checklist, **the County checked that Views were "Not Applicable" and marked N/A on this form.** This is blatantly false! The proposed changes **WILL AFFECT OWNERS VIEWS** unless Surfside can continue to enforce their Covenant tree height restrictions that allow property owners to crown, trim, top or cut their trees as necessary to protect their views.

Discussion: The SMP allows for water view access and a view corridor. I believe our Covenants are what protect our view. Residents in Surfside who have a water view (including but is not limited to H, I, J and K Place) paid a premium price for their property and continue to be taxed on the extent of their views. The assessor's office conducts an inspection to assess the actual % of view on individual properties. A recent analysis found that there was up to a \$200,000 difference in home values depending on the view. This has no doubt increased over the past year. The proposed SMP changes will have a significant impact on individual property values and lost County tax revenue if water views are not protected.

Alternative: Nonconforming Use of Property

Section 7.2 Preexisting Structures and Uses, Section B, Preexisting Single-family Residences states: "Single-family residences and appurtenant structures, located landward of the ordinary high water mark, that WERE LEGALLY ESTABLISHED prior to the effective date of this master Program BUT THAT DO NOT CONFORM TO THE REGULATIONS OF THIS MASTER PROGRAM ARE CONSIDERED CONFORMING STRUCTURES and USES for the purpose of this Master Program.

As the county is proposing to change the land use language in the SMP that currently allows Surfside to protect water views by managing vegetation heights, I request that the County continue to recognize and codify Surfside's existing land use policy as a NONCONFORMING USE entity under the SMP and CARL.

Sincerely,
Annette de Leest
34906 J Place
Ocean Park, WA 98640

Annette

Nichol Duff

From: Steve Flickinger <stevefflick@comcast.net>
Sent: Monday, December 19, 2022 9:20 AM
To: Shoreline Master Program
Cc: Linda Flickinger
Subject: Pacific County SMP Public Comment

Categories:

Subject: SMP Public Comment
December 18, 2022
TO: Pacific County SMP Shoreline Management Plan
FROM: Steve and Linda Flickinger

We attended the December 2, 2021 SMP initial Periodic Update meeting, and also the December 1, 2022 Pacific County Planning Commission SMP Public Review Draft 2022.11.14, and now wish to Comment. We previously wrote a Public Comment letter to SMP December 10, 2022, and wish to add the following Public Comment.

Our Comments are in regards to the Vegetation Management section SMP Section 4. General Policies and Regulations 5. Vegetation Management B. Regulations 7. = SMP Section 4. 5. B. 7. We believe that this line item, as found in Pacific County Ordinance 183, page 55 - adopted December 12, 2017 should remain **UNCHANGED, NO** Amendments. It should remain as "7. Selective pruning of trees and mowing of vegetation for purposes of maintenance, invasive species management, or fire protection is allowed, provided that no vegetation shall be removed from critical areas, dunes, or their buffers without the approval from the Administrator. Topping of trees for views is not allowed."

However, if the Pacific County DCD Department of Community Development finds it necessary to Amend SMP Section 4. 5. B. 7. As shown in the SMP Public Review Draft 2022.11.14 page 56, that would be acceptable to us, conditional there be **NO ADDITIONAL WORDS/LANGUAGE CHANGES/DEFINITIONS** added.

"7. Selective pruning of trees and mowing of vegetation for purposes of maintenance, invasive species management, or fire protection is allowed, provided that no vegetation shall be removed from critical areas, dunes, or their respective buffers without approval from the Administrator. Topping of trees for views is not allowed. ~~In addition, tree~~ Tree limbing is allowed for view preservation, not view creation. The removal of tree limbs shall not reduce overall canopy cover. "
Or as written final:

"7. Selective pruning of trees and mowing of vegetation for purposes of maintenance, invasive species management, or fire protection is allowed, provided that no vegetation shall be removed from critical areas, dunes, or their respective buffers without approval from the Administrator. Topping of trees for views is not allowed. Tree limbing is allowed for view preservation, not view creation. The removal of tree limbs shall not reduce overall canopy cover."

AGAIN, NO ADDITIONAL WORDS/LANGUAGE CHANGES/DEFINITIONS added.

We both have Bachelor of Science degrees in Horticulture, and professionally know how to take care of vegetation. As nearly 7 years full time year around citizens of Pacific County, we believe that the SMP should include the interests and concerns for the entire county as a whole and not include individual interests of specific community groups in example our December 10 Public Comment letter regarding Ms. Annette deLeest, Ms. Sheri Mosher, Ms. Peggy Olds.

We appreciate the Pacific County DCD's and Washington state Department of Ecology intent to preserve the integrity of our SMP documents.

Sincerely,

Steve & Linda Flickinger

Stakeholders, Pacific County – Ocean Park

E: steveflick@comcast.net

E: Lmflick@comcast.net

Nichol Duff

From: Joanne Mcmurphy <bjmcmurphy@aol.com>
Sent: Monday, December 19, 2022 11:54 AM
To: Shoreline Master Program
Subject: SMP

Categories:

Please accept my comments on the recent hearings concerning the SMP As you've already received many comments about our problems here in Surfside, I can only verify the huge problem we are experiencing. There is a small group called Surfside Preservation obsessed with keeping their view up on J Place! These members do not speak for the majority of us.

Trees are being slaughtered, ruined, cut to the ground and ruining our eco-system here. Unfortunately it is very difficult to have our covenant changed that states 16ft trees here on the west side of Surfside.

The statements about not topping and not cutting for a view would certainly help our cause in trying to actually preserve our trees!

Thank you for your hard work,

Ron & JoAnne McMurphy

608 Oysterville rd

Ocean Park, wa 98640

360-665-4444

509-420-3880

Sent from my iPad

Nichol Duff

From: Mike Chevalier <mchevali@yahoo.com>
Sent: Monday, December 19, 2022 5:02 PM
To: Shoreline Master Program
Subject: Public comment on review of shoreline Management Program

Categories:

I understand you are asking for public comments regarding the review of the Shoreline Management Program.

I am writing you regarding the Surfside HOA and their enforcement of tree heights in Ocean Park and its impact on seniors. The average age in Ocean Park is 64 years old. The comments sent to you from the HOA do not properly represent all residents. This policy requiring heights of trees to 16 feet should not be allowed for the following reasons:

- The high fines levied for compliance impacting financially vulnerable seniors. I know residents have sold their property due to this
- Residents required to top trees for compliance that make their landscaping look hideous
- The high cost of landscaping in Pacific County also impacting seniors due to limited landscapers. Cutting down and trimming trees can cost thousands.
- The risk to the lives of seniors attempting to perform landscaping themselves due to the high costs.
- Topping trees leads to a dead or diseased tree that may fall causing damage to nearby houses and property
- Reduced property values due to the resulting dead trees and unappealing topped trees..
- Reduced privacy from having to remove or trim trees allowing direct views into people's homes from nearby properties
- Tree restriction to preserve a view that is a 1/4 mile away from the shore is absurd. The view of the beach is minimal at best.

The policy restricting tree heights are not uniformly applied. I have seen this policy adversely affect the well being and financial stability of many senior citizens in the community. The forced adherence to cutting down or topping trees are forcing property owners to leave. The intimidation of owners opposed to the members of the HOA has resulted in attacks on both sides in social media including threats to individuals. The person I bought from loved Ocean Park but moved elsewhere to avoid the fines and intimidation due to tree heights.

Some argue that the view on a place adds 100,000 to 200,000 to property values. This is absurd. You can see Zillow to see houses closest but not on the shore have equal value. A short walk to the beach is preferred in some cases to a distant view of the shore. The loss due to ugly looking trees can be in the tens of thousands.

I thank you for your time and hope you consider the financial well being and safety of seniors in this time of high inflation. I write not for myself since I can afford the landscaping. But for a senior friend who loved living here. Who was harassed into leaving by its members due to opposition to tree heights. No one should have their property rights and

financial well being impacted by a tree height restriction that makes no sense. Given that a majority of ocean park residents are seniors please take into account their financial well being more important than a view a 1/4 mile away from the ocean

Sent from Yahoo Mail on Android

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Nichol Duff

From: Shawn Humphreys
Sent: Tuesday, December 20, 2022 7:05 AM
To: Shoreline Master Program
Subject: FW: Shore Management

Categories:

From: vhbearhome <vhbearhome@yahoo.com>
Sent: Monday, December 19, 2022 7:56 PM
To: Shawn Humphreys <shumphreys@co.pacific.wa.us>
Subject: Shore Management

I believe Peggy Olds and Annette DeLeest represent the majority of here in Surfside. We had a very nasty small group that wanted to eliminate our tree covenant. The largest turn out in recent elections showed the majority of residents did not want to change our covenants that have stood for 40+ years. The tree committee wants everyone not to cut their trees down to the stump but to keep them trimmed to the height of their roofs. They have signed in their escrow papers to follow the covenants but after they moved in they didn't want to trim and pay for it if they would hire a contractor

Thank you for listening to the majority of this HOA as proven by this past major election in July.

Sent from my Verizon, Samsung Galaxy smartphone

Nichol Duff

From: Shawn Humphreys
Sent: Monday, December 19, 2022 10:09 AM
To: Shoreline Master Program
Subject: FW: SMP update
Attachments: Pacific Co SMP_WA CZMP Enforceable Policies Comparison Documents_4.2021.pdf;
Pacific Co_SMP CZMP Enforceable Policies Crosswalk_4.2021.pdf

Categories:

From: crabby@bakerbay.org <crabby@bakerbay.org>
Sent: Monday, December 19, 2022 8:27 AM
To: Shawn Humphreys <shumphreys@co.pacific.wa.us>; 'Brandon, Tess (ECY)' <tebr461@ECY.WA.GOV>
Cc: crabby@bakerbay.org; kelly.rupp@leadtoresults.com; Casey.Dennehy@ecy.wa.gov
Subject: SMP update

Shawn, Tess

See attached these are cross walk papers prepared for conversation between interested parties and CZM Certification of the Pacific County SMP -

USCG is currently in the process of designating vessel traffic Fairways off the coast that also have a "Prohibition on Fixed Structures from 3 miles to almost 100 fathoms, the Pacific County SMP fills the gap from 0 – 3 miles from shore with life safety provisions.

The ecology crosswalk presentation does not have two provisions found in the Pacific County SMP.

1. Prohibition on Fixed Structures
2. Prohibition on USACE Dredge Disposal in excess of 10% wave amplification

Both of these Prohibitions are in the SMP as "life safety" measures to protect against ocean actions that lead to increased fatality rates in the fisheries.

Please put these ecology documents in the administrative record on the update of the Pacific County SMP.

CRCFA/CCF has been working on the protection and preservation of coastal fishing for decades and life safety is one of our PRIMARY concerns that is addressed in the SMP update.

Cumulative impacts matter to fisheries and their overall long term survival and Washington has excessive loss of ACCESS to prime fishing grounds compared to any other state in the nation. Example, salmon troll harvest in Washington is at < 1% of historical highs. Salmon has always been the primary access point to young fishermen on the coast. As salmon has collapsed, fishing effort that keeps our coastal ports open for business is extremely reliant on the Dungeness crab fishery to receive USACE dredging into our ports. Current unsolicited lease requests totaling over 700 square miles of ocean exists off of the Pacific/Grays Harbor county line; 700 miles that is a HUGE deficit area for fishing in addition to other losses over time.

CRCFA/CCF understands that the CZM Certification of the SMP is not currently under consideration but that the SMP also has key provisions not found in any other law in the nation that is capable of protecting our coastal way of life and that the SMP is a key element as state law that needs to be retained as a primary source of protection for the Pacific

County and all state citizens that ply our offshore waters. Decarbonizing our electric grid may be important but that is not as important as immediate "life safety" needs which this SMP provides.

One added note: there has been NO immediate onset marine casualties at the Mouth of the Columbia River since the USACE initiated the 10% mound induced wave amplification guidelines which speaks loudly to the success of this SMP provision.

Concerned for the economic future of our local Fish Dependent Communities, this SMP is a key element of saving our coastal heritage, culture, and lives of our fishing public,
The SMP is an important lifesaver,

Dale Beasley, President CRCFA/CCF

**Pacific County Shoreline Master Program and the Washington Coastal Zone Management
Program Enforceable Policies Comparison Documents
April 21, 2021**

Introduction

This summary memo and attached analysis table¹ follow discussions with the Pacific County Commissioners and others regarding the status of the Pacific County Shoreline Master Program (SMP) as an “Enforceable Policy” in Washington’s Coastal Zone Management Program (CZMP). During a virtual meeting late last year, questions arose about Ecology’s ability to include the SMP into the CZMP as an Enforceable Policy so that the SMP provisions could be applied in certain cases during Ecology’s Federal Consistency review granted by the Coastal Zone Management Act. Ecology volunteered to provide a side-by-side comparison of the Ocean Use provisions of the SMP and existing Enforceable Policies found in the Ocean Resources Management Act (ORMA) and the Ocean Management Guidelines (OMGs); the Shoreline Management Act (SMA) and the SMA Guidelines (Guidelines); and the Marine Spatial Plan.

This memo provides an overview of Washington’s Coastal Zone Management Program and the basics of the federal consistency review authority granted to states under the Federal Coastal Zone Management Act. The memo highlights provisions of the Pacific County SMP for which there are no similar Enforceable Policies in the CZMP, and: 1) identifies whether there are other policies in the CZMP that could achieve the same purpose; 2) considers whether these SMP provisions would meet the federal definition of an Enforceable Policy and be approved by NOAA; and 3) suggests whether the policies could be submitted (or revised and submitted) to NOAA for inclusion as Enforceable Policies in the CZMP.

The attached analysis table includes the relevant provisions of the SMP (with a focus on Section 6) and identifies the comparable CZMP Enforceable Policies.

Background

Many Pacific County residents and officials have long been concerned that potential new ocean activities, such as offshore marine renewable energy, could adversely affect the County, its residents and local industries, especially the commercial fishing community. The County’s SMP reflects these concerns with strong policies aimed at protecting coastal uses and resources upon which the County relies. The questions about whether and how those policies could apply to projects in federal waters, beyond the County’s and State’s jurisdiction, through the Federal Consistency tool in the CZMP are what prompted this memo and analysis.

In response to those questions, the Washington Coast Marine Advisory Council (WCMAC) hosted a special meeting on September 28th, 2020 focused solely on Federal Consistency. Ecology staff along with a representative from NOAA’s Office of Coastal Management (OCM) briefed the attendees on the State’s Enforceable Policies and how they apply to projects that are subject to the Federal Consistency tool. Ecology and OCM staff also described some of the limitations of Federal Consistency. The presentations from that meeting are available on the WCMAC’s EZ-View page (<https://www.ezview.wa.gov/?alias=1962&pageid=37058>).

¹ Attachment A: Pacific Co_SMP CZMP Enforceable Policies Crosswalk_4.2021

Pacific County Shoreline Master Program and the Washington Coastal Zone Management Program Enforceable Policies Comparison Documents

April 21, 2021

Washington Coastal Zone Management Program (CZMP)

Washington State developed its Coastal Zone Management Program (CZMP) in the mid-1970s, and when NOAA approved it in 1976 it became the first federally-approved CZMP in the nation. Having a federally-approved CZM program provides the state with two significant benefits: (1) federal financial assistance (annual grants); and (2) federal consistency review authority.

What is “Federal Consistency”?^[1]

The Coastal Zone Management Act requires that all federal actions that may have reasonably foreseeable effects on the uses or resources of **a state’s coastal zone** be consistent with the Enforceable Policies of the state’s coastal management program. Federal actions include:

1. **Federal agency activities and development projects** (e.g. a Naval Training Plan or a U.S. Army Corps of Engineers jetty construction project). For these kinds of actions, the federal agency must make a decision as to whether the proposed project will have effects on Washington’s coastal zone. If the answer is yes, they must then demonstrate that the proposal is consistent with Washington’s Enforceable Policies (see below) and submit a “consistency determination” to the State.
2. **Federal licenses or permits - non-federal applicants** (e.g. activities requiring U.S. Army Corps 404 permits or a license from the Federal Energy Regulatory Commission). If a project needs a federal license or permit that is listed in a state’s approved CZMP, and is in the coastal zone, coastal effects are presumed and the applicant must submit a “certification of consistency” to the State and the authorizing federal agency.
3. **Federal financial assistance to state or local agencies**. Applicants for federal funding from financial assistance programs listed in a state’s approved CZMP must submit a consistency certification to the state.

Project proponents for these federal actions must describe in their consistency document how the project is consistent with the applicable enforceable policies. Ecology may concur with the applicant’s findings, or it may condition its concurrence with conditions that would render the project consistent, or, if it disagrees with that applicant’s finding, and no resolution is reached, then Ecology can object.

States may review federal actions inside or outside of the state’s coastal zone (i.e. beyond 3 nautical miles offshore). For federal agency activities (#1 above), states may review a project outside of the coastal zone if that project will have effects on a state’s coastal resources or uses (as determined by the federal agency). For federal licenses or permits (# 2 above) states can review projects outside the coastal zone if they either: A) request NOAA approval to review the activity on a case-by-case basis; or B) have an approved geographic location description (GLD) with listed activities occurring outside of the coastal zone. A GLD is developed in advance by a state and must be approved by NOAA. The GLD, in effect, provides advance approval for a state to review specified activities outside of the coastal zone without case-by-case approval by NOAA.

What are Enforceable Policies?

Enforceable Policies are state policies that are legally binding under state law (laws, regulations, land use plans, etc.) by which a state exerts control of private and public coastal uses and resources. A state law is not a CZM Enforceable Policy until it is approved as such by NOAA. That approval is based on

^[1] See CZMA §307 (16 U.S. Code §1456).

Pacific County Shoreline Master Program and the Washington Coastal Zone Management Program Enforceable Policies Comparison Documents

April 21, 2021

NOAA's determination that the policy is consistent with the federal regulations that define enforceable policies ([15 CFR § 923.84](#)). Under these regulations, enforceable policies:

- Must be based on a state authority that can compel someone to do or not do something
- Must contain a standard
- Must not be preempted by federal law
- Must not discriminate against a particular group or activity
- Must not assert jurisdiction over federal agencies, lands or waters
- Must not be superseded by subsequent state law
- Must not merely be a directive to develop regulations
- Must not incorporate other policies by reference

The full list of Washington Coastal Zone Management Program Enforceable Policies can be found within Ecology Publication #20-06-013 (<https://apps.ecology.wa.gov/publications/documents/2006013.pdf>)

Important CZMP Enforceable Policies related to Ocean Management

Shoreline Management Act (SMA) – While the Pacific County comprehensively-updated SMP supersedes the SMP Guidelines (WAC 173-26) and applies as our combined state and local shoreline management policies and regulations under the SMA within state waters (out to 3 nautical miles), the SMP does not apply outside of state waters or to federal actions under the state's federal consistency review authorities. While the local Shoreline Master Programs (SMPs) are not Enforceable Policies of the Washington CZMP, the standards and policies contained within SMPs were developed to meet the objectives of the Shoreline Management Act (SMA) and implementing Washington Administrative Codes (WACs). These state-level authorities are approved Enforceable Policies under our CZMP and are used in our federal consistency review. See Attachment A for a crosswalk between the SMP provisions and the CZMP Enforceable Policies.

Ocean Resources Management Act (ORMA) – ORMA contains several key enforceable policies, including one that places a priority on those resource uses and activities that will not adversely impact renewable resources over those uses which are likely to have an adverse impact on renewable uses. Additionally, the Ocean Management Guidelines (i.e. state regulations) found at WAC 173-26-360 contain enforceable policies aimed at specific uses such as Oil and Gas Development and Mining. These Guidelines place further requirements on ocean projects.

Marine Spatial Plan (MSP) – The 2018 "Marine Spatial Plan for Washington's Pacific Coast" (MSP) contains requirements and recommendations for evaluating new ocean uses through different phases of project review, consistent with existing laws and regulations – particularly those contained in the Ocean Resources Management Act and its regulations². The MSP defines "new uses" as in-water uses with adverse impacts to renewable resources or existing uses that have not previously been authorized or permitted within the MSP study area prior to the adoption of the plan. The MSP anticipates new ocean use proposals for activities such as renewable energy, dredged material disposal, mining, marine product harvesting, and offshore aquaculture operations. The Plan's information provides new ocean use applicants, governments, and others with the ability to understand other known activities and

² The full MSP is posted on Ecology's webpage <https://apps.ecology.wa.gov/publications/documents/1706027.pdf>

Pacific County Shoreline Master Program and the Washington Coastal Zone Management Program Enforceable Policies Comparison Documents

April 21, 2021

resources, coordinate interests, identify key designations, and authorities that may conflict with or complement a proposal. The MSP also helps to:

- Identify appropriate parties to discuss the proposal with prior to submitting an application;
- Understand issues, information, effects, and requirements to be addressed during the project review process;
- Identify potential ways to avoid, minimize, and mitigate adverse impacts to marine resources or ocean uses, such as alternative locations and configurations.

The MSP also includes two sections that have been approved by NOAA as Enforceable Policies in Washington's CZMP: Section 4.3.3 for Important, Sensitive and Unique Areas (ISUs) and Section 4.6 for Fisheries Use Protection.

The Fisheries Use Protection Standards in particular are worth highlighting as they were designed to minimize negative impacts to fisheries if new ocean uses with fixed structures are proposed:

(a) Protection standards for fisheries: Applicants proposing new ocean uses involving offshore development, as defined in the SMA, must demonstrate that their projects meet the following standards to protect fisheries located at the project site and nearby:

- i. There are no likely long-term significant adverse effects to fisheries.*
- ii. All reasonable steps are taken to avoid and minimize social and economic impacts to fishing*

Additionally, other factors must be taken into consideration when assessing adverse effects on commercial and recreational fisheries and whether all reasonable steps have been taken to avoid and minimize such effects.

(b) Definition of adverse effect for fisheries: Adverse effects can be direct, indirect, or cumulative. Adverse effects for commercial or recreational fisheries are defined as any of the following:

- i. A significant reduction in the ability of commercial or recreational fisheries to access the resource used by any fishery or fishing community (ies).*
- ii. A significant increase in the risk to entangle fishing gear.*
- iii. A significant reduction in navigational safety for commercial and recreational fisheries.*
- iv. Environmental harm that significantly reduces quality or quantity of marine resources available for harvest.*

Finally, the MSP also identifies Necessary Data and Information that are additional to the requirements for projects that require a federal license or permit as outlined on page 2 above. While the Necessary Data and Information requirement is not an Enforceable Policy, the information is required for those projects and used to ensure that projects are consistent with the CZMP Enforceable Policies.

Ecology Review and Analysis of the Pacific County SMP Section 6 as Potential Enforceable Policies under the State's CZMP

It has been suggested that the Pacific County SMP section 6 should be submitted to NOAA for its approval as a Washington CMZP Enforceable Policy.

**Pacific County Shoreline Master Program and the Washington Coastal Zone Management
Program Enforceable Policies Comparison Documents
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In order to determine what benefit the addition of the Pacific County SMP might add to the existing CZMP, Ecology prepared the attached analysis³ of the Pacific County SMP policies and regulations with a comparison of the CZMP's existing relevant Enforceable Policies. Ecology's analysis is focused on ocean management provisions, located mostly in Section 6 of the County's SMP as this review was intended to address concerns related to ocean uses and developments. The Enforceable Policies that are similar in intent and application to the policy or regulation in the SMP will be used by Ecology for Federal Consistency review. Those SMP provisions that do not have a match or "twin" in the CZMP's Enforceable Policies include a short description about how an existing Enforceable Policy might be used to during the State federal consistency review to achieve the same outcome or address the same identified concern.

The remainder of this memo focuses on a subset of SMP provisions, from Attachment A, that Ecology has identified as meriting additional discussion as potential CZMP Enforceable Policies. For these provisions, Ecology considered the following:

- Whether the issues addressed by these SMP provisions are covered by other CZMP Enforceable Policies.
- Whether the SMP provisions meet the federal regulatory definition of an Enforceable Policy
- Whether Ecology should support a request to NOAA for its approval to include the SMP provision within the state CZMP as an Enforceable Policy (see Conclusions below).

Ecology has identified the following Pacific County SMP provisions as not having a direct matching CZMP Enforceable Policy. A summary of Ecology's analysis is below.

1. SMP procedural, process, or internal planning based directives contained within SMP Sections 6.2.A.2, 6.2.A.6, 6.2.A.11, 6.2.A.12, 6.4.B.1, 6.4.B.2.

These sections contain no provisions relevant to a CZMP federal consistency review and therefore are not applicable as Enforceable Policies under the CZMP.

2. SMP provisions related to implementation of the CZMP or Federal Consistency review authorities as described in SMP Section 3.2.G.3.h, 6.2.A.4, and 6.2.B.19.

In our analysis and based on feedback from NOAA, these sections do not meet the federal definition of Enforceable Policies (see pages 2-3 above), particularly the requirement that Enforceable Policies must not assert jurisdiction over federal agencies, lands or waters

The County's SMP is not a NOAA-approved Enforceable Policy under CZMA for federal consistency review; however, as this document illustrates, the majority of the County's SMP policies and regulations are reflected in RCWs or WACs which are NOAA has approved as CZMP Enforceable Policies.

Although these are not Enforceable Policies, pursuant to WAC 173-27-060, Ecology requests that local governments review proposals subject to CZM federal consistency review and provide Ecology with its views regarding consistency of the activity or development with the CZM enforceable policies. While local SMP cannot authorize, create or enforce this practice, Ecology's internal processes and SMP procedural rules include local involvement in CZM project review. Additionally, if

³ Attachment A: Pacific County SMP- CZMP Enforceable Policies Crosswalk_4.2021

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the proposal is a “new ocean use” as defined in the MSP, and proposed within the MSP study area, the project could also be subject to the enhanced coordination process outlined in the MSP.

3. SMP provisions that prohibit permanently anchored or fixed structures (Sections 3.2.G.3(b) and 6.7.B.2).

We have been advised by NOAA that these policies would be considered discriminatory and would not meet the definition of an Enforceable Policy.

However, if a site-specific proposal was under federal consistency review, and effects to Washington coastal resources and uses were determined to be likely, other CZMP Enforceable Policies could be used to justify conditions or object to such a project. Additional Enforceable Policies from the MSP Fishery Protection Standards may also be applicable to this type of project, if it were a “new ocean use,” and effects were determined based on project and location specific analysis.

4. SMP provisions that require phasing of development, analysis of adequacy and impacts to local infrastructure, or fire protection plans (Sections 6.2.B.4(b), (g), and (i)).

If a site specific proposal were under federal consistency review, and effects to Washington coastal resources or uses were determined to be likely, WAC 173-26-360(6)(c) - (f), WAC 173-26-360(7)(f) & (t), and WAC 173-26-211(3)(c) address the following and may apply to justify conditions or an objection to such a project:

- *There will be no likely long-term significant adverse impacts to coastal or marine resources or uses;*
- *All reasonable steps are taken to avoid and minimize adverse environmental impacts, with special protection provided for the marine life and resources of the Columbia River, Willapa Bay and Grays Harbor estuaries, and Olympic National Park;*
- *All reasonable steps are taken to avoid and minimize adverse social and economic impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing;*
- *Compensation is provided to mitigate adverse impacts to coastal resources or uses;*
- *Requires review of detrimental effects on air and water quality, tourism, recreation, fishing, aquaculture, navigation, transportation, public infrastructure, public services, and community culture should be considered in avoiding and minimizing adverse social and economic impacts.*
- *Requires sufficient infrastructure ...to support allowed shoreline uses. Shoreline uses should not be allowed where the comprehensive plan does not provide sufficient roads, utilities, and other services to support them....*
- *A fire protection plan may be required by another local, state, or federal law outside the enforceable policies of the CZMA.*

5.

5. SMP provisions that require a socioeconomic assessment (Section 6.2.B.5)

It is possible that, if rewritten, these policies could be approvable as Enforceable Policies, especially if they were written as effects-based policies.

However, even without these policies included in the CZMP, if a site specific proposal were under federal consistency review, and effects to Washington coastal resources or uses were determined to

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be likely, the following other CZMP Enforceable Policies may apply to justify conditions or an objection to such a project:

WAC 173-26-251(3)(c) Shorelines of Statewide Significance. Priority uses. *(ii) Preserve sufficient shorelands and submerged lands to accommodate current and projected demand for economic resources of statewide importance, such as commercial shellfish beds and navigable harbors. Base projections on statewide or regional analyses, requirements for essential public facilities, and comment from related industry associations, affected Indian tribes, and state agencies.*

WAC 173-26-360(6)(e) *All reasonable steps are taken to avoid and minimize adverse social and economic impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing;*

WAC 173-26-360(7)(b) *Ocean uses that will have less adverse social and economic impacts on coastal uses and communities should be given priority over uses and activities that will have more such impacts.*

WAC 173-26-360(7)(f) *Impacts on commercial resources, such as the crab fishery, on noncommercial resources, such as environmentally critical and sensitive habitats, and on coastal uses, such as loss of equipment or loss of a fishing season, should be considered in determining compensation to mitigate adverse environmental, social and economic impacts to coastal resources and uses.*

WAC 173-26-360(7)(t) *Detrimental effects on air and water quality, tourism, recreation, fishing, aquaculture, navigation, transportation, public infrastructure, public services, and community culture should be considered in avoiding and minimizing adverse social and economic impacts.*

6. SMP provisions that support prohibition of bulk storage of hazardous materials in quantities greater than 25,000 gallons (Section 6.2.B.18).

Pipeline or storage facilities authorized by FERC under the Natural Gas Act (NGA) federally preempt a local government or state from regulating the siting of such facilities. It is possible that this provision could be approvable as an Enforceable Policy for projects other than FERC projects under the NGA.

7. SMP provisions that require that ocean disposal locations to supplement sediment transport processes to protect developed areas from shoreline erosion (SMP Section 6.3.A.2) or that limit ocean disposal to 1 foot mounding and 10% wave height increase as described in SMP Section 6.3.B.4.

It is possible that, if rewritten, these policies could be approvable as Enforceable Policies, if they were written as effects-based policies.

However, even without these policies included in the CZMP, if a site specific proposal were under federal consistency review, and effects to Washington coastal resources were determined to be likely, other CZMP Enforceable Policies may apply to justify conditions or an objection to such a project. This concept is consistent with Shoreline stabilization and fill waterward of the ordinary high water mark principles and standards found with WAC 173-26-231(3)(a)(ii) & (iii) and WAC 173-26-231(3)(c). Additionally, RCW 90.58.020 provides, “[the SMA] policy contemplates protecting...generally public rights of navigation and corollary rights incidental thereto. Permitted

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uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical...any interference with the public's use of the water."

8. SMP provisions that prohibit on oil and gas exploration, development, production, storage, and pipelines (Section 6.5.A.1 and 6.5.B.1).

NOAA will not approve this provision as an Enforceable Policy as they consider it a discriminatory policy. The parallel state-level policy (RCW 43.143.010(2)) is also not approved as an Enforceable Policy.

9. SMP provisions related to emergency ocean salvage (Section 6.9.A.2 and 6.9.B.3)

Non-emergency marine salvage is addressed in WAC 173-26-360(14). As an Emergency action – this is not an Enforceable Policy, but it doesn't need to be as it helps define actions that need to be completed immediately outside the permit review or authorization process. However, this section is consistent with general mitigation sequencing requirements under the SMA Enforceable Policies.

Conclusions

Based on the information contained within Attachment A, and the above analysis and findings, Ecology concludes that additions to the NOAA-approved Washington State Coastal Zone Management Program are not necessary to implement the purpose and intent of almost all of the referenced Pacific County SMP coastal/ocean management provisions.

Some of the SMP Provisions, outlined in detail above, are either not applicable or not consistent with the definition of Enforceable Policies. It could be possible that with modifications, some of the Pacific County SMP provisions (5, 6 and 7 in the section above) could meet the definition of Enforceable Policies, be approved by NOAA, and add value to the state CZMP. Ecology staff look forward to discussing this further with County Commissioners and County Staff.

We also acknowledge that some of our analysis in this document is based on informal feedback we've received from NOAA. We are open to making a formal request for clarification and response from NOAA once we have had a chance to review this analysis together with you.

Finally, Ecology suggests that it is also important for us to focus our efforts and resources related to Pacific Ocean management on:

1. Implementation of the MSP. The MSP was completed and published in 2018, after Pacific County's SMP was adopted. Updating the Pacific County SMP and ensuring that it is consistent with the new Enforceable Policies found in the MSP would strengthen Pacific County's SMP. It is worth noting that even though the enforceable policies are not currently incorporated into the County's SMP, they are already in effect and can be used for federal consistency review in the event of a new ocean activity. In addition to updating the SMP, there is additional work needed (e.g. filling data gaps) that will support more effective ocean management.
2. Establishment of a GLD. As discussed earlier in this document, GLDs are a mechanism for ensuring that the State can review federally-permitted and licensed activities occurring outside of state waters. Ecology has begun the initial steps of developing GLDs for several activities, including marine renewable energy, offshore aquaculture, and seabed mining. While this work will be based on the Marine Spatial

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Plan, there will be additional analysis needed, as well as engagement with stakeholders, tribes, and federal agencies.

Attachment A: Pacific County SMP Crosswalk with Existing State CZM Enforceable Policies

SMP Provision	Relevant State CZMP Enforceable Policy (if any)
Chapter 3: Shoreline Jurisdiction and Environment Designations	
3.2 Shoreline Environment Designations	
G. Coastal Ocean	
3. Management policies	
a. New overwater structures should be allowed only for water-dependent uses, public access, or ecological restoration.	WAC 173-26-211(5)(c)(ii)(A) <i>Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.</i>
b. Permanently anchored or fixed structures should be prohibited, including submerged cables or pipelines. Temporary structures or single-point anchor systems, which support navigation aids such as buoys and scientific measurement or data-gathering structures, should be allowed.	No direct matching CZMP EP to support prohibition of permanently anchored or fixed structures. However, if a site specific proposal was under federal consistency review, and effects to Washington coastal resources were determined to be likely, other CZMP EP could be used to justify conditions or objects to such a project. Additional EPs from the MSP Fishery Protection Standards may also be applicable to this type of project, if it was a "new ocean use," located in the MSP study area, and effects are determined based on project and location specific analysis.
c. The size of new in-water and overwater structures should be limited to the minimum necessary to support the structure's intended use. The structure or use should be located and designed to ensure that the project does not conflict with existing water-dependent uses.	WAC 173-26-211(5)(c)(ii)(B) <i>The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.</i> If the structure is supporting a "new ocean use," consistent with how this term is used in the MSP, the project is located within the MSP study area, and effects are determined based on project and location specific information, CZMP Fishery Protection Standard EPs may also be applicable.
d. All developments and uses on navigable waters or their beds should be located and designed to avoid and minimize interference with surface navigation and ongoing fishing activities; to consider impacts to views; and to allow for the passage of fish and wildlife, particularly those species dependent on migration.	WAC 173-26-211(5)(c)(ii)(D) <i>All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.</i> MSP Fishery Protection Standard EPs may also be applicable if the proposal is a "new ocean use," consistent with how this term is used in the MSP, the project is located within the MSP study area, and effects are determined based on project and location specific information.
e. Uses that adversely impact the ecological functions of critical saltwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and only when the impacts are mitigated following mitigation sequencing.	WAC 173-26-211(5)(c)(ii)(E) <i>Uses that adversely impact the ecological functions of critical saltwater and freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201 (2)(e) as necessary to assure no net loss of ecological functions.</i>
f. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.	WAC 173-26-211(5)(c)(ii)(F) <i>Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.</i>

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SMP Provision	Relevant State CZMP Enforceable Policy (if any)
<p>g. Ocean uses should be timed to minimize impact on ecosystem functions, sensitive species, and particularly vulnerable life stages of ecologically and commercially significant species.</p>	<p>WAC 173-26-360(7)(n) <i>Ocean use service, supply, and distribution vessels and aircraft should be routed to avoid environmentally critical and sensitive habitats such as sea stacks and wetlands, preserves, sanctuaries, bird colonies, and migration routes, during critical times those areas or species could be affected.</i></p> <p>WAC 173-26-360(7)(u) <i>Special attention should be given to designs and methods that prevent, avoid, and minimize adverse impacts such as noise, light, temperature changes, turbidity, water pollution and contaminated sediments on the marine, estuarine or upland environment. Such attention should be given particularly during critical migration periods and life stages of marine species and critical oceanographic processes.</i></p> <p>MSP Fishery Protection Standard EPs may also be applicable if the proposal is a “new ocean use,” consistent with how this term is used in the MSP, the project is located within the MSP study area, and effects are determined based on project and location specific information.</p>
<p>h. Ensure that activities in waters adjacent to Pacific County comply with the full federal authority granted to the State of Washington under the Coastal Zone Management Act.</p>	<p>This is not a CZMP EP.</p> <p>Although this is not an enforceable policy, pursuant to WAC 173-27-060, Ecology requests that local governments review proposals subject to CZM consistency determinations and provide Ecology with its views regarding consistency of the activity or development with the CZM enforceable policies. While local SMP cannot authorize, create or enforce this practice, Ecology’s internal processes and SMP procedural rules include local involvement in CZM project review.</p>
<p>i. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.</p>	<p>WAC 173-26-211(5)(e) Urban conservancy environment (ii) management policies (C) <i>Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.</i></p> <p>WAC 173-26-221(4) Public access. (b)(iii) <i>To the greatest extent feasible consistent with the overall best interest of the state and the people generally, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water.</i></p> <p>RCW 90.58.020 states: <i>"The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:</i></p> <ol style="list-style-type: none"> <i>(1) Recognize and protect the statewide interest over local interest;</i> <i>(2) Preserve the natural character of the shoreline;</i> <i>(3) Result in long term over short term benefit;</i> <i>(4) Protect the resources and ecology of the shoreline;</i> <i>(5) Increase public access to publicly owned areas of the shorelines;</i> <i>(6) Increase recreational opportunities for the public in the shoreline;</i>

Attachment A: Pacific County SMP Crosswalk with Existing State CZM Enforceable Policies

SMP Provision	Relevant State CZMP Enforceable Policy (if any)
	<i>(7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary."</i>
H. Coastal Ocean High Intensity	
3. Management policies	
a. All ocean disposal sites should minimize interference and impact to fishing.	WAC 173-26-360(7)(w) <i>Oil and gas, mining, disposal, and energy producing ocean uses should be designed, constructed, and operated in a manner that minimizes environmental impacts on the coastal waters environment, particularly the seabed communities, and minimizes impacts on recreation and existing renewable resource uses such as fishing.</i>
b. Ocean disposal should comply with all applicable local, state, and federal laws and regulations. Where conflicts arise, the more stringent regulations should apply.	WAC 173-26-360(11) <i>(a) Storage, loading, transporting, and disposal of materials shall be done in conformance with local, state, and federal requirements for protection of the environment.</i> <i>(b) Ocean disposal shall be allowed only in sites that have been approved by the Washington department of ecology, the Washington department of natural resources, the United States Environmental Protection Agency, and the United States Army Corps of Engineers as appropriate.</i>
c. Disposal of dredge material through direct beach enhancement and at locations based on best available science is preferred.	WAC 173-26-360(11)(c) <i>Ocean disposal sites should be located and designed to prevent, avoid, and minimize adverse impacts on environmentally critical and sensitive habitats, coastal resources and uses, or loss of opportunities for mineral resource development. Ocean disposal sites for which the primary purpose is habitat enhancement may be located in a wider variety of habitats, but the general intent of the guidelines should still be met.</i>
d. Uses and activities should assure no net loss of shoreline ecological functions. Where applicable, uses should include environmental cleanup and restoration of the shoreline area in accordance with any relevant state and federal law.	WAC 173-26-211(5)(d)(ii)(C) <i>Policies and regulations shall assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply in accordance with any relevant state and federal law.</i> WAC 173-26-241(3)(f) <i>Industrial development and redevelopment should be encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated.</i>
e. Where feasible, visual and physical public access should be required.	WAC 173-26-221(4)(b) <i>Principles. Local master programs shall:</i> i. <i>Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety.</i> ii. <i>Protect the rights of navigation and space necessary for water-dependent uses.</i> iii. <i>To the greatest extent feasible consistent with the overall best interest of the state and the people generally, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water.</i> iv. <i>Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize, insofar as practical, interference with the public's use of the water.</i> WAC 173-26-221(4)(d) <i>Standards. Shoreline master programs should implement the following standards:</i>

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SMP Provision	Relevant State CZMP Enforceable Policy (if any)
	<p><i>(i) Based on the public access planning described in (c) of this subsection, establish policies and regulations that protect and enhance both physical and visual public access. The master program shall address public access on public lands. The master program should seek to increase the amount and diversity of public access to the state's shorelines consistent with the natural shoreline character, property rights, public rights under the Public Trust Doctrine, and public safety.</i></p> <p><i>(ii) Require that shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts, include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment. Where public access planning as described in WAC 173-26-221 (4)(c) demonstrates that a more effective public access system can be achieved through alternate means, such as focusing public access at the most desirable locations, local governments may institute master program provisions for public access based on that approach in lieu of uniform site-by-site public access requirements.</i></p> <p><i>(iii) Provide standards for the dedication and improvement of public access in developments for water-enjoyment, water-related, and nonwater-dependent uses and for the subdivision of land into more than four parcels.</i></p>
<p>f. All developments and uses on navigable waters or their beds should be located and designed to avoid and minimize interference with surface navigation and ongoing fishing activities; to consider impacts to views; and to allow for the passage of fish and wildlife, particularly those species dependent on migration.</p>	<p>RCW 90.58.020: <i>It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.</i></p> <p>WAC 173-26-211(5)(c)(ii)(D) <i>All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.</i></p> <p>MSP Fishery Protection Standard EPs may also be applicable if the proposal is a "new ocean use," consistent with how this term is used in the MSP, the project is located within the MSP study area, and effects are determined based on project and location specific information.</p>
<p>g. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.</p>	<p>WAC 173-26-211(5)(e) Urban conservancy environment (ii) management policies (C) <i>Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.</i></p> <p>WAC 173-26-221(4) Public access. <i>(b)(iii) To the greatest extent feasible consistent with the overall best interest of the state and the people generally, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water.</i></p>

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SMP Provision	Relevant State CZMP Enforceable Policy (if any)
	<p>RCW 90.58.020 states: <i>"The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:</i></p> <ul style="list-style-type: none"> <i>(1) Recognize and protect the statewide interest over local interest;</i> <i>(2) Preserve the natural character of the shoreline;</i> <i>(3) Result in long term over short term benefit;</i> <i>(4) Protect the resources and ecology of the shoreline;</i> <i>(5) Increase public access to publicly owned areas of the shorelines;</i> <i>(6) Increase recreational opportunities for the public in the shoreline;</i> <i>(7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary."</i>
I. Willapa Bay Estuary	
3. Management policies	
a. New overwater structures should be allowed only for water-dependent uses, public access, or ecological restoration.	<p>WAC 173-26-211(5)(c)(ii)(A) <i>Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.</i></p> <p>WAC 173-26-201(2)(d)</p> <p>WAC 173-26-241(3)(d) <i>Nonwater-dependent commercial uses should not be allowed over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.</i></p>
b. The size of new overwater structures should be limited to the minimum necessary to support the structure's intended use. The structure or use should be located and designed to minimize interference with surface navigation; to consider impacts to public views; to allow for the passage of fish and wildlife, particularly those species dependent on migration; and to ensure that the project does not conflict with existing water-dependent uses.	<p>WAC 173-26-211(5)(c)(ii)(B) <i>The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.</i></p>
c. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple water-dependent and water-related uses of overwater facilities should be encouraged.	<p>WAC 173-26-211(5)(c)(ii)(C) <i>In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged.</i></p>
d. All developments and uses on navigable waters or their beds should be located and designed to minimize interference with	<p>WAC 173-26-211(5)(c)(ii)(D) <i>All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.</i></p>

Attachment A: Pacific County SMP Crosswalk with Existing State CZM Enforceable Policies

SMP Provision	Relevant State CZMP Enforceable Policy (if any)
surface navigation; to consider impacts to views; and to allow for the passage of fish and wildlife.	
e. Uses that adversely impact the ecological functions of critical saltwater and freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and only when the impacts are mitigated following mitigation sequencing.	WAC 173-26-211(5)(c)(ii)(E) <i>Uses that adversely impact the ecological functions of critical saltwater and freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201 (2)(e) as necessary to assure no net loss of ecological functions.</i>
f. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.	WAC 173-26-211(5)(c)(ii)(F) <i>Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.</i>
g. Shoreline space should be reserved for shoreline preferred uses, while considering such things as existing upland and in-water uses, water quality, navigation, presence of aquatic vegetation, existing shellfish growing areas and critical habitats, natural habitats, fishing, recreation, aesthetics, public access, and views.	<p>WAC 173-26-201(2)(d) <i>Shoreline areas, being a limited ecological and economic resource, are the setting for competing uses and ecological protection and restoration activities. Consistent with RCW 90.58.020 and WAC 173-26-171 through 173-26-186, local governments shall, when determining allowable uses and resolving use conflicts on shorelines within their jurisdiction, apply the following preferences and priorities in the order listed below, starting with (d)(i) of this subsection. For shorelines of statewide significance, also apply the preferences as indicated in WAC 173-26-251(2).</i></p> <p><i>(i) Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health. In reserving areas, local governments should consider areas that are ecologically intact from the uplands through the aquatic zone of the area, aquatic areas that adjoin permanently protected uplands, and tidelands in public ownership. Local governments should ensure that these areas are reserved consistent with constitutional limits.</i></p> <p><i>(ii) Reserve shoreline areas for water-dependent and associated water-related uses. Harbor areas, established pursuant to Article XV of the state Constitution, and other areas that have reasonable commercial navigational accessibility and necessary support facilities such as transportation and utilities should be reserved for water-dependent and water-related uses that are associated with commercial navigation unless the local governments can demonstrate that adequate shoreline is reserved for future water-dependent and water-related uses and unless protection of the existing natural resource values of such areas preclude such uses. Local governments may prepare master program provisions to allow mixed-use developments that include and support water-dependent uses and address specific conditions that affect water-dependent uses.</i></p> <p><i>(iii) Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives.</i></p>

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<p>h. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.</p>	<p>WAC 173-26-211(5)(e)(ii)(C) provides this same management policy for the "Urban Conservancy" and additional public access in WAC 173-26-221(4)(b)(iii) provide, <i>To the greatest extent feasible consistent with the overall best interest of the state and the people generally, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water.</i></p> <p>RCW 90.58.020 states: "The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:</p> <ol style="list-style-type: none"> (1) Recognize and protect the statewide interest over local interest; (2) Preserve the natural character of the shoreline; (3) Result in long term over short term benefit; (4) Protect the resources and ecology of the shoreline; (5) Increase public access to publicly owned areas of the shorelines; (6) Increase recreational opportunities for the public in the shoreline; (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary."
Chapter 5: Shoreline Uses, Development and Modifications	
5.3 General Shoreline Uses	
A. Policies	
<p>7. Protect current economic activity (e.g. shipping, marinas, agriculture, aquaculture, fishing, etc.) that is consistent with the policies of the SMP.</p>	<p>WAC 173-26-176 General policy goals of the act and guidelines for shoreline of the state. <i>(2) The policy goals for the management of shorelines harbor potential for conflict. The act recognizes that the shorelines and the waters they encompass are "among the most valuable and fragile" of the state's natural resources. They are valuable for economically productive industrial and commercial uses, recreation, navigation, residential amenity, scientific research and education. They are fragile because they depend upon balanced physical, biological, and chemical systems that may be adversely altered by natural forces (earthquakes, volcanic eruptions, landslides, storms, droughts, floods) and human conduct (industrial, commercial, residential, recreation, navigational). Unbridled use of shorelines ultimately could destroy their utility and value. The prohibition of all use of shorelines also could eliminate their human utility and value. Thus, the policy goals of the act relate both to utilization and protection of the extremely valuable and vulnerable shoreline resources of the state. The act calls for the accommodation of "all reasonable and appropriate uses" consistent with "protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life" and consistent with "public rights of navigation." The act's policy of achieving both shoreline utilization and protection is reflected in the provision that</i></p>

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	<p><i>"permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, in so far as practical, any resultant damage to the ecology and environment of the shoreline area and the public's use of the water." RCW 90.58.020.</i></p> <p>WAC 173-26-360(7)(p) <i>Ocean uses and their associated facilities should be located and designed to minimize impacts on existing water dependent businesses and existing land transportation routes to the maximum extent feasible.</i></p> <p>Also see WAC 173-26-201(2)(d).</p> <p>MSP Fishery Protection Standard EPs may also be applicable if the proposal is a "new ocean use," consistent with how this term is used in the MSP, the project is located within the MSP study area, and effects are determined based on project and location specific information.</p>
<p>8. Prohibit structures waterward of the ordinary high water mark that are not water-dependent and uses which will substantially degrade the existing character of the area.</p>	<p>RCW 90.58.020, in relevant part, provides,</p> <p><i>The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:</i></p> <ol style="list-style-type: none"> <i>1) Recognize and protect the statewide interest over local interest;</i> <i>2) Preserve the natural character of the shoreline;</i> <i>3) Result in long term over short term benefit;</i> <i>4) Protect the resources and ecology of the shoreline;</i> <i>5) Increase public access to publicly owned areas of the shorelines;</i> <i>6) Increase recreational opportunities for the public in the shoreline;</i> <i>7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.(emphasis added)</i>
<p>11. Pacific County should coordinate with other jurisdictions, including adjacent counties, state, and federal agencies, to maximize consistency in the management of shoreline resources and uses, including coastal and estuarine uses, consistent with the Coastal Zone Management Act of 1972 (Public Law 92-583), Shoreline Management Act (90.58 RCW), and WAC 173-27-060, as amended.</p>	<p>WAC 173-26-360(5) <i>Regional approach. The guidelines are intended to foster a regional perspective and consistent approach for the management of ocean uses</i></p>
<p>12. Existing sustainable uses, ecological and ecosystem functions and processes in the coastal zone, and public access to ocean waters should be protected and preserved for current and future generations.</p>	<p>WAC 173-26-251(3)(b) <i>Shorelines of Statewide Significance, subsection Preserving resources for future generations.</i></p>

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	MSP Fishery Protection Standard EPs may also be applicable if the proposal is a “new ocean use,” consistent with how this term is used in the MSP, the project is located within the MSP study area, and effects are determined based on project and location specific information.
B. Regulations	
3. New development shall be located and designed to ensure no net loss of ecological functions and preservation of existing uses.	<p>WAC 173-26-211(5)(c)(ii)(D) <i>All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.</i></p> <p>WAC 173-26-360(7)(p) <i>Ocean uses and their associated facilities should be located and designed to minimize impacts on existing water dependent businesses and existing land transportation routes to the maximum extent feasible.</i></p> <p>MSP Fishery Protection Standard EPs may also be applicable if the proposal is a “new ocean use,” consistent with how this term is used in the MSP, the project is located within the MSP study area, and effects are determined based on project and location specific information.</p>
Chapter 6: Coastal Ocean Uses and Modifications	
6.1 Applicability	
A. The policies and regulations in this section apply to all areas within the Coastal Oceans, Coastal ocean High Intensity, and Willapa Bay Estuary Environments	<p>WAC 173-26-360(2) <i>Geographical application. The guidelines apply to Washington's coastal waters from Cape Disappointment directly south to the state border, including the mouth of the Columbia River, and from Cape Disappointment north one hundred sixty miles to Cape Flattery at the entrance to the Strait of Juan De Fuca including the offshore ocean area, the near shore area under state ownership, shorelines of the state, and their adjacent uplands. Their broadest application would include an area seaward two hundred miles (RCW 43.143.020) and landward to include those uplands immediately adjacent to land under permit jurisdiction for which consistent planning is required under RCW 90.58.340. The guidelines address uses occurring in Washington's coastal waters, but not impacts generated from activities offshore of Oregon, Alaska, California, or British Columbia or impacts from Washington's offshore on the Strait of Juan de Fuca, the Columbia River east of Cape Disappointment, or other inland marine waters.</i></p>
B. Shoreline provisions throughout this SMP apply in addition to ocean use provisions in this chapter. In the case of a conflict between shoreline provisions and provisions in this chapter, provisions in this chapter shall apply.	<p>WAC 173-26-360(4) <i>Relationship to existing management programs. These guidelines augment existing requirements of the Shoreline Management Act, chapter 90.58 RCW, and those chapters in Title 173 of the Washington Administrative Code that implement the act. They are not intended to modify current resource allocation procedures or regulations administered by other agencies, such as the Washington department of fisheries management of</i></p>

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	<p><i>commercial, recreational, and tribal fisheries. They are not intended to regulate recreational uses or currently existing commercial uses involving fishing or other renewable marine or ocean resources. Every effort will be made to take into account tribal interests and programs in the guidelines and master program amendment processes. After inclusion in the state coastal zone management program, these guidelines and resultant master programs will be used for federal consistency purposes in evaluating federal permits and activities in Washington's coastal waters. Participation in the development of these guidelines and subsequent amendments to master programs will not preclude state and local government from opposing the introduction of new uses, such as oil and gas development.</i></p>
<p>C. The provisions of this section apply to associated on-shore and estuary facilities that directly support ocean uses.</p>	<p>WAC 173-26-360(3) <i>Ocean uses defined. Ocean uses are activities or developments involving renewable and/or nonrenewable resources that occur on Washington's coastal waters and includes their associated off shore, near shore, inland marine, shoreland, and upland facilities and the supply, service, and distribution activities, such as crew ships, circulating to and between the activities and developments. Ocean uses involving nonrenewable resources include such activities as extraction of oil, gas and minerals, energy production, disposal of waste products, and salvage. Ocean uses which generally involve sustainable use of renewable resources include commercial, recreational, and tribal fishing, aquaculture, recreation, shellfish harvesting, and pleasure craft activity.</i></p>
<p>6.2 General Ocean Uses</p>	
<p>A. Policies</p>	
<p>1. Ocean uses and associated on-shore facilities should be located, designed and operated consistent with state guidelines, specifically WAC 173-26-360, as amended.</p>	<p>WAC 173-26-360(1) <i>Purpose and intent. This section implements the Ocean Resources Management Act, (RCW 43.143.005 through 43.143.030) enacted in 1989 by the Washington state legislature. The law requires the department of ecology to develop guidelines and policies for the management of ocean uses and to serve as the basis for evaluation and modification of local shoreline management master programs of coastal local governments in Jefferson, Clallam, Grays Harbor, and Pacific counties. The guidelines are intended to clarify state shoreline management policy regarding use of coastal resources, address evolving interest in ocean development and prepare state and local agencies for new ocean developments and activities.</i></p> <p>WAC173-26-360(4) <i>Relationship to existing management programs. These guidelines augment existing requirements of the Shoreline Management Act, chapter 90.58 RCW, and those chapters in Title 173 of the Washington Administrative Code that implement the act. They are not intended to modify current resource allocation procedures or regulations administered by other agencies, such as the Washington department of fisheries management of commercial, recreational, and tribal fisheries. They are not intended to regulate recreational uses or currently existing commercial uses involving fishing or other renewable marine or ocean resources. Every effort will be made to take</i></p>

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	<i>into account tribal interests and programs in the guidelines and master program amendment processes. After inclusion in the state coastal zone management program, these guidelines and resultant master programs will be used for federal consistency purposes in evaluating federal permits and activities in Washington's coastal waters. Participation in the development of these guidelines and subsequent amendments to master programs will not preclude state and local government from opposing the introduction of new uses, such as oil and gas development.</i>
2. Support the continued study of complex, dynamic, and interrelated coastal and estuarine environments in Pacific County.	N/A - County internal planning direction does not qualify as CZMP EP. Supports WAC 173-26-360, but is not an enforceable policy.
3. Encourage coordination amongst the array of agencies charged with the management and regulations of actions within coastal ocean areas within and beyond the boundaries of Pacific County.	WAC 173-26-360(5) <i>Regional approach. The guidelines are intended to foster a regional perspective and consistent approach for the management of ocean uses...</i>
4. Given the rise of unprecedented changes to the coastal environment including: continental/oceanic elevation changes, ocean acidification, species declines and introductions, and the potential for development of alternative energy production present the county with management challenges, and faced with the risk inherent to uncoordinated actions and resultant cumulative impacts, all federal actions, including management plans updates, should be consistent with the Pacific County Shoreline Master Program, an element of the State of Washington's Coastal Zone Management Program as recognized by the US Public laws: Coastal Zone Management Act (U.S. Code, Title 16, Chapter 33) and Coastal Zone Management Re-authorization Amendments.	This is not a CZMP EP. NOAA approved WA CZMP Enforceable policies must not assert jurisdiction over federal agencies, lands or waters. The County's SMP is not a NOAA approved enforceable policy under CZMA for federal consistency review; however, as this document illustrates, the majority of the County's SMP policies and regulations are reflected in RCWs or WACs which are NOAA approved WA CZMP enforceable policies.
5. Existing resource-based uses, ecological and ecosystem functions and processes in the coastal zone, and public access to ocean waters should be protected and preserved for current and future generations.	WAC 173-26-251(3)(b) <i>Shorelines of Statewide Significance, subsection Preserving resources for future generations.</i> WAC 173-26-181 ... <i>give preference to uses in the following order of preference which:</i> <ol style="list-style-type: none"> 1) <i>Recognize and protect the statewide interest over local interest;</i> 2) <i>Preserve the natural character of the shoreline;</i> 3) <i>Result in long term over short term benefit;</i> 4) <i>Protect the resources and ecology of the shoreline;</i> 5) <i>Increase public access to publicly owned areas of the shorelines;</i>

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	<p>6) <i>Increase recreational opportunities for the public in the shoreline;</i> 7) <i>Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary."</i> Demonstrations and permit criteria contained with WAC 173-26-360(6). WAC 173-26-360(7): (a) <i>Ocean uses and activities that will not adversely impact renewable resources shall be given priority over those that will. Correspondingly, ocean uses that will have less adverse impacts on renewable resources shall be given priority over uses that will have greater adverse impacts.</i> (f) <i>Impacts on commercial resources, such as the crab fishery, on noncommercial resources, such as environmentally critical and sensitive habitats, and on coastal uses, such as loss of equipment or loss of a fishing season, should be considered in determining compensation to mitigate adverse environmental, social and economic impacts to coastal resources and uses.</i> (g) <i>Allocation of compensation to mitigate adverse impacts to coastal resources or uses should be based on the magnitude and/or degree of impact on the resource, jurisdiction and use.</i> (m) <i>Ocean uses and their distribution, service, and supply vessels and aircraft should be located, designed, and operated in a manner that minimizes adverse impacts on fishing grounds, aquatic lands, or other renewable resource ocean use areas during the established, traditional, and recognized times they are used or when the resource could be adversely impacted.</i> (p) <i>Ocean uses and their associated facilities should be located and designed to minimize impacts on existing water dependent businesses and existing land transportation routes to the maximum extent feasible.</i> MSP Fishery Protection Standard EPs may also be applicable if the proposal is a "new ocean use," consistent with how this term is used in the MSP, the project is located within the MSP study area, and effects are determined based on project and location specific information.</p>
<p>6. Supporting scientific documentation for conditional use permits should be available and fully considered before decisions are made. Documentation should adequately address seasonal, inter-annual, and spatial variability in ocean conditions and identify data gaps in studies that may affect project outcome approvals, disapprovals, or modifications including required mitigation.</p>	<p>N/A - Local and state shoreline permit process procedures and approval criteria are not enforceable policies under the CZMP. However, this documentation may be obtained from the approval criteria and general ocean use guidelines found in WAC 173-26-360(6) and (7).</p>
<p>7. Ocean resource-based uses and activities that depend on sustaining function of the ecosystem or will not adversely impact renewable biological resources, public access, or cause</p>	<p>WAC 173-26-360(7)(a) <i>Ocean uses and activities that will not adversely impact renewable resources shall be given priority over those that will. Correspondingly, ocean uses that will have less adverse impacts on renewable resources shall be given priority over uses that will have greater adverse impacts.</i></p>

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a net loss in ecosystem function or a loss of existing uses shall be given priority. Correspondingly, ocean uses that will have lesser adverse impacts on renewable resources should be given priority over uses that will have greater adverse impacts.	
8. Ocean uses should not adversely affect coastal communities, including the health, safety, and economic welfare of the county. Ocean uses that will have lesser adverse social and economic impacts on coastal uses and communities should be given priority over uses and activities that will have greater such impacts.	WAC 173-26-360(7) <i>(b) Ocean uses that will have less adverse social and economic impacts on coastal uses and communities should be given priority over uses and activities that will have more such impacts.</i> <i>(f) Impacts on commercial resources, such as the crab fishery, on noncommercial resources, such as environmentally critical and sensitive habitats, and on coastal uses, such as loss of equipment or loss of a fishing season, should be considered in determining compensation to mitigate adverse environmental, social and economic impacts to coastal resources and uses.</i> <i>(t) Detrimental effects on air and water quality, tourism, recreation, fishing, aquaculture, navigation, transportation, public infrastructure, public services, and community culture should be considered in avoiding and minimizing adverse social and economic impacts.</i>
9. When the adverse impacts are generally equal, the ocean use that has less probable occurrence of a disaster should be given priority.	WAC 173-26-360(7)(c) <i>When the adverse impacts are generally equal, the ocean use that has less probable occurrence of a disaster should be given priority.</i>
10. In order to be more protective of existing ocean uses, including fishing, the county should adopt a broad prohibition on fixed structures in its coastal areas, including a strict prohibition on permanent fixed structures in the Coastal Ocean environment, to provide time for updated information regarding potential significant adverse impacts from new ocean uses on ecological functions and existing resource-based uses in these environments and recommendations for avoiding, minimizing and mitigating these impacts. Temporary fixed structures should be allowed for up to two years, with an option for a one-year extension. Single anchor systems should be allowed.	No direct matching CZMP EP to support prohibition of permanently anchored or fixed structures. However, if a site specific proposal was under federal consistency review, and effects to Washington coastal resources were determined to be likely, other CZMP EP could be used to justify conditions or objects to such a project. Additional EPs from the MSP Fishery Protection Standards may also be applicable to this type of project, if it was a "new ocean use," and effects were determined based on project and location specific analysis.
11. The county will revisit policies and regulations regarding fixed structures in the Coastal Ocean and Willapa Bay Estuary environments to address new information and technology,	N/A - County internal planning direction does not qualify as CZMP EP.

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including analyses and recommendations resulting from the marine spatial planning process per RCW 43.372, during scheduled periodic reviews of this Program under RCW 90.58.080.	
12. The county will revisit policies and regulations regarding aquaculture in the Coastal Ocean environment to address new information and technology, including analyses and recommendations resulting from the marine spatial planning process per RCW 43.372, during scheduled periodic reviews of this Program under RCW 90.58.080.	N/A - County internal planning direction does not qualify as CZMP EP.
B. Regulations	
1. Ocean Use Activity Matrix. Table 5-1 lists the potential ocean uses and associated support activities that are addressed by the Ocean Resources Management Act (RCW 43.143); the Ocean Management Guidelines (WAC 173-26-360); and uses that could potentially occur in the Pacific Ocean or on the adjacent shoreland area. All ocean use activities must comply with the applicable regulations. In addition to these regulations, general use and modifications applicable to the coastal ocean and coastal ocean high intensity environment designations also apply.	WAC 173-26-360(2) <i>Geographical application. The guidelines apply to Washington's coastal waters from Cape Disappointment directly south to the state border, including the mouth of the Columbia River, and from Cape Disappointment north one hundred sixty miles to Cape Flattery at the entrance to the Strait of Juan De Fuca including the offshore ocean area, the near shore area under state ownership, shorelines of the state, and their adjacent uplands. Their broadest application would include an area seaward two hundred miles (RCW 43.143.020) and landward to include those uplands immediately adjacent to land under permit jurisdiction for which consistent planning is required under RCW 90.58.340. The guidelines address uses occurring in Washington's coastal waters, but not impacts generated from activities offshore of Oregon, Alaska, California, or British Columbia or impacts from Washington's offshore on the Strait of Juan de Fuca, the Columbia River east of Cape Disappointment, or other inland marine waters.</i>
2. On-shore facilities shall comply with not only the regulations applicable to their specific ocean use, but any other applicable regulations for the specific use or activity as found in Sections 4 or 5 of this Master Program.	WAC 173-26-360(4) <i>Relationship to existing management programs. These guidelines augment existing requirements of the Shoreline Management Act, chapter 90.58 RCW, and those chapters in Title 173 of the Washington Administrative Code that implement the act. They are not intended to modify current resource allocation procedures or regulations administered by other agencies, such as the Washington department of fisheries management of commercial, recreational, and tribal fisheries. They are not intended to regulate recreational uses or currently existing commercial uses involving fishing or other renewable marine or ocean resources. Every effort will be made to take into account tribal interests and programs in the guidelines and master program amendment processes. After inclusion in the state coastal zone management program, these guidelines and resultant master programs will be used for federal consistency purposes in evaluating federal permits and activities in Washington's coastal waters. Participation in the development of these guidelines and subsequent amendments to master programs will not preclude state and local government from opposing the introduction of new uses, such as oil and gas development.</i>

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<p>3. Permit Review Criteria. Pacific County shall only permit ocean and associated upland or coastal uses and activities if all of the criteria listed below are met or exceeded. The applicant shall provide the county with the most current, accurate, and complete scientific and technical information for its review, when needed. Public input shall also be considered.</p> <ul style="list-style-type: none"> a. There is a demonstrated significant local, state, or national need for the proposed use or activity; b. There is no reasonable alternative to meet the public need for the proposed use or activity; c. There will be no likely significant long-term or cumulative adverse impacts to coastal or marine resources or uses, including consideration of cumulative adverse impacts from activities outside the county that cause local impacts; d. All reasonable steps are taken to avoid and minimize adverse environmental impacts, including impacts on migration routes and habitat areas of species listed as endangered or threatened, species of economic importance, environmentally critical and sensitive habitats such as breeding, spawning, nursery, foraging areas and wetlands, and areas of high productivity for marine biota such as upwelling, with special protection provided for the marine life and resources of all aquatic Environment Designations. Special review and analysis consideration shall be given to renewable biological resources of local economic importance; e. All reasonable steps are taken to avoid and minimize adverse social and economic impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing; 	<p>WAC 173-26-360(6) approval criteria of RCW 43.143.030(2) for newly proposed ocean uses and developments.</p> <p><i>(6) Permit criteria: Local government and the department may permit ocean or coastal uses and activities as a substantial development, variance or conditional use only if the criteria of RCW 43.143.030(2) listed below are met or exceeded:</i></p> <ul style="list-style-type: none"> <i>(a) There is a demonstrated significant local, state, or national need for the proposed use or activity;</i> <i>(b) There is no reasonable alternative to meet the public need for the proposed use or activity;</i> <i>(c) There will be no likely long-term significant adverse impacts to coastal or marine resources or uses;</i> <i>(d) All reasonable steps are taken to avoid and minimize adverse environmental impacts, with special protection provided for the marine life and resources of the Columbia River, Willapa Bay and Grays Harbor estuaries, and Olympic National Park;</i> <i>(e) All reasonable steps are taken to avoid and minimize adverse social and economic impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing;</i> <i>(f) Compensation is provided to mitigate adverse impacts to coastal resources or uses;</i> <i>(g) Plans and sufficient performance bonding are provided to ensure that the site will be rehabilitated after the use or activity is completed; and</i> <i>(h) The use or activity complies with all applicable local, state, and federal laws and regulations.</i>

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<ul style="list-style-type: none"> f. Compensation is provided to mitigate adverse impacts to coastal resources or uses that maintains the county health, safety, and economic welfare; g. Plans and sufficient, realistic performance bonding for decommissioning and failure incidents are provided to ensure that the site will be rehabilitated after the use or activity is completed, terminated, or abandoned; and h. The use or activity complies with all applicable local, state, and federal laws and regulations. 	
<p>4. The proponent of an ocean use development or associated on-shore facility that could impact coastal ocean areas or shorelines in areas of Pacific County subject to the ocean use requirements shall be required to submit the following information, and any other information deemed necessary by the Shoreline Administrator, in the final permit application package:</p> <ul style="list-style-type: none"> a. An overall development scheme discussing the site plan and proposed plans, operating procedures, and best management practices to be employed; b. A phasing plan for the staging of development that utilizes a precautionary approach to ensure no net loss of ecological or ecosystem functions and protection and preservation of existing uses through avoidance, minimization, and compensatory mitigation for impacts; c. Analysis of potential significant adverse impacts identified as required by SEPA environmental checklist; d. Mitigation and monitoring plans to address unavoidable adverse environmental, social and economic uses and resources and the effectiveness of mitigation; e. Analysis of the visibility of the proposed facilities from the shoreline and the effect on public access, aesthetics, and views and a plan to avoid and minimize or eliminate such impacts; 	<ul style="list-style-type: none"> a. WAC 173-26-360(6)(g), <i>Plans and sufficient performance bonding are provided to ensure that the site will be rehabilitated after the use or activity is completed; and</i> b. No direct matching CZMP EP that requires phasing of development. However, if a site specific proposal was under federal consistency review, and effects to Washington coastal resources or uses were determined to be likely, WAC 173-26-360(6)(c) - (f) address the following and may be applicable to justify conditions or objects to such a project: <ul style="list-style-type: none"> • <i>There will be no likely long-term significant adverse impacts to coastal or marine resources or uses;</i> • <i>All reasonable steps are taken to avoid and minimize adverse environmental impacts, with special protection provided for the marine life and resources of the Columbia River, Willapa Bay and Grays Harbor estuaries, and Olympic National Park;</i> • <i>All reasonable steps are taken to avoid and minimize adverse social and economic impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing;</i> • <i>Compensation is provided to mitigate adverse impacts to coastal resources or uses;</i> c. WAC 173-26-360(7)(e) – Chapter <u>197-11</u> WAC (SEPA rules) provides guidance in the application of the permit criteria and guidelines of this section. The range of impacts to be considered should be consistent with WAC <u>197-11-060</u> (4)(e) and <u>197-11-792</u> (2)(c). The determination of significant adverse impacts should be consistent with WAC <u>197-11-330</u>(3) and <u>197-11-794</u>. The sequence of actions described in WAC <u>197-11-768</u> should be used as an order of preference in evaluating steps to avoid and minimize adverse impacts. However, SEPA is not an enforceable policy in the CZMP. d. WAC 173-26-360(6)(f) <i>Compensation is provided to mitigate adverse impacts to coastal resources or uses; WAC 173-26-360(7)(f), (g), & (v) provide,</i>

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<ul style="list-style-type: none"> f. Plan for the transport, storage, disposal and clean-up of solid, liquid and hazardous wastes; g. Analysis of the adequacy of and impact to the local infrastructure, including but not limited to transportation, utilities, and emergency services, to service the project. If the analysis shows that the infrastructure is inadequate to carry the added load on the community, compensatory mitigation that offsets any additional costs to the community shall be provided; h. Analysis demonstrating that the facility will be able to comply with local air pollution control regulations; i. Fire protection plan; j. Oil spill contingency plan, if involved in petroleum exploration, production, storage or transportation; k. An analysis demonstrating the proposed project's consistency with the Shoreline Master Program and Coastal Zone Management Act; l. An analysis of designs and methods available to prevent, avoid and minimize adverse impacts including but not limited to noise, light, temperature changes, turbidity, water pollution and contaminated sediments on the marine, estuarine or upland environment, particularly during critical migration periods and life stages of marine species and critical oceanographic processes; and m. An analysis of alternatives that are commensurate with the need for the proposed use (e.g. if there is a demonstrated national need for a proposed use, then national alternatives, including alternatives outside of Pacific County and Washington State, should be considered). n. Pre-project environmental baseline inventories and assessments and monitoring of ocean uses to measure 	<ul style="list-style-type: none"> • <i>Impacts on commercial resources, such as the crab fishery, on noncommercial resources, such as environmentally critical and sensitive habitats, and on coastal uses, such as loss of equipment or loss of a fishing season, should be considered in determining compensation to mitigate adverse environmental, social and economic impacts to coastal resources and uses.</i> • <i>Allocation of compensation to mitigate adverse impacts to coastal resources or uses should be based on the magnitude and/or degree of impact on the resource, jurisdiction and use.</i> • <i>Preproject environmental baseline inventories and assessments and monitoring of ocean uses should be required when little is known about the effects on marine and estuarine ecosystems, renewable resource uses and coastal communities or the technology involved is likely to change.</i> e. WAC 173-26-360(7)(s) <i>Special attention should be given to the effect that ocean use facilities will have on recreational activities and experiences such as public access, aesthetics, and views.</i> f. WAC 173-26-360(12)(b) <i>When feasible, hazardous materials such as oil, gas, explosives and chemicals, should not be transported through highly productive commercial, tribal, or recreational fishing areas. If no such feasible route exists, the routes used should pose the least environmental risk.</i> g. No direct matching CZMP EP that requires this specific analysis and cost offset. However, if a site specific proposal was under federal consistency review, and effects to Washington coastal resources or uses were determined to be likely, the following CZMP EPs and may be applicable to justify conditions or objects to such a project: WAC 173-26-211(3)(c) <i>requires sufficient infrastructure ...to support allowed shoreline uses. Shoreline uses should not be allowed where the comprehensive plan does not provide sufficient roads, utilities, and other services to support them....</i> And WAC 173-26-360(7)(f) <i>requires compensation to mitigate adverse impacts to coastal resources and uses....</i> h. WAC 173-26-360(6)(h) – permit criteria requires demonstration that <i>the use or activity compiles with all applicable local, state, and federal laws and regulations.</i> WAC 173-26-360(7)(t) also requires review of <i>detrimental effects on air and water quality, tourism, recreation, fishing, aquaculture, navigation, transportation, public infrastructure, public services, and community culture should be considered in avoiding and minimizing adverse social and economic impacts.</i> i. No direct matching CZMP EP. However, a fire protection plan may be required by another local, state, or federal law outside the enforceable policies of the CZMA, as provided in WAC 17-26-360(6)(h) j. WAC 173-26-360(7)(o), WAC 173-26-360(6)(g), and WAC 173-26-360(7)(h) require: <ul style="list-style-type: none"> • <i>In locating and designing associated onshore facilities, special attention should be given to the environment, the characteristics of the use, and the impact of a probable disaster, in order to assure adjacent uses, habitats, and communities adequate protection from explosions, spills, and other disasters</i>

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<p>effects on marine and estuarine ecosystems, resource-based uses, and coastal communities.</p> <p>o. Demonstrated consistency with B.5 through B.8 of this section.</p>	<ul style="list-style-type: none"> • <i>Plans and sufficient performance bonding are provided to ensure that the site will be rehabilitated after the use or activity is completed.</i> • <i>Rehabilitation plans and bonds prepared for ocean uses should address the effects of planned and unanticipated closures, completion of the activity, reasonably anticipated disasters, inflation, new technology, and new information about the environmental impacts to ensure that state of the art technology and methods are used.</i> <p>k. The CZMA consistency review and decision-making process is prescribed by The CZMA federal consistency decision-making process for federal agency activities is prescribed in the Coastal Zone Management Act (16 U.S.C. 1456 (c)(1) and (2), in federal regulations at 15 C.F.R. part 930, subpart C, and in Washington's most recent federally approved CZM program document.</p> <p>l. WAC 173-2-360(7)(u) <i>Special attention should be given to designs and methods that prevent, avoid, and minimize adverse impacts such as noise, light, temperature changes, turbidity, water pollution and contaminated sediments on the marine, estuarine or upland environment. Such attention should be given particularly during critical migration periods and life stages of marine species and critical oceanographic processes.</i></p> <p>m. WAC 173-26-360(6)(b) <i>There is no reasonable alternative to meet the public need for the proposed use or activity; & WAC 173-26-360(7)(d) The alternatives considered to meet a public need for a proposed use should be commensurate with the need for the proposed use. For example, if there is a demonstrated national need for a proposed use, then national alternatives should be considered.</i></p> <p>n. WAC 173-26-360(7)(v) <i>Preproject environmental baseline inventories and assessments and monitoring of ocean uses should be required when little is known about the effects on marine and estuarine ecosystems, renewable resource uses and coastal communities or the technology involved is likely to change.</i></p> <p>o. See responses to B.5 through B.8 below.</p>
<p>5. All proposed ocean activities and uses with potential to significantly affect the coastal ocean areas under the jurisdiction of Pacific County will require a socioeconomic assessment to analyze and describe the long and short term effects of the proposed action on the local economy. This assessment may include but not be limited to gains or losses of jobs and incomes, tourism, fisheries, agricultural impacts, increased governmental planning and management loads, effects on construction and commercial activity, community support facilities (such as</p>	<p>No direct matching CZMP EP that requires this socioeconomic assessment.</p> <p>It is possible that, if rewritten, these policies could be approvable as Enforceable Policies, especially if they were written as effects-based policies. However, if a site specific proposal was under federal consistency review, and effects to Washington coastal resources or uses were determined to be likely, the following other CZMP EP may be applicable to justify conditions or objects to such a project:</p> <p>WAC 173-26-251(3)(c) <i>Shorelines of Statewide Significance. Priority uses.</i></p> <p>(ii) <i>Preserve sufficient shorelands and submerged lands to accommodate current and projected demand for economic resources of statewide importance, such as commercial shellfish beds and navigable harbors. Base projections on</i></p>

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<p>schools, hospitals, health and social services}, tax structure, social changes in crime, mental health, crowding, sense of autonomy and other quality of life indicators.</p>	<p><i>statewide or regional analyses, requirements for essential public facilities, and comment from related industry associations, affected Indian tribes, and state agencies.</i></p> <p>WAC 173-26-360(6)(e) <i>All reasonable steps are taken to avoid and minimize adverse social and economic impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing;</i></p> <p>WAC 173-26-360(7)(b) <i>Ocean uses that will have less adverse social and economic impacts on coastal uses and communities should be given priority over uses and activities that will have more such impacts.</i></p> <p>WAC 173-26-360(7)(f) <i>Impacts on commercial resources, such as the crab fishery, on noncommercial resources, such as environmentally critical and sensitive habitats, and on coastal uses, such as loss of equipment or loss of a fishing season, should be considered in determining compensation to mitigate adverse environmental, social and economic impacts to coastal resources and uses.</i></p> <p>WAC 173-26-360(7)(t) <i>Detrimental effects on air and water quality, tourism, recreation, fishing, aquaculture, navigation, transportation, public infrastructure, public services, and community culture should be considered in avoiding and minimizing adverse social and economic impacts.</i></p>
<p>6. Rehabilitation plans shall be required prior to permitting new ocean uses. The plans shall address the effects of planned and unanticipated closures, completion of the activity, reasonably anticipated disasters, new technology, new information about environmental impacts to ensure state of the art technology and methods are used, and potential adverse impacts to commercial and noncommercial resources or coastal uses.</p>	<p>WAC 173-26-360(7)(h) <i>Rehabilitation plans and bonds prepared for ocean uses should address the effects of planned and unanticipated closures, completion of the activity, reasonably anticipated disasters, inflation, new technology, and new information about the environmental impacts to ensure that state of the art technology and methods are used.</i></p>
<p>7. Bonds shall be required prior to permitting new ocean uses. The bond amounts shall be sufficient to assure the implementation of rehabilitation plans that fully mitigate adverse impacts to ecological functions and compensate adverse impacts to ongoing commercial and non-commercial resources and coastal uses including damaged and lost property and lost opportunity resulting from the ocean use activity. Bonding shall account for inflation and the timing of completion of the activity. If bonding proves inadequate to compensate for damages, permittees shall be held responsible.</p>	<p>WAC 173-26-360(7)(h) <i>Rehabilitation plans and bonds prepared for ocean uses should address the effects of planned and unanticipated closures, completion of the activity, reasonably anticipated disasters, inflation, new technology, and new information about the environmental impacts to ensure that state of the art technology and methods are used.</i></p> <p>WAC 173-26-360(6)(g) <i>Plans and sufficient performance bonding are provided to ensure that the site will be rehabilitated after the use or activity is completed; and</i></p>

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8. For any new ocean use, the applicant shall demonstrate the financial and performance capabilities to carry out the proposed project as designed, including mitigation for failure or abandonment.	<p>WAC 173-26-360(7)(h) <i>Rehabilitation plans and bonds prepared for ocean uses should address the effects of planned and unanticipated closures, completion of the activity, reasonably anticipated disasters, inflation, new technology, and new information about the environmental impacts to ensure that state of the art technology and methods are used.</i></p> <p>WAC 173-26-360(6)(g) <i>Plans and sufficient performance bonding are provided to ensure that the site will be rehabilitated after the use or activity is completed; and</i></p>
9. Allocation of compensation to mitigate adverse impacts to coastal resources or uses should be based on the magnitude or degree of impact on the resource, jurisdiction, and use. In determining compensation to mitigate adverse environmental, social and economic impacts to coastal resources and uses, impacts on commercial resources, noncommercial resources, such as environmentally critical and sensitive habitats, and on coastal uses, such as loss of equipment or loss of fishing season shall be weighed.	<p>WAC 173-26-360(7)(g) <i>Allocation of compensation to mitigate adverse impacts to coastal resources or uses should be based on the magnitude and/or degree of impact on the resource, jurisdiction and use.</i></p> <p>& WAC 173-26-201(2)(e)(i)(B)(e) <i>Environmental impact mitigation.</i> <i>(i) To assure no net loss of shoreline ecological functions, master programs shall include provisions that require proposed individual uses and developments to analyze environmental impacts of the proposal and include measures to mitigate environmental impacts not otherwise avoided or mitigated by compliance with the master program and other applicable regulations. To the extent Washington's State Environmental Policy Act of 1971 (SEPA), chapter 43.21C RCW, is applicable, the analysis of such environmental impacts shall be conducted consistent with the rules implementing SEPA, which also address environmental impact mitigation in WAC 197-11-660 and define mitigation in WAC 197-11-768. Master programs shall indicate that, where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority, with (e)(i)(A) of this subsection being top priority.</i> <i>(A) Avoiding the impact altogether by not taking a certain action or parts of an action;</i> <i>(B) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;</i></p>
10. New ocean uses and associated transit zones shall be coordinated with existing uses, including fishing and navigation to avoid potential conflict to the greatest extent practicable, Existing shipping and towlanes shall be used for vessel transit to the maximum extent feasible.	<p>WAC 173-26-360(12) <i>Transportation. Ocean transportation includes such uses as: Shipping, transferring between vessels, and offshore storage of oil and gas; transport of other goods and commodities; and offshore ports and airports. The following guidelines address transportation activities that originate or conclude in Washington's coastal waters or are transporting a nonrenewable resource extracted from the outer continental shelf off Washington.</i> <i>(a) An assessment should be made of the impact transportation uses will have on renewable resource activities such as fishing and on environmentally critical and sensitive habitat areas, environmental and scientific preserves and sanctuaries.</i> <i>(b) When feasible, hazardous materials such as oil, gas, explosives and chemicals, should not be transported through highly productive commercial, tribal, or recreational fishing areas. If no such feasible route exists, the routes used should pose the least environmental risk.</i></p>

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	<i>(c) Transportation uses should be located or routed to avoid habitat areas of endangered or threatened species, environmentally critical and sensitive habitats, migration routes of marine species and birds, marine sanctuaries and environmental or scientific preserves to the maximum extent feasible.</i>
11. On-shore facilities associated with an ocean use shall be located in communities where there is adequate sewer, water, power, and streets. Within those communities, if space is available at existing marine terminals, the onshore facilities should be located there.	WAC 173-26-360(7)(q) <i>(q) Onshore facilities associated with ocean uses should be located in communities where there is adequate sewer, water, power, and streets. Within those communities, if space is available at existing marine terminals, the onshore facilities should be located there.</i>
12. Ocean uses and their associated coastal or upland facilities shall be located, scheduled, designed, and operated to prevent, avoid, and minimize adverse impacts to migration routes and habitat areas of species listed as endangered or threatened, environmentally critical and sensitive habitats such as breeding, spawning, nursery, foraging areas and wetlands, commercial and recreational species, and areas of high productivity for marine biota such as upwelling and estuaries.	WAC 173-26-360(7)(j) <i>Ocean uses and their associated coastal or upland facilities should be located, designed and operated to prevent, avoid, and minimize adverse impacts on migration routes and habitat areas of species listed as endangered or threatened, environmentally critical and sensitive habitats such as breeding, spawning, nursery, foraging areas and wetlands, and areas of high productivity for marine biota such as upwelling and estuaries.</i>
13. Ocean uses and their associated coastal or upland facilities shall be located, scheduled, designed, and operated to avoid and minimize adverse impacts to the following: a. Proposed or existing environmental and scientific preserves and sanctuaries, parks, and designated recreation areas. b. Historic or culturally significant sites in compliance with Chapter 27.34 RCW. Permittees shall comply with Chapter 27.53 RCW if any archaeological sites or archaeological objects such as artifacts and shipwrecks are discovered. c. Fishing grounds, aquatic lands, or other renewable resource ocean use areas during the established, traditional, and recognized times they are used or when the resource could be adversely impacted. d. Existing water-dependent businesses and existing land transportation routes to the maximum extent feasible. e. Air and water quality.	a. WAC 173-26-360(7)(k) <i>Ocean uses should be located to avoid adverse impacts on proposed or existing environmental and scientific preserves and sanctuaries, parks, and designated recreation areas.</i> b. WAC 173-26-360(7)(l) <i>Ocean uses and their associated facilities should be located and designed to avoid and minimize adverse impacts on historic or culturally significant sites in compliance with chapter 27.34 RCW. Permits in general should contain special provisions that require permittees to comply with chapter 27.53 RCW if any archaeological sites or archaeological objects such as artifacts and shipwrecks are discovered.</i> c. WAC 173-26-360(7)(m) <i>Ocean uses and their distribution, service, and supply vessels and aircraft should be located, designed, and operated in a manner that minimizes adverse impacts on fishing grounds, aquatic lands, or other renewable resource ocean use areas during the established, traditional, and recognized times they are used or when the resource could be adversely impacted.</i> d. WAC 173-26-360(7)(p) <i>Ocean uses and their associated facilities should be located and designed to minimize impacts on existing water dependent businesses and existing land transportation routes to the maximum extent feasible.</i> e. WAC 173-26-360(7)(t) <i>Detrimental effects on air and water quality, tourism, recreation, fishing, aquaculture, navigation, transportation, public infrastructure, public services, and community culture should be considered in avoiding and minimizing adverse social and economic impacts.</i>

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<p>f. Economic stability and viability of coastal communities, as represented by tourism, recreation, fishing, aquaculture, navigation, transportation, public infrastructure, public services, community culture, public access, aesthetics, and views.</p> <p>g. Shipping lanes or routes traditionally used by commercial and recreational fishermen to reach fishing areas, to the extent feasible.</p>	<p>f. WAC 173-26-360(7)(t) <i>see above</i></p> <p>g. WAC 173-26-360(7)(x) provides this consideration for oil and gas, and mining ocean uses. <i>(x) To the extent feasible, the location of oil and gas, and mining facilities should be chosen to avoid and minimize impacts on shipping lanes or routes traditionally used by commercial and recreational fishermen to reach fishing areas.</i></p>
14. The location, design, and operation of ocean uses and associated onshore facilities shall consider the environment, the characteristics of the use, and the impact of a probable disaster to assure adjacent uses, habitats, and communities' adequate protection from explosions, spills, and other disasters.	WAC 173-26-360(7)(o) <i>In locating and designing associated onshore facilities, special attention should be given to the environment, the characteristics of the use, and the impact of a probable disaster, in order to assure adjacent uses, habitats, and communities' adequate protection from explosions, spills, and other disasters.</i>
15. Discontinuance or shut-down of mining or energy producing ocean uses shall be done so that impacts to renewable resource ocean uses are minimized and the seabed is restored to a condition similar to its original state to the maximum extent feasible.	WAC 173-26-360(7)(y) <i>Discontinuance or shutdown of oil and gas, mining or energy producing ocean uses should be done in a manner that minimizes impacts to renewable resource ocean uses such as fishing, and restores the seabed to a condition similar to its original state to the maximum extent feasible.</i>
16. Ocean use distribution, service and supply vessels and aircraft shall be operated or routed such that they minimize impacts to renewable resources and activities, and avoid environmentally critical and sensitive habitats such as sea stacks and wetlands, preserves, sanctuaries, bird colonies, and migration routes, during critical times those areas or species could be affected.	<p>WAC 173-26-360(7)(m) & (n)</p> <p><i>(m) Ocean uses and their distribution, service, and supply vessels and aircraft should be located, designed, and operated in a manner that minimizes adverse impacts on fishing grounds, aquatic lands, or other renewable resource ocean use areas during the established, traditional, and recognized times they are used or when the resource could be adversely impacted.</i></p> <p><i>(n) Ocean use service, supply, and distribution vessels and aircraft should be routed to avoid environmentally critical and sensitive habitats such as sea stacks and wetlands, preserves, sanctuaries, bird colonies, and migration routes, during critical times those areas or species could be affected.</i></p>
17. Construction plans shall consider scheduling and methods of construction, and locations for temporary construction facilities that minimize impacts on uses including, but not limited to, tourism, recreation, commercial fishing, local communities and the environment.	WAC 173-26-360(7)(r) <i>Attention should be given to the scheduling and method of constructing ocean use facilities and the location of temporary construction facilities to minimize impacts on tourism, recreation, commercial fishing, local communities, and the environment.</i>

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18. Bulk storage of hazardous materials in quantities greater than 25,000 gallons, including but not limited to oil, gas, and methanol, shall be prohibited.	No direct matching CZMP EP. Pipeline or storage facilities authorized by FERC under the Natural Gas Act federally preempt a local government or state from regulating the siting of such facilities. It is possible that this provision could be approvable as an Enforceable Policy if it was rewritten to clarify that the policy did not apply to those kinds of projects.
19. Federal consistency determinations under the Coastal Zone Management Program for activities beyond the county's 3-mile jurisdictional limits shall be forwarded to the county by the Department of Ecology for consultation to ensure the health, safety, and economic welfare of the county and its citizens.	This is not a CZMP EP. Although this is not an enforceable policy, pursuant to WAC 173-27-060, Ecology requests that local governments review proposals subject to CZM consistency determinations and provide Ecology with its views regarding consistency of the activity or development with the CZM enforceable policies. While local SMP cannot authorize, create or enforce this practice, Ecology's internal processes and SMP procedural rules include local involvement in CZM project review.
6.3 Ocean Disposal	
A. Policies	
1. Ocean disposal uses should avoid, minimize, and mitigate for adverse impacts to ecological and ecosystem functions and processes, as well as existing uses, including navigation and fishing.	WAC 173-26-360(7)(w) <i>Oil and gas, mining, disposal, and energy producing ocean uses should be designed, constructed, and operated in a manner that minimizes environmental impacts on the coastal waters environment, particularly the seabed communities, and minimizes impacts on recreation and existing renewable resource uses such as fishing.</i>
2. The location and implementation of ocean dredge disposal should be designed to supplement sediment transport processes to provide sand to areas including but not limited to the Long Beach Peninsula in sufficient quantities to maintain existing shoreline functions, current shoreline position, and protection of developed areas from shoreline erosion.	No direct matching CZMP EP. It is possible that, if rewritten, these policies could be approvable as Enforceable Policies, especially if they were written as effects-based policies. However, if a site specific proposal was under federal consistency review, and effects to Washington coastal resources were determined to be likely, other CZMP EP may be applicable to justify conditions or objects to such a project. This concept is consistent with Shoreline stabilization and fill waterward of the ordinary high water mark principles and standards found with WAC 173-26-231(3)(a)(ii) & (iii) and WAC 173-26-231(3)(c).
3. Ocean disposal sites for which the primary purpose is habitat enhancement may be located in a wider variety of habitats, but the general intent of the regulations should still be met.	WAC 173-26-360(11)(c) <i>Ocean disposal sites should be located and designed to prevent, avoid, and minimize adverse impacts on environmentally critical and sensitive habitats, coastal resources and uses, or loss of opportunities for mineral resource development. Ocean disposal sites for which the primary purpose is habitat enhancement may be located in a wider variety of habitats, but the general intent of the guidelines should still be met.</i>
B. Regulations	
1. Ocean disposal shall be permitted only at sites approved by Washington Department of Ecology, Washington Department of Natural Resources, the U.S. Environmental Protection Agency	WAC 173-26-360(11)(b) <i>Ocean disposal shall be allowed only in sites that have been approved by the Washington department of ecology, the Washington department of natural resources, the United States Environmental Protection Agency, and the United States Army Corps of Engineers as appropriate.</i>

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and U.S. Army Corps of Engineers, and conforming with this Shoreline Master Program.	
2. Storage, loading, transporting, and disposal of materials shall comply with all applicable local, state, and federal laws and regulations. Where conflicts arise, the more stringent regulations shall apply.	WAC 173-26-360(11)(a) <i>Storage, loading, transporting, and disposal of materials shall be done in conformance with local, state, and federal requirements for protection of the environment.</i>
3. Ocean disposal sites shall be located and designed to prevent, avoid, and minimize adverse impacts on environmentally critical and sensitive habitats, coastal resources and uses, including fishing, or loss of opportunities for mineral resource development. If unavoidable adverse impacts are anticipated, applicants shall document ways those impacts will be avoided, minimized and mitigated, including compensation for adverse impacts to resources and uses.	WAC 173-26-360(11)(c) <i>Ocean disposal sites should be located and designed to prevent, avoid, and minimize adverse impacts on environmentally critical and sensitive habitats, coastal resources and uses, or loss of opportunities for mineral resource development. Ocean disposal sites for which the primary purpose is habitat enhancement may be located in a wider variety of habitats, but the general intent of the guidelines should still be met.</i>
4. Effects to navigation. The dynamic capacity of ocean disposal sites shall be monitored and maintained to ensure navigation hazards are not created by ocean disposal. Where ocean disposal has the potential to interfere with navigation (typically above 1 foot of mounding in nearshore areas), the applicant shall demonstrate that the proposed disposal site will not amplify large, long-period storm wave heights by more than ten (10) percent compared to predisposal baseline bathymetry. Depending on concurrence among agencies and technical experts independent of the U.S. Army Corps of Engineers and approved by the Administrator, computer modeling may be adequate, or direct wave field measurements may be required.	<p>No direct matching CZMP EP.</p> <p>However, if a site specific proposal was under federal consistency review, and effects to Washington coastal resources were determined to be likely, the following other CZMP EP may be applicable to justify conditions or objects to such a project:</p> <p>RCW 90.58.020 provides, <i>This policy contemplates protecting...generally public rights of navigation and corollary rights incidental thereto. Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical,...any interference with the public's use of the water.</i></p> <p>WAC 173-26-360(6)(e) <i>All reasonable steps are taken to avoid and minimize adverse social and economic impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing;</i></p> <p>WAC 173-26-360(7)(t) <i>Detrimental effects on air and water quality, tourism, recreation, fishing, aquaculture, navigation, transportation, public infrastructure, public services, and community culture should be considered in avoiding and minimizing adverse social and economic impacts.</i></p>
5. Disposal of dredged material is permitted when it is specifically located and designed to restore habitat, maintain shoreline functions and sediment transport processes by directing sediment toward the Long Beach Peninsula to the maximum extent possible. The applicant shall demonstrate that the most	WAC 173-26-360(11)(c) <i>Ocean disposal sites should be located and designed to prevent, avoid, and minimize adverse impacts on environmentally critical and sensitive habitats, coastal resources and uses, or loss of opportunities for mineral resource development. Ocean disposal sites for which the primary purpose is habitat enhancement may be located in a wider variety of habitats, but the general intent of the guidelines should still be met.</i>

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current, accurate, and complete scientific and technical information supports the proposed disposal locations and application to maintain beach functions.	
6.4 Ocean Transportation	
A. Policies	
1. When feasible, hazardous materials such as oil, gas, explosives, and chemicals should not be transported through highly productive commercial, tribal, or recreational fishing areas. If no such feasible route exists, the routes used should pose the least environmental risk.	WAC 173-26-360(12)(b) <i>When feasible, hazardous materials such as oil, gas, explosives and chemicals, should not be transported through highly productive commercial, tribal, or recreational fishing areas. If no such feasible route exists, the routes used should pose the least environmental risk.</i>
B. Regulations	
1. Ocean uses involving the transport of petroleum products will require a conditional use permit review and shall be reviewed by the Hearings Examiner in accordance with Section 8.4 of this Master Program.	N/A - Local permits and procedural process are not enforceable policies for Federal Consistency decisions. This is not a CZMP EP for federal actions occurring in federal waters (beyond 3nm), but is applicable to activities in state waters as long as it's not a federal activity subject only to federal consistency determination requirements.
2. The transport of oil or gas or other mineral via pipeline, including to and from vessels, ports or on-shore facilities will require a conditional use permit.	N/A - Local permits and procedural process are not enforceable policies for Federal Consistency decisions. This is not a CZMP EP for federal actions occurring in federal waters (beyond 3nm), but is applicable to activities in state waters as long as it's not a federal activity subject only to federal consistency determination requirements.
3. New port and industrial developments involved in the transfer of petroleum or other hazardous products in the waters and shorelands of Pacific County shall utilize best available technology and procedures to prevent spills and develop and implement contingency plans, including use of escort tugs. Applicants shall also establish procedures for mitigating damages from spills or other malfunctions.	WAC 173-26-360(7)(h) <i>Rehabilitation plans and bonds prepared for ocean uses should address the effects of planned and unanticipated closures, completion of the activity, reasonably anticipated disasters, inflation, new technology, and new information about the environmental impacts to ensure that state of the art technology and methods are used.</i> See also, WAC 173-26-360(7)(o) <i>In locating and designing associated onshore facilities, special attention should be given to the environment, the characteristics of the use, and the impact of a probable disaster, in order to assure adjacent uses, habitats, and communities adequate protection from explosions, spills, and other disasters.</i>
4. Transportation uses shall be located or routed to avoid impacts to habitat areas of endangered or threatened species, environmentally critical and sensitive habitats, migration routes of marine species and birds, marine sanctuaries, and environmental or scientific preserves to the maximum extent feasible.	WAC 173-26-360(12)(c) <i>Transportation uses should be located or routed to avoid habitat areas of endangered or threatened species, environmentally critical and sensitive habitats, migration routes of marine species and birds, marine sanctuaries and environmental or scientific preserves to the maximum extent feasible.</i>

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5. Applicants for new ocean transportation uses shall submit an assessment of the anticipated impacts of the proposed use on renewable resource activities such as fishing and on environmentally critical and sensitive habitat areas, environmental and scientific preserves, and sanctuaries.	WAC 173-26-360(12)(a) <i>An assessment should be made of the impact transportation uses will have on renewable resource activities such as fishing and on environmentally critical and sensitive habitat areas, environmental and scientific preserves and sanctuaries.</i>
6.5 Oil and Gas Uses	
A. Policies	
1. Consistent with RCW 43.143.010, which establishes a statewide moratorium on leasing of tidal or submerged lands for oil and gas exploration, development, and production, and given the inherent risk of such activities, oil and gas exploration, development, and production in the coastal ocean environment should be prohibited.	This is not a CZMP EP. <i>NOAA will not approve this provision as an Enforceable Policy. The parallel state-level policy (RCW 43.143.010(2)) is also not approved as an Enforceable Policy.</i>
2. Because environmental damage and impact to activities or uses is a very probable impact of uses involving oil and gas transport, the county should give major consideration to the adequacy of plans, equipment, staffing, procedures, and demonstrated financial and performance capabilities for preventing, responding to, and mitigating the effects of accidents and disasters such as oil spills when reviewing permits for uses with oil and gas components.	WAC 173-26-360(8), above, and WAC 173-26-360(12)(a-c) <i>(a) An assessment should be made of the impact transportation uses will have on renewable resource activities such as fishing and on environmentally critical and sensitive habitat areas, environmental and scientific preserves and sanctuaries.</i> <i>(b) When feasible, hazardous materials such as oil, gas, explosives and chemicals, should not be transported through highly productive commercial, tribal, or recreational fishing areas. If no such feasible route exists, the routes used should pose the least environmental risk.</i> <i>(c) Transportation uses should be located or routed to avoid habitat areas of endangered or threatened species, environmentally critical and sensitive habitats, migration routes of marine species and birds, marine sanctuaries and environmental or scientific preserves to the maximum extent feasible.</i>
B. Regulations	
1. Oil and gas exploration, development, production, storage, and pipelines are prohibited in the Coastal Ocean, Coastal Ocean High Intensity, and Willapa Bay Estuary environments.	This is not a CZMP EP. <i>NOAA will not approve this provision as an Enforceable Policy. The parallel state-level policy (RCW 43.143.010(2)) is also not approved as an Enforceable Policy.</i>
6.6 Ocean Mining	
A. Policies	

Attachment A: Pacific County SMP Crosswalk with Existing State CZM Enforceable Policies

SMP Provision	Relevant State CZMP Enforceable Policy (if any)
1. Locate and operate ocean mining activities to avoid detrimental effects on renewable resource-based uses and ecosystem processes, including beach erosion and accretion processes.	WAC 173-26-360(9) <i>Ocean mining. Ocean mining includes such uses as the mining of metal, mineral, sand, and gravel resources from the sea floor.</i> <i>(a) Seafloor mining should be located and operated to avoid detrimental effects on ground fishing or other renewable resource uses.</i> <i>(b) Seafloor mining should be located and operated to avoid detrimental effects on beach erosion or accretion processes.</i>
B. Regulations	
1. Ocean mining is prohibited in areas that would adversely impact biological communities, habitats, fishery resources and other renewable resources, or that would be detrimental to the natural beach processes such as erosion and littoral beach transport. Special attention shall be given to habitat recovery rates in the review of permits for seafloor mining and shall prohibit continued mining that does not substantially return to pre-mining conditions.	WAC 173-26-360(9) <i>Ocean mining. Ocean mining includes such uses as the mining of metal, mineral, sand, and gravel resources from the sea floor.</i> <i>(a) Seafloor mining should be located and operated to avoid detrimental effects on ground fishing or other renewable resource uses.</i> <i>(b) Seafloor mining should be located and operated to avoid detrimental effects on beach erosion or accretion processes.</i> <i>(c) Special attention should be given to habitat recovery rates in the review of permits for seafloor mining.</i>
2. Applications for ocean mining permits shall include all plans for upland processing and transportation.	WAC 173-26-241(3)(h) <i>Activities associated with shoreline mining, such as processing and transportation, also generally have the potential to impact shoreline resources unless the impacts of those associated activities are evaluated and properly managed in accordance with applicable provisions of the master program.</i> WAC 173-26-360(7)(j) <i>Ocean uses and their associated coastal or upland facilities should be located, designed and operated to prevent, avoid, and minimize adverse impacts on migration routes and habitat areas of species listed as endangered or threatened, environmentally critical and sensitive habitats such as breeding, spawning, nursery, foraging areas and wetlands, and areas of high productivity for marine biota such as upwelling and estuaries.</i>
6.7 Ocean Energy Production	
A. Policies	
1. Ocean energy facilities must be carefully evaluated to ensure that the potential impacts are fully understood. The County should ensure such ocean energy facilities are designed and located to protect and preserve ecological and ecosystem functions and shoreline and ocean natural resources and all existing sustainable uses including fishing.	WAC 173-26-360(7): <i>(t) Detrimental effects on air and water quality, tourism, recreation, fishing, aquaculture, navigation, transportation, public infrastructure, public services, and community culture should be considered in avoiding and minimizing adverse social and economic impacts.</i> <i>(w) Oil and gas, mining, disposal, and energy producing ocean uses should be designed, constructed, and operated in a manner that minimizes environmental impacts on the coastal waters environment, particularly the seabed communities, and minimizes impacts on recreation and existing renewable resource uses such as fishing.</i>

Attachment A: Pacific County SMP Crosswalk with Existing State CZM Enforceable Policies

SMP Provision	Relevant State CZMP Enforceable Policy (if any)
	<p>RCW 90.58.020 provides in relevant part, <i>Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.</i></p> <p>WAC 173-26-211(5)(c)(ii) "Aquatic" environment Management policies: <i>(D) All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.</i> <i>(E) Uses that adversely impact the ecological functions of critical saltwater and freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201 (2)(e) as necessary to assure no net loss of ecological functions.</i> <i>(F) Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.</i></p> <p>RCW 43.143.030(2) <i>Uses or activities that require federal, state, or local government permits or other approvals and that will adversely impact renewable resources, marine life, fishing, aquaculture, recreation, navigation, air or water quality, or other existing ocean or coastal uses, may be permitted only if the criteria below are met or exceeded:</i> <i>(c) There will be no likely long-term significant adverse impacts to coastal or marine resources or uses;</i> <i>(d) All reasonable steps are taken to avoid and minimize adverse environmental impacts, with special protection provided for the marine life and resources of the Columbia river, Willapa Bay and Grays Harbor estuaries, and Olympic national park;</i> <i>(e) All reasonable steps are taken to avoid and minimize adverse social and economic impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing;</i></p>
B. Regulations	
1. Energy-producing uses shall be located, constructed, and operated in a manner that has no detrimental effects on beach accretion or erosion and wave processes.	WAC 173-26-360(10)(a) <i>Energy-producing uses should be located, constructed, and operated in a manner that has no detrimental effects on beach accretion or erosion and wave processes.</i>
2. Fixed structures associated with ocean energy production that interfere with existing ocean uses, including fishing or	No direct matching CZMP EP to support prohibition of permanently anchored or fixed structures.

Attachment A: Pacific County SMP Crosswalk with Existing State CZM Enforceable Policies

SMP Provision	Relevant State CZMP Enforceable Policy (if any)
navigation, are prohibited, except that temporary structures may be permitted as a conditional use for a period of up to two years, with an option for a one-year extension. Single anchor systems are permitted.	However, if a site specific proposal was under federal consistency review, and effects to Washington coastal resources were determined to be likely, other CZMP EP could be used to justify conditions or objects to such a project. Additional EPs from the MSP Fishery Protection Standards may also be applicable to this type of project, if it was a "new ocean use," and effects were determined based on project and location specific analysis.
3. In addition to requirements in 6.2(8), ocean energy production facilities shall not be permitted unless adverse impacts to oceanographic processes and ecosystem processes can be fully mitigated, that potential conflicts with existing uses in the area are avoided, minimized, and any unavoidable impacts are fully mitigated, that public benefits clearly outweigh the risks to the shoreline environment, and the applicant demonstrates the financial and performance capabilities to carry out the project as designed.	WAC 173-26-360(10)(b) <i>An assessment should be made of the effect of energy producing uses on upwelling, and other oceanographic and ecosystem processes.</i>
4. System components of ocean energy facilities that are not water-dependent shall be located outside shoreline jurisdiction unless alternative locations, including alternative technology, are demonstrated to be infeasible. location of the system components shall not result in a net loss of shoreline ecological functions and processes or significant adverse impacts to other shoreline resources and values such as parks and recreation facilities, public access, or archaeological, historic, and cultural resources, or aesthetic resources.	WAC 173-26-201(2)(d) <i>Preferred uses. As summarized in WAC 173-26-176, the act establishes policy that preference be given to uses that are unique to or dependent upon a shoreline location. Consistent with this policy, these guidelines use the terms "water-dependent," "water-related," and "water-enjoyment," as defined in WAC 173-26-020, when discussing appropriate uses for various shoreline areas.</i> <i>Shoreline areas, being a limited ecological and economic resource, are the setting for competing uses and ecological protection and restoration activities. Consistent with RCW 90.58.020 and WAC 173-26-171 through 173-26-186, local governments shall, when determining allowable uses and resolving use conflicts on shorelines within their jurisdiction, apply the following preferences and priorities in the order listed below, starting with (d)(i) of this subsection. For shorelines of statewide significance, also apply the preferences as indicated in WAC 173-26-251(2)....</i>
5. Where a shoreline location is necessary for associated energy distribution facilities and lines, they shall be located in existing utility rights-of-way and corridors whenever feasible.	WAC 173-26-360(10)(c) <i>Associated energy distribution facilities and lines should be located in existing utility rights of way and corridors whenever feasible, rather than creating new corridors that would be detrimental to the aesthetic qualities of the shoreline area.</i>
6.8 Ocean Research	
A. Policies	
1. Encourage ocean research uses to coordinate with other ocean uses occurring in the same area to minimize potential conflicts.	WAC 173-26-360(13)(a) <i>Ocean research should be encouraged to coordinate with other ocean uses occurring in the same area to minimize potential conflicts.</i>
2. Encourage public dissemination of ocean research findings.	WAC 173-26-360(13)(e) <i>Public dissemination of ocean research findings should be encouraged.</i>

Attachment A: Pacific County SMP Crosswalk with Existing State CZM Enforceable Policies

SMP Provision	Relevant State CZMP Enforceable Policy (if any)
3. Ocean research, particularly reports that could help inform or are used to justify permits for ocean uses should be disseminated and produced in a manner accessible to the public.	WAC 173-26-360(13)(e) <i>Public dissemination of ocean research findings should be encouraged.</i>
B. Regulations	
1. Ocean research meeting the definition of "exploration activity" of WAC 173-15-020 shall comply with the requirements of chapter 173-15 WAC, as amended: Permits for oil or natural gas exploration activities conducted from state marine waters.	WAC 173-26-360(13)(b) <i>Ocean research meeting the definition of "exploration activity" of WAC 173-15-020 shall comply with the requirements of chapter 173-15 WAC: Permits for oil or natural gas exploration activities conducted from state marine waters.</i>
2. Ocean research shall be located and operated in a manner that minimizes intrusion into or disturbance of coastal ocean areas consistent with the purposes of the research and the intent of the general ocean use guidelines in subsection 6.1 of this Section.	WAC 173-26-360(13)(c) <i>Ocean research should be located and operated in a manner that minimizes intrusion into or disturbance of the coastal waters environment consistent with the purposes of the research and the intent of the general ocean use guidelines.</i>
3. Ocean research shall be completed or discontinued in a manner that restores the environment to its original condition to the maximum extent feasible, consistent with the purposes of the research.	WAC 173-26-360(13)(d) <i>Ocean research should be completed or discontinued in a manner that restores the environment to its original condition to the maximum extent feasible, consistent with the purposes of the research.</i>
6.9 Ocean Salvage	
A. Policies	
1. Non-emergency marine salvage and historic shipwreck salvage activities should be conducted in a manner that minimizes adverse impacts to the coastal ocean environment, renewable resource uses, and cultural or historical resources.	WAC 173-26-360(14)(a) <i>Nonemergency marine salvage and historic shipwreck salvage activities should be conducted in a manner that minimizes adverse impacts to the coastal waters environment and renewable resource uses such as fishing.</i>
2. Emergency marine salvage that has a strong potential to cause adverse impacts to the marine environment and uses if not completed immediately should be carried out as expeditiously as safety will allow.	No direct matching CZMP EP Non-emergency marine salvage is addressed in WAC 173-26-360(14). As an Emergency action – this is not an enforceable policy, but it doesn't need to be as it helps define actions that need to be completed immediately outside the permit review or authorization process. However, this section is consistent with general mitigation sequencing requirements under the SMA EPs.
B. Regulations	

Attachment A: Pacific County SMP Crosswalk with Existing State CZM Enforceable Policies

SMP Provision	Relevant State CZMP Enforceable Policy (if any)
1. Non-emergency marine salvage and historic shipwreck salvage activities shall be conducted in a manner that minimizes adverse impacts to the ocean environment and renewable resource uses.	WAC 173-26-360(14)(a) <i>Nonemergency marine salvage and historic shipwreck salvage activities should be conducted in a manner that minimizes adverse impacts to the coastal waters environment and renewable resource uses such as fishing.</i>
2. Non-emergency marine salvage and historic shipwreck salvage activities shall not be conducted in areas of cultural or historic significance unless part of a scientific effort sanctioned by appropriate governmental agencies.	WAC 173-26-360(14)(b) <i>Nonemergency marine salvage and historic shipwreck salvage activities should not be conducted in areas of cultural or historic significance unless part of a scientific effort sanctioned by appropriate governmental agencies.</i>
3. Emergency Salvage. a. Damages shall be avoided, minimized, and mitigated through communication and cooperation with existing uses in the area of the emergency salvage operations. b. Adequate compensation shall be provided for any damages to commercial fishing gear and lost commercial fishing opportunity as a result of the salvage operation.	No direct matching CZMP EP Non-emergency marine salvage is addressed in WAC 173-26-360(14). As an Emergency action – this is not an enforceable policy, but it doesn't need to be as it helps define actions that need to be completed immediately outside the permit review or authorization process. However, this section is consistent with general mitigation sequencing requirements under the SMA EPs.

General notes regarding Shoreline Environment Designations (SEDs):

SMP Chapter 3.2 Shoreline Environment Designations*¹ Coastal Ocean High Intensity, Coastal Ocean, and Willapa Bay Estuary SEDs from the SMP would be implemented under the CZMP EPs as Aquatic SEDs with additional applicable general SMA and ORMA policies. These SMP SEDs are consistent with the EPs contained within WAC 173-26-211(5) and WAC 173-26-360.

General notes regarding SMP Table 5-1 Permitted Uses and Modifications by Environment Designation:

This Table is not applicable to CZMP federal consistency determination reviews. Permit types and requirements of the SMP are not enforceable upon federal actions under the CZMP. Furthermore, CZMP EPs should be effects based not based on project type and CZMP federal consistency determination reviews located outside state waters can only be requested based upon a determination of effects and applicable NOAA EPs.

General notes regarding SMP Administrative Process Applicability

Local procedural processes, internal directional policy, and decision-making authorities (i.e. references to the Hearing Examiner, Administrator, Pacific County policy directing the County to study or support future efforts, or requirements for a conditional use permit) are not EPs and, thus, inapplicable as part of a Federal Consistency Decision.

¹ Coastal Conservancy is an upland SED, so it was not included in this review because it is unlikely to be relevant off-shore coastal projects beyond the 3 nm jurisdiction of state waters.

Nichol Duff

From: Shawn Humphreys
Sent: Tuesday, December 20, 2022 7:07 AM
To: Shoreline Master Program
Subject: FW: Surfside Trees

Categories:

From: Steven Wallace <sw1743@yahoo.com>
Sent: Monday, December 19, 2022 6:44 PM
To: Shawn Humphreys <shumphreys@co.pacific.wa.us>
Subject: Surfside Trees

From Steven Wallace

801 oysterville rd

3606069038

Shawn Humphries,

I have been informed that some residents are attempting to use your committee to enshrine a "View" right and Tree topping right in the Shoreline Master Program for Surfside HOA.

Please note that this attempt has been through two failed iterations recently.

Surfside initiated a committee (Ad Hoc committee) whose only expert presenter spent the first and second meeting telling Surfside to please stop topping trees.

Surfside attorney issued the following ruling to the Board (President Ric Minich). That said NO surfside residents have a granted view right and any assertion would be questionable.

Ric,

I am not aware of Surfside granting anyone view easements. In addition, it would be questionable whether an easement was valid if it encumbered to someone else's property. If you want to research whether any such view easements existed, probably the best way to do it would be by researching the title of both the property that supposedly benefits and the property that supposedly is burdened by the view easement.

Sam

Date: Sun, 5 Dec 2021 20:27:27 +0000

From: Jacobs, Sam M. <SJacobs@helsell.com>

To:sw1743@yahoo.com <sw1743@yahoo.com>
CC:Ric Minich <RMinich@surfsideonline.org>