

# U.S. COMMISSION ON OCEAN POLICY



## **Reports of Site Visits Associated with the Northwest Regional Meeting Port of Seattle, Seattle, Washington June 13-14, 2002**

### **Background/Areas of Site Visits**

The U.S. Commission on Ocean Policy held three site visits in association with its Northwest Regional meeting in Seattle, Washington. The initial site visit was held March 20, 2002, in Portland, Oregon. The second and third site visits were held simultaneously on June 12, at the Nisqually National Wildlife Refuge in Olympia, Washington, and at the National Oceanic and Atmospheric Administration's facility in Seattle, Washington.

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### **Nisqually National Wildlife Refuge, Olympia, Washington**

### **City of Portland, Oregon**

### **National Oceanic and Atmospheric Administration's Sand Point Facility in Seattle, Washington, including the NOAA Pacific Environmental Lab and the National Marine Fisheries Service Alaska Fisheries Science Center**

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### **Nisqually National Wildlife Refuge Site Visit**

The Nisqually site visit focused on the history and work of the Nisqually River Council, which was formed in 1987 by the Washington State Legislature. The council represents a collaborative approach to watershed decision making. The site visit was an opportunity for the Commissioners to learn about the unique style of resource management developed by the Nisqually River Council, and to hear suggestions on how to apply the lessons learned by the council to its work on national ocean policy. The visit also provided a unique opportunity for Commissioners to learn more about local tribal issues and the significant role the tribal representatives play in the management of fisheries that span the Northwest region.

### **Commissioners Participating in the Nisqually Visit:**

Mr. William Ruckelshaus  
Mr. Larry Dickerson  
Mr. Ted Beattie  
Mr. Paul Kelly  
Ms. Lillian Borrone

### **Commission Staff:**

Ms. Angela Corridore  
Ms. Aimee David

### **Also in Attendance:**

David Troutt, Nisqually Tribe  
Debbie Young, Tacoma Power  
Steve Craig, Dept. of Ecology  
Diane Oberquell, Thurston County Commissioner  
Karen Fraser, Washington State Senate  
Herb Stumpf, Nisqually River Council Citizens Advisory Committee (CAC), Cascade Land Conservancy  
Chris Schutz, Pierce County  
Pat Fetterly, Yelm City Council  
Julie Keough, Weyerhaeuser Co.  
Paul Kyle, Nisqually River Council CAC  
Fred Michelson, Nisqually River Council CAC  
Tim Ransom, Puget Sound Action Team  
George Walter, Nisqually Indian Tribe  
Jean Takekawa, USFWS, Nisqually National Wildlife Refuge  
Jeanette Dorner, Nisqually Indian Tribe  
John C. Simmons, Nisqually Indian Tribe, Tribe Chairman  
Billy Frank Jr., Nisqually Indian Tribe, Northwest Indian Fisheries Commission  
John Dodge, *The Olympian* newspaper  
Steve Robinson, Northwest Indian Fisheries Commission  
Steve Thompson, Washington State Dept. of Transportation  
Mel Moon, Quileute Indian Tribe, Director of Natural Resources  
Mark J. Swarrant, Thurston County  
Debbie Hyde, Pierce County  
Bruce Jones, Quileute Indian Nation  
Bob Whitner, Squaxin Island Indian Tribe, Northwest Indian Fisheries Commission  
Paul Glecki, Red Wing Casino (Nisqually)  
Doug Broom, Red Wing Casino (Nisqually)  
Davor Gjurasic, Nisqually Indian Tribes Lobbyist  
Tony Meyer, Northwest Indian Fisheries Commission  
Melissa Montgomery, University of Washington (recorder)

### **Nisqually River Council/Local Participation: Welcome and Introductions**

- Ms. Debbie Young, Chair of the Nisqually River Council
- Mr. John Simmons, Chair of the Nisqually Indian Tribe
- Mr. Bill Frank Jr., Nisqually Elder and Chair of the Northwest Indian Fisheries Commission
- State Senator Karen Fraser

After a welcome by Ms. Young, introductions were given by Mr. Simmons, Mr. Frank and Senator Fraser. Mr. Simmons remarked on how residents of the Nisqually watershed are tied to the Nisqually River. Mr. Frank reviewed the history of tribal rights in the area, described the life history of native salmon species, and remarked on how the Nisqually Council enables everyone in the watershed to work together. Senator Fraser stressed the interconnectedness of the people and the environment, which spans the watershed to the ocean.

### **Nisqually River Council Video**

The Commissioners viewed a video which described the geography and natural resources of the area and provided testimonials of participants in the Nisqually River Management Plan process. It pointed out the many interests tied to the river, such as fishing, logging, agriculture, and tourism and showed how both the Nisqually River Council and the Citizen Advisory Committee were created to encourage a collaborative approach to addressing

these interests. The video also introduced major players in the management process, including the Nisqually Indian Tribe and the Fort Lewis Military Reservation. The importance of collaboration between all parties and the engagement and education of citizens in the watershed were major themes of the video.

### **Early History of Council Formation**

- Multiple presenters

Mr. Steve Craig, a member of the Nisqually River Council, provided a summary of the Council's history. He stated that a Nisqually River Task Force was created in 1987 by state law to develop a management plan for the area. A year and a half later, the Nisqually River Management Plan was issued, which called for the establishment of a broadly-based Nisqually River Council, a Citizen Advisory Committee to advise the Council, and a nonprofit trust to facilitate land acquisition for conservation purposes. He noted that since its creation, the Council has successfully facilitated coordination between parties over specific issues related to the River and its resources. He stated that he has also worked with several outside organizations to educate them on Nisqually's collaborative watershed approach to management.

Mr. Craig highlighted four notable characteristics of the Nisqually management process:

- 1) Trust was built between all participants;
- 2) Participation was voluntary and did not carry with it the threat of regulation;
- 3) A holistic approach was followed that viewed the river as a complex system; and
- 4) All participants had developed a sense of place and therefore have a personal stake in the outcome.

He concluded by acknowledging the need for more funding to continue the work of the Council, especially in the face of current state budget restrictions.

Commissioner Ruckelshaus emphasized the important role of leaders in the Nisqually Plan process. He also asked for the presenters to comment on the significance of the process being mandated by statute. Senator Fraser responded that, on a practical basis, the mandate was very important for triggering the development of the task force, the plan and the Council. She noted that a high caliber of representation from all of the involved parties. She stated that the fears that the participants may have felt about the process were quelled by the following restrictions laid out in the mandate:

- 1) That the Council not recommend another layer of government; and
- 2) That the Council not recommend that implementation would happen by imminent domain.

Senator Fraser emphasized the importance of the establishment of the land trust. She also noted that a big challenge now is a lack of funding.

Commissioners asked to hear from a member of the private sector regarding the Council process. Ms. Debbie Young, who is Tacoma Power's natural resource manager, remarked that the Council made the industry's job a lot easier. She noted that the non-regulatory atmosphere enabled the development of a trust and comfort level among the participants. She admitted though, that initially it was tense.

### **Invited Accounts by Council Members**

- Ms. Diane Oberquell, Thurston County Commissioner
- Mr. George Walter, member of the Nisqually Indian Tribe
- Mr. Fred Michelson, a member of the Council's Citizen Advisory Committee (CAC)

Ms. Oberquell was the next to offer her insight into the Nisqually process. She commented that the Council works because it brings all parties to the same table to discuss strategies and resolutions. She also remarked on the value of education and noted that informed citizens helped the County develop and implement a plan to protect the valley. She echoed concerns expressed earlier as to the need for more funding. She noted a particular example in which land was purchased for public ownership, but could not be maintained due to a lack of resources.

Mr. Walter noted that at the start of the Council, a big problem was that all of the major players were interested mostly in damage control. The problem was solved, however, once the participants had become educated on one another's positions. He remarked that they established a commonality about goals and had adopted a long-range view. Ms. Young echoed Mr. Walter's remarks and said that the contributions of the Nisqually tribe in terms of both staff and ideas were key to the entire process.

The question was asked why the tribes had always been leaders in this regard. Mr. Frank responded by saying that previous court decisions had enabled the tribes to develop an infrastructure by which to manage the natural resources of the area. He also noted that the tribes had been there for generations and are not going anywhere.

Mr. Michelson remarked that citizen input in the management plan is important. He noted that the Nisqually CAC meets separately from the Council, but does interface at specific times. He commented that it has been said that the CAC drives the agenda of the Council. Specifically, the citizens have three votes on the 21-member council. He noted, though, that most Council decisions are reached by consensus and never come to a vote. He offered three of the elements of success for the Council process, which included the following attributes:

- 1) Establish trust, have heroes, strong leadership and staying power;
- 2) He pointed out that the Council was lucky because they had a variety of players who had already established relationships; and
- 3) The area had not experienced a big population explosion.

Where you have watersheds without large populations, he said, you have the biggest bang for your buck.

### **Salmon Recovery Presentation**

- Ms. Jeanette Dorner, of the Nisqually Indian Tribe

Ms. Dorner discussed the salmon recovery issue. She commented that the Nisqually watershed is fortunate because its headwaters are in a national park and the mouth of the river is in a refuge. She said that 67 percent of the main stem of the river has a protected status, which is a major achievement, due mostly to the Council. She noted that a management program was formed out of a desire to provide an effective forum to deal with protecting the basin.

Ms. Dorner then described the structure of the Nisqually River Management Program. The Nisqually River Council, Nisqually River Citizens Advisory Committee, and Joint Subcommittees all interact, providing each other with information and advice. The Joint Subcommittees also interact with the Nisqually River Basin Land Trust, Nisqually Stream Stewards, Nisqually River Education Project, and Nisqually River Interpretive Center. Ms. Dorner described the Nisqually River Education Project in more detail, saying that they work with school districts in the watershed to provide curriculum about the watershed and take school children out to do sampling. She also further discussed the Nisqually Stream

Stewards, commenting that they have hands-on activities such as tree plantings to get people more involved in the watershed. Ms. Dorner stressed that the greatest success over the last 14 years has been creating these working relationships. She commented that they are able to develop “bottom-up” approaches to issues such as the Endangered Species Act (ESA) and Clean Water Act.

Ms. Dorner described three examples of work with which the Council is currently involved. The first involves the ESA and salmon recovery. They are developing a recovery plan for salmon because the Council endorsed the Tribe to lead the recovery effort. The Tribe then organized the Nisqually Recovery Team, developed a draft plan that was endorsed and released and will continue to be modified as they obtain new information. She discussed the four elements of the plan:

- 1) Hatchery operation guidelines;
- 2) Harvest management for natural escapement;
- 3) Habitat action plans; and
- 4) An adaptive management strategy so that the plan is dynamic and flexible as new information is available.

Next, Ms. Dorner discussed work the Council is doing on watershed planning. She described the Washington State watershed planning process and noted that watersheds can choose to participate and that the Tribe coordinates monthly meetings. Last, Ms. Dorner discussed the Council’s work on shellfish protection. She commented that shellfish beds in part of the Nisqually River are closed and the Council is the oversight group. She stated that the Council has provided a cooperative, inclusive forum to deal with these and other issues, enabling them to develop locally-supported solutions.

Ms. Dorner offered the following recommendations:

- 1) Support local solutions through the development and revision of federal regulations;
- 2) Make it clear that the intent, where practicable, is to develop local solutions;
- 3) Support watershed efforts and groups like the Council through dedicated funding;
- 4) Staff support is a critical element;
- 5) Avoid the formation and support of these councils around single, specific and often contentious issues;
- 6) Encourage the development and support to prepare communities to deal with known and unknown problems; and
- 7) Provide training for government employees charged with implementing regulations.

The presenters were asked about the impact the listing of salmon had on the Council. Ms. Dorner responded that the Council was ready to deal with the listing of salmon because they were already in the process of developing recovery plans.

### **Shellfish Protection/Restoration Presentation**

- Mr. Tim Ransom

Mr. Ransom discussed shellfish protection and restoration and commented that throughout Puget Sound, the viability of the shellfish resource is threatened. He stressed the need to think about continuity and coordination for a management plan. He commented that when a shellfish bed is restricted, they try to find leadership at the local level to build a strategy for restoration of the resource in the estuary.

### **Dialogue between Members of the Nisqually River Council and Members of the Ocean Commission**

At the conclusion of the initial roundtable, Commissioner Ruckelshaus responded to a suggestion offered by Ms. Dorner. He stated that he liked the idea of training regulators to be responsive to the public. He also noted the recommendation to create more flexibility in statutes and regulations. Mr. Craig responded that the old command and control model is dysfunctional and that there needs to be an evolution towards a more decentralized model that considers the interests of tribes, counties and communities. Commissioner Ruckelshaus responded that, in some instances (such as for point source pollution), centralized control works, but not for all areas. He noted that a goal of the ESA and other laws is to set standards and thresholds for salmon and habitat and make it up to watershed communities to make it happen. Mr. Oberquell expressed his concern over past Federal agency personnel behavior and stated that it is hard to have faith in federal agencies if they do not understand the local view.

Commissioner Dickerson asked the presenters if they had any additional advice to guide the Commission's work. Mr. David Troutt of the Nisqually Indian Tribe noted the need to establish realistic goals up front. Commissioner Borrone reiterated the suggestion to find common ground among all of the participants. She also noted the importance of citizen heroes who act to motivate the public, which translates into political will.

## **Tribal Issues**

### **The Tribe's Place at the Table**

- Mr. Bob Whitener, member of the Squaxin Island Indian Tribe

Mr. Whitener discussed the tribe's place at the table. He commented that land ownership was not a common concept for Native Americans and when signing the treaties they passed on the title to the land but reserved the right to fish in usual and accustomed fishing grounds. Based on these treaties, U.S. v. Washington (the Boldt decision) granted the Tribes co-management authority over the fisheries and a right to half of the fish. He then explained what co-management means. He added that the U.S. has the responsibility to protect the Tribe's property rights and commented that the Tribes have a better track record of management of natural resources.

### **Ocean Management (Quileute Tribe Presentation)**

- Mr. Mel Moon, Director of Natural Resources and member of the Quileute Tribe
- Mr. David Troutt, of the Nisqually Indian Tribe

Mr. Moon discussed ocean management. He first gave some background about the Quileute Tribe, saying that they have 650 members and have a land base of about one square mile. He noted that fishing is the primary driver of their economy. He also noted that they are interested in ecotourism and charter boat operations and are concerned with marine ecosystem issues. He commented that they have the capacity to pull plans and teams together if they have to with their resource situations. Mr. Moon discussed the Pacific Fishery Management Council and said that the initial problem was that the Tribes did not have much involvement in the process. He commented that then, the Magnuson Act was changed to include a tribal seat, but that they only have nine tribal seats out of 176 seats on the Council. He discussed that they have had difficulty gaining access into the process and have had representation problems. Mr. Moon stressed that he believes in a watershed approach on a regional basis.

Mr. Moon also commented on the Marine Protected Area (MPA) initiative, noting that the tribes have mixed feelings regarding this. He stated that he thinks that an assessment process on a regional level is needed in the MPA process. Commissioner Ruckelshaus raised

a question about the fishery management councils and the separation of the assessment and allocation processes. Mr. Troutt responded that better fishery management would follow from changes to the fishery management councils. The incentives should be changed: science should set the amount of harvest and let the councils decide allocation of that “pie” once it is set.

Finally, Mr. Moon discussed the issue of bycatch. He commented that bycatch is a big problem for the tribal fishers. He noted that the tribe depends on halibut but the bycatch of halibut exceeded the catch limit in 2000-2001. Additionally, about two-thirds were juveniles.

### **Marine Protected Areas and Tribal Treaty Rights**

- Mr. Daryl Williams, of the Tulalip Tribes

Mr. Williams discussed Marine Protected Areas (MPAs) and tribal treaty rights. Mr. Williams described the concept that people do not own land, but instead share the land with fish and other wildlife and that people should recognize that human actions affect habitat and ecosystems. He then discussed MPAs in Puget Sound and said that early initiatives failed because they were politically-driven and not scientifically-based. He stressed that the process needs to be based on sound science. He noted that the state did not know much about fish habitat and life cycles until the tribes got involved and that the tribes are bringing more technical expertise. Mr. Williams expressed that tribes do not feel responsible for the decline in fisheries and do not feel they should be penalized. Asked whether or not he opposed MPAs as a management tool, Mr. Williams said he is opposed to MPAs as a tool and emphasized that there are other tools to rebuild fisheries without officially designating an MPA. Mr. Williams concluded that MPAs should be considered as a useful temporary fisheries management tool but only if there is a scientific basis for and public input on their placement.

## **Appendix 1**

### **Participants:**

- Debbie Young, Chair Nisqually River Council
- John Simmons, Chair Nisqually Indian Tribe
- Bill Frank Jr., Nisqually Elder, Chair of Northwest Indian Fisheries Commission
- State Senator Karen Fraser
- David Troutt
- Jean Takegawa
- Steve Craig
- George Walter, Nisqually Indian Tribe
- Fred Michelson, Citizen’s Advisory Committee to the Council
- Diane Oberquell, Thurston County Commissioner
- Jeanette Dorner
- Tim Ransom
- Billy Frank Jr.
- Bob Whitener, Squaxin Island Tribe
- Mel Moon, Quileute Tribe Presentation
- Daryl Williams, Tulalip Indian Tribe
- Guy Mcmines

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### **Portland Site Visit**

Mr. Dave Lohrman, Director of Policy and Planning at the Port of Portland, welcomed the Commissioners and other attendees to the meeting. The day's discussions focused on the following topics:

- Roles for states in ocean management: The Oregon Experience;
- Coastal Zone Management: Re-evaluating the State and Federal Relationship and its Implications for Ocean Management;
- Re-evaluating Marine Fisheries Management in the U.S.; and
- Integrating Science into Ocean Policy

### **Commissioners Participating in the Visit**

Professor Marc Hershman

Mr. William Ruckelshaus

#### **Commission staff:**

Laura Cantral

#### **Also in Attendance:**

Jessica Hamilton, Oregon State University (recorder)

### **The Oregon Experience**

- Multiple Presenters

Mr. Bob Bailey, Oregon Ocean Program Coordinator, presented an overview of Oregon's Ocean Resources Management Program (ORMP). The ORMP was created in 1991, and established a coordinating body - the Ocean Policy Advisory Council (OPAC) - as a forum for discussing issues, rulemaking, permits, etc. He noted that the ORMP encourages federal participation, but cannot require it. He also noted that Oregon's coastal zone is defined as the area spanning the coastal watersheds to the outermost boundary of the three-mile territorial sea. Also, Oregon's ocean program is based on two principal policy documents - the *1990 Oregon Ocean Plan*, which is a broad based and unenforceable policy; and the *1994 Oregon Territorial Sea Plan*, which contains specific management policies for the territorial sea and rocky shores.

Asked if there are built-in incentives for Federal agency involvement, Mr. Bailey said that the link is entirely through funding opportunities in the federal Coastal Zone Management Act (CZMA). Asked if federal representatives still came to the table despite the lack of a requirement for them to do so, Mr. Bailey said that Federal agency representatives tend to stay engaged voluntarily in state ocean issues through the policy council. Ms. Nan Evans, manager of the Oregon Coastal Program, noted that during the ocean planning process, stakeholders felt that the area of state interest extended beyond three miles and into federal waters. As a result, Oregon's Ocean Plan asserted an Ocean Stewardship Area of interest to the state across the continental margin. However, she noted that the Ocean Plan is not recognized by NOAA as part of Oregon's state CZM plan. Consequently, the Ocean Plan is only enforceable where the state has clear control of resources.

Asked how the Commission should address the issue of federal agency participation with states, Ms. Evans suggested that changes to the Submerged Lands Act (SLA) and CZMA be made to acknowledge as policy that there are state and federal interests that overlap inside and outside of the three-mile territorial sea regardless of ownership.

Asked if Oregon's plan had been federally-approved, Ms. Evans responded that NOAA has essentially said they will not approve the Ocean Plan and, therefore, the 1990 Ocean Plan is

not part of the federally-approved state coastal management program. In a February memo, NOAA stated that:

1. States cannot establish standards for actions in federal waters;
2. The federal consistency provision provides that the federal government stay consistent with federal policies that affect state citizens; and
3. Oregon's findings regarding offshore oil and gas conflicted with the national interest (1991 legislative policies).

Mr. Bailey added that - through CZMA - it is determined that Federal agencies only have to be consistent with a state policy if it has been approved by NOAA. Otherwise, the Federal agencies do not have to be consistent. He stated that if the state policies are benign, it is not a problem. But, if it is an expression of policy interest, then it is a problem to get NOAA approval. Mr. Ruckelshaus noted the need to define the term 'interests' - for example, the 'interests' of Oregon may be different than those of the federal government.

Based on the premise that Federal and state governments sit down to talk on their own, the panel was asked whether or not these relationships should remain ad hoc, or whether they should be formalized. Ms. Evans responded that they should be formalized in law. Dr. James Good, professor at Oregon State University, remarked that a "Federal Agency Advisory Committee" is supposed to be in place, but that he was not sure how active it is today. He also noted that the Oregon Ocean Plan also provides for joint review panels that are formed on an ad hoc basis.

Ms. Ann Squire, former assistant for Natural Resources to Governor Barbara Roberts and former chair of the Ocean Policy Advisory Council, offered comments based on her experiences. She remarked that the core of what we are wrestling with is driven by the fact we can't manage natural resources effectively in isolation from each other. She said that the ultimate implementation processes of the ocean program were centralized through the Governor's office, which created the message that agencies need to work together. She noted that there are mechanisms - through the budget process - to encourage participation. She also noted that the Oregon Statewide Planning Goal 16 (Estuarine Resources) placed cities and counties in the driver's seat to prepare and adopt plans. Cities and counties are required to develop estuary plans even though state and federal government agencies actually have the authority over development within estuaries.

Ms. Squire stressed that whatever kind of "big table" is built, it is vital to identify the "stoppers" up front. She defined stoppers as legal requirements on the federal and state sides that will constrain the discussion. She added that current barriers to effective policy and management include litigation, wasted public money and efforts that do not protect the resources. Asked if the term stoppers had been understood and accepted in Oregon, Ms. Squire said the idea is understood and, if spelled out at the beginning of a process, the process tends to run more smoothly and more successfully.

Professor Hershman asked how she would suggest using plan-making as a vehicle for forging an interagency group. Ms. Squire responded that she did not think that plan-making was more important than setting out a common policy framework, but it was better than addressing issues on an ad hoc basis.

### **Open Discussion**

Mr. Ralph Brown, commercial fisherman, remarked that he had worked on both the Oregon Plan and the Territorial Sea Plan. He stated that federal agencies were at the table in all of the processes and, even though they did not vote, the Federal representatives influenced the process by their presence. He added that operating on a consensus basis - including

federal, state and local involvement - often leads nowhere. He stressed the need to break resources into logical groups.

Dr. Robert Malouf, director of Oregon Sea Grant, commented that Federal agencies are important participants in ocean management because of their ability to research and monitor policy successes. He noted that states do not have the resources to do the job right, so they rely on federal resources. He stressed, however, that it is hard to provide federal resources and expertise in a timely manner.

The panelists were then asked about the benefits of a regional approach. Ms. Evans responded that ocean management and policy must be done on a regional basis, but must also recognize sub-regional variations in ecosystem and economies.

Asked if estuaries are included within the boundaries of ocean management plans, Mr. Malouf responded that OPAC generally draws a line across the mouths of estuaries at the coastal jetties, although the council recognizes the marine influence on estuaries and the influence of estuaries on the nearshore ocean.

Mr. Malouf noted that the Sea Grant program is made up of regions, but that the make up of the Western Region doesn't make sense. That region includes Hawaii and Alaska, as well as Oregon, Washington, and California. He remarked that regional groupings should be organized around issues.

Professor William Lunch, of Oregon State University, commented that Oregon's watershed councils include Federal representatives. However, they are not formal members. He added that federal representatives attend the council meetings and, where necessary, offer consultation in the development of watershed plans.

Mr. Brown commented on the Pacific Fishery Management Council. He stated that council process is an open process that involves representatives of state and federal agencies and interest groups sitting around the same table. He remarked that, although these representatives may not agree all the time, the process itself works well.

Dr. Greg McMurray of the Oregon Department of Environmental Quality asked how estuaries could be left out of a discussion on oceans. He stressed that estuaries should be included in the discussion, given the size of estuaries on the East Coast and the physical and biological connections with the marine environment.

### **Coastal Zone Management**

- Multiple Presenters

Ms. Evans presented an overview of the Oregon Coastal Management Program (OCMP). She noted that the OCMP relies on the statewide planning goals for an overarching framework. The four coastal statewide planning goals ([Goal 16](#) Estuarine Resources, [Goal 17](#) Coastal Shorelands, [Goal 18](#) Beaches and Dunes, and [Goal 19](#) Ocean Resources) have resulted in the estuary management plans adopted for each estuary. The program is now in the process of developing littoral cell management plans in response to development in the ocean shore area. She added that the ORMP is working, especially since the program is goal driven, and its overall policies and purposes are defined in legislation. She also noted that the program is ecosystem-based, and that it included a network of state, local and citizen involvement.

Ms. Evans also noted several criticisms of the OCMP, including weak and vague local plans (many completed in early to mid-1980s) and poor zoning. She noted that powerful development pressures sometimes overrides what stakeholders want the goals to be. She also noted that there has been a trend toward decreasing public involvement. Ms. Evans added that having an ocean boundary at three miles is artificial and hard to work with. She outlined several challenges faced by the OCMP, including the array of confusing jurisdictions and the growth of the private property rights movement. She added that coastal communities are experiencing varying levels of growth, a factor that makes the areas difficult to manage.

Ms. Evans stressed that the OCMP also can make a positive difference. In some cases, poorly designed or inappropriate developments have been stopped or slowed. Also, state and Federal agencies are often side-by-side at the table with local governments. Ms. Evans concluded by saying that the OCMP makes few federal consistency denials because most differences are worked out.

Asked where in this approach there are methods for evaluating whether objectives have been met, Ms. Evans responded that they are just beginning to recognize the importance of performance standards. A framework of this approach can be found within Oregon's statewide "benchmarks" which have goals and measurements.

Ms. Liz Frenkel, citizen of Oregon, offered the following comments based on her experience as a citizen activist in ocean and coastal affairs in Oregon. She noted that clear benchmarks are powerful tools— such as when agencies go to the legislature and say "we've met x, y, and z goal." She noted that the public becomes frustrated with government activities that are not transparent. She stressed the need for accurate research and science to enhance local efforts and emphasized that it is crucial to involve people who don't live on the coast in decision making. She concluded by stating that the body in charge of resolving local, state and Federal issues and conflicts needs to be representative of a broad state and national interest - not just coastal. She added that this body needs to have authority or nothing will happen.

### **Open Discussion**

The panelist moved on to the topic of the consistency provision. They were asked to respond to the assertion that the provision may kick in too far down in the process and that it may need to be incorporated into the planning phase. Ms. Frenkel responded that the consistency review process could be clarified and made more transparent, but that big changes were not necessary. Ms. Squire remarked that the process could be streamlined by a higher level or clear policy goals. Mr. Bailey remarked that consistency is a hammer. He stressed that a process needs to be in place ahead of time that makes the consistency process easier. Ms. Evans commented that federal consistency is a tool that provides an incentive to federal agencies to come to the table faster than if it did not exist.

### **U.S. Marine Fisheries Management**

- Multiple Presenters

Mr. Bob Eaton, Executive Director of the Pacific Marine Conservation Council (PMCC), presented an overview of fishery management in Oregon. He noted that funding for fishery management councils is being cut. He said that better data is needed and that there needs to be a way to connect data with policy. The *Magnuson-Stevens Act* calls for requirements for stock rebuilding of overfished species. Seven species in Oregon have been declared overfished, but do not have approved rebuilding plans. Mr. Eaton pointed out that there is over-capitalization of the fishing fleet and that there are too many vessels and gear chasing

too few fish. He stated that the transition from current to future fleet size is needed, and noted that habitat research and gear selectivity studies should be funded.

Regional successes include some incremental funding for councils and for the National Marine Fisheries Service (NMFS) to do an at-sea observer program. He also noted that a plan has been developed which lays out an aggressive approach to getting to where fish management should be. Regional challenges include the need to have stakeholder buy-in to management plans. He stated that stock assessments are not being done annually and that seventy to seventy-five percent of managed stocks are listed as "status unknown." He also remarked that universities aren't providing enough people to do the assessment.

Potential solutions offered by Mr. Eaton included offering gear options and buy back provisions. In addition, he stated that the current moratorium on fishing quotas needs to be reversed and that Individual Fishing Quotas (IFQs) should be a tool in the toolbox. He also commented that coastal harbor dredging was needed in order to maintain channels.

Dr. Gil Sylvia of the Hatfield Marine Science Center at Oregon State University commented on issues in marine resource economics. He noted that NMFS is not maximizing national benefits and that there is a need for more stock assessors, economists and people with fishery management skills. He noted the devolution away from federal control and toward local control. He stated that self funding is a strong incentive and that the process of research today is separate from management. He noted that high technology is available for fishermen to help record information vital to the management of the resources.

Dr. Sylvia stated that a rights-based systems needs to be developed with user privileges. He noted that this is currently a lumpy licensing system—if there is a rapid change in stock, it is hard to deal with reallocation. He stated that the industry is busy fighting over allocation rights and, therefore, it can not be competitive internationally or develop niche markets.

Mr. Brown provided comments based on his experience as a commercial fisherman. He stated that the rights and responsibility of fishers need to be settled in order to establish stable polices and stable fisheries. He noted the need to answer whether or not fishers are going to pay for their own management. The marine reserve issue, he stated, needs to be settled, as does the property rights issue. There also is a need to get away from command and control. He remarked that the fishery council fights are over allocation -- too many boats and not enough fish. Individual Transferable Quotas (ITQs) can move towards addressing this problem, but they can only go so far he said. He noted that a small fleet could pay for its own management and own observers at less risk to the industry, possibly through buy back programs.

### **Open Discussion**

Asked how aquaculture fits into the topic of fisheries management, Mr. Brown responded that there is not a lot of acreage, but that there is still the possibility of establishing aquaculture. However, he noted that there are problems. Dr. Steve Rumrill of the South Slough National Estuary Research Reserve, remarked that NMFS research on aquaculture is underfunded. Dr. Malouf commented that aquaculture is a very broad topic and cautioned against making broad sweeping regulations.

Mr. Don McIsaac of the Pacific Marine Fishery Council (PMFC) noted that there are several things under the *Magnuson-Stevens Act* that have not been implemented, including the initiative to reduce bycatch and the calculation for maximum sustainable yield. He stated that appropriations need to be committed to the components of Magnuson-Stevens

reauthorization bills. He noted that some of the conflicts are over boundary issues in waters zero to three miles and three to 200 miles offshore, and transboundary stocks. He also questioned how fishery management councils are set up and who the council members are.

### **Integrating Science into Ocean Policy**

- Multiple Presenters

Dr. Malouf commented on the role of science in coastal and marine resource management. He remarked that the role of science is to help us understand the system we are trying to manage, which is virtually impossible. He stated that research is not complete until it is made available to those who can use it. He commented on the different kinds of research taking place, most notably by universities and government agencies. Universities, he stated, are better suited for shorter-term projects, while long-term projects should be conducted by agencies. Integration is needed among all kinds of research, as is a proper funding and reward system.

Dr. Mark Abbott, Dean of the College of Oceanic and Atmospheric Sciences at Oregon State University, provided remarks on current oceanographic initiatives and the interplay between scientists and policymakers. He noted that the GLOBEC project is in its second field year off the Oregon coast. The GLOBEC program is focused on studying the conditions of the ocean in order to determine if there is enough food for salmon to survive. Upwelling processes are being examined as is data on phytoplankton, temperature, nutrients, birds, etc. There is a need to understand the global impacts on this small stretch of ocean, he noted.

Dr. Abbott also remarked that the time scale that he works on is short term mainly because Congress provides funding on a short term basis. He noted a need to have observing strategies that look beyond local systems. There also is a need for lots of different types of data, and real time access to that data he said. Regarding observance systems, he stated a need for long term system integration.

## **Appendix I**

### **Participants:**

- Mr. Dave Lohrman, Director of Policy and Planning, Port of Portland
- Mr. Bob Bailey, Oregon Ocean Program Coordinator
- Ms. Nan Evans, Manager, Oregon Coastal Program
- Dr. James Good, Professor, Oregon State University
- Ms. Ann Squire, former Assistant for Natural Resources to Governor Barbara Roberts and former Chair of the Ocean Policy Advisory Council
- Mr. Ralph Brown, commercial fisherman
- Dr. Robert Malouf, Director, Oregon Sea Grant
- Professor William Lunch, Oregon State University
- Dr. Greg McMurray, Oregon Department of Environmental Quality
- Ms. Liz Frenkel, citizen
- Mr. Bob Eaton, Executive Director, Pacific Marine Conservation Council
- Dr. Gil Sylvia, Hatfield Marine Science Center, Oregon State University
- Mr. Don McIsaac, Pacific Marine Fishery Management Council
- Dr. Mark Abbott, Dean of the College of Oceanic and Atmospheric Sciences, Oregon State University

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## **National Oceanic and Atmospheric Administration's Sand Point Facility in Seattle, Washington, including the NOAA Pacific Environmental Lab and the National Marine Fisheries Service Alaska Fisheries Science Center**

The Sand Point site visit included meetings focusing on the work of several NOAA offices, as well as discussions with various regional stakeholders. The meetings included discussions with the NOAA Pacific Marine Environmental Laboratory, the NOAA Office of Response and Restoration, and expanded discussions with NOAA and other stakeholders on transboundary and North Pacific fisheries issues.

### **Commissioners Participating in the Sand Point Site Visit:**

ADM James D. Watkins, USN (Ret.), Chairman

Dr. James Coleman

Prof. Marc Hershman

Dr. Frank Muller-Karger

Mr. Ed Rasmuson

Dr. Andy Rosenberg

Dr. Paul Sandifer

### **Commission Staff:**

Dr. Thomas Kitsos, Executive Director

Mr. Peter Hill

Mr. Frank Lockhart

Dr. Ken Turgeon

Capt. Dave Titley, USN

Ms. Kate Naughten

Mr. Scott Treibitz

### **Others Attending:**

Elsa Lynn Carlisle (University of Washington)

Andrea Copping (Washington Sea Grant)

### **Pacific Marine Environmental Laboratory (PMEL)**

- Eddie Bernard, Director, PMEL
- Michael McPhaden, Senior Research Scientist
- Christian Meining, Engineering Development Div.
- Nate Mantua, Professor, Univ. of Washington

Dr. Eddie Bernard, Director of PMEL, provided an overview of the work performed at PMEL, focusing on the lab's observational capabilities, discussing possible alternatives to current information collection systems, emphasizing PMEL strength in data management and data access, and identifying the Global Ocean Ecosystems Dynamics program (GLOBEC) as an example of a process study that provides a context for the direct application of results from ongoing ocean /atmosphere scientific research. The discussion then turned to the need for a dialogue on research requirements and priorities and Dr. Bernard was asked to work with other members of the scientific community to provide a letter to the Commission on ways to improve access to, the capacity of, and costs associated with the use of existing Navy underwater acoustic systems. Other presenters then described PMEL work related to the GLOBEC program, the Tropical Atmosphere Ocean project, reiterating the need to apply ongoing scientific research to real-work programs –such as fisheries management. In addition, the presenters described the need for expanded *in situ* monitoring capabilities to groundtruth and refine remote sensing data. The discussion ended with an emphasis on the

need to increase our understanding of the causes and effects of short- and long-term environmental shifts, and the need for long-term program vision, planning and funding.

### **NOAA Ocean Service, Office of Response and Restoration (OR&R)**

- David Kennedy, Director OR&R
- Robert Pavia, Chief, Hazardous Materials Response
- Alyce Fritz, Chief, Coastal Protection and Restoration
- Dave McKinney, Manager, Technical Information
- Mary Matta, Coastal Protection and Restoration
- Doug Helton, Damage Assessment Center

David Kennedy, Director of OR&R, opened the briefing with a discussion of NOAA's role in hazardous spill response. He focused on the coordination and partnerships that exist between NOAA, the U.S. Coast Guard, EPA and the states in handling spills, and the need for strong coordination in the response effort. He highlighted NOAA's multiple capacities, ranging from chemical data base management and trajectory modeling, through the damage assessment and restoration processes. Mr. Kennedy emphasized that the priorities were to address impacts on human life, then environmental damage. NOAA has regional spill response staff stationed around the nation, often co-located with the USCG.

In addition to spill response, OR&R also provides considerable technical support and expertise to EPA and states on the clean up of coastal superfund sites. This effort includes stationing NOS/ORR employees in each of the EPA coastal regions around the nation to ensure that clean-up strategies address the natural resource stewardship responsibilities of the Secretary of Commerce as well as EPA Superfund requirements. This process draws upon not only OR&R staff, but on resources and expertise throughout NOAA. NOAA participants noted that funding for superfund site clean up was diminishing (due to the cancellation of the superfund tax), and that there were approximately 700 coastal contaminated sites. Concern was expressed that remediation and restoration activities associated with many of the smaller sites could possibly be address with relatively small amounts of funding; however, these options were overshadowed by the focus on addressing sites on the National Priority List. Finally, it was noted that the EPA's National Advisory Council for Environmental Policy and Technology Superfund subcommittee is conducting a review of the Superfund program and that information on the status of this effort would be provided to the Commission.

### **Transboundary Issues**

- Terrie Klinger, University of Washington
- Rhea Miller, Commissioner, San Juan County
- Daniel Evans, Gordon Thomas Honeywell Law Firm
- Kevin Ranker, Surfrider Foundation
- Tom Cowan, Director, Northwest Straits Commission
- Carol Bernthal, Olympic Coast National Marine Sanctuary
- Mitch Lesoing, Quileute Tribe

The Commissioners then discussed U.S./Canadian transboundary issues with a panel of regional stakeholders. Much of the discussion focused on approaches to ensuring successful and effective ecosystem restoration efforts, with the collapse of the local herring stock identified as a strong signal that there were significant ecosystem-wide problems in Puget Sound. The participants acknowledged the tight transboundary linkages in water quality impacts, that information sharing was essential, and that additional funding for science was critical. The process for improving regional coordination, planning and funding, and the importance of public involvement and support were highlighted. When asked about

impediments to the current process, the participants identified conflicting laws, regulations and limited enforcement capabilities as the key problem areas. The issue of regional accountability for fulfilling restoration goals was also addressed, and the suggestion was made that if a bottom-up approach did not succeed, then the fallback was to resort to a top-down, command-control approach. However, it was emphasized that a bottom-up approach was critical to the success of any program, ensuring local support for the necessary conservation measures. Other issues brought to the Commissioner's attention included the need for tribal representation in all regional forums and councils, and the need to take additional precautionary measures to prevent potential ship-borne spills and accidents in the Northwest Straits.

### **North Pacific Fisheries Issues**

- Doug DeMaster, Director, Alaska Fisheries Sciences Center
- Rich Marasco, Director, NMFS/AFSC Resource Ecology and Fisheries Management Division
- Jim Gilmore, At-Sea Processors Association
- Terry Leitzell, Iccle Seafoods
- Karl Haflinger, Sea State, Inc.

The two principle issues discussed during this briefing were the factors that have resulted in the North Pacific Fishery Management Council (Council) being recognized as the most effective fishery management council in the nation, and how recent changes in the North Pacific fishery management regime have helped the fishing industry adjust to changing ecological and economic factors. Doug DeMaster and Rich Marasco reviewed the status of key fisheries and marine mammals in Alaska, noting both the health of the pollock stock and the continuing decline of the western Steller sea lion population. Terry Leitzell identified strong fishing industry involvement in the management process, the Council's focus on using the scientific information and advice provided by the Scientific and Statistical Committee, and strong state involvement as key elements in the Council's success. Mr. Leitzell also explained that the American Fisheries Act –which allowed the creation of fishing cooperatives— helped the industry rationalize the groundfish fishery, resulting in reduced effort and increased catch rates, factors that helped the industry adjust to conservation regulations intended to arrest the decline of the Steller sea lion population. It was noted that the fishery rationalization process included the AFA sponsored (and industry supported) buyout of excess fishing capacity, and that there was considerable controversy over the science associated with the Steller sea lion/pollock relationship. Mr. Karl Haflinger, from Sea State, Inc., then explained the computerized catch accounting system utilized by the offshore fishing fleet to monitor its pollock and bycatch harvest levels. This technology allows the offshore fleet to maximize its harvest efficiency while significantly reducing the unintentional harvest of bycatch species. Final points were made that the Council has a long history of following fishery management recommendations identified by the National Academy of Sciences (handout provided), and that the participation of fishermen as communicators of fishery management policies is instrumental in maintaining industry support for the science and management measures responsible for maintaining the largest (50% of US production by volume) and most valuable (+\$1 billion) fishery in the world.

## Appendix 1

### Participants:

- Eddie Bernard, Director, PMEL
- Michael McPhaden, Senior Research Scientist
- Christian Meining, Engineering Development Div.
- Nate Mantua, Professor, Univ. of Washington
- David Kennedy, Director OR&R
- Robert Pavia, Chief, Hazardous Materials Response
- Alyce Fritz, Chief, Coastal Protection and Restoration
- Dave McKinney, Manager, Technical Information
- Mary Matta, Coastal Protection and Restoration
- Doug Helton, Damage Assessment Center
- Terrie Klinger, University of Washington
- Rhea Miller, Commissioner, San Juan County
- Daniel Evans, Gordon Thomas Honeywell Law Firm
- Kevin Ranker, Surfrider Foundation
- Tom Cowan, Director, Northwest Straits Commission
- Carol Bernthal, Olympic Coast National Marine Sanctuary
- Mitch Lesoing, Quileute Tribe
- Doug DeMaster, Director, Alaska Fisheries Sciences Center
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- Karl Haflinger, Sea State, Inc.