



Department of Land Conservation and Development
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Re: Territorial Sea Plan (TSP) - Rocky Shores Amendment

May 7, 2018

Dear DLCD and the Rocky Shores Working Group,

On behalf of 10 Oregon's Audubon Chapters and our more than 15,000 members across the state, we appreciate the opportunity to submit comments regarding the TSP Rocky Shores Amendment. We are encouraged to see Oregon Department of Land Conservation and Development (DLCD) and the Ocean Policy Advisory Council (OPAC) is moving ahead with this process and providing multiple opportunities for public comment. It is clearly time that Chapter 3 of the TSP Rocky Shores Management Strategy be updated as the current draft is over 25 years old and many sections of the chapter are outdated, lack clarity, and do not provide adequate protections in light of threats to our rocky shores that have grown or emerged since the original draft was written in 1994. Since that time human usage of coastal rocky habitats has increased significantly and environmental threats due to a changing climate (e.g. ocean acidification, warming ocean surface temperatures) and other related stressors (e.g. hypoxic zones) have intensified.

Oregon's rocky shorelines are iconic and are important ecologically and recreationally. Many Audubon members across the state care deeply about these places and are concerned about their management and protection. These dynamic ocean shoreline habitats are home to a

diversity of creatures living on the edge of their ecological threshold, including sensitive species of fish, birds, mammals, plants and invertebrates. In terms of bird habitat, many sites on Oregon's rocky shores have been identified as Important Bird Areas¹ including Bird Rocks, Three Arch Rock, Two Arches Rock, Yaquina Head, Coquille Point, Blanco, Redfish, and Orford Reefs, Mack Reef, etc. Approximately 1.3 million colonial nesting seabirds utilize Oregon's rocky shoreline habitats² representing more than half of all colonial nesting seabirds along the contiguous U.S. West Coast. The rocky shoreline habitats are also important for bird species of conservation concern ("strategy species") recognized in Oregon's nearshore strategy³ including: Black Oystercatcher, Brown Pelican, Harlequin Duck, Rock Sandpiper, and Tufted Puffin.

Oregon Audubon Council Recommendations:

Included below we offer specific recommendations to the DLCDC and OPAC that we believe should be strongly considered in order to help better protect and manage these sites including the habitats and species that depend on them. We believe efficient management and stronger protections will provide a more resilient rocky shores ecosystem, benefit local communities through sustainable economies, and ensure the continued vibrancy of places that all Oregonians can enjoy for generations.

Overarching and highest priority recommendations:

1. The entire chapter needs to be completely overhauled and incorporate recommendations based on the latest scientific information (from all relevant fields), incorporate new policy changes, human use changes, etc.
 - We strongly encourage DLCDC to complete an exhaustive inventory of updated data⁴ and incorporate this information within an interactive map format that be made available for all to review *in advance* of the final public comment period. This will enable not only review of this information by the scientific community but also by the public and ocean users.
2. Update the goals/objective section:
 - We recommend specific language that clearly incorporates priority on climate change research and management objectives. Climate change management objectives should include goals to evaluate vulnerability of rocky shoreline sites to

¹ <https://audubonportland.org/local-birding/iba>

² Naughton, M.B., D.S. Pitkin, R.W. Lowe, K.J. So, and C.S. Strong. 2007. Catalog of Oregon Seabird Colonies. Biological Technical Publication BTP-R1009-2007.

³ <http://oregonconservationstrategy.org/oregon-nearshore-strategy/>

⁴ This information should include relevant up-to-date information on: biotic and abiotic rocky shore ecological communities, oceanographic information, climate change (e.g. sea level rise scenarios), socio-economic information, etc.

- climate change impacts and frame out a process to identify adaptation / mitigation strategies to cope with these expected changes.
- Include a specific objective that supports / encourages relevant scientific research (both ecological and socio-economic) along rocky shores to inform better conservation, management, and protection of rocky shores habitat.
3. DLCD needs to work with appropriate agencies and decision-making bodies (e.g. OPRD, OPAC, etc.) to resolve discrepancies / lack of clarity in rocky shore site designations listed in the original TSP versus the Rocky Shore Management in Oregon: Status and Trends of Resource Uses and Management report (Hillmann 2006)⁵. This report points out that site management plans do not exist for most rocky shore designated sites. The updated Rocky Shores chapter should pull from Hillmann (2006) and other relevant reports to develop a clear priority, timeline, and process for getting the site management plans completed.
 - In addition, the rocky shores updated should explicitly include linkage and alignment with ODFW's recent Nearshore Strategy Plan.
 4. All sites that currently have the "Not Yet Designated" site designation should be resolved and in many cases should receive protections (see below for details). After the inventory review is completed other sites, currently designated as "Marine Shore", may be deemed viable for re-designation.
 5. We recommend conformance of regulations of existing marine reserves and marine protected areas (MR/MPAs) to rocky shore habitats that border existing MR/MPAs. For example, right now, the marine reserve regulation of "no take of marine life" often does not conform to regulations on the adjacent rocky shoreline.

Detailed comments regarding the above priority items and others:

- Regarding priority comment number 3 above, the Rocky Shores Work Group and DLCD should evaluate the status of local site management plans for rocky shore sites. On page 66 of the TSP (Part III, section 2, subsection b) the plan states, "*The Council encourages local site management plans for rocky shore sites, where needed, to carry out the overall management designation and prescriptions set by the strategy*". Hillmann (2006) describes "*Since the TSP inception, few things have been done to assess its effectiveness and/or the implementation of its plans*" and recommends "*Complete and implement site-management plans for rocky shore sites*" (see executive summary of report). How many site management plans have been done? Is the Rocky Shores Amendment for Cape Arago considered a "management plan"? How has the process worked? Are there lessons that can be learned

⁵ Hillmann, L.G. 2006. Rocky Shore Management in Oregon: Status and Trends of Resource Uses and Management report. Report prepared by Oregon Parks and Recreation Department to the National Oceanic Atmospheric Administration Coastal Fellowship Program.

from this since the plan was originally written that can clarify this process? We urge DLCD and the Rocky Shores Work Group to lay out a clear pathway forward to clarify this process (so decision makers and the public can better understand process) and set up a specific timeline on carrying forward with site management plans and housing all these plans in one on-line location that can be easily accessed.

- Regarding priority comment number 4 above, we specifically recommend the following five sites should be considered for re-designation from “Not Yet Determined” to “Habitat Refuge” based on their ecological importance and current public use/visibility:
 - Site 2. Ecola Point / Sea Lion Rock
 - Site 14. Seal Rock
 - Site 26. Blacklock Point
 - Site 31. Sisters Rock
- Regarding priority comment number 5 above, we specifically recommend marine reserve/marine protected area harvest regulations conform to adjacent rocky shore habitats along the shorelines of the five marine reserves. This would require the re-designation of the following site designations: “Not Yet Designated”, “Marine Gardens”, “Research Reserve”, and “Habitat Refuge” to a new category that reflects true conformance to marine reserve/protected area ODFW regulations. This applies to the following sites:
 - Site 4. Cape Falcon
 - Site 6. Cascade Head/Cliff Creek Cove
 - Site 11. Otter Crest (the section of this site that is within the Otter Rock Marine Reserve)
 - Site 16. Part of Cape Perpetua
 - Site 17. Neptune State Park
 - Site 18. Strawberry Hill
 - Site 19. Heceta Head
 - Site 29. Redfish Rocks/Island Rock
- **Recommendations specific to bird life dependent on rocky shores:**
 - We recommend proactive actions by relevant agencies to restrict public access to known Black Oystercatcher nesting territory sites within areas of high human visitation from mid-May to late-August. Black Oystercatchers are almost totally dependent on rocky shoreline, have a small vulnerable population in Oregon^{6,7}, and

⁶ Lyons, J.E., J.A. Royle, S.M. Thomas, E. Elliott-Smith, J.R. Evenson, E.G. Kelly, R.L. Milner, D.R. Nysewander, and B.A. Andres. 2012. Large-scale Monitoring of shorebird Populations using Count Data and N-Mixture Models: Black Oystercatchers (*Haematopus bachmani*) Surveys by Land and Sea. *Auk* 129: 645–652.

⁷ Liebezeit, J., A. O’Connor, J. Lyons, C. Shannon, S. Stephensen, E. Elliott-Smith and P. Engelmeyer. 2017. Black Oystercatcher population estimate and reproductive success on Oregon’s coast and in the Marine Reserves and

- are listed as a species of conservation concern in multiple conservation plans including in Oregon Department of Wildlife’s Nearshore Strategy Plan, the U.S. and Canadian National Shorebird Conservation Plans⁸, the U.S. Fish and Wildlife Service⁹, and in the Pacific Americas Shorebird Conservation Strategy¹⁰.
- The Audubon Society of Portland has provided DLCD with Black Oystercatcher abundance data for years 2015-17 for rocky shoreline habitats along the entire coast. Portland Audubon has also provided a summary of “hotspots” to prioritize for signage/outreach to minimize human disturbance to traditional oystercatcher nest locations. We encourage inclusion of these data in the updated inventory.
 - The state is long overdue in assessing 32 sites along the coast (listed in Appendix G of the TSP – “Sensitive marine Bird and Mammal Habitats” section) for the potential need for special protections to avoid nesting seabird disturbance and also for some of them to move from the “marine shore” designation to one that offers more protection. As an example, Hunters Island off Cape Sebastian (currently under the “marine shore” designation) has hosted over 39,000 breeding Leach’s Storm-Petrel, 100 Tufted Puffins, and Fork-tailed Storm-Petrels (all three are “strategy species” in the ODFW Nearshore Strategy). The new rocky shore TSP update should include a specific process and timeline for completing these evaluations.
 - Special protections should include consideration of establishing 500 foot buffer zones around sites. Priority should be placed on evaluating these 32 sites for such protections. Currently only Three Arch Rocks has the 500 foot exclusionary buffer zone for boating activity.
 - The chapter needs to address strategies to limit drone disturbance to bird colonies at rocky shore sites. The updated Rocky Shore Chapter should include specific strategies for evaluating additional places to ban drone usage (currently banned in the Oregon Coast National Wildlife Refuge Complex), and in places where drone usage continues to provide necessary outreach / signage to ensure responsible use.

Protected Areas. 2016 annual unpublished report, 16pp. Available here:

<https://audubonportland.org/files/citizen-science/updated-black-oystercatcher-report-2016>

⁸ Brown, S., C. Hickey, B. Gill, L. Gorman, C. Gratto-Trevor, S. Haig, B. Harrington, C. Hunter, G. Morrison, G. Page, P. Sanzenbacher, S. Skagen, and N. Warnock. 2000. National Shorebird Conservation Assessment: Shorebird Conservation Status, Conservation Units, Population Estimates, Population Targets, and Species Prioritization. Manomet Center for Conservation Sciences.

⁹ Tessler, D. F., J.A. Johnson, B.A. Andres, S. Thomas, and R.B. Lanctot. 2007. *Black Oystercatcher (Haematopus bachmani) Conservation Action Plan*. International Black Oystercatcher Working Group, U.S. Fish and Wildlife Service, Manomet Center for Conservation Sciences, Manomet, Massachusetts. 115 pp. Available at: http://www.whsrn.org/shorebirds/conservation_plans.html

¹⁰ Senner, S. E., B. A. Andres and H. R. Gates (Eds.). 2016. Pacific Americas shorebird conservation strategy. National Audubon Society, New York, New York, USA.

Additional comments:

- The plan should include a specific timeline for periodic reevaluation through public process. We recommend a reevaluation every 15-20 years.
- The chapter currently mentions provisions for “periodic monitoring” several times (see pgs. 70 and 71). Has there really been periodic monitoring? If so, have the findings of this monitoring been made available publicly? There needs to be more information on the details and outcomes of this process in the next version.
- Section of Education and Public Awareness (pg. 72) needs to be updated to the new century. For example, it needs to include a social media component. Has action #2 been achieved? (Create a coastwide strategy of interpretation, information,”).
- On pg. 74, it states, “To date, OPRD has not adopted rules governing the removal of “marine growth”. Is this still the case? If so, this needs to be highlighted and resolved.
- We appreciate the Ecosystem Based Management approach to the original plan. We strongly encourage continued EBM approach to management and recommend this approach be updated based on new information on this management approach over the past 25 years.
 - Relatedly, we recommend a precautionary approach to management decisions that prioritize protection of areas where information is currently lacking.
 - In the five elements in meeting ecosystem management goals (pg. 86) we recommend inclusion of language that specifically calls to “maintain ecological resilience in the face of changing climate”. We also recommend changing element #5 to “Balance human use and interaction with the environment while minimizing the stress to rocky shore ecosystems”.
- Pg. 87, under section 2: within the discussion of prioritizing management of vulnerable species there should be a direct linkage here with ODFW’s Nearshore Strategy “Strategy Species” that rely on rocky shoreline habitats.
- Include section or addendum that evaluates “what worked” and “what didn’t work” in terms of implementation of the Rocky Shores Strategy from 1994 until the current update and include strategies on how to move forward with the plan most effectively.
- If not already done, we recommend consultation beyond Oregon (i.e. with California and Washington) with regard to rocky shore management for lessons learned and new ideas.
- The rocky shores strategy update should be visionary and include a potential process for the reintroduction of key species associated with rocky shoreline habitats (e.g. abalone and sea otters).

We appreciate this opportunity to provide comments on the Rocky Shores update and look forward to reviewing the draft once available.

Sincerely,

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