Memorandum of Understanding

Lincoln County, City of Depoe Bay (including Depoe Bay Harbor and Near Shore Action Team), City of Newport, Port of Newport, Lincoln County Fishermen Involved in Natural Energy (FINE), and the Oregon Department of Fish and Wildlife

Potential Establishment of a Marine Reserve, hereafter known as Otter Rock Marine Reserve, in Oregon’s Territorial Sea between Depoe Bay and Newport

Consistent with Governor Kulongoski’s Executive Order 08-07 establishing a process for recommending a limited number of Marine Reserves off the Oregon Coast the undersigned parties acknowledge and declare:

1. Support for the concept of protecting our ocean environment.
2. Recognition of the Depoe Bay Near Shore Action Team’s work in bringing the local community together to address important marine resource management issues and support for continued collaboration between the parties.
3. In accordance with the mandate in Executive Order 08-07 to give priority consideration to marine reserve nominations from groups, such as near shore action teams, comprised of coastal community members, ocean users and other interested parties, support the OPAC recommendation to establish a pilot Marine Reserve site in Oregon’s Territorial Sea between Depoe Bay and Newport more particularly described as:

   Starting at the northwest corner of Gull Rock at a point 44° 45.175N, 124° 04.53W (Point A) on a magnetic heading of 093° to a point 44° 45.165N, 124° 03.850W, approximately the mean high water line (MHWL) (Point B). Follow the MHWL to 44° 44° 47.6”N, 124° 3’ 47”W (Point C). From there, following 124° 3° 47”W south to 44° 44° 47.7”N at approximately the extreme low water line (ELWL) (Point D). From there follow the ELWL to 44° 43° 18.9”N, 124° 3° 39.4”W (Point E). Then west to a point at the southwest corner of Whaleback Rock at 44° 43.315N, 124° 04.200W (Point F). From this point, on a line, heading 352° magnetic back to the original point at the northwest corner of Gull Rock (Point A). This encompasses an area of approximately 731 acres.}

4. Potential designation of the pilot marine reserve site will occur through appropriate public rule making processes beginning in 2009, assuming the legislative process provides adequate funds for baseline data, monitoring and enforcement.
5. In furtherance of this public rulemaking, potential designation, and implementation, the parties agree to advocate for and support the following:

   ❖ Final boundaries of the Otter Rock Marine Reserve shall be enforceable and, where practical, identifiable and viewable from shore.

   ❖ Recognizing the collaborative nature of the original proposed boundary, representatives of all signatory parties shall have the opportunity to engage in
discussion prior to boundary expansions or modifications. Following discussion, the parties may make relatively minor adjustments to reserve boundaries after one year based on additional ecological and socio-economic data. Any adjustments will strive to optimize ecological significance while avoiding significant economic hardship and addressing boating safety concerns. Prior to recommending these minor adjustments to reserve boundaries, signatory parties will consult with each other and collaborate to reach consensus. If there is consensus, parties will jointly recommend agreed-upon adjustments to the Oregon Fish and Wildlife Commission. If consensus cannot be reached, parties will make a clear statement to the Oregon Fish and Wildlife Commission that consensus was not reached and all parties will have an opportunity to voice their positions individually to the commission.

- Prior to establishing the Otter Rock Marine Reserve, the Oregon legislature will make available funds for baseline studies, follow-up research, and enforcement. No Marine Reserve will be established via an unfunded mandate.

- The parties to this agreement will work with the scientific community and stakeholders to collaborate on baseline studies and other information needs within the boundaries of and near the proposed Otter Rock Marine Reserve. Researchers will gather, for example, information on what animal and plant life exists in the area, what fishing techniques and gear have been used within reserve boundaries, and baseline ecological information. Local knowledge and resources from the charter and commercial boat captains who are giving up this area shall be used to collect data where feasible, and, when possible, funds shall be provided for local, (Depoe Bay and Newport) charter/commercial boats and urchin divers to help with data collection.

- Parties agree that baseline studies must be completed prior to closing the Otter Rock Marine Reserve to extractive activities. Parties will recommend the above to the Oregon Fish and Wildlife Commission.

- The socio-economic impact to local communities of establishing the Otter Rock Marine Reserve must be determined through appropriate studies on topics such as community economic conditions, community structure and infrastructure, community demographics, and community employment. All reports shall be provided to stakeholders, including the local communities. Socioeconomic report criteria and methodology shall be reviewed by representatives of the signatories of this MOU. Signatory parties will collaborate with economists and social scientists to develop study parameters.

- Parties recognize that crab pots may drift into the Otter Rock Marine Reserve and there need to be provisions to allow retrieval of those pots. Parties will strongly recommend the Oregon Fish and Wildlife Commission establish a rule by which crab pots which move into the area as a result of ocean current may be removed without penalty.

- Parties will recommend to the Oregon Fish and Wildlife Commission that the Otter Rock Marine Reserve will be protected for at least five years after the date on which baseline studies are completed and extractive activities are prohibited.
During the five year period, the Oregon Department of Fish and Wildlife will conduct ecological monitoring and monitoring of socioeconomic impacts on local communities and submit reports to the Ocean Policy Advisory Council (OPAC), local communities and stakeholders within 45 days of completion. Local knowledge and resources shall be used to collect data where feasible for these assessments, and, when possible, funds shall be provided for local, (Depoe Bay and Newport) charter boats, commercial boats, and urchin divers to help with data collection in the assessments in the Otter Rock Marine Reserve.

At the end of the five year period, and if the Otter Rock Marine Reserve designation is continued, every five years after that, a public meeting of all the parties, local communities and other stakeholders shall be held to consider an analysis of all the data, assessments and studies. Continuation of the Otter Rock Marine Reserve designation shall be discussed as well as possible additional activities that might be allowed within the Marine Reserve. Signatory parties will consult with each other and collaborate to reach consensus prior to recommending alterations to reserve boundaries, continuation of designation, and/or additional activities within the reserve. If there is consensus, parties will jointly recommend agreed-upon alterations to the Oregon Fish and Wildlife Commission. If consensus cannot be reached, a clear statement will be made to the Commission that consensus was not reached and all parties will have an opportunity to voice their positions individually to the Oregon Fish and Wildlife Commission.

6. Nothing in this Memorandum of Understanding shall affect existing statutory and regulatory authority of state agencies, including the signatories to this agreement; provided, however, that wherever possible the state and its agencies will give effect to this agreement in every conceivable manner not inconsistent with the laws and regulations of this state.

7. This MOU shall be effective as of the date all signatory parties have signed.

8. This MOU shall be in effect for a period of ten years from its effective date and may be extended upon mutual written agreement. The parties shall review this MOU annually to ensure it is fulfilling its purpose and to make any necessary revisions. Any party may terminate this MOU upon thirty (30) days written notice to other parties.

So Understood and Agreed:                                      Date 10/17/09

Signatories

[Signature]
Roy Eckler
Director
Oregon Department of Fish and Wildlife

[Signature]
Don Lindly, Chairman
Board of Commissioners
Lincoln County, Oregon
James White, Mayor
City of Depoe Bay, Oregon

William D. Bain, Mayor
City of Newport, Oregon

Loren Goddard, Chairman
Depoe Bay Near Shore Action Team

Lars Robison, Chairman
Depoe Bay Harbor Commission

Ginny Goblirsch, Chairwoman
Board of Commissioners
Port of Newport, Oregon

Bob Jacobson, Chairman
Lincoln County, Oregon
Fishermen Involved in Natural Energy (FINE)
WHAT?

The Otter Rock MOU was signed in December of 2009 by ODFW, Lincoln County, City of Depoe Bay, City of Newport, Depoe Bay Near Shore Action Team (NSAT), Depoe Bay Harbor Commission, Port of Newport, and Fishermen Involved in Natural Energy (FINE).

Here we provide an update on ODFW’s marine reserves implementation efforts to date specifically related to the Otter Rock MOU. The sections and bullets cited in this update are referencing provisions in the MOU. This update is solely focused on ODFW’s efforts to date, and does not include the efforts by other signatories in implementation of the MOU.

UPDATES

SECTION 4: COMPLETED

State agencies initially went through public rulemaking in 2009. After consultation with NSAT, a temporary rule was put in place by the Oregon Fish and Wildlife Commission to delay fishing restrictions taking effect at the Otter Rock Marine Reserve until Jan 1, 2012. This delay was in order for ODFW to complete two years of baseline data collection prior to the cessation of fishing, consistent with ODFW’s long-term ecological monitoring plan (ODFW 2012, 2015).

Role of other signatories: Not applicable.

SECTION 5

Bullet 1: Completed

ODFW has worked with Oregon State Police and other interested parties to ensure that the final boundaries of the Otter Rock Marine Reserve are enforceable, identifiable, and viewable from shore.

Role of other signatories: Not applicable.

Bullet 2: Not Applicable

No boundary expansions or modifications have been considered by ODFW (or by other MOU signatories, to ODFW’s knowledge) and therefore, no actions necessary to date.
Role of other signatories: To raise and discuss suggestions for boundary modification with all signatories of the MOU, if warranted.

Bullet 3: Completed
Starting in 2009, the Oregon Legislature allocated state funding to support marine reserves planning and implementation work. During the 2012 Legislative Session, the Oregon Legislature made the ODFW Marine Reserves Program a permanent component of the Agency’s budget. Current funding levels are $1.8M per biennium, from state General Funds. This reflects an austerity program that supports implementation -- including ongoing ecological and human dimensions research and monitoring, and enforcement -- of Oregon’s five marine reserve sites. The program includes six full time, permanent staff dedicated to marine reserves implementation efforts.

Role of other signatories: Not applicable.

Bullet 4: Ongoing
Scientists, stakeholders, and local fishermen are working with ODFW to collect data and gather information for the Otter Rock Marine Reserve.

Helping shape monitoring: Starting in 2010, ODFW staff began the development of a long-term, marine reserves ecological monitoring program. This program was developed with extensive input from the Scientific and Technical Advisory Committee (STAC) and additional west coast marine scientists, Depoe Bay Near Shore Action Team (NSAT), Port Orford Ocean Resource Team (POORT), and Redfish Rocks Community Team (RRCT). An initial ecological monitoring plan was completed in 2012, after formal reviews and feedback from STAC, NSAT, and RRCT. A second iteration of the ecological monitoring plan was released in 2015, and includes site specific monitoring plans tailored to each marine reserve site based on each site’s unique characteristics. The plans are available on the state’s Oregon Marine Reserves website at oregonmarinereserves.com/library/.

Monitoring activities continue to be evaluated and adapted. These adaptations are being made based on what we’re learning during our monitoring surveys, from our methods testing and evaluation studies, from west coast marine scientists who have joined listserv groups we’ve created for asking questions about specific research topics, science workshops held by ODFW, and from fishermen engaged in ODFW’s monitoring efforts.

Using local knowledge to select comparison areas: Based on local knowledge of the area, members of NSAT, local charter operators, and commercial fishermen were instrumental in helping ODFW select comparison areas for the Otter Rock Marine Reserve. Comparison areas are monitoring sites that remain open to fishing, that are sampled alongside the marine reserve. For Otter Rock we are sampling both inside the marine reserve and outside in the Foulweather Comparison Area in order to track changes in Oregon’s nearshore environment over time.

Helping collect data:
Fishermen - Three vessel contracts have been awarded to date to Depoe Bay fishermen to assist with data collection for the Otter Rock Marine Reserve, totaling $29,351. A fourth contract
was also awarded to a commercial urchin vessel, to conduct technical diving work at both the Otter Rock and Redfish Rocks sites for an additional $25,150.

Vessels are contracted through the state’s open competitive bidding process. Preference is given to local vessels, with captains and crew that have local knowledge of the areas of work. Additional information on the use of local fishing vessels is outlined in the *Otter Rock Marine Reserve Site Management Plan* (ODFW 2013).

**Volunteer scientific divers** - The Oregon Coast Aquarium and Oregon State University (OSU) have partnered with ODFW to conduct our SCUBA monitoring surveys. These surveys collect data on fish, invertebrates, seaweeds, and habitat. The Aquarium and OSU provide volunteer, AAUS certified scientific divers. These volunteers are required to undergo and pass an additional, annual training course in order to be able to properly identify, count, and size species. This partnership has been critical for getting this survey work done, as ODFW does not have a scientific SCUBA dive program.

**Additional research and future opportunities:** Unique research and monitoring projects that have been conducted at Otter Rock Marine Reserve spurred by interest from NSAT, other local community members, and research scientists include:

- Juvenile fish recruitment surveys
- Monitoring sea stars in rocky intertidal areas post sea star wasting disease outbreak
- Benthic extraction surveys

ODFW continues to try and attract researchers and resources for additional research projects that help us learn about marine reserve effects, marine reserve design and placement, and more about Oregon’s nearshore ocean ecosystem -- especially those that have strong interest from both the local community and the scientific community.

**Role of other signatories:** In 2010, NSAT received a $20,250 community grant from ODFW for use by the Depoe Bay community for projects and activities related to implementation of the Otter Rock Marine Reserve. Currently $12,535 remains of the community grant. NSAT has had some discussions of possible research projects to put grant funds towards. ODFW encourages the other signatories of the MOU to also try and attract additional research to be conducted in relation to the Otter Rock Marine Reserve.

**Bullet 5: Completed**
Baseline studies were conducted for Otter Rock Marine Reserve prior to closing the area to extractive activities.

**Fish and Wildlife Commission:** ODFW’s monitoring design includes two years of baseline data collection prior to harvest restrictions taking effect at any marine reserve site. Marine reserve and protected area rules adopted by the Oregon Fish and Wildlife Commission accommodate this monitoring design. Cessation of harvest activities at Otter Rock began on Jan 1, 2012.

**Baseline Reports:** Ecological and Human Dimensions reports that include baseline data collected prior to the Otter Rock Marine Reserves being closed to extractive activities are
available and posted on the state’s Oregon Marine Reserves website at oregonmarinereserves.com/library/.

*Role of other signatories:* Parties recommend to the Oregon Fish and Wildlife Commission that baseline studies must be completed prior to closing the Otter Rock Marine Reserve to extractive activities.

**Bullet 6: Ongoing**

Human dimensions (social and economic) research studies being conducted by ODFW and our research partners are addressing community economic conditions, community structure and infrastructure, community demographics, and community employment.

**Current Research Projects:** There are currently 13 human dimensions research projects in progress. Of these, the following eight projects address the topics outlined in bullet 6 of the MOU:

- Coastal community profiles
- Coastal business community interviews
- Modeling the economic impacts of marine reserve fishing restrictions
- Visitor surveys
- Fishing effort shift
- Oregon residents’ attitudes and perceptions survey
- Coastal community resilience and subjective wellbeing
- Community resilience related to marine reserve implementation

A summary of each of the 13 research projects currently in progress is available on the state’s Oregon Marine Reserves website at oregonmarinereserves.com/library/.

**Helping shape research:** Starting in 2010, ODFW staff began the development of a long-term, marine reserves human dimensions research program. This program was developed with extensive input from the Scientific and Technical Advisory Committee (STAC) and additional natural resource social and economic scientists, Depoe Bay Near Shore Action Team (NSAT), Port Orford Ocean Resource Team (POORT), and Redfish Rocks Community Team (RRCT). A human dimensions research plan was completed in 2012, after formal reviews and feedback from STAC, NSAT, and RRCT. The research plan in available on the state’s Oregon Marine Reserves website at oregonmarinereserves.com/library/.

**Helping collect data:** During research conducted by ODFW staff in 2010-2011, data collection was assisted by a local Depoe Bay liaison hired through the City of Depoe Bay using funds awarded to NSAT by ODFW.

*Role of other signatories:* There are additional research questions that would greatly add to what we might learn from Oregon’s marine reserve sites. NSAT has had some discussions of possible economic research projects to put their community grant funds towards. ODFW encourages the other signatories of the MOU to also try and attract additional human dimensions research to be conducted in relation to Oregon’s marine resources, coastal economy, and coastal communities.
Bullet 7: Completed
The Oregon Fish and Wildlife Commission adopted provisions to allow for retrieval of crab pots from marine reserves.

Provisions have been provided in the marine reserve administrative rules, adopted by the Oregon Fish and Wildlife Commission, that allow for the removal of fishing gear that has accidentally drifted into a marine reserve (OAR 635-012-0050 (3)(a)). In addition, the procedures for retrieval of lost fishing gear is provided in the Otter Rock Marine Reserve Site Management Plan (ODFW 2013) and in the Synopsis of Oregon Commercial Fishing Regulations annually produced by ODFW.

Role of other signatories: Support adoption of provisions by the Fish and Wildlife Commission.

Bullet 8: Ongoing
On Jan 1, 2017 the prohibitions on extractive activities will have been in place at the Otter Rock Marine Reserve for five years. During this timeframe, five ecological monitoring and seven human dimensions research reports and publications have been produced that pertain to the Otter Rock Marine Reserve or the local communities closely associated with the site. Local knowledge and resources have been used to collect data and funds have been provided to local charter and commercial boats, and urchin divers to help with data collection.

Reports and Publications to Date:
Ecological -
- 2014 Monitoring Report (ODFW)
- 2015 Monitoring Report (ODFW)
- A Method for Quantifying Biogenic Habitat from Stationary Underwater Video (ODFW)

Human Dimensions -
- 2010 Newport Fishing Community Profile (OSU)
- 2012 Depoe Bay Fishing Community Profile (ODFW)
- 2012 Economic Impact Model Using Spatial Fisheries and Habitat Data (TRG)
- 2013 Economic Impact of Recreational Fishing Pilot Survey (TRG)
- 2013 Coastal Resident Perceptions of Marine Reserves in Oregon (OSU)
- 2014 Research Report
- 2014 Visitor Intercept Survey: Cape Perpetua, Otter Rock and Cascade Head Marine Reserves (ODFW)

Report Distribution:
Reports and publications are announced and distributed by the following means:
- Documents are posted on the state’s Oregon Marine Reserves website at oregonmarinereserves.com/library/.
• Announcements are made in our monthly eNewsletter “Marine Reserves News” which is emailed to our 800+ subscribers.
• Email message, with links to reports on the website, is sent to DLCD for distribution to OPAC members.
• Documents are emailed to the City of Depoe Bay for distribution to NSAT members.
• Documents are emailed to research partners.

Use of Local Knowledge and Resources:

Fishermen - Three vessel contracts have been awarded to date to Depoe Bay fishermen to assist with data collection for the Otter Rock Marine Reserve, totaling $29,351. A fourth contract was also awarded to a commercial urchin vessel, to conduct technical diving work at both the Otter Rock and Redfish Rocks sites for an additional $25,150. Using their extensive knowledge of the area, local fishermen helped ODFW staff identify the monitoring comparison area for the Otter Rock site.

Oregon Coast Aquarium - Oregon Coast Aquarium staff have been helping lead our annual training course for the volunteer, AAUS certified scientific divers who are conducting our SCUBA monitoring surveys. These staff are also helping with SCUBA surveys and other research in the field.

Community Liaison - During research conducted by ODFW staff in 2010-2011, data collection was assisted by a local Depoe Bay liaison hired through the City of Depoe Bay using funds awarded to NSAT by ODFW.

Role of other signatories: Help distribute reports and publications. Help attract additional research and research funds, particularly research that engages the local fishing fleets.

Bullet 9: Future

Jan 1, 2017 will mark the first five years of implementation of the Otter Rock Marine Reserve. Since the signing of the Otter Rock MOU, the Oregon Legislature passed SB 1510 (passed in 2012) that set a Marine Reserves Program evaluation to occur in the year 2023. No modifications are to be considered for marine reserves in Oregon until after the 2023 evaluation.

Role of other signatories: Attend check-in meetings with all signatories of the MOU discuss research, progress to date, and future opportunities.