

Exhibit 1. New section 3.13 Ocean Management

RE: Attachment B Required Change #4 - The following language is proposed for insertion in Chapter 3 Policies and Regulations for Specific Shoreline Uses and Developments. The entire section will be new; therefore it is all shown in underline.

3.13 Ocean Management

3.13.0 Applicability - The ocean use policies, regulations, and permitting procedures apply as follows:

1. **Ocean Resources Management Act (ORMA; RCW 43.143)**. Ocean uses and developments proposed within the ORMA geographical area must be consistent with ocean use policies and regulations and reviewed using the additional approval criteria of section 3.13.1, below. The applicable ORMA geographical area covers Washington 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 within state waters (from OHWM out to 3 nautical miles), the near shore area under state ownership, shorelines of the state, and their adjacent uplands.
 - a. Geographic Application. The Ocean Management provision of this section apply to the Pacific Ocean shorelines of statewide significance coastal waters and those associated shorelands located within Clallam County.
2. **Marine Spatial Plan (MSP)**. New ocean uses and developments proposed within the MSP study area must be consistent with the ocean use policies, regulations, and procedural requirements of sections 3.13.2, below. The MSP study area covers marine waters of the Pacific Ocean within state waters (from OHWM out to 3 nautical miles).
 - a. The MSP applies to a proposed project only if all three of the following criteria are met:
 - i. occurs within the geographic boundaries of the MSP study area;
 - ii. will adversely impact renewable resources or existing ocean uses; and
 - iii. is a 'new use', as defined by the MSP.
 - b. All new ocean uses proposed within the MSP study area must be consistent with the protection standards for ISUs and Fisheries and reviewed using the additional process requirements for new ocean use proposals.
 - c. Applicability of ISU protection standards. The state has developed maps of ISUs using the best available data at the time of the MSP development. These maps are intended to assist applicants in identifying where ISUs exist. As finer resolution or updated data becomes available, the state may update the ISU maps, which may include adding, deleting or updating the distribution of an ISU. However, ISU protection standards will apply to any ISU, wherever it is identified in state waters. It is the responsibility of applicants to verify whether ISUs exist in their proposed new ocean use project area and to demonstrate protection standards will be met.

3.13.1 Ocean use administration.

1. Additional ORMA approval criteria for ocean uses and developments. In addition to the otherwise required shoreline substantial development, conditional use, or variance approval criteria, newly proposed ocean uses or development shall meet or exceed this additional approval criteria:
 - 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 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.
2. Additional MSP 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 MSP 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. Effects 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 fishing, aquaculture, maritime commerce, conservation, tourism, recreation), and the Washington Coastal Marine Advisory Council (WCMAC), and the public in all aspects of project development and review.

3.13.2 General Ocean Management Policies

- 1. Applicability. These ocean management policies and their implementing regulations will be used in evaluating ocean uses, developments, and activities proposed in coastal waters subject to ORMA. These provisions augment the other requirements of this SMP. They are not intended to regulate recreational uses or currently existing commercial uses involving fishing or other renewable marine or ocean resources.
- 2. These general ocean management policies are applicable to all shoreline permits for newly proposed ocean uses, their services, distribution, and supply activities and their associated facilities.
 - a. 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.
 - 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. When the adverse impacts are generally equal, the ocean use that has less probable occurrence of a disaster should be given priority.
 - c. 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.
 - d. For ocean uses and activities, SEPA shall be applied consistent with WAC 197-11-060 (4)(e) and 197-11-792 (2)(c). The determination of significant adverse impacts should be consistent with WAC 197-11-330(3) and

197-11-794. The sequence of actions described in WAC 197-11-768 should be used as an order of preference in evaluating steps to avoid and minimize adverse impacts.

- e. 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.
- f. 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.
- g. 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.
- h. 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. Ocean uses should be located to avoid adverse impacts on proposed or existing environmental and scientific preserves and sanctuaries, parks, and designated recreation areas.
- j. 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.
- k. 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.
- l. 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.
- m. 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.
- n. 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.
- o. 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.
- p. 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.
- q. 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.
- r. 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.
- s. 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.

- t. Pre-project 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.
- u. Oil or gas exploration, development, or production should be prohibited from Cape Flattery south to Cape Disappointment; in Grays Harbor, Willapa Bay, and the Columbia River downstream from the Longview bridge. For all other areas the following policies apply:
 - 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.
 - ii. 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.
 - iii. 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.
- 3. The state Marine Spatial Plan (MSP) provides a base of scientific information on ocean uses and resources, provides a framework for evaluating new ocean use proposals, and establishes protections for sensitive areas and fisheries. As such, the state MSP informed the ocean management provisions of this SMP and should be utilized in their implementation.

3.13.3 Ocean Management Regulations.

- 1. The following ORMA ocean management regulations apply to all shoreline permits for newly proposed ocean uses, their services, distribution, and supply activities and their associated facilities:
 - a. Oil and gas exploration, development, and production is prohibited in tidal or submerged lands extending from the mean high tide seaward three miles.
 - b. Seafloor mining may be allowed consistent with all of the following:
 - i. The applicant has demonstrated that the location and operation has been designed in a manner that has no detrimental effects on ground fishing, renewable resource uses, beach erosion and accretion processes; and
 - ii. The applicant has provided for mitigation of impacts that accounts for the established habitat recovery rates.
 - c. Ocean energy producing uses should only be allowed when the applicant has demonstrated the following:
 - i. The location, construction, and operation has been designed in a manner that has no detrimental effects on beach erosion, accretion, and wave processes;
 - ii. The effect of the project on upwelling and other oceanographic and ecosystem processes have been assessed; and
 - iii. Associated energy distribution facilities and lines are located in existing utility rights of way and corridors, whenever feasible.
 - d. Ocean disposal uses may be allowed when the applicant has demonstrated the following:
 - i. Storage, loading, transporting, and disposal of materials shall be done in conformance with local, state, and federal requirements for protection of the environment;
 - ii. The ocean disposal site has 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. Ocean disposal sites for which the primary purpose is habitat enhancement may be located in a wider variety of locations;

- iii. The Ocean disposal site has been 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; and
 - iv. Ocean disposal should be sited in areas where the dredge material will provide beneficial use to the greatest extent possible.
 - e. Ocean transportation uses may be allowed consistent with the following:
 - i. The applicant has provided an assessment of the impacts the proposed transportation use will have on renewable resource activities such as fishing and on environmentally critical and sensitive habitat areas, environmental and scientific preserves and sanctuaries.
 - ii. 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.
 - iii. 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.
 - f. Ocean research uses may be allowed consistent with the following:
 - i. Other ocean uses occurring in the same area have been identified and potential use conflicts have been minimized.
 - ii. Ocean research meeting the definition of "exploration activity" of WAC 173-15-020 shall comply with the requirements of WAC 173-15: Permits for oil or natural gas exploration activities conducted from state marine waters.
 - iii. The project has been located and will be 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.
 - iv. Upon completion or discontinuance of the ocean research the site shall be restored to its original condition to the maximum extent feasible, consistent with the purposes of the research.
 - v. Ocean research findings should be made available for public dissemination, whenever feasible.
 - g. Ocean salvage uses may be allowed consistent with the following:
 - 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.
 - ii. 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.
2. Important, Sensitive and Unique Areas (ISUs) Designation. The ISUs assign protection standards and definitions for adverse effects for a list of ecological, historic, cultural, and infrastructure areas. The MSP provides maps utilizing the best available data on ISU locations.
- a. Ecological ISUs
 - i. Biogenic Habitats: Aquatic vegetation, corals, and sponges
 - ii. Rocky Reefs
 - iii. Seabird colonies: islands and rocks used for foraging and nesting by seabirds.
 - iv. Pinniped haul-outs
 - v. Forage fish spawning areas: intertidal areas used for spawning by herring, smelt or other forage fish.
 - b. Historic, Cultural and Infrastructure ISUs
 - i. Historic and archaeological sites: Structures or sites over 45 years old that are listed or eligible for listing in local, state or national preservation registers (e.g. shipwrecks or lighthouses); or Artifacts or other material evidence of tribal or historic use or occupation (e.g. burials, village sites, or middens).

- ii. Buoys and submarine cables: Fixed infrastructure such as navigation or monitoring buoys, fiber optic cables, electrical transmission cables, other fixed monitoring equipment in the marine environment (e.g. hydrophones) and any associated mooring lines, anchors or other equipment.
- 3. ISU Mapping and Location. The state has developed maps of ISUs intended to assist applicants in identifying where ISUs exist. <https://www.msp.wa.gov/important-sensitive-and-unique-areas-isus/>. However, ISU protection standards will apply to any ISU, wherever it is identified in state waters. It is the responsibility of applicants to verify whether ISUs exist in their proposed project area and to demonstrate protection standards will be met.
- 4. ISU Protection standards. New ocean uses should only be allowed when the applicant can demonstrate consistency with the following ISU adverse effects and protection standards:
 - a. An applicant for proposed new ocean uses involving offshore development must demonstrate that the project will have no adverse effects on an ISU located at the project site and to off-site ISUs potentially affected by the project, using site-specific surveys, scientific data and analysis, which demonstrate either:
 - i. The current ISU maps do not accurately characterize the resource or use or the project area (mapped or not mapped) does not contain an ISU resource or use; or
 - ii. The weight of scientific evidence clearly indicates that the project will cause no adverse effects to the resources of the ISU.
 - A. Adverse effects standards for Ecological ISUs means degradation of ecosystem function and integrity (direct habitat damage, burial of habitat, habitat erosion, and reduction in biological diversity) or degradation of living marine organisms (abundance, individual growth, density, species diversity, and species behavior).
 - B. Adverse effects standards for historic, cultural or fixed infrastructure ISUs include the following:
 - (1) Direct impacts from dredging, dumping, or filling;
 - (2) Alteration, destruction or defacement of historic, archaeological or cultural artifacts; and
 - (3) Direct impacts from placement or maintenance of new, temporary or permanent structures in areas with existing infrastructure or historic, archaeological or cultural artifacts.
 - b. Additional buffers may be appropriate to protect ISU resources from adverse effects. Project developers shall consult with the Washington Department of Fish and Wildlife on recommended buffers for Ecological ISUs associated with their proposed project prior to filing application materials with local or state agencies. Project developers shall consult with the Washington Department of Archaeological and Historical Preservation and tribal preservation officers on further identification and protection of cultural or historical artifacts.
- 5. Applicants for proposed new ocean uses involving offshore development must consult with WDFW, individuals participating in affected commercial and recreational fisheries, and each of the coastal tribes to identify and understand the proposed project's potential adverse effects to fisheries and tribal uses.
- 6. Fisheries Protection standards. New ocean uses involving offshore development shall only be allowed when the applicant can demonstrate that their project meets all of the following standards to protect fisheries located at the project site and nearby from adverse effects:
 - a. There are no likely long-term significant adverse effects for commercial or recreational fisheries. Adverse effects can be direct, indirect or cumulative.
 - i. A significant reduction in the access of commercial or recreational fisheries to the resource used by any fishery or a fishing community(s);
 - ii. A significant increase in the risk to entangle fishing gear;
 - iii. A significant reduction in navigation safety for commercial and recreational fisheries; and
 - iv. Environmental harm that significantly reduces quality or quantity of marine resources available for harvest.
 - b. All reasonable steps are taken to avoid and minimize social and economic impacts to fishing.

- i. Avoid adverse social and economic impacts to fishing through proposed project location, design, construction, and operation, such as avoiding heavily used fishing areas. Where adverse impacts to fishing cannot be reasonably avoided, demonstrate how project has minimized impacts;
- ii. 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;
- iii. 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;
- iv. Minimize the compression of fishing effort caused by the reduction in the areas normally accessible to fishers;
- v. Minimize the economic impact resulting from the reduction in area available for commercial and recreational fishing for the effected sectors and ports.
- vi. Limit the number and size of projects located in an area to minimize the impact on a particular port, sector, or fishery;
- vii. Consider the distribution of projects and their cumulative effects; and
- viii. Other reasonable and relevant considerations as determined by the fisheries consultation process and specifics of the proposed project.

Chapter 11. Definitions

Additional related terms proposed for insertion shown in Attachment B Items #17 – 20, including:

- Important, Sensitive and Unique Areas (ISUs)
- Marine Spatial Plan for Washington’s Pacific Coast (MSP)
- New Ocean Uses
- Ocean Disposal
- Ocean Energy Production
- Ocean Mining
- Ocean Oil and Gas Uses and Activities
- Ocean Salvage
- Ocean Transportation
- Ocean Use