



**Coos County Community Development
Planning, Building and Enforcement
541-396-7770
planning@co.coos.or.us**

Memorandum

DATE: January 8, 2023
TO: Decision Makers
FROM: Jill Rolfe, Coos County Community Development Director
RE: Response to Testimony AM-22-005

Comments were received after the date the Staff Report was released with limited to no legal arguments incorporated. The request seem to be more about requesting additional time.

The purpose of these changes is primarily for Goal One Compliance. The main reason for the proposed changes and the revised scope is to facilitate a community that wishes to update a plan that has been in place since 1985 to move forward with updates. This involves aligning the existing document in a way that makes it more user-friendly for everyone to engage with. The process started back in 2012 and has been progressing. There have been attempts at every level to move this process through a very public engagement process.

The Coos Bay Estuary Management Plan can not be compared to other estuary plans. While it follows Oregon Statewide Planning Goals 16, 17, 18 and 19 and has been acknowledged as compliant with the relevant laws by Land Conservation and Development Commission (LCDC) it is a complex plan.

The revisions of the plan were first released to the public on December 27, 2022 (more than a year ago), and since that time, there have been open houses, meetings, and public postings of maps and materials. There have been requests to continue the matter over and over out of fear that the plan will allow a development to come in that was not originally intended. These fears have no legal merit. In the case that someone did file for an application and the changes allowed for a use or activity that was not consistent, it can be appealed. The appeal would change the language that allowed the use or activity, and the relevant laws based on Statewide Planning Goals 16, 17, and 18 would prevail.

Hence, there exists a critical choice before decision makers and that is commitment to advancing the consolidation of this plan, thereby paving the way for substantive work to commence. Remembering the countless open houses, meetings, and meticulous public postings of maps and materials have taken place since the plan's initial release on December 27, 2022, over a year ago. These efforts underscore the commitment to transparency, community engagement, and a thorough review process. Disregarding these comprehensive endeavors would not only dismiss the dedication of the involved parties but also diminish the substantial progress made thus far. Moving

forward requires acknowledging the collaborative spirit that has driven this process and making a decision that aligns with the best interests of the community and the diligent work invested in the plan's enhancement.

Continuing this matter or allowing the continuation of arguments without legal basis would imply that CBEMP, in its current state, is effectively fulfilling its function, and that the majority of the community may not be ready to advance further at this juncture. It is imperative to acknowledge the considerable dedication of work, time, and effort invested in the plan's revisions and the few that have objections may not be the majority of the community. The lack of attendance is just important as the people that are attending. Staff is dedicated to this update and believes the majority of the community would like to see it move to the next phase, which is where the real work will begin.

The following comments were received after the Staff Report was posted.

Christine Moffitt:

Request more time based on the difference in the memos. The December 20 memo simplified the explanation of scope and changes, and the December 28 memo provided a line-by-line review for guidance. The Staff report for the formal hearing adheres to legal requirements, providing findings to support the criteria without altering the Plan or Ordinance. The does not change that the Plan and Ordinances changes have been available since December 27, 2022 (over a year ago). Since that time frame the modifications have been reduced down and focused on Section 2 regarding future processes and advisory committees. The scope of the changes have been very detailed.

Future typo corrections are addressed in Article 5 of Zoning Ordinance and explained in the Staff report. Staff included a place holder to revise the current decision makers and staff which protecting the historical references.

Importantly, the concerns raised by Ms. Moffitt are noted for the record but she does not provide a legal basis or legal requirement to request another continuance. Clarification of memos or staff report could have been made by contacting any of the departments. It is important to note there have been no changes made to the Coos County Zoning and Land Development Ordinance or City Codes since posting the documents in May 2023. There have only been minor changes to the Plan and no changes to the City Codes or Ordinance since originally posted on December 27, 2022.

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The comments received seem to reflect preferences regarding the resolution and the plan but lack legal arguments. Legal justifications or arguments would be essential in addressing and responding to the comments in a substantive manner. The County is dedicating to working with the both Tribes that are mentioned in Policy #18 of the CBEMP and others in the future.

Donna Bonetti:

Request to include emerging science on climate change in the plan. There is no reference to a legal requirement but seem to be a comment for a future phase.

Ken Bonetti (email):

Request additional time as he relies on legal experts that are not available. There is no legal reference for the request.

Oregon Shores/Rouge Climate Change (not sure if this was attached twice or are different but seem to be duplicated)

This is a request for an extension. There is no legal reference; it is simply a request due to the volume of material. As a reminder, the main documents were originally posted on December 27, 2022 with minor modifications. The meetings (originally scheduled for April 2023) were continued to allow for additional open houses, public input, and to focus on a revised scope. There has been more than ample time to review all the material. If the citizens did not believe there would be enough time with the last continuance, it should have been addressed at the December 7, 2023 work session.

Ken Bonetti (letter):

Request a commitment to funding for Phase II. The local jurisdictions never committed to full funding but did discuss seeking grant funding. If the resolution is passed, it serves as a commitment if funding becomes available. There is a request to include climate change, justice, and adaptation. The applicable hazards, determined by Statewide Planning Goals, will guide this request, which has been duly noted for the record. More specific wording in the committee section is preferred, and this comment has also been noted for the record. There is a request for clarification on the definitions, as the reader appears to be reviewing the memo rather than the actual changes. Preferred definitions, along with arguments supporting them, have been suggested. Mr. Bonetti does not provide a legal reason why they are inadequate.

The tribal portion of the plan (Policy #18) is not proposed for modification and will be addressed in a future phase. It is emphasized that Mr. Bonetti is not legally allowed to represent the tribes and should defer.

The confusion expressed regarding minor and major matters is not backed by a legal argument but seems to speculate about what might happen and not based on any legal argument. Mr. Bonetti provides no legal basis for any part of his challenge but requests future updates, poses questions, and engages in speculation that is unfounded. The proposal is a resolution to move this process forward. The understanding is that moving forward will be dependent on funding.

Mike Graybill:

Has presented the decision makers with some options: Consider the motion to amend the CBEMP to incorporate a digital version of the management unit map that replicates the information contained in the mylar maps presently in use; Consider a motion to establish a citizen committee to prepare a report for consideration by the planning staff and elected officials within a certain time frame to make recommendations about any of the changes; and consider a motion to continue the joint work session related to the adoption of the partial plan amendment to a date and time after the report has concluded by the Citizen Committee.

Mr. Graybill has identified some of the changes that Staff brought up in the memo and is requesting time to assist staff with these, along with the verification of hyperlinks. He cites Goal One for his request and argues that a few of the changes go beyond the revised scope. Staff disagrees that the changes are beyond the scope and has taken the time to address each one of his concerns.

These concerns seem to focus on the last revision memo, which was designed to guide the reader through the CBEMP changes, but he does not seem to understand the intent of the memo. He also argues that Staff's line-by-line review is not what he was asking for in the past.

If Mr. Graybill remembers his question posed to the decision-makers, which was "if they had read the memo by the consultant," and Councilor Drew Farmer responded he had. Mr. Graybill used that response to illustrate his belief that somehow, because no one else confirmed that there had not been enough oversight through this process. Then he cited to change in the name of a Dredge Material Disposal site as his proof. The dredge material disposal site, which was corrected prior to Staff's line-by-line review and the limited scope of review but that does not seem to be enough to satisfy Mr. Graybill.

In the latest comments he cited Dredge Material Disposal and Flow Lane Disposal as his proof that additional review is necessary as somehow Staff review and detailed information is not adequate. The consultant stated in their memo that they were reviewing the document for Goal Compliance, and that is precisely what happened.

Statewide Planning Goals list under management units the uses:

"(3) Development – in estuaries classified in the overall Oregon Estuary Classification for more intense development or alteration, areas shall be designated to provide for navigation and other identified needs for public, commercial, and industrial waterdependent uses, consistent with the level of development or alteration allowed by the overall Oregon Estuary Classification. Such areas shall include deep-water areas adjacent or in proximity to the shoreline, navigation channels, subtidal areas for in-water disposal of dredged material and areas of minimal biological significance needed for uses requiring alterations of the estuary not included in (1) and (2) above.

Permissible uses in areas managed for water-dependent activities shall be navigation and water-dependent commercial and industrial uses. As appropriate the following uses shall also be permissible in development management units:

- (a) Dredge or fill, as allowed elsewhere in the goal;
- (b) Navigation and water-dependent commercial enterprises and activities;
- (c) Water transport channels where dredging may be necessary;
- (d) Flow-lane disposal of dredged material monitored to assure that estuarine sedimentation is consistent with the resource capabilities and purposes of affected natural and conservation management units.*****"

As a preference for the decision-makers to consider, they changed the language to 'Flow-lane' instead of "Dredge Material Disposal." This was not an 'aha' moment but a change made by the consultant to mirror the goal. It was not necessary, and to change it would not be consistent with

all language in Volume II, Parts 1, 2, and 3. If you change it in one, you have to change it all the way through. Staff flagged this as inconsistent at this time and recommends the removal of the change.

It is apparent to staff that Mr. Graybill has not read the actual CBEMP document or the January 3, 2023 County Staff Report. It also does not appear that he has reviewed any of the City of Coos Bay or North Bend materials. He provide no legal justification but a plea to delay the process in some way to allow more time for citizen input.

Mr. Graybill submits a list of questions and Staff has responded to each one:

Submitted by: Michael Graybill and responded to by staff.

1. The "Revised Tasks to be completed" list presented on page 3 of the staff report is very helpful but the work by the staff to summarize changes and tasks does not satisfy requests by citizens to be involved in a line-by-line review of the consultant's work to transition the plan from its original format to a digital document.

RESPONSE: The previous request for a line-by-line review was made due to a perceived lack of trust in the consultant, staff, or decision-makers, implying that they had not conducted such a review. In reality, citizens have had the opportunity since December 27, 2022 (see open house memo) to perform a line-by-line review, but as of now, that has not occurred. The decision-makers requested the review to be scaled back, and staff followed their directions. Despite not being legally required, staff has made repeated efforts to address all community requests. The changes at this point are so minor that the county and the city need to move forward for the next phase to be completed, allowing citizen groups to focus on major revisions.

2. The structure of the sentence "*The recommendation is to modify this incorporate in the digitized maps as a spatial information and relay on the Mylar map as the official map for decisions*" presented on page 2 of the staff report is confusing. I request clarification on the meaning of this sentence.

Does the word "*this*" in the sentence quoted above mean "the Special Considerations map"? If so, does this sentence mean that the recommendation is to modify the "Special Considerations map"? I presume the word "relay" in this section is a typographical error and the intent is to use the word "rely". The amendment should clearly specify which map version is to be the controlling version in case a discrepancy is identified.

RESPONSE: This statement is not on the County Staff Report page 2. Staff is assuming that Mr. Graybill may be reading the memo of the revised scope of work and list of detailed changes but in order to warrant a proper response he should refer to the correct materials.

Policy # 3 has been modified as follows:

The 1985 "Special Considerations Map" was NOT a substitute for the detailed spatial information presented on the Coos Bay Estuary Management Plan's inventory maps. The "Special Considerations Map" is merely an INDEX GUIDE designed as a zoning counter implementation tool that indicates when special policy considerations apply in a GENERAL area; thereby, requiring inspection of the DETAILED Plan Inventory maps. The "Special

Considerations Map" must and shall at all times accurately reflect the detail presented on the inventory maps (but at a more general scale).

Policy #3 underwent modifications in 2024, specifically to eliminate references to the Coos Bay Estuary Special Considerations Map. The Coos Bay Estuary Special Considerations Map was essentially a compilation of all plan maps, featuring generalized boundaries. This compilation served as a practical tool for users, enabling them to ascertain whether there were overlays and special considerations applicable to a particular property.

The rationale behind the modification lies in the shift from manual methods to digital processes for mapping and layering. With the advent of digitization, the Coos Bay Estuary Special Considerations Map tool has become obsolete, as navigating overlays and development considerations can now be efficiently achieved through digital means.

Until a map has been adopted in a digital form, it can only be used as a tool in the same way the Special Considerations Map was envisioned. Removal of the Special Development Consideration Map reference has no effect on the adopted plan maps. The replacement tool for this is part of the map atlas that can serve in a similar manner. They are digitized maps but NOT a substitute for the detailed spatial information presented on the Coos Bay Estuary Management Plan's inventory maps with the exception of the ones shown in table 1 below.***

If there is an issue with the plan language then it should be raised specifically in the context of the criteria.

3. Because the CBEMP is closely tied to the ordinances adopted to implement the plan, amending the plan in multiple steps will also likely necessitate multiple actions by the cities and county to also amend the implementing ordinance tied to each incremental plan amendment action. The linkage between the CBEMP and its associated implementing ordinances suggests it is likely to be more complicated to amend the plan through multiple increments than amending the plan using fewer iterations.

RESPONSE: The amendment to the implementing ordinance and codes can be easily accomplished by referencing the plan. The implementing ordinances and codes retain processes but do not need to replicate policies, definitions, uses and activities. The plan is where the linkage, policies, definitions, and inventories originate and should remain. It seems that Mr. Graybill does not really understand what is trying to be achieved by this action. The goal is to consolidate the plan back to its original creation and ensure that any changes made since the 1970s and 1980s are captured. This must be done by addressing any potential conflicts, which has been achieved through corrections of policies, verification of map amendments, and consistent definitions. The consultant, staff, and decision-makers are required to use statutes, rules, and goals to ensure compliance.

4. Some text has been retained to conserve the original form of the document while other additions have been made to update the plan to reflect current information. Thus, the digital version of the plan retains the names of the Coos County Commissioners at the

time of plan adoption yet there is content in the plan that the named authors never reviewed or acted on.

RESPONSE: Mr. Graybill should refer to the CBEMP where a place holder was left to include the current Board, Councilors and staff.

COOS BAY ESTUARY MANAGEMENT PLAN

~~2019-2024~~ REVISION

Part 1 - Plan Provisions

This Plan was revised in 2024 under the joint collaboration of the Board of County Commissioners, Coos Bay City Council, and North Bend City Council with funding from Oregon Department of Land Conservation and Development.

(Place holder for Commissioners, Councilors and Staff)

5. Although it is not stated in the lead in paragraph introducing changes to definitions, the changes to the definitions in the CBEMP also include the definition for "commercial uses" and multiple additional terms not listed.

RESPONSE: This proposal was to retain the definition in the CBEMP and make no changes.

CBEMP Term:

COMMERCIAL USES: Privately-owned or operated facility or place of business open to the public for sale of goods or services. Examples include: restaurants, taverns, hotels, motels, offices, personal services, retail stores, recreational vehicle parks, and campgrounds. Public facilities offering similar goods of services are also defined as commercial uses.

Memo Stated: Privately-owned or operated facility or place of business open to the public for sale of goods or services. Examples include: restaurants, taverns, hotels, motels, offices, personal services, retail stores, recreational vehicle parks, and campgrounds. Public facilities offering similar goods of services are also defined as commercial uses.

There are no additional terms. The definition will be retained.

6. If there are no changes to the original CBEMP definition of “docks and moorage” it is not clear why some definitions have been included in a proposed plan amendment document. Unless a change is proposed, the definition need not be included in the amendment motion. This appears to be the case for several other definitions identified in the staff report including; "Recreational Vehicle Park", “subordinate”, “Urban development Area (UD)”, “Urban Water-Dependent Areas (UW)”, and “Water Development Shorelands (WD)”.

RESPONSE: The memo indicates differences in definitions between the city, county or conflict with law. Changes were made to align definitions with current law or retain the CBEMP definition. Mr. Graybill fails to explain why the definition is not compliant with the law, making this statement seem like a question about staff's ability to ensure compliance without any legal or factual information to substantiate the claim.

7. If revision of the language of the definition for “docks and moorage” is being considered as part of this phase of the CBEMP revision, then I recommend that the definition be further revised to specify the size of vessels to which the definition applies. For example, in the absence of a clause to specify vessel size, this definition could conceivably be used to justify development of a commercial pier or waterfront structure capable of berthing 5 deep draft merchant vessels. A 5-berth facility for deep draft merchant vessels could conceivably require over a mile of shoreline.

RESPONSE: The memo indicates differences in definitions between the city, county, or conflicts with the law. Changes were made to align definitions with current law or retain the CBEMP definition. Mr. Graybill fails to explain why the definition is not compliant with the law. Instead, he wishes to make a change that he and others have been arguing would be substantial, as it has not been considered and may have unknown implications on the document itself.

8. In this case the current documents reviewed for consistency use three different definitions for the term "shoreline" The CBEMP definition is dynamic in that the location of the shoreline moves with changes in water level. The definition recommended for adoption is the language of the ordinance in this case. The ordinance definition is a fixed point established as the ordinary high water mark, No explanation is given stating why this change is needed or why the recommended should be preferred over the existing definition.

RESPONSE: The Goal 16 definition is: “SHORELINE. The boundary line between a body of water and the land, measured on tidal waters at mean higher high water, and on non-tidal waterways at the ordinary highwater mark.” The ordinance language states: “The boundary

line between a body of water and the land, measured on tidal waters at mean higher high water, and on non-tidal waterways at the ordinary high-water mark”.

Once again, if Mr. Graybill had read each of the change memos, it is very clear that the changes are only to address inconsistencies between the jurisdictions or laws. He provides no legal basis for his request. The Coos County Ordinance, in this case, was updated more recently and is consistent with state law. This is an attempt to include his own preference instead of trusting that staff has reviewed the laws and made the appropriate changes to comply with regulatory requirements. The findings in the staff report and draft ordinance explains that the document is goal complaint.

9. The need to change or the rationale underlying the staff recommended changes to the definition has not been articulated, making it difficult for the lay public to understand the rationale behind the staff recommendation.

RESPONSE: The Coos County Comprehensive Plan and implementing ordinance, along with the City of Coos Bay and North Bend, have been found to be in compliance, as acknowledged by Land Conservation and Development Commission Therefore, any language retained in the plan that is based on a current provision is compliant and is not necessary to be revised. The purpose of the definition change was to either align a definition with a current one, such as solid waste or shoreline boundary or floodway, in the case of a conflict between definitions only. If there wasn't a conflict with state law, then the CBEMP definition was retained for historical purposes. In the case of Shoreline, it does mirror Statewide Planning Goal 16.

Staff has provided a comprehensive set of findings to address compliance. In Oregon, the acknowledgment process for a Comprehensive Plan involves several steps overseen by the Land Conservation and Development Commission (LCDC). Here's a general overview of the process:

- Plan Adoption: Local governments, such as counties or cities, develop Comprehensive Plans that outline their long-term land use goals, policies, and regulations. These plans are typically created with input from the community and stakeholders. This is where we are in the step.
- Plan Submission: Once a Comprehensive Plan is adopted at the local level, the local government submits it to the Oregon Department of Land Conservation and Development (DLCD) for review. This submission includes the plan document, supporting documents, and any necessary revisions based on DLCD's comments during the drafting phase. This is in the form of an Ordinance and Findings.
- DLCD Review: DLCD conducts a thorough review of the submitted Comprehensive Plan to ensure that it complies with state planning goals and guidelines. State planning goals cover various aspects such as land use, transportation, housing, natural resources, and more. In this case the plan is based by on the Coastal Goals 16, 17, 18 and 19.

- Comments and Revisions: DLCD provides feedback and comments to the local government. The local government then revises the Comprehensive Plan based on DLCD's recommendations to address any issues or inconsistencies. Staff has worked with DLCD staff since the beginning of this project to ensure consistency.
- Public Participation: Throughout the process, there is usually an opportunity for public input and involvement to ensure that the community's perspectives are considered in the planning process. This has been a very public process and has been occurring over a long period of time. There have been open houses to view products and presentations give with input taken. The comments have been captured and responded to by staff.
- Final Submission: After addressing DLCD's comments and incorporating necessary revisions, the local government submits the final version of the Comprehensive Plan to DLCD. DLCD has not found the products to be noncompliant and staff has worked with them very closely to ensure compliance.
- LCDC Review and Acknowledgment: The Land Conservation and Development Commission (LCDC), a state agency, reviews the final plan. If the plan is found to be in compliance with state planning goals, it may be acknowledged by LCDC. Acknowledgment signifies that the plan meets the statutory requirements and can serve as a basis for local land use regulations.
- Legal Effect: An acknowledged Comprehensive Plan provides a legal basis for local land use regulations and decisions. Local governments must periodically review and update their plans to maintain compliance with state requirements.

10. The reason/s why the proposed change to CBEMP policy #45 is "not new but needed to be included" is not given. If this needed change is a requirement, the law or policy underlying the suggested change should be identified for consideration by the elected bodies and the public.

RESPONSE: It has been explained in meetings, prior memos and Policy #45 is necessary to be included to be consistent with City of Coos Bay Plan. This has been posted since the original document in (see December 27, 2022 memo) Therefore, it is covered in this record.

11. The distinction/s between classifying "Navigation and water-dependent enterprises" as an "activity" or a "use" is/are not clear (to me). The differences between a "use" and an "activity" could be clarified to help decision makers better understand the significance of this recommendation. The staff appears open to changing how "Navigation and water-dependent enterprises" is classified by the CBEMP or to retaining the current classification. A citizen group could be called upon to advise the decision makers on how the CBEMP can best classify this use/activity.

RESPONSE: While there is no specific reason to move the uses and activities, other than to align with a particular plan, this specific issue was addressed in the Staff Report on page 17. See below:

Here is the list of changes that were necessary to combined the management units from the City of Coos Bay and North Bend. There were some recommended preference changes highlighted that need to be addressed.

- General Changes that apply to all units that have these specific uses and activities listed.
 - Tables were added at the beginning of each Planning Area to identify the Jurisdictions and include maps, when possible, for visual. Some of the planning areas are large and hard to see on a map you can't zoom in on. Typos and agency names were updated if needed.
 - Anywhere it says "Industrial & port facilities" the "&" was replaced with "and"
 - "Mining/mineral extraction" was replaced with "Mining/mineral extraction, including dredging necessary for mineral extraction" for consistency with Goal 16.
 - Research and educational observations was moved from an activity to a use applicable general and special conditions were adjusted to reference number change. This is listed in this manner because some of Coos Bay's management units have it listed in this manner. This is a preference and could be rejected.
 - Navigation and water-dependent commercial enterprises and activities was modified from water dependent enterprise and activities to mirror goal 16 language. This was also moved from an activity to a use. This was a suggested preference but is not necessary. applicable general and special conditions were adjusted to reference number change.

12. Changing the terms "Dredge Material Disposal" and "Flow Lane Disposal" in the CBEMP is an example of a change recommended by the consultant contracted to transcribe the adopted version of the CBEMP into a digital format that staff have proposed to reject because the recommendation is "not consistent with the overall plan". I have previously provided other examples where the consultant offered suggestions or recommended changes that have not been accurate or acceptable to the community. It is my hope that a citizen group can be tasked with finding other similar inconsistencies before being adopted.

RESPONSE: For clarification, the Oregon Statewide Planning Goal actually references this as 'Flow-Lane Disposal.' So, changing the term does not necessarily make it inconsistent with the law, but staff found it would be inconsistent with the wording in the overall plan, making it confusing to the reader. Therefore, staff thought it was important to retain the historical text until a future review of the plan. That is why the statement was made. This is the only change that was brought up that staff found any merit to, and there has been no legal basis for any additional

request for time.

- (3) Development – in estuaries classified in the overall Oregon Estuary Classification for more intense development or alteration, areas shall be designated to provide for navigation and other identified needs for public, commercial, and industrial water-dependent uses, consistent with the level of development or alteration allowed by the overall Oregon Estuary Classification. Such areas shall include deep-water areas adjacent or in proximity to the shoreline, navigation channels, subtidal areas for in-water disposal of dredged material and areas of minimal biological significance needed for uses requiring alterations of the estuary not included in (1) and (2) above.

Permissible uses in areas managed for water-dependent activities shall be navigation and water-dependent commercial and industrial uses.

As appropriate the following uses shall also be permissible in development management units:

- (a) Dredge or fill, as allowed elsewhere in the goal;
- (b) Navigation and water-dependent commercial enterprises and activities;
- (c) Water transport channels where dredging may be necessary;
- (d) Flow-lane disposal of dredged material monitored to assure that estuarine sedimentation is consistent with the resource capabilities and purposes of affected natural and conservation management units;
- (e) Water storage areas where needed for products used in or resulting from industry, commerce, and recreation;
- (f) Marinas.

13. The staff report does not say how the differing treatments of "aquaculture" by the Coos Bay city plan and the Coos County/CBEMP was resolved. It requires a reviewer of the staff recommendation to consult the management unit language in a separate document to determine if or how the recommended changes differ from the current CBEMP language.

RESPONSE: The staff report on page 18 states that “45A-CA – Aquaculture modified for consistency between city and county and consistency with Goal 16.” The CBEMP revisions show the modification as:

1. Aquaculture, which does not involve dredge or fill or other estuarine alteration other than incidental dredging for harvest of benthic species or removable in- Aquaculture which does not involve dredge or fill or other estuarine alteration water structures such as stakes or racks (commercial, not archaeological stakes or racks);) is allowed; or, where aquaculture requires dredging or fill or other alteration of the estuary, is subject to Policy #4a.

14. The staff report identifies that language in management unit 20-CA has been modified but it does not articulate the differences between the Coos Bay city plan and the Coos County/CBEMP or how those differences were resolved. It requires a reviewer or a decision maker to consult the recommended management unit language in a separate document to determine if or how the recommended changes differ from the current CBEMP language and if those changes are acceptable to the bodies responsible for adopting the recommended changes.

RESPONSE: Staff report page 18 states the following:

- 15-NA, 16-CA, 17-NA , 25-NA, 20-CA– Bridge crossings and supports were not listed in the county in any of the NA management units but were in the City. A special condition was added that that specific use is only allowed within the City of Coos Bay to resolve the conflict for the NA management units.
 - ~~45A-CA~~ – Aquaculture modified for consistency between city and county and consistency with Goal 16.
 - 20-CA – Modified to include Coos Bay uses, activities and conditions
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The CBEMP has the changes shown with strikethrough and new language changes to show specific changes.

15. The introductory sentence under item "2" at the bottom of page 19 related to “implementing ordinances” is difficult (at least for me) to understand. I interpret this sentence to mean the following.

RESPONSE: This sentence is incomplete and not able to be responded to fully. I would recommend that Mr. Graybill review the videos and information that DLCD has online to teach the difference between implementing ordinances and codes v. Comprehensive Plans. It will be very helpful in the future.

In Oregon, a Comprehensive Plan and an implementing ordinance or code are two distinct components of the land use planning system. Here's summary explanation of the key differences between meant to provide you some guidance for understanding the terms but in way is part of any regulatory criteria:

- Comprehensive Plan: Purpose: The Comprehensive Plan is a long-term, overarching document that outlines the community's vision and goals for land use and development over a specified period (usually 20 years).
- Content: It includes a broad range of elements, such as land use, transportation, housing, natural resources, economic development, and public facilities. Each element addresses specific aspects of community development.
- Community Involvement: Developing a Comprehensive Plan often involves significant community input and engagement to ensure that it reflects the values and aspirations of the local residents.
- State Guidelines: The content and structure of the Comprehensive Plan must adhere to state planning goals and guidelines established by the state government.
- Implementing Ordinance or Code: The implementing ordinance or code is a regulatory tool that translates the policies and goals outlined in the Comprehensive Plan into specific rules and regulations. Basically, the implementing ordinance and/or code is the tool used to implement the plan. The implementing ordinance or code should align with and support the goals and policies of the Comprehensive Plan. It provides the legal framework for decision-making on specific development proposals.

In summary, while the Comprehensive Plan sets the overall vision and goals for a community's development, the implementing ordinance or code operationalizes and enforces those goals by establishing specific regulations and standards. Together, these components form the foundation for land use planning and development in Oregon.

16. "Adoption of the digitized zone map and the revisions to the CBEMP Volume II part 1 recommended to date will also require Coos County, Coos Bay and North Bend to adopt revised implementing ordinances to reflect the changes to the CBEMP made thus far. I further interpret this to mean that a similar process to adopt revised implementing ordinances will be required following adoption of any additional changes to the CBEMP made during the forthcoming stages of the plan revision process.

RESPONSE: By ordinance, the County will adopt the Revised Plan and the revised Coos County Zoning and Land Development Ordinance (Article 3). The cities will follow by adopting the plan by reference and then adopting codes necessary to implement the plan.

17. It is not clear to me why removing references to "Management Unit Uses and Activities" from chapter 3 of the Coos County Zoning and Land Development Code is necessary at this stage of the plan revision.

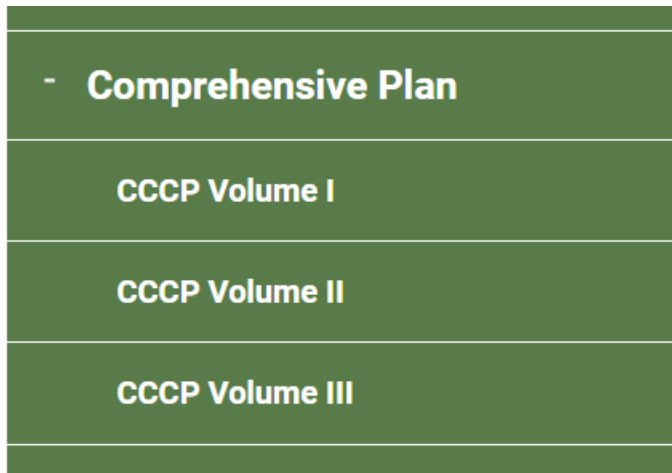
RESPONSE: To ensure consistent citation and avoid the need to make changes to multiple documents, it is more convenient for all parties involved to reference a single main document. This approach streamlines the process and helps maintain uniformity across the board. There is no legal reason not to make this change.

18. Are the "Plan Maps" referenced under recommendation b) on page 20 the same as the Digitized Zone Map" referenced under #2 on page 19 of this staff report?

RESPONSE: Mr. Graybill fails to reference what document his page is referencing. The map changes can be found in Policy #3 of the Plan and are very detailed to show any changes. The only request is to remove or modify the reference to Special Development Consideration and allow the digitized Zone map to be used. The Plan explains this in detail.

19. Given the large number of maps/spatial information renderings, it would be helpful to include a glossary of terms related to maps and to adopt a consistent terminology for the various maps and spatial information renderings.

RESPONSE: A glossary can be developed in the future. There is an index of maps titled "Map Contents". These are also displayed on line.



Comprehensive Plans

The County Comprehensive Plan Volume II is structured into three parts, each serving a distinct purpose in guiding land use and resource management within the region. Part 1 detailing plan provisions, Part 2 containing inventories and factual bases, and Part 3 addressing Statewide Goal Exceptions. This organized framework ensures that the County Comprehensive Plan is thorough, data-driven, and responsive to the unique considerations of estuarine zones within Coos Bay. The Plan maps are adopted as part of the plan.

[Read More](#)


Volume II CBEMP Maps

[Read More](#)

<https://www.co.coos.or.us/community-dev/page/volume-ii-cbemp-maps>

Volume II CBEMP Maps

Supporting Documents

 [Map Contents \(2 MB\)](#)

20. The definition of "Coastal Shoreland Area" for the City of Coos Bay included a reference to the Ocean shore, but the recommended definition for "Coastal Shoreland Area" to be incorporated into the CBEMP does not include the ocean shore as part of the definition. (see definition on Page 6 of this document). If the Coos Bay city council rescinds Volume 3 of the Coos Bay comprehensive plan and replaces Volume 3 with a reference to the CBEMP, will doing so change the ability of the city to manage "coastal shoreland areas" including "those areas immediately adjacent to the ocean..." in its jurisdiction?

RESPONSE: The definitions are consistent with Goal 16 but any suggestions or preference changes can be reviewed in the next changes.

Ashely Audycki:

States there are changes the documents were released at the holiday and not enough time has been provided. This should have been raised at the December 7, 2023 meeting time but was not. County Staff member, Jill Rolfe, explained that she was set to go on vacation during the holiday and that was why the meetings were continued. She has taken much time away from the holiday to prepare the documents at the request of the decision makers. The changes made were pursuant to the request of the decision makers and follow what was discussed in the meeting.

The revised scope reduced the changes to consolidating the document, making necessary changes to allow for the consolidation and include the map which required a revision to Policy #3. Policy #3 was explained in detail at the meeting. The comments seem to be rushed as a place holder and not provide a legal reason or confident statement that what is raised will actually cause an issue. Staff understands this technic but if an argument is not specific enough to allow a response that argument shall be precluded from being raised at LUBA.

There are no substantive amendments proposed. The changes are necessary to combined the management units into one document. The maps have been addressed. The proposal is as straight forward as possible given that is a legal document.

Issues Raised:

- There are substantive changes made to policy 2 which now strike all reference to the linkage and goal exception findings and adds an expanded test for consistency which would allow a use to be deemed consistent if impacts are deemed "insignificant."

Response: Staff would like to note that this change was in the original documents posted for view on December 27, 2022, which is more than a year ago. This change has moved forward and not been altered. This is a new issue raised. This is not a substantive change but a matter of preference for the decision-makers to consider. Staff has no problem reverting back to the original language which can be made by motion.

The argument used by the consultant was that it was consistent with Goal 16, and that is correct; however, the language as posed is also consistent with Goal 16 but provides more information on how Goal 16 compliance was achieved in the original plan. This change does not delete the linkage matrices, implementation of the matrix, or policies regarding the matrix. The matrix was used to achieve certain goal exceptions, and those development units in which the goal exceptions were achieved already addressed the resource capabilities. This section provides that explanation; however, so do the exceptions in Part 3.

- B) Uses and Activities listed below MAY be allowed in Natural Management Units ~~when it is established that such are consistent with the resource capabilities of the area and the purpose of the management units (LCDC Goal #16) (pursuant to "Linkage" and "Goal Exception" findings in this Plan) but also subject to special conditions and other policies set forth elsewhere in this Plan.~~ where consistent with the resource capabilities of the area and the purposes of this management unit the following uses may be allowed:

- We do not believe any changes should be made to the current CBEMP definitions, policies, management units without explanation and that further detailed review by the community. We also believe that amendments to “correct inconsistencies,” “align with Goal 16,” “address conflicts” and return or return to some modification of “originally referenced Policy 3”.

Response: Again, the changes have been posted and this is a new argument. The definitions have been justified as aligning with state law, federal law, goal or retention of CBEMP definition for consistency. If there is a disagreement with that finding then it should be shown which definition shouldn't be amended and why it does not meet the law. Policies have minor modifications and the one that was changed in this last revision is Policy #3. It was amended to retain all original maps, make a policy to use new maps in the future phase and then adopt one digitized map that mirrors the mylar map for ease of use. While the one Mylar map has been replaced with the digitized map it still has been retained in the event there is an error. This change is consistent with the direction received from the Board and Council to incorporate in the digitized map. There is no fully formed legal argument made to support this argument and the argument should not be allowed to be brought up in the future as it was not specific enough to allow a full response.

- Require a thorough review of the 655 page document, including a review of the detailed amendments to the policies and the management units. So, we support and urge you to adopt Mr. Graybill's proposal to convene a citizens advisory group which conforms as closely as possible to the citizen participation provisions of the CBEMP and city's comprehensive plans which would be tasked with conducting a line by line review of the digital version to provide feedback to the jurisdictions on the formatting and revisions that have been introduced by the consultant and now staff. We can't afford to risk

unintended consequences with an amendment that has had many hands on it and which as of the last meeting, had not had a thorough review. Rogue Climate also joins the rest of Mr. Graybill's comments at this time.

Response: There is nothing preventing a review of the policies, management units or any other information. It has been posted on the website each and every step with the original posting date of December 27, 2022 (more than a year ago) with open houses and comment periods extended for the purposes of allowing a very detailed review by the community. The County and the City has spent much time emailing parties and making sure information was available. Asking for more time and more time without having a plan to move forward is a drain on resources especially when there is no legal basis cited. The process has been very publicized and sign in sheets and comments have been gathered for the record to show compliance with Oregon Statewide Planning Goal One.

- “The review Mr. Graybill described at the last meeting and in his more recent comments is the review necessary to identify the types of issues described in the attached comments. In the December 7, comments we filed, we provided a short list of the concerns which are detailed in the attachment and we said we were working with community members to determine an more effective way to explain them and address them. Some of the nine points were discussed at the meeting and some may have been addressed since, like the dredge disposal site problem. We believe many of these issues remain, however. While Policy 3 has been reinstated in some form in this version of the amendment, the prior references to the Special Considerations Map (which triggered the requirement to address the resources identified on the regulatory maps) throughout the policies have not been restored as best we can tell without sufficient time. Therefore, the resources identified in the original mylar maps may continue to elude protection.”

Response: The plan maps are the required regulatory map. The Special Development Considerations map is not a regulatory map but a tool. The Policy #3 language states:

The "Special Considerations Map" is NOT a substitute for the detailed spatial information presented on the Coos Bay Estuary Management Plan's inventory maps. The "Special Considerations Map" is merely an INDEX GUIDE designed as a zoning counter implementation tool that indicates when special policy considerations apply in a GENERAL area; thereby, requiring inspection of the DETAILED Plan Inventory maps. The "Special Considerations Map" must and shall at all times accurately reflect the detail presented on the inventory maps (but at a more general scale).

The Plan maps are not part of this change. The only map that was request was a use of the digitized zone map in place of the Mylar Map but retaining the Mylar Map for historical context and review in the event there is an argument of ambiguity made in the future. In the age of digitized maps that provide easy viewing to the public it these tools should be considered and incorporated. This is exactly what Goal One states:

OAR 660-015-0000(1)(4) 4. Technical Information -- To assure that technical information is available in an understandable form. Information necessary to reach policy decisions shall be available in a simplified, understandable form. Assistance shall be provided to interpret and effectively use technical information. A copy of all technical information shall be available at a local public library or other location open to the public.

The changes to Policy #3 are to ensure that technical information is available. There has been no legal or relevant argument made by Ms. Audycki.

Ms. Audycki submitted additional supplemental comments. Staff is moving to have this memo redacted as somehow, she has obtained a copy of the Shoreland Values maps which have sensitive information listed on it. This is important to keep out of public view as it contains archeological information that she is not authorized to publish. None of the argument made are relevant as they are based on a prior version of the revision memo that was replaced.

Not understanding language and regulations is understandable for non-attorney professionals, but the failure to present evidence and statements sufficient for the decision-makers and other parties to respond precludes the party from raising that issue at the Land Use Board of Appeals on that matter. The arguments seems to not only coble language from Goal 16 and relating to uses and actives that are required to be justified by an application, they have not factual relevance to the this Plan Amendment. The uses and activities are directly from Goal 16 and comply. All three plans are compliant with Oregon Statewide Planning Goal 16 and have been acknowledged. These were one plan when created and then divided up. They are all based on the plan maps, inventories, and factual base of this plan. Consolidating them into one document does not change the goal compliance. The conflict changes have been handled through a policy that explains. The City of North Bend already references the County version of the Coos Bay Estuary Management plan, so moving the text itself is not a change, and the city plan relies on the same plan maps. Therefore, this argument is not relevant and does not even cite what the legal basis for the argument is to allow a proper response.

She did not cite to the current Policy #3 which clearly list out the language regarding the maps. The Plan maps are in place.

Policy #3 states the following:

#3 "Coos Bay Estuary Special Considerations Map"

The 1985 "Special Considerations Map" was NOT a substitute for the detailed spatial information presented on the Coos Bay Estuary Management Plan's inventory maps. The "Special Considerations Map" is merely an INDEX GUIDE designed as a zoning counter implementation tool that indicates when special policy considerations apply in a GENERAL area; thereby, requiring inspection of the DETAILED Plan Inventory maps. The "Special Considerations Map" must and shall at all times accurately reflect the detail presented on the inventory maps (but at a more general scale).

Policy #3 underwent modifications in 2024, specifically to eliminate references to the Coos Bay Estuary Special Considerations Map. The Coos Bay Estuary Special Considerations Map was essentially a

compilation of all plan maps, featuring generalized boundaries. This compilation served as a practical tool for users, enabling them to ascertain whether there were overlays and special considerations applicable to a particular property.

The rationale behind the modification lies in the shift from manual methods to digital processes for mapping and layering. With the advent of digitization, the Coos Bay Estuary Special Considerations Map tool has become obsolete, as navigating overlays and development considerations can now be efficiently achieved through digital means.

Until a map has been adopted in a digital form, it can only be used as a tool in the same way the Special Considerations Map was envisioned. Removal of the Special Development Consideration Map reference has no effect on the adopted plan maps. The replacement tool for this is part of the map atlas that can serve in a similar manner. They are digitized maps but NOT a substitute for the detailed spatial information presented on the Coos Bay Estuary Management Plan's inventory maps with the exception of the ones shown in table 2 below. The inventory maps are as follows:

Table 1 – Regulatory Detailed Plan Maps :

1.	Plan Map Showing Aquatic and Shoreland Management Units (Plan Map)
2.	Substrate Characteristics
3.	Water Contours, Selected Channel Depths and Maintained Channels
4.	Physical Alterations
5.	Historical Analysis of Bay Changes
6.	Estuarine Wetland Habitats: Marshes, Tideflats and Aquatic Beds
7.	Significant Habitat of "Major" Importance Qualifying as Natural Management Units Under Estuarine Resources Goal
8.	Other Significant Estuarine Habitat Qualifying as Conservation Management Units Under Estuarine Goal
9.	Estuarine Areas Qualifying as Development Management Units Under Estuarine Resources Goal
10.	Crustacean Habitats
11.	Clam Beds and Oyster Leases
12.	Clam Species in the Coos Bay Estuary
13.	Fish Habitats
14.	Habitat for Waterfowl, Shorebirds, and Wading Birds
15.	Shoreland Values Requiring Mandatory Protection
16.	Beaches and Dunes
17.	Beaches and Dunes: Development Potential
18.	Political Jurisdictions
19.	Transportation and Public Facilities
20.	Existing Land Use
21.	Existing Water Use
22.	Schematic Land and Water Ownership Patterns
23.	"Scenario #1" Development Needs
24.	Tentative Goal #16/Goal #17 Development Priority Areas
25.	Existing & Potential Commercial Fishing and Recreational Boat Moorage
26.	IATF Moorage Decisions
27.	Selected Dredged Material Disposal Sites
28.	Selected Mitigation and Restoration Sites
29.	Goal #16 "Linkage" Matrix - Retained see regulatory Inventory Maps
30.	Aquatic Uses and Activities "Linkage" Matrix Retained see regulatory Inventory Maps
31.	Goal #17 and #18 "Linkage" Matrix Retained see regulatory Inventory Maps

32.	Agricultural and Forest Lands
33.	Wet Meadows
34.	Coos Bay Estuary Management Plan (1" = 800') – Retained see regulatory Inventory Maps
35.	Coastal Shorelands Boundary Inventory
36.	Candidate Areas Suitable for Increased Economic Growth
37.	Selected Dredged Material Disposal Sites
38.	Selected Mitigation and Restoration Sites
39	Minimum Lot Sizes/Unincorporated Areas

Regulatory Inventory Maps (Digitized Mylars)

In the event of any error or conflicts arising in the digital mapping layer, the County shall retain the original Mylar map for historical value and as a reference. The original Mylar map will serve as the authoritative source to resolve any discrepancies, ensuring accuracy and consistency in mapping data but the digital map will be the official regulatory map for decision making purposes. Archival preservation is crucial for maintaining historical records and facilitating efficient resolution of any potential issues that may arise in the digital mapping layer.

The following maps have been digitized from the original Mylar maps and will be adopted as plan maps for use in regulatory decisions:

Table 2 – Regulatory Digitized Detailed Plan Maps

Map Number	Title	Date of Adoption
34	Coos Bay Estuary Management Plan	January 10, 2024

Table 3 - Nonregulatory Digitized Inventory Maps used as a tool but not a substitute for the original Plan Map (Map Scale 1" = 40,000')

Map Number	Title
15	Shoreland Values Requiring Mandatory Protection (without Archaeological or Historical sites due to protected information)
16	Beaches and Dunes
17	Beaches and Dunes: Development Potential
29	Goal #16 "Linkage" Matrix
30	Aquatic Uses and Activities "Linkage" Matrix
31	Goal #17 and #18 "Linkage" Matrix
33	Wet Meadows
37	Selected Dredged Material Disposal Sites
38	Selected Mitigation and Restoration Sites

Table 4 – Map Atlas - Generalized Digital Maps (Map Scale 1" = 40,000') Part of the Map Atlas that should be considered for Future Updates and General Information.

Maps Number	Title
3.1	Generalized Zoning
3.2	Management Units
3.3	Property Use Classification
4.1	Improvement Status
4.2	Improvement Value Ratio
4.3	Public Ownership
4.4	Active and Inactive Diking Districts

4.5	Fire Departments and Districts
4.6	School Districts
4.7	Coos Bay-North Bend Water Board
4.8	RESERVED
5.1a	Species of Concern
5.1b	Species of Concern (<i>continued</i>)
5.2	Oysters, Clams, and Crabs
5.3	Flood Zones
5.4	Landslide Susceptibility
5.5	Slope
5.6	National Wetlands Inventory
5.7	RESERVED
5.8	Sea Level Rise
5.9	Tsunami Inundation
5.10	Estuary Features
5.11	CMECS Aquatic
5.12	CMECS Biotic
5.13	CMECS Physical (Geoform)
5.14	CMECS Geologic Substrate
6.1	Dredged Material Disposal Sites (2018)
6.2	Restoration Sites Inventory
6.3	Tidal Wetland LMZ Prioritization
6.4	Urban Renewal Districts
6.5	Economic Zones

January 4, 2024

Dear Coos County, Coos Bay and North Bend Planning Team:

Thank you and all of the public involved for your hard work to try to configure and clarify the work of beginning to address our Coos Bay Estuary Management Plan. This effort was initiated by a contract with consultants as a way to be the first step toward updating the Coos Bay Estuary Management Plan.

You as planners and elected officials have heard many of us at hearings talk about our concerns and desire to be engaged as citizens in this process. Many of us have skills that are useful to understanding the function of estuaries and have experience with policy and regulatory affairs. This estuary is of the highest importance, and that is why we are here to engage. We value our community, and we are dependent on a functioning estuary and surrounding environment for our safety and wellbeing.

I have been challenged to keep up with reviewing this past month as I have been provided 2 documents for review in December and then last night when I was still working on review, I received yet another version of these documents that was formatted for official approval on January 10th.

I plead with you to PAUSE the approval of this document provided and formatted for approval on January 10. It has many typos and I am concerned about the way it moves many additions into sections where they will no longer be held separately from the 1984 version once the red lines are gone. These additions and corrections are not carefully documented and could cause serious problems in the future interpretation.

Much of my frustration has come from the fact that the consultants that were hired to provide what was rolled out as a digitized easily accessible form of the plan did not really turn out to be such a simply described document. The consulting contractors Mike Howard and Amanda Ferguson provided a detailed report and memo dated May 31, 2023. COOS BAY ESTUARY MANAGEMENT PLAN (CBEMP) REVISIONS (PART 1, PART 2) AND IMPLEMENTING ORDINANCE REVISIONS.

In the time since we have seen the consultants' report, many of us have been concerned about having an adequate review of the documents, and the proposed interpretation of their suggestions and overt changes made to the document.

Of particular concern to me is that in the detailed report, the interpretations and decisions suggested have been provided by staff except when we have been able to review and point out discrepancies. This is an enormous document, and going through it thoroughly takes time. I believe decisions for changes or substitutions need a careful dialog regarding interpretation of any proposed changes.

Fortunately, many of the most serious concerns have been headed by you the planners. For example, their recommendation that we remove many components of the original plan CBEMP Part 2 and the Data Source and replace them with more recent information. Many of us objected that this was not something that was wise to

do. Thank you for changing that recommendation from their letter, and also removing the changes in committee structure that were inserted.

By the same logic, the process of review and response provided only in hearings does not satisfy the need for a careful review by citizens in a work group. We have not been invited and provided with time to sit and work through this enormous document in a detailed manner. Instead, we independently review it and then comment. This is inefficient and also frustrating for you I am sure. I fully support Mr. Graybill's approach to this provided in his testimony statements regarding how to make this work appropriately. I urge you to accept this option.

In reviewing this proposed edited version, I have a serious concerns question as to how to structure a document that has added sections to the existing historical document but is editing selected components. Right now, there are redlines in the document, and highlights of areas for changes, but after approval this will not be clear.

Can we have some council from historical experts as to how to capture this appropriately? I know that when codes are changed there are numerous footnotes provided with details. We need a template for this so that we know what has been inserted and what remains the same.

At the last hearing I testified about the importance of retaining all the original background material that supported the lineation of the management units, and decision regarding use. This is essential especially when we move toward a full revision that provides the context for those uses.

As an example of some of my concern regarding the proposed changes begin even at the title page of our original 1984 document. They are confusing. The new date on page Volume II Part 1 Section 1 Page 1 reads: COOS BAY ESTUARY MANAGEMENT PLAN ~~2019~~2024 REVISION
Part 1 - Plan Provisions

Then the plan goes on to provide the former data and members that created this document. I think having all the other names of the first iteration is especially important as this is supposed to only be a digitalized version, so why are we renaming and dating it and not putting a clear amendment notation as to what this is?

Similarly, when the names of an agency are changed, it is not correct to change the names on the archival portions of this document. For example, page 5 has Oregon Division of State Lands and Oregon Department of Fish & Wildlife. Leave those as those are appropriate to the time that this was prepared.

In some other documents there has been a preamble with table of locations of such name changes to show them in portions of the review process. However, some changes are just made to portions of this document. This document is the legal guidance for our management. We need to be certain of how to frame amendments to this, as it is a full revision as you clearly indicate. So how do we provide this

clearly and with the details that are needed so that it is not contested in court or otherwise?

I understand the frustration with our County and City planners with how long this has taken. However, I disagree with the summary of the findings of the process during this past year when it is stated that these open public meetings held in the spring satisfied the elements of public involvement. As someone outside of the planning department, this process has not provided a serious interactive involvement. We provide comments, and it puts us in an adversarial back and forth instead of providing valuable input. We get back a response from planners with their interpretation of the findings. There is no rebuttal or discussion. There has been no independent entity acting to resolve or discuss these in a collaborative process.

Even with one of the solutions to appoint committees via a resolution, the resolution provided last night does not indicate what and how these groups will use for process and how they will interact.

I again thank you but plead with you to PAUSE the approval of this document and appoint a working committee of concerned citizens to go line by line and consult with experts as to the methods to provide clearly and codify the changes suggested.

Sincerely,



Christine Moffitt, PhD
710 Denise Place
Coos Bay OR 97420

From: [Rick Eichstaedt](#)
To: planning@co.coos.or.us
Cc: [Courtney Krossman](#); [Matthew Schwoebel](#); dpayne@northbendcity.org; [Chelsea Schnabel](#); [Ashley Russell](#)
Subject: Comments on CTCLUSI on Draft CBEMP Revisions and Resolution
Date: Wednesday, January 3, 2024 4:16:50 PM
Attachments: [1.3.2024 Comment to Revised CBEMP.pdf](#)

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Jill –

Please find comments submitted on behalf of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians on the draft CBEMP revisions and resolution.

Please confirm receipt of these comments.

Thanks for consideration of these comments.

Rick Eichstaedt
Attorney for CTCLUSI



REY-BEAR McLAUGHLIN, LLP
421 W RIVERSIDE AVE, SUITE 1004
SPOKANE, WA 99201-0410
WWW.RBMINDIANLAW.COM

January 3, 2024

Jill Rolfe
Coos County Community Development Dep.
250 N. Baxter
Coquille OR 97423

SENT VIA EMAIL (planning@co.coos.or.us)

Re: Revisions to the Coos Estuary Management Plan

Dear Ms. Rolfe:

This letter is submitted on behalf of my client, the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (“CTCLUSI”), on the proposed revisions to the Coos Estuary Management Plan (“CBEMP”), including the proposed resolution included with the December 20, 2023 staff report.

CTCLUSI appreciates the inclusion of the Tribe to the Citizen Advisory Committee and Technical Advisory Board. The Tribe believes some minor edits are needed to both the draft resolution and the draft revised CBEMP to clarify the role of the two local Tribes, as set forth below

Comments on Draft Resolution

- **Page 1:** The language about appointment Tribal appointment to the Citizens Advisory Committee should be revised to state: “Tribal governmental representative, one appointed by each local Tribe (Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians and Coquille Tribe).
- **Page 2:** The second sentence describing the Cultural Heritage Expert/Anthropologist representative on the Technical Advisory Board should be revised to state: “An appointment of cultural resource representatives by the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians and Coquille Tribe will satisfy this role unless otherwise agreed to by the governing bodies of those Tribes.”
- These changes should be reflected in the revised CBEMP.

Comments on Draft Revised CBEMP

- **Section 2.1, I(c):** Reference to “Tribes” should specify “the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians and Coquille Tribe.”
- **Section 2.3.2:** Reference to “Tribes” should specify “the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians and Coquille Tribe.”
- **Section 2.3.3:** Reference to “Tribes” should specify “the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians and Coquille Tribe.”
- **Policy #18, section II:** Reference to “Coos, Siuslaw, Lower Umpqua Tribe(s)” should be revised to “the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians.”

Thanks for consideration of these comments. The Tribe welcomes the opportunity to work with its local partners to implement the CBEMP.

Respectfully,

A handwritten signature in black ink, appearing to read 'RIS', with a long horizontal flourish extending to the right.

Rick Eichstaedt
Attorney for CTCLUSI

From: [Donna Bonetti](#)
To: [Chelsea Schnabel](#); [Derek Payne](#); planning@co.coos.or.us
Subject: Coos Bay Estuary Management Plan
Date: Wednesday, January 3, 2024 4:57:53 PM

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Dear planners and councilors,

Thank you for your dedication and your hard work. I want to commend you for the updates. I also want to make sure that emerging science on climate change is used especially on the climate change plan maps and also the tsunami risk maps. Having worked as non scientific staff in one of our nation's top atmospheric science labs in the past, I am very aware that climate change is happening much more quickly than scientists have previously projected. This means that sea level rise is likely to be more than what older maps projected. Our coasts are already experiencing stronger storms along with fires, hurricanes and devastating heatwaves. This will all need to be taken into account by the planning process to address future risks and needs. I am hoping that as things change some flexibility to updating as needed at the recommendation of top scientist will be built into the process.

Thanks again for your hard work and your consideration.

Donna Bonetti

Sent from my iPad

From: [Ken Bonetti](#)
To: [Chelsea Schnabel](#)
Subject: Re: NOTICE - CBEMP Phase I Updates (Joint Work Session Meeting Materials Available Online for Review)
Date: Friday, December 29, 2023 3:36:41 PM

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Hi Chelsea,

Thank you for your response to my comments. My principle reason for responding back is to ask you to extend the comment deadline so that people have time to evaluate and respond to proposed revisions. The legal staff of organizations I look to for expert analysis are not expected to return until Jan. 2. The technical nature of your proposed revisions requires time for evaluation and that cannot happen before Jan. 3. Those organizations likewise will not have time to provide educated comments. Please consider this request and change the deadline.

Thank You,
Ken Bonetti

On Fri, Dec 29, 2023 at 9:32 AM Chelsea Schnabel <cschnabel@coosbayor.gov> wrote:

Hi Ken –

Thank you for taking the time to review the proposed changes and to reach out with questions.

Regarding the request to define the composition of various committees within the CBEMP planning document: It is not necessary nor beneficial to explicitly define within the CBEMP the composition of each of these advisory committees, doing so would leave little room in the future to be flexible to add in other industries or interests not currently contemplated; therefore, staff recommends the language related to committee composition in the CBEMP be general. In lieu of detailing the intended interests to be represented on the various committees directly in the CBEMP, staff recommends outlining those specifics in an adopted multi-jurisdictional resolution. The benefits of adopting a resolution setting forth the commitment to complete a comprehensive update of the CBEMP and establishing a basic workplan and guidelines including intended compositions for development of the citizen advisory and technical advisory committees include: 1) certainty that the CBEMP will not need to be amended again to address the committee composition prior to initiating the next phase of these updates, which could be timely; 2) continued coordination among the three (3) jurisdictions; and 3) increased potential for grant funding to further future updates.

If you look to the example of Yaquina Bay's Estuary Management Plan update that was provided by Oregon Shores at the December 7, 2023 Joint Work Session, you can note that the advisory group formed for that purpose was not the result of their plan having specific interests outlined directly in the planning document. If they had been bound to a list defined in their plan, their advisory group may have looked much differently, and the update process may not have been as successful.

While I do understand the concern, I hope that you, and the community, can see the overall benefits to moving forward as proposed.

Please let me know if you have any further questions. I look forward to seeing you in the New Year. :)

Best,

Chelsea Schnabel, AICP, CFM | Planning Administrator

City of Coos Bay – Community Development Department

500 Central Avenue, Coos Bay, OR 97420

(541) 269-1181 x3531 | cschnabel@coosbayor.gov

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From: Ken Bonetti <kenecon2004@gmail.com>

Sent: Thursday, December 28, 2023 8:17 PM

To: Chelsea Schnabel <cschnabel@coosbayor.gov>

Cc: Christine Sylvester <csylvester@coosbayor.gov>; jrolfe <jrolfe@co.coos.or.us>; Derek Payne <dpayne@northbendcity.org>

Subject: Re: NOTICE - CBEMP Phase I Updates (Joint Work Session Meeting Materials Available Online for Review)

I also read the CBEMP amendment process (Sec 2), which on the surface seems orderly, comprehensive and reasonable. However, it seems they utilized general wording for citizen and technical committee composition rather than the more specific composition wording listing interests and expertise we recommended for the respective committees. What's your take on all this?

On Thu, Dec 21, 2023 at 1:04 PM Chelsea Schnabel <cschnabel@coosbayor.gov> wrote:

Hello –

The County has posted meeting materials for the upcoming **January 10, 2024 Joint Work Session** online for review at https://www.co.coos.or.us/system/temporary/filefield_paths/jan102024reportandattachments.pdf.

Please Be Aware:

All testimony is due by **January 3rd at 5:00 p.m.** Comments should be focused on the criteria for a legislative plan amendment. Comments may be emailed to planning@co.coos.or.us, mailed to 250 N. Baxter, Coquille OR 97423, or dropped by 60 E Second St. Coquille OR. The office is closed on Friday's but there is a drop box available. If mailing, please allow for time to be received.

Enjoy Your Holidays,

Chelsea Schnabel, AICP, CFM | Planning Administrator

City of Coos Bay – Community Development Department

500 Central Avenue, Coos Bay, OR 97420

(541) 269-1181 x3531 | cschnabel@coosbayor.gov

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Oregon Shores
Conservation Coalition



**Rogue
Climate**

Friday, December 22, 2023

TO:

Jill Rolfe, Coos County Community Development Dep., planning@co.coos.or.us
Chelsea Schnabel, Coos Bay Community Development Dep. cschnabel@coosbayor.gov
Derek Payne, North Bend Planning Dept., dpayne@northbendcity.org

RE: Staff Report for Jan 10th Joint Work Session on the Coos Bay Estuary Management Plan

Greetings,

Rogue Climate and Oregon Shores Conservation Coalition are two organizations with operations based in Coos Bay. We have been commenting on and supporting community engagement in the phase 1 Coos Bay Estuary Management Plan update process. Our joint organizations appreciate the substantial work that was done to offer a robust staff report since the latest work session on December 7th.

We respect the request that comments on the CBEMP draft be made by January 3, 2024, to allow staff and decision-makers adequate time to address public concerns. However, the timing of the written comment deadline is too quick of a turn-around after the holiday season, and the staff report contains too many new materials for the public to review and comment on meaningfully.

We request a comment deadline extension to allow our organizations and South Coast community members more time to engage with this important comment period. We will make every effort to get comments in by the deadline, but given the quick turn-around, this might result in new information being shared in oral testimony at (or after) the next Joint Work Session. Inadequate time to review materials may also lead to further public confusion about the plan amendments being made at this stage.

We would like to address any concerns while we are still in the Joint Work Session period, so that all parties are in full understanding-and in support of-plan adoption when individual jurisdictions hold their hearings.

We hope you can meet this request, for the benefit of the public and the process as a whole. Thank you again for your efforts to improve the plan and address public concerns.

Sincerely,

Ashley Audycki
South Coast Coordinator
Rogue Climate

Annie Merrill
Ocean and Estuaries Manager
Oregon Shores Conservation Coalition

From: [Ken Bonetti](#)
To: [Chelsea Schnabel](#)
Subject: Typo-Corrected: CBEMP Comments-My Apologies, Please Use
Date: Wednesday, January 3, 2024 5:24:50 PM

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January 3, 2024

Dear Councilors and Commissioners:

Re: CBEMP Update

First, thank you for the work that you have done up to this point on this important document. As a relatively new resident who came from an area lacking a comprehensive regional land use plan, I know firsthand what damage can be done to a once healthy and beautiful environment without informed guidance and commitment from political leadership to conserve, mitigate, and restore natural assets, as distinct from continued degradation.

I would like to make the following comments for the record:

- Please commit to full funding of Phase II. It would be good to partner with other organizations and state agencies, in addition to seeking grant funding, which alone may not be adequate.
- Please commit to an update that fully addresses climate change, justice and adaptation with in-depth community involvement.
- I see that staff preferred general wording to the composition of the citizens advisory committee, suggesting that it seems more efficient than listing individual categories of stakeholder interests. I still prefer the individual listings and an efficient process that allows those listings to be changed when necessary. Otherwise, how will we know that the composition of the citizens advisory committee is balanced and representative as we proceed to Phase II and Plan implementation. Can a mechanism be established to ensure the desired and necessary diversity? Finally, this section should be included in the body of this update rather than as a separate and likely weaker resolution.
- There needs to be more clarity with respect to the definitions between pages 5 and 13 in the staff report. It is unclear which definitions will ultimately be used and, in some cases, there are considerable differences among definitions adopted by different jurisdictions.
- **All local tribes need to be included in all steps in the update process and ongoing management of the Coos Bay Estuary.**
- I am a bit confused as to the real distinctions between major and minor amendments to the CBEMP. It seems the distinction between the two categories is not so clear cut as is assumed for changes pertaining to one parcel versus changes that

may have Bay wide impacts. Could not there be potential spillover effects from single parcel (i.e. minor) amendments? Could there be precedents established that indeed have Bay wide impacts or constitute an alteration of principle not in keeping with the spirit of the document? It seems such amendments require broader citizen and technical input than is envisioned for “minor” amendments. Perhaps a mechanism can be established to identify and address potentially broader implications from putatively ‘minor’ amendments.

These are the thoughts I had in the very limited time provided to study this rather lengthy and complex document.

Sincerely,
Ken Bonetti, North Bend

From: [Mike Graybill](#)
To: adibble@co.coos.or.us; [jrolfe](#); [Chelsea Schnabel](#); dpayne@northbendcity.org
Subject: Testimony for 10 January 2024
Date: Wednesday, January 3, 2024 8:52:01 PM
Attachments: [Mike Graybill testimony for 10 Jan 24 joint work session.docx](#)
[Clarifying questions and specific comments related to the staff report dated 28 December 2023.docx](#)

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Greetings Jill, Amy, Chelsea, and Derek

I attach two document files that I ask to have included in the packets for consideration at the upcoming joint work session of the City councils and the County Commission. The "testimony" file is directed specifically to the elected officials. The "clarifying questions" file poses questions that you will be best qualified to answer.

Thank you for considering these comments and suggestions! Best wishes for the year ahead.

--

Best wishes

Mike Graybill

3 January 2024

Written testimony of Michael Graybill for consideration at the 10 January 2024 joint work session of the elected leaders of the Coos County Commission and the city councils of the cities of North Bend and Coos Bay.

The following comments propose actions for the commission and councils to take related to the proposed partial revision of Coos Bay Estuary Management Plan (CBEMP).

References made in this testimony to “the staff report” are based on a 22-page staff report distributed for review by the planning directors of Coos County and cities of Coos Bay and North Bend on 28 December 2023.

Dear Commissioners and City Councilors

At this time, I request that you consider taking the following three actions related to the revision of the Coos Bay Estuary Management Plan:

1. Consider a **motion to: “amend the Coos Bay Estuary Management plan to incorporate a digital version of the management unit map that replicates the information contained in the mylar maps presently in use.”**
2. Prior to adopting the proposed revisions to the CBEMP, consider a **motion to: “establish a citizen committee designed to augment the capacity of the staff and the elected officials presently working to revise the CBEMP. The Citizen work group will be sanctioned by the elected officials and called upon to prepare a report for consideration by the planning staff and elected officials involved in the plan revision process. The work of the citizen committee established by this motion will be time bound and the scope of work of the committee will be reviewed and approved by the appointing elected body.**
3. Consider a **motion to “continue the joint work session related to adoption of this partial plan amendment until the citizen committee referenced above has had an opportunity to provide the decisionmakers with the above-mentioned report.”**

The introductory sentence of the 28 December 2023 staff report summarizes comments received at a joint work session held on 7 December 2023 this way; “During the December 7, 2023 meeting there were a lot of comments from the public that the process should be delayed until a full revision has been completed”. While that may be the case, I wish to clarify that the testimony and recommendations I provided at that meeting did not propose to defer action until the entire plan revision was completed. I recommend that the elected bodies defer adopting the current draft version of the proposed plan amendment until after the Councils and commission provide an opportunity to engage the public in a structured line-by-line review of the work products prepared by consultants contracted to prepare a

digital draft version of the CBEMP by transcribing the existing CBEMP. The consultant was also tasked with integrating elements of the estuary plan that are currently being independently implemented by each separate municipality.

As referenced in the staff report, I am supportive of the intent of statewide planning goal 1 to *provide "the opportunity for citizens to be involved in all phases of the planning process."* Given that the proposal before the elected bodies of the Cities and County involves changes to the CBEMP beyond a simple verbatim editorial transcription of the existing plan, a structured opportunity for meaningful citizen involvement should be incorporated in this phase of the plan revision process. **My recommendation is to defer adoption of some of the staff's recommended text changes until a citizen committee has been tasked to review and comment on the recommended revisions.**

Adoption of the staff recommendations at this point misses an *"opportunity for widespread public involvement"* in this important first step in the CBEMP revision process. Action to adoption of the staff recommendations at this time forsakes an opportunity for meaningful citizen involvement and diminishes *"The ability for (of) the public to be involved in all phases of the planning process"*. **I request that the City and County elected officials pass a motion to sanction a structured opportunity for citizens to assist the staff's effort to transcribe the current version of the CBEMP into a digital format.** The parameters of this copy-editing task are outlined in more detail herein.

It is important for citizens to be familiar with the structure, content, and format of the existing CBEMP in order to provide for meaningful citizen participation in the substantive plan revision discussions yet to be undertaken. Considering the complexity of the CBEMP, opportunities for citizens to provide input to elected officials as part of the current plan amendment process have been limited to meetings that provide three minutes each for individual public testimony. **I ask you to take action to provide a more in-depth opportunity for citizen members of the community to provide more specific and more constructive feedback to the elected decision makers.** Enlisting the help being offered by the public will go far to facilitate and support citizen participation in subsequent steps in the plan revision process.

Establishing and directing a citizen committee tasked with undertaking a structured document review sanctioned by the elected bodies of the cities and county will provide an opportunity for engaged citizens to make recommendations aimed at *"Making technical information easy to understand"* as outlined on page two of the staff report. Soliciting public participation at this stage of the process will also provide one or more *"Feedback mechanisms for policymakers to respond to public input"*. Engaging citizens to assist the staff and the elected officials with plan revision at this stage of the process will clearly address the citizen participation objectives outlined in the staff briefing document and referenced above.

The task assigned to a citizen committee empaneled to review the draft plan and staff recommendations can (and should be) be time bound and very specific. Addressing gaps in funding needed to complete the plan revision is an assignment that a citizen involvement committee could also be tasked with working to secure. The task of verifying hyperlinks inserted into the digital form of the CBEMP as recommended on page 3 of the staff report is an example of an assignment that could be completed by a citizen advisory group tasked with conducting a thorough, line-by-line review of the work products developed by the consultant contracted to build a digital version of the original document.

The statement by Meg Reed of the Oregon Department of Land Conservation and Development (DLCD) at the 7 December 2023 meeting made it clear that action by the cities or county to partially amend the CBEMP at this time is not a state requirement or a prerequisite for Coos County to receive funding being sought by the DLCD to support the revision of the CBEMP. The DLCD intends to seek funding for estuary plan revisions throughout the state and DLCD staff have confirmed that support for Coos County's efforts to revise the CBEMP will be explicitly included in DLCD's funding request. A decision to defer immediate adoption of plan amendment opportunities identified to date will not interfere with state agency plans to seek funding in support of CBEMP revision efforts. There is no urgency or requirement to adopt the proposed changes to the plan that have been identified by the process completed thus far.

A citizen committee could be given explicit instructions constraining the task and scope of the committee to that of a text editor. **The intent is not to modify the content of the document rather it is to provide a review to identify if the digital version produced by the contractor is a faithful transcript of the original plan by identifying content in the original plan that may have been omitted from the digital document and additions or changes that have been made in the course of the transcription process.**

It is appreciated that the consultant reviewed the CBEMP with staff and made recommended changes to rectify inconsistencies between document versions. This represents excellent staff work but citizens have not been part of this process. A citizen advisory body could be convened to confirm the consultant's work and provide the elected officials with a lay person's perspective on the changes to the plan recommended by the staff thus far.

I offer a few examples of topics and decision options identified in the staff report that a citizen advisory group established by the elected officials could be directed to evaluate:

- The staff report suggests that revised language in Policy #39 has been included in the proposed amendment but points out that this recommended change "may be redundant". A citizen volunteer group empaneled by the elected officials to conduct a line-by-line text editing review could offer a recommendation on the need for this revision as part of their text editing report.
- The distinction/s between classifying "Research and Educational observations" as an "activity" or a "use" is/are not discussed in the staff report. The differences between a "use" and an "activity" could be clarified to help decision makers better understand the significance of this recommendation. The staff appears open to changing how "Research and Educational observations" is classified by the CBEMP but is also prepared to retain the current classification. A citizen group could be called upon to advise the decision makers on how the CBEMP can best classify this use/activity.
- The recommended change to Special Condition 9b regarding "Riprap" is an example of a revision of the CBEMP that goes beyond the simple transcription of the existing document into a digital format. It is an example that the present draft version of the CBEMP is more than a verbatim transcription of the original plan and includes new standards upon which estuary uses and activities will be judged. The public should be provided with a formal process to comment on proposed changes to the CBEMP that go beyond a verbatim transcription of the current version of the plan. The commission and council members could ask citizen work group empaneled to evaluate this and other proposed new changes included in the proposed draft amendment.

- A citizen advisory group tasked with conducting a line-by-line review of the digital version could also be tasked with providing feedback to the elected Council members and Commissioners on the formatting revisions that have been introduced to the digital version of the plan.

The following is a list of clarifying questions and specific comments related to the staff report dated 28 December 2023. The staff report was prepared to guide discussion at a joint work session meeting of the Coos County Commission and the elected councils of the cities of North Bend and Coos Bay scheduled for 10 January 2024.

Submitted by: Michael Graybill.

1. The "Revised Tasks to be completed" list presented on page 3 of the staff report is very helpful but the work by the staff to summarize changes and tasks does not satisfy requests by citizens to be involved in a line-by-line review of the consultant's work to transition the plan from its original format to a digital document.
2. The structure of the sentence *"The recommendation is to modify this incorporate in the digitized maps as a spatial information and relay on the Mylar map as the official map for decisions"* presented on page 2 of the staff report is confusing. I request clarification on the meaning of this sentence.
Does the word *"this"* in the sentence quoted above mean "the Special Considerations map"? If so, does this sentence mean that the recommendation is to modify the "Special Considerations map"? I presume the word "relay" in this section is a typographical error and the intent is to use the word "rely". The amendment should clearly specify which map version is to be the controlling version in case a discrepancy is identified.
3. Because the CBEMP is closely tied to the ordinances adopted to implement the plan, amending the plan in multiple steps will also likely necessitate multiple actions by the cities and county to also amend the implementing ordinance tied to each incremental plan amendment action. The linkage between the CBEMP and its associated implementing ordinances suggests it is likely to be more complicated to amend the plan through multiple increments than amending the plan using fewer iterations.
4. Some text has been retained to conserve the original form of the document while other additions have been made to update the plan to reflect current information. Thus, the digital version of the plan retains the names of the Coos County Commissioners at the time of plan adoption yet there is content in the plan that the named authors never reviewed or acted on.
5. Although it is not stated in the lead in paragraph introducing changes to definitions, the changes to the definitions in the CBEMP also include the definition for "commercial uses" and multiple additional terms not listed.
6. If there are no changes to the original CBEMP definition of "docks and moorage" it is not clear why some definitions have been included in a proposed plan amendment document. Unless a change is proposed, the definition need not be included in the amendment motion. This appears to be the case for several other definitions identified in the staff report including; "Recreational Vehicle Park", "subordinate", "Urban development Area (UD)", "Urban Water-Dependent Areas (UW)", and "Water Development Shorelands (WD)".
7. If revision of the language of the definition for "docks and moorage" is being considered as part of this phase of the CBEMP revision, then I recommend that the definition be further revised to specify the size of vessels to which the definition applies. For example, in the absence of a clause to specify vessel size, this definition could conceivably be used to justify development of a commercial pier or waterfront structure capable of berthing 5 deep draft merchant vessels. A 5-berth facility for deep draft merchant vessels could conceivably require over a mile of shoreline.

8. In this case the current documents reviewed for consistency use three different definitions for the term "shoreline" The CBEMP definition is dynamic in that the location of the shoreline moves with changes in water level. The definition recommended for adoption is the language of the ordinance in this case. The ordinance definition is a fixed point established as the ordinary high water mark, No explanation is given stating why this change is needed or why the recommended should be preferred over the existing definition.
9. The need to change or the rationale underlying the staff recommended changes to the definition has not been articulated, making it difficult for the lay public to understand the rationale behind the staff recommendation.
10. The reason/s why the proposed change to CBEMP policy #45 is "not new but needed to be included" is not given. If this needed change is a requirement, the law or policy underlying the suggested change should be identified for consideration by the elected bodies and the public.
11. The distinction/s between classifying "Navigation and water-dependent enterprises" as an "activity" or a "use" is/are not clear (to me). The differences between a "use" and an "activity" could be clarified to help decision makers better understand the significance of this recommendation. The staff appears open to changing how "Navigation and water-dependent enterprises" is classified by the CBEMP or to retaining the current classification. A citizen group could be called upon to advise the decision makers on how the CBEMP can best classify this use/activity.
12. Changing the terms "Dredge Material Disposal" and "Flow Lane Disposal" in the CBEMP is an example of a change recommended by the consultant contracted to transcribe the adopted version of the CBEMP into a digital format that staff have proposed to reject because the recommendation is "not consistent with the overall plan". I have previously provided other examples where the consultant offered suggestions or recommended changes that have not been accurate or acceptable to the community. It is my hope that a citizen group can be tasked with finding other similar inconsistencies before being adopted.
13. The staff report does not say how the differing treatments of "aquaculture" by the Coos Bay city plan and the Coos County/CBEMP was resolved. It requires a reviewer of the staff recommendation to consult the management unit language in a separate document to determine if or how the recommended changes differ from the current CBEMP language.
14. The staff report identifies that language in management unit 20-CA has been modified but it does not articulate the differences between the Coos Bay city plan and the Coos County/CBEMP or how those differences were resolved. It requires a reviewer or a decision maker to consult the recommended management unit language in a separate document to determine if or how the recommended changes differ from the current CBEMP language and if those changes are acceptable to the bodies responsible for adopting the recommended changes.
15. The introductory sentence under item "2" at the bottom of page 19 related to "implementing ordinances" is difficult (at least for me) to understand. I interpret this sentence to mean the following.
16. "Adoption of the digitized zone map and the revisions to the CBEMP Volume II part 1 recommended to date will also require Coos County, Coos Bay and North Bend to adopt revised implementing ordinances to reflect the changes to the CBEMP made thus far. I further interpret this to mean that a similar process to adopt revised implementing ordinances will be required

following adoption of any additional changes to the CBEMP made during the forthcoming stages of the plan revision process.

17. It is not clear to me why removing references to "Management Unit Uses and Activities" from chapter 3 of the Coos County Zoning and Land Development Code is necessary at this stage of the plan revision.
18. Are the "Plan Maps" referenced under recommendation b) on page 20 the same as the Digitized Zone Map" referenced under #2 on page 19 of this staff report?
19. Given the large number of maps/spatial information renderings, it would be helpful to include a glossary of terms related to maps and to adopt a consistent terminology for the various maps and spatial information renderings.
20. The definition of "Coastal Shoreland Area" for the City of Coos Bay included a reference to the Ocean shore, but the recommended definition for "Coastal Shoreland Area" to be incorporated into the CBEMP does not include the ocean shore as part of the definition. (see definition on Page 6 of this document). If the Coos Bay city council rescinds Volume 3 of the Coos Bay comprehensive plan and replaces Volume 3 with a reference to the CBEMP, will doing so change the ability of the city to manage "coastal shoreland areas" including "those areas immediately adjacent to the ocean..." in its jurisdiction?

From: [Annie Merrill](#)
To: [Planning Department](#); [Chelsea Schnabel](#); [Derek Payne](#)
Subject: comments on CBEMP for Jan 10th work session
Date: Wednesday, January 3, 2024 4:40:14 PM
Attachments: [CBEMP Extension Request \(1\).pdf](#)
[Oregon Shores CBEMP comments 1.3.24 \(1\).pdf](#)

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Jill, Chelsea, and Derek,

Please see the attached comment letter and extension request joint letter regarding the draft CBEMP, resolution, and staff report for the January 10th work session and hearings.

Please confirm receipt of these comments

Thanks!

Kind regards,
Annie Merrill

--





Tuesday, January 3, 2024

TO:

Jill Rolfe, Coos County Community Development Dep., planning@co.coos.or.us
Chelsea Schnabel, Coos Bay Community Development Dep., cschnabel@coosbayor.gov
Derek Payne, North Bend Planning Dept., dpayne@northbendcity.org
Members of the Coos County Board of Commissioners
Members of the Coos Bay City Council
Members of the North Bend City Council

RE: Dec 28th Staff Report for Jan 10th Joint Work Session on the Coos Bay Estuary Management Plan

Greetings all,

Oregon Shores Conservation Coalition has been invested in the Coos Bay Estuary Management Plan update for the past several years, and we remain highly supportive of the planning process. We commend and thank planning staff for their time and diligent efforts to quickly respond to concerns raised in previous work sessions and develop a new version of the plan to present to the public and decision-makers in advance of the January 10th work session and hearings.

However, we feel the timeline for adoption on January 10th is now too rapid given the degree of text changes that were made in the latest iteration of the plan and the staff report posted on December 28th, 2023—just days before the new year holiday. We regrettably have not had time to review the new version of the plan in depth by the written comment deadline of January 3rd, and are concerned that this tight turnaround over the holidays may also be a barrier to adequate public engagement on the new material.

We kindly ask that the January 10th work session be used as an opportunity to discuss the changes that were made in the latest iteration of the plan, and the individual jurisdictions' public hearings on plan adoption be continued to a later date(s). We further request that the written comment period for the public hearings be extended to reflect a continuance (such a request for an extension was also noted in the attached joint letter with Rogue Climate). It is not necessary to fast-track plan adoption in early January, as DLCD has indicated a timeline delay will not disqualify the county from potential funding. At this juncture, it is more pertinent to slow the adoption to ensure that the final plan is clean, clear, and has widespread community support.

We will be offering more detailed comments verbally and in writing at the work session, when we have had more time to adequately review the new plan. Having reviewed the draft resolution, we are in support of each jurisdiction adopting the resolution with the revised changes offered by the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians. We

thank you for coming to a reasonable compromise on the ideal composition of the various committees and appreciate the commitment to a more comprehensive future update with better public participation.

Thanks for considering these comments. We look forward to seeing the phase 1 plan adopted in the near future.

Respectfully,

Annie Merrill
Ocean and Estuaries Manager
Oregon Shores Conservation Coalition



Oregon Shores
Conservation Coalition



**Rogue
Climate**

Friday, December 22, 2023

TO:

Jill Rolfe, Coos County Community Development Dep., planning@co.coos.or.us
Chelsea Schnabel, Coos Bay Community Development Dep. cschnabel@coosbayor.gov
Derek Payne, North Bend Planning Dept., dpayne@northbendcity.org

RE: Staff Report for Jan 10th Joint Work Session on the Coos Bay Estuary Management Plan

Greetings,

Rogue Climate and Oregon Shores Conservation Coalition are two organizations with operations based in Coos Bay. We have been commenting on and supporting community engagement in the phase 1 Coos Bay Estuary Management Plan update process. Our joint organizations appreciate the substantial work that was done to offer a robust staff report since the latest work session on December 7th.

We respect the request that comments on the CBEMP draft be made by January 3, 2024, to allow staff and decision-makers adequate time to address public concerns. However, the timing of the written comment deadline is too quick of a turn-around after the holiday season, and the staff report contains too many new materials for the public to review and comment on meaningfully.

We request a comment deadline extension to allow our organizations and South Coast community members more time to engage with this important comment period. We will make every effort to get comments in by the deadline, but given the quick turn-around, this might result in new information being shared in oral testimony at (or after) the next Joint Work Session. Inadequate time to review materials may also lead to further public confusion about the plan amendments being made at this stage.

We would like to address any concerns while we are still in the Joint Work Session period, so that all parties are in full understanding-and in support of-plan adoption when individual jurisdictions hold their hearings.

We hope you can meet this request, for the benefit of the public and the process as a whole. Thank you again for your efforts to improve the plan and address public concerns.

Sincerely,

Ashley Audycki
South Coast Coordinator
Rogue Climate

Annie Merrill
Ocean and Estuaries Manager
Oregon Shores Conservation Coalition

From: [Planning Department](#)
To: [Annie Merrill](#); [Planning Department](#); [Chelsea Schnabel](#); [Derek Payne](#)
Cc: [Ashley Audycki](#)
Subject: RE: Staff Report for Jan 10th Joint Work Session
Date: Tuesday, December 26, 2023 11:12:21 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

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Hello,

Currently, I am on vacation and checking email as time permits.

Policy 3 clearly distinguishes between regulatory digitized maps and non-regulatory digitized maps.

The tool implemented in Policy 3 assists planners in determining the applicable mapping information for a property. However, it was never intended to serve as a substitute for regulatory Mylar maps. The only map that is requested to use in lieu of a Mylar map is the one that replaces Map 34—the official zone map. The others, which have been generated from Mylar data, will remain as a tool. This decision aligns with testimony that has repeatedly requested for more time to confirm the data, as indicated in the provided text screenshot.

Table 1 comprises all the current Mylar Maps, Table 2 represents the one digitized map that will become regulatory (while retaining the Mylar map for historical purposes), Table 3 includes other digitized layers as part of the request for additional review time, and Table 4 showcases the work that has been done and will be incorporated in a future update.

Table 2 – Regulatory Digitized Detailed Plan Maps

Map Number	Title	Date of Adoption
34	Coos Bay Estuary Management Plan	January 10, 2024

Table 3 - Nonregulatory Digitized Inventory Maps used as a tool but not a substitute for the original Plan Map (Map Scale 1" = 40,000')

Map Number	Title
15	Shoreland Values Requiring Mandatory Protection (without Archaeological or Historical sites due to protected information)
16	Beaches and Dunes
17	Beaches and Dunes: Development Potential
29	Goal #16 "Linkage" Matrix
30	Aquatic Uses and Activities "Linkage" Matrix
31	Goal #17 and #18 "Linkage" Matrix

Table 4 is explicitly labeled to be considered in a future update and for general information. The intention is to safeguard the efforts invested in the map and data creation, but it's crucial to acknowledge that these tables are not intended for regulatory purposes. I can add a statement after words if you find it necessary, that states "not for regulatory purposes".

Table 4 – Map Atlas - Generalized Digital Maps (Map Scale 1" = 40,000') Part of the Map Atlas that should be considered for Future Updates and General Information.

Maps Number	Title
3.1	Generalized Zoning
3.2	Management Units
3.3	Property Use Classification
4.1	Improvement Status
4.2	Improvement Value Ratio
4.3	Public Ownership

The County Ordinance requires that you provide proof of representation prior to the close of the record in the matter.

The criteria for legislative amendments have been the regulatory requirement and were addressed in the individual staff reports that were originally provided to Council and the Board of Commissioners. The work sessions were intended to address some of the technical issues that arose after the County Planning Commission made a recommendation in Section 2 as well as some of the comments that were made about mapping.

Thank you for reviewing and let me know if you additional questions. Again, I will be checking email throughout this time period.

Thank you,

Jill Rolfe, Director

Coos County Community Development

250 N. Baxter

Coquille OR 97423

541-396-7770

planning@co.coos.or.us



From: Annie Merrill <annie@oregonshores.org>

Sent: Friday, December 22, 2023 12:47 PM

To: Planning Department <Planning@co.coos.or.us>; Chelsea Schnabel <cschnabel@coosbayor.gov>; Derek Payne <dpayne@northbendcity.org>

Cc: Ashley Audycki <ashley@rogueclimate.org>

Subject: RE: Staff Report for Jan 10th Joint Work Session

This Message originated outside your organization.

Hi Jill, Chelsea, and Derek,

Thanks for sending out the staff report for the January 10th meeting on the CBEMP. See our attached joint letter response on the materials thus far.

Additionally, we have a couple of clarifying questions, and I'm hoping you can help us understand the below points, so that we can provide useful and accurate comments:

-Regarding Baywide Policy 3 language, we are hoping you can help us understand what the goal is with the latest changes. On Page 29 (PDF page 81) there's reference to digitized information from mylar maps, but Table 4 references the Map Atlas, which as we understand it, contains new information. Will that Map Atlas information have regulatory significance under this plan amendment, or is its purpose just "general information"? Can this new resource information be applied in considering application materials without the Map Atlas being adopted? Is the new Map Atlas expected to be adopted at this point?

-Additionally, on page 20 of the staff report, a statement reads: "It's crucial to provide proof of representation for organizations or groups when offering testimony or the testimony may be stricken from the record." Is there an expectation that representatives from organizations, such as Ashley (Rogue Climate) and I (Oregon Shores) identify ourselves in a different manner than we have been during public comment and testimonies?

-Last, we seek clarity on the specific "criteria for a legislative plan amendment" (page 20 of staff report), on which the public is asked to focus comments. Does the criteria refer to the entire staff report? Statewide planning goals? Or the A-H Goals for the current CBEMP update (listed on pages 1-2)? Clarifying this will be crucial if you are to receive the targeted comments you request.

If you would like to schedule a meeting with us to discuss and clarify the above items, it might help us all get on the same page and avoid any misunderstandings in advance of the public hearings. Please let Ashley and I know if that's something you are interested in.

Again, thank you so much for all your hard work. We are genuinely hoping to see this plan adopted in the near future.

Happy holidays to all,
Annie Merrill

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From: [Ashley Audycki](#)
To: [Planning Department](#); [jrolfe](#); [Chelsea Schnabel](#); [Derek Payne](#)
Subject: Rogue Climate CBEMP Comment for 1.10.24 Joint Work Session
Date: Wednesday, January 3, 2024 4:23:55 PM
Attachments: [1.03.2024 CBEMP Work Session, Rogue Climate.docx.pdf](#)
[1.03.24-RC Supplemental CBEMP Comments.docx](#)

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Greetings,

I have attached written comments for next week's CBEMP work session.

Thanks,
Ashley

--

Ashley Audycki
She/Her/Hers
South Coast Regional Coordinator
Rogue Climate
541-816-0758
243 S. 2nd Street
Coos Bay, OR 97420



www.RogueClimate.org || PO Box 1980, Phoenix, OR 97535 || 541-301-9204

Coos Bay Office: 243 S. 2nd St. Coos Bay, OR 97420 || 541- 816-0758

January 3, 2024

To:

Coos County Planning Department, % Jill Rolfe, jrolfe@co.coos.or.us

City of Coos Bay Planning Department, % Chelsea Schnable, cschnabel@coosbay.org

City of North Bend Planning Department, % Derek Payne, dpayne@northbendcity.org

Greetings,

Please accept these additional comments from Rogue Climate. We appreciate what we had hoped may be a new direction which seems to agree with comments at the last joint session to allow for further detailed review of the work of the consultant before moving to adopt anything but scribner's changes or changes required by law. At the close of that meeting, the direction was to present an amendment which accomplished just four things: adoption of the digital zoning map, a merging the plans together (resolving conflicts but not changing anything substantive, like dredge disposal); adoption of a policy 2 public involvement plan to guide the forward process (in the plan or resolution) and header. This is not what is now proposed.

As the staff memos (one dated December 20 and the other December 28 - centered in the Holidays) describing what the county would like to move forward and what is not moving forward are 22 pages long and contain additional additions or deletions from the 655 page Volume 1 part 2 attached, there has not been sufficient time to understand the scope of the response to the comments at the last meeting. We and others have asked for a continuance with no response from staff. So, we make only a few additional comments now and will seek leave to file supplemental comments before the public hearing work session on the 10th. But also in the meantime, we provide the comprehensive comments we did not submit at the prior joint session which are attached here and further discussed below.

We are concerned that there are additional substantive amendments being proposed. There are new definition amendments which have never been proposed before and so the reason for the proposals now is confusing. There are substantive changes made to policy 2 which now strike all reference to the linkage and goal exception findings and adds an expanded test for consistency which would allow a use to be deemed consistent if impacts are deemed "insignificant." We do not believe any changes should be made to the current CBEMP definitions, policies, management units without explanation and that further detailed review by



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the community. We also believe that amendments to “correct inconsistencies,” “align with Goal 16,” “address conflicts” and return or return to some modification of “originally referenced ... Policy 3” require a thorough review of the 655 page document, including a review of the detailed amendments to the policies and the management units.

So, we support and urge you to adopt Mr. Graybill’s proposal to convene a citizens advisory group which conforms as closely as possible to the citizen participation provisions of the CBEMP and city’s comprehensive plans which would be tasked with conducting a line by line review of the digital version to provide feedback to the jurisdictions on the formatting and revisions that have been introduced by the consultant and now staff. We can’t afford to risk unintended consequences with an amendment that has had many hands on it and which as of the last meeting, had not had a thorough review. Rogue Climate also joins the rest of Mr. Graybill’s comments at this time.

The review Mr. Graybill described at the last meeting and in his more recent comments is the review necessary to identify the types of issues described in the attached comments. In the December 7, comments we filed, we provided a short list of the concerns which are detailed in the attachment and we said we were working with community members to determine an more effective way to explain them and address them. Some of the nine points were discussed at the meeting and some may have been addressed since, like the dredge disposal site problem. We believe many of these issues remain, however. While Policy 3 has been reinstated in some form in this version of the amendment, the prior references to the Special Considerations Map (which triggered the requirement to address the resources identified on the regulatory maps) throughout the policies have not been restored as best we can tell without sufficient time. Therefore, the resources identified in the original mylar maps may continue to elude protection.

Thank you for considering these points at this time.

Sincerely,
Ashley Audycki
South Coast Coordinator
ashley@rogueclimate.org



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Coos Bay Office: 243 S. 2nd St. Coos Bay, OR 97420 || 541- 816-0758