

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

--

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

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

Please accept these additional comments from Rogue Climate and this continuing argument and request (in addition to the reasons stated in prior comments) that you not, at this time, continue the scheduled proceedings to adopt the proposed amendments until these additional issues are fixed. By these comments Rogue Climate strives to provide public input important to achieve appropriate decisions and to help guide your decisions. These comments are informed by a consultant who is reviewing the documents section by section, something Rogue Climate has unsuccessfully asked the County to do at public meetings (or at least allow) so that the entire community may understand what is and what is not being proposed and to provide important public input to identify problems and help guide to an appropriate decision. Rogue Climate invites a response that demonstrates why the flaws identified below are not so and, how this amendment will not fail to protect aquatic resources in Coos Bay.

Unless otherwise stated, the page references below are to the electronic pages of the part 1 and part 2 document labeled "d," and unless otherwise stated references to the Revisions Memo are references to exhibit b - found at: <https://www.co.coos.or.us/community-dev/page/coos-bay-estuary-management-plan-cbemp-file-am-22-005>. The Revisions Memo intended to identify and discuss all of the changes. Unfortunately, for some of the most concerning changes discussed here, there was no discussion in the memo.

As a general matter, the jurisdictions may not simply import uses, activities or policies into the management units or policies simply because another jurisdiction did so and it may not adopt new findings without considering the impact on previous decisions. As it relates to coastal resources and CBEMP management units, any action which could alter the estuarine ecosystem may not be adopted without a clear understanding of the proposed alteration and presentation of the impacts. Findings must be made to demonstrate that: 1) the activity/use provides a substantial public benefit which does not unreasonably interfere with public trust rights; 2) no feasible alternative upland location exists; and 3) adverse impacts are



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mitigated. So, in adopting the amendment, it is inappropriate to rely on a prior statement that a resource capability assessment has been conducted based upon prior findings when the amendment adopts new findings. Said another way, the new findings adopted may undermine the prior capability assessments. And, to the extent Coos Bay or North Bend may have engaged in this analysis in amending their plans related to any discrete management units in their jurisdiction does not mean it has been done as to all the management units or the regulatory framework policies and should not be imported into merely on the basis that it was in their plans.

As another general troubling matter is that it appears development resources continue to have regulatory significance - beach and dune development, dredged material disposal sites, mitigation sites - while many natural and cultural resources have not even made it into the digitized regulatory maps.

Moving on to the more particular with the help of visual aids (at times), here are some of the specific problems:

1. Maps Generally - Deletion of Aquatic Resources

Current CBEMP List

Amendment List (Part A Regulatory)



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LIST OF MAPS

Map Scale 1" = 3000'

1. Plan Map Showing Aquatic and Shoreland Management Segments
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, Tidelands 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 Lessees
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. LATF Moorage Decisions
27. Selected Dredged Material Disposal Sites
28. Selected Mitigation and Restoration Sites
29. Goal #16 "Linkage" Matrix
30. Aquatic Uses and Activities "Linkage" Matrix
31. Goal #17 and #18 "Linkage" Matrix
32. Agricultural and Forest Lands
33. Wet Meadows

Map Scale 1" = 800'

34. Coos Bay Estuary Management Plan (1" = 800')
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

APPENDIX A – MAPS

Digitized Mylar Regulatory Inventory Maps (Digitized Mylars)

(Map Scale 1" = 40,000')

M1. Plan Map Showing Aquatic and Shoreland Management Segment Units (Plan Map)

M1.1 Lower Bay – Mouth to Railroad Bridge

M1.2 North Slough/Haynes Inlet

M1.3 Upper Bay – Railroad Bridge to Bull Island

M1.4 Coos/Millicoma Rivers

M1.5 Catching Slough

M1.6 Isthmus Slough

M1.7 South Slough

M1.8 South Slough NERR

through M1.8: Plan Map (Map Scale 1" = 12,000')

M2. Shoreland Values Requiring Mandatory Protection

M3a. Beaches and Dunes Classification: Development Potential (Suitability Map)

M3b. Beaches and Dunes Development Potential

M4. Selected Dredged Material Disposal Sites

M5. Selected Mitigation and Restoration Sites

M6. Wet Meadows

M7. Tentative Goal #16/Goal #17 Development Priority Areas

Inventory Map Atlas (Background) Maps

Revisions Memo, p. 1 and 2

3) provide digitized versions of the regulatory maps associated with the CBEMP (Part 1 Appendix A);

* * *

Part 1, Appendix A, Maps, is proposed for amendment. The regulatory inventory maps, which include the Management Unit maps (M1-M1.8) and six (6) other mylar maps that were originally developed for the 1985 CBEMP adoption (M2, Shoreland Values, M3a and M3b, Beaches and Dunes, M4, Dredged Material Disposal Sites, M5, Mitigation Sites, and M6, Wet Meadows) have been digitized. The digitized versions of these maps are proposed for adoption as part of this update. Appendix A is also being modified to include the digital background maps created as part of the Map Atlas. These digital maps, which are also incorporated into Part 2, Section 9 as the Coos Estuary and Shoreland Map Atlas, provide updated information on economic, social, and environmental conditions within the Estuary and are used for reference only.

Error/Argument

It is erroneous to say that the 1985 CBEMP maps only included 6 maps - now digitized as M2 - M6. The 1985 CBEMP maps included aquatic inventories which are now completely excluded; those maps relegated to the "archive." There are no major important habitats in natural units as



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they were identified in Map 7, no significant estuarine habitats as identified in Map 8, no crustacean habitats as identified in map 10, no clam beds or oyster leases listed as identified in map 11, no clam species as identified in map 12, no fish habitats as identified in map 13, and no waterfowl habitats as identified in map 14 included in the amendment Part 1 regulatory maps. This is a fatal error for this amendment.

The regulatory maps no longer include the major important natural management unit resources of former map 7 - major salt marshes, major seagrass and algae beds, major intertidal flats, and “other major significant habitat.”

The “background maps” in Part 2, do include aquatic resources and species of concern (5.1a, 5.1b), oysters, clams and crabs (5.2), CMECS aquatic (5.11), and CMECS Biotic (5.12), among others. They, however, are “background” maps and are not part of the amended management framework:

3.1 Introduction

The management framework for this Plan consists of ~~nineteen~~ policy components:

- ~ Definitions
- ~ Policies
- ~ ~~Special Considerations Map~~
- ~ Management Unit Classification System
- ~ Plan Map (Map M1) (including Management Unit Designations)
- ~ Management Unit Objectives
- ~ Uses and Activities Matrix (including "General" and "Special Conditions")
- ~ Special Dredge Material Disposal Plan
- ~ Special Mitigation/Restoration Plan
- ~ Future Processes (See Section 2.2)

Section 3.3 details the above policy components.

Neither are those Part 2 maps specifically referenced in the policies.

Therefore, not only are the updated resources inventories identified in the Appendix A part 2 maps not protected, even the 1985 aquatic resources inventoried are not protected. As demonstrated below, the Special Considerations map which was included in the management framework would have included the 1985 aquatic inventories but it has been deleted. Again, this is a fatal error.



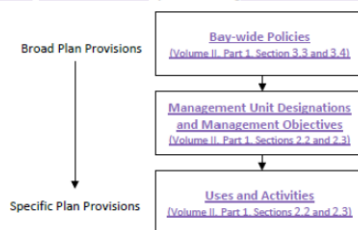
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2. Sections 3.3 and 3.4 Amendments Regarding Management Framework

Amendment, p 57 - addition of whole new Figure which is misleading:

Figure 2. Plan Provisions by Descending Order of Importance



Revisions Memo – does not address this particular amendment.

Amendment Section 3.4, p 115

~~3.4 Coos Bay Estuary Special Consideration Map~~

~~Site-specific areas (delineates general boundaries) covered in the Plan, are set forth (see Policy #3 in Volume II, Part 1, Section 3.3) on a map entitled: "Coos Bay Estuary Special Considerations Map".~~

~~The "Special Considerations Map" is a tool to implement policies which are listed in Policy #3 (see Volume II, Part 1, Section 3.3).~~

Revisions Memo - nothing specific to this section (but addressed generally regarding policy 3, see below).

Error/Argument

There is no figure in the current plan and this one is not only incorrect it is misleading.

It is incorrect and misleading because: 1) Section 3.4 - Coos Bay Special Consideration Map is to be deleted in the amendment; 2) the amended section 3.4 is now the management unit classification system and has nothing to do with policies anymore; and 3) the references to vol. 2 part 1 sections 2.2 (Plan Amendments/Revisions and Periodic Review) and 2.3 (Major and Minor Revisions/Amendments) are not related to Management units.

3. Policy 3 Special Considerations Map Deletion; Third Amendment Striking Protection for Aquatic Resources

Policy 3 Amendment, p 62-63



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~~Local governments shall use the "Coos Bay Estuary Special Considerations Map" as the basis for implementing the special protection~~

~~* * *~~

~~i. The "Coos Bay Estuary Special Considerations Map", which is a series of color mylar overlays, shall delineate the general boundaries (plan inventory maps contain more precise boundary locations) of the following specific areas covered by the Coos Bay Estuary Management Plan:~~

~~* * *~~

~~e. Coastal Historical and Archaeological Sites;~~

~~* * *~~

~~h. Significant Wildlife Habitat and Major Marshes~~

~~* * *~~

~~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).~~

~~* * *~~

~~This strategy recognizes that the "Special Considerations Map" is an official policy component of the plan, and it provides a mechanism for site-specific application of special management Policies.~~

Revisions Memo, p 28

Policy #3: Use of "Coos Bay Estuary Special Considerations Map" as the Basis for Special Policies Implementation". This policy reference was removed and is now Reserved. The inventory maps are in Appendix A of the revised CBEMP.

Error/Argument

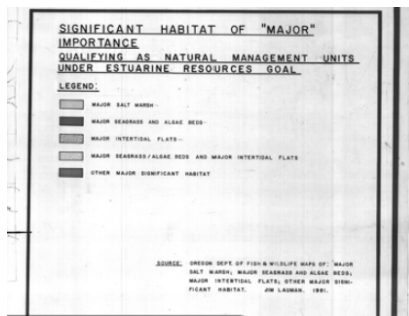
The Special Considerations Map included historical and archaeological sites, and the significant habitats and major marshes. The significant habitats inventory included those identified on current Map 7, which included major salt marshes, major seagrass and algae beds, major intertidal flats, and included other major significant habitat identified on current Maps 7 (significant habitat in natural units) and 8 (significant habitat in conservation units).



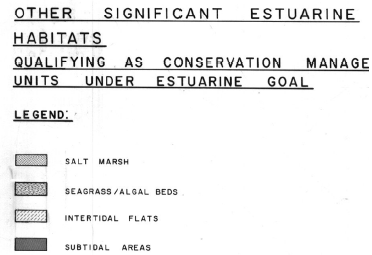
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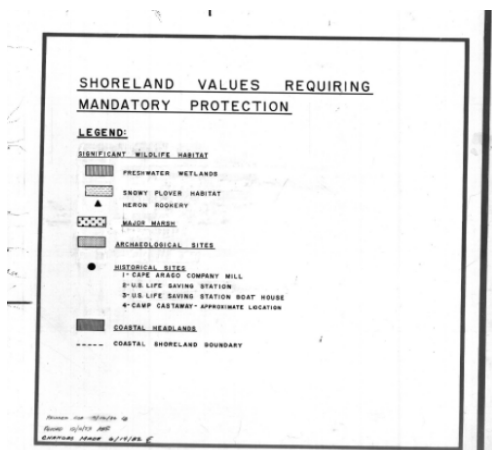
Map 7 legend



Map 8 legend



And the resources identified in Map 15, the Shoreland Values map, which included freshwater wetlands, snowy plover habitat, heron rookery, major marshes, archeological sites, historical sites and coastal headlands were also included in the Special Considerations Map.



The Special Considerations Map is now stricken from the CBEMP. The revisions memo's



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explanation that the inventory maps are in Appendix A tells us nothing about how these resources will be protected when the inventory maps identifying them are no longer in the regulatory maps in Part 1, and when the regulatory language directing the inspection of detailed inventory maps is stricken. As described below, some of the shoreland resources will be considered pursuant to policy 17, but the major seagrass and algae beds, major intertidal flats and other major significant habitat in the Bay will not be. This flaw is fatal.

4. Policy 17 Protection of Major Marshes and Significant Wildlife

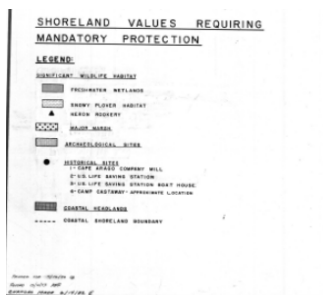
Amendment 1, p.82

- a. "Major marshes" to include areas identified in the Goal #17, "Linkage Matrix" (Appendix B), and the "Shoreland Values" Inventory Map (Map M215); and
 - b. "Significant wildlife habitats" to include those areas identified on the "Shoreland Values" Inventory" mMap (Map M215); and
- Revisions Memo: Does not address this change to policy 17.

Error/Argument

Policy 17 will no longer protect historical sites, archeological sites, or coastal headlands. New Map 2 is only a partial digitization of current map 15 and excludes those resources.

Map 15 legend:



Map 2 legend:



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Amendment 2, p. 82

II. This strategy shall be implemented through:

- a. Plan designations and use and activity matrices set forth elsewhere in this Plan that limit uses in these special areas to those that are consistent with protection of natural values; and
- b. Through use of the [Detailed Maps Special Considerations Map](#) that identified such special areas and restricts uses and activities therein to uses that are consistent with the protection of natural values. Such uses may include propagation and selective harvesting of forest products consistent with the Oregon Forest Practices Act, grazing, harvesting wild crops, and low-intensity water-dependent recreation; and

Revisions Memo: Not addressed.

Error/Argument

The “Detailed Maps” are nowhere defined in the Amended CBEMP. Because the resource inventory maps (excluding the partial shoreland values and wet meadows maps) - both new and old - have been deemed to have no regulatory function and are identified as either “background” or “archived” maps, this reference to detailed maps is problematic and does not present any promise that any resources other than those identified in Map 2 will be considered.

5. Policy 18 - Protection of Historical, Cultural and Archeological Sites

Amendment, p 84

Through the "overlay concept" of this policy and the [Coastal Historical and Archeological Sites Special Considerations Map](#) (available at Coos County), unless an exception has been taken, no uses other than propagation and selective harvesting of forest products consistent with the Oregon Forest Practices Act, grazing, harvesting wild crops, and low intensity water-dependent recreation shall be allowed unless such uses are consistent with the protection of the cultural, historical and archaeological values or unless appropriate measures have been taken to protect the historic and archaeological values of the site.

Revisions Memo: Not discussed.

Error/Argument

This map - Coastal Historical and Archeological Sites- is not included in the amendment documents, is not listed in the maps to be adopted in part 1 of Appendix A and is not listed in part 2 of the appendix; this is a procedural irregularity and substantive problem. While we appreciate that the archeological sites map should be behind the counter. This map is not listed for adoption and there is no indication that the Tribes have been consulted about its specific contents. Moreover, there is no reason Coastal Historical sites should be excluded from



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inventory, identification, and regulatory significance as they once were incorporated into the Special Considerations Map and Shorelands Values Map.

6. Policy 19 Wet Meadow Wetlands

Amendment, p. 84

II. This policy shall be implemented by designating these lands as "Agricultural Lands" on the ~~"Special Considerations Generalized Zoning"~~ [Inventory Map \(Map 3.1\)](#) and by making findings in response to a request for comment by the ~~Division of State Lands~~ [Department of State Lands](#) (DSL), which show whether the proposed action is consistent with the Comprehensive Plan

Revisions Memo, p. 29. Not specifically discussed.

Error/Argument

In this case, an Appendix A part 2 map, Map 3.1 (a Zoning map), is referenced to replace the Special Considerations Map has regulatory significance, even though there is a map in Appx. Part 1, Map 6, which is labeled "wet meadows."

Map 3.1 does not specifically identify wet meadows but appears relevant due to the implementation designation of "agricultural lands." Yet, those agricultural land designations do not appropriately capture all the wet meadows on the current map 33. Neither do they identify the wetlands designated on the Appendix A Part 2 background map 5.6 which specifically identifies the National Inventory. See the maps attached. The amendment fails to implement the intent to protect wet meadow wetlands.

7. Policy 20b Priority for In-Bay Subtidal Disposal Sites and Map 4.

Amendment, p. 87

II. In-bay site D (#8.4²) shall be used only when in-bay site "G~~F~~" is inaccessible because of severe weather conditions and/or dredging above R.M.
6

Revision memo, p.29

Coos Bay references in-bay site "D" while the CBEMP references site "8.4"; these are the same site and the text has been updated to reflect this. The CBEMP references site F which is in the open ocean; the Coos Bay Plan references in-bay site G which is within the navigation channel. The text has been revised to reference in-bay site G.

Error/Argument

The basis for this amendment is incorrect. The intent of this policy was clear. In-bay site 8.4

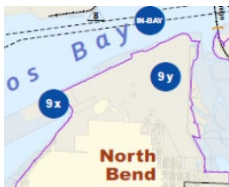


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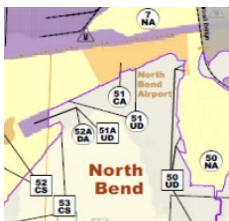
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was only to be a backup site to the Ocean site - site F - in two circumstances - one temporary the other related to some specific site which is labeled but undefined, R.M. 6. This amendment is replacing the primary ocean site with an in-bay site. There is no basis for this. For another thing, the in-bay G site is off Coos Head and thus Coos Bay has no regulatory authority over it to have amended its plan to include a reference to site G. And for another, there are no sites labeled D or G in new Map 4. Finally, there is no site "D" in the list adopted in volume 2 part 2, p. 721 and there is no management unit 51 A DA where supposedly site 8.4 (p. 726) was to be located. So, the inclusion of an unlabeled site in the navigation channel in new Map 4 is also in error.

Map 4



Map 1.1



8. Map 3b referenced in Policy 29

Amendment, p. 93-94

a. The "Beaches and Dunes: Development Potential" Inventory Map (Map M3b) ~~Special Considerations Map~~ category of "Beach and Dune Areas Unsuited for Development" includes the following dune forms:

Revisions Memo - nothing specific was mentioned concerning this discrete amendment to policy 29.

Error/Argument



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There is no error with the policy amendment per se. The problem is with Map 3b which appears to characterize as suitable for development what was deemed unsuitable in 1985- almost the whole of the north spit. See the attached exhibits. There was only one section on the spit that was identified as having limited suitability for development. This is a fatal flaw.

9. Development Management Unit.

Amendment 1, p 60

1. [Needed commercial and industrial Wwater-dependent commercial and industrial uses consistent with a shallow-draft estuary, as defined herein;](#)

Revision Memo, p 28

Policy #2: Management Unit: Development -- No Special Assessment Required (A)(I).

Language updated to match Coos Bay Plan. Note: The updates reference a "shallowdraft estuary" as defined in the CBEMP.

Error/Argument

There does not appear to be a definition of "shallow draft estuary" in the current or proposed amended CBEMP.

Amendment 2, p 61

8. [Dredged material disposal](#), [Flow](#)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.

Revision Memo, p 28

Policy #2: Management Unit: Development No Special Assessment Required (A)(B).

Language updated to match Coos Bay Plan

Error/Argument

As understood, flow-lane disposal is a specific type of disposal. The amendment erroneously attempts to permit all manner of dredge disposal in the Development unit. Goal 16 allows only flow-lane disposal "as appropriate" and subject to the requirement that it be consistent with capabilities and purposes of affected natural and conservation units.

Conclusion



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These errors must be corrected before this phase 1 amendment is adopted.

Sincerely,

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