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Subject: Testimony for 10 January 2024
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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.

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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?