



Oregon

Kate Brown, Governor

Oregon Coastal Management Program
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Via electronic mail

December 20, 2016

Ms. Catherine Gockel, MS, MPA
U.S. Environmental Protection Agency, Region 10
Office of Water and Watersheds
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
Gockel.Catherine@epa.gov

Re: Coastal Zone Management Act (CZMA) Compliance in Oregon for EPA NPDES General Permit (#WAG520000)

Dear Ms. Gockel:

The Department of Land and Conservation Development (DLCD) submits the following comments to supply EPA with information helpful for submitting a formal consistency determination to comply with the CZMA in Oregon. This is EPA's first NPDES General Permit in Oregon for offshore seafood processing off the coasts of Oregon and Washington. DLCD appreciates the collaborative efforts by the EPA to protect coastal resources as well as the acknowledgement that the Coastal Zone Management Act applies to this federal action. DLCD believes that continued discussions will result in better coastal resources protection, as well as regulation of industry activities that have been operating for decades without previous oversight along our coast.

As background, the Department of Land Conservation and Development (DLCD) reviews activities conducted by federal agencies in or affecting Oregon's Coastal Zone for consistency with the enforceable policies of the Oregon Coastal Management Program (OCMP). The Coastal Zone Management Act of 1972 (CZMA), as amended, requires "[e]ach Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved State management programs." (CZMA, Section 307(c)(1)) Regulations implementing the federal consistency provisions of the CZMA may be found at 15 CFR § 930, Subpart C. Those regulations expand upon Section 307(c)(1), saying in part "federal agencies shall consider the enforceable policies of management programs as requirements to be adhered to...." (15 CFR § 930.32(a)(2)).

DLCD believes the following enforceable policies are applicable to this federal action. Statewide Goal 19: Territorial Sea, the associated Territorial Sea Plan and its foundational document, the Oregon Ocean Resources Management Plan. Also applicable is state statute 468B, Water Quality. Further information and standards to be consistent with the statute are detailed in the related administrative rules. Ensuring that marine resources that support recreational and commercial fisheries industries, like Dungeness crab and salmon, are protected from effects of ocean disposal of fish processing waste, and that pollution does not impair water quality in state waters, including sources outside of state waters, will be important.

DLCD continues to review the various documents associated for this federal action. In addition, DLCD continues to seek expert knowledge and recommendations on how to reduce alterations to ocean conditions, decreases in water column food productivity, and other negative impacts from large plumes of

concentrated organic waste discharge. DLCD anticipates conditioning the federal consistency concurrence with discharge exclusion zones, requirements for reporting to the state, and avoidance of discharge around particular habitats to protect marine resources which support local, regional, and global Oregon economies. The final conditions will not be determined until after DLCD's public comment period and analysis is completed on EPA's formal submittal of the agency's consistency determination.

Thank you for the opportunity to comment and work with the EPA on solutions to pollution and marine health issues related to this General Permit. DLCD understands that the lack of discharge information from the whiting industry makes it difficult to assess the extent to which Oregon coastal resources will be impacted. For this reason, DLCD expects to take a cautious approach and will utilize the monitoring information gained from this permit issuance to re-assess future General Permits provided to this industry by the EPA. If the EPA believes that it has a legal authority prohibiting full consistency as required by 15 CFR § 930.32(a)(2), the agency should include this authority in the formal consistency determination submittal provided to DLCD.

If you have any questions or comments regarding the consistency review process, or the Oregon Coastal Management Program, please contact me at 503-934-0029 or by e-mail at: elizabeth.j.ruther@state.or.us

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth J. Ruther". The signature is fluid and cursive, with the first name being the most prominent.

Elizabeth J. Ruther
Coastal State-Federal Relations Coordinator