Navigating the Public Process: Engaging Stakeholders in Wave Energy Development

BY BOB EDER

While discussing the development of marine renewable energy, I feel like I should be wearing a sandwich sign. Across the front, it would read: EXISTING USER. Across my back: FUTURE USER.

The development of wave energy off the west coast of the United States will not turn commercial fishing into an anachronism—because, when you think about it, it already is one. I mean, how odd is it? Here we are in the twenty-first century, in the middle of the developed world, and just a few miles out there in the ocean are professional hunters gathering wild animal protein. We have been farming for ten or twelve thousand years, tilling and dividing the land, domesticating animals, taming the world around us. But on the ocean, we still hunt in a common space—hooking, trawling, and trapping, bringing back fish and crustaceans to feed the tribe—same as always. It is pre-agricultural, primitive. If this is not an anachronism, I don't know what is. In 2009, the aquaculture industry claimed that for the first time aquaculture outproduced commercial fishing in world supply of seafood. I'm not sure I believe that claim, but at the same time, I wonder: what took them so long?

I'd like to discuss commercial fishing in the context of marine spatial planning. First, what factors have contributed to its persistence? For one thing, the persistence of fishing may speak to how little attention has been given to all things marine. The ocean is not our natural element. It is a difficult place to work and an even more difficult place in which to build. This obstacle has delayed marine renewable energy development.

Fishing has persisted partly because it occurs in an abidingly wild space. It is an ecosystem-based activity, a proven, biological renewable. We neither lease nor own our production areas. It has remained a public space. This model, so different from the agrarian one, has contributed to ocean hunting's longevity. The protein itself is top quality. It will continue to hold very high worth. But in terms of spatial economic value, it will be no match for the engines of raw power, the electron-pulsing machines that are being developed.

The public's perception of commercial fishing is in the process of changing, and fishing will persist in the future partly because the public will want it to, valuing its culture, valuing wild food, and valuing that *connection* to what is yet wild. More and more, fishing will become not only a production industry, but also part of what people choose to protect.

Oregon's Goal 19 in the Territorial Sea Plan was developed as part of a response to earlier interest in oil and mineral extraction. Goal 19 specifically places a priority on biological marine renewables and their associated activities. It appears that the US Department of Interior's Minerals Management Service shares a similar regard for these existing uses. It is up to commercial fishermen to find a way to communicate as clearly as possible our spatial priorities. We can no longer fold our arms, shake our heads, and say, "No, not there either."

Oregon fishermen have proactively entered into a process to map our fishing grounds. Over 140 southern Oregon fishermen have already been interviewed by EcoTrust (see http://www.ecotrust.org), identifying their priority areas for various target fisheries. The data produced through identification of top fishing areas will be used to make maps that will yield a classic "win-win" situation—protecting our most valuable grounds while directing ocean energy developers to opportunity zones where they will not meet stakeholder resistance.

On the central Pacific coast, Newport's Fishermen Involved in Natural Energy (FINE) committee, of which I am a member, has committed to the process. The Fishermen's Advisory Committee of Tillamook County, Oregon (FACT) is actively discussing the same. I would love to share with you some of the preliminary Coos Bay maps—but therein lies the question: How much of this information should be for public consumption?

You see, it turns out that fishing is a knowledge-based industry. It is easy to miss that, due to its primitive, physical nature. But remember, we don't lease or control the areas of production. We have some hardware—boats and gear (not really worth all that much). We have permission to play—fishing licenses (worth more than they probably should be). And we have knowledge, which, of course, is priceless. Much of this knowledge is spatially based. It has

previously only been shared in select, reciprocal relationships.

Maps are only as good as the quality of their input data. I'm convinced that we stand to obtain the greatest amount of quality data by showing appropriate respect for the EcoTrust interviewees' intellectual property. Newport-area fishermen have expressed a preference for public sharing of maps that illustrate wave energy opportunity zones, but do not detail specifics of fishing hot spots. Opportunity zones are what wave energy developers are interested in, what they require. Developers' support of such an approach may help expedite quality map production and this phase of spatial planning.

Commercial fishing is just one element of marine spatial planning around wave energy. I see overlays upon overlays, but still feel confident that we will succeed in finding excellent locations for marine renewable facilities that will have a low impact on fisheries. After all, this is not a question of absolutes, but rather of establishing relative priorities.

Although my industry is apprehensive now, we may look back on this experience as a positive one, and on wave energy as a benevolent neighbor next to other industrial demands that may soon appear. The planning surrounding wave energy development presents an opportunity. Even though we fishermen feel some pressure, even though we're going to give something up, our participation in the marine spatial planning process presents a chance to get it right.

A career commercial fisherman, **Bob Eder** *(1roberteder@gmail.com) has participated in numerous US West Coast fisheries, focusing on trapping Dungeness crab and sablefish. He has partnered in fisheries research with Oregon State University, the Oregon Department of Fish and Wildlife, the National Marine Fisheries Service, and the University of California, Santa Cruz. He serves as an industry advisor to the Pacific Fisheries Management Council, is a member of the Tri-State Dungeness Crab Steering Committee, and is vice chair of FINE (Fishermen Involved in Natural Energy) of Lincoln County, Oregon. Eder is also currently a board member for the Oregon Wave Energy Trust.*

Ocean Special Area Management Plan: Having a Stake in the Decisions

BY GROVER FUGATE

The Ocean Renewable Energy Coalition recently said, "Rhode Island is involved in an extensive ocean planning effort which can be considered in the vanguard of MSP [marine spatial planning] initiatives." This project, known as the Ocean Special Area Management Plan (Ocean SAMP) is indeed leading the way nationally in determining the most suitable areas for initiatives such as offshore wind turbines.

But not without a very real human side.

It is not just science and planning that will help this project succeed. It is the concerted involvement of a very important stakeholder group that allows the Ocean SAMP team of researchers to tap local knowledge—to envelop an institutional memory drawn from the eyes, ears, and experience of people who live and work in the region through a core group of town officials and organizations, people who earn their livelihood on the water, economic and environmental groups, and the corporate sector. The stakeholder group members are far from wallflowers—rather, they have open access to all the science and information that is accumulated through the Ocean SAMP process, and are encouraged to be actively involved in the process of shaping a successful plan. If they raise a question—or raise hell—we listen.

Transparency is an overused and abused word in many projects. The Ocean SAMP team is making sure that will not be the case in Rhode Island. Project leaders cast a wide net to bring in key local players, while also encouraging the public to attend the monthly stakeholder meetings that have been going on since just after the project's inception. They have addressed in depth wind farm considerations, such as underwater noise and above-water visual impacts, and also have viewed a slew of overlay maps that would make an art student envious.

A series of focused meetings that includes stakeholders and other engaged members of the public has created a capacity for understanding and an avenue for providing input that is helping define and shape the

final plan for the boundary area and the proposed wind farm. The Coastal Resources Center and RI Sea Grant at the University of Rhode Island have cultivated an enormous degree of trust as neutral facilitators, even in the most contentious of situations. This expertise and evenhandedness in dealing with a variety of concerns, with no agenda to push other than to bring people together to air their views, exchange diverse opinions, and come to a consensus on the most difficult challenges, allows the focus to be on what can be achieved, rather than who is on which side.

There is a natural tendency in many projects to lean toward more "insider" meetings involving government officials, wind farm developers, or stronger and well-monied special interest groups. Natural, but neither transparent nor equitable.

Not that this stakeholder process immediately becomes a democracy. The participants were told up front that everyone's voice would be heard and considered, whether expressing what would prove to be a majority opinion or not. They were assured that even a lone voice offering a different view would have that input considered in forming a final report.

Since the process began, with a considerable degree of trepidation due to conflicting public accounts that the planning, especially in regard to wind farms, was a "done deal," and with the obvious fears of fishermen, environmental advocates, and coastal municipalities and their residents, we have seen those people begin to embrace the stakeholder process.

The best example of this in Rhode Island has been the fishing community. Not surprisingly, there were great fears from fishermen when the wind farm project was broached in the summer of 2008. Saying that the industry representatives were suspicious and standoffish would be an understatement. And rightly so: fishing in the area being considered for alternative energy development was their life's blood. It was up to the Ocean SAMP team to show hard evidence of an unbiased, equitable process.

Through a series of meetings focused on fisheries impacts, including bringing in experts from Europe, and sharing the information openly and widely, the fishermen have come around 180 degrees. Not only do they recognize their voices are being heard and concerns addressed, but they see that with the approach being taken by the Ocean SAMP team, their most productive fishing areas will be protected not just from the initial wind farm development, but far into the future. No more of one battle at a time *ad infinitum*, but rather a zoning plan made of whole cloth that will forever protect their fishing ground once implemented.

The stakeholder process has succeeded because of the commitment and dedication of the all the participants. Stakeholders are being provided with draft copies of each chapter of the final report, ranging from Fisheries to Navigational Infrastructure to Recreation and Tourism, for their input from broad general policies down to fine-tooth-comb intricacies. And the Ocean SAMP team is listening to them.

We would not be in the "vanguard" without the unsung but critical work of the Ocean SAMP stakeholders and their friends in the public at large. It may not be pretty at times, but it works.

Grover Fugate *(gfugate@crmc.ri.gov) is Executive Director of the Rhode Island Coastal Resources Management Council, the state's principal coastal planning and management agency. He also holds an adjunct faculty position in the Marine Affairs Department at the University of Rhode Island and is a guest lecturer at both Brown University and Roger Williams University School of Law. Fugate holds a degree in natural resource management from the University of Connecticut and an MBA from Canada's Memorial University. He has extensive experience as a resource planner and was a 2008 recipient of the Sea Grant Lifetime Achievement Award for Coastal Zone Management. He has received many citations from the Governor and the Legislature for his work in coastal management and community service.*

Navigating the Public Process: Engaging Stakeholders in Offshore Renewable Energy

BY MEGAN HIGGINS

An informed citizenry is the only true repository of the public will.

– Thomas Jefferson

The current Administration has vowed to uphold transparency and open government. In the words of President Barack Obama in his inauguration speech, "[w]e will work together to ensure the public trust and establish a system of transparency, public participation, and collaboration. Openness will strengthen our democracy and promote efficiency and effectiveness in government." The President went on to state that "[p]ublic engagement enhances the government's effectiveness and improves the quality of its decisions." Given the increased attention to the development of offshore renewable energy projects in the United States, public participation in this nascent industry's regulatory process is crucial to ensure collaboration and efficiency.

The Energy Policy Act of 2005 gave the Department of Interior's Minerals Management Service (MMS) primary responsibility for regulating offshore renewable energy development from state waters out to 200 nautical miles. Among other duties, MMS has lead agency responsibility under the National Environmental Policy Act (NEPA) for conducting environmental assessments and drafting environmental impact statements (EISs), ensuring consultation with affected states and other stakeholders. In the case of offshore renewable energy projects, stakeholders may include, but need not be limited to: Congressional delegations; federal, state, and local regulatory agencies; citizen groups; environmental/nongovernmental groups; coastal states; Native American tribes; fishermen's organizations; recreation and tourism interests; marine trades; commercial interests; and the general public or other groups with broad interest in the projects.

The Council on Environmental Quality regulations formally identify three points in the NEPA process for public involvement: during scoping in response to a Federal Register publication of a Notice of Intent, during the review of the draft EIS, and during the review of the final EIS. Throughout the process, MMS is required to encourage and facilitate public involvement in those decisions that affect the quality of the human environment by holding hearings, soliciting appropriate information, making documents easily available, and other activities. To have valuable input, it is important that the EIS and other documents be concise and understood by the public. The desire for a transparent process must be equally balanced against the requirements imposed upon a project sponsor (developer) by the MMS regulatory framework, in a reasonable amount of time.

Stakeholders expect effective involvement in the decision-making process. NEPA, however, is the *minimum* requirement for public involvement. Therefore, lead agencies should make concerted efforts to involve stakeholders to an even greater extent, given the controversial nature of offshore renewable energy projects. To facilitate meaningful engagement, the lead permitting agency must: (1) present a clear and finalized proposal of a project, (2) initiate stakeholder outreach and education at the start, (3) conduct a transparent and open stakeholder process in order to build trust, and (4) embrace the public participation process by engaging stakeholders and the public at every stage of development of the project. Today, the stakeholder process must be inclusive and involve interested parties through a variety of means using current technology such as the Internet, distribution of CDs including project information (i.e., maps and other technical information), and, what is becoming increasingly more common, the use and establishment of social networking sites. Traditional methods (e.g., notices in local newspapers and the Federal Register) are still used and required in many cases, however.

Because of the multitude of competing uses within the ocean zone, regulatory agencies are engaging in more participatory processes in order to minimize the potential for conflicts, such as future legal actions. For example, the Massachusetts Technology Collaborative, a quasi-state agency that administers the Commonwealth's Renewable Energy Trust Fund, though not part of the formal permitting process, responded to the Cape Wind Energy Project controversy by convening a stakeholder forum. The controversy was due, in

part, to opposition to aesthetics as well as concerns with negative impacts to fisheries, tourism, migratory birds, and marine mammals. The purpose of the forum was to make certain that the project's permit approval or denial was based on a realistic interpretation of technical and factual evidence rather than misguided notions or political pressure. Another example is in Rhode Island, where, as part of the Ocean Special Area Management Plan (SAMP) process, stakeholders who represent groups with vested interests in the decisions made within the SAMP boundary area have been selected for participation in the process. Public involvement in the process is strongly advocated during SAMP's monthly stakeholder meetings.

A lack of public participation will hinder any offshore renewable energy project. Involvement of the public in permitting agency decision making will lead to cooperation and, ultimately, to the success or failure of a project.

Active in New England ocean and coastal policy and research, **Megan Higgins** *(mhiggins@ene.com) is an expert in coastal zone law, public trust doctrine, public access, and environmental law, with emphasis on public property rights and alternative energy projects. She has served as a Coastal Policy Analyst for the Rhode Island Coastal Resources Management Council and managed the outreach arm of the Rhode Island Sea Grant Legal Program at Roger Williams University School of Law. Currently, she is Project Manager at Ecology & Environment, Inc., overseeing the permitting process for the Block Island Offshore Wind Farm Project. She holds a bachelor's degree from the University of Vermont, a law degree from Roger Williams University School of Law, and a Master of Marine Affairs degree from the University of Rhode Island.*

Navigating the Public Process: Engaging Stakeholders in Ocean Energy Development

BY KAETY HILDENBRAND

The image that comes to mind when I think about "public process" is a darkly lit auditorium, people in suits sitting on a stage, audience members standing in line for the microphone, and a facilitator with a stopwatch. Many of us have been involved in a public process that conjures the same image. I grew up in an industry that is heavily regulated (commercial fishing), and I spent countless hours of my youth at these types of meetings with my parents, witnessing endless repetition of this process.

Public process is important. It is the most important piece of policy or legislation. I shared my image of public process not to suggest that it is wrong, but rather to suggest that it is designed to serve a certain, specified goal. That goal, which is incredibly important, is to inform the public and give people the opportunity to provide input. In some situations, these goals adequately serve the people and the policy. In other situations, the degree of anticipated or realized conflict, coupled with a lack of existing knowledge of the subject matter, creates a situation where the traditional public process falls short. Sometimes, handouts, a presentation, and three minutes at a microphone are not enough for both stakeholders and decision makers. These situations need engagement, and marine renewable energy falls into this category.

About four years ago, I was sitting in a small port office building on the coast, eating donuts and drinking day-old coffee with four commercial fishermen, the port manager, and a wave energy researcher. They were talking about the researcher's wave energy technology, how to anchor the devices, how to service them, where to put them—all sorts of things. This meeting wasn't the first they had with this researcher, nor would it be the last. In fact, these meetings continue today. Those fishermen and the organized group they belong to are now formal partners in a wave energy research facility. They attend meetings and help make decisions just as any other type of partner would. Their trucks with fishing gear hanging out the back make their appearance in front of downtown office skyscrapers far away from the coast, marking the merging of cultures that this issue creates. It is a *merge* of cultures

rather than a *clash* of cultures because these two cultures are learning from each other, each committed to helping the other. This is engagement, and it started long before stakeholder input was ever legally required.

Navigating the public process shouldn't be about checking boxes (public meeting, *check*; notice given, *check*), and it shouldn't be focused on getting "buy in" either. The term "buy in" should be eliminated from discussions such as this one because it implies that the primary objective is to sell someone on something, rather than to stop and understand why it is they aren't buying it. If you focus on engagement, you can end up with a better product, something that maybe doesn't need to be sold at all.

Engagement takes time, commitment, and energy. You have to plan for it, and you have to build your decision-making processes, organization, and goals all around your desire to engage stakeholders. You have to be willing to share the power of decision making and to change your plans accordingly and compromise. In fact, all parties have to be willing to give something to allow the others to gain. This goal is desirable, but it also may be unrealistic. After all, why would a stakeholder give up something like space for a renewable energy facility? The answer varies, but a lot of it has to do with how they were engaged in the first place. Were the stakeholders ever asked to give something up, or were they just told that they were going to?

My work with Oregon Sea Grant places me in a small patch of neutral territory when conflicts rise. By being trusted brokers of information, Oregon Sea Grant builds partnerships across the conflict—we listen, facilitate, and educate, all in an attempt to get parties to better engage and to reduce conflict. I have seen the very best and the absolute worst scenarios. I keep a photo near my desk of two guys, both in coveralls and hard hats, their bodies slightly inclined toward one another. Both have smiles on their faces. They are standing in front of a wave energy device in Scotland. One is a fishermen, one is a developer. If the type of public process that I described at the beginning of this article were used to get these two guys together, you can guess which one would be in the suit at the table and which would be at the microphone. But, their relationship didn't develop that way; it rarely would. It sprang up from the ground, from engagement. Engagement doesn't erase all conflict; rather, it creates a path from the beginning—a path that the stakeholders, represented by the fisherman in my picture, create together. This photo reminds me that there is a way for both renewable energy and other ocean uses to coexist. I think of the two faces and the industries that each represents, and I think of the future of our ocean. I hope both industries, and other ocean-use industries, will engage and end up slightly inclined toward one another.

Kaety Hildenbrand *(kaety.hildenbrand@oregonstate.edu) grew up in an Oregon commercial fishing family. She has a bachelor's degree in natural resources from Oregon State University, and a background in marine education. She has been working for the Oregon Sea Grant program at Oregon State University as a marine extension agent since 2005. She often plays the role of neutral broker, working between various stakeholders. She has been heavily involved in offshore renewable energy issues in the Pacific Northwest, helping to build public process, engage stakeholders, and share information. Other projects include collaborative fisheries research, fisheries education, and sea safety training.*