Oregon Territorial Sea Plan

Adopted 1994

PART ONE:

Ocean Management Framework

C. OREGON'S TERRITORIAL SEA

1. Oregon's Seaward Boundary

Oregon, along with nearly every other coastal state1, has jurisdiction over the seabed and its resources out to three geographical (or nautical) miles2 and sometimes further if offshore islands or rocks provide a more seaward point for measurement. First proposed in 1793 by then-Secretary of State Thomas Jefferson as a "temporary" seaward boundary for the United States, state jurisdiction over this so-called "territorial sea" was finally established by Congress in the 1953 Submerged Lands Act (43 USC 1301-1315). This three-mile ribbon of ocean, comprising about 1,000 square miles, is Oregon's ocean area covered by this Territorial Sea Plan.

The term "territorial sea" is not used in the Submerged Lands Act. Instead, that act confirmed that the seaward boundary of a coastal state consists of "a line three geographical miles distant from its coast line.3" "Coastline" is defined as "the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters." A 1986 Opinion of the Attorney General, State of Oregon (No. 8182, November 13, 1986), noted that " the determination of the exact location of a state's boundary (is) a complex task." That Opinion states that "the burden of establishing criteria for determining the exact location has fallen on the United States Supreme Court." The Supreme Court, in United States v. California, 381 US 139 (1965), adopted the definitions of the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1607) which arose out of the 1958 First Conference on the Law of the Sea in Geneva, Switzerland.

The Attorney General Opinion further urged the state to be guided by "official United States government charts" that depict the coastal boundary, as long as the boundary depicted is "consistent with the terms of the Convention." The U.S. Department of the Interior, Minerals Management Service (MMS) is responsible for locating this boundary for federal oil and gas

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1 Based on historical claims, Texas and Florida have jurisdiction to three marine leagues, which equals nine nautical miles (10.35 statute miles), in waters of the Gulf of Mexico. [*U.S. v. Louisiana 363 U.S. 83-85 (1960)] [U.S. v. Florida 363 U.S. 121 (1960)]*

2 A "geographical" or "nautical" mile is the length along one minute of arc of latitude of the Earth's surface and measures 6,076 feet. A "statute" mile is the familiar 5,280 feet (based on the Latin for 1,000 paces). Thus, a "geographical" mile is about 1.15 "statute" miles.

3 The 1953 Submerged lands Act (43 USC) 1301 - 1315) uses the two words "coast line" instead of the correct term "coastline" that is used in this plan.

leasing purposes and, on the Pacific Coast, has adopted a coastal "baseline" of Mean Lower Low Water from which to measure three miles seaward. The Oregon Division of State Lands and the MMS undertook a joint project in 1989-90 to identify and document the location of the points of the baseline along the Oregon coast. Maps of the baseline are not yet available from MMS.

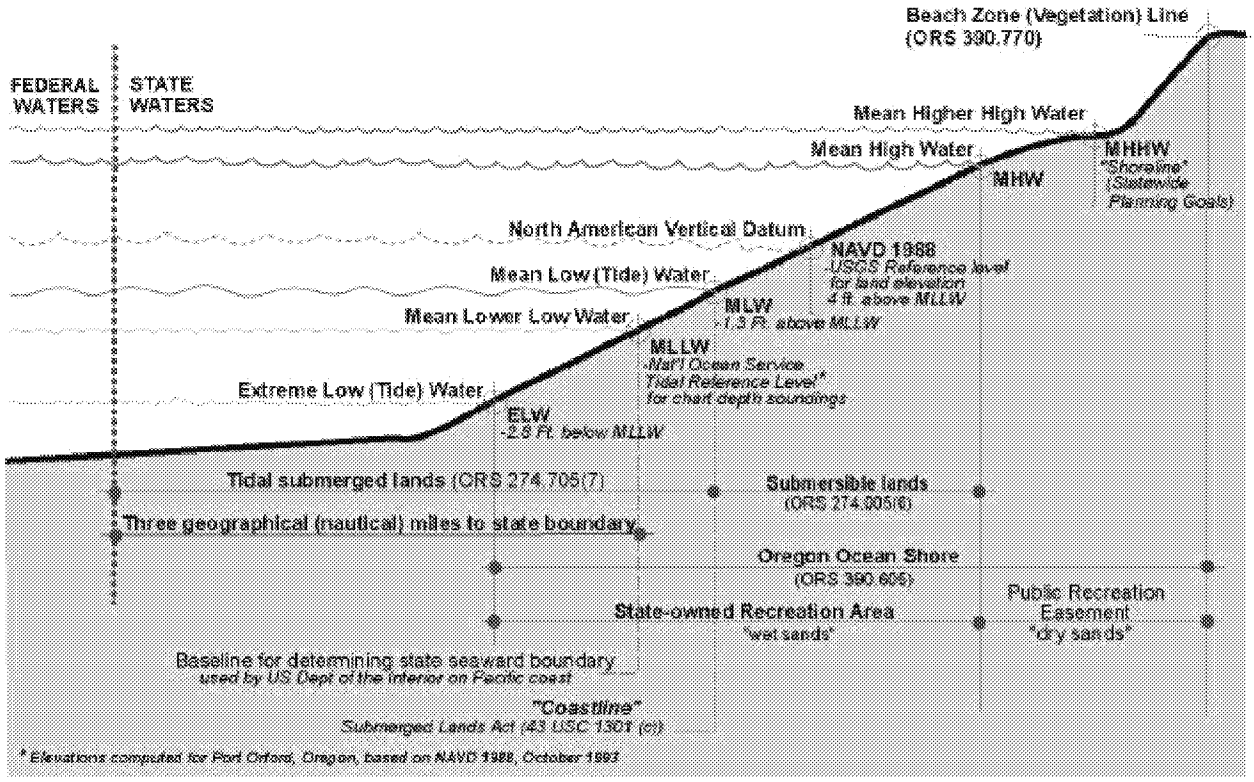


Figure 2: Jurisdictional Boundaries for Oregon's Ocean Shore and Territorial Sea

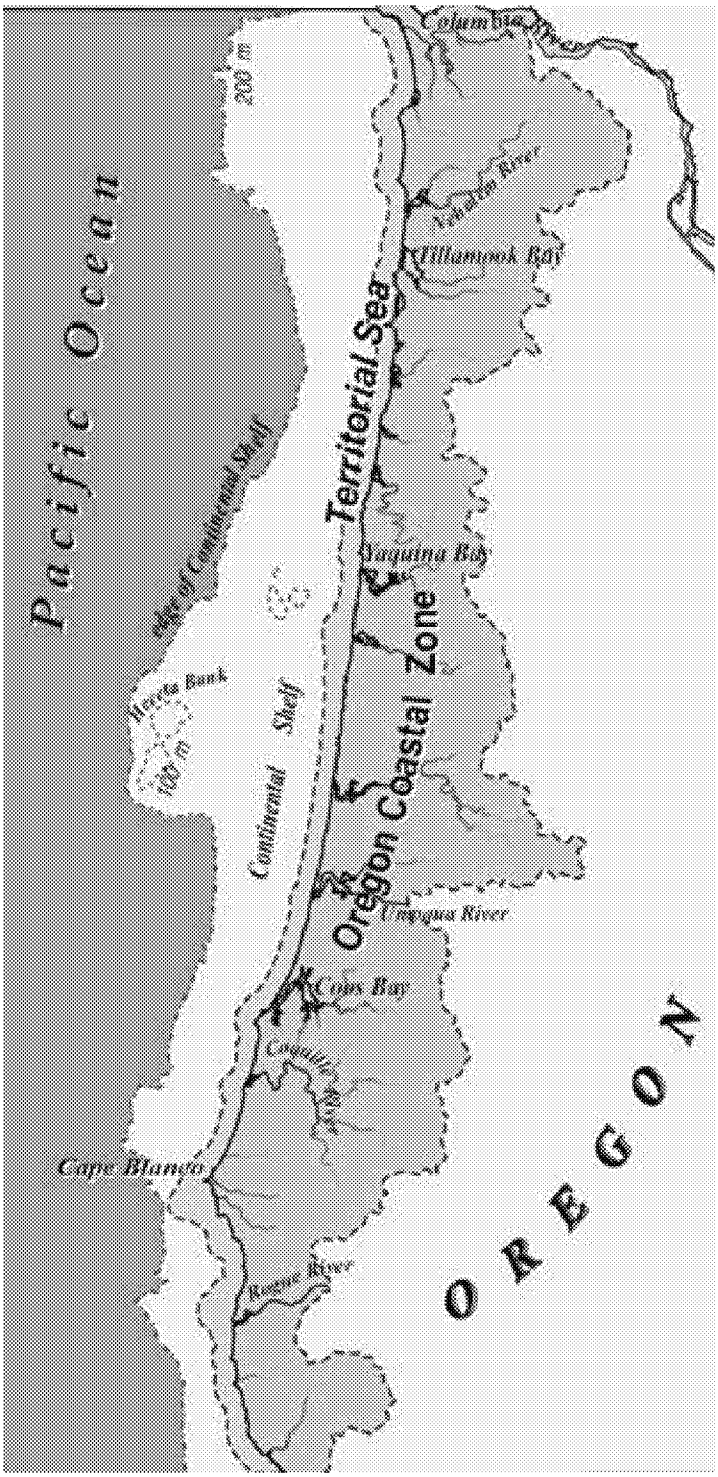
This diagram shows the intersection of the ocean shore with the height of each of six different levels of ocean water described in various state or federal authorities used as reference lines to determine various jurisdictional boundaries. The Oregon Division of State Lands uses "mean" (average) high water in place of "ordinary" high water to determine the upper boundary of tidal submersible lands (authorized in ORS 274.015).

2. Ocean Shore

The 1991 Oregon Legislature required that this plan for the Territorial Sea also include the "ocean shore," which is defined in state law (ORS 390.605) as the "land lying between extreme low tide of the Pacific Ocean and the line of vegetation" as established in state law (also known as the "Beach Zone Line"). These boundaries are shown in Figure 2, below. Technical notes are in Appendix D.

This "ocean shore" is very important to Oregonians. A 1967 political and legal struggle to clarify and protect the public's rights to the dry sand beaches resulted in a law that defines the landward

limit of this "ocean shore" as the "line of vegetation" or the 16-foot elevation line, within which the public has rights of access and use.



Oregon's Territorial Sea and Coastal Zone

This map shows in light blue the approximate extent of Oregon's three nautical mile-wide (3.45 statute miles) territorial sea, as measured from the "coastal baseline" (Mean Lower Low Water). Note how the boundary bulges seaward off headlands such as Cape Arago or offshore rocks such as those in Orford Rogue Reef. These bulges add to Oregon's total ocean.

The landward boundary of the Oregon Coastal Zone is the crest of the coastal watershed except at the downstream end of Puget Island in the Columbia River, Scottsburg on the Umpqua River, and Agness on the Rogue River.