

Assessment of Law,
Policy, and Practice
Related to Private
Conservation of
Oregon
Submerged and
Submersible Lands



Netarts and Tillamook Bays



Where are we going?

1) Why we researched this

2) How we researched it

3) What we found



Why we researched

- Desire to protect investment in conservation projects
 - Growing interest, success of terrestrial conservation efforts
 - Management of submerged lands is fundamentally different from land conservation
 - Bring NGO resources to sites that may not otherwise get attention
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How we researched

1) Geographic Scope

- Seaward: Oregon Territorial Sea (3 nm from coastline)
- Landward: Saltwater

2) Concerns

- Protection of conservation projects
- Expense in time and money

3) Method

- Identify possible mechanisms
 - Research mechanisms and underlying management
 - Define terminology, especially boundaries important for mapping
 - Interview agency personnel, discuss potential for projects
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Challenges in Selecting Mechanisms

- Types of uses allowable under mechanism
- Benefits of mechanisms for conservation projects



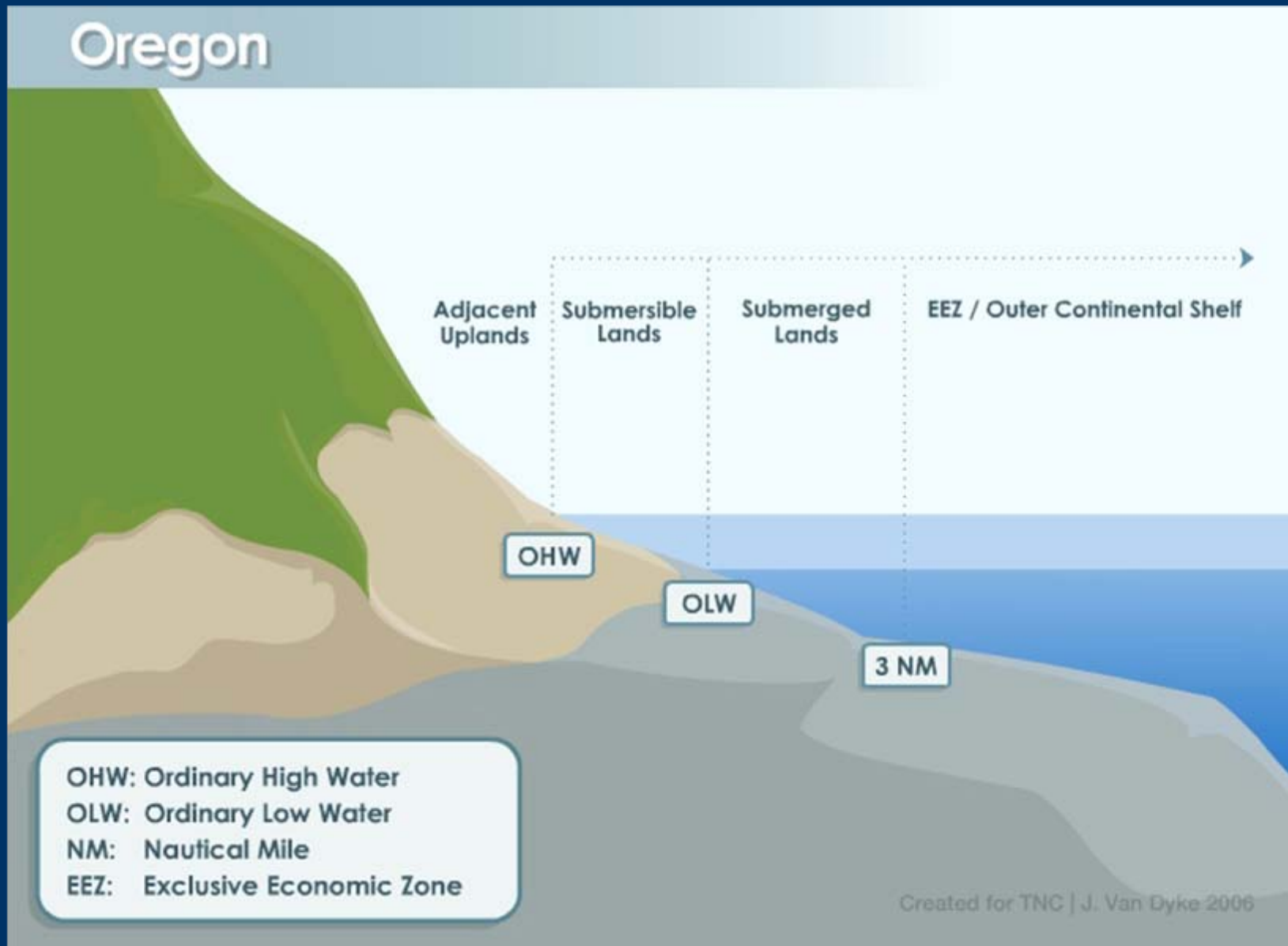
Criteria for Comparing Mechanisms

- Permissible uses
 - Geographic scope
 - Rights afforded to “owner”
 - Application process: ease and cost
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Major Findings

- State has a mandate to manage lands for public benefit
 - State mechanisms vary in types of allowable uses and geographical limitations
 - Completely new for Oregon, in type of use and in potential geography
 - Oregon agencies are helpful
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Terminology



Private Ownership

Geography: Submersible and possibly submerged lands

Pros: Anything is possible.

Cons: Must identify willing owners. Most submerged and submersible lands are not privately owned in Oregon.



Department of State Lands: Management Directives

Constitution: "The [State Land Board] shall manage lands under its jurisdiction with the object of obtaining the greatest benefit for the people of this state, *consistent with the conservation of this resource* under sound techniques of land management."

Management goals: "...ensure the collective rights of the public to fully use and enjoy them for commerce, navigation, fishing, recreation and other related public purposes."

Waterway Lease

Department of State Lands

Geography: State owned submerged and submersible lands

Permitted uses: Flexible

Rights: Right to protect permitted use

Cons: New for leasing process, slow and uncertain beginning



Kelp Lease

Department of State Lands

Geography: State owned submerged lands

Permitted Use: Harvesting Kelp

Term: Max 50 yrs

Cost: Based on harvest

Cons: Must harvest kelp; New use; Lease is not currently in use; rights likely limited to protecting kelp

Department of Agriculture Management Directives

- Manages agricultural matters including shellfish cultivation
 - Small part of the ODA's Natural Resources Division
 - Sole program administered by ODA in state waterways
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Shellfish Plat Lease

Department of Agriculture

Geography: State lands

Permitted Use: Shellfish cultivation and harvest

Term: Perpetual

Cost: Minimal plus tax on harvest

Cons: Must cultivate shellfish; rights limited to protecting shellfish



Parks and Recreation Department Management Directives

- Manages State Parks and similar areas including the ocean shore
- Natural Resource Division: Responsible for land stewardship, marine conservation, department-wide resource policies, and park plants and animals.



Ocean Shores Permit

Parks and Recreation Department

Geography: Ocean shores (excluding estuaries) from the extreme low tide to the vegetation line.

Permitted Uses: Improvements (alterations), primarily used for beach reinforcement

Term: None.

Cost: Percentage of construction cost; \$400 min

Cons: Right only to construct improvement; more like a dredge/fill permit than a lease?

Withdrawal and Protected Area Designations

Dept. of State Lands, Parks and Recreation Dept., Dept. of Fish
and Wildlife

- Pro: A change in designation would limit and conditions on activities
- Con: No “ownership” or decision-making role for NGO



Conclusion and Progress

- Opportunities exist due to the design of the described leases and due to agency receptivity
 - Uncertainties exist due to the novelty of the use and the indirect approaches through leases intended for other uses
 - The Nature Conservancy is contemplating a lease in Netarts Bay for shellfish restoration.
 - Oregon State University is negotiating a lease
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