



March 14, 2023

Oregon State Legislature
Joint Committee on Transportation
Oregon State Capitol
Salem, Oregon

Re: HB 3382, authorizing some ports to construct and maintain deep draft navigation channels and docking/berthing facilities without compliance of state or local land use law

Via email

Dear Chair Gorsek, Chair McLain and Members of the Committee,

Oregon Coast Alliance (ORCA) is a coastal land use and conservation Oregon nonprofit corporation, whose mission is protection of coastal natural resources, and working with residents and visitors to enhance community livability.

ORCA writes you today with a strong recommendation on HB 3382: please vote NO on this notorious special interest bill requested by the Public Ports Association. Special interest bills by corporations, businesses or public entities seeking to escape the requirements of the land use laws are commonplace; they occur session after session, and are voted down – as they should be. The land use laws work because they implement a system of local planning, deliberate decision-making and restraint in profligate development that benefit all Oregonians.

HB 3382, however, asks for a breathtakingly large exemption, for five deep-draft ports to be allowed complete freedom from all land use laws for both dredging navigation channels and building docking/berthing facilities. **There are no amendments that can make this bill acceptable.** It apparently arises out of the Port of Coos Bay's desire to build a multi-modal container facility on the North Spit in partnership with NorthPoint Development, which would require unprecedented channel dredging that would jeopardize many estuary functions. This project, though enthusiastically endorsed by local and state officials, as well as Oregon's Congressional delegation, has had a cool reception at the US Department of Transportation, where the port's request for a \$1.2 *billion* mega-grant was turned down in the 2022 funding cycle.

Apart from being a grossly self-centered special interest bill, it contains problems like a complete lack of definition of “improvements” or geographic distance from the federal navigation channel. More importantly, the bill would tear the land use laws apart in many ways not yet foreseeable. It would also place Oregon’s major estuaries in the firing line for rampant development – the exact opposite of the restraint imposed by the land use framework.

The estuary management plans for both Coos Bay and Yaquina Bay – two of the ports named in this bill – are currently being updated. ORCA’s executive director sits on the Advisory Group for the Yaquina Bay Estuary Management Plan update. This is a complex, multi-layered process that looks at many factors in adjusting the zoning and regulatory structure of the bay in order to maximize its resilience for the future. This bill would probably eliminate the entire estuary plan process, thus leading to immediate opportunities for degradation of this estuary and the other four named in the bill.

Furthermore, the National Oceanic and Atmospheric Administration (NOAA) oversees, and issues approval of, Oregon’s Coastal Management Program (OCMP). NOAA initially approved the program in 1977. Though it consists of a network of agencies, the lead agency is the Department of Land Conservation and Development (DLCD), and the vast majority of the approved OCMP consists of the Oregon land use laws and its nineteen statewide planning goals.

A brazen action such as this bill, which would lift five major ports clear out of the land use framework’s enforceable policies for a broad range of purposes, would likely jeopardize Oregon’s entire land use framework in the coastal region, dangerously hamstring DLCD’s ability to implement its coastal laws and regulations, and therefore jeopardize NOAA’s continued willingness to approve the Coastal Management Program.

This would not have mere bureaucratic consequences – it would threaten the millions of dollars Oregon gets from federal sources for the coastal program. In Fiscal Year 2020, for example, Oregon received some \$1.9 million to run its coastal program. It is for this reason alone that Oregon can afford to appropriate so little state money on it. NOAA must approve any changes or amendments to the OCMP. This bill, if it passed, would not be a minor edit – it would be a major structural demolition of a central facet of the coastal program. As such, it might very well not receive approval in the upcoming NOAA approval process.

As a special interest bill crafted to ease the way of a very large, but little scrutinized, mega project on Coos Bay’s North Spit – and destroy the state’s coastal land use authority in the process – this bill deserves a speedy death. Everybody in the state is regulated under the land use laws. Wholesale attempts like this one, to exempt a party that considers its project

above the law, and privileged above other projects, are both damaging and more wide-ranging than appears at first glance. If the Coos Bay project has merit, it will be because it *obeys* the many regulatory laws that apply to it, not because it seeks to destroy them.

Thank you for the opportunity to testify on this bill.

Sincerely,

/s/ Cameron La Follette

Cameron La Follette
Executive Director

