



# Nor'wester newsletter

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## Welcome new member Ballard Marine Construction



# BALLARD

## MARINE CONSTRUCTION

[Ballard Marine Construction](#) is a specialty diving, marine and underwater construction contractor. For over 40 years, they have provided turnkey infrastructure inspection, construction, rehabilitation and maintenance solutions on projects for clients in the energy, industrial, infrastructure, and maritime industries. Ballard routinely provides early contractor involvement, repairs, replacement, maintenance, and demolition services for transportation structures nationwide including locks and dams, bridges, tunnels and marine and port facilities. Ballard has successfully worked for both private and government clients, as well as joint-venture teams providing underwater services, cathodic improvements, repairs, rehabilitations, and installations of waterfront structures.

Vice President of Business Development Vince Piscitello will be Ballard's representative to PNWA. Vince can be reached at 360-946-2428 or [vince.piscitello@ballardmc.com](mailto:vince.piscitello@ballardmc.com).

## Schwabe offers new maritime podcast

The maritime industry is a driving force in the global economy and affects us all, wherever we live. A new podcast from Schwabe, Williamson & Wyatt aims to raise awareness of the extraordinary people and amazing companies involved in this industry.

# Schwabe

## WILLIAMSON & WYATT®

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## PNWA responds to NOAA draft mitigation policy

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July 27, 2021

U.S. Department of Commerce  
National Oceanic and Atmospheric Administration (NOAA)  
mitigationpolicy.comments@noaa.gov

Re: Comments on NOAA's Draft Mitigation Policy for Trust Resources

To Whom It May Concern,

On behalf of the Pacific Northwest Waterways Association (PNWA), I appreciate the opportunity to provide comments from PNWA's perspective on NOAA's Draft Mitigation Policy for Trust Resources. It is unclear if the new draft mitigation policy is related to the National Environmental Policy Act (NEPA) or Endangered Species Act (ESA). It is also unclear if the new draft mitigation policy will be in conflict with mitigation requirements of the Clean Water Act. This is very timely as the NOAA Fisheries West Coast Region Office has been in a dispute with the U.S. Army Corps of Engineers (Corps) since 2018 regarding the definition of environmental baseline and the application of appropriate levels of mitigation – particularly compensatory mitigation – for the maintenance of existing structures. PNWA is very concerned about this ongoing regulatory impasse in our region and the potential for a national mitigation policy to be applied inconsistently on the West Coast, putting our region at a competitive disadvantage to other areas of the United States.

PNWA has over 150 members, including ports, barge companies, steamship operators, grain elevator operators, agricultural producers, electric utilities, irrigation districts, and union labor throughout Washington, Oregon, and Idaho. Our association supports projects to advance and protect the region's navigation infrastructure, freight mobility, economic health, and the environment. We support the region's multi-modal transportation system, which provides safe, efficient, and reliable links to competitive domestic and world markets.

Internal guidance issued by the NOAA Fisheries West Coast Region Office in 2018 effectively changed the definition of environmental baseline to no longer include existing structures, resulting in significantly higher mitigation requirements. The 2018 guidance also required virtually all West Coast port maintenance projects to go through the formal consultation process, causing project delays and cost increases. The formal consultation process tends to require more resources to hire consultants, studies, modeling, etc. In the NOAA article announcing the draft mitigation policy, the sixth principle states, "implement mitigation that is proportional to impacts to NOAA trust resources and fully offset those impacts." However, the NOAA Fisheries West Coast Region change in environmental baseline definition and the use of a conservation calculator tool to determine compensatory mitigation in our region is increasing basic maintenance costs by 5 to 30 percent. As a result, it appears the costs associated with implementing mitigation far exceed what is typically understood to be impacts. The

4224 NE Halcyon Street, Suite 325  
Portland, OR 97213

Telephone: 503-234-8550  
Fax: 503-234-8555



PNWA would like to thank members of its Environment Committee for providing feedback on our draft letter to the National Oceanic and Atmospheric Administration, providing comments on that agency's [Draft Mitigation Policy for Trust Resources](#).

PNWA submitted [our response letter on July 29](#), identifying our concerns with the draft policy, and calling further attention to unresolved regulatory issues between NOAA and the U.S. Army Corps of Engineers.

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## BOEM, DLCD offer wind energy data review workshops

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As part of ongoing planning for potential offshore wind energy leasing in Oregon, the Bureau of Ocean Energy Management and the Oregon Department of Land Conservation and Development will host virtual workshops on August 4 and 11, 2021.



During the workshops, BOEM and DLCD will share data from the Oregon Offshore Wind Mapping Tool and other data collected during the statewide data gathering effort that began in the fall of 2020. OROWindMap, a tool developed by the State of Oregon and BOEM, provides an extensive catalog of information that is provided by authoritative sources around the region. The public is encouraged to share additional information and provide input on the datasets, which may inform future offshore wind energy leasing in Oregon.

Meeting dates and times are:

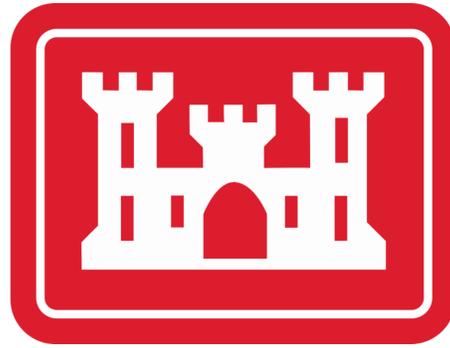
August 4, 2021, 9:00 a.m. - 12:00 p.m. PT  
Physical, human, and biological datasets

August 11, 2021, 9:00 a.m. - 12:00 p.m. PT  
Fisheries-related datasets

Advanced registration is required. Upon registering, a confirmation email will be sent with the webinar link and audio line for the virtual meeting. Meeting materials and registration information are available at [www.boem.gov/Oregon](http://www.boem.gov/Oregon).

## EPA, Corps announce WOTUS definition revision process

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The U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers have [issued a Public Notice](#) that defines a process for revising the definition of “waters of the United States” (WOTUS).

This process will include two rulemakings: A foundational rule to restore longstanding protections, and a second rulemaking process that builds on that regulatory foundation.

The forthcoming foundational rule will propose to restore the regulations defining “waters of the United States” that were in place for decades until 2015, with updates to be consistent with relevant Supreme Court decisions.

The agencies will also pursue a separate, second rulemaking process that further refines and builds upon that regulatory foundation.

The agencies intend to engage with state and tribal co-regulators and the public to inform these two rulemakings. The process includes a [schedule for initial public meetings](#) to hear from interested stakeholders on their perspectives on defining “waters of the United States” under the Clean Water Act and how to implement that definition as the agencies pursue this process.

The agencies are also accepting written recommendations from members of the public and are planning further opportunities for engagement, including 10 geographically focused roundtables that will provide for broad, transparent, regionally focused discussions among a full spectrum of stakeholders.

Additional information is available at <https://www.epa.gov/wotus/notice-public-meetings-regarding-waters-united-states>

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