



OCEAN RENEWABLE ENERGY COALITION

EBB AND TIDE NEWSLETTER

October 2011 Newsletter



"View from the Bridge"

by Sean O'Neill

We've recently been witnessing successes throughout the world with implications for greater import and export opportunities helping to drive revenues and support the responsible commercialization of our sector. Feed-in tariffs in Nova Scotia, British Columbia, and Ontario are attracting international technology developers and projects in New Zealand are being funded by the NZ marine energy deployment fund. Maintaining an international perspective is proving to be a core competency required for companies to grow and thrive. One way for U.S. companies to get more involved internationally is participation in the International Electrotechnical Committee's TC 114 which is establishing standards for the MHK industry (The U.S. delegation's website is available online: <http://www.tc114.us>).

Expanding OREC Membership is critical as we position ourselves for 2012. The Presidential Election, uncertainties in Congress and a weak economy provide challenges we can best meet as a united industry. If you have vendors, contractors, financiers, universities or other organizations that should be members of OREC send them our way. Our membership is diverse and the amount of business our members do with other members is tremendous.



"Counsel's Corner"

By Carolyn Elefant

Two House Sub-committees

[Join OREC Today!](#)



Upcoming Events

[RenewableUK 2011 Annual Conference](#)

Manchester, UK - October 25 - 27, 2011

[OREG 2011 Annual Conference](#)

Montreal, Quebec - November 1 & 2, 2011

[3rd Annual New England MREC Technical Conference](#)

Cambridge, MA - November 7 & 8, 2011

[Washington Ocean Energy Conference](#)

November 9-10, Bremerton, WA

[5th Annual International Tidal Energy Summit 2011](#)

London, UK November 21-23 2011

[Subsea Power Cables](#)



Address the Endangered Species Act and Listings Decisions by Fish & Wildlife Service and NOAA

At one point or another, most of OREC's marine and hydro-kinetic members actively involved in project siting in the United States have encountered issues under the Endangered Species Act (ESA). Sometimes, the ESA may come up in the context of an agency like Fish & Wildlife or NOAA requesting studies or surveys of species populations. Further down the line, Section 7 consultation is invoked if it's determined that a project may affect endangered species or their habitat.

By contrast, however, OREC is not aware of any MHK developers in the United States who have been directly affected by Fish & Wildlife or NOAA to list certain species - for example, a situation where developers have decided to site a project and six months later an indigenous species within the vicinity is listed as an endangered species. As one might imagine, listings decisions are controversial because of their potential impacts on existing or ongoing activity - and not surprisingly, they compromise one of the most frequently litigated issues under the ESA.

However, it is far less common for Congress to intercede in listings decisions under the ESA of endangered species - yet this past week saw hearings by two congressional committees held hearings to scrutinize recent listing decisions by Fish and Wildlife and NOAA related to ESA species listings and critical habitat designation.

As noted, to OREC's knowledge, no member companies (or non-member MHK developers) have, to date, been directly affected by a listing or habitat designation decision. As such, OREC has not formulated a position on existing listing practices, nor does it formally endorse any of the views discussed by the witnesses. We provide these summaries because they offer some insight into the larger issues under the ESA and some of the growing frustration in certain sectors over increasing regulatory constraints.

[\(Continued...\)](#)

Reviving PURPA's Purpose

by Carolyn Elefant; [Next Generation Energy Law Blog](#)

Once an innovative driver of renewables in the US, today PURPA often receives far less mention than its cooler green incentive cousins like the feed-in tariff, Section 1603 ITC cash grants or renewable energy credits (RECs). But even almost 35 years after PURPA's enactment, many small power renewables and CHP projects still depend on PURPA's mandatory purchase requirement and avoided cost rates. Last year, FERC reaffirmed PURPA's relevance when it held that states could rely on PURPA as a basis for a feed-in

[Seminar](#)

November 23 & 24, 2011

[Hamburg Offshore Wind Conference](#)

Hamburg, Germany – February 7 & 8, 2012

[Renewable UK Wave and Tidal Conference 2012](#)

Edinburgh, Scotland - March 15, 2012

[RenewableUK Wave and Tidal Conference 2012](#)

Edinburgh, Scotland - March 15, 2012

[Global Marine Renewable Energy Conference](#)

Washington, DC - April 24, 25 & 26, 2012

[ICOE 2012](#)

Dublin, Ireland - October 17 - 19, 2012

tariff or to develop technology specific rates.

Thus, it seemed like a good time to revisit PURPA, examine current state avoided cost practices and propose changes to enable PURPA to continue to achieve its original goals. Im happy to announce the end result -- an exhaustive Report ***REVIVING PURPA'S PURPOSE: The Limits of Existing State Avoided Cost Ratemaking Methodologies In Supporting Alternative Energy Development and A Proposed Path for Reform*** commissioned through the Southern Alliance for Clean Energy.

Read the report by clicking on the link in the post: [Reviving PURPA's Purpose](#)

Congressional Outlook

Fiscal Year 2012 Appropriations

The Senate Committee on Appropriations passed the Fiscal Year (FY) 2012 Energy and Water (E&W) Appropriations bill last month, which included \$34 million for MHK in the Energy Efficiency and Renewable Energy Office's Water Power program. We have been working with the E&W subcommittee staff for months to ensure an adequate funding level for the water power program next year and are pleased with this result given our current budgetary environment.

The House included \$50 million for the water power R&D program to be split evenly with conventional (\$25 million for MHK/\$25 million for conventional hydro). Lots of negotiation left to do since both the House and Senate will need to conference their bills to reach final funding levels for DOE programs. Thus far, we believe the passage of both the House and Senate bills is a great outcome since every other renewable energy program except ours received a reduction from the President's budget request. Given the fact that the Administration has funded DOE's water power program under the FY11 continuing resolution at \$30 million (divided equally between MHK and conventional), passage of a FY 2012 Energy and Water Appropriations bill should provide a fairly large increase in funding for MHK efforts next year.

As you may know, Fiscal Year 2012 started on October 1. Although we await action on an appropriations bill covering the Department of Energy, Congress passed a critical Continuing Resolution (CR) to fund the government through November 18. Congressional leaders continue to discuss options to pull together an FY12 funding measure. Congressional leaders do not want to repeat the eight short-term funding bills passed in 2010 and 2011 to keep the government operational while they put together a long-term CR through FY11, so Congress is moving to discuss its options to pull together an FY12 funding

measure.

The House has passed six of its 12 regular bills, while the Senate so far has only passed the Military Construction-VA measure. Due to the busy Fall schedule, leaders in both chambers have been discussing options to move the annual bills in a single omnibus or a series of smaller packages. Leadership in both the Senate and House has signaled that passing a series of minibuses in an attempt to avoid one catchall measure for the budget year is the preferred route. The Senate hopes to pass its first minibus by October 21, which will contain three largely non-controversial domestic bills including Agriculture, Commerce-Justice-Science and Transportation-Housing and Urban Development.

Meanwhile, the President's \$447 billion jobs bill did not survive a test vote in the Senate on October 11. Majority Leader Harry Reid (D-NV) has indicated plans to break the bill into smaller chunks that have a chance at passing through both chambers and gaining bipartisan support, such as relatively popular measures like extended payroll tax relief to employees and small businesses. It is not clear whether Democrats plan to offset smaller packages of spending programs or tax cuts with revenue increases.

The Joint Select Committee on Deficit Reduction's meetings to cut \$1.5 trillion in spending over the next decade are underway. Whether the supercommittee will be able to formulate a plan by the Thanksgiving deadline, and whether that plan will pass through Congress, remains to be seen. If debt reduction legislation is not issued, or the recommendations are not adopted by the divided Congress, automatic spending reductions mandated in the last debt-ceiling package that was passed over the summer are set to take effect. However, Congressional aides have made clear that they believe Congress would not allow a round of automatic cuts, including \$400 billion in Pentagon reductions, and would work to pass a bill overriding the spending cuts.

Water Power Program Reauthorization

The last issue of Ebb & Tide reported the introduction of the Marine and Hydrokinetic Renewable Energy Promotion Act of 2011 (S. 630) in the Senate, introduced by Senator Lisa Murkowski (R-AK). Since its introduction, the Senate Committee on Energy and Natural Resources passed the bill out of committee and it has been placed on the Senate Legislative Calendar. The bill is co-sponsored by Senators Mark Begich (D-AK), Jeanne Shaheen (D-NH), Sheldon Whitehouse (D-RI) and Ron Wyden (D-OR).

In the House, Representative Jay Inslee (D-WA) introduced the Marine and Hydrokinetic Renewable Energy Promotion Act of 2011 (H.R. 2994) in the beginning of October. The bill is co-sponsored by Representatives Earl Blumenauer (D-OR), Lois Capps (D-CA), Peter DeFazio (D-CA),

Theodore Deutch (D-FL), Grace Napolitano (D-CA), Chellie Pingree (D-ME), Paul Tonko (D-NY) and Don Young (R-AK). H.R. 2994 is nearly identical to its companion in the Senate and includes adaptive management grant provisions to provide a mechanism to collect and share environmental data, authorizes federal funding for three national MHK testing facilities, and establishes an MHK device verification program. Furthermore, the legislation authorizes \$70 million in FY 2012 and \$75 million in FY 2013 for the water power R&D programs covered in the bill. The House bill has not yet been marked up by the Committee.



The 5th Annual Global Marine Renewable Energy Conference returns to Washington, DC on April 24, 25 & 26 of 2012.

The 2011 conference had representatives from more than 20 countries with the leading technology developers and project developers from around the world as well as the top U.S. federal agencies and regulators. Stay tuned for this year's line-up.

Do you have a panel, presenter, or topic you want to see at the 5th Annual GMREC...send your ideas to info@globalmarinerenewable.com

Sponsors, exhibitors, and posters are welcome.

Read More... www.globalmarinerenewable.com

In the News

MHK Cat-Ex in FINAL DOE RULEMAKING

The U.S. Department of Energy is amending its existing regulations governing compliance with the National Environmental Policy Act (NEPA). The majority of the changes are for the categorical exclusions provisions contained in its NEPA Implementing Procedures, with a small number of related changes for other provisions. These changes are intended to better align the Department's regulations, particularly its categorical exclusions, with DOE's current activities and recent experiences, and to update the provisions with respect to current technologies and regulatory requirements.

Read More.... <http://energy.gov/nepa/downloads/notice-final-rulemaking>

Oceanlinx

Oceanlinx, the most established wave energy developer in Australia, has developed and refined its technology over the past fourteen years to such a point that it is now ready to demonstrate its commercial competitiveness. Over the past eighteen months, major technological breakthroughs have led to a significant enhancement of the Oceanlinx greenWAVE (the WEC for shallow water deployment) and airWAVE (turbine) products. This has resulted in a steep change in the production cost of power from the technology. Oceanlinx has, to date, installed a total capacity of 750 kW via three separate projects in the real ocean, including being the first and only Australian company to sell electricity to the local grid through a power purchase agreement, and one of only a few companies worldwide to do so. These projects have resulted in over 40,000 hours of operational experience, 5,000 hours of electrical production, and 8,000 hours of scale testing.

Oceanlinx's greenWAVE design is a direct evolution of the MK1 fixed unit, installed and operated in Port Kembla, Australia, since 2005. A rigorous development program which has been conducted since 2009 has resulted in a five-fold increase in efficiency of the core oscillating water column (OWC) technology alone. This technology is ready for demonstration at full scale and is expected to produce electricity at costs comparable with the most mature forms of renewable energies. 'This is a leap in the wave energy technology sector and we are very proud of it', says the CEO.

Recent detailed testing has confirmed the exciting potential of the company's greenWAVE unit. testing indicated the technology, which has won acclaim from authorities such as the International Academy of Science and the United Nations, is ready to produce cost competitive electricity in good wave climates. Oceanlinx is very pleased with the outcome of this validation process and is excited at the prospects for the technology as the world moves to a more sustainable energy future.

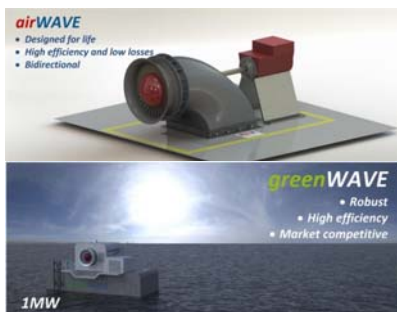
Oceanlinx's CEO, Ali Baghaei, recently had the opportunity to discuss this significant technological progress with the Prime Minister, Julia Gillard, as seen the photograph below.





Given its current position on the "learning curve", the company believes the technology will be making a significant contribution to no hydrocarbon based electricity supply within five years and then as a desalination solution.

The overall greenWAVE unit, which includes an Oceanlinx airWAVE turbine, is rated at 1 MW and is designed for a 25 year life expectancy in environments like that of southern Australia.. Projects involving deployments of other Oceanlinx's WEC units, blueWAVE and ogWAVE, also continue to be developed. All three devices use the same core OWC and turbine technology.



The latest review of the global wave energy industry, by independent US-based

Company Emerging Energy Research, has further confirmed Oceanlinx as a leader in the sector. Emerging Energy Research,

a respected authority in the analysis of new energy technologies, has concluded that Oceanlinx is the most advanced OWC technology in the world. The latest analysis is further confirmation of the progress being made by Oceanlinx in the field of wave energy, with the company's greenWAVE product about to become a commercial reality.

For further information on Oceanlinx's greenWAVE and airWAVE products, as well as blueWAVE, ogWAVE and Desalination technology, please visit www.oceanlinx.com. You can also find Oceanlinx on facebook by simply [clicking this link](#).

Real New Energy, Ecofys and Fugro Announce "Poseidon Atlantic"

First of its Kind Offshore Wind Turbine Test and Certification Facility Launched in Virginia

Virginia's Eastern Shore is on the cusp of becoming the North American leader in the testing and certification of large offshore and land-based electricity-producing wind

turbines. The Commonwealth of Virginia, Northampton County and a consortium of companies are collaborating on the project, called Poseidon Atlantic, which would be the first such test facility.

Read more...

<http://www.businessweek.com/ap/financialnews/D9QBGGQ00.htm>

Marine Renewables Gathers Pace and Profitability

By Jon Harman, September 30, 2011

In the race to deploy tidal stream technology, there are three clear front-runners: the UK, Canada, and the US. They have key demonstration projects, the first array developments planned, and relatively good policy support.

Read the full article here:

<http://www.renewableenergyworld.com/rea/partner/first-conferences/news/article/2011/09/marine-renewables-gathers-pace-and-profitability>

Ocean Power Technologies Announces Election of New Directors

Ocean Power Technologies, Inc. announced that David L. Davis and Bruce A. Peacock were duly elected to the Company's Board of Directors at the Company's Annual Meeting of Stockholders held on October 6, 2011. In addition, Paul Lozier and J. Victor Chatigny retired from the Board of Directors effective with the Annual Meeting.

David Davis is the Vice President, PJM Development for NRG Energy, Inc. (NYSE: NRG), where he leads project development activities within the PJM Interconnection – the largest Independent System Operator (ISO) in North America. His responsibilities at NRG Energy have included both traditional fossil fuel projects and projects in the renewable energy sector such as solar, biomass, terrestrial wind and offshore wind projects. Prior to joining NRG Energy, Mr. Davis served as a consultant to the energy industry, focusing on energy project acquisitions and development. He also held senior positions at Perennial Power Holdings, a subsidiary of Sumitomo Corporation, where he focused on acquiring and developing ownership positions in power generation facilities in the United States, and at Mirant Corporation, where he focused on both international and domestic energy projects. Mr. Davis brings strong relationships with regulators, legislators, and other stakeholders within the energy industry and has over 20 years' experience in the domestic and overseas energy industry, including project development and corporate strategy experience.

Bruce Peacock is currently the Chief Business Officer of Ophthotech, a biopharmaceutical company, where he is

responsible for strategic planning, finance, manufacturing, intellectual property and business development. Mr. Peacock is also Co-Chairman of ALBA Therapeutics. He previously served as President and Chief Executive Officer of Adolor Corporation and Orthovita Inc. and held senior positions at Cephalon, Inc. and Centocor, Inc. Mr. Peacock has been a member of the boards of several public and nonpublic companies, including having served as Chair of the Audit Committees of two public companies. He has over 30 years of senior-level experience at companies with international operations, bringing new products to commercial status in regulatory-driven markets. His contributions to these companies included strategic direction, increasing shareholder value, and business development.

"We are very pleased to announce these talented additions to our Board of Directors," said Charles F. Dunleavy, Chief Executive Officer of OPT. "David brings broad energy industry experience including both traditional and renewable energy project development, while Bruce has invaluable managerial financial and operational credentials gained at public companies where he has been an important contributor to their growth. Such experience will prove crucial as we continue to pursue the commercialization of our PowerBuoy technology and increase deployments around the globe. We look forward to incorporating the expertise that David and Bruce bring into our already strong Board and, at the same time, wish both Paul Lozier and Victor Chatigny well in their future endeavors. We appreciate their many years of service to Ocean Power Technologies."

Biographies for both Mr. Davis and Mr. Peacock are available on the Company's website at www.oceanpowertechologies.com.

Comfit Gives Canadian Tidal Market Competitive Edge

By Elisabeth Jeffries, September 28, 2011

Nova Scotia, which contains most of the Bay of Fundy, introduced a community based feed in tariff valid for a range of different renewable energy technologies. The bay's power potential is, of course, enormous because tides moving from the outer bay into the Minas Basin – the finger at the inner end of the bay - can reach speeds of up to five meters per second.

Read the full article here: http://social.tidaltoday.com/industry-insight/comfit-gives-canadian-tidal-market-competitive-edge?utm_source=TidalTodayE-Brief&utm_medium=Newsletter&utm_campaign=TidalToday

London To Host the 5th Annual Tidal Energy Summit & Awards Ceremony

The Tidal Energy Summit is the world's only event 100%

dedicated to tidal energy device technology innovation, site development, installation, and commercialization.

The summit will feature sessions on Global Market Analysis, Grids & Infrastructure, and Environment & Consenting, among others. New for 2011 is a half-day Wave Energy Workshop designed to help the development and deployment of wave energy devices.

There will be more than 400 senior level tidal-focused attendees, over 30 tidal industry suppliers exhibiting, and dozens of speakers.

Read more about the Tidal Energy Summit here: http://www.tidaltoday.com/tidal-conference/5thAnnualInternationalTidalEnergySummit_000.pdf

Marine Energy Holds Opportunities for Ports, Coastal Communities

By the Government of Nova Scotia, September 27, 2011

A new report concludes that Nova Scotia ports and coastal communities can benefit from tidal and other renewable marine energy development.

Read the full report here: <http://www.gov.ns.ca/energy/renewables/explore-invest/recent-reports.asp>

Why collaboration makes sense in offshore O&M

By Jason Deign, September 26, 2011

Last month E.ON, RWE and WindMW unveiled plans for a joint operations and maintenance base on Heligoland, an island in the North Sea. The 10,000 square-meter base will serve E.ON's 300 MW Amrumbank West wind farm, RWE Innogy's 295 MW Nordsee Ost project and the 288 MW Meerwind Süd and Ost facility owned by Blackstone, the US financier, and built and operated by WindWM.

Read the full article here: http://social.windenergyupdate.com/operations-maintenance/strategy-why-collaboration-makes-sense-offshore-om?utm_source=WEU+E-Brief&utm_medium=newsletter2708&utm_campaign=WEU

DOE Announces New MHK "Webinar" Series

The Department of Energy, in partnership with a number of Federal agency representatives and Pacific Northwest National Laboratory, is hosting a webinar series to highlight current research efforts on the potential environmental effects of marine and hydrokinetic (MHK) development. The goal of this webinar series is to increase global awareness of current research efforts. The first webinar was held on July 27 and featured work on environmental data management, cumulative impact modeling, and risk assessments.

The second webinar, held on August 29, included presentations from researchers studying the direct and indirect interactions between aquatic animals and MHK devices. The third webinar, which took place on September 14, featured research efforts to develop monitoring technologies and strategies for MHK deployment.

The first three webinars have been well attended by both U.S. and international participants, with over 130 attendees participating in each of the webinars. All of the webinar materials, including the video recordings and presentations, have been made available on Pacific Northwest National Laboratory's Tethys site:

http://mhk.pnnl.gov/wiki/index.php/DOE_MHK_Webinar_Series. This site will continue to provide updates on future webinars to be featured in the series.

Local companies aiming for a marine energy 'first'

Wave Energy Technology – New Zealand, October 7, 2011

Two local companies are hoping they will achieve a New Zealand first – sending power to shore from a marine energy device. Wave Energy Technology New Zealand (WET-NZ) is a joint R&D project by Power Projects Ltd and the Crown Research Institute, Industrial Research Limited.

The duo have just won a \$360,000 government grant towards the cost of a 1 megawatt capacity power cable. The cable will bring power to shore from a wave energy device moored 25 metres deep and 3 km off Wellington's south coast at Moa Point.

While the device is small – a 20 kilowatt, half-scale wave energy converter – it will still be connected to either a consumer or the local electricity network. Dr John Huckerby, Director of Power Projects Limited, said they were very pleased with the support. "We're delighted. It shows that the Government and the expert panel that evaluated the grant applications have real confidence in the project."

Dr Huckerby said the cable, which will be buried below the seabed, already had resource consent, with the shore crossing point yet to be determined. The grant is the second the two companies have received from the Government's Marine Energy Deployment Fund.

Dr Huckerby said they were planning to test their device for two years, after which the cable would be available for other developers to use. "The device is currently undergoing initial sea trials outside Akaroa Harbour and will then be shipped to Wellington for deployment at the Moa Point site."

It is not the only trial for the half-scale device. The US

Department of Energy awarded WETNZ and its US partner US\$1.8 million in September 2010 to build and deploy one off the Oregon coast.

Three marine energy projects to receive funding

New Zealand's Office of Energy and Resources, October 7, 2011

The Acting Minister of Energy and Resources, Hekia Parata, has today announced that three marine energy projects will receive funding as part of the Government's Marine Energy Deployment Fund.

Read more about New Zealand's marine energy deployment fund here: <http://www.eeca.govt.nz/marine-energy-fund>

Counsel's Corner Continued...

1. House Committee on Science, Space & Technology Subcommittee Hearings

On October 13, 2011, the House Committee on Science, Space and Technology, Subcommittee on Investigations and Oversight held a hearing entitled, <I>The Endangered Species Act: Reviewing the Nexus of Science and Policy. Witness statements and an archived webcast are available at the following link -

<http://science.house.gov/hearing/investigations-and-oversight-subcommittee-hearing-%E2%80%93-93-endangered-species-act>.

In his opening statement, Subcommittee Chair Paul Broun (R-GA) stated that the hearing would explore "how science is used to inform policy decisions under ESA" and that "written testimonies provided by our witnesses highlight major flaws in the basic construct and implementation of the Act." Chair Broun also endorsed an overhaul of the ESA, arguing that:

In a time of record unemployment, the Administration continues to choose regulations over jobs. While I agree an appropriate balance can be met, constituents in my district need jobs, not red tape. We don't live in a vacuum and neither should our environmental laws. Many of the witnesses before us today have identified serious weaknesses with ESA, as well as practical solutions that can bring about real conservation. It is time for an overhaul of the Endangered Species Act

Jonathan Adler, an environmental law professor discussed the politicalization of the listings process in his [testimony](#).

The ESA may require that decisions to list endangered and threatened species are determined by the "best available" scientific evidence. Yet there is ample empirical evidence that political and other non-scientific factors influence listing decisions.

Species that were more "charismatic" – that is that are more "warm and fuzzy" and those more politically popular –were more likely to be listed and to receive funding.

Other recent studies have found that the political and environmental attitudes of legislators on relevant congressional committees appear to influence listing decisions as well.

These findings should not surprise. Listing decisions can force the federal government to adopt various regulatory measures with significant economic consequences. With so much at stake, it would be surprising if political and other factors did not influence listing decisions.

Dr. Neal Wilkins, Director of Texas A&M Institute of Renewable Natural Resources offered similar remarks:

At times, what is presented as "best available science" is not always good enough for decision-making. This is certainly the case when speculation is mistaken for good science. When listing decisions are driven by the petition process, the speculations of scientists are often used to support the petition....Scientists speculate about cause and effect all the time – this is part of the scientific process. Speculation is how hypotheses are posed; and those hypotheses are then tested by collecting data. But treating speculation as science is a mistake..."

2. House Natural Resources Committee Oversight Field Hearing

On October 17, 2011, the House Natural Resources Committee conducted a field hearing entitled "*NOAA's Stellar Sea Lion Science and Fisher Management Restrictions -- Does Science Support the Decisions?*" Witness testimony is available here -

<http://naturalresources.house.gov/News/DocumentSingle.aspx?DocumentID=264705>

The purpose of the hearings was to address restrictions on commercial fishing to protect stellar sea lions.

Chair Doc Hastings opened the hearings with the following [remarks](#). First, he explained that the purpose of hearings is to address restrictions on commercial fishing to protect stellar sea lions arising out of NOAA's new critical habitat designations. Hastings continued:

I am concerned that the decision to impose these restrictions was based on whether fishing was "not likely to jeopardize the continued existence oof a listed species" that standard seems to put the burden of proof on whether the agency could disprove that the

commercial fishing industry was responsible for harming Stellar sea lions. The fact that the [biological opinion] uses the word may throughout the document indicates that the agency is not sure...and therefore cannot disprove any of the theories.

When an agency puts in place a restriction on an industry that will result in loss of up to \$61 million per year and cost 750 jobs, I expect them to be certain.

Dr. Andrew Trites and Gunnar Knapp performed an independent assessment of NOAA's decision, and reported the results in their testimony, available here -

<http://naturalresources.house.gov/UploadedFiles/KnappsTritesTestimony10.17.11.pdf>

In response to NMFAS' findings, they emphasized that:

There is no formal scientific standard for likely. Given a high degree of uncertainty about whether fishing jeopardizes Stellar sea lions, we contend that most scientists would define a scientific standard for likely based on interpretation of the preponderance of the evidence. The Biological Opinion...[implicitly uses] a standard which is significantly weaker than the scientific standard of preponderance of the evidence....

OREC will continue to monitor these developments. If you have any further questions, please contact Carolyn Elefant at carolyn@oceanrenewable.com

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Interested in more news on Marine Renewable on a daily basis? Visit here to view and follow the [Marine Renewables Daily](#), an aggregation of news, videos and blog posts via Twitter. Also check out Carolyn's long running [Renewables Offshore Blog](#).

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