



Oregon

COASTAL NOTES

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Fishery Fees Draw Attention *Fishermen and ODFW Talking*

In an effort to recoup losses in the agency's budget from the Measure 5-influenced budget from Governor Barbara Roberts, the Oregon Department of Fish and Wildlife (ODFW) has proposed increases in poundage fees for commercial fishermen. Fishermen and processors have shown mixed reactions to the increases—some sympathy but concerns on the size of the increases and the usage of the funds.

In the Governor's new proposed budget, nearly two and one half million dollars of state general fund moneys that were earmarked for commercial fisheries are suggested to be withheld. The Department has proposed offsetting this loss with fee increases for salmon, sturgeon, crabs, clams, shad, smelt, albacore tuna, halibut, shrimp and for several other species. A first time assessment is proposed for Pacific whiting.

Without new revenues, the Department indicates it must slice about \$2.3 million in services to the fisheries including \$900,000 in propagation with the closure of two coastal hatcheries—Trask and Fall Creek. Other programs threatened include services related to ocean salmon, ocean habitat, Columbia River management, and marine finfish and other fisheries information. (See chart below.)

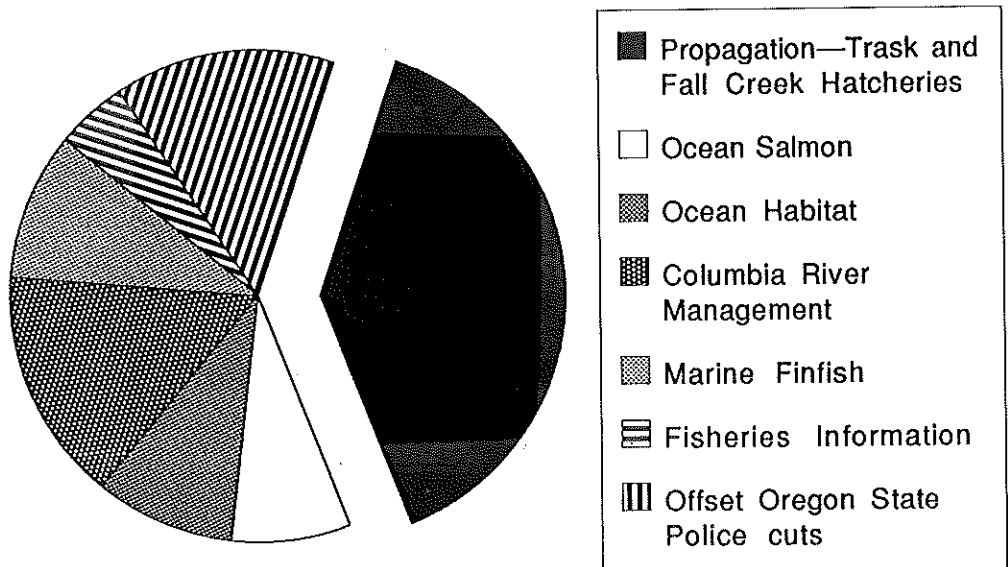
Several meetings recently have occurred between the Department and representatives of the commercial fisheries. A general theme coming from the fishing industry is that the Department

CALENDAR

Mark your calendar. The next meeting of the OCZMA is scheduled for March 7-8, 1991. The meeting will be held in Salem. Meeting material will be forwarded to members a week prior to the meeting.

The next meeting of the Coastal Ports Maintenance Dredging Committee is scheduled for February 22, 1991, in the Meeting Room of the OSU Hatfield Marine Science Center, Newport.

ODFW Revenue Needs to Offset Proposed Budget Cuts (\$2.3 million)



Fish fees

Continued

should not expect to make up all its funding reductions by passing all those costs directly to an industry that can ill afford major new fees.

Industry representatives have shown empathy for the Department's position but are asking for consideration of several concepts and for additional information. Fishermen have asked the Department's support in the creation of a commercial fishery advisory body to review the agency's work programs that apply to marine fisheries and to allow the industry to become more knowledgeable about revenue needs and uses.

The industry noted that before consensus on fee increases can be considered, ODFW is to produce information on converting fees from poundage to ad valorem, or value rates. With a few exceptions, landed poundage has recently remained fairly constant and efforts to raise additional state revenues are limited to higher poundage rates. For some fisheries like salmon, this system does not recognize the wide range of values fishermen receive. For example, a 10 cents per pound fee affects one dollar a pound coho more adversely than the higher value chinook. With interest in this approach shown by the industry, the agency is preparing a conversion of existing poundage revenues into ad valorem by species for further review.

Further information is sought on revenues that might be achieved

from increases in certain licenses including those placed on boats, crews, and dealers. Further, they seek details on the number of agency personnel assigned to marine fisheries by species and on what specific cuts would be made if the agency failed to achieve all of its requested revenue.

Salmon fishermen strongly noted that they should not and can not be expected to pay for all the costs of salmon management when so much of what they are left to harvest—or not harvest—has been impacted by dams, habitat alterations, and other factors beyond their control. There was support for ODFW meeting many of its habitat review costs from sources that contribute to the problem of salmon abundance and agency costs—for example, the review of fill and removal permits.

OCZMA is working to see if a consensus can be achieved on the new fees and to focus additional effort on retention of the two hatcheries—the largest single budget item under threat. It is extremely unlikely that there will be any coastal support for closing the hatcheries and further reducing the production of salmonids.

The Department's budget is scheduled for late February before the Ways and Means Committee.

—Jay L. Rasmussen

Pacific Ocean resources compact introduced

On Thursday, January 31, 1991, legislation pertaining to the Pacific Ocean Resources Compact was introduced concurrently in the five states participating in the Compact.

The Compact involves the states of Oregon, Washington, Alaska, California and Hawaii, and eventually could include British Columbia. In Oregon, SB 500 is being sponsored by Senator Bill Bradbury, the Senate Majority Leader, and also has the support of Senate Republican Leader John Brennehan, and Representative Walt Schroeder, who have signed on to the bill. The three legislators were present at a press conference Thursday in the Capitol Press Room.

The Ocean Compact as an interstate compact, generally shares the characteristics of interstate compacts as the most binding legal means of establishing cooperation between states. The U.S. Constitution provides for interstate compacts in Article I, Section 10 such that "No state shall, without the consent of Congress...enter into any agreement or compact with another State, or with a foreign power." Each state in a compact agreement is bound by its own state statute and also subject to Constitutional endorsement of contracts. A state in the Compact cannot

jeopardize the terms of the Compact or unilaterally withdraw from the Compact except as outlined in the Compact. As contracts, interstate compacts take precedence over other state laws that conflict with the provision of the Compact.

The Pacific Ocean Resources Compact grew in part out of the combined efforts of the Ocean Resources Committee of the Western Legislative Council and the recommendation for the establishment of an interstate compact made by the States/British Columbia (BC) Task Force on Oil Spills. The States/BC Task Force recommendation was an element of the final report presented to the Western Legislative Conference on July 2, 1990. SB 500 thus reflects the intent of both of these working groups as much as possible.

Originally, it was thought that the formation of the Compact would come under Section 309 of the Coastal Zone Management Act (CZMA) which granted congressional preapproval for interstate compacts concerned with ocean resources management issues. However, the 1990 Reauthorization of the CZMA did not include the preauthorization

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Ocean compact

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language. Upon ratification by one or more states, the Compact would take on the status of an international treaty and require the approval of the Canadian government as well as the Congress. Because of differences in the legislative process, BC will probably hold non-voting status with respect to the Ocean Compact.

The Ocean Compact addresses what is considered the "Compact Zone"—the area within the states' Territorial Seas extended to include the area with the U.S. Exclusive Zone—out to 200 miles from the mean high water mark.

The Compact establishes a framework through which the states and British Columbia can represent their interests in the compact zone, and also provide a means for citizens to address their concerns over interests within the compact zone. More specifically, this includes the establishment of uniform safety standards for routes, crews and equipment for vessels transporting oil and other hazardous substances within the compact zone. The Compact also stipulates the provisions for the implementation of these standards and regulations by federal agencies, states or provinces and private industries. Other goals of the Ocean Compact are to maintain and protect common ocean resources through the coordination of the parties' ocean resources management plans.

The implementation of the Ocean Compact would be carried out in part by the delegates from each state who would be appointed as representatives of the parties to undertake the duties and responsibilities of the Compact. The Secretary of Transportation, the Administrator of the Environmental Protection Agency (EPA), and the Administrator of the National Oceanic and Atmospheric Administration (NOAA) or their delegates may also serve as non-voting members of the Compact.

The authority of the Ocean Compact centers on its provision to prevent oil or other hazardous substance spills. In addition to establishing uniform vessel safety standards, the Compact will have the authority to coordinate the oil and hazardous substance spill response plans and programs of the states, federal agencies and private organizations. The Compact also establishes the requirements for the submission and approval of a contingency plan by any vessel transporting oil or hazardous substances in the compact zone. Such requirements are to be at least as stringent as those required under the Federal Oil Spill Pollution Act of 1990. The vessel contingency plan itself must comply with the Oil Pollution Act.

The Compact also calls for coordination of the parties' individual or regional oil or hazardous material spill response systems, by maintaining a directory of personnel, equipment, technical expertise, organizations and other resources available in the event a spill response within the compact zone is needed. In addition to the spill response coordination, the Compact calls for interstate cooperation regarding studies or data which relates to ocean resources and needs to be compiled and shared

among the parties.

The Compact will eventually designate state or provincial agency officials to serve as liaisons with federal agencies, so that the Compact may advise those agencies with regards to ocean management issues and necessary regulation.

There is a provision in the Compact which allows for a variance from the provisions of the Compact. This applies only when the activity allowed under the variance does not have any regional impact and that the variance is economically necessary. However, the Compact stipulates that under no circumstances will the activity allowed by the variance result in the regulation or transportation of oil or other hazardous substances to standards less stringent than standards imposed under federal law.

At this time the legislation is written to appropriate an unspecified amount of general fund revenues to carry out the provisions of the Compact.

Historically, compacts were used to settle interstate boundary disputes. However, reflecting the increasing complexity of modern problems, half of the approximately 200 compacts formed since the Delaware River Compact of 1783, have been established after WWII.

Examples of compacts are found in all areas of state concern, including health, education, transportation, and natural resources. Issues under these categories often have such public good characteristics as non-excludability. Specific examples of compacts in natural resources include the Colorado River Compact, the Pacific and Gulf States Marine Fisheries Compacts, and the Columbia River Basin Fish and Wildlife Program. Another important compact which provided some guidance in the language of the Ocean Compact, is the Northwest Power Planning Council.

The following points were extrapolated from a publication of the Legislative Service Bureau of Michigan, and address the common arguments in favor of and in opposition to the formation of interstate compacts.

Arguments that have been made in favor of interstate compacts include the following:

- 1) The interstate compact is a means for the states to preserve their position in the federal system and to reduce the burden on the federal government.
- 2) The interstate compact can be effective in the establishment of joint agencies with two or more states. Furthermore, while compacts may appear to diminish state autonomy in specific areas, they also pave the way for greater state achievements and interstate problem solving.
- 3) Compacts take precedence over ordinary state statutes and they represent one of the most powerful ways of achieving intergovernmental action.

Arguments that can be made against the formation of interstate

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Ocean Compact

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compacts including the following:

1) A considerable amount of time is needed to initiate, negotiate and ratify a compact. 2) Because compacts are increasingly controlled by the specialists who are responsible for their implementation, the public may feel separated from the process of negotiating and forming compact issues.

3) Compacts may become overly interest group-oriented as opposed to meeting the needs of the general public or addressing the actual issues at hand.

Legislators introducing the bill in the five participating states are Senator Sam Cotten of Alaska; Assemblyman Dan Hauser of California; Senator Jack Metcalf of Washington who is the Chair of the Senate Committee on Agriculture and Natural Resources in Washington; and in Hawaii, Representative Pete Apo. The British Columbia contact person is Richard Dallon, Office of Deputy Minister, Ministry of Environment.

According to Senator Bradbury "The Compact dramatically improves the ability of the region and of Oregon to prevent oil spills."

Oregon has been a leader in developing an ocean resources management plan, and there is a need to coordinate the efforts of the individual states in the region. As put by Senator Brenneman today at the press conference, "Fish and Wildlife know no boundaries." There is a clear benefit to the natural resources in establishing regional or ecosystem management plans. Brenneman recounted his first hand experience with oil spills in the 1983 spill in Yaquina Bay resulting from the grounding of the Blue Magpie. Brenneman indicated that it was swift action by the Coast Guard and other local response teams that prevented greater catastrophe, although still hundreds of birds were killed by the spill. Representative Schroeder feels that this measure is long overdue, and that perhaps there is greater danger in the transshipment of oil than the potential harm from drilling. Schroeder also reminded us of the old proverb "An ounce of prevention is worth a pound of cure."

—Mara Brown
Legislative Fellow

OCZMA Mini Notes

Pacific Whiting

The major study on Pacific whiting potential for the Oregon coast is nearing completion and transmittal to the Oregon Legislature. OCZMA administered the project which was funded by the Oregon Department of Agriculture, the Oregon Economic Development Department and Captain R. Barry Fisher. The commercial fishing industry in Oregon is a period of considerable change. A legislative summary for the study, notes that the new fishery for Oregon could produce \$86 million in income to coastal communities. However, the industry is also facing the loss of one of its most important and profitable fisheries—the joint venture operations that were engaged in the catching of Pacific whiting for delivery to processing ships from foreign countries such as the U.S.S.R. and Japan. The study concludes that we "have to look at the PFMC decision in March that ratifies its precedent setting action of November and to factory trawlers off Oregon in April of 1991. Oregon needs to continue to position itself and its local fishing industry for a growth in allocation in 1992. This will ensure that the economic benefits will be realized by Oregon's fishing industry and coastal communities."

Maintenance Dredging

A meeting of the Coastal Ports Maintenance Dredging Committee is scheduled for February 22 in Newport to continue work on achieving a consensus approach to potential changes in federal maintenance dredging benefits to coastal ports. The Committee's January 17th meeting saw a review of work to date and discussions with the Corps of Engineers on a District policy on maintenance dredging. The draft policy states: "It is the Portland District, Corps of Engineers' policy to attempt to maintain a 'target depth' within that of an authorized project, consistent with the needs of commercial users and constraints of available annual funding." Several suggestions were made at the meeting to change the italicized wording as follows: for target depths—flexible depths, or necessary depths, or required depths; for commercial depths—safety and commercial users. Suggestions for improvements in the policy statement are being sought by OCZMA for transmittal to the Corps.

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Mini Notes

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Port Reporting Update

Through the contribution of coastal ports, an update and expansion of the 1990 compendium of information on waterway activities in coastal harbors is underway. The purpose of the report is to have current and historical information about waterway and harbor activities and users that are advantaged by waterborne commerce facilities, maintenance dredging, shoreline protection, and other Corps projects. This effort would build upon our earlier work to develop, update and refine data, to describe availability and reliability of information sources, and to explain how inconsistencies in units and reporting may result in conflicts with other summary documents. Generated and compiled information will be verified through field visits to each coastal port.

Rogue River Fishery Study

With the Oregon Department of Fish and Wildlife, OCZMA has undertaken a project with the Rogue Valley Council of Governments for an economics study of recreational fishing within the Rogue River basin. Economic impacts and economic valuation methods will be used along with community development goals to establish the basis for an angler survey on the river. The OCZMA is responsible for oversight on economic impacts, valuation and community development sections of the study. Much of the non-OCZMA work is funded by the U.S. Bureau of Land Management, U.S. Fish and Wildlife Service, and the U.S. Forest Service. The information provided will assist in evaluating the impacts of management and facility plans within the basin.

Moorage Demand

Efforts are underway to produce information on commercial moorage demand on the coast and lower Columbia River. The Economic Development Department-sponsored study is to compile information that will provide the basis for determining an understanding of the industry and its economic contribution to local economies and to the state. Inventories of existing facilities are being reviewed, and where necessary, updated to reflect existing conditions and imminent construction. A survey of facility owners is underway to determine layout, capabilities, condition, usage, prices, expenditure patterns, boating activity, services and shoreside facilities.

Oregon Aqua Foods

Operation of the private ranching facilities of Oregon Aqua-Foods at Springfield and on Yaquina Bay has been terminated while efforts to determine the future of these facilities proceed slowly. The potential impacts of two forces undermine efforts to establish a supportable plan for the uses of the hatchery and release facilities. Expected budgetary shortfalls by the Oregon Department of Fish and Wildlife compromises the ability of the state to purchase and operate the facilities along lines discussed at an OCZMA-sponsored meeting on October 23, 1990. The preferred option discussed called for primary production of coho with releases at Youngs Bay, Newport and Coos Bay. Also, the potential application of further wild fish/endangered species restrictions undermines the willingness of ocean and river users of production from these facilities and releases to pay for fish they might not be able to fully harvest. Speculation abounds on interest by the Siletz Tribe in the Yaquina facility and by the Columbia Inter-Tribal Fish Commission and a private party in the Springfield hatchery.

Ocean Salmon User Group

The Association co-sponsored the December 6, 1990 meeting of the Ocean Salmon User Group in Newport with the Oregon Department of Fish and Wildlife. This is one of two yearly meetings and over fifty people were in attendance. The meetings are the outgrowth of the successful coho reallocation agreement facilitated by OCZMA in the mid-1980s. The next meeting of the User Group has been tentatively scheduled for March 5, 1991. At that meeting, Oregon will firm up its favored harvest strategies for ocean troll and sport fishing to be pursued at the subsequent meeting of the Pacific Fishery Management Council.

Coquille Constructed Wetlands

A preliminary reconnaissance study for OCZMA has been completed by an Oregon State University intern, Christian Fromuth, on the use of constructed wetlands to polish the effluent from the City of Coquille's sewage treatment plant. This is part of an effort by the Oregon Department of Environmental Quality to study water quality of the Coquille River in Coos County. Constructed wetlands have been perceived to be an effective means of reducing oxygen demand of a waste stream prior to its discharge to other waters. Some final site determinations and preliminary engineering work remains to be completed for this aspect of the study.

—Jay L. Rasmussen

Coastal Caucus Breakfast

The Coastal Caucus breakfast meetings have been officially moved to Monday mornings at 7:00 a.m. in the Senate Caucus Meeting Room—S-226.

Despite the understandable problems associated with Monday mornings, just about every one made it or was at least represented at the meeting. Representative Josi had driven in from Tillamook that morning—he remarked that dairy farmers are used to the early schedule. Present were Senators Bradbury and Brenneman, Representatives Josi, Schroeder and Taylor. Debby Boone sat in for Representative Whitty and Scott Wykoff was present for Representative Rijken. Also in attendance were Dean Willard, aide to Representative Josi, Sally Schroeder, Sheila Thyberg, Paul Hanneman, and Mara Brown.

Representative Schroeder was elected to be the co-chair of the Coastal Caucus. Representative Schroeder chaired the Caucus last session, and pointed out that his co-chair appointment this session did not indicate that he would become chair again in the next session, but that another senior representative would probably be elected to chair the Coastal Caucus at that time.

Items on the morning's agenda included further discussion of tourism. Although the intention of having the discussion was to establish a unified Coastal Caucus position on the multi-faceted issue

of tourism, a clear position did not emerge. The topic of tourism is likely to continue in subsequent meetings.

Representative Schroeder next brought up a subject of concern to many coastal fishermen—that of marine mammals. This is clearly a sensitive issue. The interaction between the California sea lion, the harbor seal and the stellar sea lion, is of concern; while populations of the California sea lion and the harbor seal have increased in recent years, the populations of stellar sea lions are potentially decreasing, and possibly shifting brooding grounds. Oregon currently places seasonal restrictions over urchin harvesting in three critical areas off the south coast: two areas on the Orford Reef and one area in the Rogue Reef. The Orford Reef has been the biggest pupping ground for the stellar sea lion and is also where most of the urchin fisheries have been. The stellar sea lion is a top level predator in the reef ecosystem, and also contribute to the high levels of nutrients in those areas.

Next week's speaker at the Coastal Caucus breakfast will be Jay Rasmussen, Director of OCZMA.

That's Monday, February 4th at 7:00 a.m. in Room S-226 of the State Capitol.

—Mara Brown
Legislative Fellow

Update on Bills

Senate Committee on Water Policy

On Thursday, the Senate Committee on Water Policy chaired by Senator Larry Hill, met to discuss two bills submitted on behalf of the Division of State Lands (DSL)—SB 233 and SB 236. A third bill, SB 266 was referred to the Senate Agriculture and Natural Resources Committee.

SB 233 amends a previous statute, ORS 274.042, which presently allows certain small structures which are located on state-owned submersible and submerged lands to be exempt from the leasing requirement. As it is written presently, the statute does not explicitly make clear that this provision is intended for the riparian property owner only. It should not apply to a neighbor or other individual who wishes to build such a structure within an area adjacent to the riparian owner's property.

Janet Neuman, Acting Director of the Division of State Lands, testified that DSL manages all submerged and submersible state-owned lands beneath Oregon's navigable waterways, and is responsible for the leasing of this land. Private structures, which may include "boat launch ramps" commercial marinas", or other "personal use boating structures" do not need leases if they have a surface area less than 1,000 square feet for private docks and less than 2,250 square feet for commercial marinas.

At this point, most of the lease holders are log raft owners. The proceeds from the leasing program contribute to the Common School Fund.

SB 236 amends ORS 196.835—the state's Removal-Fill Law. The

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Bills Update

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current statute authorizes DSL to suspend permits for the removal of material from the submerged or submersible waters of the state if a hearing is requested on the activity. Apparently this statute was written prior to the inclusion of "filling" also requiring a DSL permit, and thus does not include filling in the suspension provision. Earle Johnson, Assistant Director of the Removal-Fill Program at DSL testified on behalf of this bill.

SB 499: Sponsored by Senator Bradbury and also Representatives Josi, Rijken, Schroeder, Taylor and Whitty, SB 499 pertains to mineral mining within state-owned submerged and submersible lands. The legislation would prohibit the DSL from leasing those lands within its jurisdiction for private mineral development or private exploration for hard minerals. It also prevents DSL from entering into contracts for the development of hard minerals on state-owned submerged and submersible lands. It does allow DSL to enter contracts for government research or exploration within those areas under its jurisdiction.

SB 517: Sponsored by Senator Brenneeman and signed onto by Senate

Bradbury, Representatives Josi, Rijken, Schroeder and Whitty, creates a State Salmon Corporation. Under the Governor's approval, the legislation would allow the state Corporation to purchase and operate salmon hatchery facilities and is part funded by a surcharge on salmon catch poundage fees.

A similar bill for the establishment of a private non-profit corporation for the operation of salmon hatcheries was passed by the 1989 Legislature, but vetoed by Governor Goldschmidt.

HB 2501: Sponsored by Representative Vera Katz, HB 2501 requires the State Parks Department and the State Forestry Department to come up with a recreation plan for the Tillamook State Forest. The recreation plan is to include a memorial for Nancy Ryles, who was a former State Senator and Public Utility Commissioner. The bill also appropriates an unspecified amount of General Fund money for State Parks to prepare the recreation plan during the next biennium.

—*Mara Brown*
Legislative Fellow



The Oregon Coastal Zone Management Association, Inc. (OCZMA), is a voluntary association of coastal counties, cities, ports and soil & water conservation districts, established to provide a forum for the resolution of issues of particular concern to the local governments of the coast and the people they represent. 313 SW 2nd Street, Suite #C, P.O. Box 1033, Newport, Oregon 97365, (503) 265-8918, FAX (503) 265-5241

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Association Staff:

Jay Rasmussen • Executive Director
Georgia York • Executive Assistant
Mara Brown • OCZMA/OSU Legislative Fellow

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