

# OREGON COASTAL Notes

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Consensus not likely, but progress apparent on some issues

## Cracks appear in water legislation dam

Water users and environmentalists continued to wrangle over a proposed allocation formula for conserved water and a bill that would allow *de minimus* withdrawals of water from scenic rivers in House Water Subcommittee hearings last week, but committee chair Rep. Chuck Norris (R-Hermiston), hoping to move forward, scheduled both measures for work session this week.

The conservation measure, House Bill 2155, took on its third incarnation in almost as many weeks when Water Resources Department Director Martha Pagel presented the committee with a draft shorn of its typographical complexity but little of its controversy. But despite renewed objections from Water for Life attorney David Moon, who again sought to ensure that any portion of the state's 25 percent share of conserved water would go to instream uses only if that share replaced existing instream rights, Rep. Norris appeared ready to accept the new draft as the working document for committee consideration.

"I think it's about time to run this thing through the body shop down at [the Legislative Counsel's office] and see what we come up with," Rep. Norris said.

The other measure, House Bill 2344, which would permit *de minimus* withdrawals of water from scenic waterways for human consumption and stock watering, garnered cautious support from the Water Resources Department. The department, however, offered amendments that would restrict withdrawals from scenic rivers to instances when the proposed human consumptive use or the proposed livestock use could not reasonably obtain water from any other source; that would limit the total amount of individual and cumulative withdrawals from the stream; and that would refuse withdrawals that significantly impair the stream's value as a scenic waterway.

The amendments pleased WaterWatch representative Doug Myers, who said WaterWatch could support the bill with the amendments, but Myers also called on the committee to "do the Bill Clinton thing" and share the consequences of reduced water flows, rather than giving strict priority to consumptive uses.

"There's a terrific imbalance in the numbers of uses allowed out of stream and those allowed instream," Myers said. Giving priority to livestock watering and human consumption will inevitably deprive fish and wildlife of needed water, he added.

As with HB 2155, Rep. Norris agreed to use the department's draft language in work session, but asked the department to incorporate language allowing *de minimus* users to store the water they withdraw for later use.

The House committee rounded out the week by hearing an Oregon Water Resources Congress (OWRC) bill, HB 2341, that would allow industrial sources, in common with

municipalities, to dispose of reclaimed water by offering it for use by irrigators and other users and HB 2505, a measure that would condition the exercise of instream water rights upon *de minimus* withdrawals for human consumption and stock watering.

Both bills drew steadfast opposition from WaterWatch, but OWRC representative Jan Boettcher took the rare step of telling the committee that it had "carte blanche" to do with the bills what it saw fit.

Water Resources took a generally favorable stance toward HB 2341, but saw problems with unclear definitions in the bill of "industrial treatment system" and the possibility that downstream users might suffer from reduced return flows if industrial users withdrew water without returning it to the stream.

WaterWatch's Myers echoed this concern and added others, including a call for public notice when a user proposes to use water reclaimed from industrial use and a proposal

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### MEETING NOTICES

#### Ocean Salmon User Advisory Group

A meeting of the Ocean Salmon User Advisory Group, hosted by the Oregon Coastal Zone Management Association (OCZMA) and the Oregon Department of Fish and Wildlife, is scheduled for Tuesday, March 2, 1993 beginning at 8:30 a.m. The meeting will be held in Newport at the Hatfield Marine Science Center, Meeting Room 9. The primary purpose of the meeting is to discuss preseason options for Oregon's ocean troll and recreational salmon fisheries. Please contact Georgia York at the OCZMA office in Newport, (503) 265-8918 for further details.

#### Oregon Coastal Caucus

The Coastal Caucus of the Oregon Legislative Assembly will meet weekly on Wednesdays at noon in State Capitol Room 454, the Commission on Indian Affairs Conference Room. Please note that this is a change made from previous meeting announcements made to accommodate members' schedules. Please contact Sean Brennan, Coastal Caucus staff assistant, at the office of Sen. Joan Dukes (503) 378-8027 for a current agenda and other information.

# Caucus backs introduction of fisheries bills

A proposal to create a Developmental Fisheries Board within the Department of Fish and Wildlife will begin wending its way through the legislative process this week as House Bill 3622, Coastal Caucus members learned at their Wednesday meeting.

Caucus chair Rep. Tim Josi (D-Bay City) drafted and introduced the measure at the request of Oregon Trawl Commission Administrator Joe Easley, who explained that the measure is aimed at helping to meet existing market demand for fish species that Oregon commercial harvesters do not yet catch.

The bill as drafted establishes a nine-member development board with powers to establish: an annual list of candidate species for harvest; commercial harvest programs; methods for obtaining needed biological data to protect the viability of the fishery; limited-entry harvest regulations for the chosen species; and a program for equipment and supply grants to harvesters interested in developing the new fishery. The bill also provides tax incentives to harvesters to offset the cost of purchasing supplies and equipment.

The bill has the backing of the full Caucus.

Easley also found sponsorship for three additional proposals he hopes to introduce today, after Sen. Joan Dukes (D-Svensen) agreed to draft measures that would: require the Fish

and Wildlife Commission to appoint a committee of permit holders from restricted fisheries in order to study ways to streamline and improve the permit process; make ocean scallop vessel permits freely transferrable; and freeze the ad valorem tax on food fish and shellfish at 1.09 percent.

Shellfish issues continued to occupy members' attention as Rep. Josi explained his proposed amendment to House Bill 2331, which seeks to increase commercial and recreational harvesting fees, and Caucus members heard Division of State Lands (DSL) Director Gary Gustafson's position on Senate Bill 6, which would transfer jurisdiction over shellfish cultivation to DSL.

Rep. Josi said he plans to amend HB 2331, when it comes up for hearing in the House Subcommittee on Water, to dedicate about \$400,000 of the approximately \$1.1 million expected from increased shellfish fee collection over the biennium to the Department of Fish and Wildlife's salmon restoration and enhancement fund. Shellfish growers, among others, have sought a fee increase to pay for a Health Division program for testing water quality near shellfish beds that may fall to the budget axe this year. The Health Division's costs amount to about \$552,000 and the Department of Fish and Wildlife, which has

responsibility for collecting the fee, may use 10 percent of the amount collected for administrative costs.

But Rep. Josi's proposal might run up against a similar proposal Sen. Dukes hopes to introduce in the Senate. The Senate measure would aim at collecting just enough revenue to pay for the cost of the water-quality testing program and would transfer that program, along with all other jurisdiction over shellfish cultivation, to the Department of Agriculture. Sen. Dukes said she would prefer to hear what plans the Department of Fish and Wildlife might have for any excess revenue collected from the fee increase before she would be willing to dedicate that money to the department.

The proposal to transfer jurisdiction over all oyster cultivation to the Department of Agriculture would also sit in the path of SB 6, which proposes to give that responsibility to DSL. DSL Director Gustafson summarized the Feb. 12 hearing on the bill for Caucus members, describing a compromise he negotiated with the Oregon Shellfish Industry Steering Committee that would permit DSL to study the feasibility of consolidating jurisdiction over mariculture in one agency and reporting to the next session of the legislature.

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## Some signs of progress emerge in water panel

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that the bill should require water right holders who use reclaimed water to give up their existing water rights rather than retaining them so as to ensure that reclaimed water actually replaces diversions under existing water permits.

But CH<sub>2</sub>M Hill representative Mark Madison said a survey of Washington County farmers had identified the possible loss of existing water rights as the very reason many irrigators will not consider using reclaimed water. The bill should seek to allay these fears by giving farmers protection for existing water rights, Madison said.

NorPac Foods representative Jerry Butler said his firm supported expanding the use of reclaimed water in agricultural operations, noting that NorPac has used wastewater from a municipal treatment plant since 1955.

"If the state of Oregon is looking for more conserved water, it should be looking at more things like this," Butler said.

The reaction to HB 2505, however, was not nearly so upbeat. Opponents to the

measure included Water Watch's Myers, who asked why Oregon should give a preference to livestock over the needs of its fish and aquatic resources; Oregon Trout and the Pacific Rivers Council, which decried provisions in the bill that it said would give preference to future domestic and livestock uses over those of existing instream rights in contravention of the doctrine of prior appropriation; and the Department of Fish and Wildlife, which objected in a letter to committee members to the bill's definition of *de minimus* as too inflexible to avoid impacts on smaller streams.

Water Resources Director Martha Pagel again took a cautiously favorable position, but said that existing Water Resources Commission authority already allows it to condition instream uses to provide some latitude for *de minimus* and emergency consumptive uses. Pagel also said the bill needed to be clear about whether it intends to give priority over instream uses to existing consumptive uses or all future consumptive uses.

## New bills look at grazing, wildlife issues

Following is an abbreviated list of those bills introduced and moving in committee as of February 19.

SB 400 would establish a coordinated state grazing program and create an 11-member Grazing Subcommittee of the Strategic Water Management Group to oversee the identification of high-priority watersheds, the formation of local watershed management councils and the development of a watershed management plan that seeks to improve grazing practices within the watershed. Public hearings are scheduled for Feb. 26 and Mar. 5 in the Senate Agriculture and Natural Resources Committee.

SB 418 would allow private citizens to bring a civil action in the Oregon circuit courts to enjoin any person from violating the provisions of Oregon's air and water quality statutes, or to compel the Environmental Quality Commission and the Department of Environmental Quality to enforce Oregon pollution statutes. Public hearing scheduled for Mar. 1 in the Senate Agriculture and Natural Resources Committee, with a subsequent referral to the Senate Judiciary Committee.

SB 452 would prohibit any person from removing aggregate or gravel from streams where anadromous fish, including salmon, cutthroat trout and steelhead, spawn. The bill would allow the Division of State Lands, in consultation with the Department of Fish and Wildlife, to permit such removal. Public hearing held Feb. 19 in the Senate Agriculture and Natural Resources Committee. No further action scheduled as yet.

HB 2345 would require the Governor to appoint the Oregon members of the Northwest Electric Power and Conservation Planning Council from each side of the crest of the Cascade Mountains. Assigned to the Transportation Subcommittee of the House General Government Committee. No public hearing scheduled as yet.

HB 2429 would create a new Port Improvement Fund in lieu of the existing

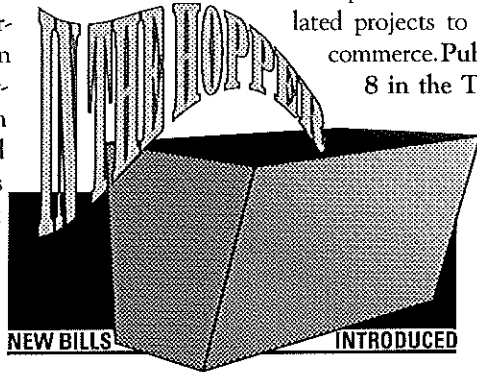
Marine Navigation Improvement Fund and transfer all proceeds from the existing fund to the new fund. The bill would also expand the allowable uses of the fund to include financing public piers, docks, terminals, oil and gas pipelines, rail and highway access roads to port facilities and other port-related projects to enhance trade and commerce. Public hearing held Feb.

8 in the Transportation Subcommittee; work session held on Feb. 15; returned Feb. 15 to the House General Government Committee for a second work session on Feb. 18. No further action scheduled as yet.

HB 2528 would require the Department of Agriculture to conduct a survey of farmland and rangeland to determine the extent of land and crop damage by wildlife and to submit a report on its findings first to the Board of Agriculture and the Fish and Wildlife Commission and then to the legislature, together with recommendations for preventing damage from wildlife. Public hearing and possible work session scheduled for Feb. 26 in the House Subcommittee on Agriculture.

HB 2662 would prohibit the Environmental Quality Commission and the Department of Environmental Quality from imposing on any person more stringent standards or fees than those imposed by federal agencies with jurisdiction over the same subject areas, except where necessary to abate an imminent threat to public welfare. Public hearing scheduled for Feb. 22 in the House Subcommittee on Rules.

HB 2848 would change the standard state agencies, including the Environmental Quality Commission, the Fish and Wildlife Commission, the Board of Forestry, the Water Resources Commission and the Department of Agriculture, must use when listing endangered species from the "best available scientific data" to the "best verifiable scientific data." Public hearing scheduled for Feb. 19 was cancelled. Public hearing and possible work session scheduled for Feb. 26 in the House Subcommittee on Agriculture.



## DSL's director tells Caucus of SB 6 origin

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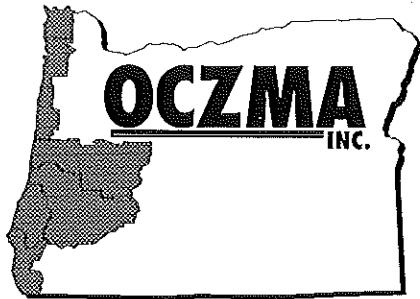
DSL does not have any vital interest in gaining jurisdiction over mariculture, Gustafson said. He added that SB 6 resulted from recommendations by the Governor's task force on government efficiency and that he would try to get the approval of oyster growers before returning to the Senate Agriculture and Natural Resources Committee.

Presentations from Bob Eaton of Salmon for All and John Goodman, legislative aide to Rep. Josi, along with a brief discussion of a proposal to create a hatcheries management board, rounded the meeting out.

Eaton proposed an amendment to House Bill 2345, which seeks to ensure that the two Oregon members of the Northwest Power Planning Commission (NWPPC) each come from opposite sides of the Cascade Mountains. Eaton contended that expertise in power management and fisheries issues, not geography, should determine who sits on the commission. He said his amendment would require at least one Oregon commissioner to have expertise in fisheries issues and argued that if the NWPPC had access to such expertise earlier in its deliberations, it might have avoided having to deal with the consequences of drastically reduced fish runs.

Goodman relayed a proposal from Metro Trollers to eliminate a program that allows the Fish and Wildlife Commission to issue new gillnetting and salmon trolling permits if fewer than 2,400 existing permit holders fail to renew their permits in any one year. The commission had stopped issuing new permits in 1980, Goodman said, but renewals fell to 1,975 for this season. The trollers contend that existing law set the 2,400 figure when the resource was plentiful and that releasing 425 new permits this year would damage the fishery, Goodman said.

Rep. Josi closed by discussing House Bill 3621, a proposal he introduced at the request of commercial fisherman Chet Lounsbury, that would create a management board to oversee the operation of the state's fish hatcheries. Rep. Josi asked Caucus members to review the bill and forward their comments to him so that he could incorporate their suggestions for any revisions into the bill.



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.

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Address correction requested