



Oregon

# COASTAL NOTES

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## CALENDAR

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

OCZMA is scheduled to meet in Salem March 7-8, 1991. Meeting materials will be forwarded to members a week prior to the meeting.

# Oregon shellfish program threatened

### Proposed budget cuts by the State of Oregon cast a dark cloud over the state's commercial shellfish industry

Governor Barbara Robert's budget entirely omits the Shellfish Sanitation Program in the budget of the Health Division. Without the water quality monitoring, commercial shellfish products could not be marketed in interstate commerce. This essentially bars any sale of these products.

### Shellfish Oversight Complex

Regulations pertaining to shellfish in Oregon can fall under the jurisdiction of the Oregon Department of Fish and Wildlife, the Oregon Department of Agriculture, the Division of State Lands, the Oregon Health Division of the Department of Human Resources, the Department of Land Conservation and Development, and the Department of Environmental Quality. There is no one agency with jurisdiction extensive enough to deal with all of the issues relating to shellfish aquaculture. As a result, shellfish is dealt with in a patchwork management system which involves extensive interagency interaction.

#### *Oregon Department of Fish and Wildlife (ODFW)*

ODFW is responsible for all fish, shellfish, and other animals living intertidally on the bottom within the waters of the state (ORS 506.036). This excludes commercial oyster cultivation; however, some shellfish aquaculture operations require a fish propagation permit.

#### *Oregon Department of Agriculture (ODOA)*

Commercial oyster cultivation falls under the jurisdiction of the ODOA. This includes those oysters which are cultivated on state-owned lands. There are 27 growers on state-owned lands in five estuaries: Coos Bay (5 growers); Netarts Bay (7 growers); Tillamook Bay (7 growers); Winchester Bay (2 growers); Yaquina Bay (6 growers).

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#### Annual Fees and Taxes:

ODOA has the existing authorization (under ORS 622.290) to assess the following annual fees and taxes:

- Annual Use (Production) Tax: \$.05/gallon shucked  
\$.05/bushel in shell
- Annual Cultivation Fee: \$2.00/acre of land under lease
- Total Received Annually: \$8,500.00

# Shellfish Program

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## *Oregon Division of State Lands*

The Oregon Division of State Lands (DSL) has jurisdiction over state-owned submerged and submersible lands and shellfish aquaculture requires a permit on these lands. Any aquaculture activity involving fill and/or removal of more than 50 cubic yards of material/year requires a DSL permit as long as the use is consistent with the statewide planning goals.

## *Oregon Health Division*

Under the federal Food and Drug Administration (FDA), it is the Oregon Health Division (OHD) that establishes shellfish harvest and processing sanitation standards and water quality standards for shellfish harvest. The shellfish program under the OHD currently funds the water quality monitoring (fecal coliform count) that is among the factors that contribute to the OHD's decision to close a bay (or keep it open) for shellfish growing and harvesting.

Shellfish grounds are classified as:

- 1) Approved: the fecal coliform count is less than 14 colony forming isolates per 100 ml or the mean total coliform is less than 70 per 100 ml. The ground must also be free of other marine toxins.
- 2) Conditionally approved: The ground must meet standards given limited rainfall, and minimal use of marinas and docks.
- 3) Closed areas: These may be approved or conditionally approved areas which are temporarily closed, or restricted areas where pollution is limited, or prohibited areas where there are high coliform counts and high counts of palytoxic shellfish poison.

The current fees assessed by the Oregon State Health Division include:

- Distributors or shipper of shellfish: \$15.00/yr.
- Oyster growers: \$40.00/yr.  
(Also pay poundage fee to DOA)
- Oyster shucker/picker/processors: \$55.00/yr.
- Commercial harvesters of mussels and clams:  
Pay ODFW for a commercial license fee. They do not pay the OHD, but are still certified by the OHD for a sanitation certificate.
- Recreational harvesters of clams and mussels:  
No fee assessment currently.

## *Oregon Department of Land Conservation and Development*

Goal 16 of the Land Conservation and Development Commission (DLCD) outlines the land-use planning goals of Oregon's estuaries and associated wetlands. The goal allows aquaculture that is consistent with the classification of the estuary—whether it is classified for preservation, conservation, or more intense development.

## *Oregon Department of Environmental Quality*

The Oregon Department of Environmental Quality (DEQ) issues permits through the National Pollutant Discharge Elimination System (NPDES) as authorized by the Federal Clean Water Act. Changes in pH, dissolved oxygen, and changes in temperature are considered pollutants. Compliance with national standards for settleable and suspended solids in the water might affect aquaculture.

## **Several Actions Possible**

What actions might be taken to reduce or eliminate this budgetary threat?

Representative Tim Josi held a meeting about the Shellfish Program last Friday, February 1st with representatives of the industry and others. Josi is working on several options for refunding or otherwise continuing the program. The Shellfish Program currently is budgeted at \$439,382 of which \$250,991 are in salary and benefits, \$95,468 in services and supplies, \$91,323 in contracts with counties, and \$1,600 in capital outlays.

Options include a shellfish stamp tacked on to SB 247 which now contains the ODFW's request for non-dedicated fee increases. Under this approach, the resident annual stamp would be \$3, the daily stamp \$1, the non-resident annual stamp \$9, and the non-resident 10-day stamp would be \$5. The proposal includes recreational shellfish as defined in ORS 506.011: "Shellfish includes but is not limited to abalone, clams, crabs, crayfish, mussels, oysters, piddocks, scallops and shrimp."

Presuming all annual stamps are resident stamps, sales of 106,500 of annual stamps and 26,950 daily stamps, with an effective date of January 1, 1992, the

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# Shellfish Program

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total revenue would be \$519,705 for the 91-91 biennium. Allowing for administrative costs (\$20,000) and considering the non-resident's stamps are not used in the calculation, this would be sufficient to support the Shellfish Sanitation Program.

Another option is to have the same shellfish fee structure as outlined above but drawn up in a separate bill from SB 247. Creating shellfish license fees, the bill would establish a shellfish fund, separate from the general fund budget, that would be dedicated to fund such expenses as are contained in the Shellfish Program.

Other options being considered include authorizing the DOA and the OHD to work cooperatively in conducting the water quality monitoring. For example, collection would be by the Soil and Water Conservation

Districts and enforcement would be the task of the OHD. Also, commercial cultivation of all shellfish species on state-owned lands could be established under the authority of one agency.

Further possible courses of action might include increasing the annual cultivation fee to ODOA to cover some program costs. Funds could be transferred to the Soil and Water Conservation Districts for water sampling if necessary.

With the state's commercial shellfish industry on the line, a workable solution must be found.

—*Mara Brown*  
Legislative Fellow

## *Oregon Health Division* **Shellfish Program**

[Current]

### **Positions:**

- 1.00 FTE Program Coordinator, Environmental Health Specialist 3
- 1.00 FTE Shellfish Technician, Environmental Health Specialist 1
- 1.00 FTE Laboratory Technician, Microbiologist 2
- 3 Part-time (3-6 hours per week) to collect samples for Paralytic Shellfish Poison (PSP)

### **Services and supplies:**

Travel, rent, telephone, printing (licenses, forms and warning signs), shipping and processing of labor samples, operating a small boat, etc.

### **Capital equipment:**

Salinity field test kits.

### **Contracts with Tillamook, Lincoln, Douglas and Coos County health departments:**

Collect a portion of the bay water samples, PSP samples, assist with sanitary survey of failing septic systems, post pollution warning signs for recreational clam digger, respond to various emergency situations.

## Committee Notes

### Senate Agriculture and Natural Resources Committee

#### Work Session

Oil spills were the topic Monday, February 4, 1991, at a work session of the Senate Agriculture and Natural Resources Committee. Senator Springer, the Committee Chair, began with a recollection of the 1988 Nestucca oil spill which dumped 231,000 gallons of oil off the coast of Washington in December, 1988. According to the Executive Summary of the Final Report of that Task Force, it was this spill which led to the formation of the British Columbia/Washington Task Force on Oil Spills. The day after the Task Force's first meeting, the Exxon Valdez spill occurred. Alaska, Oregon and California joined the Task Force soon after.

As a result of the Task Force recommendations, several bills have been drafted to implement these findings. Last week's *Coastal Notes* expanded on SB 500, the Pacific Ocean Resources Compact. Several other bills regarding oil spill prevention legislation were the subject of Monday's public hearing. SB 76 describes the financial responsibilities associated with an oil spill.

Under SB 76, the holder of an oil spill contingency plan who fails to implement that plan is responsible for the damages that result from an oil spill. The bill also establishes values for wildlife that may be destroyed as a result of food or water supply contamination. Some of the values are: \$750 for each elk; \$3,500 for each sheep or mountain goat; \$5 for each game fish other than salmon or steelhead trout; \$125 for each salmon or steelhead trout; \$50 for a fur-bearing mammal other than a bobcat or fisher.

SB 242 requires an oil spill contingency plan for vessels other than passenger vessels operating in the Columbia River. The Department of Environmental Quality (DEQ) will be the agency that authorizes contingency plans. The bill also requests DEQ to "develop natural resource valuation using market and nonmarket values when assessing damages." DEQ is also directed to coordinate oil spill research and coordinate response training with industry and the Coast Guard.

The bill also establishes harbor safety committees for the Oregon International Port of Coos Bay, Port of Newport, the Port of Astoria and the Port of Portland. The committees would operate under the direction of the Ports Division of the Economic Development Department. Each committee will have 11 members, among others including the local port authorities, commercial fishermen, environmental organizations, local planning authorities, and tanker vessel operators. SB 242 calls for the contingency plan to be renewed every 5 years, as opposed to every 3 years as called for in SB 76.

Among others, representatives from DEQ, ODFW and the Oregon Environmental Council (OEC) testified on behalf of the bills. Jean Cameron, director of the OEC recommended that the bill be expanded to include petroleum conservation measures in addition to being a spill prevention measure. It was noted that both California and Washington have a fee placed on petroleum products to generate a contingency fund. Oregon has a constitutional amendment prohibiting fee placing on petroleum products.

John Burns, a representative of the Western States Petroleum Association was present to testify on the bills. Burns was concerned over the issue of liability. He feels that the environmental community is concerned that emergency responders to an oil spill should have immunity from liability. Burns reported that generally the petroleum industries are supportive of these oil spill prevention efforts. Burns noted, however, that his top priority this session is finding funding for underground storage facility insurance.

The next work session on SB 76 and SB 242 will be in two to four weeks, allowing for the Committee to consider the proposed amendments.

#### Public hearing

After a public hearing in Wednesday's (February 6, 1991) Senate Agriculture and Natural Resources Committee, the Committee voted on SB 573, a bill designed to streamline the land use process relating to the Tri-Met Westside corridor project. Pete Bartholomew, an attorney for 1,000 Friends of Oregon testified that his organi-

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## Committee Notes continued...

zation is generally in support of the measure. Susan Brody, Director of the Oregon Department of Land Conservation and Development (DLCD) also testified in support of SB 573, saying that the bill did not supersede the land use process, but that it still incorporated local land use plans in the decision making process and included a Land Use Board of Appeals (LUBA) appeals process. The bill may be voted on the Senate floor Thursday, February 7th.

### House Water Policy Committee

On Tuesday, the House Water Policy Committee Chaired by Representative Chuck Norris met for an informational meeting with the Oregon Department of Fish and Wildlife (ODFW). The Committee session was well attended and Chairman Norris requested that those present in the audience introduce themselves to Committee members.

A public hearing was subsequently held on HB 2485 allowing the ODFW to issue an annual angling conservation stamp—creating an Angling Conservation Fund to be used for watershed enhancement, and the acquisition of in-stream water rights for fish habitat.

Representative Norris opened the session by commenting on the current water shortage in the Northwest. The issues discussed by the Water Policy concerning water storage and drought are of a very serious and timely matter.

In their presentation to the Committee, ODFW went over their budget and gave a breakdown of the budgets in the Fish Division and the Wildlife Division. It was mentioned that although most of the Fish Division budget is geared towards salmon, last session more money was spent on warm water fisheries, and that the public was increasingly interested in those fisheries. Money is also spent on Threatened and Endangered species; in addition to species on the Columbia, South coast stocks and Southeast stocks might be becoming endangered. Funds generated through poundage fees might be jeopardized in the event that a threatened and

endangered listing came about and imposed harvest restrictions, hence the change to an ad valorem as opposed to poundage fees will be considered.

Rollie Rousseau, ODFW was present to testify and he was asked to comment on the Salmon Summit meetings that are being held in Portland this week. One of the ideas being discussed at the Summit talks is that of finding a way to flush out the fall chinook from the Snake and Columbia systems in the spring and summer. The fall chinook, which have the possibility of being listed under the Endangered Species Act, are the mainstay of several fisheries. The question is whether the stocks considered wild fish are genetically different from hatchery fish, and what to do to solve the problem.

“Everybody is playing their cards pretty close to their chests at this point,” Rousseau commented in reference to the Salmon Summit. Rousseau noted that the short term crisis with the potential for a drought situation next year had to be dealt with, but that long-term management plans also have to be considered. When the river flow rates are low, the smolts spend a longer time travelling towards the ocean and are more susceptible to predation and to loss within the dam systems.

Rousseau listed three ODFW concerns which have a top priority with the public: habitat loss; obtaining better biological data; and the need for enforcement of wildlife violations. Regarding fisheries management generally, how you value species and how define species are interesting questions to examine.

Moving on to HB 2485, Representative Bill Dwyer, who is Vice-Chair of the Water Policy Committee sponsored this bill and testified in front of the Committee on its behalf. Dwyer testified that the annual angling stamp would be similar to other stamps such as the “duck stamp” or “upland game stamp.” Dwyer said that he didn’t think fishermen would mind paying dedicated fees if they knew it was going back into the industry directly.

Dave Nelson from the Oregon Water Resources Council supported the bill, especially if funds could be used in the area of fish screening. A representative from Oregon Trout generally supported the bill, although they

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## Committee Notes continued...

would amend it to eliminate watershed enhancement and add purchases and lease of water rights and the gathering of flow data. Oregon Trout also mentioned the use of fees for the maintenance of fish screens saying that this is a public responsibility. They said we also need to think about a sliding fee for water diverters and water users for this type of maintenance rather than have the anglers foot the entire bill. Committee member Representative Schroeder wondered whether this additional cost was fair for the little guy—those who could barely afford the cost of the other imposed fees.

ODFW testified that they could not support such a funding mechanism at this point. Two reasons given were:

- 1) The legislation puts an undue burden on recreational fishermen, but creates benefits for other users—there is a need to broaden the charge.

- 2) A fishing license fee would be more attractive to fund the ODFW base budget in that it could be used for other quality improvements. Furthermore, ODFW remarked that this type of stamp may jeopardize the Department's ability to raise fees in the future.

At this point, Representative Dwyer got out his hunting license which was full of stamps. He asked whether the stamps on his license jeopardized ODFW's asking of fee increases in the future. Jeff Curtis, ODFW, responded saying that the maximum fee "line" or pay rate which would discourage people out of hunting or fishing was not definitively known.

—Mara Brown  
Legislative Fellow

## Mini Coastal Notes

### Port Information Sought

Oregon's coastal ports have been asked to supply port activity information for 1989 to be included in an updated and expanded publication completed last year, "Navigation and Other Activities on Oregon's Coastal Waterways and Harbors." Ports have graciously contributed to funding the effort. The new publication will be completed by the end of March for use by port officials and others visiting Washington D.C. for congressional hearings on waterways projects.

In conjunction with the Pacific Coast Congress of Harbormasters and Port Managers, OCZMA is in the process of finalizing a questionnaire for coastal ports on moorage facilities. This is part of the Association's work with the Oregon Economic Development Department and is being conducted for OCZMA by The Research Group. Ports will soon be receiving the questionnaire.

### Editorial Notes Pacific Whiting

The February 5, 1991 edition of the *Oregonian* contained an editorial about a subject on which OCZMA has worked hard—Pacific whiting.

"A catch of bottom fish is a historical part of commercial fishing in Oregon," the editorial begins. "Now, as the domestic market for whiting to starting to catch up with the international cuisine, it ought to be part of this state's future as well as its past."

The editorial continues with the onshore/offshore processing of this resource and the allocation process under the Pacific Fishery Management Council. It concludes a review of the initial allocation concept by stating that the "tentative allocation is a responsible compromise. It should be made final and sealed by the signature of the secretary of commerce."

## Coastal Caucus Breakfast

On Monday, February 4th, Jay Rasmussen, Director of the Oregon Coastal Zone Management Association, Inc. (OCZMA), was the keynote speaker at the coastal caucus breakfast meeting. In attendance were Senators Brenneeman and Bradbury, Representatives Rijken, Taylor and Schroeder. Also present were Sally Schroeder, Joe Orviston, Scott Wykoff, Dean Willard, Debby Boone, Jay Rasmussen and Mara Brown.

Due to the breadth of projects OCZMA is involved in, the issues discussed by Jay and the Members over coffee were equally as diverse. Rasmussen began by briefly mentioning the topic of Pacific Whiting. In March, the Pacific Fisheries Management Council will be meeting to discuss the allocation of whiting among domestic and offshore processors. With the phasing out of the joint venture in 1991, there is a lot of concern over the use of the offshore processing factory trawlers which are currently based in Seattle. One of the concerns Members have has to do with differences in technique between the joint venture boats and the factory trawlers. The factory trawlers have a faster drag and larger net size which could result in the greater probability of an incidental salmon catch.

Transportation issues surrounding Highway 101 were brought up. Rasmussen pointed out the problem of defining the concept of "parkway". Rasmussen indicated that OCZMA will be working on a conference with the Department of Transportation in the near future—specifically to discuss Highway 101, the concept of "parkway" and their vision for the Oregon Coast.

Several items were discussed under the broader topic of fisheries. A key issue here seems to be deciding what activities should be provided by the public section, i.e. the state, and what activities are the responsibilities of the private section, i.e. local citizens, fishermen, etc. With cuts in the state budget looming on the horizon, these questions of governmental responsibility will be crucial.

The next Coastal Caucus meeting will be held Monday, February 11th in the Senate Caucus Room, S-226. The speaker will be Robin Roberts from the Tourism Division of the Economic Development Department.

—Mara Brown  
Legislative Fellow

## Deadlines near for bill Introductions

The following are cutoff dates for introduction of bills:

### HOUSE:

February 11 for submitting bill requests to Legislative Council; February 18 for bill submittal to the Chief Clerk.

### SENATE:

February 19 for submitting bill requests to Legislative Council; March 5 for bills to be filed in the Senate President's office.



Oregon

OCZMA

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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- City of Nehalem
- City of Newport
- City of Reedsport
- City of Rockaway Beach
- City of Yachats
- Port of Astoria

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- Port of Gold Beach
- Port of Nehalem
- Port of Newport
- Port of Port Orford
- Port of Siuslaw
- Port of Tillamook Bay
- Port of Umpqua
- Clatsop S.W.C.D.
- Coos S.W.C.D.
- Curry S.W.C.D.
- Lincoln S.W.C.D.
- Siuslaw S.W.C.D.
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Address correction requested

