



Oregon

# COASTAL NOTES

April 7, 1989

## RECREATIONAL FISHERMEN SEEK BAN ON GILLNETTING IN THE COLUMBIA

During the television show "Ask the Governor" (4/2/89), a caller said, "Governor, there is a bill before a House Committee on Thursday that would go a long way toward improving the fisheries in this state". The Governor asked which bill the caller was referring to. Unable to answer with any precision, the caller said it was a bill sponsored by Representatives McTeague and Sowa. The Governor suppressed a frown and said he was unsure which measure the caller wanted his support on. He then said, "However, I am very unimpressed with any legislation or other attempts to knock people off our rivers". In addition, he said "We've had too much of that in the past", and expressed concern for the consumer in Oregon who wants to be able to buy Oregon salmon. The Governor concluded his remarks stating his support for proposals currently before the Oregon Legislature designed to restore and enhance the fisheries for everyone.

Of course, the measure the caller and the Governor spoke of that Sunday night was HB 3219. This bill seeks to establish a state policy that "recreational angling is the highest and best use of the fishery resource of this state" and that fish allocations must reflect that policy. (A similar bill was just defeated in the Washington legislature.) In addition, the bill prohibits the commercial taking of the spring chinook by gillnetters.

Curiously, in an attempt to be even handed, the bill directs the ODFW to operate selective fish traps to catch salmon in the Willamette River System for sale to the consumer.

*by Onno Husing, Legislative Fellow*

Under their proposal, to offset the tremendous economic impact the closure of the spring chinook fishery would have on the Clatsop County economy, citizens of that county are to be provided a preference when it comes to buying such salmon. Using a system, HB 3219 proposes to sell these fish through a bidding procedure in which Clatsop County residents would be awarded the bid if the bid was "essentially equal" to other bids. Apart from the grave constitutional problems presented by such a preferred bidding system (the privileges and immunities clause) few seem capable of understanding how such an imprecise measure would be administered even if the bill survived a legal challenge based on constitutional issues.

The House Water Policy Committee held a hearing on Thursday, April 6, 1989 on HB 3219. Hundreds of gillnetters and recreational fishermen descended on the Capitol. The result was a repeat of last session's attempt to ban gillnetting. Emotions ran high. Controlled friction was evident. Plenty of uniformed and plainclothes state police kept a close watch on the proceedings. Since it was impossible to squeeze everyone into the hearing room, a number of other hearing rooms were equipped with close circuit television so people could view the hearing from elsewhere in the Capitol.

The testimony from each side was stirring. Recreational interests argued the state was losing millions of dollars in tourism due to gillnetting. In addition, these groups also pointed to the number of people employed in the

manufacture and sale of sport fishing equipment. One recreational proponent said, "Once a fish touches the mouth of the river God has delivered them to recreational fishermen". Another spokesman not only wanted to ban gillnetting, but argued that all commercial fishermen— even those operating in the ocean— should be banned.

Commercial interests also used emotional appeals. The committee heard a lot of "You want to take away our way of life", "What would we do without these commercial dollars coming into our county" and testimony that 33% of Clatsop County's income comes from commercial fishing. Those against HB 3219 provided a lot of technical data about the strength of the chinook populations, noting that a great percentage of these fish do return to the rivers and hatcheries due to restrictions on gillnetting. They also argued that the trap fisheries called for under the bill would still put them out of business. In addition, it was argued that such fish are of inferior quality later in the run

After several hours of exhausting and bruising testimony the hearing finally came to a close. Representative Tom Hanlon (from Astoria, his district would be hurt by a ban on gillnetting) echoed the Governor's statements on this issue that it would be better to enhance and restore the fisheries for everybody than kick gillnetters off the Columbia. Hanlon also hoped these fisheries would continue to co-exist in a less acrimonious fashion.

The committee took no action on HB 3219.

## OCZMA Wetlands Meeting Set

An enormous amount of work has gone into proposed legislation dealing with a number of difficult and often perplexing issues revolving around wetlands values and protection and their interactions with planning requirements and with other resource values and uses—including agriculture. An April 5, 1989 draft has been mailed by OCZMA to Association members as well as coastal county and city planning directors.

An Association worksession on this matter is scheduled for April 11, 1989 at 10 a.m. until 1 p.m. (with a working lunch) at the Hotel Newport (formerly the Hilton) in Newport. Ken Bierly of the Division as well as Vic Affolter of Tillamook County and Bob Cortright of the Department of Land Conservation and Development, members of the Division's Working Group, will be present to help explain the bill. Recommended time limits have been established in order that worksession participants can move efficiently through the bill.

The worksession will allow the Association to review that effort. Hopefully, after reviewing the language and after comparing what the legislation would accomplish to the situations that exist to-

day, the Association can support this package. This issue will be before the Senate Water Policy Committee on Thursday morning, April 13, 1989.

On the subject of wetlands, a seminar entitled "Wetlands Determination and Delineation" has been announced for May 16, 1989 in Portland co-sponsored by the Oregon Division of State Lands and the Portland District of the Corps of Engineers.

According to the announcement, the purpose of the seminar is "to present training for wetland identification and delineation for regulatory purposes. The course will introduce the recently released Federal Manual for Identification and Delineation of Jurisdictional Wetlands." The announcement continues: "The seminar will address the criteria and procedures for wetland determination and delineation. Guidance for reporting determinations to the state and federal regulatory agencies made by consultants will be provided." Local government planners, consultants, agency officials, developers and real estate agents are elements of the targeted audience. The meeting will be held at Montgomery Park, 2800 NW Vaughn Street, in Portland and a registration fee of \$3 is required.

### Legislative Quote of the Week

Two quotes made the list this week.

Following an encounter with a lobbyist, a legislative staffer stated that "we offered them a truckload of apples but they wanted the whole orchard."

A gillnetter, testifying before a committee on HB 3219 said, "These days a commercial fisherman has to be one, a businessman; two, a legislative watchdog; three, an environmentalist; and four, a fisherman."

### THE OREGON HOUSE PASSES HOUSE JOINT MEMORIAL 12

This week, Representative Paul Hanneman (R-Cloverdale) carried House Joint Memorial 12 which requests Congress act to restrict the foreign highseas driftnet fisheries the House Floor. Arguing that House Joint Memorial 12 was "not just another memorial", Hanneman forcefully described impact of the Japanese, Korean, and Taiwanese driftnet fisheries on the eco-system of the Pacific and Oregon's commercial and recreational fisheries and how House Joint Memorial 12 would attack that problem. The vote was 57-0 in favor. Not wanting to be left out, the good-natured complaints came from members wanting their names to be entered as co-sponsors. House Joint Memorial 12 now moves over to a Senate Committee and then on the floor of the Senate. Observers predict the Oregon Senate will also provide a lopsided affirmative vote on HJM 12.

### TAGLINE

"It is obvious that salmon will be wasted in pursuit of this system's idea of conservation, and healthy market opportunities which could provide multi-millions of dollars to our economy will be lost in this system's idea of optimum benefits. The ocean has been subdivided and overlaid with a matrix of regulatory variables that has boggled every mind to the point of nausea."

—March *Tagline* article on the 1989 salmon regulatory process.

## And Introducing...by Onno Husing, Legislative Fellow

The following bills are up for consideration before legislative committees in the near future:

### FISHERIES

•**HB 2984** would prohibit the operation of a hatchery for sturgeon without a permit issued the Fish and Wildlife Commission. This measure prohibits the commission from issuing a permit unless a hatchery will be operated only for scientific and educational purposes. STATUS: The House Water Policy Committee was scheduled to hold a hearing on this bill on April 6.

•**HB 2986** requires marking of salmon or sturgeon that have not been taken lawfully by commercial fishing activities and prohibits the sale of marked fish. STATUS: This bill will be heard before the House Agriculture, Forestry and Natural Resources Committee on April 11.

•**HB 3188** seeks to expand the membership of the Oregon Salmon Commission. Instead of five members of the Commission, this bill would increase that number to seven. In addition, this bill requires these members to be from one of the five coastal regions as described in the commercial fishing harvest areas established by the ODFW. STATUS: The House Water Policy Committee will hold a hearing on HB 3188 on April 13.

•**HB 487** would prohibit the taking of shad or sturgeon for commercial purposes from the waters of the Coquille River. STATUS: The House Water Policy Committee will hold a hearing on HB 487 on April 13.

•**HB 3213** would limit the number of ocean troll salmon permits that may be applied to a vessel in one year. Therefore, when a permit is transferred away from a vessel, another permit may NOT be applied to the vessel until one year after the date of transfer. STATUS: The House Agriculture, Forestry and Natural Resources Committee will hold a hearing on 3213 on April 11.

•**HB 3215** requires the Fish and Wildlife Commission to establish areas closed to commercial taking of food fish on the Columbia River. In addition, 3215 prohibits the commercial taking of sturgeon. STATUS: The House Water Policy Committee will hold a hearing on HB 3215 on April 13.

•**House Joint Resolution 50** proposes to recognize the historic importance of salmon sport fisheries and urges government agencies to recognize the importance of natural salmon production and restricted fishing seasons and

bag limits. STATUS: the House Water Policy Committee will hold a hearing on HJR 50 on April 18.

### CORMORANT HAZING LEGISLATION

•**HB 3185** directs the Fish and Wildlife Commission to issue three permits a year (in 1989 and 1990) for hazing cormorants for three of Oregon's Coastal rivers. Apparently, due to the policies of ODFW, when hatchery smolts are released in Oregon's rivers they are let go virtually all at once. Therefore, as these smolts travel down the rivers in large schools, cormorants concentrate their feeding on these smolts. Another hatchery practice that exacerbates bird predation is that while in the hatchery, these smolts are fed from above. As a result, unlike their wild counterparts, once released into the wild, hatchery smolts have been conditioned to congregate at the surface in search of food. At 48 cents a piece to produce winter steelhead, for many on the coast and in the legislature this loss of the resource is unacceptable. Some have suggested a study of the efficacy of hazing would be an appropriate safeguard for such hazing. STATUS: HB 3185 will be heard in the House Agriculture, Forestry and Natural Resources Committee on April 13.

### MARINE LITTER

For technical reasons (sheer duplication) SB 567 was tabled during a hearing held before the Senate Agriculture and Natural Resources Committee this week.

### OCEAN RESOURCES

There are two bills that would have an impact on Oregon's ocean planning effort. First, SB 882 would remove the rulemaking requirement for LCDC under Goal 19. This provision is one of two "housekeeping" amendments to SB 630 passed in the last session. The effect of this measure is that a deadline for rulemaking (which turned out to be too ambitious) is removed. Therefore, rule-making would occur after the ocean management plan was finished instead of at a pre-determined date. SB 1152 proposes that Oregon's state agencies coordinate their activities with the state of Washington to the maximum extent practicable. An element of the act is the

provision which directs state agencies to develop a common computerized mapping system with Washington. Some have noted such a project could cost up to a half a million dollars. Despite SB 1152's potential fiscal impact, at this time the measure does not have a referral to the Ways and Means Committee. STATUS: Both bills will be heard before the Senate Agriculture and Natural Resources Committee on April 10.

### OIL SPILL LEGISLATION

With the tragic oil spill in Prince William Sound and the possible repair of the Exxon Valdez in Portland, the issue of oil spill legislation took on a renewed sense of urgency. Two complementary bills are before the legislature— SB 1038 and 1039. SB 1038 requires those transporting oil or hazardous material to establish evidence of financial assurance in the event of spills. Under SB 1038 a ship over 300 gross tons must have at least \$1 million dollars or, \$150 per gross ton of the ship of insurance. Funds are to be used for actual costs for removal of spills of oil or hazardous material, civil penalties and fines imposed in connection with a spill and reimbursing the state for damages to natural resources. This bill would also direct DEQ to notify port authorities when a carrier does not comply with these bonding procedures. Once a port is notified, the port is required to suspend the privilege of operating the ship in the waters of the state. Finally, SB 1038 establishes a schedule of civil penalties for those held to be in violation of the act.

SB 1039— directs DEQ to develop an interagency response plan and strategy for oil and hazardous waste spills. Such a plan must include a compilation of maps (including DEQ computer mapping technologies), an index of relevant oil spill federal and state agencies and contractors that provide cleanup services, a response strategy and provisions for documenting the costs of cleanup, and a proposal to foster inter-state cooperation including joint coastal and ocean information systems with adjacent states. Much of this planning and scientific data gathering activity would blend nicely with current efforts to fashion a state ocean plan. STATUS: The committee took no action on SB 1038 and 1039. Further negotiations and information gathering is taking place.