



Oregon

COASTAL NOTES

Vol. 3 No.14

Published by the Oregon Coastal Zone Management Association, Inc.

May 11, 1991

Legislative Report

Mara Brown
Legislative Fellow

Since my last full report to the Association, the pace of life in Salem has picked up considerably.

The Legislature is at a turning point; the majority of the major issues which have been worked on through the committee process are about to move forward for a floor vote in the house of origin, or are already waiting committee scheduling in the opposite house. With subcommittees tentatively scheduled to shut down in four weeks, many of the natural resource bills I have been following, including land use planning and the Forest Practices Act, still have far to go before they are passable in both the Democratic-controlled Senate and the Republican-controlled House.

For the first several weeks of the session, I would thumb through each bill as it was printed and distributed, paying close attention to those bills which could impact the Oregon Coast if implemented. At this point my tracking list has narrowed considerably, and I will present a "legislative score card" of where the bills are in the progression from first reading to enrollment.

My next full legislative report to the Association will be at the June 7th meeting, but please feel free to contact me through Jay Rasmussen at his office in Newport (265-8918), or phone directly to Senator Bill Bradbury's office (378-8700) if you have specific questions about legislative issues.

Full Ways and Means Committee action

The full Ways and Means Committee met for a two part session Friday, April 26, 1991, the first item on the agenda being the Oregon Department of Fish and Wildlife (ODFW) budget

During the Committee's public meeting which began at 8:30 a.m. and—after a break for lunch—continued until about 3:00 in the afternoon, a motion was made to pass the ODFW budget—HB 5041—out of Committee and on to the floor of the House for a vote.

The vote was 11-5 "do pass" to the floor, with Representatives Jeff Gilmour (D-Jefferson), Denny Jones (R-Ontario), Stann Bunn (R-Dayton), Bob Shiprack (R-Beavercreek) and John Minnis (R-Portland) opposed.

Senate Bill 1202 was before the Committee after lunch. SB 1202 generates money to back-fill the ODFW budget through a commercial fisheries fee based on the value of landed fish, and other resident and nonresident commercial fishing boat license fees. The fee on salmon and steelhead would be 3.15 % of the value, and the fee on all other food fish and shellfish would be 1.25 percent.

A motion was made by Rep. Denny Jones to send the bill back to subcommittee to amend the non-salmon fee to 1.09%, which reflects the amount the commercial fishing community had agreed to. However, this

motion failed by one vote. Senator Bill Bradbury (D-Bandon) acknowledged receipt of a letter of opposition from the commercial fishing industry. He noted for the record that the intention was to get a fee bill that the commercial fishermen would support, and now it does not.

The bill was sent out of Committee and onto the floor of the Senate for a vote, with Reps. Gilmour, Jones, Bunn, Minnis, and Senator Lenn Hannon (R-Ashland) in opposition.

Other bills passing out of the full Ways and Means Committee that day were: SB 1207, relating to wildlife, and SB 2263, relating to the Oregon Port Revolving Fund.

SB 247, a bill which would place a license fee on the recreational angling of shellfish failed previously before the Committee, but with an amendment to dedicate the revenue generated to fund the crab program and water quality testing related to shellfish in the ODFW budget, passed out of the Committee with a "do pass" to the Senate.

—Mara Brown
Legislative Fellow

Calendar

OCZMA's meetings originally scheduled for May 2 and 3, 1991, were cancelled. The meetings have been rescheduled for Thursday and Friday, June 6 and 7, 1991, in the Association Center in Salem. Further information will be provided as the dates approach.

In This Issue:

- Aquatic plants bill
- Salmon support letter
- Oil spill plan
- River bill heard
- Coastal Caucus
- Intertidal angling license
- State/House Bill Update

Aquatic plants bill heard in Senate Water Policy

Onno Husing and Wilbur Ternyik appeared before the Senate Water Policy Committee on Thursday, April 25th, to defend the need for SB 1149, which would require the Division of State Lands (DSL) to regulate the harvesting of aquatic plants.

Husing testified that the current state statutes do not address aquatic plants specifically, most of which are on public lands. He added that DSL is in a good position to be involved in the regulation of aquatic plant harvesting because they currently administer removal-fill permits which often involves the filling of wetland areas and subsequent mitigation requirements, both of which may involve aquatic plants.

Ternyik told the Committee that in Florida and other parts of the East Coast, there are some huge mitigation projects. There is concern that as mitigation of wetlands increases, there will be an increase in the need for aquatic plants, and the problem of people stripping natural wetlands for their plant species in order to replant them in an artificial wetland may escalate.

Husing and Ternyik are working together as wetland, beach and dune consultants. Husing holds a law degree from the University of Oregon. Ternyik is a Commissioner on the Port of Siuslaw and Mayor of the City of Florence, and formerly chaired the Oregon Coastal Conservation and Development Commission (OCCDC). OCCDC has since been absorbed by the Department of Land Conservation and Development.

Ternyik challenged the Committee, "Are we going to destroy marshes to create marshes?"

There are hundreds of natural wetland plant species, according to Ternyik. He said some are propagated by rhizomes and will grow back when they are removed. Others—those that propagate only by seed—will not grow back once they are removed. Ternyik said no one has addressed these issues or determined which plants are diggable, which ones would not grow back, and even which plants are endangered.

In addition to the direct effect on plant diversity, there are indirect effects associated with removing or replanting aquatic plants without regulation or monitoring. There is the possibility of introducing plant diseases when people export, or import, plants from one region to another. Ternyik had a sample of diseased tufted hairgrass to show the Committee. Also, in addition to getting the plant itself, when you dig up a plant from a wetland, you take with

it mud which contains organisms that may not be compatible with benthic communities in another region. Ternyik said that "this has the makings of a real ecological disaster."

Ternyik said that some changes are needed to make the taking of aquatic plants more responsible, due to the growing mitigation business. "Somebody should pay attention to what's going on before we foul things up."

Janet Neuman, Director of DSL, and Ken Bierly, manager of the wetlands program for DSL, also spoke before the Committee.

Neuman flagged three things for the Committee:

- DSL hasn't sensed that there is a serious amount of damage due to the removal of plants, nor have they seen that there is not a serious problem with the removal of estuary plants that requires statutory attention.

- The bill is currently too broad, especially in the definition of "facultative plants" which are just as likely to be found in wetlands as non-wetlands, and also the definition of "harvest" which may capture agricultural and forestry activities as well.

- The bill has a fiscal impact on DSL, probably requiring one additional staff person. The bill also includes civil penalties which would go into the state general fund, however, the wetland program is funded by the general school fund.

Ken Bierly said that he thought there may be an opportunity to establish rules regarding the aquatic plant issue in the removal-fill permit process. Neuman also mentioned addressing aquatic plants as part of a public education project, teaching people not to destroy one wetland in place of another. The possibility of making "salvage" a condition of a removal permit was also considered a sensible idea.

Senator Larry Hill (D-Springfield), Chair of the Senate Water Policy Committee, suggested that DSL sit down with Husing and Ternyik to discuss this information, saying that he thought the problem will get bigger before it gets smaller; "it would be wise to plan ahead."

Sen. Hill also said that he is not optimistic about statutory change this session, but that working toward a solution is a good idea. Sen. Hill asked that DSL and Husing and Ternyik return before the legislature next session to inform them of what progress they have made, and what sort of rulemaking DSL has drafted.

—Mara Brown
Legislative Fellow

Salmon labeling bill passed out of Committee

HB 2782, which would require labels on salmon products in order to provide information to consumers about the product, was passed out of the House Water Policy Committee with two dissenting votes after a third and final work session Thursday morning, May, 9.

A second work session had been

conducted by the Committee Tuesday May 7. At a previous public hearing, salmon industry representatives had been directed by the Committee to work out some of the concerns of the original bill with Roger Martin and Jack Munro, lobbyists for the retail industry.

Changes were proposed at the Tues-

day hearing which would limit the labeling requirements to include whether the salmon was imported, domestically farmed, or of natural origin. The Committee agreed to send those amendments to Legislative Counsel for drafting.

—Mara Brown
Legislative Fellow

Coast seeks governor's support on salmon

In a letter to Governor Barbara Roberts, a coalition of coastal legislators, fishing organizations and the OCZMA have asked for recognition of the serious problems facing the ocean troll industry this year. Under the letterhead of Senator Bill Bradbury's Senate Majority Office, the letter states:

We, as representatives of Oregon's coastal communities, are writing to draw your attention to the serious nature of this year's restricted ocean commercial salmon fishery. We strongly urge you to acknowledge this situation by declaring an emergency on Oregon's coast with respect to the commercial salmon fishing industry.

As you are aware, the Pacific Fishery Management Council (PFMC) took actions on Friday, April 12, 1991, concerning the commercial and recreational ocean salmon fisheries in the Northwest.

Factors leading to the decision to make extensive closures in over 400 miles of Southern Oregon and Northern California coastal waters and to further restrict public food fisheries for coho South of Cape Falcon include: 1. low abundance of Klamath River native fall chinook; 2. continued failure of recovery programs for Oregon Coastal Natural (OCN) coho stocks; and 3. Sacramento River systems which are either petitioned for listing under the Endangered Species Act, or are already listed.

Additionally, the PFMC said in their report that "despite judicious regulation of the ocean fishery, without a coordinated habitat protection and restoration effort, harvest restraints alone will not restore many of the depressed stocks."

PFMC took action on April 12 that will require an emergency ruling by the U.S. Secretary of Commerce. The normal OCN harvest rate was reduced from 52% to 46% due to an overestimation of the stock abundance in the past three years leading to low escapement.

In light of this situation, we urge that you consider taking the following actions:

- 1. Issuing a proclamation drawing attention to the serious nature of this year's restricted ocean commercial salmon fishery.*
- 2. Announcing your support for a one year suspension of resident boat licenses and commercial fishing licenses for those fishing for salmon.*
- 3. Directing ODFW to report by August 1, 1991, on the implementation of Oregon wild fish policies which speak to aggregate stock management, particularly with regard to coho. Directing ODFW to report on the foregone economic benefits and costs to the troll fishing industry and to personal income of coastal communities.*

Recognizing that the PFMC's action to restrict harvest is only part of the effort to restore the fisheries resources, we feel that Oregon must make a strong statement on the need for better habitat management practices, better stock enhancement practices, and better hatchery production practices.

Senate acts on oil spill contingency plan

Senator Bill Bradbury (D-Bandon) officially carried SB 242 on the Senate floor, which had most recently come from Ways and Means.

Sen. Bradbury rose and was given permission to ask Senator Dick Springer (D-Portland) a question: "If you were carrying this bill, what would you say?"

Sen. Springer, Chair of the Agriculture and Natural Resources Committee, answered that the bill authorizes the Department of Environmental Quality (DEQ) to adopt regulations for vessels or facilities which may be subject to oil spills.

Sen. Springer then went through the provisions of the bill section by section. He acknowledged there has been concern from the small ports along the Coast about the means of financing the agency costs of implementing and reviewing oil spill contingency plans, as well as offsetting the costs to the ports for adopting their own plans and regulations.

Sen. Springer made it clear that the bill

does not intend to create any undue hardships for the smaller ports, although the fee schedule is currently left up to DEQ administrative rulemaking.

Senator John Brenneman (R-Newport) asked Sen. Springer several questions about the bill, focusing on the impact the bill will have on larger fishing vessels as well as the impact the fee schedule will have on smaller ports. The bill exempts vessels under 300 gross tons from having to submit an oil spill contingency plan, but this may still include some of the larger fishing vessels operating on the coast. Similarly, on-shore facilities which store less than 10,000 gallons of oil are exempt from the regulations.

Sen. Brenneman, who served as mayor of Newport during the 1983 Blue Magpie oil spill in Yaquina Bay, said although he is concerned about the impact of oil spills on the Coast, this is not yet an excellent bill. He said he hoped some of the concerns about fees and the impacts on the coastal ports can be worked out on the House side.

In response to Sen. Brenneman's concerns, Sen. Springer told the Senate he did not recall hearing from any fishing vessel operators in committee. He said if they are going to be operating in Alaska or Washington, they are going to be subject to regulations anyway. The possibility exists for amending the bill in the House committee to outline the DEQ rulemaking process with respect to fee setting. This would help the smaller ports know what to expect in terms of the implementation process. Similarly, there may be changes in the exemption language to include all commercial vessels.

The bill passed, with Senators John Brenneman (R-Newport), Lenn Hannon (R-Ashland), Bob Kintigh (R-Springfield) and Eugene Timms (R-Burns) casting the "no" votes. SB 242 goes to the House, where it is uncertain which committee it will be appointed to--Water Policy, Agriculture, Forestry and Natural Resources, and Environment and Energy are all still possibilities.

Nestucca River bill heard in House Water Policy

A bill to exempt portions of the Nestucca River from the state scenic waterways designation generated controversy and raised questions during a Tuesday, April 30, work session in the House Water Policy Committee.

Both the intent of HB 3323 and how it would impact the scenic waterways process were challenged. The legislation is sponsored by Representative Tim Josi (D-Bay City).

Louise Bilheimer, of the Oregon Rivers Council, and Liz Frenkel, representing the Sierra Club, testified against the bill contending it seeks legislative relief for something that should be done through the rulemaking process.

There is greater concern that exemption of the Nestucca will have an adverse effect on the State Scenic Waterways Act (SSWA). According to testimony from David Moskowitz, Executive Director of the Association of Northwest Steelheaders, the act serves as a model of conservation planning across the nation.

Moskowitz also commented that the dispute on the Nestucca, which the landowners attribute to the scenic waterways designation is really the "result of poor etiquette and illegal behavior by a variety of river users." Moskowitz said that the dispute is part of the "age-old conflict between river users and adjacent landowners."

Rep. Josi spoke to the bill, and said that he was saddened to see this issue get this far. Rep. Josi is giving his constituents the chance to be heard. Rep. Josi urged that the bill be passed out of Committee and given a chance at a floor vote.

The State Parks Department planner for this portion of the Nestucca spoke before the Committee and stated that Parks is still going through the rulemaking process. He said, "I think we are getting close to something we can all work with."

Chairman Chuck Norris (R-Hermiston) closed the work session without further action on the bill.

—Mara Brown
Legislative Fellow

Highway 101 bill passes Senate floor

Senator Joan Dukes (D-Svenson) successfully carried SB 954 on the floor of the Senate Monday, April 29.

The bill declares that U.S. Highway 101 is of economic, recreational, scenic, social and historic significance, and finds it important for the state to promote the highway with respect to these multiple uses.

Earlier, the bill passed unanimously out of the Senate Transportation Committee. The legislation will have no fiscal impact on either local or state revenues. The bill now goes to the House for Committee action.

Coastal Caucus

Natural coastal hazards featured topic

After a brief update on the Port Revolving Fund presented by Paget Engen, Executive Director of the Oregon Public Ports Association, and John Mohr, Manager of the Port of Newport, the Coastal Caucus heard a presentation April 29 on the present and future state of natural hazards planning and management on Oregon's coast.

Jim Good, Sea Grant Extension Agent and College of Oceanography Professor, gave the Caucus an overview of two research projects in which he is involved on the Coast. He also previewed a conference planned for the fall.

One of the projects Good has underway is the Oceanfront Development and Shore Protection Policy in Oregon: An Evaluation. Good spoke of the quickening pace of shorefront development along the Oregon Coast in the last few decades and, because of it, the increasing occurrences of erosion events that are likely to have an impact on adjacent public and private development.

Shore protection structures built to prevent major property loss from erosion often affect the sand supply, public access, aesthetics, and raise questions about the adequacy of laws regulating the building of protective structures and about shoreline development generally.

Good spoke briefly about the state laws and regulations that form Oregon's management framework within its federally-approved coastal management program. LCDC statewide planning goals concerning natural hazards, beaches and dunes and coastal shorelands, as well as the Removal-Fill Law and ocean shore law affect coastal hazards management.

Good's study involves extensive Geographical Information

System (GIS) mapping, which is designed to examine related data in the Siletz littoral cell which is the pilot study area for the larger questions about development and shore protection.

Good spoke briefly about another project he is working on which involves the Potential Impacts of Alternative Sea Level Rise Scenarios in Seaside, Oregon. The objective of this project is to look at the impact of one, two and four-foot sea level rise scenarios on public and private property, wetlands and shoreline retreat. A GIS system is also planned for this project, where existing tax lot maps, topographic maps and wetland maps will be digitized and evaluated by overlaying the different sea level rise projections.

A workshop entitled Coastal Natural Hazards: Science, Engineering and Public Policy is scheduled for October 1-3 in Newport at the Hotel Newport. The workshop tentatively features a pre-conference field trip and several panel discussions.

Panel I will look into coastal earthquakes, tsunamis and landslides in the Pacific Northwest. Panel II will cover coastal processes and hazards, and a third panel would discuss shore protection and engineering. A post-conference meeting is also planned to form a working group to evaluate policy issues stemming from workshop topic and ideas.

Good wrapped up his presentation by discussing the possibility of future shoreline planning done on the basis of littoral cell units, units of sand transport bounded by headlands, which can cross county boundaries. Current land use planning is done through the county comprehensive plans, rather than working from the geological and ecological units to set the areas for management.

Oregon Coast Magazine publisher heard

Starting off National Tourism Week Monday, May 6, Rob Spooner, publisher of the *Oregon Coast Magazine*, addressed the Coastal Caucus regarding some of his current and projected activities to promote the Oregon Coast.

Spooner and his wife Elisha publish, edit, and direct distribution of the monthly magazine which boasts a circulation of some 60,000. He recalled for the Caucus how he took over the magazine in 1987, leaving a position with *Northwest Magazine* in Seattle.

The magazine's circulation has tripled since the Spooners' takeover. The duo have branched out into several other related projects including a *Northwest Travel* publication and a supplementary *Oregon Coast Getaway Guide* which are currently underway.

"All we would like is a level playing field--the chance to do the job of promoting the coast," Spooner contended in making a case for his role in promoting tourism on the Coast, independent from state funding. In past funding years, the state supported the efforts of a non-profit organization—the Oregon Coast Alliance—to promote the Coast. Private advertising in *Oregon Coast Magazine* and

Spooner's other tourist-targeted publications are the main source of revenue for these ventures. Other small publications aimed at the same readership compete for the same limited advertising dollars.

Spooner said he plans to continue with the publications he now produces and not to worry about other efforts to promote the Coast which may or may not come to fruition. Spooner is committed to getting the word out to people interested in the Oregon Coast through the newsstands.

"If people are not willing to pay \$2.95 for a magazine on the newsstand, they are probably not serious about planning a vacation," Spooner asserted. Spooner's closing remarks to the Caucus were in the form of advice: "Be critical of information and statistics presented to the legislature that may be the result of biased research."

Referring to the assertion that every every dollar spent on advertising will bring \$18.00 to the state, Spooner cautioned against the misrepresentation of the information because it does not factor the cost of production. When you hear the familiar words, "Our research shows that..." he said to remember the people advancing the information are the ones who paid for the research.

Fee bill for intertidal angling license passes Senate

The Senate passed SB 247 Monday, May 6, expanding the current law which requires a license to angle for fish, to include requiring a license to angle for clams and crabs, and other intertidal animals.

A person buying a regular recreational fishing license is not required to purchase an additional intertidal angling license; similarly, once you purchase a license for clamming or crabbing, that same license is good for sport fishing. The basic fees for an angling license will remain at \$12.00 for residents, \$30.00 for non-residents, and \$3.50 for a one-day permit.

The bill went through several revisions in Ways and Means, and passed out by a narrow margin in its final form. The bill was amended in Ways and Means to dedicate the revenue generated by

the intertidal licenses to water quality testing by the Oregon Department of Fish & Wildlife (ODFW) which would otherwise have been cut out of the department's budget. The fees will also allow ODFW to continue monitoring shellfish inventories, and activity aimed at preserving the resource.

The bill was carried by Senator Cliff Trow (D-Corvallis) and passed the Senate floor with 24 "Aye" votes. Voting no were Senators Peter Brockman (R-Sisters), Stann Bunn (R-McMinnville), Lenn Hannon (R-Ashland), Peg Jolin (D-Cottage Grove), Eugene Timms (R-Burns), and Mae Yih (D-Albany).

—*Mara Brown*
Legislative Fellow

Senate and House Bill Update

Senate Bills

SB 91: (Secondary Lands) Still having work sessions in Senate Agriculture and Natural Resources; Senate floor vote likely.

SB 162: (Ocean Policy Council) Public hearing and possible work session in House Water Policy Thursday, May 9th.

SB 246: (Restoration and Enhancement) Passed House Floor May 7th.

SB 247: (Intertidal Angling Fee) Passed Senate Floor May 6th.

SB 261: (Requires encapsulation of Polystyrene Floation Devices) Passed out of Senate Judiciary to Ways And Means May 3rd.

SB 330: (Sewage treatment permits; Removal-Fill permit fees) Public hearings being held in Ways and Means Transportation Subcommittee.

SB 499: (Mineral Mining Prohibition) Public hearing and possible work session in House Water Policy Thursday, May 9th.

SB 500: (Five State Oil Spill Prevention Compact) Ways and Means Committee.

SB 555; SB 1125: (Oregon Forest Practices Act) Public Hearings being held in Senate Agriculture and Natural Resources Committee.

SB 611: (Gillnet Ban) No hearings in Senate Agriculture and Natural Resources Committee since March 8th.

SB 614: (Commercial Fishing Poundage Fees) Tabled in Committee.

SB 713: (Rural Leadership Development Act) Scheduled for Senate floor vote May 9th.

SB 1163: (Water rights for fishery resources & public uses) Public hearings being held in Senate Water Policy.

SB 1202: (Oil Spill Contingency Plan) Passed out of Senate May 7th.

House Bills

HB 2347: (Habitat Conservation and recycling initiative) Waiting second public hearing in House Environment and Energy.

HB 2782: (Salmon Labeling) Waiting final work session in House Water Policy.

HB 3323: (Nestucca River Scenic Waterways Exemption) Work sessions being held in House Water Policy.