



Oregon

COASTAL NOTES

May 26, 1989

GOVERNOR AND LAWMAKERS SUPPORT OIL AND GAS DEVELOPMENT BAN FOR STATE WATERS

By Onno Husing, Legislative Fellow

On Monday morning before a packed press conference at the Capitol, Governor Goldschmidt, Rep. Ron Cease (chairman of the Environment and Energy Committee), House Majority Leader David Dix and Senate Majority Leader Bill Bradbury announced new legislation that would ban oil and gas development and exploration in state waters.

Governor Goldschmidt stated that it was, "Nothing new for Oregonians to stand up and be counted on protecting the Oregon Coast" and reminded the audience of earlier coastal conservation measures undertaken by his predecessors. The Governor restated the Oregon priority for renewable resources (found expressly in Goal 19) and asserted this new legislation takes this policy a step farther by framing it in statute. This way, argued Goldschmidt, the State Land Board will not have the discretion to evaluate oil and gas exploration and development plans for the territorial sea (Oregon's 0-3 mile share of the outer continental shelf).

Governor Goldschmidt informed the crowd that Oregon's prohibition of exploration and development in the territorial sea is part of a broader initiative undertaken with Washington Governor Gardner to influence the Department of Interior and their plans to open the Northwest to offshore oil and gas development. "I signed a letter yesterday asking for an indefinite delay of Interior's plans to develop the offshore region of the Northwest", stated Goldschmidt. "As a result of the work of our Ocean Resources Management Task Force, we have identified highly sensitive areas of the continental shelf that we feel should be deleted from development plans" he stated and continued by saying, "At every turn Interior has ignored our recommendations". The Governor also noted that Oregon took

Interior to federal court and lost and tried other consultations and those talks failed to budge Interior's hard line.

The Governor drew attention to the fact that almost all of California and Florida's offshore areas have been temporarily removed from Interior's development agenda. The Governor stated there must be something "peculiar" about these areas because somehow they were set aside but the Northwest is still up for development. Goldschmidt angrily asserted, "This stinks of the worst kind of political deal!" The Governor hopes he can convince the Secretary of Interior to come out to Oregon and see the coast for himself before he makes up his mind. In this regard, the Governor also noted that the new director of the Minerals Management Service (a key office in Interior that guides scientific studies relating to OCS development) is an ex-oil executive from Midland, Texas. Goldschmidt expects the director to realize eventually that Oregonians and other Americans may have a different view of OCS development.

A member of the press asked about the practical effect of this new legislation, "In the event this legislation didn't come along, Governor, would you and other members of the State Land Board approve oil and gas development in state waters?" Goldschmidt appeared to choose his words carefully in saying, "We would have been disinclined to act positively on such a plan". He reiterated his view that this new legislation removes potential for such a decision out of the State Land Board's hands. At that point Goldschmidt shifted gears and remarked that if it came down to having a role in an Interior decision to lease 6-10 miles off the Oregon coast, "I'd rather sit down with the Feds and negotiate to make sure such development does not take place in a sensitive area than not participate and have them drill

in a sensitive area."

Another question came from the press, "Does the Oregon Congressional Delegation have the clout to get the Northwest removed from development in the way California did?" Goldschmidt responded he would never make the mistake of underestimating the influence and abilities of our delegation. Senator Bradbury responded by informing the press that it was Congressman Les AuCoin - with his control of Interior's budget - who played a pivotal role in removing California from Interior's development agenda. Therefore, said Bradbury, he was optimistic that AuCoin could do for Oregon what he did for California. At that point Goldschmidt strongly interjected that, "Until this man who keeps saying he is an environmental president (President Bush) starts acting like it, we cannot rely on trust in these matters!"

On a lighter note, someone asked the Governor, "From a political science perspective, hasn't the rest of the country always treated Oregon like a colony by using the state as a source of raw material, and realistically, can we expect that relationship to change?" The Governor smiled, bashfully looked down at the floor and said, "Well, I don't know, I'm just a shoe salesman". After the laughter subsided the Governor responded more seriously by explaining that due to certain provisions in the U.S. constitution regarding navigational provisions (which bear on the Columbia River) and the amount of federal forest land in the state, "Clearly, we are not Nebraska". Goldschmidt stated that the Northwest Outer Continental Shelf and other areas of the state contain valuable national resources - not just state resources - and that many of these natural resource issues (like old growth) must

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be resolved at the federal level in the context of a national debate.

Senator Bradbury aptly remarked that enacting a state oil development and exploration moratorium legislation is "the easy part." Bradbury (the sponsor of the last session's landmark ocean planning legislation SB 630) further stated that the real action is the effort to turn around the Department of Interior (which controls the outer continental shelf from three miles out to 200 and in specialized cases beyond 200 miles). Bradbury explained the institutional forces driving the federal government to lease were nearly overwhelming since offshore oil and gas revenues constitute the second largest contribution to the federal treasury after personal income taxes.

Representative Dix noted that federal offshore oil development would only create 60 jobs in the state. Dix compared that figure with the \$241 million and 12,000 jobs fisheries create in the state. Dix also noted that from a national security perspective, best estimates indicate that off the Northwest there is only enough oil to supply the United States for several days.

Unfortunately, no matter how compelling these arguments against developing the Northwest may be, they are identical to those used back east in New England in the late 1970s and early 1980s when Interior put Georges Bank up for grabs (Georges Bank is undeniably one of the most productive fishing grounds in the world). Despite the marginal returns and the high risks associated with developing Georges Bank, Interior proceeded and leased that extremely productive and sensitive area. What spared New England from oil and gas development was that once exploration was underway, the results were disappointing to the oil companies (not the fishermen and coastal communities). The oil companies discontinued their efforts to develop Georges Bank only after it was clear there was not enough oil to justify the expense. Similar battles are currently being fought concerning Bristol Bay off the coast of Alaska and the Alaskan National Wild-

life Refuge (although, in fairness to Interior, unlike New England and the Northwest these two areas potentially contain huge oil reserves).

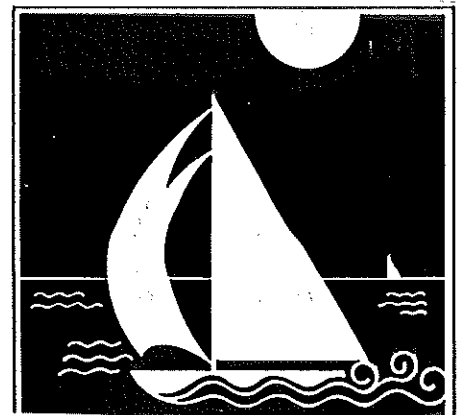
Toward the end of the press conference a member of the press asked the Governor, "Aren't you by your actions today possibly overlooking an important source of revenue for the state?" "I hope so", Goldschmidt responded. Representative Cease (whose committee will introduce the measure) picked up where the Governor left off. Cease commented that, "Surely there will be costs, everytime we move to protect valuable resources as we have seen in the timber debates and other circumstances, it costs us something." Cease further explained, "That's why we have committees in the legislature to sift through all the arguments and make these tough decisions".

Later that day the Environment and Energy Committee amended SB 1152 to include the oil and gas development and exploration moratorium. Before its recent augmentation, SB 1152 merely established a directive to state agencies to pursue joint ocean management efforts with adjacent coastal states. However, because of SB 1152's appropriate relating clause, the bill was the best vehicle for the moratorium amendments.

Gail Achterman (the Governor's assistant on natural resources) testified that the legislative moratorium follows a similar recommendation by the Oregon Ocean Resources Management Task Force made two weeks ago. According to Achterman (who has been very active in the Task Force and demonstrated strong leadership on these issues since the Task Force began meeting in December of 1987), the Task Force has determined that the entire territorial sea is a highly sensitive area due to the amount of marine life, the volume of vessel traffic and the visual impact of such development. After Representative Cease questioned whether or not the moratorium (which he supports) was merely a political gesture taken as a

result of the new climate against oil and gas development, Achterman responded, "This action is consistent with the policies established under the SB 630 process and Goal 19. This was not a black and white no, this determination was made only after careful deliberation by the Task Force following scientific efforts to evaluate the benefits and risks of development".

Achterman also argued that the oil development moratorium makes sense. "Since the determination was made by the Task Force that the nearshore area is just too sensitive to lease, why have procedures in statutes invited people to apply for such leases?" Achterman explained, "Such statutes only takes up staff time and further, we believe it would be misleading to have these statutes remain in place if the state does not intend to consider such development". The committee acted unanimously to adopt the amendments and now the entire package is on its way to the House Floor.



NEW DLCD DIRECTOR VISITS COASTAL CAUCUS

By Onno Husing, Legislative Fellow

Susan Brodie, the newly appointed director of the Department of Land Conservation and Development, appeared at the weekly Coastal Caucus breakfast. Following introductions, Brodie described her background (major points being her work as director of Eugene's planning program, her masters degree in planning from MIT, and her experiences in Alaska working on planning issues related to the shoreside effects of oil and gas development). Brodie stated she would take the summer to travel to all parts of the state and "do a lot of listening". Brodie informed the Caucus that she hopes to establish a strong working relationship with the Legislature and promised to work closely with the Joint Interim Legislative Committee on Land Use.

With respect to her policy orientation, Brodie offered that in the past the Department of Land Conservation and Development (DLCD) and the Land Conservation and Development Commission (LCDC), "May have been trying to do too much." Brodie thinks there is room for improvement in the area of communicating with the public. In this regard, she believes better communications could lead to greater acceptance of land-use programs and less acrimony.

Following her remarks, Brodie received an earfull from the Caucus members about the current climate in which she is about to enter. One member of the Caucus stated that there is no balance on the current commission, that they were out of touch - particularly with rural areas of the state - and that the level of communication between people back home and the agency/commission was terrible. Other members of the caucus echoed these thoughts. **Senator Brenneman** told Brodie that the LCDC has "run amuck" in the last number of months, "Especially on the secondary lands issue". **Brenneman** later told me that he was particularly annoyed because the Legislature never authorized LCDC to undertake a new policy on tightening the definition of "primary lands", only that the LCDC should

evaluate how more flexible usage could occur for less productive secondary lands. Therefore, **Brenneman** believes the LCDC clearly exceeded their mandate.

Following this barrage, Brodie smiled and said, "I'm an optimist, that's why I took this job".

Brodie was accompanied by **Craig Greenleaf** of the Department (who had been acting director before Brodie's appointment). At the request of the Caucus, **Greenleaf** briefed the members on the latest developments in the secondary lands issue. He stated that eight counties would undertake pilot projects as a means to evaluate the workability of a secondary lands program. According to **Greenleaf**, the program would be simplified by focusing on soil types rather than the overly complicated three tiered system that had been evolving under the Commission.

Another concept currently being pursued by the Department was the creation of a "mixed zoning" approach, taking into account the comingling of agriculture and forest lands - especially in finger valleys. **Greenleaf** stated that DLCD would pursue this approach through rulemaking. Brodie offered that it would be difficult to go back to square one on the secondary lands issue, but thought that the pilot project approach would provide a more acceptable means of dealing with this complex and contentious issue.

Representative Hanlon informed Brodie and **Greenleaf** there was a feeling in the Legislature that once the session was over (and by implication the ability of the Legislature to influence Department policy for a year and a half because the agencies budget would be in place), DLCD would "run out" and pursue aggressive rulemaking. Brodie assured the Caucus that the Department had no plans to rush into rulemaking. Brodie reassured her desire to work with the Legislature. Again, she restated it was her intention of going slowly and only

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MAJOR LAND USE BILL RECEIVES ANOTHER HEARING

HB 2288, one of the two major land-use bills of the session (the other being SB 3) received yet another hearing before the House Environment and Energy Committee. Like the wetlands bill, HB 2288 has been the product of a year long "consensus process" in which representatives from a number of conflicting interest groups attempted to hammer out a bill everyone could live with. However, according to the testimony on HB 2288, consensus was not achieved even though a number of participants believe areas of wide agreement have been reached.

The major elements of the bill that remain unresolved are: (1) a new definition of a "land use decision" (which excludes subdivisions), (2) the "raise it or waive it" notice provision aimed at eliminating LUBA "ping pong" (see an earlier issue of Coastal Notes), and (3) adjustments in the enforcement provisions. Members of the HB 2288 working group presented their conflicting ideas on the impact of these measures. The major opponent of the bill in its present form is 1000 Friends of Oregon. 1000 Friends feels the bill erodes citizen input and unnecessarily relaxes development standards.

Following a debate of the bill, **Chairman Cease** informed those at the hearing that due to the complex nature of the legislation and the other business scheduled to be before the committee that afternoon, he would schedule another hearing and work session for early next week. This action would give committee staff the time to produce a memo summarizing arguments made before the committee and give the members time to mull over the bill. Next week Coastal Notes will feature a more indepth article on this complex and important legislation.

HB 3336 LEAVES SENATE COMMITTEE UNCHANGED

In one of the more interesting work sessions yet this year (HB 3336 seems to attract this kind of behavior), HB 3336 - the fisheries enhancement program - left the Senate Agriculture and Natural Resources Committee program. Like the salmon, the new program is meant to enhance. HB 3336 - which was spawned in the Senate Agriculture and Natural Resources Committee in the first place under the name SB 41 - returned to Senate Agriculture and Natural Resources Committee after a long upstream journey in the House and the Ways and Means Committee.

The committee members were aware of the bloodbath that resulted during the first Senate Agriculture and Natural Resources Committee hearing on the bill (see an earlier Coastal Notes). Despite these unpleasant memories, some old wounds were reopened again. Senator Fawbush (D- Hood River) wanted to know why the bill had been changed from a six-year program to a two-year program. After receiving what he must have considered to be an unsatisfactory explanation, Fawbush started a movement in committee to change HB 3336 back to a six year program.

The trouble with returning to a six-year program is that it had been determined in Ways and Means that lottery monies would not be committed for six years, only two. Therefore, supporters of the bill did not want to boost user fees for six years without the financial partnership that state lottery dollars represent. Moreover, it became apparent to the original supporters of HB 3336 that a two-year program would provide incentive to the enhancement board, ODFW and the Fish and Wildlife Commission to get the program off the ground and keep internal bickering to a minimum.

Senator Fawbush insisted on changing the program back to a six-year program. Fawbush kept saying that lottery monies had nothing to do with HB 3336. While technically correct, in reality one of the major features of the HB 3336 process was the "partnership" that

would be formed among commercial and recreational fishermen (who would pay the increase fees) and the people of the state of Oregon (who would devote a share of lottery fees toward fisheries enhancement).

Some members of the Committee followed Fawbush perhaps believing that is two-years if good then six-years must be better. The committee voted 5-2 to do so. Only Senators Bradbury and Brenneman voted no! Fawbush said, "What's the matter with you coastal people?," "I'm doing this for you," he explained. Senator Bradbury threw up his hands and hastily went for more coffee. Brenneman looked up in disbelief.

At this critical moment Representative Hanneman (who had been monitoring the hearing in his office) came down to the hearing room. The committee requested Hanneman's insights into the matter since Hanneman had played one of the major roles on this bill in Ways and Means. Hanneman explained the situation in great detail. Following his remarks, the committee quickly reversed their position and voted 7-0 to return to a two-year program.

Senator Kerans (D-Eugene) wonderously asked Hanneman, "How was it Representative Hanneman, that you were able to appear at that crucial moment?" Hanneman smiled and informed the committee that due to the wonders of technology, he had been listening to the committee upstairs in his office on the monitor. As the laughter subsided Chairman Springer likened Paul's appearance to that of the "Supreme Being". More lengthy and pronounced laughter followed and Springer gaveled the work session closed.

For technical reasons, HB 3336 now goes back to Ways and Means and will be quickly sent to the Senate Floor for vote. Following what is expected to be a positive vote of the bill in the Senate, HB 3336 would then go to Governor Goldschmidt for signature. Since this was the Governor's bill in the first place, we all may have finally got a fisheries enhancement program. But, based on the history of this bill, this

observer wants to see the ink dry on the Governor's signature before he really believes it.



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testing new ideas through pilot programs she described earlier.

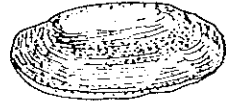
OCZMA director Jay Rasmussen asked Brodie whether she agreed with the observation that DLCD was preoccupied with rural lands, and that the agency has not devoted the proper time and energy to addressing urban planning problems and suburban sprawl issues. Brodie responded that the Department was "constrained by legislative mandates and budget restrictions." Brodie agreed, however that urban problems such as transportation and growth management deserve greater attention. Brodie also stated there was a lost opportunity in helping people see the connection between planning and economic development.

Brodie was asked about a bill introduced early in the legislative session that would remove planning authority from the counties and place it in the hands of regional state administrators and whether she believed the agency had the necessary resources to undertake enforcement of land use measures. Since she is new on the job, Brodie deferred to Greenleaf. Greenleaf reminded the Caucus that the Department had opposed the bill and that this policy has not changed. Greenleaf believes the enforcement issue is a related yet separate matter (in that regardless of a shift in authority, enforcement always remains an issue). Brodie added she believes that the enforcement issue was best addressed by better communication. According to Brodie, "Problems can be avoided if people just have a better understanding what is expected of them from the land use process."

HOUSE WATER POLICY REVIEWS STURGEON BILLS

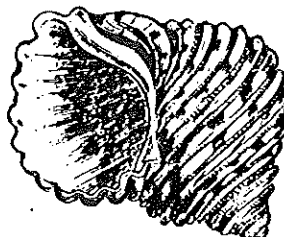
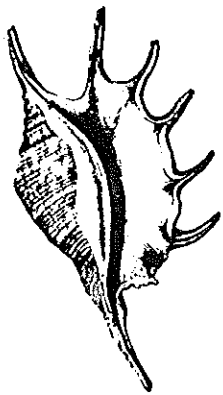
On Thursday evening, May 25th, the House Water Policy reviewed several bills, two of which were related to sturgeon (HB 2984 & HB 2985), and one to private salmon hatcheries (HB 2735).

Of major consequence, a last minute effort to re-insert statutory sturgeon moratorium language was defeated in Committee. See next week's Coastal Notes for a more detailed report on this subject.



QUOTE OF THE WEEK

One interest group recently communicated their displeasure with certain legislative actions. Upon hearing this discontent, a member of the legislature was heard saying *"Well, if we can't ruffle their feathers, we'll pluck them."*



OIL SPILL INSURANCE BILL (SB 1083) RECEIVES UNANIMOUS APPROVAL IN THE SENATE

The Senate voted 29-0 (one member excused) on SB 1038 this week following the Washington State Legislature's lead on their equivalent legislation. SB 1038 requires up-front proof of insurance coverage for those transporting oil on state waters. The measure still needs to be heard before a House Committee and on the House Floor but substantial support seems to be building for the measure (see last week's Coastal Notes). Lobbyists continue to maintain that the bill is flawed and that, if enacted as is, in the end we will all discover that SB 1083 is unworkable. Evidence of such unworkability will be that shipping operators won't be able to get insurance. I'm sure there will be plenty of opportunities to make these arguments when the bill goes to a House committee.