

# OREGON COASTAL Notes

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## Salmon restoration measure migrates through Senate

The House Natural Resources Committee will consider a Senate proposal that dedicates \$10 million from the state lottery fund to restore watersheds that serve as salmon habitat in a Thursday, June 24 work session after the measure cleared the Senate earlier this month with a 29-0 vote.

The unanimous Senate vote came after two members who had opposed the measure in hearings before the Senate Ways and Means Committee, Sen. Gene Timms (R-Burns) and Sen. Mae Yih (D-Albany) decided to support it when bill sponsor Sen. Bill Bradbury (D-Bandon) assured them that it contained no regulatory provisions. The sole member not voting on the measure, Sen. Stan Bunn (R-Newberg), missed the vote while on legislative business in San Francisco.

Senate Bill 1112 requires the Water Resources Department to consult with the Department of Fish and Wildlife (ODFW) in setting restoration goals and developing methods for returning depressed salmon stocks back to harvestable levels. The bill serves as enabling legislation for the Governor's Watershed Health Benchmark Proposal, which itself resulted from stream enhancement pilot projects developed by the Strategic Water Management Group. The centerpiece of the legislation assigns Water Resources the responsibility for coordinating a grant program to local agencies and non-profit groups to implement watershed restoration efforts.

Amendments adopted in a hearing before the Senate Agriculture and Natural Resources Committee April 21 linked the Water Resources' grant-making function to House Bill 2215, which provides for the creation of local watershed councils to govern management and restoration policies for watershed areas. That bill has passed the House and has had two hearings before the Senate Water Policy Committee.

The Agriculture committee at the April 21 hearing also bowed to concerns expressed by

Oregon Trout representatives Jim Myron and David Moskowitz, amending the bill to widen its application to all salmonid fish, to provide for a specific consultative function for ODFW and the Restoration and Enhancement Board and to require Water Resources to consider projects that protect watersheds from further degradation in common with projects that restore damaged watersheds. Myron testified for the bill at the later Ways and Means Committee hearing.

At the subsequent hearing, the committee removed the bill's appropriation language and placed it in Senate Bill 755, the Senate's omnibus lottery appropriations bill. The committee also placed spending limitations for the measure in the Water Resource Department's budget document. SB 755 passed the Senate June 1 and will have a hearing this week in the House Appropriations-A committee.

The House appropriations committee, meanwhile, itself held a hearing on the governor's original budget request to fund the Watershed Health Benchmark Proposal, which is part of House Bill 5050, that chamber's omnibus lottery appropriations measure. A final determination on the funding level for the restoration program will await a work session that includes other requests for lottery funds for the coming biennium, committee chair Rep. Tony Van Vliet (R-Corvallis) said. Unlike SB 1112, the House appropriations measure contains no agency coordinating function or specific legislative policy direction.

The House appropriations committee hearing on HB 5050 also provided the first sign that SB 1112, despite its easy passage in the Senate, could face some difficulty in the House, where some members have criticized a Water Resources Department proposal drafted to implement its provisions. At that hearing former Rep. Paul Hanneman told committee members that he hoped the department's proposal would not serve as an excuse for state

agencies to go out and conduct more watershed studies, rather than taking action.

"Most of the data you need for these projects is already sitting on the shelf," Hanneman said. "To make this program work you have to show some results from projects within the biennium or you're going to risk getting criticized for wasting lottery money."

The proposal foresees the creation of a supervisory task force of state agency personnel divided into three teams: one field team in each of two pilot watershed areas and a "core team" to coordinate the overall program. The teams would develop criteria for evaluating restoration project proposals, serve as liaisons among federal, state, local and private agencies and officials, and provide needed data from state geographic information databases, biological surveys and other sources, the proposal states.

Rep. Dave McTeague (D-Milwaukie) echoed Hanneman's concerns at a May 27 Coastal Caucus meeting, noting that House members have questioned whether Water Resources and the eight other state agencies charged with administering the program needed the full amount of money set aside for their expenses in SB 1112.

The bill caps state agency spending at 35 percent of the final program appropriation, and designates a further 40 percent of the total for grants and contracts to local agencies, but this ratio might not give enough money to actual projects, Rep. McTeague said. Concerns have also arisen over Water Resources' apparent lack of discretion in dispensing the funds to state agencies, which have firm funding levels for their various projects written into the proposal, he added.

"These people have got to show that there will be off-the-shelf programs ready to go," Rep. McTeague said. "This shouldn't be an excuse to feed a bunch of bureaucrats."

But Anne Squier, the governor's natural

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# Anger over whiting decision prompts Senate memorials to Congress

Two Senate joint memorials that aim at forestalling a repetition of U.S. Commerce Department decisions earlier this year on fisheries allocations that punished Oregon coast fishing interests will go before the House Natural Resources Committee early next week.

The measures, Senate Joint Memorial 5 and Senate Joint Memorial 21, passed the Senate unanimously last week. Although the measures originated in the Coastal Caucus, an irony resulting from procedural quirks in the hearing process saw two Willamette Valley legislators — Sen. Bill Dwyer (D-Springfield) and Sen. Mae Yih (D-Albany) carry the memorials on the Senate floor.

SJM 5 calls upon Congress to amend the Magnuson Fisheries Conservation and Management Act (FCMA) to limit the Secretary of Commerce's ability to overturn the recommendations of the eight regional fishery management councils his agency oversees. Suggested FCMA amendments in the measure would, if adopted, require the Secretary to approve or disapprove by a specific date any "regulatory amendment" made by a management council to set allocations within a fishery and, if he or she disapproves, to return the regulatory amendment to the council along

with specific reasons for the disapproval.

Under other suggested changes to the FCMA, management councils may also revise and re-submit their recommendations to the Secretary after a disapproval. A final proposed change would require the Secretary to base his or her decision to approve or disapprove an amendment to a Fishery Management Plan — the basic document that guides federal fishing policy for each commercially caught species in each region — solely on the record developed before a fishery management council.

The Pacific Fishery Management Council (PFMC) won the backing of the other seven fishery management councils at a recent San Francisco meeting of the council chairs for a resolution directed at Congress and containing language similar to that of SJM 5. PFMC Executive Director Larry Six later appeared before the Senate Water Policy Committee to endorse the memorial along with University of Oregon law professor Richard Hildreth, a co-director of the law school's Ocean and Coastal Law Center.

In his floor speech Sen. Dwyer, who carried the measure out of the Water Policy Committee he chairs, noted that the Magnuson Act

process is supposed to vest the councils with responsibility for taking testimony, weighing the costs and benefits to the fishery and the industry and making an allocation decision, but that the Commerce Department essentially ignored that process in its Pacific whiting allocation decision earlier this year.

"This sort of high-handed and arbitrary decision making tells us in the coastal states and those in the coastal fishing industries that our opinions just don't matter," Sen. Dwyer said. "We can participate in the regional process Congress set up to take testimony ... but the Commerce Department can simply ignore this whole process and substitute its own findings. This has to stop."

Legislative ire over the whiting decision also fueled the passage of SJM 21, which takes aim squarely at the Commerce Department finding, calling for a General Accounting Office investigation into the Department's decision making methods, requesting a field hearing on the issue in Oregon by the U.S. House Merchant Marine and Fisheries Committee and asking President Clinton and Congress to demand that the Department produce an adequate explanation for overturning the PFMC recommendation.

Sen. Yih noted in her floor speech that the decision hurt more than just those engaged directly in the fishing industry. She cited as an example a whiting processing plant in her district that has had to cut back worker shifts and shorten its processing season because of reductions in available whiting carcasses.

"The people of Oregon deserve to know why this had to be," Sen. Yih said. "When the fishing industry, processors, scientists, economists and coastal communities that depend on whiting hear the PFMC say the harvest this year will be 105,000 metric tons, but the Commerce Department then says it will be only 30,000 tons, the people of Oregon deserve to know why."

Oregon congressional delegation member Rep. Mike Kopetski told a Newport audience during a June 4 field hearing of the U.S. House Subcommittee on Regulation, Business Opportunities and Technology called by fellow Oregon Rep. Ron Wyden to focus on the whiting decision that he intended to pursue the issue, which he said was "political and smells like bad fish."

Rep. Hedy Rijken (D-Newport) appeared before the panel in her home district, testify-

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## Shellfish testing program fights for its life as legislative chambers spar over funding

Differences in House and Senate versions of a funding package for the Health Division's shellfish testing program may doom it to extinction unless the two chambers can agree on a compromise measure that will tide it over until it can secure a more stable source of revenue, according to observers in both chambers.

The Senate measure, SB 632, relies on a fee assessed against commercial growers and recreational harvesters to raise revenue sufficient to fund current testing operations, which cost about \$552,000 per biennium. The Senate measure has already passed out of the Senate Agriculture and Natural Resources Committee and will go before the full Senate Ways and Means Committee this Friday, where it will likely face little opposition.

The bill also proposes to transfer the entire program to the Department of Agriculture, a provision that held it up for several weeks while bill proponents negotiated for support from coastal county health departments who

feared they would no longer have a place in the program when the Department of Agriculture assumes administrative responsibility for it. While opposition to the transfer has waned, questions about the relative costs of the testing program borne by recreational and

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commercial harvesters remain, as do questions about the actual amount of revenue the fee base will raise.

But even if the bill clears the Senate, it may run into fierce opposition in the House, where a similar measure that sought to raise shellfish license fees died after only a single hearing in the House Water Subcommittee. Rep. Tim Josi told Coastal Caucus members at a meeting in May that the House leadership has not relented in its opposition to bills that seek to raise revenue through user fees.

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# Questions about watershed proposal surface in House

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resources policy advisor, told Rep. McTeague and members of the Caucus at a meeting the following week that agency directors had always intended that the restoration project would show quick and measurable results.

"The agencies [had] an underlying recognition that if this is going to work and be successful it will have to have some measurable outcomes in a short time frame that show us that we're moving in the right direction," Squiers said. "The [proposal] has not shown the urgency that we feel about this, but we do understand that we need to hit the ground as soon as we can."

Water Resources Department Director Martha Pagel agreed, noting that she may seek amendments to the bill's preamble that would refer to specific measures that the department could take to implement watershed recovery and that would require the establishment of a legislative or citizen's oversight board to evaluate project implementation.

"Our biggest problem has been in communicating our intent for this project," Pagel said. "We're in a bit of a dilemma because legislators want to know where we're going and where we want to be, but it's not going to

be the department which will be laying out a lot of the individual projects."

Myron and Pacific Rivers Council representative Louise Bilheimer, however, cautioned against the department specifying particular projects in the bill itself. Since the science of watershed restoration is still uncertain, it would be best not to determine in advance that one set of projects will have a better cost-benefit ratio than another set, Bilheimer said. She added that the department would do better to focus its efforts on changing land use management practices in damaged watershed areas to take advantage of their natural restorative capabilities.

"We've found in the Grande Ronde that when you talk to folks one-on-one you find some very innovative ideas," Bilheimer said. "We need to show folks that we aren't talking about putting them out of business, but are just trying to change their practices to their benefit and to the benefit of the environment."

Myron added that Oregon Trout views SB 1112's mandate to coordinate agency action on a watershed basis as the single biggest benefit in the bill, and that he would oppose any amendments that would remove from the bill any funding or authority that would aid

this process.

"Local folks are frustrated with having to work with 14 different state agencies in order to get anything done," Bilheimer said. "We also view this as critical to the bill."

Opportunities for the regional coordination of restoration efforts may also be closer to reality, Sen. Bradbury told Caucus members. A San Francisco meeting of the Pacific Fisheries Legislative Task Force discussed Oregon's planned restoration efforts and may focus on the topic at a future meeting, he said. In addition to SB 1112, the Oregon Senate late in May passed SB 1075, a measure authorizing agreements between state fisheries management agencies for regional restoration efforts and, eventually, interstate compacts governing state participation in those efforts.

The Washington State legislature also passed a measure that provides approximately \$6.5 million to watershed restoration projects that employ dislocated timber workers and "at-risk" teenagers. Washington's program has a restoration focus similar to its Oregon counterpart and may serve as a means for cooperation between the two states in watershed areas, such as the Grande Ronde, that overlap territorial boundaries.

## Witnesses tell panel how whiting decision affected Oregon coast

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ing that the whiting decision might have idled up to 800 workers and cost the Newport area — which hosts more than half of the state's whiting fleet — about \$20 million, both in direct receipts from fishing and associated losses to the economy. The decision may also put added pressure on other fisheries in the area as whiting harvesters try to recoup investments made in anticipation of the PFMC's allocation.

"[N]ew processing capability added this year that would have allowed local industry to take advantage of the fruits of their labor will go to waste because the bulk of the whiting harvest [went] to a fleet ... that had no hand in the painstaking development effort that brought the whiting industry to economic viability," Rep. Rijken said. "The worst part about this decision ... is the feeling of betrayal."

## Senate, House clash over program funds for shellfish testing

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"My feeling is that any fee bill that comes across from the Senate is dead on arrival on this side," Rep. Josi said. "The House leadership has made its position very clear."

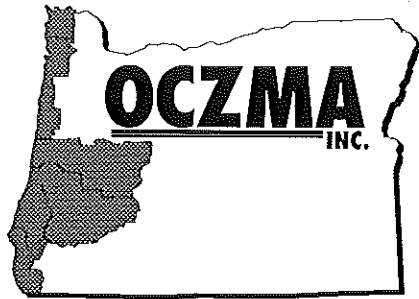
For its part, the House has pledged sufficient revenue from the state's general fund to fully support the program for the coming biennium. The House measure retains the funds in the Health Division budget at the expense of the Division's teen pregnancy prevention program, the sort of compromise SB 632 proponents say led to the Division's slating the testing program for elimination twice in previous budgets. Moreover, general fund support this biennium does not guarantee general fund support in coming years, Senate bill proponents contend.

Senate observers, including Sen. Joan

Dukes (D-Svensen), who sits on the Senate Ways and Means Committee and who is the principle sponsor of SB 632, expect that a House bill proposing general fund support for the testing program will get as much of a jaundiced eye in the Senate as that given fee bills in the House. The Senate has already allocated general fund money based on other priorities and has operated on the assumption that the fees contained in SB 632 will adequately support the testing program not just for this biennium but also in the future, Sen. Dukes contends.

"If the House isn't going to look at [SB 632] then the program may be dead," she said. "We don't have the money for it in the general fund."

Shellfish testing program supporters may have to pin their hopes on conference committee proceedings between the chambers later in the session if neither side budges. The outcome for the program under these circumstances would be uncertain and might result in a compromise between chambers that merely reduces its funding instead of eliminating it outright.



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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