



Oregon

COASTAL NOTES

Vol. 3 No.17

Published by the Oregon Coastal Zone Management Association, Inc.

June 6, 1991

The Coast and instream water rights

Concluding considerations:

Other instream water right bills being considered by the 1991 session of the Oregon Legislature include:

HB 3465: Passed the House floor, June 3, 1991. Sponsored by Representative Mike Nelson (D-Baker City), HB 3465 requires requires public notification of instream water right applications. The bill was passed unanimously with Representative Stan Bunn excused.

HB 2191: Passed the House floor June 4, 1991. Filed at the request of the Water Resources Department (WRD), HB 2191 establishes process for any state agency to request a permit for reservation of water for future economic development, requires secondary use certificate for use of reserved water, and allows the WRD to impose conditions on permit or certificate.

Conclusions and recommendations

In order to incorporate federal changes in the Clean Water Act, as well as being able to implement changes due to a possible federal listing of salmon as a threatened and endangered species, it is important that Oregon take a strong role in working through these issues. The state can serve to act as a bridge between the federal changes and local basin authorities to ensure that local user concerns both instream and out of stream are considered.

However, with agencies only now establishing administrative rules as a result of the 1987 instream water rights legislation, this session may be too soon to take any further legislative action on the instream water rights issue. State agencies need time to coordinate with each other as well as with the local governments and to work out critical issues such as how the WRD will address water reservations for future economic development.

For the future, the state may look for ways to further the management of water quality with water quantity. In Oregon the authority over these are dealt with separately by the Department of Environmental Quality (DEQ) and WRD. It might be possible to incorporate administrative consolidation as with the Washington Department of Ecology which integrates both water quality and quantity.

Another issue to continue to look at is that of watershed management as an alternative to individual permit granting. Oregon is moving toward this with the instream water rights law, in terms of coordinating agencies under state-wide water use planning goals. Water management is a crucial component of larger land use planning issues, and could be dealt with by local governments at the time of implementing the local comprehensive plan.

Issues for discussion:

1. Is there a state policy for working towards striking a balance of competing uses and needs for water?
2. How will instream water rights affect use of water for agricultural purposes?
3. How will instream water rights affect municipal storage for future water needs?
4. How will the public be notified of changes in water rights laws, and administrative rule-making process?
5. What will be the timing and nature of public education? How will the public be made aware of the background and necessity which brought about instream water rights legislation? Which agencies will be responsible for public education?
6. How will industrial point source and non point source pollution be affected by instream

Continues next page...

Inside:

SB 242 Update
Shellfish program
Coastal Caucus
Oil spill bill
Wildlife memorial
Clear Lake issue

Pacific Whiting Steering & Technical Committee Meeting

June 11, 1991

10 a.m. - 3 p.m.

Hatfield Marine Science Center
(Meeting Room)
Newport

Market Opportunities for Pacific Whiting is the title of an address to be delivered by Dr. Gilbert Sylvia of the Coastal Oregon Marine Experiment Station. Reports will also be presented by Bob Demory of the Oregon Department of fish and Wildlife, by Jerry Bates of the Depoe Bay Fish Company, and by Jay Rasmussen, director of OCZMA.

Agendas and materials for the above meeting are being forwarded to OCZMA members, committee members and interested parties.

Senate oil spill bill update

The House Environment and Energy Committee held a recent public hearing and work session on Senate Bill 242, which would direct the Department of Environmental Quality to implement and regulate the requirements for oil spill contingency plans for vessels and facilities storing oil

Several amendments were adopted at the Senate committee hearing which satisfy outstanding concerns held by coastal ports and the oil industry.

Industry amendments were presented in one hand-engrossed version of the bill, and among other things, the bill deletes the requirement for boom storage and changed the language with regard to the Department of Fish and Wildlife (ODFW) volunteer wildlife rescue training program funding.

Originally, ODFW and the Department of Land Conservation and Development (DLCD) would be reimbursed by the Department of Environmental Quality (DEQ) for their assistance in reviewing contingency plans. New language is added such that ODFW will be reimbursed under provisions of the Federal Oil Pollution Act.

Amendments introduced by Representative Jim Whitty (D-Coos Bay) were adopted which would exclude vessels used solely for commercial fish harvesting from the provisions of the bill. This would not include vessels that process fish on-board. The original bill excluded vessels under 300 gross tons, but there were some concerns for the larger fishing boats that would be left in, as well as a concern regarding possible changes being made in procedure for Coast Guard determination of gross tonnage figures.

The Oregon Public Ports Association (OPPA) sponsored amendments which would guide DEQ in establishing fees and regulations for coastal ports. Amendments were adopted which

include that on the Oregon coast, DEQ "assist affected local agencies and industry groups to complete an inventory of existing plans and resources, and to identify or establish an organization to coordinate oil spill contingency planning as part of the alternative schedule adopted for the Oregon coast described under section 6 (1) of this 1991 Act."

DEQ will also assist the coast in securing necessary funds and equipment to carry out the plans where adequate resources do not exist. Finally, language was omitted saying that the ports "may" have the authority to adopt and regulate tow cable requirements. This issue was important to the Senate Agriculture and Natural Resources Committee which deliberated on the bill earlier, and may be sending the bill into conference committee.

Amendments were adopted which are the product of DEQ and industry negotiations, regarding the caps set on fees for barges and facilities. Fees on all non-self propelled tank vessels (barges) are \$28 per trip; fees on all cargo vessels are \$25 per trip. Fees assessed to on-shore facilities will not exceed \$81,000 in total annually, and fees on all self propelled tank vessels will not exceed \$72,600 in total annually. These fees are for the purposes of recovering DEQ plan review, inspections and training activities in the bill.

A final work session was scheduled for today.

—Mara Brown
Legislative Fellow

UPDATE:

Shellfish program

Resources having already been passed by the House, the Ways and Means Subcommittee on Human Resources adding back funding for the School Based Clinics program for \$750,000, and restored the Shellfish Sanitation Program at \$250,000.

These two programs had earlier in the session been pitted together in a public hearing which was attended by an overflow crowd of shellfish growers and high-school health clinic supporters.

These final add-backs also carry a note saying that in the event of a threat to decertify Oregon's shellfish program due to non-compliance with the National Shellfish Sanitation Program, the program will be restored to a higher funding level by the Emergency Board.

—Mara Brown
Legislative Fellow

Intream water rights

Continued from Page One...

water rights? Does a right to water quantity ensure a right to water quality?

7. Which agency will be responsible for inter-agency coordination? Are agencies well coordinated with respect to instream water rights?

8. How will instream water rights and basin planning affect and be affected by land use planning?

9. What are the prospects for the creation of state-wide water use planning goals—similar to the state-wide land use planning goals? Will these be planned by basin, region, need?

10. What will be the role of local governments in working with the various state agencies to determine changes in appropriation of local water basins and creation of instream water rights?

11. How will local comprehensive land use plans be affected by instream water rights?

12. What will be the process for addressing reservations of water for future economic development? Does the rule requiring prior notification to DEQ, ODFW, and Parks, of application for future reservation decrease the chance of obtaining the appropriation? Should a more balanced approach be looked into?

—Mara Brown
Legislative Fellow

Coastal Caucus Breakfast

Fish habitat education program

Fran Recht, project director for the Fishermen Involved in Saving Habitat (FISH) program of the Pacific States Marine Fisheries Commission (PSMFC), was the invited speaker for the Coastal Caucus Breakfast June 3. It was a day for sharing innovative ideas and hearing about some of the problems facing coastal habitats throughout the country.

ODFW Jim Martin first speaker

Before Fran Recht got underway, Jim Martin, Chief of Fisheries from ODFW gave a brief presentation and was there to answer any questions from the Coastal Caucus. Martin shared "a bit of good news and a bit of bad news" with the Caucus, updating them on ODFW legislative issues.

The bad news was that the shellfish fee bill, SB 247 failed in the House. Martin briefly mentioned the impacts this foregone opportunity will have on the Department's commercial shellfish programs. Some loss will be taken in the area of soft-shell crab testing and the placing of buoys around urchin beds.

The good news is that some add-backs in the ODFW budget put the Fall Creek and Trask River hatchery programs in the clear.

Martin reported that the salmon fishing season is beginning to gear up, and that although there is an extremely constrained chinook fishery on the South Coast, the coho season looks strong.

The halibut season was also successful, although Martin alerted the Caucus to ongoing deliberations by the Pacific Fishery Management Council (PFMC) concerning halibut allocations between recreational, commercial and tribe fisheries in Oregon and Washington. He described the PFMC November meeting as "quite a fracas."

By-catch issue critical

More good news: The off-shore factory trawler fishery for whiting is just about over, and the salmon by-catch was maintained at a level below the agreed upon .05 salmon per metric ton limit. However, the rock fish by-catch is still a concern. Some 650 metric tons of rock fish were taken by the factory trawlers, and are not allowed to be brought in to shore. Martin said that waste in the trawl fishery as a whole is a critical problem.

The option to force trawlers to bring in everything they catch has been considered. In addition, the fact that most of the fish caught are not marketable, there are practical limitations with vessel hold space. Other solutions include working on more selective gear. Martin mentioned that the overall trip limits are tight, with the policy to sustain a year-long fishery and avoid a "boom or bust" situation.

A few other issues were raised by Coastal Caucus members. Representative Walt Schroeder (R-Gold Beach) asked whether a memorial urging a state take-over of the management of the California sea lion and harbor seal would be helpful to Martin to take to Washington D.C. when deliberating on marine mammal issues.

Martin thought it would help their position with Congress. Representative Schroeder's HJM 25 has been passed out of the House, but it has not been scheduled for a hearing in the Senate Water Policy Committee.

Squawfish bounty saves money

Senator John Brennehan (R-Newport) asked more about the bounty on Columbia River squawfish. Martin confirmed that the Department was offering a \$3.00 per fish bounty. What sounds like a lot of money is really preventing the squawfish from eating about \$30.00 of salmon.

Schroeder had the last comment, getting back to the Department's shellfish projects. Schroeder said that the ad valorem fees being paid by the urchin fishery will represent a sizeable increase in their fees, while at the same time the urchin projects are going to be cut back or eliminated—surely the urchin fishery should get back some of what they are paying in to the general fund.

Martin said that unfortunately, under this biennium (with Measure 5 cuts), the commercial fishing fees will only recover money lost from the general fund subsidy of the ODFW.

Habitat education and grassroots support

Fran Recht took over at this point. Recht opened her presentation by mentioning a conference she had recently attended in Maryland, "Stemming the Tide," a National Symposium on Fish Habitat Conservation, in which two conclusions were reached: 1. Education is critical to prevent habitat loss, and 2. Grassroots support from commercial fishermen is necessary to increase awareness of the impact of habitat loss to the economy.

Wetlands and water quality

Recht's new habitat program focuses on assuring that commercial and recreational fishermen are involved in such things as preserving wetlands and maintaining coastal water quality. The program promotes ocean stewardship, starting with the way fishermen and boat yards handle vessel related wastes such as oil and bottom paints, and urge the recycling of these products.

On a local level, fishermen will be exposed to habitat issues, and be instrumental in public outreach to promote such activities as wetland protection, bay monitoring, storm drain stenciling, and building coalitions for habitat protection work.

On a national and state level, fishermen will be involved in promoting measures to improve habitat, water quality and wetlands.

Finally, the fishermen will continue to build their public image and work towards establishing coalitions with local and national environmental groups in a coordinated effort to protect fish habitat.

"No wetlands — No seafood"

Recht provided a bit of background information leading to the need for the habitat education program. While fish populations have been in decline and critical spawning and rearing grounds in coastal wetlands have been destroyed, the consumption of fish is on the increase. To turn around the historical under-valuation of habitat, coastal fishermen must be educated and encouraged to start responding to the activities which jeopardize their livelihoods. In other words: "No Wetlands No Seafood," as the program slogan goes.

Economics of wetlands

Fran Recht offered some facts about the economic importance of wetlands:

Continues next page...

Fish and Wildlife budget back in Ways and Means

After failure on the House floor, the base budget for the Oregon Department of Fish and Wildlife (ODFW) was back before the Ways and Means Subcommittee on Natural Resources Wednesday, May 29.

The first change made to the budget was to reduce the number of research biologists hired to survey for spotted owl nests.

The amended budget includes two instead of four positions, and these are for surveying on private lands, although they may be contracted out by the Forest Planing Team to assist an analysis of the impact of the federal listing of spotted owl under the Endangered Species Act.

Hatchery program restored

Hatchery maintenance programs were also refunded by a combination of adding into the hatchery program money saved from the spotted owl biologist reduction, in combination with money from freeing up sport fish funds when a decision was made to place some general fund revenue in the commercial fish fund. Commercial fisheries will raise over \$2.3 million dollars of new revenue for the general fund this biennium through a tax per value of fish landed.

Additional funding was also provided to restore the Oregon State Police Game Bureau to continue current services.

—Mara Brown
Legislative Fellow

Wildlife refuge memorial passes House

House Joint Memorial 1—primarily sponsored by Representative Tim Josi (D-Bay City)—would urge the United States Secretary of the Interior to require approval of landowners before establishing a wildlife refuge involving dairy farmland in the Nestucca Valley.

This measure passed the House, and will now be distributed to the Secretary of the Interior, the Regional Director of the U.S. Fish and Wildlife Service in Portland, and each member of the Oregon Congressional Delegation. No Senate concurrence is needed for a House Memorial.

Refuges more harm than good?

The measure argues that the dairy farmland which provides excellent habitat for several endangered and protected species of migratory wildfowl may be jeopardized by the creation of a wildlife refuge. Establishing a wildlife refuge would decrease the property value of the dairy farmland, diminishing the economic viability of dairy farming, and possibly adversely impact the amount of grazing habitat available to waterfowl.

The bill was drafted at the request of the Oregon Farm Bureau, the Tillamook County Farm Bureau and the Tillamook County Creamery Association.

—Mara Brown
Legislative Fellow

Committees shut down

Most House and Senate Committees will officially shut down by Friday, June 7. After that point, bills may be appointed to conference committee for concurrence or appointed to Rules committees.

Costal Caucus meeting

Continued from Page 3...

1. Each year 17 million marine recreational fishermen pursue about \$7.5 billion nation-wide pursuing wetland dependent fish.
2. Commercial fisheries for wetland dependent species contributed \$7 billion to the nation's GNP in 1987;
3. The 408,000 acres of saltwater wetlands lost to development between 1954 and 1974 are estimated to cost the fishing industry \$208 million annually;
4. Seven of ten of the most economically valuable fish and shellfish species in the U.S. require coastal wetlands for breeding habitat: shrimp, salmon, oysters, menhaden, clams, crabs, flounder; and
5. Despite their importance, coastal wetlands in the U.S. continue to be lost at the rate of 40,000 acres (64 square miles) per year. Of this loss, 63% is occurring in Louisiana due to natural and man-made changes. Everywhere else, coastal wetland loss is directly proportional to population density and urbanization.

Coalition Building

Recht stressed the need for coalition building between groups who should be fighting together to save fisheries resources, rather than "neutralizing" each individual group's effect by fighting each other.

Jim Martin spoke again at the end of the meeting, saying that in order to supply the world with seafood, we will have to develop currently underutilized fish species such as squid and anchovy, as well as turning to aquaculture. Martin continued to say that if we destroy the habitat and near shore area, we are jeopardizing our ability to maintain our current share of fisheries as part of the world-wide food base.

Martin predicted that within our lifetime, there will be a food shortage throughout the world due to habitat destruction, as well as the impact of increased ultraviolet-B radiation on primary production in the food chain.

If we, as a country, do protect our habitat, however, we will have the cleanest ocean and coastal system in the world, and will be in a good place to provide fish to the world.

—Mara Brown
Legislative Fellow

Clear Lake issue addressed in committee

The Water Policy Committee heard SB 1080, Thursday, May 30, a bill sponsored by Senator John Brenneman (R-Newport) and Representative Hedy Rijken (D-Newport).

SB 1080 would give authority to local water supply districts to exercise powers of sanitary districts and cities to protect the water quality of the watershed.

Lane County Commissioner, Ellie Dumdi, was present to testify. The bill was drafted to be specific to Clear Lake, the water source for the Reedsport area. However, there was some confusion over the use of the term "watershed" in the bill, when the intent was to use the term "aquifer." According to testimony, Clear Lake is the only waterbody in the state that has been design-

nated by the Environmental Protection Agency as a "sole source aquifer."

Representative Chuck Norris (R-Hermiston) made public his intent to pass

Clear Lake is the only waterbody in the state that has been designated...as a "sole source aquifer"

the bill out of committee although he sent Sen. Brenneman and Commissioner Dumdi to Legislative Council to amend the bill to

clarify its intent to cover only Clear Lake. A constitutional provision prevents bills from overtly specifying a particular city in the provisions of the bill.

The measure was brought back before the Committee on Tuesday, June 4, amended, and passed on to the House Floor.

—Mara Brown
Legislative Fellow

Joint liaison bill moves out of W&M

The Ways and Means Subcommittee on Transportation and Regulation passed out a measure Tuesday, June 4, that would allow Oregon to participate in a joint liaison program with the Center for Ocean Analysis and Prediction of the National Oceanic and Atmospheric Administration (NOAA) located in Pebble Beach, California.

The Department of Land Conservation and Development will be representing the state, administered through the department's Ocean Management Program.

SB 496, sponsored by Senator Bill Bradbury (D-Bandon) will have no fiscal impact as it continues activities in which the agency has already been involved.

Other activity of the Subcommittee was to pass the entire budget for the Department of Land Conservation and Development. The budget includes two directives involving the department's transportation rule. One would give priority to cities and counties abiding by the transportation rule and promoting alternative transportation when distributing urban growth grants; the other asks the department to assess the costs of administering the transportation rule and including this is the budget request for the 1993 biennium.

The Subcommittee passed the budget for the Department of Energy Monday, June 3, including \$500,000 to fund the Geographical Information System center, which is used by several state agencies.

—Mara Brown
Legislative Fellow

Halibut tag bill in work

The House Water Policy Committee held a work session Thursday, May 30, on SB 609, sponsored by Senator John Brenneman (R-Newport), at the request of John Mohr, manager of the Port of Newport.

The bill places a fee on halibut tag fishermen which will be dedicated to studying the halibut fishery with hopes of convincing the International Halibut Commission to raise the catch quota for Oregon. The Oregon Department of Fish and Wildlife will have the authority to set a tag limit and establish a fee.

Contrary to testimony from Sen. Brenneman who was not aware of any opposition to the bill, Representative Walt Schroeder (R-Gold Beach), who sits on the Water Policy Committee, said he had received several letters of opposition from his South Coast constituency. Representative Bill Dwyer (D-Springfield) also stated some concerns, mainly about the amount of money that would be directed toward halibut research by the time the Department was done administering the tag.

Support of the bill was confirmed by Jeff Curtis for the Department of Fish and Wildlife, although Rep. Dwyer attempted to diminish the significance of this by asking: "Did you ever see a fee bill you didn't like?"

Representative Larry Sowa (D-Oregon City) made a motion to amend the bill to include a \$5.00 tag per fish commercially caught, although this motion failed. Rep. Sowa subsequently moved the bill to the floor, saying that sportsmen have been willing to make sure Oregon has a good fish and wildlife program. Despite reservations about the lack of fees being paid by commercial halibut fishermen, Rep. Sowa said that this bill could contribute to helping the halibut fishery.

The bill passed out of the Committee; Representatives Bill Dwyer, Chuck Norris (R-Hermiston) and Larry Sowa voting for passage, and Representatives Walt Schroeder and Bill Markham (R-Riddle) opposed.

OCZMA, Inc.

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

Association Officers:

Gordon Ross • Chairman
Coos County Commissioner
Ellie Dumdi • Vice Chair
Lane County Commissioner
Nancy Leonard • Secretary-Treasurer
Lincoln County Commissioner

Association Staff:

Jay Rasmussen • Executive Director
Georgia York • Executive Assistant
Mara Brown • OCZMA/OSU Legislative Fellow

Membership:

Port of Bandon	Clatsop County
Port of Garibaldi	Coos County
Port of Brookings Harbor	Curry County
Oregon International	Douglas County
Port of Coos Bay	Lane County
Port of Gold Beach	Lincoln County
Port of Nehalem	Tillamook County
Port of Newport	City of Brookings
Port of Port Orford	City of Coos Bay
Port of Siuslaw	City of Depoe Bay
Port of Tillamook Bay	City of Florence
Port of Umpqua	City of Garibaldi
Clatsop S.W.C.D.	City of Lakeside
Coos S.W.C.D.	City of Nehalem
Curry S.W.C.D.	City of Newport
Lincoln S.W.C.D.	City of Reedsport
Siuslaw S.W.C.D.	City of Rockaway Beach
Tillamook S.W.C.D.	City of Yachats
Umpqua S.W.C.D.	Port of Astoria

OCZMA, Inc.

P.O. Box 1033
Newport, OR 97365
Address correction requested

