The Role of Natural Resources Information in Oregon Legislative Policy-Making; Two Case Studies From the 1991 Legislative Session

by

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FOREWORD

To fulfill the requirement of master of science in Marine Resource Management, College of Oceanography, Oregon State University, I completed an internship as the 1991 Oregon Coastal Zone Management / Sea Grant Legislative Fellow. The fellowship originated with the Marine Resource Management Program (MRM), to expose an MRM graduate student to marine policy-making in Oregon. The fellowship provides Sea Grant and the Oregon Coastal Zone Management Association (OCZMA), with a contact in Salem during the legislative session. The legislative fellow also writes a weekly newsletter for OCZMA members and other individuals with an interest in marine and coastal-related legislation.

This paper draws largely from my experience working in the legislature, particularly from my involvement with Senator Bradbury on SB 500, the Interstate Ocean Compact legislation which is a case study in this report. I also closely followed SB 1163, the Streamflow Restoration and Water Conservation legislation, which is the basis of the second case study of this report. During the session I researched instream water right issues for OCZMA, and this work was incorporated into my paper.

This paper focuses on the role of natural resources information in Oregon legislative policy-making, based on the two legislative case studies from the 1991 Legislative Session, surveys conducted of state natural resource agency legislative liaisons, and a review of current literature addressing policy-making and the role of science in policy-making. The paper is limited in scope to legislative policy-making, which is only one step in the lengthy policy-making process, and because of its political nature, probably the least influenced by technical natural resources information. Despite this built-in limitation, it is important for people involved in both natural resource information and natural resource policy-making to be aware of the role research information plays in the legislative process. It is my hope that this knowledge may encourage more non-policy-makers to get involved in the legislative

process, and to recognize the importance of disseminating natural resources information to policy-makers.

It is important to note up front that by the time a bill has been introduced in the legislature, a lot of the technical aspects of the legislation have already been worked out. Technical information used in the legislative findings, or information used in defining the problem needing a legislative solution, and working out possible policy solutions have already been presented to policy-makers. Because of this, legislators often assume that technical or scientific information is a given by the time a bill is prepared. For example, the Ocean Compact legislation (SB 500) implements policies to address the problem of oil spills. Legislators most likely were aware that oil spills damage resources, and assumed that the primary sponsors of the bill had looked at related technical information. By the time a bill is introduced, most of the information given to legislators contributes to their decisions as policy-makers, e.g., how much political support a bill has, how much it will cost, whether it will result in an increase or decrease in employment, etc. This type of information is more social than technical. Thus, this paper looks at the use of both technical and non-technical information in legislative policy-making.

At this point I would like to borrow a definitional distinction made by Putt and Springer (1989) in their discussion of the use of research in policy-making. Putt and Springer focus on the definition of "use" rather than a definition of "information" or "research." Rather than concentrate on instances in which there is a clear link between information use and the result of that use, e.g., a specific amendment to a bill, or a change in policy direction, Putt and Springer see use in a broad context, as including "subtle, indirect, less immediate uses of research in policy making." (Putt and Springer 1989). In my paper not only do I use the term "information" in a broad context to include both technical and non-technical material, but I also include those subtle, less direct uses of this information. The agency survey results contribute to the examination of what kinds of information are being disseminated to legislators, how and at what times the information is

disseminated, while the literature review and the case studies contribute more to the examination of the use of that information.

Lastly, it is important to note that this paper focuses on a descriptive analysis of the use of natural resources information in the Oregon Legislature, and it is not intended to address all of the value concerns surrounding the use of science in policy-making generally.

INTRODUCTION

A. STATEMENT OF OBJECTIVES

Natural resources policy often deals with issues of a highly technical nature. Adopting water quality standards, for example, requires the understanding of the involved natural and social sciences to make informed choices among competing policy alternatives. The policy-making process often takes several years from the identification of a problem, to finding possible solutions, narrowing them down, legislatively mandating an economically and politically feasible solution, and then implementing the policy to solve the problem. People affected by the policy choices, and those who may be familiar with solutions to the problem being addressed, have an interest in knowing at what point in the policy-making process the information they have to offer to policy-makers will be most effectively communicated. The events of the legislative session may be the most visible part of the process, but the legislative session is not necessarily the best time for policy-makers to be given natural resources information.

One of the purposes of the OCZMA / Sea Grant Legislative Fellowship is for the fellow to provide scientific and technical information to the coastal legislators on ocean and coastal issues. Thus, the focus of this report is to examine whether scientific information plays a role in Oregon legislative policy-making, and if so, to assess what that role is. Specifically, what is the nature, timing and source of natural resource scientific information used in the legislative process?

B. DEFINITIONS

The term "information" has different meanings depending on the issue one is examining. Initially, I had anticipated that as legislative fellow and student from the Marine Resource Management (MRM) Program, I would be called upon to provide information mostly of a technical nature, or at least to relay this information from marine and coastal

science experts to members of the Coastal Caucus. With the exception of a bill which would ban exploration and development of hard minerals in the state-owned territorial sea, much of the information I was called upon to provide concerning legislative issues was not "scientific facts", but rather policy-oriented, such as drafting needed amendments to make the role of local government in the Ocean Policy Council bill more explicit, or researching the administrative background of instream water rights in the state. Thus, scientific information comes both from the natural sciences as well as the social sciences.

Illustrative of the social science aspect of natural resource information is the fact that information is often less dependent on the substance of the material offered to the legislature than upon those persons presenting that material. For example, it may be just as important to a committee that a representative from the Oregon Farm Bureau is simply testifying in support of legislation, than that they are offering specific amendments or clarifying technical language or factual findings in the bill. The Farm Bureau's supportive testimony is itself "information," albeit political or "social", not technical or "natural" science. Likewise, the presence of agency, public interest group, interested citizen or industry representatives at a committee hearing, and a statement of support for or opposition to legislation is often effective information in itself. The information in these instances is inseparable from the information-provider.

Another aspect of the definition of "information" is tied to the timing of its delivery. The nature of information is going to be vastly different depending on whether it was used to draft a bill, or whether it came during the session, and was for clarification, support or opposition to a bill. As one agency survey participant put it -- "Pre-session information is used to set the stage, work out the concepts, find points of difficulty. Early in the session, straight-forward information is provided based on the pre-session discussions. Mid-late session I provide new bits/bytes of information as needed, and keep other agency players informed."

It is also necessary to define "policy-making" for the purposes of this discussion. I will focus the analysis of the case-study legislation on what I call "legislative policy-making." This is a sub-set of the policy-making process in that it focuses only on the legislative arena, or what happened to the legislation during the legislative session. It does not focus on the pre-session work, other than for background purposes, or on implementation.

C. METHODOLOGY

This assessment of the role of information in the Oregon legislative policy-making process is divided into two parts. The first part is an overview consisting of three sections: a summary of my internship experience as the 1991 OCZMA/Sea Grant Legislative Fellow; a review of models of policy-making looking at the explicit or implicit ways scientific information is incorporated into these models; and the results of surveys received from seven natural resource agency legislative liaisons. The second part of the assessment is comprised of case studies of two natural resources policy issues before the 1991 Oregon legislature: The Pacific Ocean Resources Interstate Compact (SB 500), and the Streamflow Restoration and Water Conservation Act (SB 1163). Part One, addressing the legislative fellowship, literature review, and agency liaison survey results follows this section.

PART ONE: OVERVIEW

CHAPTER 1. OCZMA / SEA GRANT LEGISLATIVE FELLOWSHIP

A. Background

The OCZMA / Sea Grant Legislative Fellowship was created in 1987 primarily as a means to provide a student from the Oregon State University Marine Resource Management Program (MRM) with experience in applying the knowledge gained in her or his program of studies to the state legislative process. It is analogous to the National Sea Grant Fellowship in Washington, D.C., except that it provides experience at the state and local level. In addition to providing the student with valuable educational and professional experience, OCZMA and Sea Grant both benefit by having a liaison in the Legislature. The legislative fellow serves as an information source on ocean and coastal legislative issues to the Coastal Caucus legislators (the representatives and senators with coastal districts), as well as those outside the legislature, including the local coastal governments represented by OCZMA, Sea Grant Extension staff and constituents.

The application process for the 1991 Legislative Fellowship began in April of 1990, eight months in advance of the move to Salem. By late April, the acceptance letter came, and I was on my way to familiarizing myself with the possible issues that the Legislature would be considering.

I was immediately put on the mailing list of the Oregon Coastal Zone Management Association, Inc (OCZMA). The information they provided on a regular basis included meeting agendas, and background reports on a wide variety of topics, ranging from harbor dredging to Pacific whiting development. I was also sent copies of OCZMA meeting minutes, enabling me to develop a sense of the issues important to the Association.

In November, Jay Rasmussen, Executive Director of OCZMA, and I went to Salem and discussed with Senator Bill Bradbury and the Chief of Staff of the Majority Office,

Peter Toll, the feasibility of having the fellowship housed in the Senate Majority Office. In 1987 the fellow worked out of the office of Representative Paul Hanneman, and in 1989, in the office of Senator John Brenneman. Both were senior Republican legislators. In the fall of 1990, Bradbury was the most influential Democratic legislator among the eight Coastal Caucus legislators. Both Bradbury and Toll were willing to house the fellow; after two sessions the prospect of having a legislative fellow was seen as a welcome and necessary additional staff person to a coastal legislator. One major factor would not be resolved until January, and that was the possibility that Senator Bradbury would be appointed by the Governor to the position of Secretary of State.

Senator Bradbury was not appointed Secretary of State, and remained Democratic majority leader of the Senate. However, in early January, Senator Mike Thorne, then co-chair of the budget-writing Ways and Means Committee, announced that he would be leaving the Oregon Legislature immediately in order to take a job as Director of the Port of Portland. His vacancy left Bradbury as the second ranking Senator after Senate President John Kitzhaber. It was decided that Bradbury would take on Thorne's position as Ways and Means co-chair immediately. One of the early tests of Bradbury's leadership was his being reaffirmed as majority leader. There were potential conflicts in holding the position of majority leader in conjunction with the additional position of Ways and Means chair, which is considered to be one of the most influential positions a legislator could hold. The Democratic Caucus also reelected Bradbury as majority leader, in the belief that he could do both jobs well.

The factors which led to the fellowship being located in the office both of the Senate Majority Leader and of the Co-chair of Ways and Means were unforeseen when Jay Rasmussen approached Bradbury to host the Legislative fellow, but ultimately worked to the great benefit of myself, as well as OCZMA and Sea Grant. Bradbury was already considered one of the most influential ocean policy legislators, having been the primary sponsor of the 1987 legislation which enacted the Oregon Ocean Resources Management

Act establishing a task force that drafted the Oregon Ocean Management Plan. Now he was also going to control the state budget.

Between April 1990 and January 1991, I further prepared for my fellowship. I attended and made a presentation at an OCZMA meeting, attended a wetland policy meeting in Salem and took courses in State and Local Government and Public Sector Economics at Oregon State University. In November I attended a conference on Ocean and Coastal Issues sponsored by the Oregon Natural Resources Council, as well as a meeting sponsored by Senator Bradbury on the possibility of forming a Coastal Conservancy in Oregon. At the recommendation of Emily Toby, OCZMA / Sea Grant Legislative Fellow in 1987, I had read Alan Rosenthal's Legislative Life, (1981. New York: Harper and Row). I decided that I would try to be at least as prepared as a freshman legislator, and I deliberately did not have any expectations for the the fellowship, except to learn as much as possible. By January I had an idea of what could happen with the Legislative Fellowship but no idea of what would be in store for me.

B. Mechanics

One of the biggest questions is how the fellow actually becomes a non-partisan provider of information, remaining informed about the issues, but at the same time not advocating any particular program, piece of legislation, or policy position. This is a challenge because the fellow is a liaison or voice for various interest groups; she must communicate information and ideas effectively without being an advocate. Early on it was critical for me to establish credibility, carve out my niche in the majority office, as well as with the other coastal legislators. Perhaps because of my location in one of the most political of legislative offices, it was easier to draw the line between my role as a coastal issue-specialist and others' roles as political or caucus specialists. Although the flexibility and independence built into the position are probably the most important factors contributing to the effectiveness of the fellowship position, my circumstances of working

in one of the largest legislative offices meant that I also had to demonstrate that I was part of that office, as opposed to merely using it as a place to make and receive phone calls.

In contrast to other internship positions in Bradbury's office, I worked full time and was to be there for the duration of the session. I took on the role of "ocean and coastal fellow" in the Majority Office. Most calls coming into the office about ocean and coastal issues, whether from Bradbury's constituents on the South Coast, press people, or agency staff, were referred to me. I also was given letters sent to Senator Bradbury to respond to on his behalf. Once I was asked by a staff person in Senator Cliff Trow's office (D-Corvallis) to respond to a letter coming into his office concerning high seas drift nets. After some initial adjustment, my staff role in the majority office was thus well defined.

The role of the legislative fellow with respect to the other non-host coastal caucus members is less defined. Each of the coastal caucus members has legislative assistants as well as interns to respond to constituent concerns, and committee staff to do background work in preparation for hearings on specific bills. In addition to working on correspondence for Senator Bradbury, I also assisted Senator Brenneman and Representative Josi with a wetland issue of concern to a Manzanita constituent. I was asked by Representative Schroeder to collect background information on marine mammals which might be pertinent to Schroeder's Congressional memorial regarding state take-over of management of California sea lions and harbor seals.

My major function with the coastal caucus, however, was to arrange for weekly breakfast meetings with speakers on issues of interest to the coast. The caucus met every Monday morning at 7:00 A.M., at JB's Restaurant near the Capitol. Monday morning had advantages in that the caucus could discuss the events of the coming week. However, with a few of the coastal legislators returning to their districts each weekend, not all of the caucus members would be present on a regular basis. Former coastal Representative Paul Hanneman was a regular attendee, as were several of the caucus staff people.

In contrast to the image the word "caucus" usually conjures in one's minds, and in the minds of a lot of Salem insiders, the coastal caucus is not extremely political. Of the eight coastal caucus members during the 1991 Legislative Session, six were Democrats and two were Republicans. Almost exclusively, the discussions held at coastal caucus breakfasts were of a social or informational nature, and rarely focused on vote strategies or political positions among the caucus as a whole. The Monday morning breakfast did give some opportunity for one-on-one discussion between members, which could have been more political in nature. Three out of four breakfasts were devoted to informational breakfast speakers. About every three weeks, no speaker would be scheduled, to leave the entire hour free for an "in-house" discussion. This often focused on bill updates, budget reports, or other issues that would require caucus attention. For example, the caucus wrote several letters during the session on issues of state-wide and national concern. In support of federal highway funding, at the initiation of the Oregon Department of Transportation (ODOT), the caucus directed a letter to the Congressional Delegation in support of money for Highway 101. Later, the caucus directed a letter to Governor Barbara Roberts in support of her being the keynote speaker at a Highway 101 Conference being sponsored by OCZMA and ODOT. The caucus also wrote a letter to the Governor in support for some form of relief or declaration of emergency for salmon trollers, due to harvest restrictions imposed by the Pacific Fishery Management Council (PFMC).

Initially, I was given a lot of guidance from Senator Bradbury as to whom should be invited to speak. As the session progressed, I was more and more on my own to make decisions about speakers. Bradbury was aware of trying not to fracture the solidarity the caucus has built up over the years. I was interested in the secondary lands issue early on, but was not yet aware of the political nature of this issue, nor that coastal caucus opinions might be so divided on this issue and land use planning issues generally. I suggested a breakfast speaker on the topic, but Bradbury decided to steer away from it. As it turned out, Representative Tim Josi, a freshman legislature from Tillamook County, suggested we

have a breakfast on the issue. With the impetus coming from a new caucus member, Bradbury agreed to it, and we scheduled Craig Greenleaf, acting Director of the Department of Land Conservation and Development (DLCD), and Steve Marks, Legislative Assistant to Senate President John Kitzhaber to talk about DLCD's plans for secondary lands, as well as several pieces of legislation pending during the session on the issue, including one sponsored by Senator Kitzhaber.

Other coastal caucus members suggested topics. Jay Rasmussen also provided ideas and relayed interested people to me, mostly agency staff with whom OCZMA works. The topics were usually issues of a timely nature in the 1991 legislature, the Shellfish Program and commercial fisheries for example. Others speakers came to preview issues not directly being dealt with legislatively -- tourism, coastal natural hazards and the Astoria Seafood Consumer Center, for example. I would schedule the speakers one or two weeks in advance, and show the tentative agenda to Senator Bradbury for his approval or additional suggestion. As time went on, and Bradbury became increasingly busy, I would give the approval to interested speakers myself -- mostly state agency staff wanting to answer any questions from the coastal caucus, or just be present as a representative of their agency, prior to a floor vote on a particular bill or the agency's budget.

In addition to the Monday meetings, I made a habit of stopping by each of the coastal legislator's offices several times a week, to provide information on issues I had been researching, and to see if there were any questions. I also stayed in contact with staff people; in early January, I organized a coastal caucus staff lunch, which Representative Rijken also attended. I also encouraged staff people to attend the coastal caucus breakfast meetings and asked them for topic suggestions.

During the legislative session, I also became familiar with committee staff. Often, I would turn to a committee staff person for assistance when copies of committee testimony or amendments to bills were needed. I found that offering my assistance to committee staff on bills I was specifically working on helped with this information exchange.

There is a great deal of importance in preserving the "politically neutral" nature of the OCZMA/Sea Grant Fellowship. Obviously, when one speaks of the "fellowship" as being neutral, this boils down to the fellow herself making a highly conscious effort to remain neutral on all issues. One immediate advantage the fellow has in this regard is the fact that for the most part, the coastal caucus itself is politically neutral. In Oregon, political "blocs" for voting purposes or policy -making, are as likely to be regional as they are party-oriented.

During the 1991 legislative session, most of the ocean and coastal issues I dealt with were relatively non-political in nature. Some of the fisheries issues I dealt with were more political, with significant tension between the commercial and sport industry, both among legislators, and between the legislators and Oregon Department of Fish and Wildlife staff. OCZMA made a point of staying out of highly contentious issues this session unlike its involvement in 1987 with the Oregon Aqua-Foods issue. For example, OCZMA did not take a pro-active position with secondary lands legislation this session -- a highly political issue which ultimately did not survive the committee process -- although this would certainly have had an impact on coastal communities, had it passed. OCZMA Director Jay Rasmussen also did not spend as much time in Salem as he had in the past. Rather than having Rasmussen do all of the Association's lobbying -- primarily for funding through state agency budgets -- OCZMA hired Paul Hanneman to lobby for them. I suspect that this session, the fellow was more independent than in the past, less visibly linked to OCZMA.

C. Oregon Coastal Notes

The most visible part of the legislative fellow's work during the session is producing weekly articles for OCZMA's *Oregon Coastal Notes* newsletter. The newsletter has a readership of about 200, including legislators, local officials, state agency staff and Sea Grant and Sea Grant Extension staff. OCZMA's membership consists

primarily of local coastal government -- county commissioners, mayors, soil and water conservation districts, port districts and harbor masters. The legislative fellow's agenda in terms of *Coastal Notes* coverage is in part a reflection of the Association membership and what they are specifically interested in, partly a product of which bills rise in the legislative committee process, and to some extent shaped by the fellow's own interest and how she chooses to spend her time and energy. Articles for the newsletter were transmitted to OCZMA in Newport using a computer modem on a Macintosh computer located in Senator Bradbury's office. The transmission was done Thursday morning, and if necessary, would be updated on Friday. OCZMA edited the text and did the newsletter lay-out, printing and distribution. The newsletter would be in the hands of the readership by Monday.

Several times I heard from agency staff people that they used Oregon Coastal Notes to stay informed about committee hearings, often finding out about bill action in the newsletter prior to hearing about it from other department staff. As the two previous legislative fellows have noted, the process of writing the newsletter required me to have a thorough understanding of the issues being covered. In addition to keeping very close watch on major ocean and coastal legislation by attending committee hearings, condensing hearing notes into a newsletter article also gave me an increased understanding of the issues. Towards the end of session, when the pace of Salem life has dramatically picked up, the fellow has a knowledge of the issues and information on the progress of bills that few Salem insiders have, and thus becomes a great resource to people both inside and outside Salem needing information on the status of legislation. I found that although the newsletter-writing portion of the fellowship was very time-consuming, the hard work does not go unnoticed, and most likely contributes to building the credibility of the legislative fellow.

D. Recommendations

1. I would recommend to the next legislative fellow, that he or she make an attempt to pick out one or two issues to follow closely during the legislative session and become an "expert" on. This might be an issue that the fellow has a prior background in, fisheries, or wetlands, for example, or it might be an issue of special interest to OCZMA or Sea Grant.

As soon as the legislative fellow arrives in Salem, there are many activities to keep the fellow busy; writing Coastal Notes newsletters, sitting in on committee meetings, working on constituent concerns in the host office, etc. Taking the time to delve into one or two issues thoroughly not only makes the fellow more useful as a direct source of information on those issues, as opposed to a conduit of information, but also allows the fellow to take advantage of having exceptional access to agency personnel, the legislative library and the host office's issue files. While there is no question that the fellow will leave Salem with a tremendous amount of experience and contacts just by having been there, I found that coming away from the internship with a fair amount of knowledge on several specific issues I worked on was most rewarding.

2. A meeting during the first month of the Legislative Session with the Legislative Fellow, her advisor in the College of Oceanography, and Jay Rasmussen, or current Director of OCZMA would be recommended. Because most of the day-to-day advising comes from the OCZMA Director, and is for the most part of a procedural, political and largely non-academic nature, the Fellow should be given a clear sense of how to fit the internship into her academic program.

3. Pre-session and late-session interviews conducted by the Legislative Fellow with the coastal caucus legislators on a one-on-one basis should be encouraged and even arranged by OCZMA or the host legislator.

I found the late-session interviews I conducted independently with three of the coastal caucus members to be extremely useful for getting to know the coastal caucus better. Pre-session interviews would have been useful for me to get a sense of who these

coastal legislators are, what they are interested in, what pieces of legislation they have found critical in the past, and what their expectations are for the session. It would be a good introduction to both the issues and the politics of the coastal caucus and the legislature generally. One or two of the coastal caucus members played virtually no role in the caucus breakfast meetings, despite one of them holding a critical committee Chair position. A pre-session interview with each of them would have given me another basis for communication and interaction other than the breakfast meetings.

4. Although essentially *Oregon Coastal Notes* becomes a record of the Fellow's activities, I would recommend that the fellow also keep a personal journal to record experiences and observations of the Internship and of the Oregon Legislative process. This would be useful when writing up the final MRM report.

In addition the great deal of learning I did by observation alone, to fully look at the role of information in policy-making it was necessary to review others' models of policy-making, especially those which incorporated the use of information in the policy-making process. The following chapter summarizes the policy literature reviewed.

CHAPTER 2. LITERATURE REVIEW

A. Introduction

As a basis for my inquiry, I reviewed several policy-making models in the literature. Two of the models I looked at focused on a prescriptive or normative approach to policy-making, how things are supposed to work. These models from Hoole (1981) and Mitchell (1989), represent an ideological spectrum from the rational-comprehensive to the incremental or "muddling-through" process, each representing what some theorists suggest *should be* the way to go about making policy. I also examined two descriptive models of policy-making from Kingdon (1984) and Putt and Springer (1989) which were more useful in my analysis. Finally, I review a model from Ozawa (1991), which draws from both descriptive and prescriptive models to argue the need for consensus-based decision making.

B. Traditional Models of Policy-Making

In Geography and Resource Analysis, Bruce Mitchell presents an assessment of prescriptive and descriptive models of policy-making. Mitchell, a resource geographer, focuses his examples on resource allocation problems. "Prescriptive or normative models seek to demonstrate how policy making should occur relative to pre-established standards. On the other hand, descriptive models document the way in which the policy process actually occurs." (Mitchell 1989). Many people, from political scientists to government officials to public interest representatives are interested in how the policy process *should* work, because they have ideals about the way politics functions in our society. They may believe, for example, that public participation in the policy process is a critical element in its success. An assessment of how policy making *does* happen, is important to those who want effectively to use the process or to change it. Those who will be working either as

policy-makers or with policy-makers need to be able to understand and even predict what happens in that process.

Another assessment of the kinds of models or "management science techniques that policy-makers can use to sort through complex decision-making alternatives comes from Francis W. Hoole, in "Muddling-Through, Modeling-Through, Comprehensive-Integrating, and Unitary-Rational-Actor Policy-Making Processes," (1981). Hoole's assessment came as a chapter in an ocean policy book and uses examples from ocean and coastal policy-making. Hoole breaks down the continuum of governmental ocean policy-making processes into four categories which fall in a linear fashion from the least rational, or least-predictive to the most systematic: Muddling-Through, Modeling-Through, Comprehensive-Integrating, and Unitary-Rational-Actor policy-making processes.

Hoole uses these to describe the policy cycle, which involves several stages, or "subsystems," from the "proposal development," involving the development of plans for action, the "executive head subsystem," in which policies are adopted by the executive branch in the decision-making arena (this could conceivably be the same person as the policy-maker), the "legislative subsystem" which consists of policy decisions made through the legislative process, and finally implementation and evaluation. Hoole suggests that this process is actually a feed-back loop, with the possibility of several things happening at the same time, influencing other portions of the policy cycle.

Implicit in both Mitchell's and Hoole's assessment of the rational and systematic approach to policy-making is the presence of an unlimited amount of relevant information, fully accessible and understood by all participants in the decision-making process. The government acts as a focused, rational unit, and the complexity of the actual policy-making process involving many actors and stages of decision-making is ignored, or simplified. In the "problem" stage, which is the first step in the linear models, the decision-maker has analyzed all of the scientific information available and determined that a problem exists or doesn't exist. Here, there is an assumption being made about the nature of scientific

information, that it represents a definitive assessment of some portion or portions of the natural world, rather than representing 'reasonable assurance' that something is the case. Additionally, thorough problem assessment assumes that the policy-maker is capable of assimilating and understanding all of the information available.

In the second stage of the "rational" approach, the decision maker determines the "ends" or outcomes she or he is striving for in the search for a solution to the problem. Necessarily, the decision maker would need to be knowledgeable of all possible solutions to the problems before they could be picked. After the goals are determined and range of solutions identified, the policy maker must determine what solutions will work best for each of these goals. Quality information must be available at this stage. The fourth stage in the policy-making process is choosing from among several alternatives as to the most efficient means of attaining the ends. In this rational world, all of the alternatives are possible to implement, the technology is available, the means are affordable, and there is assurance that the most efficient among the alternatives will actually eliminate the problem being addressed.

Generally, the rational-comprehensive model of policy-making is "gap-free" in terms of needed information. During each stage, as well as within the minute-to-minute decisions faced by the policy maker, at no time is any question left unanswered.

Both Mitchell and Hoole admit that this well-defined process, describing the actions "economic man," or government as a singular rational, entity, is practically unobtainable because it does not take into account such factors as inadequate information, lack of a clearly defined problem, and or clearly defined solutions. They also note that maximizing efficiency is not the only measure of successful policy; "non-economic" factors such as environmental and social costs are also considerations. Hoole also notes the lack of consideration for the complexity involved in the subsystems of the policy process and with that, a disregard for the differences between and independence of policy-makers involved

in the process. Despite the inadequacies of the rational ideal of policy-making, Mitchell and Hoole contend that such patterns are a useful measure in the real world.

In contrast to the rational-comprehensive decision making model, the opposite end of the spectrum would describe "muddling through" as a more accurate portrayal of the policy-making process. (Hoole 1981). The imperfect nature of information, which is a principal shortcoming of the rational-comprehensive policy-making model, is accounted for in the muddling-through models. The proponents of "muddling through", also termed "disjointed incrementalism" and "incremental model," say that because we are not capable of processing all the information out there, nor are all possible policies within our comprehension, the only test of good policy is agreement among partisans. In contrast to the rational-comprehensive strategy, where there is a careful weighing of goals and solutions to maximize the outcome, the process of muddling through results in compromise among interested participants which, although imperfect, is the best solution to the problem that can be agreed to. Similarly, the incrementalist, settles for making a small gain toward a larger goal, procuring a piece of a greater policy concept that is too big to attain at the present time. (Mitchell 1989).

Mitchell discusses two other prescriptive models of policy -making. One is the "mixed scanning" model, and the other is the "output model." The mixed scanning model is a cross between the two extremes of the rational actor and the incrementalist. Mitchell describes this model as one which offers a combined recognition of "fundamental or 'contextual' policies and incremental or 'bit' policies." (Mitchell 1989). In the mixed model, short-term policies or solutions to problems are analyzed by the decision maker within a framework of long-term, or broader changes in policy. The idea behind the model is that a cumulation of incremental decisions will lead to fundamental changes, just as fundamental policy shifts influence the short-term decision or policy-making process. While the distinction between incremental and fundamental policy types is not clear, the mixed-scanning model recognizes that there is a middle ground between the extremes.

Rather than focusing on the inputs to policy making, the output model, as described by Mitchell identifies three types of policies: distributive, regulatory, and redistributive. The policy maker will make decisions depending on the output desired. I would compare this approach to different types of utilitarianism: distributive policies are closest to a philosophy of egalitarianism, in which all members of a society theoretically share equally in its goods and services. According to Mitchell, the issues involving regulatory policies will be sectoral rather than local, and conflict will be relatively visible. "The outcome is usually a definite policy which defines the winners and losers as well as providing the departure point for future decisions." (Mitchell 1989). Environmental policies are often regulatory in nature, in that they involve a trade-off between user groups or interests. Finally, redistributive policy model is one for which the goals are to maximize utility for the member of society who has the lowest utility. Mitchell describes redistributive policies as ones which attempt to alter the "distribution of benefits and costs in society" thus, they often deal with issues of taxation and spending. (Mitchell 1989).

Hoole characterizes another mixed model as "modeling-through." "An attempt is made in a modeling-through process to systematize somewhat the selection and processing of problem-specific information and richer, more focused, and more rigorous analyses are undertaken in an effort to supplement those normally found in a muddling-through policy-making process." (Hoole, 1981). Hoole states that the modeling-through technique is most effectively employed by middle-managers of "public sector ocean activities." The rational evaluation thrown into the muddling-through technique are often trying to deal with budget issues, or resource allocation problems. Thus, the use of economic analysis techniques, such as cost-benefit analysis, are employed. Hoole states that the usefulness of the modeling-through technique decreases as policy-making moves away from the bureaucrat, and more toward executive level strategic policy-making activities.

Another model which describes both the use of management science analysis and the attention to the various subsystems and intricacies of the policy-making process is

described by Hoole as the "Comprehensive-Integrating Policy-Making Process." There is some move towards centralized coordination of policy process, but the use of economic analysis as seen in the modeling-through model is also employed. As with modeling-through, Hoole gives examples of the use of the comprehensive-integrative method with resource allocation, involving budgetary issues as well as "management by objective," similar to the output model Mitchell describes. (Hoole 1981).

The role of information in these mixed models is somewhere between the gap-free nature of information used in the rational-comprehensive approach and the use of inadequate information which characterizes the muddling-through process. The mixed models rely heavily on economic models, and mathematical assessments of policy choices.

Hoole gives an assessment of the overall difficulties of using any form of management science technique in policy-making. He highlights twelve general problems, which include lack of ability to clarify issues in marine policy. Problems with measurement, data collection, and data analysis are all problems which relate to imperfect sources of information. Ethics of analysis, communication, and personalities are all problems associated with the irrationality and inconsistencies of the "human factor," including the infiltration of politics in policy-making decisions.

Organizational factors, principally inter-agency coordination, will also be a problem when policies involve multiple layers of government. Finally, Hoole states that timing of analysis and relevance of analysis will be difficulties in the policy process. Given the "relatively-fixed" policy-making process, some data analysis may be presented too late or too early to have an impact on policy, or spur new policy on, and the anachronistic presentation of analysis may also mean that the data analysis is no longer relevant to the current policy cycle. (Hoole 1981).

C. Non-linear Alternatives

Perhaps what seem to be problems or stumbling blocks for linear models of policy-making as outlined by Hoole and Mitchell are embraced as part of the process in the model presented by John W. Kingdon in his book Agendas, Alternatives and Public Policies (1984). Kingdon's model is a descriptive explanation of policy-making, how things seem to work rather than how they should work.

Kingdon focuses on "why participants deal with certain issues and neglect others," as opposed to how these decisions are made. He first looks at the pre-decision process, where there is a choice between issues to focus on. Kingdon calls the process of identifying and narrowing down issues "agenda setting" and the formulation of possible solutions "alternative specification." Participants -- the human element in policy-making -- are the focus of Kingdon's analysis. He identifies three streams of processes -- problems, policies and politics -- that describe the interaction between participants and the agendas they set and alternatives they specify.

Kingdon describes agenda-setting as a result of the nature of the problems and their relative importance in the public mind, and as a product of politics and the participation of highly visible participants in steering an issue onto the active agenda. More specifically, the types of problems that get the spotlight on the policy stage are those that are associated with a "focusing event" that acts as a short-term catalyst for action, in combination with a relatively constant stream of attention such as agency updates or constituent letters. Also critical is "problem recognition" by key actors in policy-making, and the treatment of the subject matter, e.g. describing closed shellfish beds considered as a matter of "public health and water quality" as opposed to merely a concern of a handful of oyster growers.

Although not explicitly discussed by Kingdon, the "pre-agenda" setting process, involves the work of hidden participants -- interest groups, agency people, academics, and others -- in elevating the status of a recognized problem. Through letters to the editor, public demonstration, or through the many small scale activities by a state agency --

citations for regulatory infractions, for example -- special interests are able to bring an issue into public view. First by catching the attention of the media, and then by interesting a legislator to become involved in problem solving, a hidden participant can help make a problem more recognized. This earliest phase of the policy-making process, the problem-generation phase may involve a great deal of research, data interpretation, translation, and communication of information to policy-makers -- the more visible participant.

It is obvious that to attract the attention of a key public policy-maker, the information generators need to demonstrate that the situation is of interest to the public, and not just a problem for a few people. In order for government to take on the role as problem solver, the solution must be seen as a public good. Stevens (1991) describes the characteristics of a public good: "1. The consumption of a public good is non-rival. I can consume it without reducing your consumption. 2. The consumption of a public good is inexcludable. Its services can't be withheld from a potential user. 3. Both the production and the consumption of the public good are indivisible. Its services can't be divided up and sold." (Stevens 1991). Remember the description of the closure of shellfish beds as a "public water quality issue" rather than a problem for the 50 or so affected growers. Thus, the information providers must not only draw attention to the situation, they must also define the problem in its most compelling terms.

Political factors also affect agenda setting. Kingdon suggests that the national mood is more important a factor than the concern of special interest groups. I would add further that the two are interrelated -- national concerns evolve over time as a result of media attention to special interest concerns and perhaps even political activism. Similarly, special interest group activity is spurred on by increasing national attention to specific issues.

Alternative specification is the means by which participants select from a variety of public policy choices. The policy stream gets filtered, narrowing alternatives down to one or two; here the role of the hidden participants increases. Kingdon states that while agenda

setting is accompanied by the participation of visible participants, as opposed to non-visible players such as legislative staff people, academic specialists or agency personnel, "we have discovered that the visible cluster affects the agenda and the hidden cluster affects the alternatives." (Kingdon 1984).

Academic specialists, and legislative, executive-branch, and agency staff create a variety of proposals, solutions, and avenues for addressing the problems the major players are concerned with. Through the policy stream, these different alternatives may be tried out, rethought, and tried again depending on the ability of the proposal to incorporate future concerns; whether the proposal meets the needs and concerns of an affected community; or whether it is technically or financially feasible. Kingdon gives the policy stream a fair amount of attention in the overall process of policy-making. "There is a long process of softening up the system" that is necessary for new ideas to germinate and take hold.

Although Kingdon makes a distinction between agenda-setting and alternative specification, separating the relative importance of the three streams in the policy process, he pulls them back together in discussing participant "decision agendas" and the opening up of "policy windows." Kingdon asserts that in order for certain policies to succeed, there needs to be a linkage of one or more of the policy process streams. The politics and problem stream might be linked with the example of shellfish regulation. The problem stream might have originated through the focusing event of a red-tide, followed by several instances of food poisoning in a coastal restaurant. At the same time, a politician emerges who has been concerned about the health of coastal estuaries and public rights to coastal water quality for some time. These streams combine to put the development of a shellfish monitoring and water quality testing program on the top of a state governmental agenda.

Similarly "policy windows" or "windows of opportunity" can be created by one policy stream for others. A major focusing event like an oil spill, for example, may open the door for policies dealing with oil spill prevention, as well as related policies concerned with oil drilling or resource management and protection. "Open windows present

opportunities for the complete linkage of problems, proposals, and politics, and hence opportunities to move packages of the three joined elements up on decision agendas." (Kingdon 1984). Related to open windows, is the emergence of a group Kingdon describes as "policy entrepreneurs." "Policy entrepreneurs are people willing to invest their resources in return for future policies they favor." (Kingdon 1984). These people may participate on the level of the visible key players, or behind the scenes as a staff person or specialist. They may be "outside" the policy-making framework in the sense that they are concerned constituents, or local interest group leaders. Nonetheless, they play a role in both alternative specification and agenda setting.

Kingdon concludes by adding a few more factors of uncertainty into the pattern of policy-making through braided streams of processes he has described. Factors such as budgetary constraints, group organizational skill, and conflicts in values all influence the appearance of certain issues on policy agendas over others. Generally, the Kingdon model offers a bit of guidance through what Kingdon characterizes as the "vague and imprecise phenomena" of policy-making.

As opposed to the systematic provision of information at distinct stages in the policy process as with the various linear models, Kingdon's model has information coming irregularly. Scientific, or data-oriented natural resources information is most likely to be linked to the problem stream, so there will be the opportunity for presenting information to key policy makers in the agenda setting stages of the process, as well as throughout the problem-generation phase. For most issues this will be the beginning of the policy-making cycle. However, in terms of the timing of the information, the information provider has to be aware of the policy and politics streams that may be connected with other issues, in order to look for additional opportunities provide information on the issue or problem they are concerned with. Natural resource and scientific information will also be important in the policy process. As Kingdon acknowledges, the hidden participants play a role in presenting the policy-makers with possible ways of addressing the problem, different

solutions may be representative of different policy choices that may be made with respect to the problem being addressed.

Applying Kingdon's model to the legislative policy-making process, it appears that the legislature is a focus for the policies and politics, while the problems have, for the most part, been identified and generated prior to the onset of the session. In terms of the inclusion of scientific information during the legislative process, there may be an implicit assumption by legislators and information-providers, that technical and scientific information has already been incorporated as far as its use in the drafting of a bill prior to session. Thus, during the legislative session, there is little need for scientific information, the remaining information to sift through is that related to political support.

The use of scientific and technical information is critical during the problem-generating phase -- determining what the problems and issues are, and also in determining which of these problems are important to deal with through governmental policy-making in the form of agency funding and bill introduction. Both problem identification and policy choice, in terms of whether to address the problem, or which problems to address, occur, for the most part, prior to the legislative session. During the legislative session, technical information should also be part of the policy deliberation process that occurs when there are legislative proposals to change current natural resource laws or natural resource agency funding priorities.

D. Putt and Springer Model

In Policy Research: Concepts, Methods, and Applications, Allen D. Putt and J. Fred Springer present an analytical model of policy-making which incorporates some non-linear aspects of the Kingdon model such as the role of "hidden participants" and politics which make the Kingdon model effective. One of the most useful aspects of the Putt and Springer model to this study is its inclusion of the role of policy research at each phase of the policy-making process. While Putt and Springer's use of "policy research" is not

completely analogous to my inquiry of the use of natural resources information, it offers some useful insights. Kingdon focuses on those policy-making events prior to implementation, whereas Putt and Springer include implementation and evaluation in their analysis. Putt and Springer compartmentalize their model into five categories of activity: stimulation, clarification, initiation, implementation, and evaluation.

The first phase of the Putt and Springer model, "policy stimulation," resembles the focusing event / agenda setting phase of policy-making Kingdon describes. Policy stimulation "involves the initial process of sensing and assessing a need or opportunity and of developing ideas, it is an intuitive and interpretative process." (Putt and Springer 1989). As distinguished from private matters, or "troubles," "issues" must be recognized and defined through a process molded by the "values, goals, assumptions, and understandings" of key players or policy-making participants. (Putt and Springer 1989). Putt and Springer imply that anyone interested in a particular policy area, must become involved early on in the process as the way an issue is defined is crucial in directing the final policy outcome. The policy-making participants make up what Putt and Springer term the "policy community." This community includes governmental agencies as well as interest groups and academics and researchers. Of the non-governmental players, Putt and Springer agree with Kingdon that, after interest groups, "the collection of academics, researchers, and consultants is the next most important set of . . . actors." (Putt and Springer 1989).

As assessed by Putt and Springer, policy research plays three functions in the stimulation phase of policy-making. Policy research is the work product of policy analysts who examine the empirical and non-empirical impacts surrounding and resulting from any given policy decision. Thus, the role of policy research in the stimulation of policy-making includes the "generation of descriptive empirical information" such as "economic and employment indicators," as well as "studies of a diagnostic, exploratory nature." (Putt and Springer 1989). Information leading to increased understanding by legislators about the impact of storm-water run-off on shellfish harvest areas would be an example of policy

research in the stimulation phase. Policy research of a non-technical nature is also used in the stimulation phase. Policy analysts can contribute to the formation of policy by "encourag[ing] creativity in problem definition" and by helping policy makers identify "alternative means of addressing problems." (Putt and Springer 1989).

The second phase of the policy-making process is policy clarification. "Policy clarification activities involve the refinement of the problem, developing alternative policy solutions, evaluating the feasibility of alternative solutions, and estimating what stakeholders can expect to happen once proposed solutions are implemented." (Putt and Springer 1989). Policy analysts contribute to policy clarification by participating in the decision making and educating policy-makers. The clarification phase is the point at which policy analysts might make predictions about the effectiveness or effects of specific policies, as well as identify different policy choices which might produce differing outcomes. The process of predicting outcomes and establishing policy goals is called the "planning" process, and it is one of the most critical steps in policy-making. However, Putt and Springer note that "pressure of limited time and limited resources, disagreements about specific objectives, varying value priorities, and limited ability to collect relevant information place limits on the degree to which policy decisions are based on thorough planning." (Putt and Springer 1989).

The third phase of the Putt and Springer policy model is the policy initiation stage. This is analogous to "legislative policy-making", the point at which legislators agree that the initiation of a specific policy is a priority which should receive funding. Policy initiation can also be carried out by agencies and the judiciary. At this most political phase of the policy process, "policy research cannot dictate whether the intended objectives of a policy are right and wrong, given the diversity of values and priorities among stakeholders, but it can assess the degree to which policies meet specified decision criteria." (Putt and Springer 1989). The decision criteria identified by Putt and Springer are effectiveness, efficiency, equality, and responsiveness. Putt and Springer acknowledge that input from

research is only part of the information used by policy-makers at the initiation stage. "Regardless of all the certainty of information produced in the policy clarification stage, policy-makers will continue to disagree in their underlying values, assumptions, understandings, and preferences for policy outcomes." (Putt and Springer 1989). For example, legislation addressing the competing demands of water quality, agricultural practices and private land uses, will be approached as much on the basis of how individual lawmakers and their constituents feel about these issues, as will it be based on research findings on the most effective way to improve water quality.

The final phases of the policy process are implementation and evaluation. Implementation involves organization among the agency or body responsible for carrying out the policy. Policy research can contribute to implementation decisions throughout the implementation process. Evaluation measures how well the implemented policy has improved the problem identified in the first stages of the policy process. Evaluation can point out policy failures and weakness and identify particular areas for improvement. The evaluation phase may be part of further legislative decision to continue funding a program, or to amend the policy or legislation. The evaluation process may be part of the congressional oversight role with respect to agencies, and may be incorporated into the congressional hearing process. "Major activities of evaluators can be summarized in three major areas -- monitoring program performance, conducting impact evaluations, and conducting process evaluations." (Putt and Springer 1989). Involving all policy-making players is as important in evaluation as it is in the stimulation phase. Evaluation should be seen as a cooperative activity to be learned from, not approached in such a way as to alienate or threaten participants.

The Putt and Springer model articulates the policy-making process from beginning to end, linking the final phase of evaluation with the stimulation of new policy ideas. The emphasis in involving all stakeholders in the policy process from beginning to end reflects the reality that for policies to work and be effectively implemented, people at all phases of

the process must feel as though they have something at stake in the success or failure of the project. Putt and Springer place a great deal of importance on the need for policy research and analysis, and seem to recognize a balance in their assessment of the role of information between an ideal of science as completely separate and outside of the policy process, and the situation where science and policy are completely intertwined, as in the politically-driven redefinition of "wetland" to ease federal wetlands designations. "Policy analysis requires more than knowledge in the techniques of data collection and analysis; it also requires knowledge of the policy process in a particular context and requires skills in working with people who are part of it." (Putt and Springer 1989). Putt and Springer acknowledge that theirs is an analytic model more than a descriptive model, and there are uses of research information at many levels of decision-making involving more or less complex models of policy-making.

E. Putt and Springer Model for Research-use in Policy-Making

Putt and Springer have developed a model to determine under what conditions information or policy research is more likely to be used than not. "Simply because information is accurate and relevant does not ensure its use in policy-making." (Putt and Springer 1989). Putt and Springer define "use" or utilization of policy research in very broad terms. Rather than restrict their focus to instances when a policy-maker directly utilizes a piece of information by making a decision or making a policy change to conform directly to the research results, Putt and Springer realize that information can be "used" in a variety of direct and indirect ways. "Research results alter the ways in which stakeholders view issues without producing specific recommendations for a particular decision. Providing an understanding of issues and facilitating discussions without reference to concrete, immediate decisions is research use." (Putt and Springer 1989).

Putt and Springer focus their discussion of research use in policy on two major subjects. One is the "determinants of research use:" the success and constraining factors

contributing to research use. The second focus regarding research in policy, is how research providers can improve the "utilization potential" of their research in policy-making. The success and constraining factors or research determinants are divided into three groups: personal factors, communication linkages, and situational factors. Personal factors can be assets or detriments. Showing "interest, enthusiasm, and commitment" to the project when addressing policy-makers is an asset. Generating reciprocal enthusiasm in a policy maker will be important. In turn, information providers or researchers may confront adverse personal factors when presenting information. "Resistance to change" or "lack of interest and commitment" may be encountered among stakeholders or policy-makers. Putt and Springer also indicate that another obstacle to information utilization is the perceived "divergent roles and orientations of policy analysts and decision-makers." They also state that "the belief that analysts and decision makers occupy two separate 'communities' having different purposes, approaches, perspectives, interests, loyalties, and values has become a widely cited explanation for inadequate research use." (Putt and Springer 1989). Communication is extremely important. The quality of the product must be demonstrated, including technical accuracy. The dissemination of the information must be effective and understandable. Communication throughout the research process -- collaboration with the decision makers -- is also essential. Putt and Springer note that there is a fine line between effective collaboration and "becoming entangled in program politics in such a way as to threaten the credibility and integrity of research findings." (Putt and Springer 1989). Finally, situational factors affecting research use include the organizational structure of the policy body, the political climate, and economic resources.

Putt and Springer focus on three factors, the planning of research, the implementation of research plans, and the communication of results as tools researchers can use to improve the "utilization potential" of their research in policy-making. Planning research should be done with policy makers. Scientific research proposals can be made in conjunction with upcoming policy issues or newly surfacing problems which may affect

the public interest. This is the beginning phase in developing good relationships with policy makers. Putt and Springer identify the major objectives of planning research with policy makers:

- establish a sense of credibility and trust with stakeholders;
- identify user groups and their planned applications of research results;
- develop effective communication networks;
- clarify mutual understandings and expectations for the research; and
- develop dissemination plans for communicating results.

The Oregon ocean policy task force which created the Oregon Ocean Plan is a good illustration of the conjunction of research and policy-making from the ground up through to implementation. In order to facilitate research use, researchers must include policy-makers in the implementation phase, and finally communicate the research results to policy-makers. Communication can be through distribution of reports as well as personal communication. "Involving decision makers and other stakeholders in reviewing drafts of final reports is necessary in identifying and correcting factual errors, omissions, misinterpretations, unworkable alternatives and recommendations, vague, unfair, or misleading statements, and so on." (Putt and Springer 1989).

F. Consensus-Based Decision Making

Another model for the uses of science and information in the policy process comes from Connie Ozawa in Recasting Science: Consensual Procedures in Public Policy Making. Ozawa examines "how consensual procedures can affect the mobilization of scientific and technical information and expertise in various phases of the contest over public decisions and how the distribution and dynamics of political power in decision making are changed as a result." (Ozawa 1991). Ozawa identifies four phases of the policy process up to the decision making point: "agenda-setting, problem formulation, identification of alternatives and the decision choice," and looks at the role of science in

each of these phases, or "moments in public decision making when scientific arguments can be manipulated to influence a public decision." (Ozawa 1991).

Agenda-setting can be divided into "systemic" and "institutional" agendas. "In contrast to the issues on the more general systemic agenda, items in the institutional agenda are usually tailored for a particular decision making forum and are relatively well defined." (Ozawa 1991). Systemic agendas are those which describe general goals, such as the 'restoration and enhancement of watersheds in Oregon,' while institutional agendas are specific, the regulation of nitrogen run-off from agricultural lands, for example. "Scientific arguments" play a role in both systemic and institutional agenda-setting: "In the former, they shape the emerging understanding of a public problem and in the latter they influence the way specific debates are cast." (Ozawa 1991). The use of science legitimizes policy makers' decisions to act on public problems. (Ozawa 1991).

Science also plays a role in problem formulation. As Kingdon (1984) also observed, the way a problem is defined can have an impact on how the solution is found: "the formulation of problems is critical because the construction of a problem contains implications for its solution." (Ozawa 1991). Ozawa also discusses the nature of problem definition as enabling certain interest groups to associate themselves with a problem or not. This is referred to as claiming "ownership" of a problem, or "disownership" depending on the group's objective. Ownership of a problem is linked to an assessment of the cause of particular social problems, which relies on scientific information to determine. Ozawa gives an example from the regulation of wood stoves by the Environmental Protection Agency (EPA). While the EPA had political responsibility under the Clean Air Act to reduce air pollution from wood stoves, a "causal responsibility" was placed on wood stove manufacturers. "If scientific arguments could have been constructed to convince regulators and the public that emission levels are a direct consequence of wood selection . . . and stacking rather than stove design, the regulatory approach might have been redirected to the

users rather than stove manufacturers." (Ozawa 1991). The arguments of the wood stove manufacturers would have been an attempt to "disown" themselves from the problem.

The identification of policy alternatives is similar to the framing or formulation of problems in that it also has a direct impact on the chosen solution to the problem. Because these pre-decision phases have a direct impact on the policy outcome, the uses of science in these phases will be political in nature. Different interest groups may desire different policy outcomes, and will be armed with scientific arguments to back up their preferred alternatives. "Technical competence, familiarity with specific technologies, and facility with scientific argumentation are, again, critical capacities for those striving to influence decision makers." (Ozawa 1991). Finally, a decision maker will be faced with having to choose one alternative from among many possibilities, and to the extent that this decision can be based on science, it will have more legitimacy in the eyes of the public.

One of the problems Ozawa hopes to remedy grows out of the debate over the extent to which questions of truth and questions of value, or of science and policy, may be distinguished. Ozawa observes that the present use of science in the policy process has decision makers choosing among several scientific arguments or views of truth. A conception of truth and value as completely distinct allows a policy maker to make a decision "based on science" and thus possibly obscuring a bad policy judgement or a political motive. Ozawa points out, however, that because different interest groups will use different scientific arguments to persuade decision makers toward one option over another, the scientific arguments themselves are political, and thus science can not be separated from political values or political power.

In order to eliminate the abilities of particular groups ("resource-rich stakeholders") to influence public decisions through political power brought about by the "wield[ing] of scientific arguments," Ozawa argues that "consensus-based procedures can enhance the abilities of less resource-rich groups to influence public decisions in each phase of the decision making process." (Ozawa 1991). Her thesis is that "consensus-based procedures

can be constructed to create disincentives for adversarial uses of scientific argumentation and to encourage cooperation and collaboration that can lead to an increased understanding of scientific and technical elements for all participants." (Ozawa 1991). In order to explain how the use of science in consensus-based decision making upsets the balance of power in the use of science in traditional policy making, Ozawa first identifies three "elements of power in public decision making" based on the use of science. These are: "access to technical information;" "access to expertise;" and "voice and standing." Resource-rich stakeholders will have the upper hand with respect to their ability to use scientific arguments based on their ability to "buy experts," and thus resource-poor stakeholders may not be on an equal footing to argue for their policy choice.

The use of a consensual process in policy making will eliminate these sources of the power imbalance by including scientists, stakeholders and policy-makers in the process. There are advantages for all policy-making participants in adopting a consensus-based process. Resource-poor stakeholders will have access to information, enhanced ability to form coalitions and share information with other resource-poor stakeholders, and a greater opportunity to express concerns. Resource-rich stakeholders will improve their public image, and benefit from the likelihood of a decision, as opposed to the blocking of a decision by groups who would benefit from delaying a decision in the traditional policy process. Decision makers are able to share information and expertise, "improve their public image", establish a "better understanding of various groups' interests," and avoid "scientifically unwise decisions." Scientists also benefit by establishing "greater credibility if not seen as 'hired gun,' they are "more likely to be listened to", and can share information. (Ozawa 1991).

Ozawa (1991) and Kingdon (1984) have a very similar description of the current policy process. Putt and Springer (1989) have a slightly different configuration of the process. As Ozawa does, Putt and Springer offer particular observations of the use of information in the policy process using a broad definition of research and research use as

opposed to Ozawa's examination of scientific and technical information. Although Putt and Springer offer some advice for ways in which the research provider or policy analyst can be more effective in the policy-making process, Ozawa goes furthest in criticizing the use of science in the traditional policy-making process and offers an innovative solution for improving its use.

The following chapter summarizes the results of mail surveys I conducted of agency legislative liaisons to determine to what extent these information-providers' perception of the role of information in the legislative process coincided with the predictions and descriptions found in the policy-models.

CHAPTER 3. AGENCY LEGISLATIVE LIAISON SURVEY RESULTS

A. Background

Although originally I had intended to conduct interviews with coastal legislators and a broad survey of lobbyists and agency legislative liaisons to assess the role of information in the policy-making process, primarily time factors prevented me from carrying out the intended objective. However, I did distribute a much more limited number of surveys to natural resource agency legislative liaisons, sometimes referred to as government coordinators, or agency personnel who spent a great deal of time in Salem during the 1991 Session, and I will summarize the questions I asked and the responses based on having received seven of the ten I distributed. [See Appendix 1. Survey of Information Providers.]

Initially, I mailed ten surveys, six of which were mailed directly to people I had had some contact with during my Salem internship; four of which were mailed to "Legislative Liaison." This list included Bob Bailey, Department of Land Conservation and Development; Janet Newman, Director, Division of State Lands; Jeff Curtis, Department of Fish and Wildlife; Dennis Olmsted, Department of Geology and Mineral Industries; Bruce Sutherland, Department of Environmental Quality; Beverly Hays, Department of Water Resources; Parks and Recreation Department, Department of Energy, Department of Transportation and Department of Forestry.

The survey assumed that those responding were information-providers to legislators or legislative staff people throughout the legislative policy-making process. The focus of the survey was to determine the nature of information contributing to legislative policy-decisions, legislative decision-making generally, voting, for example, or simply as a provision of general information. The survey also aimed at determining the timing of information presented and the intended use of information from the point of view of the natural resource agency personnel surveyed.

The first section of the survey was primarily for background purposes; asking the respondent how long she or he has worked for the agency, what his or her area of expertise(s) are, and whether she or he had had any prior government experience. The next several questions were related to the kinds of information they presented, and the effectiveness of various forms of information, as well as the timing of that information and to whom it was presented. In addition to including fairly straightforward "circle-the - response" questions, I included three open-ended questions at the end of the survey, the answers to which provided interesting insights.

Of the seven responding, the range of time spent working on legislative issues for their agency varied from six months to twelve years, with the average length of legislative experience being five years. Prior to working on legislative activities with the agency, most of the respondents had a background in planning or resource management, one was a lawyer, and one had extensive experience as a U.S. Congressional committee staff person. Most of the respondents had some previous experience with state, local or federal government, two years with a city neighborhood association, for example, or participation on multi-agency task forces.

B. Nature of Information

Asked what forms of information were the most effective in informing a legislator on an issue, all of them chose "scheduled meeting with a legislator" as a most effective means of communicating, other top choices were "meeting with committee staff" and testifying in front of a committee." Further explanation of the choices made were given. These are some of the comments made as to why scheduled meetings with legislators was important: "A meeting with a legislator is important because - in Oregon, at least - politics is personal. Information is important but so is your personal package and the degree of trust/reliability/rapport -- the 30-second conversation!" Another said: "Personal meetings, individual, face-to-face, are the easiest and most effective ways to communicate. Meeting

'in the hallway' is O.K. but not if the desired action is something specific." Further expansion from a respondent: "A legislator needs to understand an issue, not just who is for it and who is against it. Unfortunately, the latter is too important in many cases. Between sessions, field visits offer more time to discuss issues, during the session, appointments with legislators." More agreement: "If time allows, direct meetings with legislators seem to be most effective. The second best alternative is to meet with staff if direct meetings can not be arranged."

Commenting about other effective means of communicating: "Testimony is effective for some because it is the first time some legislators have had to even hear about an issue. Body language and impressions are important here. Committee staff are very important on substance -- making sure that issues are resolved and that there are no surprises."

C. Timing of Information

Responses were mixed to the question of timing or when information was most likely to be presented to legislators. Those that picked "prior to the session" as the most likely, said that bringing issues to a legislator prior to session will probably mean they have more time to devote to it. Similarly, one commented that presenting information on an issue in the middle or late in the session will mean that it will not get much attention, nor is it likely to be fully understood.

Of timing generally, one respondent said: "You have to know when to do certain things and when not to do certain things. Timing is everything." This respondent went on to explain the reasons for presenting information at one time or another: "Prior to session it is important to keep key members on interim committees informed -- familiarity, continuity" and getting the facts straight prior to session are important. "During the session information is needed on a continually changing basis. You have to stay in touch. Give them what they want, when they want it." And prior to or during a committee meeting, "is important when detailed knowledge or reassurance is needed. But you have to have set the

stage for this by earlier contacts and background." Another respondent said that the timing of providing information to a legislator is whenever you find the "best chance to talk without distractions."

D. Source of Information

Asked what the circumstances of offering information to legislators would be, two-thirds of the respondents said that information was most frequently requested by a legislative staff person. This includes both personal staff and committee staff. The other third said that information by way of testimony in front of a committee on a specific bill was the most frequent circumstance under which they offered information to legislators.

If the agency liaison was offering or initiating information to legislators, they mostly agreed that committee chairs were most frequently presented with information. One respondent said that you "look for key players, who may or may not be a committee chair, or may or may not be a 'senior' opinion leader, but those with credibility in the area under discussion."

A general comment can be made in terms of personal contact between agency legislative liaisons and the likelihood that they have had personal meetings with legislators. In response to the question of what form the information was in if they had initiated it, those with more experience with legislative issues were more likely to have had a scheduled meeting with a legislators upon their initiation than those who were relatively new on the scene. Written staff reports and testimony in front of committee were likely to be forms information was presented in.

Agency liaisons were asked what their role was in providing information in the policy-making process. Three of the respondents said that representing the agency that they are working for was the top role. Testimony before a substantive committee and providing information on a bill or background information on an issue for legislators was also an important part of their role in policy-making. Several options given as choices were

unanimously not picked as playing any part of their role in policy-making. These are interesting to note: "influencing a floor vote"; "providing material for a floor speech"; and "testimony before a budget committee."

E. Relative Importance of Information

Two "open-ended" questions were presented at the end of the survey. One question asked was "How important is natural resources information in the policy-making process compared to other factors going on?" Two of the respondents said that information was less important than political factors. One respondent said that information was of "fairly high importance --haven't really seen politics take over any bills I've dealt with." One respondent commented that credibility was more important than information. One respondent commented freely: "There have got to be some real 'gee-whiz' fun facts to know and tell based on solid natural resources information (i.e. 'there are 1 million tires thrown out every year in Oregon which creates five acres of mosquito breeding water' or some such.) But in my case, a lot of the information has to do with process, the 'How will this work out?' -- 'Who's interested?' -- 'How much will this cost?' -- How long?' -- etc." One respondent commented that natural resources information is very important to a natural resources agency. An agency staff person is more likely to deal with specific bills, and the Director or Deputy Director of the agency will deal with policy.

Asked whether they had any further thoughts regarding the uses, sources or timing of information contributing to natural resources policy making? One respondent commented that the most important factor was "preparedness and thoroughness." Two respondents said that approaching the legislator before the session was important -- "get to the legislators before the session and at their convenience." Another thorough response from one respondent: "I think you have to do any substantive information transfer to a legislator before a session. Once the session gets going, there are too many process/governmental/policy dynamics to try to inject real information. This, of course, is

not always true. Analysis of a bill in progress might reveal a huge impact in the real world and a major piece of 'natural resource information' -- 'Senator, this will result in 10,000 dead ducks!' -- is very useful."

F. Summary

Based on having received 7 out of 10 surveys distributed to natural resource agency legislative liaisons, I feel as though the role of information in the Oregon policy-making process in not a systematic one. However, several trends can be isolated from the survey results as coinciding with several of the policy models reviewed.

Information is more likely to be presented to legislators prior to the legislative session, and when it does, it will be more likely to influence policy making. While the introduction of new ideas and concepts from agency people to legislators is going to come at any time the information provider has the attention of the legislator, it is more likely that agencies will work with the legislator on ongoing, in-depth issues and problem addressing prior to the session when there is more time to spend.

The nature and scope or comprehensiveness of the information provided to legislative policy makers is dependent partly on the issue, and mostly on the timing if the information. Information is likely to be more comprehensive prior to the session, during stage-setting, pre-legislative activities, and more bite-size during the session itself. The nature of the information is most likely to be in the form of a personal conversation. Although written and verbal information is requested by legislative committee staff people during the session, this is most likely to be for the purposes of clarifying issues, and for committee administrators to prepare summaries both written and orally before the committee.

The survey results appear to reinforce the observations made by both the Kingdon (1984) and Putt and Springer (1989) models of policy-making to describe the role of scientific and technical information in the legislative policy-making process. To the extent

that natural resource policy-making involves the intertwining of problems, policies and politics, scientific information will be utilized at various stages of the legislative process as the need arises. However, consistent with Kingdon and Ozawa (1991), the results of the survey suggest that a great deal of information dissemination occurs prior to the legislative session with problem-generating, as well as in the pre-session agenda-setting or policy decisions, and less during the legislative session where events will be the most political in nature. Putt and Springer emphasize the need for having policy makers and research providers interact at all levels of policy making and research generation. This was reflected by several of the comments from the agency personnel.

The conclusions I reached upon reviewing several policy models and comparing with them the results of the agency surveys, provide the basis for my analysis of the role of information in the legislative process through an examination of two bills before the 1991 Oregon Legislature. I examine the role of policy participants in the policy-making process, such as state agencies and other potential information-providers; I look at the types of information used in the legislative process and under what context it was communicated; and I reach conclusions about when most information is communicated to legislators. Part Two follows, consisting of this analysis in the form of two case studies: the Pacific Ocean Resources Compact, and the Streamflow Restoration and Water Conservation Act.

PART TWO. CASE STUDIES

CHAPTER 5. THE PACIFIC OCEAN RESOURCES COMPACT (SB 500)

A. Introduction

On Thursday, January 31, 1991, legislation pertaining to the Pacific Ocean Resources Compact was introduced concurrently in the five states participating in the Compact. The compact involved the states of Oregon, Washington, Alaska, California and Hawaii, and eventually could include British Columbia. In Oregon, SB 500 was sponsored by Senator Bill Bradbury, the Senate Majority Leader and co-sponsored by other coastal caucus legislators. Oregon was the only state in which the compact legislation was successful in 1991. The other states involved have not yet passed similar legislation.

B. History

On December 22, 1988, while trying to repair a broken tow line, the tug *Ocean Service* collided with the tanker barge *Nestucca* causing it to dump 231,000 gallons of oil off the coast of Washington. The spill impacted 100 miles of the Washington coast, as well as beaches in British Columbia and Oregon. On March 24, 1989, the *Exxon Valdez* struck Bligh Reef and spilled approximately 11 million gallons of oil in Prince William Sound, Alaska. (States / BC Task Force 1990).

In November, 1989, eleven months after the *Nestucca* and just six months after the *Exxon Valdez*, the Western Legislative Conference (WLC) of the Council of State Governments responded by approving resolution 89-8 which supported the "establishment of a Compact between the Pacific States and the Province of British Columbia to provide better planning and protection of ocean resources." The Ocean Resources Committee of the WLC concluded that interstate cooperation through a compact was the best means for the Pacific states and British Columbia to address "common needs and concerns in the Pacific

Ocean." (WLC 1989). They cited their goal to "conserve the long-term values, benefits and natural resources of the ocean both within the boundaries of each state or territory and beyond by giving clear priority to the proper management and protection of renewable resources over non-renewable resources." (WLC 1989). The resolution to cooperate in working toward the creation of an interstate compact was based on findings that "improper" offshore oil and gas development, transshipment of oil and mineral mining of the seabed threaten these common renewable resources. (The Ocean Resources Committee of the WLC has since decided not to pursue an oil spill compact further but to focus on a compact addressing ocean management generally.)

At the time of the resolution, Section 309 of the Coastal Zone Management Act (CZMA) would have permitted the Pacific states to form a compact with prior approval of Congress. The Ocean Resources Committee proposed to take advantage of this advance Congressional consent, although Section 309 was removed in the reauthorized version of the CZMA in the 1990 Omnibus Budget Reconciliation Act. The resolution also stated that "ocean developers and shippers would prefer to work cooperatively with one regional body overseeing ocean resources to avoid potential negative impacts" of oil spills. Generally, however, the oil companies were not supportive of a potential regional body with authority greater than or equal to the federal government through a Congressionally-approved compact. Nevertheless, during the process of ratifying Oregon's compact legislation, they supported the concept of unifying regulations and contingency plan requirements throughout the Pacific region.

Soon after the Nestucca spill of 1988, Washington and British Columbia formed the Washington/ British Columbia Task Force on Oil Spills. The day after the Task Force met for the first time, the *Exxon Valdez* spill occurred. In July 1989, the Task Force expanded to include Oregon, followed by Alaska in August, and California in September. The Task Force mission was to "investigate the ways and means of preventing oil spills; to review oil spill response capability; document and assess the mechanisms for handling

compensation claims; and to develop a coordinated contingency plan for preventing and responding to oil spills in the future." (States/B.C. Task Force 1990). One of the recommendations of the Task Force in its report published in October, 1990, was to "work cooperatively with the Western Legislative Conference in their evaluation of the advantages and disadvantages of developing an interstate compact to make binding agreements concerning spill prevention and cleanup measures on the West Coast." (States/B.C. Task Force 1990).

In 1990, during the interim prior to the 1991 Oregon Legislative session, Senator Bradbury worked with Jeannette Holman, Oregon Legislative Council, to draft legislation which potential member states could use to ratify their participation in the compact. Bradbury and Holman also worked with Bill Hull, Director of the Western Legislative Conference, and Professor Richard Hildreth, University of Oregon Law School to formulate language for the bill.

Much of the framework for the Pacific Ocean Resources Compact bill was based on the structure of another piece of compact legislation, used to create the Northwest Power Planning Council. The content of the bill came from two major sources: the first was the October 1990 Report of the States/B.C. Oil Spill Task Force, the second was a Legal Research Report published by the University of Alaska Sea Grant Legal Research Team: "Potential Utility of an Interstate Compact as a Vehicle for Oil Spill Prevention and Response." (Bader et. al. 1989). Along with several other reports related to oil spill regulations and Alaska, this useful document was intended for use by the Alaska Oil Spill Commission.

C. The Compact Bill

1.Background

The Ocean Compact shares the characteristics of interstate compacts as the most binding legal means of establishing cooperation between states. The U.S. Constitution provides for interstate compacts in Article I, Section 10 such that "No state shall, without the consent of Congress...enter into any agreement or compact with another State, or with a foreign power." Each state in a compact agreement is bound by its own state statute and also subject to Constitutional endorsement of contracts. A state in the compact cannot jeopardize the terms of the compact or unilaterally withdraw from the compact except as outlined in the compact. As contracts, interstate compacts take precedence over other state laws that conflict with the provision of the compact.

The Pacific Ocean Resources Compact grew in part out of the combined efforts of the Ocean Resources Committee of the Western Legislative Council and the recommendation for the establishment of an interstate compact made by the States/BC Task Force on Oil Spills. The States/BC Task Force recommendation was an element of the final report presented to the Western Legislative Conference on July 2, 1990. SB 500 thus reflects the intent of both of these working groups as much as possible. Input was also added by the Oregon Ocean Management Task Force which at that time was working to create an Ocean management plan for Oregon.

The Ocean Compact addresses what is considered the "Compact Zone"--the area within the states' Territorial Seas extended to include the area within the U.S. Exclusive Economic Zone (EEZ) -- out to 200 miles from the mean high water mark. The compact is intended to address ocean management, both "shared" and "common" problems that can be dealt with regionally. This regional management would involve a mixture of regulatory consolidation to deal with state-shared problems such as the transshipment of oil, and regulatory coordination to deal with common problems such as fishery/marine mammal

interactions. (Cicin-Sain et. al. 1990). The Compact language specifically excludes management of fisheries, which "are currently highly managed with regard for their regional or transboundary nature through existing state programs, regional fisheries councils, interstate compacts and international treaties." (SB 500; Article 1, 1991).

The amended or final version of Oregon's compact would allow for regional decision making, and would have the compact working with the United States Coast Guard where rule-making affecting oil transport was concerned.

2. Implementation

The Compact establishes a framework through which the states and British Columbia can represent their interests in the compact zone -- the portion of water bordering the states, including the territorial sea and EEZ out to 200 miles. The compact also provides a means for citizens to address their concerns and interests within the compact zone. A major provision of the compact includes addressing United States Coast Guard rule-making concerning safety standards for routes, crews and equipment for vessels transporting oil and other hazardous substances within the compact zone. The Compact also stipulates the provisions for the implementation of these standards and regulations by federal agencies, states or provinces, and private industries. Other goals of the Ocean Compact are to maintain and protect common ocean resources through the coordination of the parties' ocean management plans.

The implementation of the Ocean Compact would be carried out in part by the delegates from each state who would be appointed as representatives of the parties to undertake the duties and responsibilities of the Compact. The Secretary of Transportation, the Administrator of the Environmental Protection Agency (EPA), and the Administrator of the National Oceanic and Atmospheric Administration (NOAA) or their delegates may also serve as non-voting members of the Compact.

3. Compact Authority

The authority of the Ocean Compact centers on its provision to prevent oil or other hazardous substance spills. In addition to working with the Coast Guard as an advisory body with respect to Coast Guard rule-making on routes, crews and equipment, the Compact will have the authority to coordinate the oil and hazardous substance spill response plans and programs of the states, federal agencies, and private organizations. The Compact also establishes the requirements for the submission and approval of a contingency plan by any vessel transporting oil or hazardous substances in the compact zone. Such requirements are to be consistent with those required under the Federal Oil Spill Pollution Act of 1990. (Oil Pollution Act or OPA) The vessel contingency plan itself must comply with the OPA .

The Compact also calls for coordination of the parties' individual or regional oil or hazardous material spill response systems. This would be accomplished by maintaining a directory of personnel, equipment, technical expertise, organizations and other resources available in the event a spill within the compact zone. In addition to the spill response coordination, the Compact calls for interstate cooperation regarding ocean resource studies or research.

The Compact will eventually designate state or provincial agency officials to serve as liaisons with federal agencies, so that the Compact may advise those agencies with regards to ocean management issues and necessary regulation.

There is a provision in the Compact which allows a state to request a variance from the Compact provisions. This applies only when the activity allowed under the variance does not have any regional impact and that the variance is economically necessary. However, the Compact stipulates that under no circumstances will the activity allowed by the variance result in the regulation or transportation of oil or other hazardous substances to standards less stringent than standards imposed under federal law.

D. The Compact as an Example of Policy-Making

1. Background

After the simultaneous introduction of the compact legislation in Alaska, Washington, Oregon, California and Hawaii, on January 31, 1991, to some extent the legislative policy-making process, as a subset of the greater compact policy-making process, was a function of the dynamics of the individual states working on the bill. With Senator Bill Bradbury (D-Bandon) the Chair of the Committee responsible for the earliest phases of the compact idea, Oregon became the coordinating state for maintaining communication among the compact players and working out amendments to the compact.

An analysis of the process by which Oregon successfully ratified SB 500 will include the interaction with the other states, but Oregon's success is only one step in the process of putting the Pacific Ocean Resources Interstate Compact (SB 500) into effect for the East Pacific Rim. [See Appendix 2. Log of Action Taken on Compact.]

On January 15, a wide range of individuals, including legislators, oil company presidents, Coast Guard personnel, shipping industry representatives, and select media, were sent a facsimile transmission copy of SB 500 along with a cover memo from Senator Bradbury "To Coordinating Legislators, Other Interested Parties." This first distribution included almost 50 people. Based on returning inquiry and participation in subsequent processes, the list of players was narrowed to about 10 individuals on the "compact action list." This early mailing was an alert to those individuals who were "stakeholders" in the enactment of regional oil spill prevention legislation.

2. Role of the Media

On January 31, 1991, the day of the joint press conference, Bradbury's office distributed a news release to Oregon media. Bradbury's office also arranged with other compact states the simultaneous issuing of news releases. The release quoted Bradbury as

saying,"The Pacific Ocean Resources Compact will enable us to set standards for ships and routes, establish regulations, and speak with a unified voice on things that are happening to our joint resource -- the Pacific Ocean." The press release won some attention from the media in the following weeks. The next day, *The Oregonian* printed a story by Jeff Mapes, the Salem political correspondent. The first draft of the compact would have enabled the Pacific states to establish "uniform safety standards for routes, crews and equipment." The article said that Del Fogelquist, the Northwest Regional Manager of the Western States Petroleum Association, had "said his group would oppose giving the states such broad authority. Instead, the Coast Guard should retain power over tanker regulations, 'that's where the expertise is'."

Another article appeared on February 22, 1991 in the *Journal of Commerce* out of New York, entitled "West Coast States May Gang Up on Tanker Industry." The article quotes the President of the American Institute of Merchant Shipping, Ernest Corrado, saying of the compact legislation: "It's a pretty bad package; a dangerous device with a propensity for causing a lot of mischief." Also quoting an anonymous oil industry source: "It's scary. The whole concept of a federal approach will be thrown out." The article was derived from Washington and Alaska press releases and quotes Alaska Senator Sam Cotten, Chair of the Senate Special Committee on Oil and Gas: "We're very serious about this. We surrender certain authority and so does the federal government." Other quotes came from Leo Brian, president of the Pacific Merchant Shipping Association: "It's very early in the process, but this is clearly causing us some problems." Finally, a comment by Corrado that "together the five states' Congressional Delegations comprise 27% of the vote on Capitol Hill," set the stage for the work of negotiating the term of the compact, and indicated to the member states, and to Senator Bradbury, that a message from the Pacific states had been heard by the oil and shipping industry.

In addition to creating a wide audience for activity on the compact legislation, media attention brought with it a sense of seriousness and urgency. The media focused the

activities of the separate states into one major action, creating the perception of unity among the states, and gave an early warning to industry that the matter of the compact was one to pay serious attention to. Steve Miller, editor of the Seattle-based *Marine Digest*, was a frequent caller for information. The compact also attracted the attention of such publications as the *Bureau of National Affairs Environmental Report* out of Portland, OR and the Boston-based *Oil Spill Intelligence Report* and *Oil Spill U.S. Law Report*..

3. Individual Responses

Other responses came to Bradbury from individuals who had received the first compact facsimile. From the president of a San Francisco research and consulting firm initial comments included the following: 1. It makes sense to me to put vessel contingency plans under the regional compact. On that basis alone, we would have a better chance of getting shipping and oil industry support. 2. You ought to consider limiting the compact to oil transport only. Expanding the compact to cover all hazardous substances may unnecessarily complicate the program. 3. Since a good case could be made for placing vessel transport under the jurisdiction of the compact, we should also consider including vessel tracking, monitoring and communications under its authority. This should be according to US Coast Guard standards. 4. Vessel inspection should be under the jurisdiction of the U.S. Coast Guard only, (i.e., remove jurisdiction from individual states). 5. The proposed language requires that vessel contingency plans meet the federal Oil Pollution Act and state standards. I think the minimum standards for vessel contingency plans should be the federal standards and the language which states "... and any requirements of individual party..." should be deleted. This would assure that there was a single, unified program for vessels (at least). It does, however, raise some difficulties with those who want to continue to push separate state standards.

From a former Oregon Senator, now with a Portland Law Firm representing oil industries in Salem, came a memo stating that industry would have a lot to gain from

uniform regulation of vessel transport. The language including the requirements of any individual party to the compact regulations was also seen as a problem to the concept of uniformity and was recommended to be deleted. Also stated was that the relationship between the compact authority and the U.S. Coast Guard was the biggest obstacle to be faced in terms of industry support.

Between the introduction of the compact on January 31, and a scheduled meeting of the Pacific Fisheries Legislative Task Force on March 2 - 3, which would include a substantial discussion of the compact, compact activity was focused on addressing comments and concerns from legislators in the other compact states, and industry and other commentators. The major coalition-building Bradbury wanted to achieve was among the compact states themselves and between the states and the oil industry. There was not much attempt to draw in members of the environmental community to lobby for the compact legislation. Bradbury made a decision to organize a press conference for the coastal legislators involved: Republican Senator John Brenneman and Republican Representative Walt Schroeder, in addition to Bradbury. The dynamics within the Oregon Legislature during the 1991 Session, with a Republican-controlled House for the first time in 20 years, were such that bipartisan support of legislation was important. In addition, ocean issues in Oregon have not yet attracted the kind of attention from environmental interest groups that other natural resource issues have drawn. Ocean issues are viewed less as special interest issues; instead, they are considered state-wide issues. The preference given by law for protection of renewable ocean resources has fairly broad-based legislative support.

4. Role of the Oil Industry

In the compact deliberations, British Petroleum and Arco Marine were the major voices of the oil industry. Ten pages of comments came from BP Oil on February 28, including 4 pages of suggested amendments. The main conclusion from BP was that they supported "interstate and provincial cooperation to ensure adequate and efficient prevention

of and/or response to oil and hazardous substance spills." However, BP suggested that the compact had put itself in a duplicatory role with respect to the federal Oil Pollution Act and the U.S. Coast Guard and, as introduced, would add additional layers of regulations. BP also outlined several other areas which they saw as problems for the compact:

- The legislation grants broad powers to the Compact, but there is no clear definition of how these powers are to be implemented and exercised by the Compact in the performance of its duties.
- Article 9 provides for no limitation of existing state authority.
- Cost and control issues may be large impediments to effective Compact operation.
- Individual states will find wide disparity between their funding requirements and their voting privileges.
- The compact could disrupt domestic and international trade by confusing which states have jurisdiction.

BP stressed coordination between the compact and the federal government, and said that they would support a compact that did not duplicate regulations already established by federal and state legislation.

On March 1, Bradbury and his chief legislative counselor on the bill, Jeannette Holman, met with Captain Jerry Aspland, President of ARCO Marine, Inc. in Bradbury's office in Salem. Also present was Tom Gallagher, ARCO's primary representative to the Oregon legislature. During this meeting it became clear that although it was accepting of the idea of West Coast coordination of oil spill prevention and response plans, ARCO would not support the concept of a Congressionally ratified interstate compact. Aspland furnished Bradbury with copies of documents ARCO Marine had requested of the Washington, D.C. law firm, Dyer, Ellis, Joseph & Mills, which was the firm that contributed to much of the drafting of the federal Oil Pollution Act. These documents included:

- "Pacific Ocean Resources Compact: Procedures for Congressional Approval;"
- an extensive review of Maritime Jurisdiction;
- a summary of the compact
- answers to 10 questions from Aspland, and;
- a statement of ARCO Public Policy Views: Proposed Pacific Ocean Resources Compact.

These documents reflected a great deal of time and research on the part of the D.C. law firm, another indication of the potential power of such a compact, and the serious attention which was given to it by this major oil company.

5. The Politics

The process of amending the compact bill in Oregon was largely controlled by Bradbury. SB 500 was not a bill which spent a great deal of time in committee, or one for which there was a great deal of discussion on the floor of either the Senate or the House. However, the process through which SB 500 developed throughout the session is not entirely different from the development of other pieces of controversial legislation, or ones which involve negotiations among often disparate interests. Due to time constraints, and procedural limitations, the standing committee process seems to serve more of a function of facilitation and staffing for these major bills than a forum for mediation and discussion. During the 1991 session, all the major natural resource bills passed were worked out in either in committee arranged sub-committees, or working groups facilitated by the committee chairs or committee administrative staff. SB 500 was different only in that the players were other states, rather than different interests within Oregon, and the meetings between the compact legislators and industry interests took place in regional forums such as the Western Legislative Conference.

At the meeting of the Pacific Fisheries Legislative Task Force, on March 2, Bradbury led a Compact discussion, along with California Assemblyman Sam Farr. Bradbury brought five sets of amendments to the compact, each addressing a major policy question. Among the issues addressed were federal consistency, authority to assess fees, compact supremacy over state regulations, and elimination of compact authority over shipping routes. These amendments provided a jumping-off point for discussion among the legislators, and gave early focus to the areas of the compact that needed further amending.

The March meeting was an important one for the compact. Several industry representatives were present at this La Jolla meeting. The next, most intensive phase of the compact activity was about to begin in order to prepare for the April 6 and 7 meeting of the Ocean Resources Committee of the Western Legislative Conference in San Francisco. When Bradbury returned from the meeting in La Jolla, he sat down with Jeannette Holman and worked on new language for he compact. Bradbury also met with Bruce Sutherland, Andy Schaedel and John Loewy from the Oregon Department of Environmental Quality to discuss oil spill legislation generally, both the oil spill prevention legislation pending the 1991 session, SB 242, and oil spill legislation in other states. From these two meetings, a revised draft of the compact was crafted. On Monday, March 7, Bradbury sent out a memo to the coordinating legislators for the compact letting them know that he was working on a revised draft "that hopefully" would "meet some of the concerns of the industry, while maintaining the original purpose of the compact."

The most substantial change made was in the relationship between the compact and the Coast Guard. Instead of setting the standards for routes crews and equipment, the new compact language placed the compact in the position of what Bradbury referred to as "elevated standing" with the U.S. Coast Guard. The compact would participate as an "interested person in any rulemaking proceeding by the United States Coast Guard related to the establishment of safety standards for routes, crews and equipment for vessels transporting oil and hazardous substances. If the United States Coast Guard does not adopt the recommendations of the compact, the United States Coast Guard shall explain in writing, as part of the rule-making process the basis for its finding that the adoption of such recommendation would be inconsistent with the prevention of oil and hazardous substance spills." Further, the compact is placed in a pro-active position with respect to Coast Guard rule-making, having the authority to request rule-making for the establishment of safety standards for routes, crews and equipment for vessels transporting oil and hazardous substances. "If the United States Coast Guard does not initiate rule-making as requested

by the compact, the United States Coast Guard shall explain in writing the basis for its finding that the initiation of such rule-making would be inconsistent with the prevention of oil and hazardous substance spills." Sections were also added that gave the compact the authority to assess fees for the review of contingency plans, and establish a standardized cost-recovery formula for damages to other resources based on the amount of oil spilled. Further, the compact would establish a uniform level of financial responsibility to be provided to each member of the compact.

In addition to this change in the compact powers, language was "softened" with respect to the findings of the compact and the controversial clause saying that the compact would issue regulations "at least as stringent as" the OPA. This provision was changed to read to "consistent with" the OPA . Another amendment added "ocean resource management" to the list of issues of mutual concern that the compact would have authority to address. While this enhancement in the powers of the compact could turn out to be more significant than the compact's role with regard to oil spill prevention, Bradbury continued to down-play this aspect, choosing to continue the focus of the debate on the oil spill prevention portion of the bill. Because it was pretty clear that stripping the regulatory powers of the compact was a significant reduction in the power of the compact, the amendment to include ocean resources, in some way gave the compact back a little more power. Perhaps this was a trade-off in Bradbury's mind -- inclusion of "ocean management" offered a bit of an open window for future activities of the compact.

On March 14, Bradbury sent out separate memos to oil and shipping industry representatives and to the coordinating legislators, with copies of the substantially amended version of the compact. The memo to industry acknowledged the comments Bradbury received from the industry, and indicated that the draft amendments reflected "his intentions to meet many of the concerns of the industry while preserving as much of the original substance of the compact as possible." Bradbury also indicated that at the April meeting of

the Ocean Resources Committee of the Western Legislative Conference "we will consider adoption of these amendments and finalize the compact at that time."

Prior to the April meeting, Washington's compact bill passed through the House. The bill had been introduced simultaneously in both the House and Senate. The bill appeared to be sitting in the Senate Environment and Natural Resources Committee, Chaired by Senator Jack Metcalf, but was doing well in the House, under the direction of Representatives Nancy Rust and Bob Basich. The news that the bill had made it through the Washington House with a vote of 93-0 was great news to Oregon.

At the meeting of the Ocean Resources Committee, unanimous approval for the proposed amendments to the compact was given. Soon after Bradbury returned, a work session was scheduled in the Senate Agriculture and Natural Resources Committee. The bill had received an initial public hearing on March 1,but had not been acted on by the committee. In mid-April the committee unanimously adopted the amendments recommended to the compact, and as are all bills with a fiscal impact, sent the bill to the Ways and Means Committee, which Bradbury Co-Chaired. At this time, Bradbury also sent a memo to the Oregon Congressional Delegation describing the main features of the compact, and enclosed a copy of the hand-engrossed version of the bill.

While there was some substantial communication with California and Washington during the process of ratifying the compact in Oregon, most of the amendments to Oregon's bill were coordinated with Senator Sam Cotten's office in Alaska. One of Cotten's part-time staff, Ginny Fay, was working primarily on oil-related issues for Cotten, and had substantial knowledge of the issues. Calls came into Bradbury's office at least once a week from Fay with updates on the progress of Alaska's bill, and the comments from Cotten's committee, as well as copies of correspondence between Cotten and Harry Bader, Alaska Sea Grant, whose research paper on compacts had played a critical role in the formation of SB 500. In contrast with the amendment process with the Oregon legislation, which was done almost exclusively out of committee, it appeared as

though, in Alaska, the Senate Special Committee on Oil and Gas was taking a close and critical look at the compact legislation and was actively coming up with suggestions and amendments.

Fay sent a copy of a memo from Harry Bader to Senator Cotten to Bradbury commenting on the latest changes to the compact. The inclusion of "ocean management" had apparently concerned some people on Cotten's Senate Committee about the reduction of state sovereignty with other resources as well. Bader proposed including language in the bill explicitly stating that the compact would have no authority to "proffer regulations addressing resource allocation and management as it may relate to use and consumption (i.e. fish, kelp, ice, water, sea mammals, kelp, salt, ocean floor mining and dredging)." This suggestion was not incorporated, nor really discussed in Oregon.

Bader also addressed the change in the compact powers with respect to the Coast Guard rule-making. This amendment took care of a concern in Alaska about compact control over shipping lanes. Bader's commented that the compact's "elevated status" with respect to Coast Guard rule-making "...does not eviscerate the compact...This provision brings the compact into greater conformity with substantive compacts such as the Northwest Power Planning Council. These provisions mirror the APA, and are therefore nothing new in terms of substantive law. However, it is an advance in terms of the states' participation in the regulatory process for marine protection."

Bader also recommended that the definition of "vessel" in the compact be amended to make clear the exemption of vessels less than 5000 dead weight tons, consistent with the OPA. Bader said that "this is essential if we are to continue to provide both environmental protection and economic stability for remote costal villages." This issue was debated in Oregon by Bradbury. Bradbury was concerned that the legislation would not exempt barges such as the Nestucca which caused a considerable amount of damage in Washington. (There was a great deal of question over the technical terms for classifying vessels with respect to weight. "Dead weight tons" is a reference to the carrying capacity

of a vessel. However, for registration purposes, the vessels are measured volumetrically, in terms of gross tons. A vessel carrying 45,000 barrels of oil would be approximately 3332 gross tons (gwt) or 6800 dead weight tons (dwt). Apparently, the Coast Guard is in the process of changing the registration and measuring process.) In the OPA tank vessels over 5000 gross tons are exempt from double hull requirements until January 1, 2015. Perhaps there are additional provisions exempting vessels under 5000 gross tons. Regardless, Senator Bradbury felt that the compact was already consistent with federal law, and in addition, the compact allows for variances. The exemption of vessels under 5000 gross tons was not added for Oregon, with the understanding that Alaska could seek a variance for this if it wanted.

Two additional changes recommended by Bader were incorporated into Oregon's bill. The voting structure was changed from one vote per state to two votes, with the requirement that any action of the compact must include at least one vote from each state in the majority. Bader points out that not only does this increase the representational spectrum, it reduces "the potential for special interest capture of an entire delegation." Bader also recommended that the compact be clarified with respect to the use of the term "comprehensive" in the compact, "to reflect the idea of scope of regulation rather than stringency." The language Bader refers to read: "In establishing regulations ... the compact shall work closely with officials of the parties to ensure that the vessel contingency plans required under this compact are at least as comprehensive as similar plans required by the parties before adoption of this compact." Along the lines of Bader's suggestion, the language was amended in the Oregon bill to say that: "In establishing regulations ... the compact shall work closely with officials of the parties to ensure that the vessel contingency plans required under this compact include all subject areas included by the member parties, in the standards for vessel contingency plans of the parties, in aggregate, before the adoption of the compact."

These last changes to Oregon's bill were drafted as amendments in early May, and would be adopted by the Ways and Means Committee. A status check of all the compact states indicated that at this time, the bill would not be passed in California, Washington or Hawaii, although it would be a "two-year bill" in these states. In Alaska, a report from Ginny Fay said that the bill would be in "passable form" from the Senate Committee, but that it would, too, have to wait until the start of the next legislative session in Alaska which would be January, 1992.

In mid-May a memo came from Bruce Sutherland, Oil Spill Planning Coordinator for Oregon Department of Environmental Quality to Senator Bradbury. Sutherland was merely relaying information to Bradbury from the members of the States/B.C. Oil Spill Task Force after their annual meeting held May 1, 91 in Victoria, B.C. The States/B.C. Task Force had been one of the original proponents of regional oil spill legislation. However, Sutherland remarked that since the time of the recommendation, several things happened that alleviated the concerns that the interstate compact would have addressed. Sutherland wrote: "I have attached a Task Force staff discussion of the considerations and a proposed recommendation. In addition, British Petroleum of Washington came forward with a proposal at the meeting. I have attached a copy of the BP letter to the Task Force for your information as well." Sutherland summarized the major points agreed upon by the Task Force:

1. There is a proliferation of advisory committees.

2. The Task Force is already in place and functions in a coordinating role.

3. It would be more appropriate to modify the mission of the Task Force and give it the authority to perform the functions identified in the amended compact legislation.

The Task Force Staff Discussion listed the five major things that happened since the recommendation to form an interstate compact was made: 1. The passage of the Federal Oil Pollution Control Act of 1990. 2. Passage of Comprehensive oil spill prevention and response legislation in Alaska and California, with Oregon and Washington on the way. 3.

Task Force states are coordinating as much as possible on oil spill legislation. 4. Interstate Compact raises concerns about duplication with federal requirements, duplication of Task Force activities, possible pre-emption of state requirements, and funding. 5. The "Bradbury" amendments significantly changed the scope of the interstate compact.

Given these events, the Task Force Staff recommended that "the usefulness of the compact is not a key issue anymore. The Task Force should pursue some of the advantages of what a compact could provide (i.e. coordination between the States and British Columbia in development of regulations, ensuring requirements are as similar and consistent as possible, provide a unified input into the development of Federal regulations under the new Federal law, etc.)." (States/ B.C. Task Force. Memo. 1991).

The memo from British Petroleum began by saying that because they are the major producer of Alaska North Slope crude oil, they have "been very concerned about recent efforts to create a Pacific Ocean Resources Compact that would have formal jurisdiction over such areas as oil transportation, oil spill prevention and response planning, and ocean resources management." The letter continued: "BP continues to be opposed to a Compact that would be regulatory in nature and, in effect, create an additional layer of government authority between current state and federal levels, leading to potentially duplicative effort and cost. At the same time, however, BP feels that there is much to be gained from increased interstate/provincial cooperation and activity. As the States/ British Columbia Oil Spill Task Force considers its future form and activities, BP strongly recommends that the Task Force continue as a multi-state and provincial cooperative effort, modified as appropriate to focus on many of the issues raised in the Compact legislation." (States/ B.C. Task Force. Memo. 1991).

The letter from the Task Force and attached memo from BP were not well-received by Bradbury. The rejection of a Congressionally-approved compact by BP was nothing new for Bradbury. Similarly, a continued effort by an advisory body such as the Task Force to work toward unification of oil spill contingency plans would favor shipping and

oil industries, as it had from the beginning. The arguments made by BP and by the Task Force missed the major points of the compact legislation. First, the compact would work toward drafting regulations for vessel contingency plans that would not only be federal law because of the nature of a compact, but would replace state regulations. Thus, the compact would not duplicate federal and state efforts, nor would it amount to the creation of an additional layer of regulations between them. BP remarked that increasing the scope of the Task Force instead of creating an interstate compact would allow interstate coordination while allowing the states to retain sovereignty. This is a point to be made against compacts generally. In creating a compact, it is intended that each state would give up some amount of sovereignty, however, in return they are given more power in relation to the federal government. It is obvious that a major oil company would prefer to work with the states as states, than a compact with the authority of federal law.

The Task Force's point that the enactment of OPA 90 eliminates the need for the compact was rejected by Bradbury who saw the main functions of OPA 90 as dealing with liability issues and not the promulgation of rules and regulations that would further the prevention of oil spills. According to a summary of OPA 90 published by the Coastal States Organization in March, 1991, the oil spill prevention provisions of the federal law include measures such as: crew manning standards, vessel traffic service systems, drug and alcohol testing, double hull requirements. OPA also provides for "Preservation of State law, including common law...Nothing tn the OPA is to be construed as preempting any State's authority to impose 'additional liability or requirements with respect to' the discharge of oil or any removal activities. This preservation of State regulatory authority gives the states a free hand to implement design, construction, operation and maintenance requirements requirements for oil facilities; e.g. ports, harbors, tank farms, pipelines, refineries, etc. State regulatory authority over vessels, although limited by other Federal laws, remains unaffected by the OPA." (Coastal States Organization 1990). From this passage it would seem that much of the activities related to oil spill *prevention* are still in the

hands of the states, and coordination of these efforts under a compact elevating the state laws to the status of federal law would be beneficial.

The rejection of the compact legislation by the Task Force also suggested this group had other motives. Creation of the compact would, to some extent, would remove the need for the Task Force. Additionally, the Task Force consists mainly of the Directors of state agencies responsible for oil spill regulation and review. Quite likely, state agencies were uncertain of their role in the event that a compact body was formed that would itself take over the state agency responsibilities with respect to oil spill prevention. Along these same lines, there was concern that funding of the compact would amount to loss of state agency revenue, since they would be competing for the same state dollars, or competing for the ability to collect fees for the review and certification of contingency plans.

The memo from the BC/States Task Force left the impression that the Task Force had been "bought off" by British Petroleum. Whether this was true or not, it was already known that the oil industries rejected the call for a congressionally-approved interstate compact. The bond formed between BP and the Task Force, further reflected the benefits industry has in working with state agency-level regulators as opposed to the possibility of having to contend with a federal-level compact represented by state legislators. For the Task Force, there was more to gain in preserving their continued existence, and expanding its role by being given the authorities intended for the compact.

If anything, the opinion reflected in the memo served as yet another small catalyst in the push to get the compact legislation passed. The memo came at a time when, from the outside, it appeared that the compact was buried forever in the Ways and Means Committee, because it was most likely not going to move in the other states. The Task Force could have felt that with the compact idea potentially on the rocks, the suggestion to expand the role of the Task Force would be seen as a viable alternative to the failed compact. Nonetheless, Bradbury fully intended to get SB 500 passed in Oregon.

The next activity on the Oregon Senate Bill came on June 5. Senator Bradbury finally scheduled a work session for the bill in the Natural Resources Subcommittee of the Ways and Means Committee. $25,000 was allotted to the compact, in the event that other states ratify their compact bills during Oregon's interim. On June 14, the bill passed out of the full Ways and Means committee. On June 15, rules were suspended in the Senate and Bradbury carried the bill to the floor; it passed. On the 17th, the bill was on the desk of the Speaker of the House, had a first reading, and waited for assignment. By this point in the legislative session, standing committees were shut down, and the bill's assignment at this point was critical. The bill had not yet gone through a substantive committee in the House, and the options for the Speaker were to assign it to one of the two remaining committees, House Legislative Rules and Reapportionment or House Judiciary, not assign it at all, or send it back to Ways and Means, which as a joint House and Senate Committee would suffice in terms of review by a House Committee. Bradbury arranged to meet with Speaker Campbell, to discuss the compact, and explain its importance. This meeting turned out to be a quick conversation behind the Speaker's desk during a House floor session. Bradbury's talk was successful; the Speaker assigned the bill to Ways and Means.

Because it had already been through Ways and Means once, being sent back to Ways and Means was in this case a formality. Procedurally, either one of the Co-Chairs can pull a bill into subcommittee at this point, however, there was no need for further amending so the bill was signed by one of the Co-Chairs and sent out again with a "do pass" recommendation. The bill went to the House for a second reading, and on June 19, was on the third reading calendar, and was carried by Ways and Means Committee member Representative Shiprack on the floor of the House. The bill passed with 49 "aye" votes. However, Representative Greg Walden, Republican Majority Leader and Chair of the House Legislative Rules and Reapportionment Committee served notice of possible

reconsideration. The following day, the House reconsidered its motion and SB 500 was sent to Walden's Rules Committee.

Walden's move to pull the bill back into committee served two purposes. Walden wanted to amend the compact to say that the compact would only go into affect when three states ratify it, and it then seeks Congressional approval. The bill originally would have gone to Congress after only two states ratified their respective compact bills. The change to three states would at least make ratification more time-consuming, if not more difficult. It is likely that this amendment was suggested to Walden by Salem's BP Oil lobbyist, although this individual had not been active in previous hearings or negotiations on the bill. Walden's second motive in pulling the bill into the committee was most likely to gain leverage in terms of making a trade-off between the compact bill and a bill in the Senate Rules Committee that Walden wanted to have scheduled for a work session. Bradbury was also Co-Chair of the Senate Rules Committee, with Senator Frank Roberts, so it was relatively easy for him to arrange for Walden's bill to move out of the Senate Rules Committee. The compact and Walden's bill were both scheduled for a public hearing and work session on June 25. Bradbury briefly made a presentation of the compact bill to the Rules committee, and the bill passed out unanimously.

SB 500 was back on the floor of the House on June 26, carried by Carl Hosticka (D-Eugene). By this time, the House and Senate were in session all day, with some members being excused to attend committee work sessions. The third reading calendar in the House was still fairly long, and at about 5:30 P.M., the bill was read by Hosticka and passed with 49 "aye" votes (the 11 other members excused from the House at the time.) Two days later, the bill was repassed unanimously in the Senate, one day before the Legislature adjourned the 1991 Session.

E. Analysis of the Use of Information

The process to ratify SB 500 in Oregon was unique in comparison with other pieces of legislation. The negotiations and amendments took place largely outside the committee process, instead taking place in forums for regional negotiation, the Western Legislative Conference and the Pacific Fisheries Legislative Task Force. These forums were part of the legislative policy-making process, in the sense that the legislation concerned each of the Pacific Rim states, and a large part if not the most important part of the legislative process for the Compact involved negotiations among the players involved from each state, as opposed to negotiations within the Oregon process exclusively. From the standpoint of public involvement, the process to ratify SB 500 was perhaps not the most desirable. Although, as with any other piece of legislation, the opportunity for offering comments directly to Senator Bradbury , as opposed to voicing concerns or suggestions through the committee process, was still available to constituents.

A great deal of natural resources information was generated with respect to this piece of legislation, including social, political and technical information. The BC/States Task Force provided a lot of background preparation, despite ultimately turning against the compact idea (*See* Sutherland memo.) Legal information was provided indirectly in reports prepared for ARCO by a Washington D.C. law firm. Technical information was communicated to Senator Bradbury by Bruce Sutherland and other DEQ staff on the specifics of a natural resource assessment matrix to be used to determine the extent of environmental damage in the event of a spill. In addition, numerous memoranda were sent to Senator Bradbury offering suggestions for bill language as well as personal opinions of the legislation. It is also important to note that a large part of the natural resources information which motivated the creation of the Compact and which helped pass the bill in Oregon was *implicit* rather than explicit. That is, information on the environmental effects of an oil spill had already been transmitted to policy-makers by the media in the aftermath

of the *Exxon Valdez* oil spill and further communication of information about the problem the legislation was to address was not necessary.

Another aspect of the use of natural resources information in the Compact is found within the content of the bill itself. Article I of the bill, Findings and Purpose, reflect scientific knowledge of ocean ecosystems. Language in the findings states that the common interest of the Compact parties is a result of: "[t]he fluid, dynamic ocean currents and atmospheric winds that carry pollutants beyond one party's coastal area to another" and "[t]he migratory nature of many important living marine resources that depend upon the marine habitats of various parties for different parts of their lifecycle." (SB 500, Article 1, 1991). Further, the findings reflect the results of "recent studies" which come from the States/BC Task Force Report:

> "Recent studies in the wake of major accidental releases of oil or hazardous substances have concluded that the existing system of response to spills could be improved in the following ways to provide better protection of ocean resources: (a) Enhanced personnel training and qualifications; (b) Improved vessel design and integrity; (c) Better mechanisms for cost recovery by the states or the province; (d) Improved coordination in regulatory oversight; (e) Enhanced traffic management; and (f) An improved information base dealing with marine and coastal environments." (SB 500, Article 1, 1991).

The compact also incorporates the use of technical and advisory committees "for the purpose of advising the compact on regional ocean resources issues, data needs and format and other purposes related to the compact's activities." (SB 500, Article 5, 1991). Oregon has established a precedent for the use of technical committees in Ocean management as in the legislation creating the Ocean Management Task force which drafted the Oregon Ocean Management Plan. (LCDC 1991).

Senator Bradbury served as both the information expert on the compact, and as the chief political sponsor of the bill. That Senator Bradbury had the leadership positions of Senate Majority Leader and Co-Chair of both the Ways and Means Committee and the Senate Rules Committee, made him highly effective in steering this legislation through the

legislative policy-making process. Bradbury's chief sponsorship of Oregon's ocean management legislation in 1987 linked him with ocean policy legislation generally, and this legislation was seen as another ocean issue in which Oregon would be taking the lead. As mentioned earlier, ocean issues have broad-based legislative support in Oregon. Support for ocean legislation by any one individual legislator is generally not risky in terms of alienating constituent support; to the contrary, a legislator voting for the compact would likely get points on an "environmental scorecard."

Another success factor is that with the exception of coastal legislators, ocean issues are probably seen by most Oregon legislators as fairly remote, geographically and politically. The lack of information on the compact, primarily in terms of structure and implementation was also not an issue, probably also because of the lack of immediate identification by legislators with the issues the compact addresses. Further, the risk of voting for the bill was also low, despite any "unknowns" or doubts on the part of legislators as to how the compact would work, or whether there was a need for an interstate compact. Because Oregon would be the first to ratify the compact, the compact would still require two additional states to ratify the bill before the process of congressional approval could begin. Thus, the "remoteness" factor in combination with the "low risk" factor likely increased the bill's chance of passage.

The next case study focuses on a bill which was not successful during the 1991 Legislative Session: the Streamflow Restoration and Water Conservation Act, SB 1163. In comparison with SB 500, SB 1163 illustrates a different use of the legislative process, as well as a different use of technical and non-technical information in the legislative process.

CHAPTER 6: STREAMFLOW RESTORATION AND WATER CONSERVATION ACT (SB 1163)

A. Introduction

In 1987, the Oregon legislature passed the Instream Water Rights Act, providing a mechanism for increasing the amount of in-stream water flow needed for fish and wildlife habitat and recreational interests in contrast with traditional water uses which have mostly focused on out of stream withdrawals. In 1991, the Oregon environmental group Water Watch introduced legislation designed to speed up the process of putting water back in stream which was established by the 1987 legislation. This bill, the Streamflow Restoration and Water Conservation Act, SB 1163, was ultimately unsuccessful. However, the analysis of this legislation, including the role of information, and an analysis of the current framework in the state for managing instream water rights will be useful in the future as Oregon looks at issues such as endangered fisheries and fish habitat and watershed management generally.

B. The Water Cycle

In an overly simplified water cycle, input from precipitation and atmospheric moisture is balanced by evaporation, infiltration to groundwater, and surface flow from rivers and streams to the ocean. In addition to the natural water cycle, other factors act to take water out of streams, including diverting water for irrigation, manufacturing, steam electrical generation, and domestic and municipal uses. Since 1955, Oregon has had legislation requiring a minimum perennial stream flow to remain in the water basin.

Examples of instream water uses are hydroelectric power generation, support of aquatic life, navigation and waste water treatment and dilution. These instream activities utilize water without removing it from the source of flow. Out-of-stream uses are

withdrawal and consumption of water out of the stream channel or the groundwater aquifer through which it naturally flows.

In addition to stream-flow concerns, groundwater depletion is a serious problem. As a consequence of low water tables and reduced stream-flows, problems such as saltwater intrusion into aquifers, increased threat of other aquifer contaminants, land subsidence, interference with drainage and sewers, and an increased threat of flooding are possible. (From America's Water: Current Trends and Emerging Issues; The Conservation Foundation, Washington D.C.; 1984.) Lowered freshwater flows into estuaries also impact the estuarine ecosystem.

C. Oregon Water Code

Oregon water laws were enacted in 1909. These 1909 laws provided a procedure for making water rights determinations and keeping records for surface water rights of the state that had been initiated prior to February 24, 1909. These were called vested water rights. Until 1880, Oregon courts followed a modified riparian rights doctrine, in which riparian land owners are allowed reasonable use of water adjacent to their property and a lower riparian owner "can have action for money or injunction if they can show unreasonable use or damage to their rights." (Kaufman 1992). In 1880, the Oregon Supreme Court in Lewis v. McClure, 8 Or. 293 (1890), held that riparian water rights were subject to prior appropriated uses of the water. In 1909, Oregon formally adopted the appropriation system in the "1909 Water Code." (Kaufman 1992). The "Doctrine of Prior Appropriation" is known throughout Western water law: "First in time is the first in right," given that the water has been used in a beneficial manner. (WRD 1989).

With respect to water rights, Oregon's water code centers on four major premises: 1. Surface or groundwater may be legally diverted for use only if used for a beneficial purpose; 2. The more senior the water right, the longer water is available in a time of shortage; 3. A water right is attached to the land where it was established, as long as the

water is used; if the land is sold, the water right goes with the land to the new owner; and 4. A water right is valid as long as it is used at least once every five years; after five consecutive years of non-use, the right is considered forfeited. (WRD 1990 a).

However, there are some uses of water that do not require water rights. These are called "exempt uses". Exempt uses of surface water include the landowner's use of a spring which does not naturally flow off of the property from which it comes from. Stock watering is also an exempted use if it comes from a surface source which has not been otherwise changed. Salmon and Trout Restoration and Enhancement Program (STEP) egg incubation activities are also exempt.

In a dispute over whose right to appropriate water will be honored, several issues are crucial. The most important factor is the relative date of priority -- who was granted the water right first. Other considerations are the quantity of water appropriated and the use to which the water has been applied. Also significant in the dispute, is the land to which the water is appurtenant.

The Water Resources Department makes "findings of fact" and "orders of determination" which are finally upheld or modified by the circuit courts. Vested rights on small streams flowing into the Columbia River, and all streams flowing directly into the ocean, except the Rogue River remain undetermined. 1987 Law required a registration statement of claim to an undetermined vested surface right be filed with WRD before December 1, 1992.

D. Existing State Laws and Policies

1.Instream Water Rights

The 1987 Legislature created a state instream water right program through Senate Bill 140. Instream water rights can be obtained in three ways: 1. SB 140 required the Water Resources Commission to convert existing minimum streamflows to instream water

rights. (Instream water rights are different from minimum stream flows in that they cannot be waived by WRC during a time of water shortage.) 2. The Oregon Department of Fish and Wildlife, and Department of Environmental Quality, and Parks and Recreation Department may request instream water rights from the Commission. 3. Conserved water may be converted into an instream water right. (Kaufman 1992). Provisions from SB 140 have been codified into ORS 537.332 through ORS 537.550 (1991).

Under Oregon statute, instream water rights are held in trust by the Water Resources Department for the benefit of the people of Oregon. Public uses are broadly defined to include conservation, maintenance and enhancement of fish and wildlife and aquatic life, fish and wildlife habitat and any other ecological values. Public benefit also includes recreation, pollution abatement and navigation. Public benefit means a benefit that accrues to the public at large rather than to a person, a small group of persons or to a private enterprise. ORS 537.332 (1991).

All existing minimum stream flows are to be given the status of instream water rights by the Water Resources Commission. ORS 537.346 (1991). The statute also establishes a process for reserving water for future out-of-stream use for economic development. Any state agency may request the Water Resources Commission to reserve unappropriated water for future economic development. ORS 537. 356 (1991). Review of the application shall be conducted at the time of the reservation and at the time the reserved water is applied to consumptive or out-of-stream uses. ORS 537.358 (1991).

The three state agencies directly affected by the legislation are the Oregon Department of Fish and Wildlife (ODFW), the Department of Environmental Quality (DEQ) and the Parks and Recreation Department (PRD). ODFW has the authority to request certificates for instream water rights in which there are public uses relating to the conservation, maintenance and enhancement of fish and wildlife or fish and wildlife habitat. DEQ may be granted a water right to protect and maintain water quality standards.

PRD may request a certificate for instream rights to state waters in which there are public uses relating to recreation and scenic attraction. ORS 537.336 (1991).

Oregon statute allows a person to purchase or lease an existing water right or portion of a water right, or accept a gift of a water right for conversion to an instream water right. Any water right purchased pursuant to the 1987 Act will retain the priority date of the water right purchased, leased, or received as a gift. Any person may lease an existing water right for use as an instream water right for a specified period without losing the original priority date. ORS 537.348 (1991).

An important part of the 1987 legislation was its emphasis on water conservation and the conversion of conserved water into an instream water right. Conservation is defined under the statute as "the reduction of the amount of water consumed or irretrievably lost in the process of satisfying an existing beneficial use achieved either by improving the technology or method for diverting, transporting, applying or recovering the water or by implementing other approved conservation measures." ORS 537.455 (1991). It is the state policy to "encourage the highest and best use of water by allowing the sale or lease of the right to the use of conserved water." ORS 537.460 (1991). A water right holder may submit a conservation proposal to the Water Resources Commission, indicating the amount of water currently used and the amount expected to be conserved through adoption of conservation measures. If the Commission grants the application, 75% of the conserved water is allocated to the applicant, and 25% will be allocated to the state. The Commission may find that more or less than 25% is appropriate to allocate to the state depending on such criteria as the source of funding the conservation project, the instream needs of the affected waterbody, the existence of a critical ground water area, provisions of an applicable basin plan. ORS 537.470 through ORS 537.480 (1991). The priority date of the right to the use of conserved water is "one minute after the priority of the water right held by the person implementing the conservation measures." ORS 537.485 (1991).

The bill also specifies that the use of state waters for multipurpose storage or municipal uses, or by a municipal applicant for a hydroelectric project, shall take precedence over an instream water right with review by the Commission, except if the instream water right was converted from minimum stream flow requirements, or resulted from a lease or transfer of an existing water right. ORS 537.352 (1991).

Kaufman (1992) has summarized some of the concerns about the effectiveness of the present instream water right laws. The findings state that: "an instream water right does not diminish the public ownership of the waters of the state, nor does an instream water right take away or impair any permitted, certificated, or decreed water use right vested prior to the date of the instream water right. ORS 537.334 (1991). During times of water shortage, "senior water right holders claim their entire allocation . . . cutting off the more junior instream rights." (Kaufman 1992). At the beginning of the 1991 legislative session, only ODFW had applied for instream water rights. PRD and DEQ were still in the process of drafting rules to implement the 1987 legislation. Factors such as these prompted the introduction of SB 1163 in 1991.

2. State-wide Planning Goals

Oregon's State-wide Planning Goals (LCDC 1991) provide standards and guidelines for developing local county and city comprehensive plans (LCP). State agencies and programs must also be consistent with these goals, and must be coordinated with LCP's. The Department of Land Conservation and Development performs an oversight role with respect to this planning. The underlying assumption behind state-wide land-use planning is that land and uses of the land represent certain public goods and values that the state holds in trust for the people. In this program, the state has taken a role in allocation of land resources to the extent that local governments must comply with statutory goals, with respect to the public's participation in the planning process, conservation, development and other issues. The Statewide Planning Goals attempt to address land use planning as a

whole so that the public values and uses such as open space and wildlife habitat will not be lost to development.

Several of the Goals require incorporation of water management into LCPs. The coordination provisions of the goals require that special district and state agency programs "must be consistent with the related county plan, and vice versa." (DLCD 1990). Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources, and Goal 6: Air, Water and Land Resources Quality, call for the incorporation of water resources concerns into LCPs. Goal 5 directs that LCPs "conserve open space and protect natural and scenic resources." It also mandates inventory of the "location, quality and quantity" of resources such as "fish and wildlife areas and habitats", "potential and approved federal wild and scenic waterways and state scenic waterways", and "water areas, wetlands, watersheds, and groundwater resources." Goal 6 states that LCPs must "maintain and improve the quality of the air, water and land resources of the state." With respect to water quality, this means that wastes and discharges from development shall not "threaten to violate, or violate applicable state or federal environmental quality statutes, rules and standards." (DLCD 1990).

Goal 16 (Estuarine Processes) and 17 (Coastal Shorelands) deal only with the coastal zone. Goal 16 mandates that LCPs "recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop and where appropriate restore the long-term environmental, economic and social values, diversity and benefits of Oregon's estuaries." Goal 17 states that the "management of these shoreland areas" be "compatible with the characteristics of the adjacent coastal waters." "Shoreline" is defined as "the boundary line between a a body of water and the land, measured on tidal waters at mean higher high water, and on non-tidal waterways at the ordinary high-water mark." Thus, both the coastal waters and coastal rivers and streams are dealt with in LCPs. (DCLD 1990).

According to these four planning Goals: 5, 6, 16 and 17, Oregon's water resources and fish and wildlife habitats were to be inventoried with respect to quality, quantity and location; and were to be protected from pollution and coordinated with plans for the adjacent lands. All jurisdictions in Oregon have developed their plans and had them "acknowledged" as consistent with the goals by the DLCD.

3. Basin Planning

Oregon is separated into 20 different drainage basins, including three for the North, South and Mid Coast regions. In 1987, the Water Resources Department created a Resources Management Division which is to "develop, coordinate and integrate state programs and policies; conduct investigations into the characteristics and uses of ground water and surface water; and conduct contested case hearings." In 1988, the Water Resources Commission approved modification of the basin-by-basin planning system, and adopted "a new state-wide water policy element." (WRD 1987-88). The basin planning process continues with the added element of state-wide water policies, similar to the land use planning Goals.

4. Strategic Water Management Group

In 1987, the State Legislature created the Strategic Water Management Group (SWMG). The 14-member group consists of the following members or their designee: The Governor; the Director of the Executive Department; the Director of the Department of Environmental Quality; the Water Resources Director; the State Fish and Wildlife Director; the Director of Agriculture; the Director of the Department of Energy; the Director of the Department of Land Conservation and Development; the Director of the Division of State Lands; the State Forester; the State Geologist; the Assistant Director of the Health Division of the Department of Human Resources; the Director of the Parks and Recreation Department; the Director of the Economic Development Department.

In addition to coordinating the activities of the natural resources agencies with respect to water resources, originally one of the primary functions of SWMG was to monitor hydroelectric power projects pending before the Federal Energy Regulatory Commission. In addition, SWMG would work toward establishing a "comprehensive plan for improving, developing and conserving Oregon's waterways." The elements of the plan include "all state statutes, interstate compacts and constitutional provisions establishing policy for or regulating waterways, water use and fish and wildlife...all state agency rules, policies and plans related to the use or management of waterways in Oregon... all local comprehensive plans... insofar as the plans govern the use or management of waterways in Oregon..." and "all appropriate state agency or local government water-related data, inventories of river basin resources and evaluations of the anticipated demands for these resources." The comprehensive plan represents the "state's planning to improve, develop and conserve Oregon's waterways; the needs and uses of all Oregon rivers; and the state's own balancing of the competing uses of Oregon waterways." (Oregon Water Laws. 1991).

The Water Resources Department, through the Resource Management Division, and SWMG are working on a Biennial Water Management Program to "[identify] the priority actions and roles of state agencies on 12 topics: Watershed and Riparian Management; Water Conservation/Drought Planning; Water Quality; Water Allocation; Ground Water Management; Water Management for Fish; Dams/Reservoirs; Hydropower Development; Near-Shore Ocean Resources; Wetlands Management; Financing Local Infrastructure; Land-Use and Water-Planning Coordination." (WRD 1987-88). The 1991-93 Biennial Water Management Program report is presented by the Water Resources Commission in cooperation with SWMG. For each of the 12 topics, a status report is given.

As opposed to the creation of a new agency or council to direct management of water resources, SWMG represents the "enforced" coordination of existing avenues of

water management -- natural resource agencies, state and local government information sources and data bases and local comprehensive plans.

E. Action in the 1991 Legislative Session; SB 1163

1. Overall Purpose

Senate Bill 1163, sponsored by the Senate Committee on Water Policy at the request of Water Watch of Oregon, was to establish the Streamflow Restoration and Water Conservation Act.

The bill declared an emergency for the purposes of restoring Oregon's fishery resources. The need for this legislation was based on findings that in some rivers and streams a sufficient quantity and quality of water has not been protected for the public and that past mismanagement of Oregon's water resources is one of the major contributors to the decline in salmon, steelhead and other fishery resources. Further, the bill found that over-appropriation of Oregon's streams has destroyed essential spawning and rearing habitat for salmon, steelhead and other fish species, and unless action is taken immediately to restore streamflows in public waterways, this resource will be destroyed.

The bill went through several extensive revisions. The original draft, which called for considerable involvement on the part of the Water Resources Department and Commission, had a fiscal impact statement of over $4 million. Revisions to the bill focused on essentially eliminating this fiscal impact and coordinating the efforts of several prominent water user groups.

2. Provisions of the Bill

The volunteer Strategic Water Management Group, SWMG, established by the 1987 legislature, was responsible for all the provisions of the bill. Under the bill, all water right holders would have been required to reduce waste to a minimum. SWMG would also

have been authorized to create a river basin authority in each river basin, or sub-basins as necessary to implement the Streamflow Restoration Plan. The volunteer basin authority will have seven members, five of whom reside in the river basin or sub-basin, or have a substantial water right there, and two of whom represent the general public's use of water.

The basin authority members would have been appointed by the Governor, considering recommendations from local governments and citizen organizations, with the intention of achieving a balance of interests and user groups. No compensation was to be given to the members on the authority. The role of the local authority is to participate with SWMG in developing the state-wide plan, and assist in implementing the plan after adoption.

A River Basin Authority would have developed a basin plan, which includes an inventory of the surface and groundwater resources in each river basin or sub-basin showing water use, availability of unappropriated water and shortfalls of water for public uses and other beneficial uses, develop and implement watershed and riparian zone restoration and enhancement projects, identify multipurpose sites and the need to protect such sites for future development, coordinate activities of federal, state and local interests so the objectives of the Streamflow Restoration and Water Conservation Plan are implemented.

A later version of SB 1163 provided for a citizen to take action against an individual who is violating water rights. Money recovered from the imposition of fines or civil penalties would be directed to the Fish Screen Account in ODFW. No action can be taken against a water right violation if the state is "diligently pursuing" an administrative order to enforce the requirement concerned. In the civil suit provisions, the goal is to capture major violations of the permit process or water use so as to bring a civil suit, but at the same time not be so strict as to bring suit for small technical errors.

Under the bill WRD was to coordinate all agency requests for instream water rights on the same stream reach. The measure would also make statutory language similar to the

memorandum of understanding now underway between the WRD and ODFW exempting domestic and livestock water rights of a cumulative total of up to one percent of the current average available streamflow for the lowest month of the year, even after an instream water right has been established.

The measure also would have amended language in the current instream laws to mandate application for instream water rights by ODFW, DEQ and PRD. Additionally, the bill states that any requests that have not been made shall be made as soon as this Act becomes effective. The instream water rights will not exceed the estimated average natural flows, except where periodic overflows are significant for public use.

The bill also stipulated that without exception, WRD will reject an application for out-of-stream water use if the this will result in over-appropriation of the waterway, or allow water waste. A water right owner may submit to WRD plans to make improvements, or implement conservation measures, and make application to use this conserved water out of stream. The applicant can provide a map of the area and a statement of use of the conserved water and the applicant need not provide a report made by a certified water rights examiner.

F. Policy Analysis

1. Background

In March of the 1991 legislative session, Jay Rasmussen and I met with Martha Pagel, the Governor's Natural Resource Assistant, and Dave Riley, Pagel's assistant. The purpose of our meeting was to bring up the instream water right issue as one that was of concern to local coastal governments, and explore the possibility of getting help from the Governor's office in having the directors of natural resource agencies participate in OCZMA's conference. It was clear that despite a major interest in the part of Pagel and Riley, instream water rights were not on the Governor's legislative agenda. Ultimately,

trying to organize agency directors and legislators for such a conference during the legislative session was unsuccessful.

2. The Players

One of the first things to look at when assessing the legislative process to enact the Streamflow Restoration and Water Conservation Act (SB 1163) is who the players were. On the legislative side, Senator Larry Hill (D-Eugene), the Chair of the Senate Water Policy Committee essentially took on the instream water right issue as one of his major focuses for the 1991 legislative session. Minor legislative participants were Representative Chuck Norris (R-Hermiston), Chair of the House Water Policy Committee, and Representative Dave McTeague (D-Milwaulkie), for whom fisheries issues are high on the legislative agenda. The Senate Water Policy Committee Assistant, Lisa Zavala, was responsible for coordinating all amendments between the players and legislative counsel.

WRD played a relatively minor role with the bill, although the Department's actual participation in the water management structure being established by the legislation was considerably lessened by the time the bill reached final form. Beverly Hays, the Public Information Officer for WRD, served as the legislative liaison on water issues generally, and represented WRD's views during committee hearings on the bill.

Tom and Audrey Simmons, Directors of Oregon Waterwatch, represented the "instream" and environmental interests and were major promoters of the bill, which was drafted on their behalf. I was told by a staff person that one reason for the bill's failure was the lack of leadership by Water Watch's Tom Simmons. Although he had a lot of enthusiasm and ability to generate ideas, his constant redrafting and presenting of often entirely new 30-page versions of the bill at committee hearings, without having worked on the changes with other interest groups, isolated him from others.

The Oregon Water Resources Congress represented primarily out-of-stream water users, such as irrigators, and other agricultural interests, and was another major player in

the legislation. The attorney for Water Resources Congress -- Kip Lombard -- was a former state representative from Ashland. During the last hearing on the bill in the House Rules Committee, Lombard talked about the reasons the WRC was willing to come to the table on this issue. Primarily, it was the anticipation of a ballot measure to restore Oregon's declining fisheries through similar conservation methods, which propelled WRC to cooperate with a legislative process that would more likely result in a better outcome for the irrigation community than a ballot measure might.

While most of the major conflicts within the bill centered on water conservation interests and the agricultural community, the Association of Oregon Cities and the Association of Oregon Counties also had considerable impact on amendments made to the bill; they sought to maintain some form of exemption for municipalities, who also have an interest in appropriating water out-of-stream.

SB 1163 had a difficult time getting out of the Senate Water Policy Committee. There were major concerns about the impact the bill would have on the agricultural community, as well as, at least initially, severe funding constraints. The bill that passed the Senate focused on implementation by the Governor's Strategic Water Management Group rather than WRD, thus reducing WRD's projected fiscal impact of $4 million dollars, had they been implementors of the bill. In addition to providing incentives for saving instream water through conservation and improved withdrawal efficiency, the bill contained a civil suit provision that many in the agricultural community were opposed to. Another difficulty the bill had was the fact that the bill did not greatly involve the Governor's office. As opposed to the process guiding HB 2244, pertaining to cyanide heap leach mining, which Martha Pagel facilitated, or the Oil Spill Contingency Planning legislation which the Governor supported in her budget, the fate of SB 1163 rested solely in the hands of Senator Larry Hill.

The bill did pass the Senate and was eventually scheduled a hearing in the House Rules Committee. By this time, the standing committees were shut down. On the House

side, the bill was "stuffed" with eight House Bills that did not get a hearing on the Senate side. Despite testimony in support of the bill from counties, municipalities, WRD, Water Resources Congress and Water Watch, the bill did not make it out of the House Rules Committee. The bill was still not supported by the Oregon Farm Bureau, and this may have generated pressure from House Speaker Larry Campbell to let the bill die in committee.

3. Practical Obstacles

The efforts represented by the Streamflow Restoration and Water Conservation Act (SB 1163) during the 1991 legislative session can be construed as an attempt to speed-up the goals already addressed in statute towards the ends of achieving water conservation through a state-wide water management plan. Under SB 1163, SWMG would have coordinated the "resources of member agencies" to develop a state-wide Streamflow Restoration and Water Conservation Plan (Water Conservation Plan or Plan) by July 1, 1993. In addition, SWMG would develop a state-wide response to federal or state listing of endangered species. These two activities in and of themselves are critical for the state to address at this time, given both persistent drought conditions and the proposed listing of several species of anadromous fish in the Columbia River. Perhaps they should have been pulled out of SB 1163 and placed in a new bill which might have had a better chance of passage. That they remained in the bill, however, possibly contributed to the list of supporters of the bill, and reflects the necessity for legislation to have a broad base of stakeholders -- those with something to gain from a portion of the bill -- in order to strengthen chance of passage.

The major intention of the bill was to develop incentives to current out-of-stream water users to conserve water, and thereby increase water for instream uses such as fisheries and recreation. SWMG had been given the authority to create river basin authorities in each river basin or sub-basins in order to implement the Water Conservation

Plan. The authorities would have had the additional authorization to "develop and implement watershed and riparian zone restoration and enhancement projects; identify multipurpose storage sites and the means of protecting such sites for future development; identify all available stored water of each river basin or sub-basin of this state that have not been contracted for and determine the cost and process of acquisition of the waters as necessary to support public and other uses; coordinate the activities of the river basin authority with the activities of federal, state and local interests to implement the objectives of the state-wide Streamflow Restoration and Water Conservation Plan; and identify sources of funding to carry out the provisions of the basin and sub-basin Streamflow Restoration and Water Conservation Plan." (SB 1163; 1991).

With respect to instream water right legislation already in the 1987 statute (SB 140), SB 1163 would have made changes by mandating that ODFW, DEQ and PRD "shall" make requests to WRD for instream water rights, rather than that they "may" request these rights. The bill made use of the existence of instream water rights, and other provisions such that water must be used efficiently to leave water in-stream. Under SB 1163, the Water Resources Commission (WRC) would have required all water right holders to reduce waste to a minimum and, with the exception of municipalities, the state would have transferred water recovered as a result of improved efficiency to an instream water right. The WRC would have required all out-of-stream water right holders to measure the rate of water they divert and report water use annually by January 1, 1999. Failure to make an annual report for five consecutive years could be grounds for forfeiture of water rights. Such a clause is an attempt to regain some of the vested water rights, which have priority over all other subsequent water rights.

SB 1163 made additional provisions to keep water instream by creating incentives to conserve. The holder of an existing water right would be entitled to a percentage of the water gained through conservation; in addition, fifty percent of the conserved water would be established as an instream water right. This is double the amount going to the state

under current instream water right law upon approval of a conservation plan. In addition, if a water right holder applies to the WRD to transfer their right to a new use or location, the state will allocate fifty percent of the requested amount to an instream right. (Kaufman 1992).

4. Fiscal Impact

Perhaps the biggest impediment to the passage of SB 1163 was its fiscal impact. While the total cost of implementing the requirements of the bill would have been $356,774 during the 1991-93 biennium, the projected impact for the fiscal years 1993-95 were over $4 million. The fiscal statement explained that the 91-93 expenditures reflect the cost to WRD of developing the state-wide conservation plan, including four new positions -- two part-time engineers and two full-time planners. The 93-95 costs reflect WRD's estimate that between 18 and 20 basin authorities would be created, although the bill does not require them. WRD estimated that support staff for all basins would amount to ten positions; in addition, "a net of 22 watermasters" would be needed to enforce the requirements of the state-wide plan for each authority. It is not clear whether the Department considered that the creation of the new basin authorities would require additional Watermasters on top of those for the existing basins in the state, but the fiscal impact statement appears to say this. DEQ estimated that their costs for the 1991-93 biennium would be $113,231 which would cover an additional staff person plus related expenditures. ODFW stated that the impacts on the department for the 91-93 biennium would be minimal, but that for the following biennium they would be "indeterminate."

5. The Politics

In what turned out to be a final attempt to reach an agreement on the Streamflow Restoration and Water Conservation Act, the House Legislative Rules and Reapportionment Committee held a public hearing on SB 1163 in late June 1991. The bill

was presented in a substantially different form than had been passed by the Senate a week earlier, with the inclusion of seven House Bills that had passed the House but were not scheduled a hearing in the Senate Water Policy Committee.

Representative Chuck Norris (R-Hermiston), Chair of House Water Policy Committee, gave the introductory remarks to the Committee, describing his position on the bill as one of "strained neutrality." When asked by Representative Carl Hosticka (D-Eugene) if the bill held together in one piece or whether it was a collection of pieces, Representative Norris replied, "Well, they're all relating to water." The discussion continued from there.

Bob Hunter, the attorney for Water Watch, and Water Resources Congress attorney, Kip Lombard, were involved in the negotiating and drafting of the final version of the bill. Water Watch supported the final bill, which according to Tom Simmons of Water Watch, originated conceptually last session but died in Ways and Means. According to Hunter, the bill went far in providing incentives to farmers and fishermen to work together to conserve water resources.

Lombard provided some insight as to why Oregon Water Resources Congress was involved in the extensive negotiation process: "What other than the spotted owl has dominated the headlines in recent times? The drought, fish resources in the Columbia River," Lombard said. "Oregonians like their water, they like it instream, they don't particularly like dry streambeds. How do you think the majority of the voters would vote on a measure that would put water instream?" Lombard asked rhetorically. "Most of my irrigator clients recognize that there are changes in the wind—brought on by drought and public pressure."

Lombard expressed that the final version of the bill would have been "workable" without having enthusiastic support from the irrigation community. Lombard also said that the definitions of efficient water practices in the bill were not too far from today's practices. "This measure would push irrigators a little further a little faster."

Other endorsements of the bill came during the public hearing that day, June 21. Tom O'Connor from the League of Oregon Cities endorsed the bill as amended. Water Resources Department was also supportive in theory, although they had not had much time to review the amendments.

Leading members of the agricultural community did not testify at that hearing, although apparently the bill did not yet meet their concerns. SB 1163 remained in the House Rules Committee upon adjournment of the 1991 Legislative session, possibly due to the instructions of Speaker of the House, Larry Campbell, whose Lane County constituency includes agricultural interests.

G. Analysis of the Use of Information

The creation of instream water rights in 1987, converting minimum streamflow requirements into instream water rights, makes it difficult to access water for out-of-stream appropriations in many of the state's rivers. In times of drought, many waterbodies around the state do not always meet the minimum stream flow requirements; additionally, many waterbodies are important to anadromous fish which might need additional habitat protection in the event of endangered species designations. Local governments in Oregon are just now realizing that the establishment of instream water rights will make future development more difficult. Further, with state agencies only now approving administrative rules with respect to the 1987 creation of instream water rights, and the role of SWMG still being developed in 1991, uncertainty and lack of information were two of the biggest obstacles SB 1163 faced. Interestingly, a comment by a DEQ staff person in a memo on the 1987 Instream Water Rights Act said, however, that lack of information and ignorance about the impact of the legislation among legislators were probably the primary reasons why SB 140 passed in 1987. The legislators representing agricultural concerns and the water users themselves were perhaps more informed in 1991, but still adjusting to the impacts of the 1987 legislation.

The comparative legislative processes of SB 1163 and SB 500 illustrate the importance of having legislation steered by a key policy-maker -- either a legislator or an executive branch policy-maker. This factor is reflected in the Kingdon (1984) model, pointing out the necessity of "problem recognition" by an influential policy-maker for the successful creation of related policy. While SB 500 had the attention and determination of Senator Bradbury behind it, SB 1163 was steered by a relatively less-influential legislator, Senator Hill. Additionally, the fact that the final version of SB 1163 resulted in a major piece of water policy legislation without formally involving the WRD, which is responsible for the coordination of state water resources policy (ORS 536.220), it is not surprising that the bill did not generate the enthusiasm of the executive branch.

Another comparison between SB 500 and SB 1163 which may be linked to the success of the one and failure of the other is reflected in the different levels of coordination and communication among legislators, and between the legislative and executive branch required of each bill. As discussed earlier, the process to ratify SB 500 took place largely outside the Oregon legislative process. SB 500 did not involve a great deal of coordination between the bill's chief sponsor, Senator Bradbury, and other legislators. Likewise, the "remoteness" of the compact's potential impact, even for the state agencies most directly affected -- DEQ (oil spill response) and DLCD (ocean management) -- meant that coordination between Bradbury and the executive branch was also not especially critical to the bills success. In contrast, SB 1163 was a fairly high profile bill in the committee process. Water allocation issues are sensitive with many legislator's constituents, and thus, there was a lot of interest among legislators and concern over changing Oregon's recently implemented instream water right laws. Further, whether formally included as the bill's implementing body or not, WRD would have been impacted by the legislation, and thus, the bill may have seen success had it involved the coordination of WRD and the governor's office throughout the policy-making process. This could have been achieved

through better communication between all interested parties prior to the legislative session, as had been going on with the Ocean Compact issue.

In contrast with SB 500, the legislative process involving SB 1163 did not involve a great deal of natural resources information. As with SB 500, a lot of technical or scientific information related to the bill was assumed to be a given by the players working on the bill. The amendment process focused on those parts of the bill outlining the structure of the water basin authorities, and how to incorporate SWMG where the bill had originally called for participation of WRD. Because the Water Resources Department did not play a major role with the bill, one of the greatest sources to legislators of technical information was essentially missing by design. Another reason why more natural resources information was used in conjunction with SB 500, is that there was less political negotiating to be conducted with respect to that bill as opposed to SB 1163, and thus more time for communicating information of a non-political nature. This suggests, consistent with the agency survey results, that information will be given when there is time for it (i.e. "timing is everything.") Thus, the amount of non-political information used during the legislative process will vary with the particular bill and how much political support it has going into the session.

CONCLUSION

The results of my case studies have led me to conclude that although there is some dissemination of technical and non-technical natural resources information pertaining to pending legislation, most of the information needed to formulate the findings of a bill, or to substantially draft a bill will be communicated to legislators prior to the legislative session. The survey results confirm the results of the case studies -- that most of the technical information pertaining to legislation will be communicated prior to the session, with the session reserved for agency support before a committee, or information in the form of explaining a bill to committee members who may not have been active on the issue prior to the session.

During the session, however, legislative staff, agency legislative liaisons and committee chairpersons are important in any information exchange that does take place. These people are likely to be part of the on-going policy process that began prior to and will extend beyond the legislative session itself. Legislative staff are involved in negotiations among constituents with an interest in legislative issues. They often represent the legislator at meetings or in hearings, and thus are an important link between the legislator and information providers, as well as direct sources of information as a result of their own research and information gathering. Natural resource agency liaisons have an extremely important role to play in the legislature. They serve as links to the implementation phase of the policy process, as well the policy initiation stage. Committee chairpeople have an important role as mediators in the policy-making process -- they become "experts" on a particular subject. Further, because they relay the conclusions of the committee to the larger body for voting purposes, Committee chairpeople are important targets for information dissemination. It is also important to note that the coastal caucus breakfast is an excellent forum for disseminating information to legislators. Information pertaining

both to issues relevant to the session, and issues which may become relevant in the future can be placed on the caucus breakfast agenda, as time allows.

The separation of kinds of information used in the policy-making process between the pre-session agenda-setting and alternative specification phases, and the political phase of the legislative process, are consistent with the Kingdon model. The agency survey results also confirm the conclusion of the Putt and Springer's model for research-use in policy-making that there must be a continuity of information communicated between information providers and policy-makers.

One possible factor explaining why there is not a great deal of information dissemination is that Oregon has a biennial legislature. When the legislature does convene, there is a lot of pressure to 'get everything done.' The length of time needed for politics and political negotiations concerning passage or defeat of legislation is concentrated into a six month span. The necessity for communicating technical and non-technical information to a legislator during the 18 months prior to the legislative session is heightened. Although the duration and frequency of the legislative process in Oregon leaves little time for substantive discussion, it can be done, as exemplified by the work sessions convened to negotiate HB 2244, the cyanide heap leach mining bill, during the 1991 session.

The structure of the policy-making process in Oregon, with a biennial legislature lasting approximately six months, 'leaves free' an eighteen month period during which policy-makers, information providers and stakeholders can lay the ground-work for legislative action. With the understanding that the legislative session will mostly involve politics, the pre-session time period may be ideal for the type of consensus-based decision making recommended by Ozawa (1991).

Oregon has a history of the use of consensus-based decision making in the Coordinated Resource Management Program (CRMP) which evolved from negotiations between the Soil Conservation Service and ranchers in the 1970's to address conflicts between agricultural practices and wildlife. At the initiation of Senator Dick Springer,

Chairperson of the Senate Agriculture and Natural Resources Committee, talks have begun in preparation for possible legislative action in 1993 to create a Grazing Practices Act or Watershed Initiative. The sub-committee on grazing has held three meetings since February 1992, attended by representatives from state, local and federal agencies and representatives of special interest groups such as the Oregon Farm Bureau and the Oregon Rivers Council. Invitees at the first meeting stressed the need for the diverse group to develop a common vocabulary. There was also an emphasis on the need for coordination among the groups involved, and the need to determine what studies have been done in terms of the physical and biological impacts of grazing, what types of corrective methodologies have been implemented, and what the current regulatory framework is at all levels of government to manage grazing and watershed issues. These pre-session talks are an example of the types of decision-making forums Ozawa advocates.

The results of my study may have some implications for the pre-session role of the OCZMA / Sea Grant Legislative Fellow. The legislative fellow may wish to contact the administrators of legislative interim committees to find out what are possible items on the next session's agenda, and whether meetings have been held. The Grazing Practices Issue is an example of this pre-session activity. Minutes of these meetings may be accessed so that the fellow is able to assess what progress has been made thus far. Ideally, the fellow would attend one or two of these pre-session "steering" meetings to become familiar with these issues in advance of the session. Other contacts with respect to the upcoming legislative agenda would be the agency legislative liaisons. As part of their legislative agenda, most natural resource agencies have bills drafted to address issues they have been working on, or to propose changes in current statute.

My conclusions are limited by the nature of the bills before the 1991 Legislature from which I chose my case studies, and the bills with which I had the most involvement and the most access to documents to facilitate my inquiry. There were perhaps several other bills I could have chosen for case studies; a bill which successfully banned

exploration and development of hard minerals off the Oregon coast, SB 499; or a bill which successfully called for the encapsulation of polystyrene floatation devices in all new docks and marinas by January 1992, SB 261. The two bills I chose for case studies demonstrated that a variety of information is communicated during the legislative session. However, most of this information was of a political nature -- letting a legislator know how an individual or group of individuals felt about the bill.

Appendix 1.

SURVEY OF INFORMATION PROVIDERS

For whom do you work?

How long have you worked on legislative issues?

What was your background prior to working in the legislature?

Do you have particular areas of expertise in any natural resource subjects?

a. Which areas? _____

_____

_____

Have you had prior experience in government, at state, local or federal level? Please specify the nature of your position, i.e. position held and duration.

_____

_____

_____

What forms of information do you feel are **most effective** in informing a legislator on an issue?

a. testimony in front of committee

b. staff report; other background material

c. scheduled meeting with legislator

d. meeting with legislative staff

e. meeting with committee staff

f. distribution of material to committee staff

g. meeting with legislator in the hall or in lobby (unscheduled)

h. fact sheet or letter distributed the week of a floor vote

i. phone call to Legislator's office

j. other _____

Would you expand on the circumstances under which different forms of information might be more effective than others?

When are you most likely to present this information to legislators:

a. prior to session, generally

b. during session, generally

c. immediately prior to a floor vote

d. immediately prior to a committee hearing

d. other _____

What are the reasons for one particular time over another?

What **natural resource** issue(s) did you offer information on **most frequently** during the 1991 legislative session? (list top three issues)

When providing natural resource information to legislators what is the frequency of offering information under the following circumstances?

a. Information is requested by the legislator

(most frequent, frequent, seldom)

b. Information is requested by a legislative staff person

(most frequent, frequent, seldom)

c. Information by way of testimony in front of a committee on a specific bill

(most frequent, frequent, seldom)

d. Information is placed in legislator's "IN" box.

(most frequent, frequent, seldom)

e. Other _____

If you have offered (initiated) information to <u>legislators</u>, do you most frequently, frequently, or seldom offer information to the following individuals:

a. Committee Chairs (most frequent, frequent, seldom)

b. Freshmen Legislators (most frequent, frequent, seldom)

c. Senior Legislators (most frequent, frequent, seldom)

d. No distinction between legislators I offer information to.

If you have offered (initiated) information to legislators; in what form is it most likely to be? (top three)

a. testimony in front of committee

b. staff report; other background material

c. scheduled meeting with legislator

d. meeting with legislative staff

e. meeting with committee staff

f. distribution of material to committee staff

g. meeting with legislator in the hall or in lobby

h. fact sheet or letter distributed the week of a floor vote

i. phone call to Legislator's office

j. other _____

What is your role (or roles) in providing information in the policy-making process? (list in priority order)

a. influencing a floor vote

b. providing information on a bill

c. providing background information on an issue for legislators

d. providing material for a floor speech

e. providing information on an issue for legislative staff

f. providing information on an issue for committee staff

g. testimony before substantive committee

h. testimony before budget committee

i. representing the agency or organization that you are lobbying for

j. other _____

How does your role in providing information in the policy-making process develop and or change throughout the legislative session?

How important is natural resources information in the policy-making process compared to other factors that are going on? Please explain.

Do you have any further thoughts regarding uses, sources or timing of information contributing to natural resources policy making?

Thank you very much for taking the time to share your insights with me.

Appendix 2.

Pacific Ocean Resources Interstate Compact
Log of Action Taken on the Compact

1/15/91: Draft of Compact sent to Compact Network Mailing List

1/25 - 1/30/91: Introduction Date of 1/31 confirmed with all five states - Press Conference Organized

1/31/91: Press Conference; Senators Bill Bradbury and John Brenneman, Representative Walt Schroeder.

Compact introduced by Senator Bradbury on Senate Floor.

2/1/91: Sent Senator Sam Cotten (AK) Sectional Analysis plus summary of the Compact.

2/6/91: Received copy of WA Compact bill, SB 5428 from Gary Wilburn, Administrator of Senate Environment and Natural Resources Committee

bill scheduled in WA committee 2/7.

Faxed Wilburn bill summary.

OR SB 500 referred to Agriculture and Natural Resources Committee the Ways and Means.

2/7/91: Mailed copy of SB 500 and Michigan Compact Document to Wilburn

2/15/91 and 2/18/91: Public Hearing scheduled, Senate Agriculture and Natural Resources Committee.

2/11/91: Received copy of AK bill.

Spoke with John Burns, MSRC -- wants to set up meeting with Bradbury.

2/13/91: Steve Miller, Editor Marine Digest, Seattle, called about Compact update. Miller indicated that WA had concerns: Three states ratify, DOE concerned about losing power.

2/13/91: Memo to Bradbury, Jeannette Holman re. Conversation with Miller

2/15/91: Fax from WA: "Substitute Senate Bill" sponsored by Senate Committee on Environment and Natural Resources Committee, originally sponsored by Senators Metcalf, Owen, Barr and Snyder.

2/15/91: Spoke with Tom Alkire - Bureau of National Affairs Environmental Report. Sent copies of AK and WA bills.

2/15/91: Spoke with Bob Bailey, DLCD, re amending bill in response to Senator Cohen's concern: p.5. line 5 - insert (a) to read:

(A) to insure coordination of existing spill response plans and pilotage requirements of local government, port districts and harbors.

2/20/91: Faxed press release of 1/31/91 to Karen at KOBI.

2/21/91: Leo Brian Called, wants more info on March meeting of Pacific Fisheries Legislative Task Force.

2/21/91: Jerry McMahon called, Seattle-Pacific Region of American Waterways Operators; Major and Minor tugboats, Alaskan Tugs, WA tugs, Marine Towing. Sent copy of SB 500.

2/22/91: Gary Wilburn called. WA adjourns 4/28. Bill out of Senate Ways and Means by 3/11 to floor. Senate floor vote by 3/20. Will get back to us early March. Issues: Local coordination, think that Article IX would cover it.

2/22/91: Spoke with Mary Morgan; with Assemblyman Hauser, CA:

Issues: Industry grumbling a bit

Major territorial issue, turf battle between state/local government with local comprehensive plans.

Possibility of two-year bill. CA Bill Number, #393, Assembly Bill

2/27/91: Jerry McMahon called:

in favor of anything that would simplify tug operations in interstate waters. Concerned about extending into whole variety of areas in which both the compact and feds. would be regulatory - i.e. shipping lanes, routes, etc.

Clean up language so there is no ambiguity with regard to intent of the compact. The overall goals are a benefit.

3/1/91: Meeting with Jerry Aspland, President ARCO Marine. Tom Gallagher, Salem ARCO Rep., Bradbury, Holman, Brown

3/2, 3/3/91: Pacific Fisheries Legislative Task Force Meeting, La Jolla, CA

3/6/91: Talked with Hawaii: Bill probably not going through this session.

Talked with Rep. Rust (WA) interested in amendments, lots of industry pressure.

Talked with Ginny Fay, Senator Cotten's Office (AK), Are working on bill,should be having main hearing in two weeks.

3/8/91: Met with Bradbury Holman, came up with amendments

3/11/91: Met with Jeannette Holman

3/12/91: Met with Bradbury, Holman, Bruce Sutherland, Andy Schaedel, John Loewy, DEQ, Peter Green, Senate Ag. /Nat. Res. Administrator, re. Oil Spill Prevention Legislation.

3/13/91: Met with Bradbury, Holman, came up with final amendments, fax to other states.

3/18/91: Chris Pays - Alaska Department of Conservation, called re. Conference Call Names

3/19/91: Talked to Rep. Larry Phillips (WA) bill going to be passed out of House today. Substantially through process.

3/20/91: Talked to Ginny Fay (AK)

Amendments look good so far.

3/20/91: Talked with John Apgard in Rep. Rust's office.

HB 1517 in House, passed today, 93-0 with 5 absent.

3/20/91: Talked to Senator Matsuura's Office (HI), Peter Apo's office -- bill still alive until next year.

4/6, 4/7/91: Bradbury in San Francisco for meeting of Ocean Resources Committee of Western Legislative Conference. Last major set of amendments finalized into bill. Changes dealing with Coast Guard rule-making, voting, states' regulations.

4/15/91: Senate Agriculture and Natural Resource Committee adopted amendments -- ordered engrossed bill, sent to Ways and Means.

OR Congressional Delegation sent letter, Memo from Bradbury, Hand-engrossed bill.

5/1/91: States Update

AK: Some concerns still about small barge exemptions, could get bill in "passable form" out of committee.

CA: Possibility of making it a two-year bill.

OR: Alive and Kicking

WA: Adjourned without Action (Two-year life)

HI: Adjourned without action but bill not dead.

5/6/91: Talked to Sauce Brothers Shipping re. vessel tonnage.

Range from 40,000 to 80,000 barrel vessels

equivalent to 2,500 to 5,500 gross registered tons.

Sauce Brothers Shipping, major West Coast company, OR, CA, WA, HI -- not AK.

5/6/91: Call to Ginny Fay (AK) with Barge information.

5/28/91: Call from Amy Stolls, Editor, Oil Spill Intelligence Report, Oil Spill U.S. Law Report. Boston. Called to get information.

5/29/91: Call from Ian Kelley, Nourse and Bowles, Admiralty Law Firm, New York City, called to get information.

6/5/91: Work session in Ways and Means Natural Resources Subcommittee. $25,000 allotted.

6/14/91: Passed out of full Ways and Means with a "do pass" recommendation.

6/15/91: Rules suspended, 3rd Reading in Senate, Bradbury carried; Passed

6/17/91: Speaker's Desk, 1st reading in House

Referred to Ways and Means

6/18/91: Do Pass Recommendation, 2nd reading in House floor

6/19/91: 3rd reading carried by Rep. Shiprack, passed. 49 aye votes.

Motion to reconsider served by Majority Leader Walden.

6/20/91: Reconsideration carried, referred to House Legislative Rules and Reapportionment Committee.

6/25/91: Public Hearing and Work Session in House Rules

6/26/91: Bill dropped at Speakers desk.

6/27/91: 3rd reading in House, carried by Rep. Hosticka, 49 ayes, 11 excused.

6/29/91: Repassed in Senate. Unanimous.

Sent to Governor for Signing.

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