

"TRACING THE EVOLUTION OF COASTAL ZONE MANAGEMENT"

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Introduction

At the onset I would like to thank the Coastal Society for the invitation to be a part of the program this morning. It is good to see that the Society is alive and well and to confirm that the same is true with regard to CZM. As Administrator Byrne has indicated, times are changing, priorities are shifting, and funds are getting ever tighter. Indeed, the halcyon days of CZM are most certainly over. But I seriously doubt that the process of coastal decision-making in this country will return to the pre-CZM "business as usual" situation.

The purpose of my remarks today is two-fold: (1) to trace the evolution of CZM over the last dozen years with emphasis on those factors that were largely responsible for shaping the programs and, (2) to assess, in broad terms, the impact of the Federal government's strong presence in portions of the process. The effects on the program of the Federal involvement is of interest not only to those concerned with CZM but also to those who see the coastal zone program as a pilot or demonstration effort indicative of how a national land use program might fare.

Early State Efforts

CZM did not begin with the passage of Federal legislation. It started considerably earlier when certain states and localities began to face coastal conflicts of various sorts. In my mind the first substantive program began in the San Francisco bay area in the early 60s. By then, the filling of San Francisco bay for developments of one kind or another had attracted widespread attention and concern. This led to the passage of state legislation (the McAteer - Petris Act) in 1965 which, in 1969, was amended to create the Bay

Conservation and Development Commission (BCDC). And, in many ways, BCDC was the forerunner of the state-wide CZM program which was first put in place by a 1972 initiative (Proposition 20).

The late 60s and early 70s also saw early CZM programs emerge in Oregon, Washington, Rhode Island, and Delaware. Typically, however, these programs arose in response to specific coastal conflicts often involving what was viewed as threatening development proposals affecting the coastline or coastal waters. In Rhode Island, for example, a Coastal Resources Management Act was enacted in 1971 as a response to an oil refinery proposal for Narragansett Bay. Several Great Lakes states also put in place limited shoreland zoning programs during this period. While not comprehensive in nature, the wetlands management programs being put in place along the Atlantic seaboard, beginning in Massachusetts in the mid-60s, also laid a foundation for later CZM programs.

One can only speculate as to how the CZM landscape in the U.S. would be different today if these individual state efforts had developed at their own pace. But a number of factors came together in the 1969-1970 period that led eventually to the passage of the Federal CZM Act in the fall of 1972. Among these was a feeling that the pioneering state efforts needed financial help from the Federal government if they were to succeed. It was also appreciated by some that, given the major coastal impacts of many of their programs, Federal agencies also had to be brought into the CZM process and that Federal legislation was the only way to accomplish that.

Factors Motivating CZM Legislation

In retrospect, it is difficult to weigh with any precision the various factors that helped motivate the enactment of Federal CZM legislation. Nevertheless, one force stands out above the others - the recommendations of the so-called Stratton Commission. The report of the Commission on Marine Science, Engineering and Resources ("Our Nation and the Sea"), issued in January 1969, contained a number of recommendations regarding CZM. Specifically, the Commission called for the enactment of a "Coastal Management Act" to "provide policy objectives for the coastal zone and authorize Federal grants-in-aid to facilitate the establishment of State Coastal Zone Authorities empowered to manage the coastal waters and the adjacent land."

Other recommendations for action were also reaching Congress during this period, including those contained in the National Estuary Study conducted by the Interior Department and the National Estuarine Pollution Study by the Federal Water Pollution Control Administration (a forerunner of EPA). In addition, those concerned with coastal recreation were becoming vocal about decreasing access to the shoreline, lack of recreational facilities, as well as deteriorating water quality.

While some work was started on CZM legislation by a Federal interagency committee on multiple use of the coastal zone, the real push for a Federal program came from coastal state governments and environmental groups. Legislation was first introduced in 1970, and, after a number of hearings in both houses over a two-year period, passed the Congress and was enacted into law in October of 1972. In

its final form, the statute was an amalgam of various interests and included some elements of model land use legislation developed by the American Law Institute.

The Federal Role as Contained in the CZM Act

Basically, the Federal Act was intended to encourage and assist states in the development and implementation of CZM programs. The Federal role had three aspects:

- (1) provision of financial assistance to states in the form of grants-in-aid to assist in formulating and implementing CZM programs,
- (2) administration of state program approval standards contained in the Act,
- (3) direction to Federal agencies to cooperate fully with the coastal states in both the program development and the program implementation phases.

It seems to me that a quid pro quo was built into the program. States were, in effect, told that if they develop CZM policies that are binding on state agencies and local governments, then Federal actions that affected a state's coastal zone would also have to be consistent with those policies. Of course, one of the tests for the Federal approval of a state CZM program was that the program took adequate account of the national interest in the siting of certain types of facilities in the coastal zone.

Amendments to the Act in 1976 increased the Federal grant to as much as 80% of the total annual cost of the state program, added several additional elements to state program requirements and, most importantly, added a new program of financial aid to states to help in dealing with coastal energy impact problems, both past and anticipated. The fact that a state had to be making progress toward the development of an approvable CZM program in order to qualify for the substantial sums of money available under the Coastal Energy Impact Program helped maintain state interest in CZM.

A set of amendments in 1980 extended the authorization for grants-in-aid to states with approved programs for an additional five years. These amendments also added a much more specific set of national coastal policies and required that states use a portion of their annual Federal grant to make improvements in their programs consistent with these policies. You will recall that the statement of national coastal policy in the 1972 Act was very broad and provided little guidance in the evaluation of state program achievements.

Current Status of the Program

Grant-in-aid first became available to coastal states and territories in FY 1974. Within 2 years, all of the eligible states and territories had applied for and were receiving CZM program development grants (30 states and 5 territories). Federal grants varied in size from about \$100,000 (New Hampshire) to about \$3

million (Alaska). The first state program received Federal approval in 1976 (State of Washington). By October of 1981, a total of 26 states and territories had had their programs approved by the Federal government and were receiving program implementation grants.

One can define the period between about 1973 and 1981 as the "Federal period" in CZM. During that time, CZM activities at the national, state and local level were substantially affected by the Federal program. State CZM offices were set up to apply for and receive CZM grants. State and Federal staffs, sometimes with outside help, argued over interruptions of various provisions of the Act and the regulations being written to implement them. These same staffs also debated such matters as the enforceability of proposed state programs, the extent to which state programs did or did not meet the Act's standards, and related issues.

The close state-Federal relationship called for in the Act and the existence of both the "national interest" and the "Federal consistency" provisions forced state CZM staffs into identifying and working with a wide range of Federal agencies and interests. Ultimately, these collaborative efforts led to the incorporation of various "streamlining" procedural devices in state CZM programs, including joint (state-Federal) permit applications and hearings.

Unfortunately, these same provisions of the Act have also led to the most acrimonious disputes so far encountered in the CZM program. Disagreement over the applicability of the Federal consistency provisions to offshore oil and gas pre-lease activities of the Interior Department has led to several lawsuits by coastal states. In a similar vein but earlier, oil and gas interests sued the Federal government over its approval of the California CZM program charging, among other things, that the program did not meet the "national interest" test concerning the siting of facilities to meet more than local needs. Ultimately, the case was decided in favor of the government.

At present, the CZM program appears to be in a period of "testing and adjustment." Political difficulties encountered in the actual operation of a state's management program in some cases have led to changes in the program's authorities. This has happened in California and Alaska and is threatened in several other states. On the other hand, changes are under discussion that could strengthen some initially weak state programs.

Obviously, the planned phase down of Federal funding is also causing adjustments at the state level. It is almost certain that the size of state CZM programs will decrease as "unessential" activities are cut back. Program elements that are attractive to the state's legislature and to other state agencies can be expected to be highlighted for continued support under state funding. Those program activities that deal directly with urgent coastal issues as perceived by the state will clearly fare better than those related to national problems.

Some have speculated that the loss of Federal funding will make it difficult or impossible for state CZM programs to take on politically sensitive issues or controversies. Operation of the Federal

consistency apparatus in some states could be slowed and license and permit review times increased.

As most of you know, a bill has been drafted in the Congress to provide coastal states with a share of Federal receipts from oil and gas produced on the outer continental shelf. Some of these funds would be earmarked for state CZM program support. Obtaining funds through this mechanism will, of course, be a long and tedious process at best. However, if the Federal Office of Coastal Zone Management is allowed to retain certain unexpended funds carried over from previous years and to use them for CZM grants, funding for states through about mid-1983 should be assured.

Now, having said all this, just how much difference are the 26 approved state programs making in terms of improved coastal management? What if anything is different now as compared to the period prior to the advent of CZM? And what role has the Federal government, in fact, played in the CZM picture? These and related questions will be discussed in the following 2 sections.

Accomplishments and Non-Accomplishments

There are a good many difficulties in evaluating the impact of CZM - both of individual state programs and the overall Federal program. For the most part, state programs have only recently been put in place. Much of the work that has been done so far has dealt with legal, organizational and structural matters. Revising or adding new state laws, writing new regulations or strengthening old regulations, enlarging monitoring and enforcement activities, conducting additional research to bolster the technical underpinnings of a regulatory system - all take time and are all important, but they are not the types of activities likely to be celebrated as major accomplishments.

These changes and improvements in "process" are beginning to produce changes "on the ground" in the nation's coastal zones. Improved access to public beaches in California, reduction in wetlands losses in certain states, opening of closed shellfish beds, for example in upper Narragansett Bay, shortening of permit processing times, and so on. But it will probably be the end of the decade before the real impacts of CZM will be felt on an aggregate basis.

It is important to note what is now in place that was not present earlier. In place in states with CZM programs are a series of established procedures whereby the proposed actions of Federal agencies, state and local governments and private developers, are more or less systematically compared with "good coastal practice" as defined by each state in its coastal policies. Hopefully, in this way, "bad" projects will be rejected or modified and "good" ones will go ahead on a facilitated basis. How well this process actually works over time will depend upon factors such as

- the strength of the legal foundations of the state's program
- the extent to which the state program has broad public support

- the competence of the staff and the soundness of their technical support.

In terms of non-achievements, much went undone or underdone during the first decade of CZM. Some states did not get beyond a combination of "networking" and a governor's executive order and consequently have a fragile legal base upon which to operate their programs. Changes in state administrations, the legislature, or the budgeting situation could jeopardize these programs. A number of state programs do not confront the issue of designating a lead CZM agency as unambiguously as they should. Similarly, the issue of state override of local decisions is not always clearly dealt with in state programs. And, of course, it appears that seven states are not likely to complete CZM programs meeting Federal standards. Fortunately, these states represent only slightly more than 10% of the U.S. shoreline, the remaining 90% of the coast being under the jurisdiction of states with approved and functioning CZM programs.

I now turn briefly to the question of the impact of the Federal CZM program (grants, program approval standards, the promise of Federal consistency) on state efforts in the coastal management area. In the list below, I have attempted to indicate those areas where I believe the Federal program has had good success in motivating state CZM efforts, those areas where the impact of the Federal program was only moderate, and, finally, those where the Federal presence seemed to be least effective.

Good Success

- creation of a CZM organizational focus
- stimulation of CZM-related research
- development of a CZM plan for the state
- increased public awareness of the need for CZM
- increased dialogue with Federal agencies on coastal problems
- increased cooperation and coordination with local governments on positive aspects of CZM (urban waterfront redevelopment, port expansion, fisheries development, recreation, etc.)

Moderate Success

- designation and protection of environmental sensitive areas
- effective policies concerning coastal hazards
- effective policies concerning water-dependent development
- effective energy facility siting processes

Limited Success

- designation of a strong lead state agency in CZM area
- adoption of state laws and regulations that significantly affect local government (i.e., home rule issue)
- facilitation of third party challenges to program decisions
- acceptance of national interest facilities

Other things being equal, the CZM grant funding that was made available to states was apt to be used on the items in the first category shown above but the existence of the program approval

standards contained in the Act forced states to work on the politically more difficult items in the other two categories as well. Funding for program implementation (and administration) and the application of the Federal consistency provisions were, of course, dependent on Federal program approval and, hence, meeting at least minimum standards for policy content and regulatory rigor.

Outlook for the Future

In my view, CZM in the years ahead will be shaped both by the nature of the dominant coastal issues of the next decade and the nature and cogency of the new Administration's policies. I would be very surprised if energy-related issues did not continue to be very high on the coastal agenda. Important among these will be the handling of greatly increased amounts of coal, both on the Great Lakes and in east and Gulf coast ports and the impacts of the accelerated OCS oil and gas program. Coastal hazards reduction and urban waterfront redevelopment will continue to be active coastal issues throughout the 80's in my judgement.

While I feel that specific issues such as these will provide much of the stimulus for CZM in the years immediately ahead, I heartily agree with those who are concerned lest CZM become a one or two issue program. The comprehensiveness of CZM must be maintained if it is to survive and prosper over the long term. CZM must be seen as being capable of dealing with the full range of coastal issues. Comprehensiveness is its unique aspect.

How are the policies of the new administration likely to affect CZM? Clearly, as mentioned earlier, financially the going will be rougher in the years ahead. And it is plain that the emphasis will be on increased economic growth, decreased regulation, and less government. But some of these new directions could actually be positive in terms of CZM.

- Increased delegation of Federal permitting (for example, 404 permits) to the State level would be consistent with the policy of shifting more responsibility to States.
- Eliminating Federal subsidies to barrier island development is consistent with cutting Federal expenditures.
- Block grant funding to states for coastal programs from OCS revenues is consistent with some of the Administration's new policies.
- The special area management concept (as is being tested in Gray's Harbor, WA.) could be seen as a kind of "deregulation" since a degree of advance commitment to required permits is obtained.

In summary, in my view, coastal zone management will continue as a valid and useful "organizing theme" provided it is seen as:

- capable of dealing with the full range of coastal problems, especially the toughest ones

- a problem-solving mechanism and not a problem-raising one
- interested in facilitating coastal development that is in the public interest and not solely interested in coastal protection.

If state government power structures perceive CZM as a program that adds certainty and predictability to the coastal development process, reduces delay, and leads to results that the public wants to see, then CZM will survive and prosper in the years ahead.

THE DEVELOPMENT OF COASTAL CONSCIOUSNESS

Steve Frishman

We have heard today about the evolution of coastal zone management and the concern that the information base used in making of coastal policy be improved. Now, I would like to pass on a few remarks, from my perspective, about the development of coastal consciousness, especially during the past ten years.

Before I begin, I must digress for a moment to note that today is the anniversary of an event of unique importance to our being here today, and certainly, in its time did much to advance man's thinking about the earth and the sea. Today, October 12th, is Columbus Day, marking the discovery, in 1492, of the "new world", a giant group of land masses that, upon discovery by Columbus disappointingly blocked a western passage to the rich trade opportunities of the East Indies. He had a "coastal problem". The disappointment did not last long when the riches of the New World began to unfold as new knowledge was gained about where the lands and the seas of the western hemisphere met. In Columbus' time, the value of coastal knowledge was in gaining safe access to the resources of a new land, previously unknown to Europeans and unexploited by them.

Until quite recently, the primary concern about coastlines was that they represented the places where ships had to stop, and more secure land transportation took over - and a place where nature was in complete control. Safe harbors had to be found to protect ships from loss against the shoreline, and provide more convenient means for man to cross the sea-land boundary with his cargos.

It is not surprising that throughout history safe harbors have been jealously sought and protected, and improved upon whenever feasible, to further their economic and strategic worth to whomever possessed them. Through time, the demand for safe, natural harbors outstripped their availability, and man with his seeming zeal to conquer the

challenges thrown against him by nature, began carrying away at the shorelines, creating harbors where previously only treacherous waters existed, as if flaunting themselves against man's inventiveness.

Coastal consciousness was dominated early by the theme of "man against nature" and overcoming the challenge of the sea - the aggressor sea that so heartlessly frustrates man's needs to cross the land-sea boundary. This theme regarding coastlines is not a surprising one in the context of man's headlong charge through the years to possess the earth and exploit its every resource. In most parts of the world, the relative handful of fishermen is viewed with esteem by their land-based countrymen, at least partly because they have chosen to take the battle to the aggressor sea, and literally snatch their harvest from the grip of the fierce monster. In this country, while the fisherman's chosen life on the sea may be romanticized in beer and deodorant ads, the common attitude seems to be that his forays against nature are insignificant compared to the big battles that so apparently have been won by man along the shoreline, where the common impression is that nature has been subdued by man's engineering genius.

During the past decade, much has happened to suggest that the ferocious and often hopeless battle against nature is taking a new complexion in this country. This has had some benefits in moderating what had been an almost monolithic development and growth ethic relative to coastal consciousness, and has resulted in new recognition of the value of natural and renewable coastal resources. But, there have been some adverse results as well, largely resulting from a false sense of self-assurance that, because there seems to be a lull in the battle, man must be winning, and nature is going to her knees in the face of man's power. No assumption could be a more dangerous one to make.

During the late 1960's and through the 1970's there was a remarkable expansion of the national environmental consciousness. Federal and state legislation reflected the concern that the many and varied natural resources of the nation had been viewed too long as being infinite, when mounting evidence from the fossil and living resources indicated quite the opposite. Unchecked, the development and growth ethic was resulting in depletion and destruction of renewable resources at an alarming rate, often in ignorance of the consequences, rather than as a willful, directed act. In the coastal area, the assumption of an infinite resource out there in the wetlands and seas is not easily shaken when the casual observer views the vast estuaries, marshes, bays, beaches and the sea, or watches thousands of pounds of fish and shrimp landed by one fishing vessel. What the casual observer missed, but has begun to see, especially during the past decade, is that the natural coastal systems are in a delicate balance, having only a limited resilience to man's tampering. The Year of the Coast efforts did much in aiding this understanding, as did at least two other quite diverse factors in earlier years of the decade.

The first factor in this growth of understanding is in the area of legislation and governmental process. The passage or defeat of legislation regarding coastal environmental issues often has resulted in controversy to the extent that the news media has found the conflict and the personalities involved to produce "good copy", mainly because it is of interest to both the growing number of people with environmental concern as well as the business community. Firing the controversies are the extreme positions which make headlines and have made

the label "environmentalist" an everyday household word during the past decade. This single act of branding the "environmentalist" has probably done more to raise the environmental consciousness, coastal and otherwise, than all the long, and often boring, letters, solicitations and newsletters cranked off the environmentalists' printing presses. When there is a widely known conflict, people will pick sides, often for reasons as little erudite as those some employ to choose among presidential candidates. This decade-long conflict for and against environmental regulation and enforcement has recruited millions of environmentalists, though many of the recruits would not think of themselves in such a light. No longer, after the past decade, can anyone serious get away with dismissing environmentalists as "little old ladies in tennis shoes". The environmental consciousness, as it has now evolved from legislative and legal conflicts simply demands that the wide variety of values of renewable resources must be accounted in some manner within the context of exercising the development and growth ethic.

The second factor I see in the growth of understanding regarding the conservation of coastal resources is that more people are gaining interests in the resources of the coastal area, whether these interests be aesthetic, economic, or both. People are moving to coastal areas to live and work, and for recreation. In their own lives, many of these people are becoming more conscious of the pleasures they gain from the renewable resources of the coast, and have some experience with observing the loss or decline of resources important to them, even if only during their recreation hours.

But, with this movement to the coastal areas because of their natural and economic attractiveness comes the maze of problems that we, here, are continuing to try to deal with from our many vantage points. High on the list is the tremendous economic pressure for industrial, residential and recreational development at or near the shoreline. Water transportation drives the industrial pressures, while peoples' desires, in a new manifestation of coastal consciousness, drive the residential and recreational pressures. All of these pressures must be balanced against the resilience of the natural system that initially attracted these users to the coast. And here lies the rub: people are using up, or destroying the very attributes that the coastal consciousness growing in their minds has taught them to respect. It is happening a bit at a time, and the cumulative results can be disastrous, both ecologically and for the people themselves.

In his zeal to take what he wants from nature, man has pitted his engineering skill against the natural systems of the shoreline with such confidence that he is seemingly amazed when nature resumes dominance. He has torn down protective sand dunes to build his waterfront living space, he builds jetties and groins to protect against erosion and creates more erosion in the process, he dumps dredge spoil in places that cause flooding in communities during storms and hurricanes, and so on. The result is an occasional tremendous loss of life and property. But, the catastrophes don't happen very often, and a shoreline erosion rate of even six inches per year hardly makes news. Yet, these hazards, and others in the coastal area have not been given their well-deserved priority in the coastal consciousness. With all we have done here in Texas in coastal hazard awareness programs, people are still surprised and stunned when faced with the reality of an incoming hurricane, and well they should be. We continue to prove that it is virtually impossible to evacuate people from areas of high storm hazard in a time period that bears any relation to the speed and unpredictable course of a hurricane. But we are still trying. What else can we do

for the people already living in the endangered coastal areas? Yet to be built into the coastal consciousness is the fact that apparent victories against nature in the coastal area are only temporary, and sometimes the telling battle is only a few hours long.

The coastal consciousness has made great strides in the past decade relative to ecological protection, and more will doubtless be made. Protecting man from himself and disasters resulting from natural hazards in the coastal areas is the next great challenge in the development of coastal consciousness.