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THE OREGON COAST and the OREGON COASTAL CONSERVATION & DEVELOPMENT COMMISSION:

THE FOX GUARDING THE CHICKENS?

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THE OREGON COAST

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OREGON COASTAL CONSERVATION AND DEVELOPMENT COMMISSION:

THE FOX GUARDING THE CHICKENS?

By

HENRY R. RICHMOND, III
OSPIRG Staff Attorney

May 1, 1973

"That is like having the fox guard the chickens."

State Representative Stafford Hansell (R., Hermiston), member. Emergency Board, Oregon Legislature.

-- in response to OCCDC's requests for funds from Emergency Board (Eugene REGISTER GUARD, April 24, 1972)

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TABLE OF CONTENTS

I. THE OREGON COAST AND THE OCCDC 1-36

A. THE OREGON COAST 1

B. THE PATTERN OF COASTAL DEVELOPMENT (examples) 3

C. FRAGMENTED GOVERNMENT RESPONSE 18

D. COASTAL MANAGEMENT POLICIES OUTSIDE OREGON 21
1. San Francisco Bay Conservation and Development Commission (BCDC) 21
2. California Coastal Zone Conservation Commission 22
3. Washington Shoreline Management Act of 1971 26
4. Federal Coastal Zone Management Act of 1972 30

E. THE OREGON COASTAL CONSERVATION & DEVELOPMENT COMMISSION 32

II. A COMPREHENSIVE PLAN FOR THE OREGON COAST 37-48

A. PLANNING FOR THE COAST AS A WHOLE 37

B. PLANNING FOR THE NATURAL RESOURCES OF THE COASTAL ZONE 41

C. IMPLEMENTATION 46

D. REVISION OF STANDARDS 47

III. OCCDC's 1971-1973 PERFORMANCE 49-78

A. CONSULTANTS: July, 1971 - March, 1972 49

B. STAFF HIRING 54

C. RESOURCE INVENTORY 55
OCCDC Resource Inventory 60

D. OCCDC REJECTION of O.S.U. ESTUARY STUDY 62

E. LOG STORAGE STUDY 64

F. ESTUARY PLANNING GUIDELINES 65

G. PERMIT AUTHORITY 69

H. OCCDC's 1973 INTERIM REPORT TO THE OREGON LEGISLATURE 75

I. OVERALL PROGRAM DESIGN 78

IV. SUMMARY 79-82

V. RECOMMENDATIONS 83-93

A. INTERIM PERMIT AUTHORITY 83

B. CHANGE OCCDC MEMBERSHIP 91

C. OCCDC NEEDS $330,000 92

D. OCCDC REPORTS TO GOVERNOR McCALL AND THE OREGON LEGISLATURE 93

TABLE I
OCC&DC MEMBERSHIP 94-96

I. THE OREGON COAST AND THE OCCDC

A. THE OREGON COAST

The Oregon Coast is like the rest of Oregon: Its economy and its beauty are tied to its natural resources.

Timber, shipping, fishing, agriculture and tourism are the money-makers on the Oregon Coast.

By the same token, Sam Boardman Park in Curry County; the sand dunes extending from Coos Bay to Florence; the area between Cascade Head and Cape Lookout, including magnificent Cape Kiwanda in Tillamook County; famous Haystack Rock and Ecola Park at Cannon Beach, the numerous coastal streams and estuaries, and the Coast Range, itself --- these are examples of the scenic gems prized by people all over America, as well as by Oregonians and coastal residents.

Taken together, they are more than a way of life to 185,000 coast residents, and more than a place to visit for two million Oregonians. For 200 million Americans, the beautiful Oregon Coast is one of the few long stretches of substantially un-ruined coastline remaining in the United States.

Oregon's Planning Advantage

Unlike the East Coast and California, Oregon's population center is not on the coast.

Portland became the center of Oregon mainly because it is located near the confluence of the Willamette and Columbia Rivers. There it

could serve the commercial and shipping needs of both Willamette Valley agriculture and wheat from Eastern Oregon.

The Oregon Coast does not have a heavily populated manufacturing center like Baltimore or Los Angeles, with its attendent commercial, governmental, transportation, residential and educational sprawl.

Instead, the coast has three or four essentially small, key cities, two important international ports (Coos Bay and Astoria), about 15 small towns, and numerous unincorporated areas and villages.

The present population of the North Coast (Clatsop, Tillamook and Lincoln counties) is practically at a standstill. In 1950, north coast population was about 70,000. In 1972 it was 73,000.

In contrast, growth in the South Coast (Western Lane, Western Douglas, Coos and Curry counties) has been relatively marked. In 1950 about 65,000 people lived in these counties. In 1970, 85,000. Coos County alone has two-thirds of the south coast population, growing from 42,000 in 1950 to about 57,000 in 1972. (figures: 1973-1974 Oregon Blue Book)

Of course, temporary summer-time population can nearly double coastal populations in some North Coast areas.

Because of the low levels of population and heavy development, planning for the Oregon Coast can begin nearly from scratch. There are few irreversible "givens".

For Oregonians, this is an important advantage. However, it is an advantage that easily can be frittered away by shortsightedness or inaction.

B. THE PATTERN OF COASTAL DEVELOPMENT

Today, the natural resources of the Oregon Coast are being assaulted by development -- some unique and large in impact; others part of a general pattern which extends up and down the coast.

Coastal Nuclear Power Plants

Several nuclear power plants have been proposed on the coast by Portland General Electric Co., by Pacific Power and Light Co., by the Public Power Council, and by the Eugene Water and Electric Board.

Cape Kiwanda Plant Site

One of these plants is located 5,500 feet north of Cape Kiwanda. Conservationists believe construction of the 1,100 megawatt Cape Kiwanda plant would ruin the scenic and recreational value of one of America's most beautiful coastal land formations.

All these plants will involve one or more high voltage transmission line.

AMAX Aluminum Plant

A large aluminum plant is proposed (but recently delayed) by American Metal Climax for Warrenton. The Clatsop Environmental Council, Oregon Shores Conservation Coalition, the Oregon Environmental Council have opposed the plant on the grounds of objectional fluoride emissions, the absence of an over all estuary plan, and electricity requirements.

Coos Bay Sewage into Coos Bay Estuary

In December, 1972, the City of Coos Bay applied for a Corps of Engineers "Section 10" permit to construct a 30-inch municipal sewage outfall into the Coos Bay estuary. Environmentalists believe the sewage

should go through the existing Menasha outfall and into the ocean, not the estuary.

Off-Shore Nuclear Plants

Umpqua Navigation has given Oregon State University a $150,000 grant to test the feasibility of off-shore nuclear power plants.

Condominiums and Beach Access

In May, 1972, Oregon Attorney General Lee Johnson filed a lawsuit in an effort to block construction of a 10.5 acre, 175 unit condominium located on beach sand near Cannon Beach which would block public access.

Illegal Fills: Hawk Creek

In June, 1972, Taho Development Company applied for a Division of State Lands fill permit in connection with construction of Neskowin Lodge. However, the developer had already filled 50 yards in the creek since the previous September, 1971, causing Hawk Creek to shift onto state land (a park) on the opposite shore. George Thompson, a Neskowin resident requested the Tillamook County District Attorney to sue to have the fill removed.

Illegal Fills: Sunset Cove

The United States Attorney for Oregon brought suit for the Corps of Engineers to remove a 17-acre sand fill in tidelands at Sunset Coves in the Necanicum River, Clatsop County. In order to build a condominium, Sunset Cove, Inc. had raised the tide lands from natural elevations of 6-10 feet above sea level up to 22 feet above sea level. This was accomplished by removing and using sand from nearby public beaches. The fill extended approximately halfway across the estuary, leading from the

Seaside side toward Gearhart. State Senator William Holmstrom, (D. Clatsop County) had a financial interest in the project.

In February, 1973, the United States District Judge Otto R. Skopil ordered the fill entirely removed, because held to be illegal and harmful to the estuary.

Bolon Island

In November, 1972, Bohemia Lumber Co. successfully obtained a Division of State Lands permit for a fill in the Umpqua estuary despite a 6-month State Land Board moratorium on fills in estuaries then in force. Bohemia applied for another fill at the same location in April, 1973.

Camper and Trailer Parks

A 100-120 unit overnight camper development is currently proposed at Barview in Tillamook County. A 600-unit trailer park was proposed by an out-of-state developer on an un-zoned portion of Tillamook County's upper Trask River. It did not proceed when the developer did not exercise his purchase option. Such projects involve difficult -- if not unsolveable -- sewage disposal and drinking water problems.

Shoreline Erosion

In April, 1972, U.S. Army Corps of Engineer Hydraulic Engineer, Harold Herndon related to OCCDC the National Shoreline Study which stated 165.5 miles, including 14.5 miles of estuary shoreline, were experiencing erosion. Erosion of 50.5 miles of ocean shoreline and 5.5 miles of estuary shoreline were "serious enough (for) remedial action". (Oregon Journal, April 7, 1972)

In addition, shore erosion threatened to open second entrances to estuaries at Clatsop Spit, Bayocean Peninsula, and the mouth of the Siuslaw.

Condominiums and View Impairment

On April 10, 1973, pending final architectural and engineering clearances, Rockaway City Council, Tillamook County, assured Hemstreet Development Co. of Portland a permit to build a 3-story condominium. Rockaway City Councilmen Kenneth Meyers and Barry Mammano objected to the development because of parking and setback problems, and because of the decreased property values of homeowners whose view of the sea would be blocked by the condominium. (North Coast Times Eagle, April 19, 1973)

Planning Commission Politics

In January, 1972, Acting Mayor Dick Wells of Lincoln City said he would recommend creation of an appeals board to consider disputes between contractors and the Lincoln City building officials. The Board was to be comprised of three contractors and two businessmen living in Lincoln City. (News Guard, February 3, 1972)

In April, 1972, Lincoln City Mayor John B. Kiefer proposed a $25 filing fee be required with all appeals of City Planning Commission decisions in order to "eliminate a nuisance".

Citizen Unrest

In May, 1972, the Lincoln City Council tabled action on a petition signed by 187 Lincoln City registered voters for the removal of Planning Commission Member Richard Rouske. The petition alleged voting in matters where a conflict of interest existed, and failure to preserve "scenic amenities". (News Guard, May 26, 1972)

Beach Front Condominiums and View Impairment

In October, 1971, Cason and West began construction of Sea Breeze, a 40-unit condominium motel, on ocean front property near the mouth of the D River. The three story structure would partially block the view of the ocean from Highway 101. Because the condominium motel is being erected in a commercial zone, and no variances were requested, Lincoln City Planning Commission approval was not needed, under existing law.

Cason and West had previously built the Sea Gypsy condominium on the opposite bank of the D River.

Estuary Fill

The Port of Astoria currently supports a substantial dredging operation in the Columbia River estuary for a turning basin which involves a 50-acre fill.

Planning Commission Membership Problems

On October 21, 1971, the Tillamook County Board of Commissioners called for the resignation of the members of the Tillamook County Planning Commission on the grounds that the Planning Commission had inappropriately zoned all of the remaining unzoned portions of Tillamook County "A-1", a permissive zone, and because Planning Commission member Hayden Haupert, a real estate broker, and developer, had participated in matters before the Planning Commission in which he had a financial interest (Deer Ridge development).

After October 21, 1971, three of the nine Tillamook County Planning Commission members resigned. In March, 1972, the six remaining members included: Hayden Haupert, real estate broker and developer; Oren Rosenberg,

Rublisher's Paper executive and real estate developer; Otto Schild, dairy farmer; Morrie L. Schmidt, real estate broker and developer; Art Sowle, contractor; and Dale Stockton, building materials supplier.

On March 21, 1972, the Tillamook County Board of Commissioners filed a notice of a charge of misconduct against Tillamook Planning Commission Member Morrie L. Schmidt, Tillamook real estate broker and developer. On April 3, 1972, one day before the hearing on the charges, Mr. Schmidt resigned.

Mr. Haupert has stated that "those who know the land and take their income from it should have the final say in planning."
Mr. Schmidt believes "that zoning is confiscatory and probably unconstitutional". (Platt, John. Tillamook Planning: The Problems and Some Recommendations, OSPIRG, April 10, 1972, page 13, based on interviews)

Fills and Clam Bed Destruction

In February, 1973, Don Saxon and Dave Wilson of Florence proposed two adjacent fills on the Siuslaw estuary. The Saxon fill would be roughly three acres and would destroy an excellent clam bed area. The Wilson fill would be roughly 30 acres on valuable salt marshes and would be for a 100-unit plus trailer court.

Mr. Saxon previously has performed two illegal fills in the North Fork Siuslaw on tidelands.

Unregulated Estuary Fills

The proposed Wilson fill on the Siuslaw is mostly above mean higher high tide in an unzoned area. Consequently, it is likely that no federal, state or local agency has regulatory power over the development.

The Port of Siuslaw took the position on April 4, 1973, that the proposed fills were not objectionable navigation-wise, and that fish or wildlife values would have to be considered by another agency. Wilbur Ternyik reportedly recommended that the Port's responsibilities have extended beyond navigation, but this did not prevail.

Governor McCall's Concerns

On June 13, 1972, Governor Tom McCall expressed fears about "helter skelter" development which threatens "fragile resources" of the Oregon Coast.

Governor McCall found "threats to irreplaceable resources arising all along the coastline".

Governor McCall asked the OCCDC to complete as quickly as possible an inventory of all public and private plans which threaten coastal resources such as "delicate sand dunes, estuarine regions and other waterways and wildlife habitat or that are proposed for flood plains or areas lacking suitable sewage or drainage facilities."

Governor McCall asked that the inventory be given to coastal County Commissioners whom he will ask to be "exceptionally hardnosed" about unwarranted development.

Coastal Lake Destruction

In March, 1972, an Oregon Department of Environmental Quality aquatic biologist reported that Devils Lake in North Lincoln County is one of several fresh water lakes in Oregon facing eutrophication, speeded by human wastes, due to excessive recreation use or widespread development around lakes.

Coastal Lake Condominiums

In April, 1972, Flora Davis, owner of Kelok Condominiums Townhouse located on the west arm of Devils Lake, Lincoln County, announced that the Devils Lake development was nearing completion. The first stage included 20 two-story townhouse duplexes in ten detached buildings.

Mrs. Davis also announced that sales were beginning in the new 42-unit Nekahnie Condominium, which includes a swimming pool and an electric tramway to the beach.

Unzoned Estuary

In May, 1972, Lincoln County Planner Lynn Steiger announced federal money was available to zone Siletz Bay Estuary. Public attention and controversy surrounding the future of Siletz Bay centered around the Port of Newport's defeated bond proposal which would have provided development money for Siletz Bay. "More than 90% of the area we are studying from the Taft area south to Whole Cove and inland 15 miles to about the head of tidewater is presently unzoned," Steiger said. (News Guard, May 4, 1972)

Public Opinion

The September, 1971 North Lincoln County Community Survey found that 57% of the people polled favored keeping Siletz Bay and the Salmon River in their present state.

The poll also listed 75% of the Salmon River Valley residents as favoring preservation of the Salmon River estuary in its present state. (News Guard, September 30, 1971)

Planning Commission Composition

One of the two Lincoln City Council June, 1972, Appointees to the Lincoln City Planning Commission was Ralph Newbert, a Lincoln City building contractor.

Height of New Structures

In August, 1972, Lincoln City voters refused, by a 3-2 margin in a special election, to permit developer Syd Tworoger to replace the Surftide Resort's main building with a 9-story structure. The replacement would have exceeded the city's 45-foot height limitation (also passed by special election).

Condominium

In September, 1972, the Lincoln County Planning Commission authorized a building permit for Syd Tworoger's controversial 63-unit Surftides Plaza Resort Condominium (not the 9-story structure).

People Support Height Limitation

On November 7, 1972, Lincoln County voted to extend Lincoln City's 45-foot height limitation to the entire county.

Big Condominium

The Lincoln County Planning Commission approved a 140-acre, 500-unit, 52-foot high condominium-apartment complex at Whale Cove, pending an opinion by the Lincoln County District Attorney on the effect of the county-voted 45-foot limitation.

The District Attorney subsequently reported the condominium would have to be re-designed to comply with the 45 foot height limitation.

Sewage Disposal and Water Supply

In November, 1972, Governor Tom McCall threatened Lincoln County and Lincoln City with an injunction, urging them not to approve construction that requires sewage or water connections pending state approval.

Governor McCall stated the governments were allowing development where sewer and/or water supplies were inadequate.

On November 23, 1972, the Board of Lincoln County Commissioners flatly refused to comply with Governor Tom McCall's request that building permits be denied unless approved by designated state agencies.

Trailer Park Sewage

On November 30, 1972, Oregon Department of Environmental Quality Director L. B. Day requested Lincoln County Commissioners to delay approval of the Tamara Quays trailer park subdivision on the Salmon River Estuary until a sewage disposal plan for the development is brought up to residential requirements. A prior County Planning Commission decision (December 14, 1971) to grant zone changes for 240 acres for expansion for trailer courts and beach houses over-ruled a comprehensive plan and zoning proposal for the area. County Planner Lynn Steiger and the Oregon Fish and Game Commission contended that the Salmon River Estuary should remain undiked and protected from development.

Citizens Challenge Condominium

On December 7, 1972, Lincoln City residents appealed the Lincoln City Planning Commission decision allowing the 44-unit Journeyman, Inc. Condominium on Canyon Drive.

They complained that the building would actually exceed the 45-foot limitation; violated set back ordinances; failed to meet off-street parking requirements; part of the development was being built between mean low water and vegetation lines; the development would conflict with the comprehensive plan; and the Planning Commission had not checked out sewage and water connection problems thoroughly.

On January 10, 1973, the Lincoln City Planning Commission reversed its earlier decision and pulled the conditional use permit for the Canyon Drive Condominium.

Dan Poling of Lincoln City, principal of, and attorney for, Journeyman, Inc., said the Council action "was not unexpected" and that the developers had several alternate plans that were prepared for just such a contingency. "We own the land and a condominium is the only way to go -- we have to use it as densely as possible," Poling said. (New Guard, January 11, 1973)

Governor McCall's Efforts

In January, 1973, Governor Tom McCall announced that of 67 suspected sources checked along Lincoln County's 58-mile coastline, there were 34 sources of raw sewage discharge. Locations included Canyon Drive near Baldy Creek, Gleneden Beach, Depoe Bay, Lincoln City, Agate Beach, Newport, Waldport, and Yachats. Eighteen sources were inconclusive and 15 negative.

Governor McCall also stated that the Oregon Department of Environmental Quality found 37 of Lincoln County's 60 water systems deficient in safe sources or adequate supplies.

State Takeover of Coastal County Planning And Zoning

Governor McCall asked Lincoln County officials and citizens to testify in Salem on February 20, 1973, as to why the State of Oregon should not assume planning and zoning duties in Lincoln County.

Governor McCall also requested a detailed report from Coos County regarding delays in comprehensive planning ordered by the 1971 Legislature's Senate Bill 10.

Continental Shelf Mineral Extraction

In September 1971, Clem Eilinger and Robert Julian applied to the Corps of Engineers for a dredging permit to extract minerals from the Pacific Ocean. The proposed dredging was to be between Port Orford and Humbug Mountain, Curry County, 1200 cubic yards daily.

Estuary Dredging

In March and April, 1972, the Corps of Engineers received applications to dredge 8000 cubic yards and 6500 cubic yards from Alsea Bay Estuary. Application was also made to place 600 yards riprap to protect the dredge spoils from erosion.

Highway Filling an Estuary

On November 4, 1971, the Corps of Engineers gave notice of the need for extensive Highway Commission filling in Siletz Estuary for the large, new Highway 101 bridge across the Siletz River.

Clams Lead Poisoned

In September, 1972, commercial clam harvest in Yaquina Bay was suspended

until lead poison levels caused by Highway Commission sand blasting of Yaquina Bay Bridge subsided.

Private Wharf in Estuary

Currently pending before the Corps of Engineers is an application by Coast Realty (Florence) interests for a permit to construct a 220-foot wharf out over Siuslaw Bay. The wharf would be for the use of inhabitants of a proposed, adjacent development, and would not be open to the public.

Land Use Statistics

From January 1, 1972, to December 31, 1972, 305 building permits were approved by Lincoln County and 33 were disapproved. There were 811 sewage-septic tank installations. Eleven subdivision plots were filed, with none being rejected, though certain lots in a plot may have been disapproved. 6,595 deed conveyances were recorded. Eight of 23 applications for zoning variances were approved, 40 of 73 applications for conditional use permits, and four of seven applications for zone amendments.

Water Supply

Claude Hall intends to subdivide his two parcels of ocean-front land near Mill Creek and Searose Beach, in Northern Lane County. Mr. Hall intends to draw water from Mill Creek. Local landowners have opposed the project, to the extent of filing complaints in court, because they believe Mill Creek cannot support Mr. Hall's projects without running dry in the summer, thereby harming fishlife.

Lake Development and View Impairment

Davidson Industries (timber), a large landowner in Western Lane County, is developing Lily Lake, between Highway 101 and the ocean, north of Florence. Important views to the ocean may be impaired.

Siltcoos Lake Development

Ownership patterns around Siltcoos Lake south of Florence foretell extensive development. 1) Sparrow Pacific Corp. owns a large parcel on the west bank and probably will develop. 2) A large tract owned by the estate of Irma Erhart is now in the courts. Developers are reportedly interested; prior Siltcoos Erhart property has been developed. 3) Davidson controls a large tract extending north from Siltcoos. 4) Land controlled by V.A. Hansen off Miller Arm, Siltcoos Lake, is intended for development, though the land is necessary for wildlife access to the lake. 5) Paul Hesse, of Malibu, California has already divided his eastern shore land into two parcels; he wants further subdivision. 6) William Singer of Santa Cruz, California owns another parcel on the eastern shore. 7) R.E. Chapman, a Florence developer, and a California developer, each own plots on Fiddle Creek, which empties into the southeast portion of Siltcoos Lake.

The Western Lane County Planning Commission is developing planning and zoning standards, but implementation is probably two years away.

California Developers and Oregon Wildlife

A large tract extending nearly three miles north from the shore of Mercer Lake (north of Florence, east of Highway 101) formerly owned by

the Florence Justice of the Peace, Ruth Ashton, is now owned by Lars Lind of Oakland, California and being developed as "Enchanted Valley Ranch". The development threatens to drive elk out of the valley.

There are countless additional examples of development on the Oregon Coast. Important but detailed issues such as the Twin Rocks condominium-primary dune controversy, the Menasha Outfall, or the proposed Siuslaw dredging project are a few which can only be referred to here.

The above list is by no means intended as a representative description of coastal development activity generally. Much development is compatible with the environment. Also, many developments which would be incompatible with the environment are either modified or rejected by local bodies of government.

Moreover, some of the specific problems above have been partially or wholly remedied, and progress has been made in others, notably the Tillamook County planning situation, and zoning for Siletz Bay.

However, the above list does stand as a description of the <u>kinds</u> of development problems which at this time threaten to severely or permanently impair the natural resources of the Oregon Coast.

If the State of Oregon allows this to happen, it will <u>not</u> be because of requirements for economic progress or jobs, or any other necessity.

It will be because of a lack of public imagination and a lack of political courage, as much as a lack of intelligent planning.

C. FRAGMENTED GOVERNMENT RESPONSE

There are numerous reasons why government has not done a good job meeting the land and water problems of the Oregon Coast. One reason is that the problems are not understood. Another is expense. Another is lack of qualified people to do the job. Also, there is simple disagreement and economic self-interest.

Equally important is the fact that government on the Oregon Coast, before 1971, is simply not structured to effectively deal with coastal natural resource problems on a regional basis.

The Corps of Engineers has the most important federal responsibility on the Oregon Coast. It controls discharge, dredging, and construction in navigable waters, which includes estuaries. It's primary statutory concern is navigation.

The Forest Service manages extensive federal timber lands.

On the state level, the Oregon Department of Environmental Quality generally regulates air and water pollution. The Division of State Lands regulates fills and removals from state waters. The State Water Resource Board rules on water uses, planning, and has flood plain responsibilities. The Fish Commission and the Game Commission carry out the state's policies for wildlife. The Nuclear and Thermal Energy Council approves sites for nuclear plants and high voltage transmission lines. The State Engineer enforces ground water policy. The Board of Health enforces water quality standards for shell-fishing, sets standards for septic tank use, and licenses public water supplies. The State Parks and Recreation Section of

the Oregon Highway Division selects and manages parks. The Department of Forestry manages state forest lands. There are others.

Beneath this structure of federal and state authorities is a complex of seven coastal counties, 15 port districts, 32 incorporated cities or towns, numerous unincorporated towns and villages, and literally hundreds of rural fire districts, drainage districts, taxing districts, intermediate education districts, sanitation districts, and other special districts.

The above governmental units have varying degrees of authority. But each has some. Also, each has a distinct function and a specific (often single) purpose which affects land and water resources.

Purposes often conflict. For example, the Fish Commission opposed the dredging proposal in the Siuslaw. D.E.Q. opposed Lincoln County developments in the absence of adequate sewage and water facilities.

Another example is that a county, a city, a port district, the Corps of Engineers, Land Board, and other agencies all may have non-overlapping authority in the same estuary. The same is true for other estuaries up and down the Oregon Coast. The Siuslaw fills are examples.

No agency is required to consider the impact, if any, of its decisions on the coast as a whole. Even if the agencies were so required, heretofore no authoritative means existed by which governmental bodies could (1) determine which kinds of decisions and activities affecting which kinds of resourses were significant coast-wide, and (2) establish standards for evaluating the decisions and actions, and resolving the conflicts, affecting those resources.

These circumstances make it difficult for the public (1) to determine

how it wants one entire estuary to be, and (2) to manage it accordingly -- much less to determine general, coordinated policies and standards applicable to all coastal estuaries.

With government bodies so fragmented, narrow and numerous -- particularly in the absence of any authoritative regional concepts and procedures pertaining to natural resources -- it is understandable why today we see a pervasive and dangerous kind of land use anarchy threatening the Oregon Coast.

Government today simply has no effective grasp on the regional aspects of coastal development issues.

As a result, the interest of the general public is not now being adequately protected.

D. COASTAL MANAGEMENT POLICIES OUTSIDE OREGON

1. San Francisco Bay Conservation and Development Commission (BCDC)

BCDC was created in 1967 to stop the rapid filling of San Francisco Bay.

Its voting membership includes: four members appointed by the Association of Bay Area Governments to represent cities; nine members appointed by county supervisors to represent the nine Bay Area counties; two federal government representatives (Department of Health, Education and Welfare and the U.S. Army Corps of Engineers); four state agency representatives (Department of Finance, Department of Conservation, State Lands Commission, and the State Department of Public Works); one member from the San Francisco Regional Water Quality Control Board; and seven public representatives, five of whom are appointed by the Governor and one each by the Senate Rules Committee and the Speaker of the Assembly. One member each from the State Senate and Assembly attend commission meetings as nonvoting representatives.

No Bay Area Port Commissioner is given voting membership on BCDC.

The Commission is empowered to allow limited fill and development for water-oriented uses.

Its authority to control these activities is a permit power extending to all areas of San Francisco Bay subject to tidal action, plus shoreline areas up to 100-feet inland from bay areas subject to tidal action.

2. California Coastal Zone Conservation Commission

Background

In 1972, California voters passed initiative measure Proposition 20 to establish the strong California Coastal Zone Conservation Commission.

Proposition 20 passed 55% to 45% in face of the powerful opposition of utilities, oil companies, developers, and out of state financial institutions, and after the California Legislature failed to pass adequate legislation in two prior sessions.

Policy

The people of California passed Proposition 20's Coastal Zone Conservation Act which declared the policy of the state to be "to preserve, protect, and where possible, to restore the resources of the coastal zone for the enjoyment of the current and succeeding generations."

"Development", balanced or otherwise, is not one of the purposes of the Act.

Composition

Proposition 20 established the state-wide California Coastal Zone Commission and six Regional Commissions.

There are 12 members on the state-wide commission. The Governor, Senate Rules Committee and Speaker of the Assembly appoint two each. The six regional commissioners appoint one each.

The six regional commissioners are composed of equal numbers (varying from 6-8) of city and county officials on the one hand, and representatives of the general public, on the other. The Governor, Senate Rules Committee

and Speaker of the Assembly appoint equal members of the public representatives.

No California port commissioner is entitled to membership on either commission.

California Coastal Zone Conservation Plan

The state wide commission is to prepare and submit to the Legislature by December, 1975 the California Coastal Zone Conservation Plan.

27301. The coastal zone plan shall be based upon detailed studies of all the factors that significantly affect the coastal zone.

27302. The coastal zone plan shall be consistent with all of the following objectives:

(a) The maintenance, restoration, and enhancement of the over all quality of the coastal zone environment, including, but not limited to, its amenities and aesthetic values.

(b) The continued existence of optimum populations of all species of living organisms.

(c) The orderly, balanced utilization and preservation, consistent with sound conservation principles, of all living and non-living coastal zone resources.

(d) Avoidance of irreversible and irretrievable commitments of coastal zone resources.

27303. The coastal zone plan shall consist of such maps, text and statements of policies and objectives as the commission determines are necessary.

27304. The plan shall contain at least the following specific components:

(a) A precise, comprehensive definition of the public interest in the coastal zone.

(b) Ecological planning principles and assumptions to be used in determining the suitability and extent of allowable development.

California's Interim Permit Authority

The Regional Commissions are empowered to administer the Coastal Zone Conservation Act's Interim Permit Authority which provides:

Chapter 5. INTERIM PERMIT CONTROL

Article 1. General Provisions

27400. On or after February 1, 1973, any person wishing to perform any development within the permit area shall obtain a permit authorizing such development from the regional commission and, if required by law, from any city, county, state, regional or local agency.

Except as provided in Sections 27401 and 27422, no permit shall be issued without the affirmative vote of a majority of the total authorized membership of the regional commission, or of the commission on appeal.

27401. No permit shall be issued for any of the following without the affirmative vote of two-thirds of the total authorized membership of the regional commission, or of the commission on appeal:

(a) Dredging, filling, or otherwise altering any bay, estuary, salt marsh, river mouth, slough, or lagoon.
(b) Any development which would reduce the size of any beach or other area usable for public recreation.
(c) Any development which would reduce or impose restrictions upon public access to tidal and submerged lands, beaches and the mean high tideline where there is no beach.
(d) Any development which would substantially interfere with or detract from the line of sight toward the sea from the state highway nearest the coast.
(e) Any development which would adversely affect water quality, existing areas of open water free of visible structures, existing and potential commercial and sport fisheries, or agricultural uses of land which are existing on the effective date of this division.

27402. No permit shall be issued unless the regional commission has first found, both of the following:

(a) That the development will not have any substantial adverse environmental or ecological effect.
(b) That the development is consistent with the findings and declarations set forth in section 27001 and with the objectives set forth in section 27302.

The applicant shall have the burden of proof on all issues.

27403. All permits shall be subject to reasonable terms and conditions in order to ensure:

(a) Access to publicly owned or used beaches, recreation areas, and natural reserves is increased to the maximum extent possible by appropriate dedication.

(b) Adequate and properly located public recreation areas and wildlife preserves are reserved.

(c) Provisions are made for solid and liquid waste treatment, disposition, and management which will minimize adverse effects upon coastal zone resources.

(d) Alterations to existing land forms and vegetation, and construction of structures shall cause minimum adverse effect to scenic resources and minimum danger of floods, land-slides, erosion, siltation, or failure in the event of earthquake.

Any "aggrieved" person may appeal, de novo, a regional commission's approval of a permit to the state-wide commission. Any aggrieved person may have judicial review of the state-wide commission's decision.

According to a Los Angeles Times' survey of members of both commissions, Regional Commission members "take a moderately conservationist approach to their job", and the State-wide Commission "is heavily weighted toward the conservationist approach." (Los Angeles Times, part 1-A, page 1, Feb. 12, 1973)

The Los Angeles Times also found that

> "On the whole, the qualifications of commissioners are high, as is their enthusiasm for the job; ...there is an acute awareness that the commissions were created by the people -- not the Legislature -- and a greater degree of public participation will be sought than is usual among public agencies." (Los Angeles Times, February 12, 1973)

Money

The Coastal Zone Conservation Act operates with a $5 million state allocation from its beginning early in 1973 to 1976.

3. Washington Shoreline Management Act of 1971

Passed by the Washington House of Representatives 83 yes, 11 no, and by the Senate 38 yes, 9 no, the Shoreline Management Act of 1971 was referred to the voters and adopted in 1972.

Policy

The Washington Legislature found:

> "Section 2 ...that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration and preservation"

and that there is

> "a clear and urgent demand for a planned, rational and concerted effort...to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines."

Section 2 of the Act further provides:

> "The Legislature declares that the interest of all the people shall be paramount in the management of shoreline of state-wide significance. The Department (Washington Department of Ecology), in adopting guidelines for shorelines of state-wide significance, and local government, in developing master programs for shorelines of state wide significance, shall give preference to uses in the following order of preference which:
>
> "(1) Recognize and protect the state-wide interest over local interest;
> (2) Preserve the natural character of the shoreline;
> (3) Result in long-term over short-term benefit;
> (4) Protect the resources and ecology of the shoreline;
> (5) Increase public access to publicly owned areas of the shoreline;
> (6) Increase recreational opportunities for the public in the shoreline;"

Application

The Act distinguishes between "shorelines" and "shorelines of state-wide significance" and between "development" and "substantial development".

"Shorelines" means "all of the water areas of the state, including reservoirs, and their associated wetlands, together with lands underlying them", except for (1) shorelines upstream of points on streams with less than mean annual flow of 20 cubic feet per second and (2) shorelines of lakes less than 20 acres in size. [Section 3(d), (emphasis added)]

"Shorelines of state-wide significance" means (1) shores (to ordinary high water mark) on the Pacific Coast, Straits of Juan de Fuca, Puget Sound, Hood Canal, and other major bays and deltas; (2) 1,000 acre lakes; (3) major rivers of the east (1,000 cfs) and west (200 cfs) slope of the Cascade Mountains, and (4) "wetlands" associated with (1), (2), and (3).

"Wetlands" are defined as

> "those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; and all marshes, bogs, swamps, floodways, river deltas and flood plains associated with the streams, lakes and tidal waters which are subject to the provisions of this act; the same to be designated as to location by the Department of Ecology."

"Development" is defined in the ordinary sense of the term, but broadly.

"Substantial development" means a $1,000 development or more, "or any development which materially interferes with the normal public use of the water or shoreline of the state" with exceptions pertaining to maintenance, residential modification, emergency, navigational aids, etc.

Powers

The Department of Ecology is empowered to establish guidelines for development of "master programs" applicable to both "areas of shorelines" and "uses of shorelines of state-wide significance".

Counties and cities containing lands subject to the Act are required, within the framework of a specific timetable, to develop "master programs" (comprehensive use plans) for shorelines within their jurisdictions consistent with the DOE's guidelines.

When adopted, master programs shall constitute "use regulations" for all applicable shorelines.

DOE has the power to disapprove, recommend modifications of, and finally approve, local government master programs applicable to "shorelines".

DOE has the power to "develop an alternative to the local government's master plan as it relates to "shorelines of state-wide significance".

Developments may not be undertaken if inconsistent with applicable DOE guidelines, regulations or adopted master program.

Washington Interim Permit Authority

The Washington Shoreline Management Act of 1971 also provides interim permit authority:

> "Section 14 (2) No substantial development [i.e., over $1,000] shall be undertaken on shorelines of the state [i.e., all shorelines subject to the act] without first obtaining a permit from the government entity having administrative jurisdiction under this chapter.
>
> "A permit shall be granted:
> (a) From the effective date of this chapter until such

> time as an applicable master program has become effective, only when the development proposed is consistent with: (i) The policy of section 2 [supra.] of this 1971 act; and (ii) after their adoption, the guidelines and regulations of the department; and (iii) so far as can be ascertained, the master program being developed for the area."

Hearing Board Hears Permit Appeals

Appeals may be taken from local government permit decisions by the DOE, the Attorney General, another local government, or an "aggrieved" person (with a certification of cause from either the Attorney General or the DOE) to the "Shorelines Hearings Board".

Hearing Board Composition

The Shorelines Hearing Board is composed of three members of the Washington Pollution Control Board, one each from the Association of Washington Cities and Association of County Commissioners, and the Washington Commission of State Lands or his designee.

No Washington port commissioner is entitled to membership on the Shorelines Hearing Board, even though the area embraced by the Act includes the big Puget Sound port districts.

The Chairman of the Shorelines Hearing Board shall be the chairman of the Pollution Control Hearings Board. The Pollution Board provides necessary staff and clerical help to the Shorelines Hearing Board.

Money

The Washington Department of Ecology operates the Shorelines Management Act of 1971 with a two year $500,000 state appropriation.

4. Federal Coastal Zone Management Act of 1972

Policy

In October, 1972, Congress passed the Coastal Zone Management Act of 1972 (S 3507, Public Law 92-583), establishing national policy:

"Section 303 (a) to preserve, protect, develop, and where possible, to restore or enhance the resources of the Nation's coastal zone for this and succeeding generations,

"(b) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development,"

Coastal Management Plan Grants

Under the Act, coastal states are eligible for grants from the Secretary of Commerce, acting through the National Oceanic and Atmospheric Administration (NOAA) to help coastal states prepare a "management program for the land and water resources of its coastal zone".

A states coastal zone management program must include:

"Section 305 (b)

(1) An identification of the boundaries of the coastal zone subject to the management program;
(2) A definition of what shall constitute permissible land and water uses within the coastal zone which have a direct and significant impact on the coastal waters;
(3) An inventory and designation of areas of particular concern within the coastal zone;
(4) An identification of the means by which the state proposes to exert control over the land and water uses referred to in paragraph (2) of this subsection, including a listing of relevant constitutional provisions, legislative enactments, regulations, and judicial decisions;
(5) Broad guidelines on priority of uses in particular areas, including specifically those uses of lowest priority;

> (6) A description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local, area-wide, state, regional, and interstate agencies in the management process."

A completed management program must provide for:

> "Section 306 (c)
> (8) adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature."

and

> "(9) ....procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological or esthetic values."

including "estuarine sanctuaries" [as defined in Section 304 (e)].

To receive federal money to help operate an adopted coastal zone management plan, the Governor of the coastal state must designate an agency to receive and administer such grants.

Governor Tom McCall has provisionally designated the Oregon Land Conservation and Development Commission (LCDC), proposed by Senate Bill 100, the MacPherson land use bill.

Under Section 16 of Senate Bill 100, the Land Conservation and Development Commission "may" delegate any of its functions to OCCDC, provided, however, that LCDC give prior approval to any OCCDC action under the delegation.

E. THE OREGON COASTAL CONSERVATION & DEVELOPMENT COMMISSION

The OCCDC is the 1971 Oregon Legislature's response to the serious land and water use problems which now threaten permanent damage to Oregon coastal natural resources.

Composition

Senate Bill 687, which originally proposed OCCDC, provided that the voting members of OCCDC would be 24 port commissioners, county commissioners and city officials from the seven coastal counties.

Former Douglas County Senator and now OCCDC Commissioner, Al Flegel, played a key role in drafting Senate Bill 687.

Environmentalists were able to amend Senate Bill 687 so that Governor McCall could appoint six additional members, one from each of the four OCCDC districts, and two from the state at large.

Eight of the present members of OCCDC represent the following coastal port authorities:

Port of Astoria
Port of Tillamook Bay
Port of Siuslaw (OCCDC Chairman)
Port of Umpqua
Port of Newport
Port of Toledo
Port of Coos Bay (OCCDC Secretary)
Port of Gold Beach

The first executive director of the OCCDC (part-time July, 1971 - March 26, 1972) was Paul Coyne, general manager of the Port of Siuslaw.

Two of the OCCDC's principal officers are port commissioners. OCCDC Chairman Wilbur Ternyik is from the Port of Siuslaw. He is a self-employed sand dune stabilizer. OCCDC Secretary Robert Younker is from the Port of Coos Bay. He is in the real estate business.

Policy

ORS Chapter 191 describes OCCDC.

"191.110 Policy. The Legislative Assembly finds and declares that:

"(1) The coastal zone in this state is an important and valuable part of the natural resources of this state and that because of its value there exists a need for its protection through the development and maintenance of a balance between conservation and developmental interests with respect to such natural resources.

"(2) There exists a conflict in the development and use of the natural resources of the coastal zone among industrial interests, commercial and residential development interests, recreational interests, power resource interests, transportation and other navigational and other marine resource interests.

"(3) To further the policy of this state in the protection, preservation, development and, where practicable, the restoration of the natural resources of the coastal zone, a commission should be established to develop and prepare a comprehensive plan for the conservation and development of the natural resources of the coastal zone that will provide the necessary balance between conflicting public and private interests in the coastal zone."

The Oregon Coastal Zone includes that part of Oregon between California and Washington, and west of the crest of the Coast Range to the extent of the state's territorial jurisdiction.

Duties

The functions of the OCCDC are specified:

"191.140 (1) Study the natural resources of the coastal zone and recommend the highest and best use of such resources.

"(2) Not later than January 17, 1975, prepare and submit a report, including the findings of its study, a proposed comprehensive plan for the preservation and development of the natural resources of the coastal zone and any maps, charts and other information and materials that are considered

by them to be necessary in such report, to the Governor and to the Fifty-eighth Legislative Assembly of the State of Oregon.

"(3) Not later than January 12, 1973, prepare and submit a preliminary and, if possible, a final report of their progress in the study and formulation of the comprehensive plan described by subsection (2) of this section to the Governor and the Fifty-seventh Legislative Assembly of the State of Oregon.

"(4) Advise the Governor from time to time on the findings being made by them and propose policies and interim measures for implementation by the Governor and state agencies that they consider to be necessary for the proper preservation and development of the coastal zone prior to completion of its comprehensive plan for the coastal zone.

Comprehensive Plan

"191.150 Plan content. (1) The plan described by subsection (2) of ORS 191.140 shall reflect a balancing of the conservation of the natural resources of the coastal zone and the orderly development of the natural resources of the coastal zone. Such plan shall be prepared in a form designed to be used as a standard against which proposed uses of the natural resources of the coastal zone may be evaluated. In the event of conflicting uses of the natural resources of the coastal zone, the plan shall establish a system of preferences between such conflicting uses that are consistent with the control of pollution and the prevention of irreversible damage to the ecological and environmental qualities of the coastal zone."

Oregon Interim Permit Authority

No interim permit authority is provided in ORS chapter 191.

Money

No money appropriation was provided in ORS chapter 191.

OCCDC was funded during its first biennium by voluntary contributions from coastal zone counties with state money matching the county contributions after May, 1972.

In 1971-1972, the OCCDC received the following county contributions:

Lane	$10,000
Douglas	10,000
Lincoln	3,000
Clatsop	3,000
Tillamook	3,000
Coos	-
Curry	-
	$29,000

The Emergency Board of the Oregon State Legislature initially refused to give OCCDC money. Rep. Stafford Hansell (R. Hermiston) opposed Emergency Board funding of OCCDC because he did not like the commission's membership. "That is like having the fox guard the chickens." (Eugene Register Guard, April 24, 1972)

In May, 1972, the Emergency Board agreed to match county contributions, as contributed, up to $40,000.

On July 1, 1972, OCCDC was still operating on the original $29,000 because no 1972-1973 contributions had yet been received.

In fiscal year 1972-1973, OCCDC received the following state-matched contributions:

Lane	$10,000	
Douglas	10,000	
Lincoln	3,000	
Clatsop	3,000	
Tillamook	3,000	
Coos	-	
Curry	3,000	(March, 1973)
	$32,000	

Also, OCCDC has received $30,000 under a Section 701 grant under the Housing and Urban Development Act of 1956.

In addition, the dollar value of the "work concepts" prepared by

Battelle Northwest for, and paid by, Local Government Relations, Oregon Executive Department, but used by OCCDC, was approximately $12,500.

OCCDC's 1973-1975 general fund budget request is $120,000. (HB 5052)

Anticipated local ($120,000) and federal matching ($414,870) money would provide OCCDC total revenue of $654,870.

Under ORS ch. 191, OCCDC is a temporary planning agency which is to terminate after OCCDC presents its proposed coastal comprehensive plan to the Oregon Legislature in January, 1975.

II. A COMPREHENSIVE PLAN FOR THE OREGON COAST

A. PLANNING FOR THE COAST AS A WHOLE

ORS ch. 191 provides that OCCDC's comprehensive plan shall protect the coastal zone generally, as well as specific natural resources in the coastal zone.

ORS 191.110 (1) provides:

> "The coastal zone in this state is an important and valuable part of the natural resources of this state and that because of its value there exists a need for its protection..." (emphasis added)

Under ORS 191.140 (4), the OCCDC is to

> "propose policies and interim measures for implementation by the Governor...necessary for the proper preservation and development of the coastal zone prior to completion of its comprehensive plan for the coastal zone." (emphasis supplied)

ORS 191.150, "Plan Content" provides that resource use conflicts are to be resolved by an OCCDC-established "system of preferences", which are "consistent with the control of pollution and the prevention of irreversible damage to the ecological and environmental qualities of the coastal zone." (emphasis added)

Estuaries and Ports

The crucial coastal natural resources, apart from the ocean itself, are the estuaries. In addition, the crucial conflicts and policy issues between conservation and development center on estuaries.

The key planning decision which must be made to protect the environmental qualities of the coastal zone, as well as to sensibly balance conservation and development, is to determine which of Oregon's port-

estuarine areas have important long-range commercial strengths, and which do not.

Limited financial resources should be concentrated at those port-estuarine areas which are found to have important long-range commercial potential. These areas should be developed into first class, competitive shipping centers.

Commercial port development in other estuarine areas should be de-emphasized, and the estuary managed for its important natural purposes. OCCDC natural resource standards should provide appropriately strict land use regulation in the watershed areas upstream from these estuaries.

This approach protects the environment and strengthens the economy of both the Oregon Coast and the entire state. It also avoids duplication of costly facilities.

East-West Highways

Decisions about east-west highway development would correspond to the port-estuary decision. High volume, commercial-quality highways would lead from the Willamette Valley or Douglas County to the important port areas. Existing highways on other east-west corridors should be merely maintained, or managed as scenic highways.

Highway 101

Highway 101 is another distinctly regional feature. It runs along one of the most beautiful coastlines in the world. OCCDC should apply to as much of Highway 101 as practicable, specific standards relating to set backs, bill-boards, on-premise sign control, building heights, and view preservation to preserve Highway 101's important scenic value.

In the long run, the economic (tourist) benefit of this decision would be at least as great as the environmental benefit. If applied coast-wide, competitive disadvantages are minimized.

Ocean Shoreline

A fourth distinctly regional resource problem is ocean shoreline protection. The ocean shoreline is a fragile, narrow strip. It belongs to all Oregonians and all Americans.

OCCDC should establish, by initial standards, urban growth boundaries for ocean shoreline cities and towns. Growth and sprawl north and south along the coast should be geographically restricted. Instead, growth should be directed to the east. This policy will maximize the opportunity for many people to experience the ocean.

The Coast From a Satellite

Making region-wide decisions which plan for the Oregon Coast as a whole will require maps and supporting explanatory text.

The coast-wide maps would indicate the location and extent of major port designations, highway corridors, sections of Highway 101 managed for scenic purposes, and coastline growth boundaries.

The supporting text would describe and explain the decisions. It would also provide the resource "standards" or "system of preferences" necessary to implement the decisions.

For some of these regional decisions, it may be good overall policy to establish standards which will significantly and permanently impair or even ruin a natural resource. This probably would be true for some underlying port decisions (or related standards), and for high-volume highway development.

Other decisions, such as those pertaining to Highway 101 or growth boundaries, will limit some kinds of economic activity.

But if we are trying, in part, to determine how the future Oregon Coast will look from, say, a satellite, and if we are trying to preserve as much of the beauty of the coast as possible, as well as to foster vigorous economic activity, we should not try to impose a balance between conservation and development on every acre in the coastal zone.

Big, regional decisions should be made now, which can foster both strong economic activity and a quality coastal environment.

This must be part of what is meant by a "balance" between conservation and development.

Otherwise, the Oregon Coast will end up an undifferentiated, mediocre expanse of coastal sprawl, with important economic and environmental opportunities wasted.

It should be added that a comprehensive plan which included these kinds of region-wide decisions would be the strongest argument Oregon Coast residents could have on which to base requests for state and federal development money.

B. PLANNING FOR THE NATURAL RESOURCES OF THE COASTAL ZONE

Standards and a System of Preferences

ORS ch. 191 provides that for "the protection, preservation, development and, where practicable, restoration of the natural resources of the coastal zone."

OCCDC is to prepare a comprehensive plan "to be used as a standard against which proposed uses of the natural resources of the coastal zone may be evaluated." (emphasis supplied)

Further: "In the event of conflicting uses of the natural resources of the coastal zone, OCCDC's plan shall establish a system of preferences between such conflicting uses." (emphasis supplied)

The establishment of standards for particular kinds of coastal natural resources, and the "system of preferences", should follow or at least reflect basic coast-wide decisions such as major port areas and east-west highway designations.

OCCDC has determined the following coastal natural resources to be of "critical environmental concern".

1. Estuaries
2. Wetlands
3. Floodplains
4. Geological Hazards
5. Beaches and Dunes
6. Shorelands
7. Continental Shelf
8. Unique Scenic Features
9. Historic and Archaeological Sites
10. Scientific Natural Areas
11. Wildlife and Fish Habitats
12. Freshwater Lakes and Streams
13. Forests and Watershed Lands:
    - -Land treatment practices
    - -Vegetation removal
    - -Natural resource extractions

14. Agricultural Lands
15. Public Recreation Areas
16. Industrial Lands
17. Residential Lands
18. Aesthetics, including noise pollution
(1973 OCCDC Interim Report, page 4)

This is a good list, as long as water supply considerations are included in work on freshwater lakes and streams. It should also include Highway 101.

The OCCDC's job is to develop "standards" for these resources.

Resource Inventory

In order to perform that job, OCCDC needs precise facts about the location, character, extent and existing use of each resource. This is the essential first step.

In other words, OCCDC needs a detailed inventory of critical coastal resources.

To a certain extent, OCCDC can rely on other agencies to provide basic resource information. This is true of beaches and dunes (U.S. Soil Conservation Service), geological hazards and floodplains (Oregon Department of Geology and Mineral Industries; plus State Water Resources Board and U.S. Corps of Engineers for floodplains), wildlife and fish habitats (Oregon Fish and Game Commissions), public recreation, agriculture, industrial and residential lands (coastal cities, counties, and Councils of Government), and scientific natural areas (U.S. Forest Service, University of Oregon Marine Biology Station, OSU Marine Science Institute, Oregon Game Commission).

Other resources are more readily identifiable, such as unique scenic features, freshwater lakes and streams.

OCCDC's Historical and Archaeological site inventory essentially has been completed by Associate Professor of History, Stephen P. Beckham, Linfield College, McMinnville, Oregon.

However, information required for estuaries is both more complicated and less readily available.

The report submitted January 31, 1972 to OCCDC by David Bradwell and Richard Reynolds (California consultants) gives an indication of the resource information needed for adequate estuary planning:

"1. Local climate--oceanic and terrestrial--together with regional influences.

"2. Water cycle as applied to:

   a. Oceanic/estuarian tidal and storm influences.
   b. Oceanic littoral drift.
   c. Estuarian/river relationships.
   d. Water table relationships/estuarian.
   e. River basin hydrology, including:
      i. Flood relationships.
      ii. Water table relationships.
      iii. Evaporation/transportation relationships.
      iv. Effective human action on the river in the form of dams, bank control, urban development, agriculture, forestry, uncontrolled fires, road building, etc.

"3. Soils, geomorphologic and geologic influences, particularly in terms of:
   a. Influence of soils on distribution of plants and animals; drainage; forest and range fertility; structural stability; potential hazards; erodibility, etc.
   b. Land forming processes, especially in terms of sedimentation and depositional processes relative to stream and river actions.
   c. Geologic relationships in terms of potential geologic hazards, water table relationships, construction materials, etc.
   d. Geomorphologic relationships in terms of estuary and ocean shore formation and destruction relationships.

"4. Terrestrial plant/animal community structure, distribution, management, and change.

"5. Aquatic plant/animal community structure, distribution, management, and change relationships, particularly related to terrestrial activity such as waste disposal, forestry, agriculture, and urbanization.

"6. Relationships and interacting influences of 1-5 above." (Bradwell-Reynolds report, January 31, 1972, pages VII-5,6)

Given the fundamental and complex role of estuaries in coastal economic and environmental issues, a good estuary inventory should have been the first order of business for OCCDC.

Litigable Standards

Standards for the critical coastal resources must not only be based on hard information about the resource at hand. Standards must also be specific and definite enough so that decisions based on them can be challenged and litigated.

For example, an estuary resource standard which simply said "estuarine development should be water-related" would be inadequate.

A water-relatedness policy for estuaries must be further developed to provide, for example, that residences are not a permitted estuarine development.

More basically, the actual planning authority of OCCDC "standards" needs to be established. Such authority does not now exist in ORS ch. 191.

If the standards and comprehensive plan of the OCCDC are to mean anything, the Legislature must eventually provide that the power of coastal counties and cities to adopt comprehensive plans and zoning ordinances is conditional upon such plans and ordinances being consistent with OCCDC resource standards.

This would give the resource standards authority. Also, to the extent OCCDC standards are connected with county comprehensive planning, OCCDC standards would be supported by the protective holding of Fasano v. Board of Commissioners of Washington County, ____Or._____ (March 2, 1973).

Fasano held (1) that the applicant must prove that the zone change is in conformity with county comprehensive plans, and (2) that proof consists of a showing that (a) there is a public need for a change of the kind in question, and (b) that need will be best served by changing the classification of the particular piece of property in question as compared with other available property.

County-by-county resource maps (for individual resources as appropriate) should be produced showing where, in each county, the critical resources are located.

Text accompanying the map would explain the purpose and meaning, of the resource standard(s) involved, and state where in the county the standard(s) was applicable.

C. IMPLEMENTATION

The coast-wide maps, with applicable standards, and the individual, county-by-county natural resource maps, should be forwarded to coastal counties.

The counties would make revisions, as necessary to make county comprehensive plans and zoning ordinances consistent with OCCDC coast-wide and natural resource standards.

The Land Conservation and Development Commission (the most likely implementing authority) should have authority, after a certain period of time, to establish county comprehensive plan provisions or zoning ordinances consistent with the Oregon Coastal Comprehensive Plan standards, if the county had not done so.

LCDC would administer the standards thereafter, including enforcement and appeals.

D. REVISION OF STANDARDS

No comprehensive plan or planning standard can be permanent. Standards may be mistaken. Relevant federal of state law may change. Economic and other conditions change.

However, the planning standards should be changed only by a readily identifiable, scheduled, open public procedure.

LCDC should hold hearings in the spring and summer of even-numbered years, before the Legislative Session.

The hearings would solicit public comment on LCDC's proposed changes in the coastal comprehensive plan's standards.

The proposed changes would be based on prior public requests and comment, and on LCDC staff recommendations, taking into consideration up-dated resource inventories.

Final proposed standard changes should be prepared by October 1st of even-numbered years, in time for citizens to ask candidates standing for public office their views of the standards.

The final proposed changed standards should be submitted to the Legislature for final review. In the absence of legislative action, the standards would become final until the next biennial revision procedure.

This procedure avoids the situation where an agency will modify this standard in Curry County in May, that standard in Clatsop County in June, another standard in Lincoln County in July, still another standard in Tillamook County in August, and so on.

In addition to a piecemeal destruction of planning standards, the pressure in this kind of a system is always to dilute standards, never to improve them.

By having the revision process occur every two years, on an open, regular basis, together with long-term staff consideration of changed conditions and public requests, the public will have better control over planning in the coastal zone.

III. OCCDC'S 1971-1973 PERFORMANCE

The OCCDC's performance and specific work products to date, importantly including the 1973 Interim Report to the Oregon Legislature, show that OCCDC is about one year behind schedule.

Even if the work of the OCCDC were on schedule, its studies and reports reflect a local developmental bias, instead of a balance between conservation and development which is in the best interest of all regions in the state.

In the absence of major structural changes and regular legislative review of OCCDC's work in the next 20 months, it is extremely unlikely that the OCCDC will provide the Oregon Legislature with the comprehensive plan for the coastal zone by January 1975, required by ORS ch. 191.

A. CONSULTANTS: July, 1971 - March, 1972

Background

OCCDC's first meeting was held on July 14, 1971 in Astoria.

At its second meeting on July 28, the Commission voted to hire a consulting firm for $10,000 to prepare a "preliminary report" (OCCDC minutes, July 28) to "define the scope of the Commission's work for the next 3½ years" (Oregon Journal, July 29, 1971).

The consultants' proposals for the "study design" were to include (in addition to ORS ch. 191 enabling act requirements):

1. Inventory and analysis of existing studies and information pointing to necessary research and development of new information.
2. An examination of political jurisdictions and responsibilities and how these interests can be co-ordinated.
3. Identification of needs and problems in the coastal zone.
4. Alternate structures for work programs to develop a comprehensive plan.
5. Cost estimates for the development of the comprehensive plan.
6. Innovative methods for coastal zone management.
7. Alternate proposals for plan implementation.
8. Program for citizen involvement.

(August 3, 1971 OCCDC prospectus mailed to interested consultants)

The "study design" would spell out how the OCCDC's 1975 comprehensive plan would be made. It was anticipated that actually preparing the comprehensive plan would require hiring another consultant.

On August 30, the OCCDC Program Development and Review Committee interviewed five applicant consulting firms.

On September 8, the Commission voted 15-1 to hire David Bradwell and Associates to prepare the study design. (OCCDC minutes, September 8, 1971)

Chairman Wilbur Ternyik stated that the Bradwell team gave "A well rounded presentation at the interview, and noted that references given by the Bradwell Team had been contacted and that their work had been satisfactory in all respects" (OCCDC minutes, September 8, 1971).

On September 29, members of the hired consultant team formed a joint venture, "The Oregon Coastal Planning Group".

On October 5, Mr. Adam Krivatsy of the San Francisco planning firm Hart, Krivatsy and Stubee which, in turn, was a member of the Oregon Coastal Planning Group, wrote a private memorandum to other members of the Group which included the following:

> "I suggest that we get out to make two friends for each person whom we may give reason to find fault with us... We should accept the fact that for the next 2-3 months we are on a "goodwill" tour, and we must do all we can, within our budget limit, to keep Oregon people happy."
>
> "We could do this by getting in touch with all those who will have an influence on the final selection (and more) and find out what we could do for them when we are awarded the real job. We should not hesitate to promise things (to be done in the real study), just as politicians do when they campaign...."

The memorandum started a split among the members of the Oregon Coastal Planning Group.

On December 8, the Oregon Coastal Planning Group submitted a preliminary report to the OCCDC.

Commissioner Jim Hill described its language as "gobbledygook".

Commissioner Andy Zedwick said, "I doubt if anyone here could understand the whole thing."

Commissioner Lyle Hasselbrink said, "I don't think the consulting firm responded with what we asked them to do for us."

Chairman Wilbur Ternyik told the Oregon Coastal Planning Group to "get back on the track" and prepare a study design for the development of a consulting-firm coordinated comprehensive plan.

(Quotes: Eugene Register Guard, December 4, 1971)

On December 11, 1971 David Bradwell wrote a memorandum to other members of the group charging, "There has been an excessive preoccupation

with a series of strategies for obtaining the second phase of the Oregon work."

Bradwell was "Alarmed at the extent to which the work on the Oregon Study design has followed the approach outlined in Adam Krivatsy's memorandum of October 5, 1971."

Bradwell stated he only learned after joining with Hart-Krivatsy-Stubee that their major California clients included Irvine Land Company, Disney, and Oceannic Properties, and that their firms "have taken an active role in killing California coastal and other environmental legislation."

At this time, Reynolds and Bradwell split off from the other members of the Oregon Coastal Planning Group and decided to submit a separate study to OCCDC.

On January 12, the OCCDC unanimously approved the Oregon Coastal Planning Group's outline of the study design for the 1975 coastal plan as presented by Charles Page of Hart, Krivatsy and Stubee. The outline called for OCCDC to hire staff in January, 1972 and to hire consultants in May 1972.

Shortly thereafter, Bradwell and Reynolds resigned from the Oregon Coastal Planning Group, charging that the outline did not reflect "the integrity of our professional opinions" and citing the other Group members connections with major California land developers. (Oregonian, January 19, 1972)

They accused Chairman Wilbur Ternyik of "holding up their letter of resignation." (Eugene Register Guard, January 19, 1972)

Chairman Ternyik's comments on Bradwell and Reynolds' resignation:

> I'm not sure if they're too good anyway, and I don't know if we want them on the coast at all. (Oregonian, January 19, 1972)

Bradwell and Reynolds filed a separate study design on January 31, 1972.

Hart-Krivatsy-Stubee and the other two members (Miller, Groezinger, Pettit and Evers, Attorneys and MLTW/Turnbull Associates, Architects and Planners) filed their report in early February, 1972.

On February 23, 1972, the OCCDC voted to accept a "synthesized" version of the two divergent consultants' reports. An OCCDC "task force" was established to combine the two reports.

Commissioner Paul Geuy said even with both reports, the OCCDC hadn't got its money's worth. (Oregonian, February 24, 1972)

Commissioner Al Flegel said he would "like to throw the Bradwell report in the waste basket." (Eugene Register Guard, February 24, 1972)

On March 9, 1972, the OCCDC decided not to use either consultant's report for the purposes of the contract.

The task force appointed to combine the reports was unable to do so, saying that the Emergency Board of the Oregon Legislature wanted "Tight, concise summaries, not weighty tomes."

Commissioner Al Flegel (Douglas County Commissioner) moved, and the OCCDC voted, to keep both reports for future reference.

(Eugene Register Guard, March 10, 1972)

Conclusion

The OCCDC spent 6½ months and $10,000 for consultants to produce a "study design" to define how the OCCDC would produce a comprehensive coastal plan by January, 1975.

After spending that money and valuable time, the OCCDC did not get such a "study design" or anything like it.

In March, 1972, OCCDC was not appreciably closer to meeting its ORS ch. 191 objectives than it was in July, 1971.

This failure may have resulted from a poorly written prospectus, incompetent consultants, poor instructions and general supervision, or other reasons. Whatever the reasons, the OCCDC is chargeable with the waste and lack of progress.

B. STAFF HIRING

Background

In July, 1971 the OCCDC named Paul Coyne Executive Director of the OCCDC.

Mr. Coyne is general manager of the Port of Siuslaw and vice-president of the Oregon Public Ports Association.

He was to serve as Executive Director on a part time, temporary basis.

On January 12, 1972, the OCCDC unanimously approved the Oregon Coastal Planning Group's outline proposal, which included hiring staff in January, 1972.

On March 26, 1972 Mr. Coyne resigned as Executive Director for the stated reason that he did not have time to do both his Port of Siuslaw work and the OCCDC work. (Eugene Register Guard, March 27, 1972)

On June 1, 1972 the OCCDC hired James F. Ross as Executive Director to begin work July 1, 1972. (Eugene Register Guard, June 2, 1972)

Conclusion

OCCDC was without a qualified, full-time director or other professional staff throughout its first year of existence.

C. RESOURCE INVENTORY

Background

ORS 191.150 (1) provides:

> Plan content. (1) The plan described by subsection (2) of ORS 191.140 shall reflect a balancing of the conservation of the natural resources of the coastal zone and the orderly development of the natural resources of the coastal zone. Such plan shall be prepared in a form designed to be used as a standard against which proposed uses of the natural resources of the coastal zone may be evaluated. In the event of conflicting uses of the natural resources of the coastal zone, the plan shall establish a system of preferences between such conflicting uses that are consistent with the control of pollution and the prevention of irreversible damage to the ecological and environmental qualities of the coastal zone.

On July 16, 1971, the Oregon Shores Conservation Coalition, an organization primarily composed of coastal and Willamette Valley lawyers, scientists, architects, planners and other citizens, formally called upon the OCCDC to prepare an "inventory of environmentally critical areas" in the coastal zone.

On July 28, 1971,

> Chairman Ternyik informed the Commission members of the deluge of correspondence requesting that the OCCDC take a stand on individual projects along the Oregon coast. (OCCDC minutes, July 28, 1971)

> We are getting letters from all over the state wanting us to object to a landfill here and a development there. I don't really think it's in the scope of this commission to make these kind of statements. (Oregon Journal, July 29, 1971)

On June 13, 1972, Governor McCall asked the OCCDC to complete as quickly as possible an inventory of all public and private plans which threaten coastal resources such as "delicate sand dunes, estuarine regions and other waterways and wildlife habitat or that are proposed for flood plains or areas lacking suitable sewerage or drainage facilities."

Governor McCall asked that the inventory be given to coastal County Commissioners whom he will ask to be "exceptionally hardnosed" about unwarranted development.

Chairman Ternyik:

> I don't know exactly what the big problem is.
>
> I don't really feel that there is any possible way that anyone can build anything in a fragile area of any kind right now on the coast without one of the review agencies stopping them.
>
> Maybe there is something going on that I don't know about. But if there is, I don't know where it's at.

Chairman Terynik said, however, that OCCDC was to meet June 29 and 30 at Salishan, Gleneden Beach, to survey problems and set policies and that this work would meet the Governor's request.

(Quotes: Eugene Register Guard, June 13, 14, 1971)

The final OCCDC document representing the Salishan conference is a staff emmo, "Summary of Workshop Discussion Group Report", July 31, 1972.

The purpose of the memo was to "provide the Commission and the four district coordinating committees with a working document from which to further refine and develop problem statements, rules, and Commission goals and objectives."

The memo is four pages long. The first part is an interesting, but not specific or novel, discussion of "problems of major concern". The second part is a brief, general discussion of "suggested Commission roles".

The meeting did produce a general list of coastal resources regarded as being of "critical environmental concern."

But this was essentially repeating the same list of resources about which Governor McCall asked the OCCDC to be specific.

No particular policy or solution was adopted or even recommended.

Neither the document or the list has any actual planning authority.

Nor did the OCCDC provide, or attempt to provide, the inventory of public and private development plans threatening environmentally sensitive coastal resources which Governor McCall requested under ORS 191.140 (4).

OCCDC is relying on Battelle Northwest to compile an initial inventory of coastal areas of critical environmental concern (1973 Interim Report, page 4).

Battelle Northwest's state-wide study, Oregon Resources Analysis: An Inventory and Evaluation of Areas of Environmental Concern, (January, 1973), submitted to the Executive Department of the State of Oregon and to the state natural resource agencies, includes 7-8 pages on the coastal zone.

The discussion is quite general and superficial. No true definitions are attempted. No maps or photos or charts are provided. The coastal resources listed are essentially the same as written up by OCCDC at Salishan in June 1972.

In March 1973, Battelle Northwest provided OCCDC with a 38 page booklet entitled "Concepts Workbook".

About half the pages are blank. (The reader is to suggest "policy areas" on these pages.)

The other half contains quite general, abstract discussions about "management goals", "objectives", and "resources values" for 18 different coastal resources.

The word "Oregon" occurs three times in the body of the report (page 10 and twice on page 36).

The discussion could apply to Delaware or South Carolina as well as it does to Oregon.

The fact that OCCDC had not, by March, 1973, compiled an inventory based on specific facts pertaining to specific resources is indicated by the following (typical) discussion pertaining to Wetlands:

OBJECTIVES:

> Identify and describe the physical characteristics and significant biological and esthetic values of each coastal wetland to provide a basis for management policy.
>
> Identify wetland development practices or shoreline activities having either a beneficial or adverse impact on wetlands.
>
> Adopt interim policy guidelines based on the best information presently available. (Concepts Workbook, page 4)

An OCCDC workshop on March 30-31, 1973 produced a compilation of the "policy area" comments of workshop participants regarding the 18 critical coastal estuaries.

Battelle Northwest is to synthesize the comments into draft policy statements for the 18 critical resources by September, 1973.

OCCDC's overall Work Design (March, 1973) tells what the OCCDC will do between March, 1973 and January, 1975.

"The OCCDC work program consists of three main sections: (1) the development of natural resource policies; (2) inventory and evaluation of coastal resources; and (3) recommended methods of implementation for coastal management policies..."

Two-thirds of the 65 page Overall Work Design is devoted to "work element" B, Inventory and Evaluation Process".

The following Table shows completion dates for inventories of the various resources.

OCCDC RESOURCE INVENTORY

18 Coastal Resources Generally (location, extent, current uses)	April, 1975
Estuaries (technical)	January, 1975
Wetlands Identification and Evaluation	July, 1973
Floodplains	January, 1975
Geologic Hazards	January, 1975
Beach and Dune Resources	June, 1973
Shoreland Resources	January, 1975
Continental Shelf	January, 1975
Unique Scenic Features	January, 1975
Historic and Archaeoligic Sites	August, 1973
Scientific and Natural Areas	January, 1975
Critical Wildlife and Fish Habitat Areas	January, 1975
Freshwater Lakes and Streams	January, 1975
Forests and Watershed	January, 1975
Agricultural Lands	January, 1975
Recreation Areas	January, 1975
Industrial Land	January, 1975
Residential Land	January, 1975
Aesthetic Concerns and Opportunities	January, 1975

Conclusions

ORS 191.150 plainly required OCCDC to develop an adequate (i.e. bare minimum: description, location, and existing uses) inventory of critical coastal resources.

Yet it was only after Governor McCall had to formally request such an inventory in June, 1972 that the OCCDC took any action in this regard.

The Oregon Shores Conservation Coalition had called for such an inventory in July, 1971.

The reports Battelle Northwest has provided OCCDC still do not give the definite information necessary for realistic comprehensive planning.

What should have been the first order of business in July, 1971 remains undone in March, 1973.

This criticism is qualified by OCCDC's reasonably good job begun late in November, 1972 inventorying fragile sand areas. This work is being done by Frank Reckendorf, U.S. Soil Conservation Service. In addition, OCCDC's Historical and Archaeological Site Inventory (March, 1973 preliminary report) appears to be thorough.

The Overall Program Design shows that with three exceptions, the crucial inventory information of critical coastal resources will not be completed until January, 1975. Complete estuary information probably will not even be available for two or three years after 1975, according to a statement to that effect made by Wilbur Ternyik to the House Committee on Environment and Land Use on March 6, 1973.

Draft policies for critical coastal resources are scheduled to be prepared by September, 1973.

Actual planning standards for the critical coastal resources, to be based on the September, 1973 draft policies, will be prepared beginning approximately summer, 1974.

Given these schedules, the OCCDC's development of policies of standards for coastal natural resources will not be based on actual data describing those resources.

This is not sound planning.

D. OCCDC REJECTION of O.S.U. ESTUARY STUDY

On September 8, 1971, Dr. John Byrnne, Chairman, Department of Oceanography, Oregon State University and Mr. John Lockett, Research Associate, Department of Oceanography, Oregon State University, requested OCCDC approval of their project to (1) gather all information regarding estuaries from state, local and federal agencies and (2) study particular estuaries for typical problems.

Dr. Byrnne needed OCCDC approval to get federal money.

Jack Johnson, representing State Water Resources Board said that the OSU study had merit and urged OCCDC endorsement. (minutes OCCDC's Program Development and Review Committee, September 8, 1971)

On September 29, 1971, Program Development and Review Committee Chairman Collier Buffington (Governor's appointee, Medford) stated the Committee supported the OSU proposal.

The OCCDC voted 12-6 to allow the California consultants (Oregon Coastal Planning Group) to make the decision on the OSU study. (OCCDC minutes, September 29, 1971)

On November 9, 1971, the consultants rejected the OSU proposal. (Eugene Register Guard, November 10, 1971, story by Larry Bacon)

The work proposed by Dr. Byrnne was not work which the OCCDC asked the consultants to perform themselves for the "study design".

Unrelated OSU sea-grant studies now under way will not accomplish the purposes of Dr. Byrnne's proposed study.

The OSU project would have substantially provided the "information gathering" and "identification of problems" which, in March 1973, the Estuary Planning Guidelines state are to be the "contents of an estuary plan". (Estuary Planning Guidelines, page 25)

In addition, the rejected OSU estuary study is quite similar to the "work items" constituting the estuary inventory outlined in OCCDC's Overall Program Design (page 17).

The Overall Program Design estuary inventory is not scheduled for completion until January, 1975.

The 1971-proposed OSU estuary study was to have been completed by May, 1973.

On March 6, 1973 at a hearing on HB 5052 before the House Committee on Environment and Land Use, State Representative David Stults (R. Junction City) asked OCCDC Chairman Wilbur Ternyik if the OCCDC would complete its comprehensive plan for coastal resources by January, 1975.

Chairman Ternyik said "yes", except probably for the estuaries, where biologists say more information will be needed.

Conclusion

OCCDC rejected an independent, highly qualified OSU estuary study, to be conducted by the Chairman of the Department of Oceanography, which would have provided OCCDC with the best objective information available about Oregon's estuaries by May, 1973.

OCCDC does not now have this resource information, is not scheduled to have comparable information until January 1975, and may not have adequate information until two or three years after 1975, when the OCCDC is scheduled to terminate.

E. LOG STORAGE STUDY

Background

A group of private business interests in Coos Bay initiated, financed and sponsored a log storage study, in cooperation with the Port of Coos Bay.

On December 19, 1972, the OCCDC voted 16-5 to contribute $2,000 to the Coos Bay log storage study, on the condition it have regional significance and pending availability of funds.

THE OCCDC entered this arrangement even though, in response to questions, Mr. Tony Kuhn (Director, Coos, Curry, Douglas Improvement Association) stated that the firm which would actually conduct the study had not yet been selected. (OCCDC minutes, December 19, 1972)

OCCDC is to give $2,000, the Port of Coos Bay $2,000, local Coos Bay businesses, by April, 1973, had placed $3,000 in escrow (with no donation exceeding a $100 ceiling), and the U.S. Economic Development Administration is expected to provide up to $15,000.

Conclusion

The Coos Bay business community is directly involved in log storage. The Port of Coos Bay is one of the world's most important lumber exporters.

If the OCCDC wanted a study on problems and solutions regarding log storage, it should have arranged for a study to be conducted by an agency with independent expertise. The Oregon Department of Environmental Quality has already conducted log storage studies in Coos Bay.

The Coos Bay log storage study is not reasonably calculated to strike a balance between development and conservation of resources, as required by ORS ch. 191.

F. ESTUARY PLANNING GUIDELINES

Background

A 1970 study by OSU's Oregon Marine Science Institute indicated that man's abuses had created a "Crisis in Oregon's Estuaries".

When the 1971 Oregon Legislature created OCCDC to develop a comprehensive plan for Oregon's coastal resources, the Legislature made it clear that planning for estuarine areas is of primary importance.

In January 1973, OCCDC published its Estuary Planning Guidelines.

This document shows that coastal Port Districts probably will have the key role in developing Oregon's estuary policies.

In the Estuary Planning Guidelines cover letter, Chairman Ternyik states that "OCCDC encouraged the formation of several estuary planning groups on different estuaries...."

Later in the report (pages 11-22) the OCCDC creates "Task Forces"

composed of "local representatives" of "port districts, city councils, county boards of commissioners, school districts and other special districts" as appointed by a "mutual resolution" of "county commissioners, city council and port commission." (page 11)

Other groups ("technical advisory group", staff, "publics", "policy bodies") are assigned non-authoritative "coordinating" and "review" roles.

The port commissioners, and other representatives of "local interests" from each Oregon estuary have the power under OCCDC's Estuary Planning Guidelines plan to write the first and second drafts of the actual plan for "their" estuary, and to make decisions resolving conflicts between themselves and all the other groups. (Estuary Planning Guidelines, pages 22-23)

Under the Estuary Planning Guidelines, technical advisers from state natural resource agencies are not given a vote during preparation of plan drafts, or in resolving questions about how the estuary should be managed. Estuary Planning Guidelines would require a state agency to exert political or other pressure to be effective. This is a cumbersome and conflict-laden approach.

Ports are currently the developmental force most likely to damage Oregon's estuaries.

For example, the Port of Coos Bay is now planning for massive dredging and industrial filling in the Coos Bay estuary.

In October, 1972, the Port of Umpqua supported a fill in the Umpqua estuary (Bolon Island) for Bohemia Lumber's violation of the State Land Board's moratorium on fills in estuaries.

The Port of Siuslaw, primarily including OCCDC Chairman Wilbur Ternyik (President, Port of Siuslaw), pushed for an 18 foot dredging project for 14 miles of the Siuslaw upstream from its mouth to Mapleton. This was abandoned when state agencies and Governor McCall opposed or refused to support it because it was environmentally damaging (dredge spoils, marine life destruction) and economically unjustified.

Chairman Ternyik reportedly also supported construction of Eugene Water and Electric Board's proposed nuclear power plant on the shore of the Siuslaw estuary.

The Port of Astoria is now pushing a substantial dredging operation in the Columbia estuary, which includes a 50-acre fill.

These are only a few examples of Port development activity.

There are additional problems with the Estuary Planning Guidelines.

First, the Estuary Planning Guidelines feature participation of representatives from a host of state and federal agencies who are to provide "expertise" and "factual information" to the "task forces".

How representatives of these agencies will effectively "participate" manpower and time-wise, with each of the 10-13 or so estuary planning groups remains to be seen.

Second, ORS 191.150 specifically charges the OCCDC to develop "standards" for resources (including estuaries) and a "system of preferences" between conflicting uses for its comprehensive plan.

In the 37 page Estuary Planning Guidelines, published nearly one and one-half years after the OCCDC was created, there is no mention of the "standards" or "system of preferences" required by ORS 191.150. This includes a seven page section, "Contents of an Estuary Plan".

The Estuary Planning Guidelines should make clear that local estuary planning group plans must comply with the OCCDC's standards for estuaries.

Third, there is no schedule stating when estuary planning groups are to be formed, or when the groups are supposed to accomplish the plan. The precise means of selection of group members is also omitted.

Fourth, if the OCCDC's standards are general, or if inadequate for lack of inventory data, it would be legally and politically difficult to require a change in a particular estuary planning group's plan so that the plan conforms with asserted ORS ch. 191 standard.

This would mean purely local estuary plans, the same as before OCCDC existed.

Fifth, there is no indication in the Estuary Planning Guidelines that OCCDC or the State of Oregon will determine, from a coast-wide point of view, that certain estuaries should be extensively developed as high-quality, competitive port complexes and others de-emphasized or essentially preserved in their natural state. These decisions must be made before the local planning groups begin their work.

Instead, the Estuary Planning Guidelines is a mish-mash of convoluted, breezy planning jargon about "implementation efforts", "planning for people", "committment", "consensus", etc.

Estuary Planning Guidelines states (page 25) that "information gathering" and "identification of problems" are the main contents of an estuary plan.

Conclusion

The 1971 Legislature established OCCDC to develop a comprehensive plan for Oregon's coastal resources, principally including estuaries.

Commissioner Mike Forrester had admonished the OCCDC that "regional planning should be something more than local planning on a bigger scale." (letter to Jim Ross, June 16, 1972)

Nonetheless, instead of developing a coastal comprehensive plan for estuarine areas, OCCDC has turned over the drafting, final decision-making and implementation of conservation and development plans for Oregon's estuaries to 8-10 groups of Port Commissioners and other local officials who are primarily developmentally oriented.

The system is voluntary. The local groups have no more planning resources available to them than they did previously.

These are essentially the same people who were doing the "planning" for estuaries before the OCCDC was established and when Oregon State University found a "crisis" in Oregon's industries.

OSPIRG finds that the OCCDC has failed to carry out its responsibility to the Oregon State Legislature to develop a comprehensive plan for the estuaries on the Oregon Coast.

No comprehensive plan is being conducted; only a series of local, probably developmentally-oriented plans.

G. PERMIT AUTHORITY

Background

ORS 191.140 (4) provides:

> (4) Advise the Governor from time to time on the findings being made by them and propose policies and interim measures for implementation by the Governor and state agencies that they consider to be necessary for the proper preservation and development of the coastal zone prior to completion of its comprehensive plan for the coastal zone.

July, 1971, Oregon Shores Conservation Coalition asked OCCDC to establish open zones to protect critical marine areas from development. Oregon Shores also requested OCCDC to disapprove a development on the Salmon River estuary and the motel planned for the primary dunes at Twin Rocks.

Oregon Shores subsequently urged OCCDC to seek interim permit authority for developments affecting critical coastal resources.

On October 19, 1971, Commissioner Maradel Gale (then President, Oregon Environmental Council and Governor McCall's appointee-at-large) proposed to the OCCDC's Interim Policy Committee for discussion purposes, specific interim guidelines for such problem areas affecting critical environmental resources as filling, dredging, industry, motels and condominiums, trailer and mobile home parks, overnight trailers and campers and recreational subdivisions.

The response of various Commission members to Mrs. Gales' proposals:

Chairman Wilbur Ternyik: "Some of the things proposed by Maradel could start a small civil war on the coast right now."

John Schriner (City Councilman, Newport, engineer, Central Lincoln People's Utility District): "The problem I find with your outline, Maradel, is that you hit specifics -- and we can't do that right now."

Jack Isidore (North Bend city manager, not a Commission member but sitting in for North Bend Mayor Harry Graham): "Mention of such words as filling and dredging by anyone other than coastal residents, 'and they'll shoot you in Curry County and they might hang you in Coos.'"

Harry Graham (in letter delivered by Jack Isidore): Mrs. Gale's proposal would "in effect put a freeze on all development on the Oregon

Coast for an indefinite period of time" ....and would cause "irreparable economic loss...at a time when the Coastal economy can least afford it."

(Quotes: story by Jerry Uhrhammer, Eugene Register Guard, October 20, 1971)

Mrs. Gale emphasized that her proposals were put forward merely for discussion purposes so that the Interim Policy Committee (established August 18, 1971) would have a starting point in dealing with the specific problems raised in numerous letters to the OCCDC requesting action.

As for Mr. Graham's letter, Mrs. Gale said,

> This character ticks me off. He wasn't even here the last time, yet he writes a letter like this and doesn't even talk to me first. That's the least he could do if he wants to know what's going on. That's kind of stupid. (Eugene Register Guard, October 20, 1971)

Mr. Schriner recommended the Committee adopt (and the Committee agreed to consider) alternative guidelines, lifted from the Yaquina Bay Task Force planning group, which do not deal in specifics and which merely calls for

> ...the Commission to encourage the continued economic development of the coastal region by establishing a primary list of industries that will be compatible with the environment, such as commercial and sport fishing, recreation, tourism, light manufacturing and science related operations. (Oregonian, October 21, 1971)

On June 13, 1972, Governor Tom McCall expressed fears about "helter skelter" development which threatens "fragile resources" of the Oregon Coast.

Governor McCall found "threats to irreplaceable resources arising all along the coastline."

On July 18, 1972, the OCCDC voted 15-1 to direct Director Jim Ross to draft a legislative proposal to give the OCCDC interim permit authority over development and planning for critical environment resources on the coast.

Commissioner Al Flegel cast the lone dissenting vote, saying: "I had no idea this was going to be a police agency." (Eugene Register Guard, July 19, 1972)

On August 18, 1972, the OCCDC Executive Committee met.

Commissioner Flegel announced he would introduce a motion at the next Commission meeting to rescind the Commission's prior motion directing James Ross to draft legislation for interim permit authority applicable to critical coastal resources, saying he doesn't want the OCCDC "sticking its noses" into areas that should be handled at the local level.

Chairman Ternyik and Commissioner Hill agreed.

Chairman Ternyik stated: "I would hate to see the OCCDC have power over the decisions of the Florence Planning Commission."

The OCCDC Executive Committee instructed James Ross not to draft legislation between August 18 and September 8, 1972.

(Eugene Register Guard, August 19, 1972)

On September 8, 1972, "Commissioner Flegel moved that the Commission rescind action taken at the last meeting to have legislation drawn up giving 'police power' to OCCDC." After considerable debate, the motion was passed 11 yes, 6 no. (OCCDC minutes, September 8, 1972)

On January 12, 1973, Governor's appointee Jack Broome (Portland Architect) moved, and Governor's appointee Mike Forrester (publisher,

Daily Astorian) seconded, that the OCCDC "investigate the implications and feasibility" of "interim permit authority within areas of critical environmental concern."

The motion passed 10 yes, 9 no, 2 abstaining.

The OCCDC staff prepared a memorandum dated April 9, 1973, which outlined "the implications and feasibility of interim permit power."

The memo explicitly avoided a recommendation.

> Staff considers suggestion of a recommended permit system for OCCDC to be beyond the scope of the Commission's January 12th instructions. Such a recommendation could be provided at the Commission's suggestion. (memo, page 10)

At the April 13, 1973 OCCDC meeting, Glen Akin of the OCCDC staff outlined the memorandum. Near the conclusion of his presentation, Mr. Akin stated, with regard to proposed interim permit authority, "I think it's a cure for which there is no disease."

The OCCDC then voted to recommend that all state agencies, local governments and port authorities protect from irreversible harm those salt marshes above mean higher high tide not subject to existing state regulations.

The OCCDC also voted to allow an OCCDC representative to testify at legislative hearings to urge that the existing permit authority of state agencies be expanded to "fill" the regulatory-permit gaps outlined in the OCCDC staff memo.

The OCCDC has taken no further action with regard to permit authority.

Conclusion

Interim permit authority has long been urged on OCCDC by the Oregon Shores Conservation Coalition and other environmental organizations.

In October, 1971, OCCDC rejected Commissioner Gale's (Governor's appointee) proposed interim guidelines.

In summer 1972, OCCDC first approved, then rejected, directions to the staff to prepare a legislative proposal to give OCCDC interim permit authority for critical coastal resources.

The OCCDC staff took from January 12, 1973 to April 13, 1973, to prepare and present an 11 page memorandum on permit authority, which did not contain an argued recommendation.

The most the OCCDC has come up with to date with regard to interim permit authority is (1) to "recommend" to other agencies to protect a single resource (salt marshes) from irreversible harm, and (2) to expand the scope of the permit authority of an existing single-purpose, non-planning state agency.

ORS 191.140 (4) specifically anticipated the need for "interim measures" to properly preserve the coastal zone prior to completion of OCCDC's comprehensive plan.

OCCDC resisted interim permit authority until January, 1973. Also, it has failed since then to request interim permit authority from the 1973 Oregon State Legislature.

This course of action demonstrates OCCDC's insensitivity to (1) present development threats to the Oregon Coast, (2) the need to protect the integrity of their plan and (3) educational benefits to local government obtained by operating a regional interim permit system under OCCDC resource policy statements and standards.

H. OCCDC's 1973 INTERIM REPORT TO THE OREGON LEGISLATURE

Background

By ORS 191.140 (3) the Oregon Legislature required OCCDC to submit to it and the Governor preliminary and, if possible, "a final report of their progress in the study and formulation of the comprehensive plan described by subsection (2)".

Specifically, this requires a report plainly stating OCCDC's program in developing "standards against which proposed uses of the natural resources of the coastal zone may be evaluated" and a "system of preferences" to resolve conflicting uses of such natural resources. [ORS 191.150 (1)]

The Interim Report 1973 is 22 pages long.

Sixteen of the 22 pages are OCCDC prepared text.

Three and one half of these 16 pages are photos or blank spaces.

Of the remaining 12½ pages, seven describe the OCCDC's "Activities 1971-1973".

The "Activities 1971-1973"--the heart of the OCCDC's progress report to the Legislature-- is presented primarily in the form of 13 "problems - approaches".

Of these 13 problems - approaches, only one--the inventory of coastal resources of critical concern--describes an area where the OCCDC has been responsible for actual work accomplished.

In addition to being a relatively insubstantial accomplishment (see discussion of Salishan Conference and Battelle Northwest work, supra, pages 56-59), this "approach" was one year late getting started.

Of the remaining 12 "problems - approaches", only one other, a study

of geological hazards and associated flood plain areas, describes work actually accomplished by anyone, much less the OCCDC.

The Oregon Department of Geology and Mineral Industries report Environmental Geology of the Coastal Region of Tillamook and Clatsop Counties, Oregon, Bulletin 74, July, 1972, is the actual basic work involved in this second "Approach" with some work on related flood plain areas done by the Clatsop-Tillamook Intergovernmental Council.

The other 11 "problems-approaches" describe problems in a quite general, random fashion. Topics covered include tax reform, fishing by foreign vessels, economic data, predator control, aggregations of "tidal pool species", off-road vehicles, etc.

OCCDC's Estuary Planning Guidelines, are also in this "Activities" section, but are not presented under "problems-approaches".

Examples of the "Approaches":

> Approach: It may be necessary to place specific restrictions upon off-road vehicles (ORV). Regulation and registration of ORV to assure the conservation of sand dune and other critical environmental areas and, at the same time, dedicate certain areas for primarily ORV use, is long overdue.

> Approach: Specific environmental management policies and standards for areas of critical environmental concern will be developed by OCCDC and residents of the coastal zone and referred to the Legislature as specific tools for the implementation of a coastal zone management plan.

> Approach: A comprehensive review of land assessment practices in Oregon is beyond the scope of the OCC&DC work program. However, in the course of developing a plan for coastal zone management, the Commission will identify (1) the adverse impacts of assessment practices on natural resources in the coastal zone and (2) suggested methods for the use of assessment practices as positive tools in natural resource management. These comments and suggestions would be part of the OCC&DC's recommendation to the 1975 Oregon Legislature.

> Approach: The OCC&DC does not have a role in promoting specific developmental uses or activities. However, developing a consensus on necessary and desirable economic activities and securing opportunities for the development of these activities through the coastal zone management plan is a basic task of the Commission.
>
> Through its legislative charge and composition, the OCC&DC has an unparalleled opportunity to address the problems of the coastal economy. The Commission will serve as the means through which approaches to economic improvement can be coordinated, supported, and maximized for the benefit of local jurisdictions and their residents. (Interim Report 1973, pages 5-8)

Many of the "problems" stated are only indirectly related, if at all, to the environmentally critical coastal natural resources upon which OCCDC's work on a comprehensive plan must concentrate.

None of the 11 "approaches" indicate actual results, or even work underway.

Conclusion

With two exceptions, the activities described in the section, "Activities 1971-1973" (problems-approaches) are activities which will occur, if at all, sometime in the future.

OCCDC's Interim Report 1973 shows that OCCDC has made almost no concrete progress in developing the coastal comprehensive plan required by ORS 191.150 (1).

I. OVERALL PROGRAM DESIGN

The topic headings of the OCCDC's 57-page, January, 1973 Overall Program Design (un-dated) are:

Policy Development Process

Inventory and Evaluation Process (critical resources)

Implementation and Support Process

The material basically says what the OCCDC will do in the next 21 months.

Conclusion

The contents of the Overall Program Design are what the OCCDC should have required its California consultants to put in the "study design" of January, 1972.

The Overall Program Design is one year late.

IV. SUMMARY

(1) The Oregon Coast is being assaulted by developments which at this time threaten to severely or permanently impair the natural resources of the Oregon Coast.

(2) Government is fragmented and not structured to effectively deal with coastal natural resource problems on a regional basis.

(3) In terms of policy, membership composition, interim permit authority, and state funding, Oregon's 1971 coastal protection program is grossly inadequate compared to similar, recently established coastal programs in California and Washington.

-- California and Washington policies aim toward environmental protection; Oregon's seeks to "balance" development and conservation.

-- Coastal port commissioners have dominated Oregon's coastal program; no port commission member is entitled to membership on any of the California or Washington agencies. California commissioners are highly qualified. (See Table 1 for OCCDC membership.)

-- California and Washington coastal programs are strengthened by a permit authority; OCCDC not only does not have an interim permit authority, until recently, it has resisted environmental group recommendations that it seek such authority; OCCDC still has taken no positive steps to obtain permit authority.

-- The California program operates with $5 million state money; the

Washington program operates with $500,000 state money; the Oregon program operated in its first biennium with $32,000 state funds plus $61,000 county contributions.

(4) OCCDC is over one year behind schedule.

(5) OCCDC's performance reflects the local and developmental point of view of the commission.

(6) OCCDC essentially wasted six months time and $10,000 in dealings with consultants who were to produce a "study design".

(7) OCCDC was without qualified, full-time staff during its first year of operation.

(8) Despite requests from Oregon environmentalists in July, 1971, it was not until after Governor McCall requested resource inventories in June, 1972, that OCCDC took action in this regard.

Resource inventories, in cooperation with state and federal agencies, should have been the first order of business, particularly for estuaries.

All but three of OCCDC's 18 inventories for environmentally critical coastal resources are not scheduled for completion until January, 1975, when OCCDC is to terminate. This includes estuaries.

Inventory information (location, description, extent, and use pattern) is essential to develop standards, yet resource policy statements and standards are and will be developed in the absence of such information. Without inventory data, OCCDC is planning in the dark.

(9) In September, 1971, OCCDC rejected a highly qualified OSU proposal to study Oregon's estuaries, which would have, at no cost to OCCDC, made

available to OCCDC the best available information regarding estuaries by May 1973.

OCCDC will not have the estuary information that the study would have provided until January, 1975.

(10) OCCDC's planning for estuaries takes no broad, coast-wide perspective.

Instead, OCCDC's Estuary Planning Guidelines turn over drafting and final decision-making for individual estuary plans to groups of local officials, prominently including port commissioners.

(11) OCCDC has been severely hampered by lack of funds.

However, lack of funds has no bearing on many poor OCCDC decisions; such as the OSU estuary study rejection; the consultants debacle; failure to obtain inventory assistance from state agencies; involvement in a development-oriented, business-controlled log storage study in Coos Bay; flip-flopping on the permit authority issue in summer 1972; lack of adequately regional approach to decisions, and failure to comply with Governor McCall's June, 1972 request to inventory public and private development plans threatening fragile coastal resources.

(12) Oregon is not likely to have, by January, 1975, a comprehensive plan for the Oregon Coast which plans for the coastal zone as a whole and which develops authoritative standards for particular coastal natural resources.

The State of Oregon is halfway through its 4-year coastal planning program. So far, performance is poor.

Poor performance is primarily due to the local, developmental orientation of the majority of the commission membership, and to inadequate funding.

Oregon needs a good comprehensive plan for the Oregon Coast. It also needs an interim permit authority to protect the Coast until the plan is operative.

Important legislative changes in ORS ch. 191 are necessary in this session of the Oregon State Legislature to meet those needs.

V. RECOMMENDATIONS

A. INTERIM PERMIT AUTHORITY

The Oregon Coast needs the permit authority to operate until the OCCDC comprehensive plan and natural resource standards are prepared and finally complied with by coastal counties in their comprehensive plans and zoning ordinances.

Existing land and water use regulation, including permit authorities, do not protect the Oregon Coast from (1) developments which adversely affect the region as a whole, or (2) developments which adversely affect the OCCDC-desiganted coastal natural resources of "critical environmental concern".

Subject to procedural changes, House Bill 2642, the Coastal Zone Planning and Management Act, proposes the interim permit authority needed for the Oregon Coast.

Gaps in Existing Permit Authority

The OCCDC staff memorandum of April 9, 1973, "Development of Criteria for Interim Permit Authority", describes some of the "gaps" in coastal zone permit authority:

> "6. Staff further concludes that although state regulation of some coastal zone resources exists at present, these controls are not complete, and are generally single-purpose in nature and application. The following areas possibly may be considered "gaps" in existing state regulation of coastal areas of critical environmental concern.
>
> a. Estuaries
> (1) Organic fills (such as wood waste);
> (2) Minor fills (less than 50 cubic yards);

(3) Fills developing by 50 yards per year;
(4) Periodically submerged or wet areas above mean higher high water which are part of the estuary system;
(5) Shorelands adjacent to estuaries which are part of the estuary system;
(6) Denial of dredge and fill permits on the basis of adverse environmental impact (rather than the current criteria of navigation, fishing and public recreation).

b. Wetlands
(1) Tidal areas above mean higher high water
(2) Freshwater wetlands adjacent to estuaries

c. Shorelands
Areas adjacent to the oceanic shore not in public ownership.

d. Fragile Sand Areas
(1) Management in areas of public ownership
(2) Management of private areas.

e. Continental Shelf
(1) Fishery resources
(2) Mineral and other resources"

These are extremely important "gaps"

Fills Above Mean Higher High Tide

For example, the gaps can mean that, even though the Saxon and Wilson fills on the Suislaw (Supra) will damage clam and other estuarine resource values, no federal, state or local agency may now prevent the fill because it is above mean higher high tide.

Most of Oregon's valuable salt marshes are above mean higher high tide--and hence unprotected.

In addition, even though the Division of State Land's criteria was improved in 1971 to include "sound policies of conservation", fishing and public recreation as well as navigation, it is uncertain whether denial of a fill permit on the ground of maintaining a balanced estuarine ecological system would be affirmed in court.

Moreover, the Division of State Lands has been insufficiently vigorous in monitoring and regulating fills on coastal waterways within its jurisdiction. Hawk Creek and Bolon Island, discussed above, are examples.

Developments Bordering the Ocean Shore

Another illustration of present limitations on permit authority is developments bordering the environmentally critical ocean shore.

The Oregon State Highway Commission is authorized to regulate uses of the ocean shore by issuing permits for any development on the ocean shore, plus adjacent lands in public use.

However, the problem is that "ocean shore" is a very narrow strip: Coastal land from extreme low tide to the vegetation line--i.e. the public easement created by ORS 390.610.

Developments are constructed off this narrow strip on adjacent private lands.

No state or regional agency permit authority extends to such developments. Except for local zoning (which doesn't exist in many shoreline areas), these developments are unregulated.

Yet it is precisely these developments which today mainly threaten the shorelines and beach areas of the Oregon Coast.

Non-coastal shorelines in the Oregon Scenic Waterway System are given much better protection: one quarter mile on either side of a scenic river.

Regionally Significant Large Developments

In addition to the other specific and important "gaps" listed in the OCCDC staff memorandum, permit authority is needed for developments which, merely because of their size, have a coast-wide impact.

The coast is a finite, narrow strip. It can take only so many large developments of whatever kind before visual and physical access to the beaches and ocean is cut-off. This should be avoided, or at least forestalled and minimized as much as possible.

In addition, there are limited numbers of coastal freshwater lakes, like Siltcoos, and limited numbers of majestic settings, like Otter Crest, near Cape Foulweather. Large developments can obviously impose greater sewage or other physical problems on these limited coastal resources than can small developments.

Large developments on the Oregon Coast likely to adversely affect any environmentally critical coastal resource should not be regulated solely by local bodies of government.

Large developments should be subject to interim permits requiring them to be consistent with the policies of ORS Ch. 191, OCCDC resource policy statements, and OCCDC resource standards, as available.

No Coast-Wide Point of View

Finally, even for those portions of estuaries, wetlands, shorelands, and coastal lakes and rivers which are subject to some state permit or other regulation, such permit or regulation is administered according to the statutory purposes of the particular agency.

This kind of regulation tends to be narrow, immediate and localized.

No state agency is required to consider the coast-wide significance of its action. None is required, as is OCCDC, to make certain that its permit actions are "consistent with the control of pollution and the prevention of irreversible damage to the ecological and environmental qualities of the coastal zone."

If OCCDC's plan is worth enforcing later on, it is worth protecting now.

The Interim Permit Authority proposed in House Bill 2642, meets most of the above permit problems and requirements.

Under House Bill 2642 a permit would be required from the Coastal Zone Permit Authority after June 1, 1973 for:

"(a) Any development over $100,000;
(b) Any city annexation or the creation of any special district;
(c) Any development on a sandspit or dune;
(d) Any development within 100 feet shoreward of the line of non-aquatic vegetation, oceanward from the point at which the average annual flow along any river is 100 cubic feet or more but excluding developments along such rivers in incorporated areas;
(e) Any development in wetlands; or
(f) Any development in an estuary including any development on land extending one-quarter mile shoreward from the line of mean higher water in unincorporated areas and 200 feet back from such line in incorporated areas."

Under Section 16, permits are also required for:

"(a) Dredging, filling, placing dredge spoil, in or otherwise making any development in or on any estuary, wetland, river mouth, creek mouth, slough, lake, lagoon, dune or sandspit.
(b) Any development which would reduce or impose restrictions upon public access to tidal and submerged lands, beaches and the mean high tide where there is no beach.
(c) Any development which would substantially interfere with or detract from the line of sight toward the sea from the state highway nearest the coast."

This is similar to the California permit procedure.

The same conditions which justify ocean view protection regulation in California also exist in Oregon.

The following statement appears in the April 9, 1973 OCCDC staff memorandum on interim permit authority:

"The California Coastal Conservation Program is somewhat more similar to OCC&DC's situation, but like the BCDC program, was formulated in the absence of state controls over dredging and filling and shoreline access. These controls exist in Oregon." (memorandum, page 9)

This statement is misleading.

First, a glance at the California interim permit authority statute shows that its scope, like House Bill 2642's, is much broader than dredging and filling.

27401 (a) provides, for example, that an interim permit is required for "dredging, filling, <u>or otherwise altering any bay, estuary, salt marsh, river mouth, slough, or lagoon</u>." (emphasis added)

Similarly, 27401 (b) provides for important beach protection unrelated to dredging and filling, and the protection is broader than the Oregon Highway Commission can provide Oregon's "ocean shores".

Second, it is unrealistic to say, in an attempt to distinguish the Oregon Coastal situation from the California situation that "These [dredging, filling and shoreline access] controls exist in Oregon."

This statement is contradicted by the next section of the staff memorandum which details the important "gaps" in existing state regulation--including regulation of dredging, filling and shoreline access.

Third, it is clear that Oregon's dredge, fill and shoreline regulation programs are not administered for the same purposes which OCCDC was established to accomplish.

Another inaccurate statement in the staff memorandum is at page six:

"The [Washington] permit system is administered exclusively by local government."

The Washington permit system is based upon management guidelines promulgated by the Washington Department of Ecology. These guidelines control the initial

permit decision by local government. Local government decisions are appealable to the Washington Shorelines Hearing Board.

It would be more accurate to say that Washington local government assists, or participates in, a state interim permit system.

Implementation: Permit Criteria

The interim permit authority should be based on the development of OCCDC's work program.

The policies of ORS Ch. 191 are the basic criteria for permit issuance.

More specifically, by September, 1973 permits could be issued on the basis of conformity with OCCDC policy statements for critical coastal resources.

By summer 1974 permits could be issued on the basis of resource standards, which will begin to be published at that time.

These are adequate criteria for permit issuance.

This approach to permit criteria is almost identical to that relied on in the 1971 Washington Shorelines Protection Act Interim Permit Authority.

Implementation: The County

OCCDC anticipates that House Bill 2642's Coastal Zone Permit Authority would have to handle over 1,500 applications for permits in the 1973-1975 biennium.

In addition, permits may cost as much as $75 per application, merely for processing (excluding inspection). Accordingly, House Bill 2642, un-amended, may, under likely budgetary conditions, involve an overly difficult administrative burden.

Oregon should follow the example of California and Washington and have initial processing of interim permits occur at a local level of government, followed by appeal to a state agency.

In Oregon, this should be county government.

Lodging initial permit action with coastal counties follows recent Oregon trends in state-wide planning: from Senate Bill 10 (1969), to the revision of Senate Bill 100 placing counties (not COGs) in the planning driving seat, and to the recent Fasano opinion which focuses attention on the county comprehensive plan as an authoritative planning technique.

The county would grant or deny the permit initially, according to the OCCDC criteria stated above.

The permit applicant should pay a substantial portion of the processing costs by paying an application fee. State and county would bear the balance of permit costs.

The Coastal Zone Permit Authority would hear appeals taken by any person "aggrieved" by county denial or approval of the permit, with ultimate recourse to OCCDC and the courts.

The Governor should appoint 3 persons to the Coastal Zone Permit Authority from the state at large, and two from the coastal zone. Initial permit decisions are handled entirely by local coastal officials. The appeal body should represent the state's interest in the coast.

Such an interim permit system would protect the Oregon Coast, and protect the integrity of the OCCDC's eventual comprehensive plan. It would be financially and administratively feasible.

It would also educate county officials up and down the coast about the OCCDC's planning work. Determining the applicability of an OCCDC policy statement or resource standard to a specific interim permit application is the best kind of introduction to coast-wide regional planning under OCCDC's comprehensive plan.

B. CHANGE OCCDC MEMBERSHIP

OCCDC's present composition inadequately represents regions of the state outside the coastal zone. In addition, development interests are over-represented. Finally, the Commission is too large.

Table I lists OCCDC members, their official position outside OCCDC, and their occupation.

The Commission should be reduced to 15 members.

Each of the seven coastal counties should have one representative. The designating bodies of ORS 191.130 (3) could make appointments. A Port Commissioner could be a member of the commission if selected to represent his county. Coastal ports have an important, legitimate interest in OCCDC's work. Ports should make their views known, and provide information to OCCDC. But port activities are a primary object of OCCDC regulation. As such, port commissions should not be entitled to voting representatives on OCCDC, as in California and Washington.

The Governor should appoint 8 public members: 1 from the coastal zone, 5 from the Willamette Valley, 1 from Eastern Oregon, and 1 from Southern Oregon.

This composition would still allow the coastal zone to have a majority of commissioners. But, unlike the present system, the effective voice of all other regions in the state would not be frozen out.

Such a reform would not be disruptive of OCCDC's work.

Presumably the seven coastal county representatives would be present OCCDC Commissioners.

If the Governor let stand his present OCCDC appointees, the public representatives from the coast, Southern Oregon, and Eastern Oregon and 3 valley representatives would be automatically appointed.

All that would need to be done would be to appoint two commissioners from the Willamette Valley. Certainly there are two qualified valley individuals who are sufficiently informed of OCCDC's work and purposes so that their addition to the Commission would not disrupt OCCDC's remaining work.

Commissioners Martin West and David McGrath recently joined the Commission and caused no problems.

Finally, former commissioners could continue as members of the district coordinating committees, and also serve at Commission meetings in an advisory capacity.

If OCCDC is to receive $120,000 in state money to develop a planning program for an important state resource, there must be genuine state-wide representation on OCCDC.

C. OCCDC NEEDS $330,000

If OCCDC is to carry out its coastal planning responsibilities under ORS Ch. 191, and also administer an interim permit authority, it will need $330,000 from the General Fund.

With a modified Commission composition, giving genuine state-wide representation, the $330,000 figure would be worthy of support.

Without interim permit authority and a change in composition, the Ways and Means Committee of the Oregon Legislature should be supported in its disposition to appropriate $40,000 to OCCDC.

In the latter event, OCCDC's remaining work should be devoted exclusively to completing inventories for the 18 coastal resources of critical environmental concern, particularly the estuary inventory. In its present form, OCCDC is not a sufficiently representative body to make <u>state</u> policy for the Oregon Coast.

D. OCCDC REPORTS TO GOVERNOR McCALL AND THE OREGON LEGISLATURE

OCCDC should publish a schedule for completion of the ORS ch. 191 comprehensive plan and natural resource standards.

OCCDC should describe the key pieces of work, together with completion dates of such work, which will constitute substantive progress toward meeting its schedule.

OCCDC should provide the key work pieces to Governor McCall and to members of the standing Senate and House Committees on Environment and Land Use.

Table I

OCC&DC MEMBERSHIP

Member	Official Position	Employment	Comments
Wilbur Ternyik, Chm.	Pres., Port of Siuslaw, Lane County	Self-employed Sand dune stablilizing	Pres., Lane County Chamber of Commerce
Jeff Brennan, V. Chm.	County Commissioner, Tillamook County	Oil Products Distributor	
Robert Younker, Secretary	Commissioner, Port of Coos Bay Coos County	Owner, Real Estate development firm	Work background: Commercial fishing, logging and construction
Gerald Gower	Mayor of Cannon Beach Clatsop County	Retired security officer for Portland firm	Member of Planning Commission
Dave Megrath	County Commissioner, Clatsop County		
Martin West	Commissioner, Port of Astoria, Clatsop County	Harbor pilot	Interview: "concerned with possible extinction of commercial viewpoint " on the OCCDC.
Howard Edwards	Mayor of Tillamook, Tillamook County	District Manager Farmers Insurance Group	
Ted Cornett	Commissioner, Port of Tillamook, Tillamook County	Superintendent for power company	Interview: concerned with "restoration" of Tillamook estuary
John Schriner	City Councilman, Newport, Lincoln County	Chief Engineer Utility District	
Mike Miller	County Commissioner, Lincoln County	Ranch owner Livestock	
Donald Knapp	Mayor of Toledo, Lincoln County	Vice President National Security Bank	Commissioner, Port of Toledo; former Pres. of Toledo Ch. of Commerce

Table I (Cont.)

Member	Official Position	Employment	Comments
Andy Zedwick	County Commissioner, Lincoln County	Former meat market operator	
Erwin Bahlburg	Commissioner, Port of Toledo, Lincoln County	Mgr. of Toledo sawmill	Interview: believes he can contribute re: movement and storage of logs
Philip Smith	City Councilman, Waldport, Lincoln County	Appraiser for Lincoln County	Retired Air Force Officer
Paul Geuy	Mayor of Florence, Lane County	Owner of Harbor Realty	Past Pres. Florence Ch. of Commerce
Ken Omlid	County Commissioner, Lane County	Partner in McKenzie River golf course	Chm., Lane Council of Gov'ts; Assoc. of Oregon Cities; Nat'l Assoc. of Counties
Thomas Tymchuk	Mayor of Reedsport, Douglas County	Proprietor of Highland Market (groceries)	Bd. of Directors, Pacific Security Bank, Logging background
Al Flegel	County Commissioner, Douglas County	Retired Trucking Co. owner	
Harold Johnson	Commissioner, Port of Umpqua, Douglas County	Works with Umpqua River Navigation (subsidiary of Bohemia Lumber)	River Navigation, has built jetties
Mickey Moffitt	County Commissioner, Coos County	Minister, Community Presbyterian Church	
Nan TenEyck	Councilwoman, City of North Bend, Coos County	Part-time Swim instructor	
Les Williams	Mayor of Brookings, Curry County	Retired Logger	Past Superintendent of Public Works, City of Brookings
William Tankersley	Commissioner, Port of Gold Beach, Curry County	Director of Juvenile Dept. Curry County	

Table I (Cont.)

Member	Official Position	Employment	Comments
Barbara Rolfe	Councilwoman, City of Gold Beach, Curry County	Works with Forestry Service	
Mike Forrester	Governor's Appointee, Clatsop County	Editor, Daily Astoria	Much of his writing concerns environmental affairs
James Hill	Governor's Appointee, Pendleton, Ore.	Former General Mgr. Pendleton Grain Grower, Inc.	Chm., Umatilla Basin Task Force Study Committee
John Broome	Governor's Appointee, Gresham, Oregon	Architect	Gov's Committee for a Liveable Oregon, Ore. Shores Conservation Coalition
Maradel Gale	Governor's Appointee, Lane County	Law School, second year	Founder, Oregon Environmental Council; member Sierra Club, Wilderness Society; Friends of the Earth; Gov's Comm. for a Liveable Oregon
Ellen Lowe	Governor's Appointee, Salem, Oregon	Former teacher and Librarian	Salem Planning Commission, V.P.
Collier Buffington	Governor's Appointee, Medford, Oregon	Stock Broker	Member Nat'l Wildlife Group, Fly Fishermen for Conservation