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**OCEAN AND COASTAL MANAGEMENT:  
THE ROLE AND ACTIVITIES OF CALIFORNIA GOVERNMENT  
IN SPRING 1988**

**James T. Lima**

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**California Sea Grant College  
Working Paper No. P-T-52**

**1990**

## **Acknowledgments**

This paper is the result, in part, of a grant provided by the California Sea Grant College in 1987-88 to Biliama Cicin-Sain to begin exploring issues related to the governance of ocean resources and space offshore California (National Sea Grant College Program, National Oceanographic and Atmospheric Administration, Department of Commerce, under grant number NA85AA-D-SG140, project number R/NP-1-16D, through the California Sea Grant College.) It was prepared under the direction of Dr. Biliama Cicin-Sain, Principal Investigator, who is a Professor and Co-Director of the Center for the Study of Marine Policy, Graduate College of Marine Studies, University of Delaware, and Senior Researcher, Marine Science Institute, University of California, Santa Barbara. Further work on the subject was done under the auspices of the National Coastal Resources Institute which funded a complementary study on state capacity for ocean management in the Pacific Coast states in 1988-1989. While this assistance is gratefully acknowledged, the opinions expressed here are solely those of the author, not of the funding agencies.

# **OCEAN AND COASTAL MANAGEMENT: THE ROLE AND ACTIVITIES OF CALIFORNIA GOVERNMENT IN SPRING 1988**

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## **Abstract**

This report provides an overview of the responsibilities and activities of the state agencies involved in managing California's ocean and coastal resources as they existed in the spring of 1988. The report uses a combination of documentary sources and personal interviews with selected state executive and legislative branch personnel. Companion working papers in this series include an examination of the multiple uses of California's coastal and offshore area, written by Mr. Michael V. McGinnis and an analysis of the problems and opportunities of California's ocean management program by Professor Bilianna Cicin-Sain.

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## Introduction

Managing California's ocean and coastal resources is a task accomplished by numerous state employees housed in a variety of executive agencies, commissions, and departments, the activities of which are as diverse as the resources themselves. These agencies and their relationship within state government's executive branch is shown in figure 1.

The State Agencies Primary Ocean Related Activity matrix, figure 2, highlights the wide range of activities and responsibilities of the different government entities, the majority of which are part of the Resources Agency. The Agency's departments include those whose operations have a major impact on ocean and coastal resource decision making, such as the California Coastal Commission and Department of Fish and Game; to departments such as the Department of Conservation which "has no direct responsibilities offshore" but plays a support role through application of its expertise to other state agencies in the management of ocean resources.<sup>1</sup> For example, the technical, support and advisory activities of the Department of Conservation include the Division of Oil and Gas assisting the State Lands Commission to develop drilling regulations and the Division of Mines and Geology cooperating with the US Geologic Survey to develop offshore geological maps for the entire coast.

This report provides an overview of the responsibilities and activities of the several state

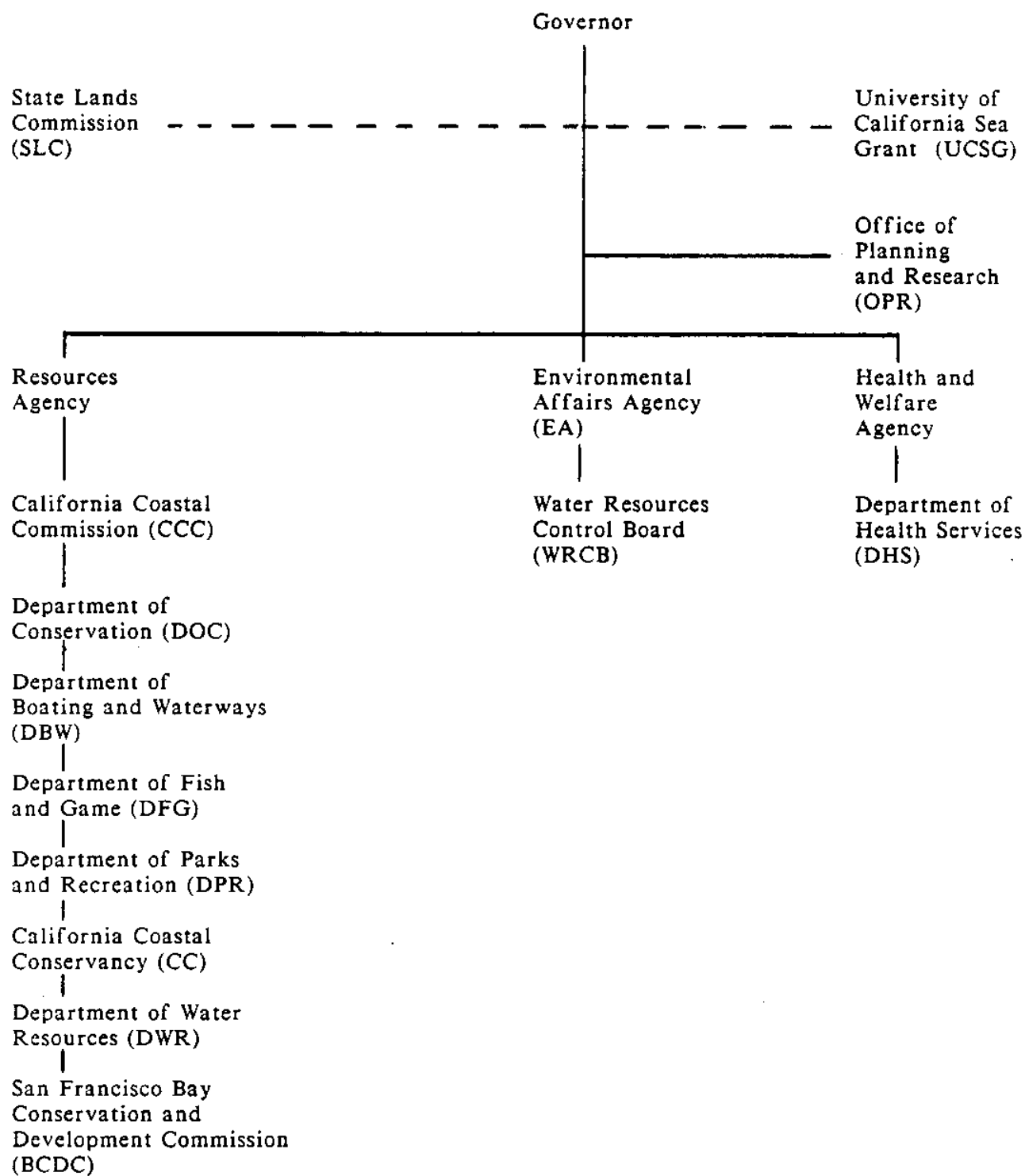


Figure 1. State Agencies Involved in Ocean-Related Activities

Agency or Department	Fisheries Aquacult.	Minerals/ Coastal Erosion/ Oceanog.	Public Health	Coastal Plan.
California Coastal Commission		x		x
Department of Conservation		x		
Department of Boating and Waterways		x	x	
Department of Fish and Game	x	x	x	
Department of Parks and Recreation				x
California Coastal Conservancy				x
Department of Water Resources			x	
San Francisco Bay Conservation and Development Commission			x	x
State Lands Commission		x		x
Environmental Affairs Agency		x		x
Department of Health Services				x
Office of Planning and Research				x
University of California Sea Grant	x	x	x	x

Figure 2. State Agencies' Primary Ocean Related Activity

Agency or Department	Recreation	Economic Development Programs	Public Advisory Services
California Coastal Commission	x		x
Department of Conservation			x
Department of Boating and Waterways	x		x
Department of Fish and Game	x		
Department of Parks and Recreation	x		
California Coastal Conservancy	x		
Department of Water Resources			
San Francisco Bay Conservation and Development Commission	x		
State Lands Commission			
Environmental Affairs Agency		x	
Department of Health Services	x		x
Office of Planning and Research		x	x
University of California Sea Grant	x		x

Source: California Resources Agency, "State of California Ocean Related Activities". Sacramento, California: California Resources Agency, 1988. Photocopied

Figure 2. State Agencies' Primary Ocean Related Activity  
(continued)



agencies involved in managing ocean and coastal resources. Summary statements describing ocean related activities of state agencies involved in ocean resources assembled by the Resources Agency in response to Assembly Bill 4336 (1986) have been extensively used to develop information in this paper.

Augmenting the descriptions of each agency's activities are excerpts from interviews, listed in the appendix, which were conducted with various agency managers during March 1988.

As a caveat, the reader should note that the discussion below provides a "snapshot" of selected ocean management activities in the Spring of 1988. This is especially true in data based on the personal interviews. Like the ocean itself, the process of managing ocean resources is dynamic. New problems are constantly being identified and new initiatives are being launched. Budget and staffing data is from the Legislative Analyst's analysis of the budget bill, not the budget finally approved during the Summer of 1988. Also, budget and staffing data reflects a Department's total activity, not just its ocean-related activity. Therefore, budget and staffing data is not included when ocean related programs are not a major part of the department's total program.

Companion working papers in this series include an examination of the multiple uses of California's coastal and offshore area written by Mr. Michael V. McGinnis and an

analysis of the problems and opportunities of California's ocean management program by Professor Biliiana Cicin-Sain. Mr. McGinnis describes the varied and often conflicting multiple uses found in California's near shore and offshore areas. Professor Cicin-Sain's paper highlights the window of opportunity for examining California ocean management which has been created by the enactment of the California Ocean Resources Management Act (CORMA) of 1990 and the factors which influence ocean management.

This working paper provides a selective overview of the diverse role of the state executive and legislative branch involved in developing and implementing ocean resource management policy. The author gratefully acknowledges the assistance and cooperation of the State agencies and the individuals contacted in the course of this research. The interviews presented in this working paper are condensed from many hours of candid and frank discussions between the author and the interviewees. While every effort has been made to ensure the statements were not taken out of context, any omissions of interview data are the responsibility of the author. Also, the views expressed in this paper are those of the author and do not necessarily reflect the official policies of California Sea Grant.

#### THE RESOURCES AGENCY

The Resources Agency and its subordinate departments, exercise the primary role in the management of California's ocean resources. This agency consists of most of the

departments directly involved in the formation and implementation of ocean resource policy as well as the day-to-day management of these resources, including the California Coastal Commission, Department of Conservation, Department of Boating and Waterways, San Francisco Bay Conservation and Development Commission, Department of Fish and Game, Department of Parks and Recreation, and Department of Water Resources.

The Secretary of the Resources Agency is a member of the Governor's cabinet and is directly responsible for the "management, preservation, and enhancement of California's natural, recreational, and wildlife resources". Currently, the Secretary's Office has 19.5 personnel-years staffing and a proposed budget of 1.396 million dollars for Fiscal Year 1988-1989.<sup>2</sup>

In July 1988, the Resources Agency sponsored a workshop with executive-branch departments designed to "provide a forum which allowed agencies to discuss their activities and inform each other of their overlapping or complimentary programs" with the ultimate goal of the discussions "to help ensure efficiency and coordination between state agencies in state-wide ocean activities and planning."<sup>3</sup>

The workshop was in response to Assembly Bill 4336, enacted in 1986, which requires the Resources Secretary to "initiate a comprehensive, long range planning process for use of offshore waters." The law also allows the Resources Agency to use the California Sea Grant Advisory Panel as the

planning committee to accomplish the plan and authorizes the use of the California Sea Grant Program "to promote sound scientific data analysis and assessment in the planning process."<sup>4</sup>

According To Mr. McCollum, the then Deputy Secretary for Resources, the role of the Resources Agency staff is to coordinate efforts among the departments and to set policy for the Resources Agency. Of course, not all departments concerned with ocean resources are within the Resources Agency. When conflicts do arise between departments, as they inevitably will in light of each department's mandates and responsibilities, the problem should be resolved either by informal coordination between the departments concerned or by formal coordination between the agency staffs.

Discussing the status of ocean resource management in California and the role of the Resources Agency, Mr. McCollum responds that ocean resources may appear to have a lower priority on the Governor's personal agenda because of the more pressing problems which the Chief Executive must address. But, McCollum notes, ocean resources are prominent on the agenda of the Resources Agency because management of these resources is a primary task of the Agency.<sup>5</sup>

Mr. McCollum contends that any long-range agenda for the management of ocean resources will by its very nature be static. This condition is unacceptable to the Agency because managing ocean resources is a dynamic process.

Mr. McCollum surmises that line departments can respond to changes very rapidly and react to the needs of the people of California. The line department personnel are the ones who best know what action is needed because of their daily involvement with the problems. He sees no advantages in adding another bureaucratic layer, such as a California Department of Ocean Resources to the existing department-agency structure.

He foresees that most of the issues in the near future will arise from oil and gas and mineral extraction. He emphasizes that there is cooperation between the state and federal agencies. He notes that conflicts between agencies result either from policy differences between agencies or personality conflicts between personnel. In either case, it is the manager's job to work towards resolution.

McCollum admits that a hiring freeze has been selectively employed within the Resources Agency to "put a lid" on government growth, but contends the freeze, when employed, is not keeping the agencies from executing their primary functions.<sup>6</sup>

#### CALIFORNIA COASTAL COMMISSION

The California Coastal Commission administers the state's coastal management program. While the Commission is involved in a variety of programs, two principal tasks of the Commission are the review and approval of local coastal development plans and the regulation of development in certain areas along the California coast. The Commission is

also the designated coastal zone management agency and administers the Federal Coastal Zone Management Program.

The fifteen member Commission (twelve voting members) is headquartered in San Francisco and maintains four district offices in coastal areas. Currently, the Commission has 110 personnel-years staffing and a proposed budget of 9.330 million dollars for Fiscal Year 1988-1989.<sup>7</sup>

Coastal Commission responsibilities and programs are as varied as the many activities within the coastal zone. These responsibilities and programs are characterized below as coastal development and conservation, federal consistency authority, coastal access, coastal resource information, energy programs and miscellaneous activities.

#### Coastal Development and Conservation

The California Coastal Act of 1976 (as amended) provides for permanent state management of California's coastal resources and establishes policy for the development and conservation of resources within the coastal zone. Generally, this zone extends 1,000 yards inland but varies from much less in highly developed urban areas to up to five miles in undeveloped areas where there exists potential for considerable impact to coastal resources from development.

To carry out the policies of the Coastal Act, each local government is required to prepare a local coastal plan (LCP) which is composed of a land use plan (LUP) and the implementing ordinances. Each LUP must be submitted to the Coastal Commission for review and certification that the

plan adequately reflects the provisions of the Coastal Act. Until the LCP is certified, the Commission regulates new development within the coastal zone to ensure such development is consistent with Coastal Act policies. This regulatory activity is accomplished by the issuance of project permits by the Commission. After the LCP is certified, regulatory authority over most development is delegated to local governments, subject to limited appeal to the Commission. (In certain areas, such as tidelands, submerged lands, estuaries, and public trust lands, the Commission retains direct regulatory authority.)

Coastal Commission activity in an area does not cease when the LCP is approved, rather the character of the activity changes from direct regulation to permit monitoring and enforcement, LCP amendments and appeals. These activities are designed to ensure the development does not occur without a permit and that permitted developments comply with coastal development conditions. Also, after the LCP is approved, the Commission offers technical assistance to aid local governments in carrying out their responsibilities.<sup>8</sup>

The legislative analyst's report to the Joint Budget Committee in 1988 found that the Commission's certification of local coastal plans was far behind schedule, workload per staff member was increasing, and the backlog of enforcement cases was increasing. For example, as of December 1987, only 40 percent of the plans had been certified and, at the

present rate of approval, it could take 12 years before all plans were certified. Some of the problems, the report concludes, can be attributed to past budget cuts which were justified on the grounds of reduced staff workload because of the increased level LCP approval. Other delays in certification of LCP's are attributed to difficulty many local governments have on reaching consensus on local coastal planning issues; reluctance of some local governments to assume the politically controversial decisions on coastal development made by the Commission; and the complexity of coastal development issues.<sup>9</sup>

Susan Hansch, Manager of the Commission's Energy and Ocean Resources Division, notes that local entities often don't perceive themselves as dealing with ocean problems, per se, because most questions they face are related to land development in the coastal zone. But, she observes that issues come increasingly from offshore because of greater development efforts in that arena.<sup>10</sup>

Given local government's perspective, the approval, enforcement, and technical assistance programs which the Coastal Commission offers should become increasingly more important. Initially, these programs must protect coastal resources and then must build the capacity of local government to assume responsibility for their local coastal zones. This increased local control and capacity coupled with an active surveillance and enforcement program on the



Commission's part has to ensure the policies of the Coastal Act are in actuality being complied with.

#### Federal Consistency Authority

The Coastal Commission is the federally designated coastal zone management agency. As such, it is the agency responsible for the implementation of the Federal Coastal Zone Management Act (CZMA) in California. Because California's coastal management program is federally certified, the CZMA provides the Commission the authority to determine if activities which are normally federally licensed, sponsored, or permitted are consistent with the California coastal management plan. This provision provides California with a major role in the development of ocean resources, such as oil and gas, that are beyond state waters.<sup>11</sup>

#### Coastal Access

The Commission discharges its responsibility to promote maximum public access to the coast mainly through access provisions of LCPs and requiring public access as a condition of proposed developments.<sup>12</sup>

#### Coastal Resources Information

In order to provide timely coastal resource information critical to coastal management in California, the Commission established a Coastal Resources Information Center, maintains an automated data storage and retrieval system to inventory permits, LCP data, and relevant studies and

databases, and publishes the California Coastal Resource Guide and California Coastal Access Guide.

These activities, which are a vital part of the Commission's technical assistance and support role, are designed to provide "valuable, reliable, up to date and consistent information...to support the activities of the Coastal Commission, local governments, affected agencies, and others involved in managing the coast."<sup>13</sup>

#### Energy Program

The Coastal Energy Program seeks to provide for permanent management of coastal resources while ensuring state and national energy needs are addressed. This is accomplished by requiring an energy element in the LCP's (where applicable); requiring amendment to an LCP for energy development which might be prevented but which otherwise conforms to Coastal Act policies; regulating coastal energy development under a policy (Section 32060) which allows approval and requires mitigation of impacts to the maximum extent feasible even though the development does not conform to other policies of the Act; and regulating offshore energy development to ensure the activity is consistent with the California Coastal Management Program.<sup>14</sup>

#### Additional Activities

The Commission also participates in a wide range of activities on problems facing the coastal zone. While an exhaustive description of these activities is beyond the scope of this report, some typical activities include

participation in wetlands management programs, shoreline erosion planning, local government workshops, joint review panels for preparation of environmental impact documentation for oil and gas projects in state and federal waters, and development and protection of commercial fishing.

#### Effect of Budget Cutbacks

From the 1982-83 through the 1987-88 fiscal years, the Coastal Commission's professional staff, as measured in personnel years, has been reduced approximately 25 per cent (71 personnel years to 54 personnel years, respectively). In the same period, the total funding for the Commission has been reduced from \$10.2 to approximately \$9.3 million. (Total funding has recently been increasing from approximately \$8.6 million in fiscal year 1986-87.) <sup>15</sup>

One effect of the budget reductions, Susan Hansch observes, is that the Coastal Commission is attempting to "protect the base" (core responsibilities) while doing a credible job for the public. The reductions limit areas into which the Coastal Commission can expand. For the time being, the Commission is concentrating on regulatory affairs as a first priority and on non-regulatory tasks on a time-permitting basis.

She notes that morale in the Coastal Commission is high but that under the present circumstances the complaint that its "hard to feel like you are making a difference" is often expressed. She contends that people on the Commission are there because they care about the coast. Public support, as

shown in the record number of people attending the 1988 Fort Bragg hearings on offshore oil development, renews the staff's commitment.

One effect of the cutbacks is that the Commission can no longer hold hearings throughout the state as it has in the past. This raises the question about how to continue public participation in the decision-making process. The questions facing the public and the Commission are getting more complex. People are getting more sophisticated in their concern (e.g., toxins in fish) and are becoming more sophisticated in their testimony before the Commission.<sup>16</sup>

Budget reductions and the resulting problems they cause have led to the charge that the Governor opposes coastal planning. Michael McCollum of the Resources Agency responds that the Governor does not oppose coastal planning but believes that once the Coastal Commission has discharged its statutory obligations, it should withdraw from a given area.<sup>17</sup>

#### STATE LANDS COMMISSION

The California State Lands Commission (SLC) is charged by statute with the management of state-owned ungranted tidelands and submerged lands from the ordinary high tide line to three miles seaward. It is the Commission's policy to maintain a multiple-use management concept consistent with environmental protection.<sup>18</sup>

The Commission is composed of the Lieutenant Governor, the State Controller, and the Director of Finance. (As a a

result, the Commission has a measure of autonomy compared to other executive agencies directly responsible to the Governor, as signified by the broken line in figure 1.) It is headquartered in Sacramento, with oil, gas and other general operations directed from the SLC office in Long Beach. Currently, the Commission has 241 personnel-years staffing and a proposed budget of approximately 16 million dollars for Fiscal Year 1988-1989.<sup>19</sup>

The Commission has several active oil and gas leases in state waters and is attempting to offer additional tracts for development. In support of oil and gas activities, the Commission also has several leases for rights-of-way for oil and gas pipelines and marine terminals.<sup>20</sup> As of June 1987, the state had received approximately 5.2 billion dollars from oil and gas leases.<sup>21</sup> A Commission brochure reports that the state leases 100 sites which support more than 1000 wells. Royalties paid to the state on each barrel of oil "lessens local tax burdens and supports higher education, water projects, and recreational development of publicly held lands."<sup>22</sup>

The Commission also leases state lands for a variety of industrial, commercial, and recreational purposes. These include marinas, commercial or industrial wharfs, state park facilities, and marine reserves.<sup>23</sup>

In conducting its leasing activities, the Commission coordinates its application process with many state, regional, and federal agencies. The Commission requires as

a condition of lease, that the lease applicant secure all permits required by law from other governmental agencies. Mitigation measures adopted through the environmental review process are included in lease terms and conditions. Violation of any of these conditions enables the Commission to exercise all remedies available to a landlord, including termination of the lease. The Commission maintains a policy of deciding each lease application on a case-by-case basis "weighing fully the benefits and consequences of each proposal."<sup>24</sup>

#### STATE COASTAL CONSERVANCY

The State Coastal Conservancy was created by the Legislature in 1976 with the mandate to take positive steps to "preserve, enhance and restore coastal resources, and to address issues that regulation alone cannot resolve."<sup>25</sup>

The Conservancy has a governing board consisting of the Chair of the Coastal Commission, Secretary of the Resources Agency, the State Director of Finance and four members representing the public. Currently, the Conservancy has 45 personnel-years staffing and a proposed budget of approximately 3.3 million dollars for Fiscal Year 1988-1989.<sup>26</sup>

The Conservancy's emphasis is on non-regulatory solutions to often complex problems. The agency works with federal, state, and local agencies, the private sector, non-profit groups and citizens on a wide variety of projects which are briefly outlined below.<sup>27</sup>

1. Creating and improving public access to the coast.  
This is typically achieved through grants and technical assistance to local governments and non-profit organizations.
2. Restoring urban waterfronts for public use and enjoyment and for support of coastal dependent industry.
3. Restoring and enhancing wetlands, estuaries, coastal dunes, streams, and habitats.
4. Restoring coastal areas by working with local agencies and landowners to provide economically feasible alternatives for coastal developments.
5. Preserving agricultural land by acquiring land outright, establishing appropriate safeguards, then reselling the land back into the private sector.
6. Preserving certain coastal sites by acquiring land and transferring it to an appropriate public management agency.
7. Accepting donations and dedications of land and easements for public access, open space and habitat protection.

The Conservancy has a number of programs designed to assist the California fishermen. The Conservancy manages a demonstration low interest loan program for fishermen to test alternative fishing gear which will alleviate adverse marine impacts from the use of gill nets. The department also participates in the Commercial Fisheries Mitigation

Program to examine onshore storage facilities for commercial fishing gear and equipment storage and repair.<sup>28</sup>

Generally, Conservancy projects must conform to the Coastal Act policies and be approved by the Conservancy Board. Geographic jurisdiction in which the Conservancy is allowed to operate coincides with the established coastal zone boundaries, San Francisco Bay and Suisun Marsh. At the request of a local government, the Conservancy may undertake a project outside its authorized boundaries which benefits areas within the coastal zone.<sup>29</sup>

The Conservancy is able to execute these programs because of flexibility and power granted to it by the Legislature. These capabilities, which the Conservancy notes are "rare in government agencies" include the capacity for rapid action, risk taking, leverage in financing, public participation, and innovation.<sup>30</sup>

Because of its unique abilities, the Conservancy is involved in a variety of programs which requires a great deal of coordination between the Conservancy and local, State, and federal government agencies. For example, the Conservancy assists the Coastal Commission and San Francisco Bay Conservation and Development Commission in resolving coastal land use and resource conflicts; assists local governments in LCP implementation; cooperates with the State Department of Commerce in the economic development of urban waterfronts; and acquires land and develops access for the Department of Recreation.<sup>31</sup>



## DEPARTMENT OF FISH AND GAME

The Department of Fish and Game (DFG), part of the Resources Agency, administers programs and enforces laws relating to the fish and wildlife resources of the state. Policy in this area is set either by the Legislature or the by five-member Fish and Game Commission appointed by the Governor. The Commission sets policy which guides the department's activities and regulates the sport taking of fish and game under authority delegated to it by the Legislature. While the Legislature has generally reserved for itself the authority to regulate commercial taking of fish and game, it has delegated to the Commission the authority to regulate several commercial fisheries, kelp bed leases, and aquaculture operations. Currently, the Department has 1,518 personnel-years staffing and a proposed budget of approximately 119 million dollars for Fiscal Year 1988-1989.<sup>32</sup>

The staff at DFG headquarters in Sacramento support the Fish and Game Commission and the administration of the Department. For example, DFG Sacramento staff examines every bill introduced in the Legislature concerned with marine resources to analyze the impact of the measure. Field staff is involved in day-to-day management of living marine resources.<sup>33</sup>

DFG states that its mission is to "ensure that fish and wildlife are preserved for the use and enjoyment by the

people of the state, now and in the future."<sup>34</sup> To this end, the objectives of DFG are fourfold.

1. Maintain all species of fish and wildlife for their natural and ecological values and for their direct benefits to the public.
2. Provide for varied recreational use of fish and wildlife.
3. Provide for the economic contribution of fish and wildlife in the best interest of the people of California.
4. Provide for scientific and educational use of fish and wildlife.

Statutory authority for the Department's operations are derived from a variety of state and federal laws. These laws govern the activities of the Department which include monitoring, assessing and managing California's living resources and protection of the environment necessary for these resources. Other state agencies are required by law to consult with the Department when making decisions which affect fish or wildlife resources or habitats. The Department responds by making recommendations which will prevent or mitigate impacts to the resources or habitat. Similar coordination is mandated between the Department and federal agencies for federally constructed or permitted projects.

To implement the policies which emanate from the various state and federal laws and the California Fish and

Game Commission, DFG maintains a staff of environmental, water quality, and marine biology specialists. The functions the staff performs are diverse and include review of projects which affect fisheries and wildlife, impact of development and other activities on habitat, compilation of basic biological and fishery data, and enforcement of state and federal fish and game laws and regulations.<sup>35</sup>

#### Organization Operations

An organization as large and diverse as DFG requires a great deal of staff coordination between the different Divisions which make up DFG. For example, if a certain proposal for oil development within trawling grounds is perceived to have an impact on fisheries, the DFG's Marine Resources Division (MRD) would provide an assessment of these impacts to the Environmental Services Division which, in turn, coordinates DFG's response to the Resources Agency. Mr. Al Petrovich, Manager of the Marine Resources Division, observes that the working relationship within DFG and between DFG and other departments is generally good.<sup>36</sup>

Good working relationships between departments does not automatically translate into protection of ocean resources. Mr. Christopher Wiley, Senior Consultant to Assemblyman Tom Hayden, notes that there is a general concern around the Legislature and some Executive agencies that California ocean resources have a secondary stature in comparison to other resources. He postulates the reasons for this are historic and political.

Historically, the perception is that the ocean takes care of itself and that wastes deposited there are "out of sight and out of mind." Politically, the ocean has no effective constituency at any level and the constituency which exists is fragmented. Ocean resources in California are "institutional orphans" with responsibility either fragmented among various agencies or being assumed by an agency by default. Furthermore, each department has its own constituency and agencies have varying influence within the Executive Branch. He speculates that if a Cabinet-level dispute erupted over the level of protection of ocean resources from agricultural runoff that the Agriculture Agency will be more influential than the Department of Fish and Game.<sup>37</sup>

Mr. Petrovich notes that as executive departments go, DFG is small but can be highly controversial because of the nature of the resources and interest groups that it deals with. There is a political side to ocean resources which requires the MRD staff to be "bio-politicians" rather than solely scientific biologists. Mr. Petrovich notes that in ocean resources one deals in probabilities, and unlike "counting cattle", as long as there is probability and uncertainty, politics will be involved in the decision making process.

#### Conflicts and Multiple Use

Reflecting the fragmented nature of the ocean's constituency Mr. Petrovich foresees increasing user

conflicts in the next 10 to 15 years between sport fishermen and commercial fishermen, especially in Southern California where there appears to be a strong anti-commercial sentiment among sport fisheries. DFG is caught in the middle of the dispute and must "walk the picket fence" between the two groups. He also sees increasing political activity on the part of both groups because of this conflict. He believes attempts to depoliticize the dispute by establishment of a "Marine Resources Commission" to be a bit naive. He doesn't foresee the Legislature giving up its role in fisheries and contends that establishment of the Commission would just shift the arena of contention away from DFG and to the Marine Resources Commission.<sup>38</sup>

In summary, according to Mr. Petrovich, DFG is looking for a better way to manage both resources and the organization. Morale in the Department is described as "good and improving". The new director at DFG wants the agency to be proactive (anticipate problems and have a forward focus). Mr. Petrovich admits MRD is currently in a reactive mode (putting out fires). To institute this proactive mode, MRD has adopted a Management by Objectives (MBO) approach under which inputs from the bottom of the organization are passed upward through the hierarchy. There will be reviews of the objectives and plans to achieve them. Priorities will be set and legislative mandates will, of course, receive top priority. Priorities can, and sometimes

do, change and the MBO approach is perceived as providing the flexibility to accommodate the change.<sup>39</sup>

#### STATE WATER RESOURCES CONTROL BOARD

The State Water Resources Control Board is responsible for the protection of the State's inland and coastal water quality. Currently, the State and Regional Boards have 1,088 personnel-years staffing and a proposed budget of approximately 354 million dollars for Fiscal Year 1988-1989.<sup>40</sup>

The State Water Resources Control Board is involved in several ocean-related policy and planning activities. The State Board and the six coastal Regional Quality Control Boards have primary responsibility for regulating water quality in the state's ocean waters (within the three mile limit) and for determining the impacts of discharges within federal waters.

State policy, as it relates to coastal waters is specified by the State Water Code (Section 13142.5). The section requires that highest priority be given to improving or eliminating discharges which adversely affect wetlands, estuaries or other biologically sensitive sites; areas important for water contact sports; areas that produce shellfish for human consumption; and areas subject to massive waste discharges.<sup>41</sup>

The State Board adopts policy for water quality control in coastal waters on a state-wide basis. The Board approves water quality plans developed by each of the six coastal

Regional Quality Control Boards (Basin Plans) to ensure they are consistent with state policy. In addition to developing the Basin Plans, the Regional Boards adopt wastewater discharge requirements and monitor water quality to ensure compliance with discharge requirements.

In addition to approving the Regional Basin Plans, the State Board is empowered to adopt state-wide control plans and policy which supersedes the Basin Plans if any conflict exists.<sup>42</sup> The state-wide standards program seeks to "provide a unified approach to setting state-wide standards by taking a leadership role in identifying marine pollution problems and recommending regulatory measures to correct the problem."<sup>43</sup> This program is implemented by the State Board's Ocean Standards and Policy Unit.

#### Ocean Water Quality Control Plans

The major documents which specify state policy for marine waters are The California Ocean Plan; The Thermal Plan; and The Enclosed Bays and Estuary Policy.

The California Ocean Plan establishes water quality standards for ocean waters and establishes the basis of point and non-point discharges into California's coastal water. The California Ocean Plan is established by the Water Resources Control Board which then must implement and interpret the plan with the six coastal regional water quality control boards. The Ocean Plan was initially adopted in 1972, was reviewed and revised in 1978 and in 1986. Current State code (Water Code Section 13170.2)

requires the plan to be reviewed every three years to ensure that standards are "adequate and are not allowing degradation to indigenous marine species or posing a threat to human health."<sup>44</sup>

The Thermal Plan, which controls the discharge of elevated temperature water in the coastal environment, was initially developed in 1972 from principles formerly contained in a policy document. The Plan does not set specific limits or objectives on discharges from power plants existing at the time of the Plan's adoption. It does however state that elevated temperature discharges should assure that beneficial uses are protected and that areas of special biological significance are not impacted. New discharges must meet additional requirements. Currently, the Thermal Plan is not scheduled for review.

The Enclosed Bays and Estuary Policy provides water quality principles and guidelines for the protection of the State's bays and estuaries and is applicable to both point and non-point sources.

It is State policy that municipal and industrial discharges into enclosed bays and estuaries should be phased out unless it is demonstrated that these discharges actually enhance the receiving environment. Also, the policy specifically prohibits several types of municipal or industrial discharges.<sup>45</sup> The Policy was established in 1974 and, unlike the Ocean Plan and Thermal Plan has never been



revised. The Board does not envision any pending review of the Plan.<sup>46</sup>

While the Board does not have authority to regulate water discharge outside of state waters, it does have responsibility to determine impacts discharges beyond California waters may have on the state's waters. To this end, the Board has notified the California Coastal Commission of its concerns and position regarding discharges of drilling muds and cuttings into ocean waters off California from exploratory and production oil drilling. Generally, these areas of concern are the acute and chronic toxic effects of discharges; physical alteration of benthic habitat; design of monitoring programs; and problems of on-shore disposal of the muds and cuttings. The Board believes while most muds and cuttings can be discharged on site (with proper controls) some material is not suitable for discharge and some sites are unsuitable for any discharge.<sup>47</sup>

#### Ocean Water Quality Monitoring

Initially, according to Mr. Christopher Wiley, Senior Consultant to Assemblyman Tom Hayden, the State Board was only interested in fresh water quality. It undertook the responsibility for ocean water quality on its own initiative even though there was no State or federal requirement for it to assume the responsibility. In short, the establishment of the Ocean Plan was a State initiative.

Recent events, such as beach closures in Los Angeles and the presence of toxins in the state's marine fisheries,

have focused public attention on the quality of our ocean waters. As a result, a constituency for ocean water quality may be developing. Mr. Wiley finds that the most effective efforts at addressing the problem of ocean water quality come after major media exposure. Thus, a window of opportunity for action to address the problem may now exist.<sup>48</sup>

An August 1988 report by an Assembly Task Force notes "there is a multitude of local, state and federal governmental agencies in California involved in the regulation, study and management of ocean resources. This has resulted in the absence of a systematic and comprehensive approach to the protection...of California's ocean resources."<sup>49</sup>

Mr. Wiley observes that the research in the ocean environment is both fragmented and "applied", citing the studies being conducted on the microenvironment at the end of an ocean outfall pipe. This results in a pipe-by-pipe analysis and regulation, but no effort to determine the carrying capacity of the entire area and then allocating the total among all the outfalls via an area permitting scheme. He relates that the State Board feels it does not have sufficient information to implement an area-wide allocation scheme and cannot get funding to conduct research to get the information.<sup>50</sup>

Ms. Mary Morgan, Executive Director of the Pacific Fisheries Legislative Task Force, reports how informal

cooperation between the members of the Task Force (drawn from the legislatures of Alaska, California, Idaho, Oregon, and Washington) can lead to solid accomplishments in the area of ocean anti-pollution measures. The Task Force members each introduced legislation on the same day in their respective states to regulate tributyltin (TBT)-based antifouling paint which is used on the hulls of boats and ships. While each state tailored legislation to address its own concerns over the introduction of this toxin into the ocean environment, each state eventually enacted regulatory legislation. Also, the legislation for the federal regulation of TBT was strongly supported by the Task Force members, with other states eventually following their lead.<sup>51</sup>

#### DEPARTMENT OF BOATING AND WATERWAYS

The Department of Boating and Waterways was established to fill the many needs of the recreational boating public especially in the areas of safety and the provision of facilities for boaters. Currently, the Department has 58.4 personnel-years staffing and a proposed budget of approximately 30 million dollars for Fiscal Year 1988-1989.<sup>52</sup>

The Department of Boating and Waterways performs a variety of functions related to the development of California's marine recreational opportunities and marine industry. To this end, like the Coastal Conservancy, the

Department is primarily a service agency, working with a number of federal, state, and local agencies.

For example, the Department is active in assisting in the development of public access boating facilities projects, such as marinas and public boat launching facilities.<sup>53</sup> A Department spokesman notes that there is a great demand in California for marine recreational facilities, with an apparent shortage of facilities in some areas. In Southern California, many of the possible sites for facilities have already been developed. Under California law, proposals for additional facilities are subject to extensive environmental review and it is the responsibility of the facility developer to provide all documents for the environmental review process and secure the necessary permits from the cognizant local and state authorities. However, the Department will assist the developer in the permitting process if state money is involved in construction of the facilities.<sup>54</sup>

The Department performs many functions order to create a safe boating environment. The Department plays a major role in the development of California boating regulations and works jointly with the federal government (i.e., the United States Coast Guard) in the development of national marine safety and navigation laws and regulations.<sup>55</sup> Boating laws and regulations are enforced by various federal, state, or local agencies. However, rules contained exclusively by federal statutes and regulations are not

directly enforceable by state and local law enforcement agencies. The Department analyzes the federal rules and, when necessary, "translates" them for California. As part of state law, these rules are enforceable by police agencies (e.g., harbor patrols) within the state. The Department will assist local agencies in the development of training courses on the enforcement of California Boating regulations and cooperates in funding equipment, such as patrol craft, needed for enforcement.<sup>56</sup> However, rather than just rely on rules to foster a safe marine environment, the Department actively supports boating safety and education programs throughout the state. Also, the Department licenses yacht and ship brokers and vessel operations carrying passengers solely on state-controlled waters.<sup>57</sup>

The Department participates in the California Beach Erosion Control Program.<sup>58</sup> Beach erosion appears to be a continuing problem because of constantly changing conditions in the intertidal zone. The Department coordinates the state's beach erosion control program for public lands and facilities. This effort is usually funded jointly by the local, state, and federal governments. In addition, the Department provides technical assistance for beach erosion control programs when requested.<sup>59</sup>

Additional Department activities include administration of the San Joaquin-Sacramento Delta Water Hyacinth Control Program and implementation of the Boating Trails Plan by

providing assistance to governmental agencies which manage the various waterways.<sup>60</sup>

#### DEPARTMENT OF PARKS AND RECREATION

The Department of Parks and Recreation has extensive programs and participation in the state's coastal area. The Department administers approximately 120 state park units covering more than 260 miles of coastline. There is an ongoing program to develop general plans for each of these units--an effort that was completed for more than half of these units by early 1988.

The Department administers the Marine Underwater Park program to ensure that representative areas of significant natural, cultural, and recreational resources are preserved. The present marine underwater park system has eleven units covering more than 8,300 acres. There are 30 additional units which have been identified as areas with potential for inclusion in the Underwater Park System. Plans call for the Department to add two units per year to the system.<sup>61</sup>

#### ENVIRONMENTAL AFFAIRS

The Secretary of Environmental Affairs (EA) and the associated staff reviews and coordinates the policies of all state agencies regarding leasing, exploration, and development along the California coast and the state's ocean area; Outer Continental Shelf (OCS) lease sales and development; and resources and uses in the Exclusive Economic Zone (EEZ).<sup>62</sup> Currently, Environmental Affairs has 13.7 personnel-years staffing and a proposed budget of

approximately 3.7 million dollars for Fiscal Year 1988-1989.<sup>63</sup>

The Agency's Office of Offshore Development performs the staff function for the Secretary's role as the Governor's OCS Policy Coordinator. While these activities are mainly concerned with offshore oil development, they include such diverse policy areas as nuclear submarine disposal, hard mineral exploration, and marine sanctuaries. Although EA coordinates policy among various state agencies regarding the OCS and EEZ, it serves no regulatory function. In fact, the Environmental Affairs identifies one of its primary goals as "to preserve and maximize the state's effective participation in the sound management of the Exclusive Economic zone adjacent to its territorial sea."<sup>64</sup>

EA administers a grant program to provide technical assistance to local governments for planning, assessment, mitigation, monitoring and enforcement, and other activities related to offshore energy development. Using special funds, the state has distributed more than 35 million dollars to coastal cities and counties and Bay area governments.<sup>65</sup>

EA also administers the Local Marine Fisheries Impact Program which provides funds for a wide range of measures to address past and cumulative impacts of offshore oil development.<sup>66</sup> Proposed funding for this program in Fiscal Year 1989 is 2.5 million dollars.

### California and the EEZ

Mr. Mike Kahoe and Ms. Susan Wade of the Environmental Affairs staff <sup>67</sup> believe that the state does have a legitimate interest in EEZ development because of the impact which it has on existing and potential coastal resources. They note that through the federal decision making process, the state has several opportunities to participate. They are working to build these provisions into any potential EEZ decision-making process. For example, the Department of Interior is currently promulgating rules for hard mineral extraction and the state has commented on those rules.

The state, they note, may influence several other points in existing and potential EEZ regulatory processes. They cite state membership in the Coastal States Organization as one example of how the state has multiple points of influence. (The Coastal States Organization is a nonpartisan association which represents the collective views of coastal state and territorial governors in US ocean and coastal affairs.) Other points include participation in the Gorda Ridge Task Force which is examining ocean mining potential and MMS regional working groups which include California, Oregon, and Washington and which deals with oil and gas development in the Outer Continental Shelf.

There are both formal and informal contacts among the states. For example, DFG is providing data to Oregon for its coastal/ocean plan. The level of coordination which EA employs varies with the type of problem. As soon as EA



receives a proposed federal regulation, it is distributed to the concerned agency directors, local governments, and the public for analysis and comment. Generally, thirty days prior to the deadline specified by federal government for receipt of comments, the Agency assembles and analyzes these inputs and prepares the formal state response. In the past, the formal response has included comments by concerned environmental groups and citizen's concerns expressed at public hearings on proposed federal regulations. These hearings are convened to ensure as wide an input as possible. State legislation is handled a bit differently. Each agency prepares a response which is then analyzed by EA for conformance with administration policy. If there are any conflicts between an Agency's response and policy, EA works to resolve the differences.

Mr. Kahoe characterizes EA's working relationship with the Interior Department's Minerals Management Service (MMS) as "good" noting that the two Agencies have a good track record of negotiating differences. The relationship has evolved from one of little trust in earlier lease sales to a willingness at MMS to negotiate with the State to resolve any differences prior to announcement of a lease sale. They find that the joint review process between MMS, the State, and local governments has been particularly beneficial because it gets the staffs together for information interchange.

Mr. Kahoe and Ms. Wade believe it is premature to characterize Department of Interior's attitude on EEZ development and the role of the states in that development. They note that the OCS process is well established in legislation, the EEZ process is not and jurisdictional problems in the EEZ have yet to be resolved. While California has a major stake in EEZ resources, EA recognized that these are indeed national resources and will be handled as such. As a result, they do not foresee any state having a veto over EEZ resource development.

Ms. Wade cautions that the terminology of "exclusive economic zone" and "outer continental shelf" are not synonymous or interchangeable. She observes that the Department of Interior does sometimes use the terms interchangeably. California does not have an explicit EEZ policy per se. Rather using the administrations policy on offshore oil development as a model, EA applies it to EEZ problems (if appropriate) on a case by case basis. Obviously, the state's offshore oil policy model is not applicable to every circumstance in the EEZ.

Rather than developing a fixed plan which could be obsolete in a short time because of changes in technology, evolution of unforeseen problems, etc., EA prefers to use "planning approach" which emphasizes a case-by-case analysis in light of the cumulative impacts of the case and other uses. Also, this planning approach allows a broader

examination of the costs and benefits associated with each proposal.

In the near term, the two staffers see most issues in the EEZ coming from oil and gas operations. But, they note that potential mining of sand, gravel, and other deposits is a distinct possibility as well as continuing military operations and uses of platforms for purposes other than oil and gas.

#### DEPARTMENT OF HEALTH SERVICES

The Department of Health Services is responsible for monitoring and certifying that shellfish mariculture operations are safe for human consumption. This task is accomplished by investigation of shellfish-bearing waters, recommendations on waste discharge requirements to protect these areas, and restrictions on harvesting operations when necessary. The Department also directs the paralytic shellfish poisoning prevention program. This three-part program includes public information, annual mussel quarantines, and the coastal shellfish monitoring program.

The Department provides standards to ensure the healthfulness of ocean water contact sports areas, although "only a limited amount of monitoring is carried out . . . and this is generally done by local health agencies and waste dischargers...."<sup>68</sup>

To execute its responsibilities for public health, ocean shellfish harvesting and ocean water contact sports areas, the Department recommends waste discharge

requirements to the Regional Water Quality Control Boards and participates in development of State Water Resources Control Board's California Ocean Plan.

The Department regulates hazardous waste treatment and disposal within California. The Department notes that "no proposals have been made to dispose of hazardous wastes in California ocean waters" and that the long-term trend has been to "exclude" the dumping of any wastes from ocean waters except for treated community wastewater and storm runoff. The Department is cognizant of U.S. Environmental Protection Agency (EPA) tests for at-sea incineration of hazardous wastes and its attendant problems.

The Department participates in research and monitoring of possible public health risks 1) from the dumping of low-level radioactive wastes beyond the Farallon Islands between 1946 and 1965; and 2) from chemical contamination of state waters in areas such as the Southern California Bight and Monterey Bay.

In its mission to protect public health, the Department must interact with several agencies at the local, regional, state and federal level. These agencies include the U.S. Environmental Protection Agency, State Water Resources Control Board, regional water quality control boards, and local dischargers of wastewater.<sup>69</sup>

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Mr. Michael Kahoe, Assistant Secretary for Environmental Affairs, 25 March 1988

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