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THE OREGON COAST IN THE EIGHTIES
Proceedings of a Conference Held at
the School of Law, University of Oregon
April 11, 1981

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THE OREGON COAST IN THE 1980'S

AGENDA

8:00 - 9:00 a.m. Registration

General Introduction: Dean Derrick Bell

9:15 a.m. - 9:45 a.m.

Keynote Address: Congressman James Weaver

9:45 a.m. - 10:15 a.m.

Speaker: Robert Knecht, Acting Dir.,
Office of Coastal Zone Management;
Dir., Office of Ocean Minerals and
Energy. "The Future of Ocean and
Coastal Programs."

PART ONE: Panel Discussion on Offshore
Gas and Mineral Development

Panel: Hollis Dole, moderator; Former
Vice-President of ARCO; Former
10:15 - Head, Oregon State Geologist;
11:30 am Asst. Sec'y of Interior under
the Ford and Nixon Administra-
tions; Private Consultant to
the Reagan Administration

Reid T. Stone, Acting Mgr. for
Pacific OCS Conservation Div.
of USGS

Jon Christenson, Mgr., Coastal
Energy Impact Program

Stan Hamilton, Professional
Engineer; Assistant Dir. for
Land, Minerals and Waterways
Programs

Michele Perrault, Chair of the
Environmental Coalition on OCS
Lease Sale 53 and 73, San Fran-
cisco, California

Gary Midkiff, Outer Continental
Shelf Program Coordinator,
Governor's Office of Planning
& Research

Questions and Answers

Lunch 11:30 - 1:00 p.m.

PART TWO: Fishery Management in Oregon

1:00 - 1:30 p.m.

Speaker: Peter A. Friedman, Staff Counsel,
Senate Commerce Committee

Panel: Emil Berg, moderator, Portland
Attorney

1:30 -

3:00 pm John Platt, Columbia River Inter-
Tribal Fish Commission

Bill Sutherland, commercial
fisherman, 20 years

Bob Loeffel, Oregon Dept. of
Fish and Wildlife

Beverly Hall, Asst. Attorney
General

Dr. Richard Schwint, Pres.,
Continental Marine Corp.

Representative Bill Bradbury,
District 48

Questions and Answers

Break 3:00 - 3:15 p.m.

PART THREE: Planning and Development on
the Oregon Coast

3:15 - 3:45 p.m.

Speaker: Dick Matthews, Program Mgr.,
Oregon Dept. of Land Conservation and
Development. Coastal Program and Policy
and Research Division.

Panel: Maradel Gale, Faculty Member,
University of Oregon, Dept. of
3:45 - Urban and Regional Planning

5:00 pm

Marguerite Watkins, Pres., Oregon
Shores Conservation Coalition

Jay Rasmussen, Exec. Dir., Oregon
Coastal Zone Management Assoc., In

Richard Benner, Staff Attorney
1000 Friends of Oregon

Bruce Laird, Port Commissioner
of Coos Bay; Vice-President,
Western Bank

Questions and Answers

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THE OREGON COAST IN THE EIGHTIES
PARTICIPANTS

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Derrick Bell, Dean, University of Oregon Law School
Richard Benner, Staff Attorney, 1000 Friends of Oregon
Emil Berg, Portland Attorney
William Bradbury, Representative, Oregon District 48
Jon Christenson, Manager, Coastal Energy Impact Program
Hollis Dole, former vice-president of ARCO, former head, Oregon State Geological Association, Asst. Sec. of Interior under Nixon and Ford administrations, private consultant to Reagan administration
Peter Friedman, Staff Counsel, Senate Commerce Committee
Maradel Gale, Dept. of Urban and Regional Planning, University of Oregon
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Richard Hildreth, Professor of Law, University of Oregon
Robert Knecht, Acting Director, Office of Coastal Zone Management, Director, Office of Ocean Minerals and Energy
Bruce Laird, Coos Bay Port Commissioner, Vice-President, Western Bank
Robert Loeffel, Oregon Dept. of Fish and Wildlife
Richard Mathews, Oregon Department of Land Conservation and Development
Gary Midkiff, OCS Program Coordinator, Governor's Office of Planning and Research (California)
Michele Perrault, Chairman, Environmental Coalition on OCS Lease Sale 53 and 73, San Francisco
John Platt (in absentia), Columbia River Intertribal Fish Commission
Jay Rasmussen, Executive Director, Oregon Coastal Zone Management Association
Dr. Richard Schwint, President, Continental Marine Corp.
Reid Stone, Acting Manager, Pacific OCS Conservation Div. of USGS
Marguerite Watkins, President, Oregon Shores Conservation Coalition
Congressman James Weaver, Fourth Congressional District

PARTICIPANT INFORMATION

DERRICK BELL

Dean of the University of Oregon School of Law. Derrick Bell is a former professor of law at Harvard University. He has litigated numerous civil rights cases throughout the south during the 1960's. Dean Bell served as Director of the Western Center on Law and Poverty. He was Deputy Director of the Office of Civil Rights, HEW. He has also served as staff attorney with the NAACP Legal Defense and Educational Fund.

RICHARD P. BENNER

Mr. Benner is staff attorney for 1000 Friends of Oregon and has been involved with much of the significant land use litigation in Oregon of the past few years. He has also authored several articles concerning land use issues. Mr. Benner received his A.B. from Princeton University and his J.D. from the University of Oregon School of Law.

EMIL R. BERG

Mr. Berg is a Portland attorney with a keen interest in environmental and coastal legal issues. He received his LL.M. in Law and Marine Affairs from the University of Washington and his J.D. from Lewis and Clark. In addition to his private practice, Mr. Berg is an Adjunct Professor of Ocean Law at Lewis and Clark.

HOLLIS M. DOLE

Mr. Dole is a private consultant to the Reagan Administration. He is a former Assistant Secretary for Mineral Resources in the U.S. Department of Interior during the Nixon Administration and has worked for Atlantic Richfield Co. as the General Manager of the Colony Oil Shale Project and Manager of the Washington Office. He is also the former Director of the Oregon State Department of Geology and Mineral Industries.

MARADEL KRUMMEL GALE

Ms. Gale is an Assistant Professor in the Department of Urban and Regional Planning of the University of Oregon. She has done extensive research in the areas of land use planning and natural resources legislation. Ms. Gale received her B.A. from Washington State University, her M.A. from Michigan State University and her J.D. from the University of Oregon School of Law.

BEVERLY HALL

Ms. Hall is our Assistant Attorney General for the State of Oregon. She serves as Counsel to the Oregon Department of Fish and Wildlife. Ms. Hall received her J.D. from the University of California at Berkeley.

ROBERT W. KNECHT

Mr. Knecht is the Acting Director of the Office of Coastal Zone Management. He is Director of the Office of Ocean Minerals and Energy of NOAA. Mr. Knecht served on the U.S. Delegation to the United Nations Law of the Sea Conference. He received his Master of Marine Affairs degree from the University of Rhode Island and a B.S. from Union College of N.Y.

BRUCE A. LAIRD

Mr. Laird is a Port Commissioner and Treasurer for the Port of Coos Bay. He is the Assistant Vice President and Marketing Officer for Western Bank. Mr. Laird is a native Oregonian and long-time resident of the South Oregon Coast. He is a graduate of the University of Oregon.

ROBERT E. LOEFFEL

Mr. Loeffel serves as Marine Regional Supervisor with the Oregon Department of Fish and Wildlife. As such, he is responsible for management of the marine commercial and recreational fisheries of Oregon. Mr. Loeffel also serves as Marine Research Supervisor with the Fish Commission of Oregon. He received his B.A. at the University of Washington School of Fisheries.

RICHARD L. MATHEWS

Mr. Mathews is Coastal Program Manager and Program Division Manager for the Oregon Department of Land Conservation and Development. He received his M.S. in Economics from Wichita University and his B.S. from the University of South Dakota.

JOHN PLATT

Mr. Platt is currently the Policy Assistant to the Columbia River Intertribal Fish Commission. He is a former Director of the Oregon Environmental Council and the Northwest Environmental Defense Center. He received his B.A. at Georgetown University and his J.D. at Lewis and Clark Law School.

REID STONE

Mr. Stone is a professional engineer with 30 years experience in petroleum and energy exploration and development. He is acting Regional Manager for the USGS Conservation Division, Pacific OCS Region. Mr. Stone previously served as Dept. of Interior Coordinator for the Oil Shale and Geothermal Leasing Program. He received his B.A. and M.S. degrees in petroleum engineering from the University of Southern California.

MARGUERITE N. WATKINS

Ms. Watkins is the President of the Oregon Shores Conservation Coalition. She is a Coos Bay resident and is a member of the Bay Area Environmental Committee. She has also been active in the League of Women Voters since 1956.

INTRODUCTION

Oregon has a beautiful and unique natural resource in its coast, and Oregonians have a long heritage of trying to protect their coastal treasures from overdevelopment and overexploitation. They take pride in Oregon's early enactment of a bill to ensure public access to ocean beaches and also in the state's early participation in and commitment to the goals of the federal Coastal Zone Management program.

The road to achieving balance between preservation and development, however, has not been easy, and it promises to be no more so in the future. Every management decision, whether in the field of energy development, fisheries, or planning, generates controversy, and every action is a response to a problem, a peril, or even simply to politics.

Oregonians are not naive; they know that management decisions reflect the political process and that nearly always compromises and trade-offs must be made. But recently many Oregonians have become more acutely concerned about the changing relationships between federal and state governments on issues of economic development and environmental protection. Shortly before this conference was held, the American people voted out of office an administration that was perhaps more sensitive to the needs of the environment than any since the time of Theodore Roosevelt. Instead, they elected a president who, if not actually hostile to the ideals of environmental protection, is at least intent on reducing the federal role in it.

The passage of two years has blunted a few of the issues most intensely discussed at this conference. Lease Sale 53 for oil exploration off the northern coast of California was delayed by Congressional action late in 1982. And Oregon's Statewide Planning Goals survived still another attempt at initiative repeal in November 1982.

But most of the issues vigorously discussed in these proceedings are still alive and are, if anything, more hotly debated than ever. The passage of two years has not diminished the timeliness of what went on here. It is with this in mind that we at the Ocean and Coastal Law Center at the University of Oregon offer this transcript of the conference in memory of former Oregon Governor Tom McCall, whose lead in protecting Oregon's resources has been an inspiration to Oregonians, and indeed, to the rest of the nation as well.

Special thanks are due to Marilyn Howard, who laboriously prepared the transcript for publication, and to Warren Westfall and Daniel Conner for their careful editorial work.

Richard Hildreth, Co-director
University of Oregon Ocean and
Coastal Law Center
February 28, 1983

INTRODUCTORY REMARKS AND KEYNOTE ADDRESS

RICHARD HILDRETH, Professor of Law, University of Oregon Law School:

I would like to thank and pay tribute to several participants in the organization and the sponsoring of this conference. One of them is the Oregon Shores Conservation Coalition which has been of great help. Credit is also due our own Ocean and Coastal Law Center and to the student organization L.A.W. ("Land, Air, and Water"), both of which have put in a tremendous amount of effort and perhaps have been the key in whatever success we have achieved. In particular there are three students I would like to acknowledge: they are Ellen Mendoza, John McDonough, and Warren Westfall. To the extent we are a success we owe these students a great deal.

Here to welcome everyone is Dean Derrick Bell of the University of Oregon Law School. Derrick arrived only this January to take up his duties as Dean and soon found himself very busy with the variety of important matters confronting the school. I would personally like to welcome him as the new Dean and also thank him for welcoming you to this major function of the Ocean and Coastal Law Center. Derrick?

DEAN DERRICK BELL:

Welcome. I think that the character of your work is such that, having bid you welcome, I should now take my leave and let you go on. The problems of a group like this are really very serious--perhaps even more so in times like these. The issues of land use planning are probably now as vigorously argued in Oregon as any place else in the country. Such controversies are more than just matters of legal interest; they touch on things that are very close to our survival as a society.

I guess I'm not very much of a traveler or vacationer. On the few occasions when I do get out I try to get around and meet the people and see what the problems are. What I am often impressed with is the tension between those who view these areas as vacation sites--places where they have their summer homes, where they have fond memories of lying on the beach or tramping through the fields, or climbing in the mountains--and those who are often of the indigenous population, those who look to such places to provide work, to provide income, to provide sustenance. Often the conflict is very severe and heated between those who want to protect the glories of nature, the beautiful clean surf, the white beaches, the lovely hills and water, and those who see resources as timber to be cut, waters to be explored for oil and other minerals, and beaches to be dug up and supplanted with motels, hotels, and other businesses.

Not the least of the problem is that those warring adversaries are often two sides of the same coin. In other words, those who seek to wrap themselves in Mother Nature's mantle, trying to protect all that they see around them, were in some other time and place likely to be those who were committed to industry and development. Now that they have "made theirs," they want to go elsewhere and have beauty in all they survey. On the other hand, those who are saying, "We are the indigenous people and we want to develop what is here so that we can have jobs; we want to cut the timber, we want to fish as much as we need to," will, if they are successful, in a few years go off to some other site and there become the environmentalists of that region.

For those of us who are likely to be representing one side or another of that ongoing controversy, it seems worthwhile to keep in mind how much closer together are those warring factions than many would have us believe. We have an obligation as we look at these difficulties to do more than, as Shakespeare said, "lawyers would be willing to do even if the whole world were consumed with conflict." We must do more than just look on the overall situation and see it as a means of earning fat fees. Certainly, the adversaries rely on legal representation and that representation should be effective. Just as certainly, lawyers are entitled to reasonable fees for their work, either in salary income or ego income--or for many of us a combination of both. But as Peggy Lee once asked in her famous song, "Is that all there is?" Are we involved in this thing only for honest pay for an honest day's work? If so, how do we differ from any other trade or business? How are we thereby entitled to the high calling of law, to calling ourselves a profession? Certainly the professional title should mean more. If our law and our rights-oriented society are to last, I suggest that it must mean more.

The Depression of the 1930's was a nationwide disaster. It was a disaster from which we were saved, paradoxically, by World War II. I suggest that today many portions of this state and this region are experiencing local depressions with all of the disastrous effects that were visited on the nation back in the 1930's. We now have high unemployment, industry closing or leaving, little risk capital, and no money to lend. We have serious deprivation and want, low morale, family breakups, high school dropouts, increasing crime rates, divorce rates, and drug and alcohol addiction. These local expressions of depression are not less serious because much of the country--particularly that politically potent sunbelt--is enjoying an economic boom. This is a depression from which we cannot be rescued by another world war. The localities which are suffering in this state and in this region are not getting the help that came out of the New Deal. Instead, they are experiencing the "blame the victim" syndrome, where the blame for the suffering is placed on their own shoulders. Rather than more help coming from the federal government, the probability is that they will be getting even less help.

The controversy remains. How do you promote industry and jobs, while protecting the environment and the already depleted natural resources? The answers are not easy and solutions may not be possible. But that is the challenge to lawyers. Regardless of your assigned clients, regardless of for whom you are counsel of record in these issues, I suggest that all of us are ultimately your clients. The fate of all of us lies in your hands. I would hope that you would not forget this in your work today and in the future. You are the professionals. I hope you will represent us well.

Thank you very much.

RICHARD HILDRETH:

As a model of good representation, we have our keynote speaker, Jim Weaver, four-term Democratic Congressman from the Fourth District. You know him better than I. Jim Weaver sits on the Agriculture and the Interior Committees. He has long been active in issues of concern to those who are involved in the use and management of our coast resources. What we well know and appreciate is the vigor, the commitment, and the courage that Jim Weaver has brought to his representation in all of these issues. His vigor, commitment, and courage would be respectable if he represented only Eugene. But he brings these qualities also to his representation of the entire Fourth District--a task virtually impossible, but one which he somehow accomplishes. Jim?

CONGRESSMAN JAMES WEAVER:

They always said that politics was the art of the impossible, Derrick. I just came last week from Three-Mile Island and the cleanup process is underway. The management assured us that they were making progress, that there was "light at the end of the tunnel." But they just simply didn't know what was causing the light. I go out and tell them about the radioactive rat droppings they found at Three-Mile Island. They haven't seen the rats. They have seen the tracks; they're six feet wide.

It's an extremely important issue we must go into, and I appreciate the privilege of being asked to address this conference on the topic of the future of the Oregon coast. I can't think of any area in our society which illustrates the choices we must make more clearly than the coastal regions. I think what I've been saying in the Congress, more than anything else, is that we constantly face a choice between short-term expediciencies and the wise use of our natural resources over the long-term. We face a choice between a healthy environment, which we can always count on to provide jobs, or a coastal environment plagued by oil spills, toxic waste, and other economic disasters.

A good environment is good economics. Georgia Pacific has come in and bought our three largest timber holdings in Oregon: the Booth Kelly, Johnson, and Coos Lumber company holdings--vast old growth holdings. Georgia Pacific has been cutting them off in a few short years and leaving for Georgia. Is that good economics? Is the Love Canal good economics? Does the chemical industry pay for the Love Canals when you buy its products? No, the taxpayers are forced to do that.

I was outraged when in the Interior Committee we had to pass a \$125 million bill last year just to clean up some mill tailings in Colorado. One hundred and twenty-five million dollars! New homes in Craig, Colorado had been built with foundations of concrete block made with mill tailings. They found that all of the new houses in town were radioactive, so they had to go in and take out all the foundations and take the blocks away. It cost \$125 million just for this small town. That isn't good economics.

Now that we have the Reagan Administration the new term today is "supply siders." We must put the supply siders to work. It's as if production were an end in itself, that's what we are here for. Now I understand there is a certain thrill, an exaltation out of production. I was a builder and it used to thrill me to see the cat out there digging the foundation, seeing the floor joists go in and then the framing go up and then the building completed. It was thrilling, and production is a great feeling. It's fine.

But production is not an end in itself. I see these so-called supply siders wanting to dig, wanting to exploit everything that nature has provided over hundreds of millions of years, to do all this in one generation--which is what we are doing in this century, using all of the fossil fuels that took a billion years to produce. I ask, why? Why the hurry? Can't we leave a few drops for the next generation? Don't we have a responsibility? Are we acting as if we are the last generation? Perhaps we are. Maybe we are the last generation, God help us if so. But for heaven's sake, let's not act as if we are. Let's act as if we are going to have children, and they're going to have children, and their children are going to have children. Let's leave a few drops for them.

When all these energy bills are up in Congress saying, "We've got to get the oil out as fast as we can. We've got to get everything we can, we've got to get that shale out; do everything, we've got to have it, "I just simply say, "Why?" It won't go away. Those manganese nodules off our coast or in the oceans are going to stay there. They've been there for a long time. They are not going to rush away suddenly. The oil down beneath the shelf is not going to go away. At least let us plan wisely how we exploit our resources. We don't have to go in and do it recklessly in areas where it will have enormous repercussions on other things that are important. I asked

Secretary Watt--Jim Watt is the new Secretary of the Interior--this very question: "Mr. Secretary, don't we have a responsibility to future generations?" His response was, "Yes, indeed we do, but we don't know how many future generations there will be. The Lord can come at any moment."

That may be true, but that is the Lord's decision. Ours is to make choices based on the wisest use of our resources. Just digging them up so we can take them out and waste them and bury them and find new garbage dumps is to my mind the height of insanity. So I repeat, the issues are short-term profits versus long-term wise use, thoroughly planned.

I compliment you for holding this conference because that is the question I am sure you are going to be raising with these marvelous experts here. You have some wonderful people here like Hollis Dole, my dear old friend. Some of these people I don't know but their credentials are impressive: Reid Stone, Michele Perrault, Gary Midkiff, John Platt, Bill Sutherland--a commercial fisherman--Bob Loeffel, Maradel Gale. All of these fine people and many others are going to address you. The experts must be heard. You are the ones who are going to have to lead, but the public is going to make the decision in the end. In the politics of the Administration today environmentalists are called "elitist extremists." But I happen to know--the polls tell me and my own political instincts show me--that right now the vast majority of Americans are very deeply concerned for the environment. They haven't lost their feelings at all. As a matter of fact, they have gained. For the first time in the history of the world we have the "elitists" in the majority. But you are the experts. You've got to make the decisions; the public can't.

I love Aristotle's description of a democracy. He said that the average person is not an expert and can't make the decisions. But the average person is not a shoemaker either, and he can't make a shoe. Even so, he or she can go to the shoemaker and tell him where that shoe pinches. That illustrates a democracy. The public is going to tell us when what we've done, what the experts have done, what the representatives have done, pinches them. They can throw us the representatives out. I don't know what they do with the experts when the shoe is pinching too much and we haven't done a good job making it.

There is a syndrome, you know. The same people who are supply siders are almost always militarists also. They want to stack up rockets and nuclear weapons and that sort of thing. And so, instead of funding key programs--just absolutely critical programs--for our coastal management, they gut many of the programs in the oceanographic field which have taken fifteen years to get through. We have built up the LCDC to a point where it is actually having some great effects on us. Now we are trying to tear that down to spend the money instead on some things like synthetic fuels.

I always like to talk about synthetic fuels and the MX system. They are both crazy. Really, literally. You know the synthetic fuels program is an \$88 million dollar subsidy, the largest subsidy ever voted by the Congress of the United States. It is given to the poor, downtrodden oil industry. You must, you know, feel for them. The reason the subsidy has to be there is that they can't produce oil as cheaply as the Arabs are willing to sell it to us, and so we have to be sure that the oil companies don't go broke devastating the Rocky Mountain area, taking all of the water out of the Colorado River. The MX system is the same. We'll take the same water out of the Colorado system and have a bunch of missiles running around on race tracks looking for radioactive rat droppings.

Programs like these are scary. But that is what we are going to fund instead of the coastal management programs. That's why we cut the Coast Guard budget and the NOAA budget and all the other programs dealing with the wise use of our coastal resources. I am very disturbed about this. Again Secretary Watt, a supply sider, a sharp fast-buck man, said that he is going to re-examine oil leasing on the Northern California Coast (as you will be discussing later). Northern California's coast is critically important to Oregon's coastal fishing economy. Fifty percent of the Chinook salmon from the Klamath River area are landed in the southern coast ports of Oregon. The pink shrimp beds between Trinidad and Port Orford are also critical, and this same area includes prime Dungeness crab fishing grounds. There's no question that these vital areas would be threatened by offshore drilling in the Humboldt basin. An oil spill between November and March of any year when coastal currents flow north toward Oregon could be a disaster of unequalled proportions for Oregon. Imagine our prime fishing grounds flooded with crude oil. It could easily happen. Again, short-term fast profits prevail--dig it up as fast as we can, regardless of the consequences. I'm not trying to say we shouldn't grow; I'm not trying to say that we shouldn't use the resources. None of us would be sitting here in this great University and great law school, this marvelous building, if we hadn't used resources. But let's use them wisely, exploit them wisely and carefully. That's what you're going to be doing today--discussing how best we can use them.

I wish you well. With the din of supply sider voices in Washington, D.C., it is so necessary to raise, if not liberal voices (I'm not accusing you all of that sin), at least wise and factual voices so that we can assure that not only future generations will be able to enjoy the great fish and rivers and other resources of Oregon, but also ourselves. So do your work well. I wish you well. Thank you very much.

RICHARD HILDRETH:

The next speaker is Bob Knecht of the National Oceanic and Atmospheric Administration. I have become impressed with Bob's survivability as he has maintained a juggling act during the change of administrations. He carried it on under the Carter Administration and is now pursuing it under the Reagan Administration, and I think that is very important for some continuity and perspective in federal ocean and coastal management. I think a lot of hopes for continuity and perspective depend on his continued survival in those roles. I personally welcome him here and look forward to his remarks.

THE FUTURE OF OCEAN AND COASTAL PROGRAMS

ROBERT KNECHT:

Thank you very much, Dick. I don't know how to comment on this introduction with regard to survivability. Sounds like an IBM silo, or something like that. In any event, I think the Congressman set the stage very well and he gave a certain point of view. Later in the program we will hear different points of view. I hope to speak more in the direction of providing the intermediate course of wise counsel, the question of acting on the basis of information rather than emotion, and how we can deal with some of these challenging problems that confront us. It is a real pleasure to be in Oregon; this is a favorite state of mine. Even with the weather as it is this morning, that is part of it, I think. I have chosen to interpret my assignment this morning as follows, and I shall try to answer the following questions:

How will the programs that I have been involved with assist in confronting the coastal and ocean management problems of the 80's? Here, I'll be spending most of my time talking about the coastal zone management program, but I will refer also to the Marine Sanctuaries program, which is also a responsibility of my office at the present time. I'll be addressing the applicability of coastal zone management and marine sanctuaries to the problems of the 80's, coastal and ocean, in the light of the current situation with regard to program funding support and politics.

First, I would like to turn to coastal zone management. How did we get where we are, and does it have a future? These are the two sub-questions I will address in the coastal zone management area. A little history, I think, is important in trying to speculate with regard to the future of coastal zone management. In case any of you are not aware, the President's budget as he submitted it to Congress three weeks ago called for the elimination of federal grants to states to operate approved coastal zone management programs. The issue before us is this: Will the states pick up the task of operating and funding coastal zone management programs, or will these programs slide into

oblivion? That is the question I want to face first. So, let's go back and look at history to a certain extent.

How did the coastal zone management program evolve? Where are its roots? There are two strands that have to be developed here. First, the national level. In the late 50's, probably growing out of the post-Sputnik era, we were concerned about the supposed Russian lead in science and education. That led to concern about the oceans and the failure of the United States to identify and properly use its marine and coastal resources. There were a number of reports in the early 1960's in which the National Academy of Sciences and other national institutions called attention to the fact that the United States was behind in recognizing the value of its marine and ocean resources. That led to the 1966 legislation, which led in turn to creation of the Stratton Commission which issued its report in January, 1969, called Our Nation and the Sea. This report even today remains a blueprint for an appropriate oceans program in this nation. It's as valid today as it was twelve or thirteen years ago.

That document called for a number of things--among them the creation of an oceans agency, and NOAA followed; it was about three-quarters of a loaf rather than a whole loaf, but it was a step. It also called for the creation of both state and federal programs in coastal and ocean management. There was another concern developing in parallel with the Stratton Commission work, and that was the deterioration of the nation's estuaries. The National Estuaries Study was produced, and the National Estuary Pollution Study followed in the mid-60's. Both called to the attention of Congress that three-quarters of the nation's estuaries were suffering severely from degradation of one kind or another. The Stratton Commission report on these estuary studies led to pressures on Congress to do something.

Three years of debate led to the passage of the Coastal Zone Management Act of 1972. That was the formal beginning of the federal coastal zone management program. Of course, all this wasn't happening in a vacuum. Certain state and local governments had taken action in coastal zone management long before the federal initiative; that is an important point to remember. The Federal Government was not first in coastal zone management; it was not leading the way. The effort began in San Francisco Bay. It began with the recognition by alert citizens around the Bay that they were losing San Francisco Bay. It was the kind of thing you could see from day to day as you crossed one of the bridges. The Bay was shrinking because of continuous filling. In the mid-50's, as I understand it, the Corps of Engineers published a projection about what San Francisco Bay would look like in the year 2000 if the filling continued. It would be a small stream meandering down the middle of the present Bay. That was all that would be left.

That really got citizens agitated. It lead to the creation of the San Francisco Bay Conservation and Development Commission

in 1965, and it was made permanent in 1969. That was the beginning, in my book, of the real effort at "on-the-ground" coastal zone management. That stimulated the California legislature to create a statewide program, but the effort failed to move anywhere in the legislature for three years. Finally, the people took over and passed an initiative in 1972 creating the California Coastal Zone Management Program--one week after the federal Act was passed, but more or less entirely separate from it.

At the same time Oregon and Washington were making progress. The Oregon program began with local government efforts in the late 60's and 70's. The State of Washington passed its Shoreline Management Act in 1971. Minnesota, Wisconsin, and Michigan passed shoreline management acts in 1969 and 1970. Rhode Island passed a coastal zone management act in 1971. So, seven well-advanced state programs preceded the passage of the federal Coastal Zone Management Act. We sometimes lose sight of this in recounting the history of coastal zone management.

We can say that the model and form of state coastal management programs--to a certain extent at least--were given by the federal legislation passed in 1972. But the motivation was largely local in origin. The question is, did the states embark upon coastal zone management simply because of the lure of the federal grant dollar, or did they do it because they perceived there were real coastal management problems to be solved? Or was it a combination of both? I think I would lean toward the second of these: the recognition of real coastal problems to be confronted.

What is the current status of coastal management programs? I don't think this is the place to go into a thorough review of that Act in the state programs. Suffice it to say that between 1974, when the first grant money was available from the federal office to states to assist in further development of state coastal zone management programs (or, in some cases, the beginning of the development of programs)--from '74 to '79 federal grants went to all the coastal states, thirty-five states and territories, that were eligible to work on completing these coastal management programs. That support for development and planning ended in 1979. Since 1980 grant money only to implement programs that had been approved by the Secretary of Commerce has been available. Beginning in 1976 with the State of Washington's program, a series of twenty-five state programs have been submitted to the Federal Government and have been approved as meeting the requirements of the federal Act. Of the thirty-five that started, twenty-five have been approved as of the present time.

Most states have received three years of annual federal grants to institutionalize and begin to operate approved management programs. This is authorized under Section 306 of the Act and this is the section under which funding is proposed to be

terminated at the end of the current fiscal year. The largest amounts of state coastal grants have been \$4 million to each California and Alaska. The grants are given out on the basis of a combination of shoreline population and coastal problems. They have ranged up to a high of \$4 million per year down to a low of \$500 or \$600 thousand, with an average of about \$1.4 million going to each of twenty-five states.

I want to mention one other aspect of the developing coastal management program during recent years that is relevant to projections of the future of the program. Two sets of issues developed during this stage of the federal program are relevant and they fall into two categories: those related to the vagueness and generality of the standards and policies contained in the original federal Coastal Zone Management Act, and those related to the definition of the national interest and the operation of the federal consistency provisions in the federal Act. Two sets of issues, somewhat related but separable. Both are tied to projections about the future of the program.

First let me talk briefly about the generalities of the policies and standards. There was little in the original 1972 Coastal Zone Management Act regarding the policies or the purposes which state programs were supposed to achieve. Those purposes were left pretty much to each state to define after a review and inventory of its coastal problems. There is only one sentence in that original statute which really gave a kind of substantive policy purpose to coastal management: "It is national policy to preserve, protect, develop, and where possible restore and enhance the resources of the coastal zone." While that sentence doesn't provide a lot of guidance, it does have a development dimension, a protection dimension, and a restoration dimension. Not only was there not much policy guidance in the original Act, but there also wasn't much evidence in terms of the rigor of the processes that states were to build into their coastal management programs in order to receive federal approval.

In the federal office we did as much as we could through regulations to fill these gaps and deficiencies. But there are obvious limits to how far you can go in substituting administrative judgment for legislative generality. This uncertainty leads to a continuing tension between federal and state governments on what state coastal management programs should really be like, what they should try to accomplish, what they have to contain in order to receive federal approval, and what elements of an approved state program can be supported by federal funds.

Last year, after a year and a half of congressional hearings, 2000 pages of testimony, approximately eleven field hearings, and a substantial amount of work by both the House and the Senate, the Coastal Zone Management Act was reauthorized for another five years. A substantial number of improvements were built into the Act. The purposes and the policy section were

made much more specific; for the first time nine specific coastal goals were articulated as aims of coastal zone management. A much closer tie was mandated between federal dollars that were put in and the achievements of the state programs, the improvements which the state programs were to bring about in coastal planning and management. Substantial additional flexibility was given to the states on how they could spend federal dollars in order to solve their particular local problems.

The second set of issues involve national interest and federal consistency questions. This balance was a kind of quid pro quo that went into the original Coastal Zone Management Act. What is said in effect was this: if state governments as they develop the coastal management program take adequate account of the national interest in the siting of facilities along the shorelines to meet more than local needs, then once their program is approved the actions of federal agencies have to be consistent with that state program. So, if state "X" tries to reflect the national interest, as it perceives and understands it in dialogue with federal agencies, and if its program is then subsequently approved by the federal government, then the state program will be followed with regard to federal actions that affect the coastal zone. There are exceptions given for national security actions by the federal government, but nonetheless that was the basic quid pro quo.

There were problems in the beginning with these provisions: the national interest was very difficult to identify, define, and fathom in any particular case. States also have difficulty deciding how to arrive at the definition of "the national interest" as it relates to their shoreline. They could go to federal agencies to get one point of view; they could go to interest groups to get another point of view. In terms of energy issues, there was no really clear cut, crisply stated national energy policy and no policy-making agency to which they could go to ask about siting questions. States did the best they could in trying to reflect the national interest in their programs, but it has been a very controversial item throughout. In fact, relatively few disputes have arisen so far over this federal consistency/national interest balance--which is surprising considering the potential for mischief which exists in this part of the program. The biggest problems that have ever arisen involve offshore drilling. (I want to get back to that a little bit later, to consider the way in which the national interest is handled in the states' programs with regard to offshore drilling and also the question of the specificity of the state's program with regard to the way in which drilling can affect the state's coastal zone.) Indeed, it is tough to show that a proposed federal action might be inconsistent with a state's coastal management program, unless that program is well developed in either a geographical or a policy sense. I'll come back to federal consistency and how it applies to the offshore drilling question toward the end of my remarks.

Now I'd like to examine the question of the impact of the proposed federal cuts on the existence of state programs. Assuming that the proposed budget cuts remain a part of the fiscal '82 budget, which is now going to Congress--and we have to assume that is the case--what are states telling us with regard to the future of their programs without federal funding? First, there are some common threads that represent most state views of the situation. First comes the perception of the urgency of coastal problems as opposed to other problems facing the state. Coastal problems are not viewed as urgent in all states. In Indiana, Pennsylvania, and New York coastal problems are not viewed as urgent, even though these last are coastal states. In California they certainly are. In Alabama and Texas it is a mix; the coast doesn't get a lot of attention in Texas. Secondly, in the views of many current state administrations, coastal zone management isn't seen as an important tool to attack coastal problems. Third, the ability of the states to find offsetting state funding to replace diminished federal funding will be an important question. Fourth, the nature and interrelationship of the state coastal laws remain in question. Some states have passed laws that, unless repealed, rather concretely establish the state coastal management program, put it in the statutes, and require its continued support almost independent of the funding side--although that has happened in only a minority of the states.

The numbers come out as follows, according to our current estimates. Of the twenty-five states that have approved and ongoing coastal management programs at the moment, we reckon that approximately five will continue to have functioning coastal zone management programs, though probably at a reduced level. I'll just mention those five: Rhode Island, New Jersey, South Carolina, Louisiana, and California. Those are all states that have passed explicit coastal zone management statutes, that have created free-standing, if you will, and separate programs. Then we go to ten states where we feel that separately identifiable CZM programs will probably disappear--or at least be greatly reduced in visibility--but the essence of the program, or some of it, will continue at reduced levels so that visibility will either be eliminated or sharply decreased. Oregon is in that category, rightly or wrongly. Then, we have ten states that we feel are likely to dismantle their CZM programs. These are the states that largely network their programs, relying on existing authorities under other state laws, such as air and water laws, pollution laws, and so on. Through executive orders these states have brought their programs together under supervision of a council formed by the governor. It is a loosely networked kind of program, rather than one that was set up as free-standing under a special state law.

We think that the incentives will be reduced for the remaining states in the process of completing their programs. But we expect one state, Florida, to complete its program this year and be approved. It will probably be in the second

category. Florida is important; it has the second longest shoreline of any state in the U.S.

Recently, for those of you who want to get more information on the details of the effects of budget cuts, a number of state coastal managers have testified before Senate and House hearings in Washington, and I think they have done a very good job of speaking to the accomplishments of their state programs so far, and of speaking to what they perceived as the likely impacts of the termination of federal funding. Jim Ross of Oregon did an excellent job in particular. Mike Fisher of California also provided very detailed testimony on the effects of budget cuts on the California program. Mike points out that California has received, since 1977 when its program was approved, \$13 million in grants from the federal Office of the Coastal Zone Management. That is a lot of money, but during that same period the state contributed \$40 million. The way their budgeting works (if indeed the funding support at the federal level is terminated), then they lose \$1.8 million of an \$11.8 million budget for next year. Then Mike went on to point out that because all of this money has been targeted in a particular direction, the effect of state law will be to cut off federal funding that would be going directly to local governments to do local planning. He then went on to comment about the ramifications of a slowdown or stoppage of that work. Mike also points out in his testimony that under the current scheme the California Commission is able to process federal consistency reviews of permits for offshore oil exploration in twenty-one days. He anticipates that this will lengthen substantially if there is no federal funding available, because one-third of his staff will have to be fired. (Obviously he got that in because it will attract attention in terms of the current oil and gas discussions.)

Many states are now developing impact statements concerning federal funding cuts on their programs. One of these appeared in my office the other day--it was interesting--this is the Michigan program. Michigan has published a pamphlet, Michigan Coastal Zone Management Program Impact Analysis, and it goes into considerable detail on what they have accomplished, how the move toward developing our coal resources will affect their shoreline, and what they are planning to do under coastal zone management to deal with coal transshipment problem.

Let me look a little more generally at this problem if I can. What kinds of factors will affect the states' decisions with regard to going ahead or cutting coastal zone management? I think there are a number of positive factors separate from federal funding that speak in favor of the continued existence of state programs. Certainly in the past decade in which coastal management has been with us, the level of awareness of the population in general with regard to the importance of coastal problems has been raised, and I think that this awareness and those sensitivities will be important during these times. I

think coastal zone management is no longer a theoretical concept. It has been tailored to particular state needs and it is relevant, one hopes, on a state-by-state basis now. In Mississippi it means economic development, but development which takes account of the need to preserve the shrimp fisheries as well as to find sites for petrochemical plants. It means something different in Oregon, and it means something still different in Maine and Massachusetts. But the concept has been tailored and, I hope, made "state-specific."

In most states an organizational focus exists in state government. How strong that focus is depends upon the nature of the state's coastal laws. State matching money has at least begun to flow. Now whether or not it can be increased to the levels that are needed to offset decreasing federal funds remains to be seen. The benefits from federal consistency in assuring that federal actions are consistent with state policy are beginning to be seen in a number of states.

But there are disadvantages as well. Most states tell us that there is insufficient time to allow them to go back to the legislatures in order to adjust their budget requests to cover shortfalls in funding. Indeed, in six states the legislatures meet only every two years and there is no hope of budget adjustment, even if there were sufficient time. Hawaii has a special problem. By constitutional amendment last year the state legislature tied growth of the state budget to growth of personal income in the state, so that there is each year a definite ceiling on revenues for which competition is very intense. The second problem is that there are a host of new state and local financial needs cropping up in connection with the efforts in Washington to balance the budget, and there are a lot of priorities competing one with another. And the third problem is that it is inevitable in a program like coastal zone management which generates controversy, which confronts tough coastal issues, that some interests are out to kill the program. Unfortunately, that seems to be the case. To the extent that a program is effective and begins to make a difference in decisionmaking and begins to change things, there are going to be strong reactions. And those reactions exist in some states to the point where it may be difficult to get the kind of state funding that will be needed to continue the program.

What is the prognosis, then, for the future of the coastal zone management program? Coastal states are obviously going to have to take a hard look at the value of coastal zone management to them, and I doubt whether this has yet been done in very many cases. There has been no need for it to be done. Eighty percent of the funding in most states has come from Washington. There are some exceptions, like California. States are going to have to look at future coastal and ocean conflicts. Are there going to be more or fewer conflicts? Can a functioning coastal management program help identify these conflicts? And, more than that, can it help resolve them? I think states are going to have

to discuss with their congressional delegations the possibility that the value of state coastal management programs could be further increased in certain ways without spending more money. I am thinking of three specifics here, and there probably are others.

First, the possibility exists of delegating certain permit functions to approved coastal zone management programs. When I talked to the Governor of Louisiana, he led me to believe that he would be happy to pick up the responsibility for coastal zone management, provided he wasn't paying for duplication of the same kind of Section 404 permit function the Corps of Engineers now does for Louisiana. In other words, there is still a fair amount of duplication between federal and state permitting agencies in the coastal area. We have put \$150 million into approving state capability in coastal management; why don't we use it?

Second, I think the case could be made that the potential for more positive consistency exists. This wouldn't be saying that you could force the federal agency to fund something consistent with your program, but it is closely related to my third point, which is the necessity of legislative strengthening of the special area management planning concept, such as what is going on in Gray's Harbor. I think they experimented with it at Coos Bay. That is the idea where, taking coastal zone management and refining it down to a smaller level of geographical scale, you begin to look at individual regions and estuaries. You plan in detail for both the development and the protection of these important areas, and you get advance commitments to permits that will be granted by state and especially federal agencies, consistent with an agreed-upon plan, so that there is certainty with regard to both protection and development. I think the Coastal Zone Management Act is the perfect vehicle to see to that, and I think this would add value to the state point of view without costing anything. In fact, it would save the government money. I think changes along these lines would provide sufficient incentive for many states to continue active and lively coastal zone management programs, largely on their own.

Let me say a few words about the Marine Sanctuaries program in the final two minutes, since that program also gets linked to OCS oil and gas development from time to time. It was authorized under Title III of the Ocean Dumping Act, a separate piece of federal legislation. It allows the Secretary of Commerce to designate, with the approval of the President, ocean areas for protection. These are unique ocean areas designated for protection because of their aesthetic, biological, and habitat values, whatever their uniqueness. Six have been designated so far, including two recently off California's Coast: Point Reyes, and the Farallon Islands and also the Channel Islands. In both cases the proposed regulations prohibit activity related to hydrocarbon development in these areas off the coast of California. Under a new executive order the President issued in February we are called upon to re-examine the costs and benefits

associated with the prohibition of hydrocarbon exploration and development in these marine sanctuaries. We are now starting that work. The final form of the hydrocarbon regulations in these California sanctuaries will depend on the outcome of that more refined cost and benefit study.

Having said only that about the sanctuaries program, let me now sum up. This summary aims more at the OCS oil and gas program and its relationship to what I have said, rather than a summing up of the whole CZM part of my talk. First, the Administration intends to accelerate the OCS oil and gas program. This was clear in the campaign; it is clear in every statement made by Administration officials. Secondly, the current scheme for dealing with conflicts between OCS oil and gas activity and other federal ocean and coastal uses is certainly not working well in many cases. I'm thinking of the Georges Bank case on the East Coast, where the oil and gas conflict with fisheries has been in and out of court seven times--to the Supreme Court twice, and still not settled rationally in my view. Lease Sale 53 is impending on the West Coast, and it seems to me a similar case where we are not approaching the business of a well-planned and rational development of our ocean resources very cogently.

So, what is the answer? I don't have the answer, but this morning in the coffee shop, on the back of a napkin I speculated with myself that maybe there are three elements which ought to be involved in a rational approach to dealing with conflicts between offshore oil and gas development on the one hand, and other ocean and coastal interests on the other. Let me just say what I think they might be. Here is my modest suggestion of the three necessary elements (thought through from eight o'clock this morning): First and foremost, a well-functioning OCS oil and gas program operated by the Interior Department. There is no way in the world that we can manage the extraction of oil and gas from the continental shelves, given the complexity of that task, using the Endangered Species Act, the Marine Mammal Protection Act, the Fisheries Conservation and Management Act, or the federal consistency provision of the Coastal Zone Management Act. We have got to use the principal instrument designed for that purpose, which is the Outer Continental Shelf Lands Act as amended. If it is not working right, it has to be made to work right, in my judgment. These other programs I mentioned are important and they all have a role to play. But I think we err when we try to use them to manage oil and gas. There is a tendency that way, it seems to me. In the Georges Bank, for example, a suggestion has arisen that a marine sanctuary be used as a way of mediating between the two competing economic uses--fisheries and oil and gas. I would not have thought that that would be an appropriate use for a protection device.

In any event, that's my first element--an adequate, well-functioning, well-funded OCS oil and gas program. That means a program which involves full and early consultation with the

states--legitimate, open consultation, more than rhetoric. It means well-designed and well-funded environmental studies, and it identifies the right problems early, it does the right research early; it doesn't support just any old research proposal that comes in. It supports the research that's going to produce the right answers, and then it is guided by those answers. It means a leasing program that is timed both to the national need for oil and gas and to the availability of the crucial information we need. That's my definition of a well-functioning OCS oil and gas program. That's the first element--the most important element it seems to me.

The second element is a series of state coastal management programs which assist in identifying appropriate sites for development where that is possible, and which identify early potential conflicts with oil and gas and help resolve them. Not just identify them so they can go to the courts, but resolve them so they can be settled, so that necessary development can proceed. I think functioning state coastal management programs with an aggressive federal consistency provision are an appropriate element in this, but not the principal element.

A third element is a functioning, aggressive, funded Marine Sanctuaries program that goes out in front and identifies ocean areas that are unique, that need protection, that should be managed in a special way, in their own intrinsic right--not as a tool to hinder oil and gas development, but as a device to protect for future generations, as the Congressman said, these unique ocean areas. If you have to prohibit oil and gas development in selected areas as a byproduct of protection, fine, but that should be only incidental. The principal objective should be to identify and protect our resources for future generations in their own right. It seems to me that those are the three elements of an adequate national offshore oil and gas program.

Thank you very much.

RICHARD HILDRETH:

Bob is willing to take a few questions before we break. So have at it, audience; this is finally your chance. Are there any questions or comments?

RICHARD HILDRETH:

The question, basically, was whether or not states would be very enthusiastic, if delegation came about, to pick up federal permitting functions without some dollars to carry it forward?

ROBERT KNECHT:

I don't know. We would have to find out. I got the impression from Louisiana that they would, and I'll bet that's the case in some other states as well. I don't know the answer to that, how it would come out in balance.

QUESTION:

You mentioned that other than in oil and gas there's been very little conflict with the federal consistency requirements between state and federal agencies. Is that because of lack of aggressive enforcement on the part of the states, or a conservative attitude on the part of the feds, or something else?

ROBERT KNECHT:

I would like to think it is because the program is working the way it ought to. We can see at least a dozen cases that have come to our attention in Washington where it has worked well and where it doesn't reach the courts, where the mere existence of the provision causes the federal agency or the person getting a federal permit or license to sit down with the state agency in advance and work out any problems. In the state of Washington, with the Trident Submarine Base, there was a lot of "back and forth" between the Navy and the state that would not have taken place (in the judgment of the state) without that consistency provision on the books. Recently, there was a case that did go to the courts in Puerto Rico where the federal government wanted to build a detention center for refugees in the coastal zone near San Juan and could not do it in the end because it was inconsistent with Puerto Rico's coastal management program. That is an interesting case if you want to see how the courts are interpreting words like "directly affected." There have been a fair number of applications that have gotten to the courts, but most cases that we know about have been settled earlier. Jon?

[Question inaudible.]

ROBERT KNECHT:

I work for the Administration, Jon. You know that. Yes, I have some feelings on that. When we were working on the creation of the Coastal Energy Impact Program, that legislation in 1976, working with the Congress, the argument was made that sharing revenues with inland states in terms of royalties and mineral resources was the least the federal government could do. It was indeed the lowest-cost approach to the problem, representing only one or two percent of what states might otherwise feel they were entitled to. I think that the states could continue to make that argument. I know it's a rough one, though. I would imagine, now as then, (or perhaps even more so) that to OMB's budget people it

is anathema to think of earmarking funds, or taking a fixed percentage of anything that goes on indefinitely. They want annual budget control and so does the Congress. So, practically speaking, I think it will be hard to get a fixed cut of the OCS revenues, but it seems to me that the merit of the argument continues as valid as it was. Sometimes people fail to realize that there is obviously a political, a legal, and a geographic difference. The federal lands lie within a state in the Interior Department case and they are beyond the state in the coastal case. Those are rather different cases.

QUESTION:

What specific changes would you like to see in the Outer Continental Shelf Lands Act, and what are the chances of getting those changes under the new administration?

ROBERT KNECHT:

I wasn't really calling for changes in the legislation but rather for an effective program of administration. I think it is a reasonably good bill that was passed in 1978. I don't know how other people feel, but it seems to me that it has a well planned, well thought-out five-year program on leasing, on the role of the coastal states, on the role of an adequate environmental program, and so on. I don't fault the legislation. I didn't mean to imply that I would change the legislation, but I think there are parts of it that we need to give continued emphasis to. By way of example: I haven't talked to the Interior Department, but I would hope they would resume their periodic meetings at the OCS Policy Board. I think those kinds of regular consultation with states are important and necessary. I think the environmental studies program should not be cut at a time when we are anticipating accelerated leasing in Alaska, and huge fisheries conflicts are developing there. We just need more rather than less research. That kind of thing is what I am concerned about. I would hope there would be an appreciation by everybody concerned that these are the directions we have to take. We're early into the new administration; it is very hard to predict. I have not had personal discussions myself with the preferred people. I'm an optimist.

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PART ON: PANEL DISCUSSION ON OFFSHORE OIL,
GAS, AND MINERAL DEVELOPMENT

Panel: HOLLIS DOLE, moderator: former vice-president of AIRCO; former head, Oregon State Geologist; Ass't Sec. of Interior under the Nixon and Ford Administrations; private consultant to the Reagan Administration.

REID T. STONE: acting manager for Pacific OCS Conservation Div. of USGS.

JON CHRISTENSON: manager, Coastal Energy Impact Programs.

STAN HAMILTON: professional engineer; Ass't Director of Oregon Division of State Lands for Land, Minerals, and Waterways Programs.

MICHELE PERRAULT: chair of the Environmental Coalition on OCS Lease Sale 53 and 73, San Francisco, California.

GARY MIDKIFF: OCS Program Coordinator, Governor's Office of Planning and Research.

[First part of discussion inaudible; tape resumes with remarks of]

JON CHRISTENSON:

. . . shellfish concentration, nurseries, marine mammals, rookeries, and so on. The basic premise of the goal [Statewide Planning Goal 19] is that the integrity of the offshore marine system should be protected. The goal is just beginning to be implemented by the state through LCDC and other state agencies. Hollis mentioned something about offshore development--and I am speaking for myself now and not representing anything except my experience as a staff member to the OCS Task Force--I anticipate that if there is going to be offshore development in Oregon, it will occur probably not in 1985 but in 1987 at the earliest. I base that on the fact that the Department of the Interior has released another five-year leasing program. They announced it yesterday; if you would like to look at the front page of the Oregonian you will see it there. It was a joint announcement from Secretary Edwards of Energy and Secretary Watt from Interior. That lease schedule does not include Oregon and Washington at this time, and it probably extends through 1985. My experience in watching leases is that it usually takes about twenty-two months after an announcement for something to occur. I think the Secretary of Interior right now is making a very concerted effort to cut back that time frame, and probably will be successful in some points. But as it now stands, if there is to be offshore leasing off Oregon and Washington it will require an Environmental Impact Statement and a revision of the five-year leasing program. So, that is why I give you those projections, as it looks right now. As far as ranking amongst the various areas, the Department of the Interior a few years ago ranked twenty-two areas. Oregon and Washington were ranked nineteenth out of twenty-two. The petroleum resource estimates are low compared to other areas. It doesn't mean that there may not be anything out there. That is one of the reasons why in the past

we worked closely with the Department of Geology and Mineral Industries to identify where those resource areas might be as well as potential resource conflicts. I could go on but I think I will stop there.

HOLLIS DOLE:

Thank you very much, Jon.

JON CHRISTENSON:

Was I good, Hollis?

HOLLIS DOLE:

Yes, you were pretty good. As far as leasing taking place, I think your time schedule is probably right. But as far as activity goes, generally it takes two to three years after the lease is made before they get going. They have five years to complete their leasing. So that is still some time in the future if there is an interest actually displayed in the lease, as Jon rightfully noted, rank number nineteen. There are a great many people who are not all that enthusiastic about it. Let's leave our questioning until everyone gets through--we're running a little bit on the late side--and then we will open it up for questioning at that time. You can address any one of the panelists that you wish. Reid Stone?

REID STONE:

Thank you, Hollis. It is a pleasure to be here and represent the Geological Survey, Department of Interior. We have heard several comments about the Department and our new Secretary, Mr. Watt, and his emphasis on offshore development. I am certain that this is brought on by our need for energy, the balance of payments, and other pressures which are on the country today. He has indicated that it is a means by which we can regain at least some independence in our economy, which is greatly affected by our present energy situation. I will limit my remarks to my responsibilities as manager of the Geological Survey's offshore program.

The Survey's primary responsibility is to supervise the operations that take place in the exploration and development of oil and gas on the continental shelf. In that regard we do evaluate the potential in the value of the resource prior to the sale. At the present time for the management of the California coast where we are primarily involved we have approximately 125 people. Half of them are involved in the supervision of operations on the coast and half of them in the evaluation of the

resources.

For a little bit of history, Hollis mentioned the previous activity on the coast here in Oregon. In 1964 there were about a half million acres leased, and up and down the coast about thirty wells. Almost every well drilled found oil. At that time it lay in formations from which extraction would not be economical. However, in the development of the Santa Barbara area those formations have been proven to be productive enough for development offshore. For offshore development, with a single well costing anywhere from one to three million dollars on an exploratory program, this means you must have reasonably good production to enable development of that resource. However, as the price of oil goes up this allows formations with less potential to be developed. I have also been questioned about the progress over the last few years in developing these resources. I can point to our record in the Santa Barbara Channel and people have said, "Well, you know you had a spill down there that has made the news for the last twenty years, practically." In retrospect, however, that has been really the only significant accident that has taken place in that Channel. We had one pipeline break of 900 barrels which did not cause any permanent damage. It was totally cleaned up, and the rest of them have been very minor, indeed--except that one man was killed in a crane accident. However, from the environmental aspect, it has been a very successful operation. Very few industries can speak to the record established in that twenty-year period.

The laws and regulations that we live under--and this means not only the Geological Survey, but also the EPA and the Coast Guard--are summarized in these two volumes. Anyone who would like to delve into that, if you will contact me with your name, I'll be glad to provide the references for you. It is a very complex area in which to work and we have developed operating systems which I believe are as safe as can be developed now. I think we can work compatibly with most of the environmental risks we will encounter today.

Hollis, with that I'll make ready for questions.

HOLLIS DOLE:

Stan?

STAN HAMILTON:

Thank you, Hollis. I want to say that I am very pleased to be here today to participate in this forum and have a chance to listen to and talk to people who are concerned about the coastal zone. My name is Stan Hamilton and I am the Assistant Director for the Oregon Division of State Lands. My biography is not in the material you received, so I'll just spend a couple of seconds

and tell you about who I am and where I come from. I was raised in central Wisconsin. I have a degree in civil engineering from the University of Wisconsin at Platteville. I spent about four years as a groundwater basin manager in Southern California and have spent twelve years, since 1969, with the Division of State Lands, first as an engineer and then as resource manager.

While I was listening to Bob Knecht speak, I realized that we once got a permit application on the back of a napkin. All the information was correct and the map to show the site layout was on the back of a paper napkin that somebody had picked up in a restaurant and decided to . . . well, it was a good enough job and we sent it right along. So, maybe all of us ought to use paper napkins in order to come up with some good ideas.

I am not a geologist. I am not an expert on the production of petroleum products. I don't have a crystal ball or a Ouija Board to tell me when things are going to happen on the Oregon offshore coastal areas. My perspective today is as a landowner, or at least that is the perspective I have chosen to try to express to you. Our agency is the state's counterpart of the Bureau of Land Management and we own and manage, or at least hold the title to for the State and the people of Oregon, all those lands that have been acquired by the state without a specific dedicated purpose. By dedicated purpose I mean state parks, game refuges--things like that. The Division is the administrative arm of the Oregon State Land Policy Board, which consists of the Governor, Secretary of State, and State Treasurer.

It is those people's responsibility, acting as a Board, to set the policy for management of the public lands that we administer. The Board is a constitutionally created organization, almost unique in Oregon state government so far as state agencies are concerned. They were created by the Oregon Constitution at the time Oregon became a state in order to manage the public land grant received by the State of Oregon--every section 16 and 36 in the state. Somewhere along the line the legislature also asked the Land Board to manage the beds and banks of navigable waters and the offshore submerged lands out to the three-mile limit of the Oregon coastal zone. The Board sold the lands off to a great degree and the proceeds went into what we call the Common School Fund, which is invested and the proceeds of the investment are turned over to the schools annually. I could probably go into a lot of statistics about how much money goes to the schools from the Common School Fund--currently it is not a lot, it's about \$11 per child per year. Probably the interesting thing about the Common School Fund is that it is currently about \$100 million and it is growing at the rate of \$25 million a year. By the turn of the century, if the Fund continues to grow, it should be able to provide a substantial portion of the state basic school support fund.

The subject we are discussing here is oriented toward the offshore coastal lands. The Division does manage, for the

purpose of extraction of petroleum products and for general management, those lands under the Pacific Ocean floor out to the three-mile limit. Now, so far as the Oregon offshore zone is concerned that's a pretty narrow ribbon of land. It also happens to be probably one of the more important segments of Oregon's land, because it is the point where the ocean meets the land where all of the bad things that can happen with petroleum exploration and development would have a tendency to concentrate.

In 1961 the Oregon legislature addressed the question of what would happen if oil and gas were discovered off the Oregon coast. They provided by statute the method by which exploration would take place, the manner in which leasing would occur, and the manner in which development would proceed. At the time, it appears from reading the statutes, ORS Chapter 274, that the legislature felt that the Land Board as proprietor would play a very large role, not only in the leasing and disposition of the ownership interests of petroleum products but also in the environmental aspects of drilling. In the interim, in the twenty years between the time the legislature enacted the statute and now, several agencies have come into being or have expanded their operation to provide more coverage on the environmental aspects of it. The Division of State Lands would know if there were development offshore and would pretty much act as the owner and would administer the disposition of the ownership interest. The statute is very explicit; before leasing can occur, public notice of the intended action must be given. It provides for specific written notice to several state agencies and local bodies which are interested in petroleum exploration and production; it provides for formal public hearings in which the Director of State Lands and the State Land Board take testimony from the public. It also authorizes the Division to issue permits for exploration and to place appropriate conditions on those permits to protect the environment of the coastal zone and to insure that the exploration is done in a sound manner. I think with that I will close, Hollis, and perhaps will answer some questions later.

HOLLIS DOLE:

Very good, Stan. It was good to get the view of the State Land Board. Michele, would you care to commence now?

MICHELE PERRAULT:

O.K. Hello. I am the chairman of the Environmental Coalition on Lease Sale 53 and 73 which I will describe in a little more detail in my talk. I am also a member of the National Advisory Committee on Coastal Zone Management, representative on coastal issues for the League of Women Voters in the Bay Area in San Francisco, and coordinator for OCS activities nationally with the Sierra Club, and I've been the past chairman of the Committee to protect Georges Bank--that is

the group that held up the sale a bit on the East Coast. They have a sale there now, but it is a sale that has many more safeguards in place than if we hadn't sued. I'm sorry to say that was the last resort, and we did end up in a lawsuit in that case. I am representing the Coalition which has over twenty-two environmental groups in it. We are having Oregonians beginning to express an interest in joining our Coalition because in a sense our sale is your sale. You heard Congressman Weaver say how that was so--certainly so far as impacts from potential oil spills from the sale in California, the currents move in such a direction that you could get that impact here.

What I would like to do is to share some of the concerns of our Coalition, which has worked over the last three years in California with state and local officials, fishermen, business representatives, and citizens at large. It is a very diverse group of people and we are all in the same situation regarding concerns about our coastline in California. We have pretty much taken the same position with the federal government throughout that three-year period. What we would like to do is to share our concerns as they affect potential environmental impacts on man and ecological systems, safety and monitoring issues, concerns about the relationship of coastal zone management to OCS, and some of the alternatives that exist to oil drilling and meeting the nation's energy needs.

Oil drilling off our coasts raises major questions, not only about how to solve the nation's energy demands, but also that we in the United States should be careful as we decide what is in the national interest, what best meets society's needs. We need to be cautious that we don't overreact to the short-term energy demands at the expense of the environment. A recent GAO report from the government mentioned OCS as being vital to other national interests other than energy and included comment on the importance of commercial fishing, shipping, and recreation. The report also raised the idea that aesthetic, historical, and biological values were also in the national interest. This was a document I wouldn't applaud in all its particulars, but I thought that was a good remark.

The federal government's approach to lease Sale 53 in Northern California is illustrative of an approach to the environment which shouldn't continue in any other state. For the last three years the citizens and public officials have spent enormous numbers of hours in testimony. We've attended all the hearings; we've gone through all the procedures required by the OCS Lands Act, and the majority of us have been rather discouraged by the process and by the public response. We have worked with two administrations. In the Carter Administration, after constant meetings, constant papers, constant phone calls, we were able to get Secretary Andrus finally to withdraw four of our geologic basins out of a five geologic basin sale. When he stated, "My decision reflects my best judgment thus to our continuing need for domestic sources of energy and preferences

and well-being of people in coastal states who may be affected by offshore oil and gas activities," that was a hard-won victory for us. This year, under the new administration, as many of you may be aware, Secretary Watt reversed that particular victory and put us back into the situation of having to repeat what we did for the last three years. We had to say it over again, to write the testimony again, to refer again to the comments we made. There is little bitterness in all of that, but I'll tell you, we have a lot of stamina and we have a lot of heart and we do not give up easily! And so we have been waiting for Secretary Watt to make a decision on whether again to pull the four basins out that he has now put back in. We had expected as of Friday that it would be made about April 28; now we understand that he is putting one of our basins in for sale--the Santa Maria Basin--and that he will wait until the end of May or early June to let us know what he is going to do with the other four, even though in our opinion he has enough information now to make that decision.

In California--and you're close enough to it, you know the kind of resource we are talking about--the area we are trying to protect is an area used by the whole country, including you here in Oregon. We are talking about Big Sur, Point Reyes National Seashore, Mendocino Headlands, places that people know the whole world over. It is an area that is valued not only for its beauty but also for its rich marine life which supports important fishing and tourist industries, both of which supply jobs to the people of California. It includes the habitat of the sea otter and twenty-two other endangered species of marine animals, including twenty-seven species of whales; the right whale is the species most likely to suffer from this particular sale.

Regarding the impact on whales the biological opinion prepared by the National Fisheries Service for our lease sale stated that the grey whale and the right whale are the species of the greatest concern because of their restricted breeding ground and their narrow migration corridor, which results in virtually the entire population migrating through the lease sale area twice each year. They grey whale is the species most likely to be affected. Moreover, by 1985 there will have been fifteen OCS lease sales within the U.S. portion of the grey whales' range. In addition, an undetermined amount of oil exploration and development will be undertaken by Canada and Mexico within their respective jurisdictions along the grey whales' migration route. Abandonment of either its traditional migration route or its breeding grounds and preferred feeding grounds in the Bering and Chukchi Seas could jeopardize the existence of the grey whale. I think people in Oregon care about the whales and what is happening to them. This whole issue of the whales raises concern about the fact that there are no agencies or combinations of agencies addressing cumulative impacts on living creatures in general, and on endangered or threatened species in particular, that can occur when you tally up all the West Coast and Alaskan sales. This again is a major concern of ours.

There are many things I could go into about resources in Northern California and Central California where this Lease Sale 53 may take place. I could go into the large number of estuarine areas there, the wetland areas--all supportive of the place where fish stocks get their start. Offshore drilling along the West Coast has the potential to jeopardize these resources. Potential damage to marine and human health comes from oil spills, from seismic activity and adverse weather conditions. Impacts occur not only offshore, but also onshore. We are talking about shoreline alteration, physical pressure of secondary development, increased competition for use of limited coastal resources by different industries, including the tourist industry. Offshore oil and gas activities can adversely affect Central and Northern California and parts of the Oregon coast that are predominantly rural and highly scenic, because they don't have the infrastructure in place to support that kind of offshore industry.

We had an Environmental Impact Statement written for our lease sale and it is probably one of the worst we have ever seen. I am talking about comments made on it by thousands of citizens attending hearings. Do you know what it takes to get citizens to read an 800-page document, comment on it, go to workshops about it, and then go and speak? That is what we had there: an incredible turnout with the majority of the people in California saying, "We don't want this sale now." The Impact Statement is quite inadequate. It estimated that there will be at least 4.25 major spills over a thousand barrels and about 230 small ones under a thousand--large enough to kill marine life and foul our beaches, with as much as fifty percent of those spills hitting the adjacent shoreline. These are predictions based on an inadequate oil spill model. We did not have enough data to make a good model so it is debatable what the reality would be, what the real chances are; that is why I say modeling is one of the inadequacies of the Impact Statement. It is not accurate to begin with.

The oil spills could cause untold damage to California's marine fisheries. The value of the fisheries in '77 was approximately \$200 million. Oil spills may also damage the proposed Point Reyes and Farrallon Islands marine sanctuaries, designated for preservation because they are remarkable examples of an undegraded marine ecosystem. Oil tankers and barges would continuously transport oil from the leased area to refineries in San Francisco Bay and elsewhere, disturbing commercial and recreational vessel traffic, and increasing the risk of oil spills in San Francisco Bay.

The Impact Statement talked about air pollution increasing to the point where air quality standards would be violated. You know the wind blows from west to east, and thus it blows right over where people are living. We are already violating some standards there. Those are some of our major concerns, whether or not the Interior Department, which in this case regulates air

quality when it pertains to OCS, would be able to monitor the impacts accurately. Also, what competition would it generate for other industries on the shore, as they also would want to have their turn to degrade the air a bit? And water quality in the immediate vicinity of the oil exploration and production could also be degraded. Chronic effects on marine life could be significant. Offshore platforms could rise 300 feet above the ocean surface, higher than the Golden Gate Bridge, providing stark visual disruption of coastal views. One can go on and on picking out instances from the Impact Statement relating to another concern of ours, which is the paucity of information.

There is a tremendous amount we don't know about, some of which will be answered by the environmental studies that are being undertaken under the jurisdiction of the Bureau of Land Management in the Department of Interior. However, as we've repeatedly said, many of those studies will not be completed in time for a sale, and the purpose of those studies is to assess the risks of proceeding. And so the sales go on, without regard to geologic hazards. In some places we are not sure just what would happen if we had an earthquake off the coast of Central and Northern California. What would that mean for the environmental impact potential? We are waiting for major studies on marine mammals and sea birds. In meteorological buoy monitoring studies we have not had enough information to find out just where nearshore impacts will be, should there be a spill.

Some would say, "Well, if there's going to be a spill, then you clean it up." That's all well and good. Many have said that the industry has a good record. Indeed, they may have a good record in some places like the Gulf of Mexico. But they don't have a good record in frontier areas where waves are higher than five feet and currents greater than one knot. You don't have that capability to clean up under those kinds of conditions.

So we are concerned about cleanup capability too. We're also concerned about long term chronic discharge. There are no studies with viable answers. We just don't know what will happen to many of the petroleum contaminants in the water that have the potential for causing chromosome aberrations. Field studies have indicated that fish eggs collected from polluted surface water have a much greater incidence of chromosomal anomalies. Little is known about the chemical nature of weathered petroleum, and the synergistic effect of how it interacts with other pollutants in the water.

Again, we could go on and on with examples of where we don't have answers. Perhaps some of them could wait and be answered while exploration goes on. But some of them are critical, and of course there is always the problem of selling off an area and oil companies having a major investment in an area--you can't turn it off easily after you do that. So, we've always said that it was important to have some of these things in place. After three years of working on this there is an awful lot of information

that has been accumulated. Let me just wind up by cutting through some of these other things I have here.

We are concerned about some of the loopholes in safety measures. Not just in our ability to clean up, but we also feel that there is a lack of comprehensive data on the sources and causes of accidental discharges and of comprehensive regulations in certain areas such as offshore transfer operations. We are very concerned about human error. That has been the subject of many studies, and one about to be released shows that the human error element is often caused by manpower that is either not trained well enough or is overworked. This is where a lot of problems arise in dealing with offshore activities. In a highly technical industry, there are many possibilities for mistakes. That is when things happen, such as blowouts or tanker collisions. At the same time we talk about regulations that exist under the Outer Continental Shelf Lands Act you also have to be aware of the limitations on our capability to monitor adherence to those regulations.

We have important misgivings about monitoring. For example, people that I have worked with on Georges Bank off New England have told me that in some cases the federal government does not have enough money to monitor effectively. In order to do the monitoring they have to go out in oil company boats. Violators know ahead of time when inspectors are coming, and everything is clean and in order when they get there. Monitoring is a serious problem. If you don't have enough staff for it, you take a grave risk in leasing land off your coast. The other aspect of monitoring has to do with funding cuts to agencies. How ready are they going to be to monitor adequately when they have no staff?

In California we've worked very hard for a coastal zone management program. We put many, many years into it; we love our coast there. We believe that when our state joined the federal program in coastal zone management, one of the incentives we had as a state was that if we found federal activities inconsistent with the goals of our program, we could declare them so and that activity would cease. Our Coastal Commission in California has declared federal lease sales inconsistent for Central and Northern California. They have not said that for the whole state. It is not a case of a state saying, "Keep out, we don't want to see oil and gas development." We have it in California. We have it in Southern California where the Coastal Commission has decided that it is consistent with the goals of the state program. But we are saying that the federal government's lease sale is not consistent with our coastal zone management program in Central and Northern California, and we are being told that this is just an obstructionist position. The GAO report that I quoted before goes on to suggest that states which try to use the coastal zone consistency provision are obstructionists. And yet at the same time they applaud California for its good efforts in many areas, such as

streamlining permits and so forth. They should give us credit for some of the good things we have done.

And lastly, to sum up: People say, "O.K. You are from the environmental community. What alternatives do you propose?" Everybody knows one of them, and that is conservation. It is not a "hokey" thing. Specific regulations the Reagan Administration recently cut back on having to do with heating, cooling, and building can save 300 to 400 thousand barrels of oil a day. They are cutting out conservation regulations like that. The 55 mile-per-hour speed limit has in itself resulted in tremendous savings of oil. When the Administration looks at us and says, "You are not giving your part," we look back and say, "You in the Administration are not doing your part either." There are many places where savings could be made in conservation. The solar program is being cut. So also is the money for cogeneration which according to a Dow study could meet half of the national industrial electrical need by 1985, saving \$20 to 50 billion in investment, the fuel equivalent of two to three million barrels per day. Harvard Business School has released a solar report; many other national and local studies pointed out that conservation and solar energy are economically imperative and totally feasible, not only in terms of energy savings but employment as well.

We have some real questions about the applicability of capital-intensive answers to rapidly diminishing resources. Should not we be investing the resources we possess in more efficient alternatives? Again, I could go on giving you specific examples of where we could save the oil and gas that need not be taken out of our coastline. And that is the alternative we offer to the country. This language about "Oh, you just want to keep your coast pretty and let everybody else's go bad" is not accurate. We don't want ours to go bad; we're really working hard to keep it the way it is. You can come and visit it too.

Some of my other thoughts may come up during the discussions in reaction with the panel. I will say only that you should look closely at the release from Secretary Watt on Friday, if you get a chance. In it he has quoted a lot of information that we consider quite inaccurate, including where he says that a survey shows that the people in California want oil and gas with environmental safeguards. He doesn't say that that survey was done with a sample of only 1,004 people, and that it was conducted by oil companies. We have over 100,000 signed petitions showing that we in California don't want that lease sale now.

Thank you.

HOLLIS DOLE:

Thank you very much, Michele. Gary Midkiff, it says here you are from the Governor's Office of Planning and Research but neglects to say which governor. I think the audience here would be glad to hear from you and about whom you represent.

GARY MIDKIFF:

Thank you, Hollis. I don't know how I'll follow this distinguished panel and all of the points that have been made here. I am presently with Governor Brown's Office of Planning and Research in Sacramento. Formerly, I was with the Georgia Governor's Office of Planning and Budget, with responsibilities for natural resource program management and also coordination of the state's outer continental shelf oil and gas related activities. Having been involved in the field since early '74 I have obviously seen a lot of things happen, have been through five or six different secretaries of the Interior, and have my own opinions about how each of them has fulfilled his responsibilities. I guess we needn't go into that in too much depth.

I would like to open my remarks simply by saying that I agree with a lot of what Bob Knecht said this morning. The Lands Act Amendments passed in '78 were the result of extensive work by myself and a lot of other people from the states and from environmental organizations. They were the result of a lot of work on the part of Congress and the Act's provisions are adequate to the task if they are carefully implemented in, as Bob said, full and meaningful consultation with all parties affected by oil and gas leasing programs. That statute is adequate to protect the resource and other uses of the coastal zone. But it must be remembered that the responsibility for implementation of that Act falls heavily on the Secretary of the Interior--the person who has management responsibilities for a great portion of the nation's public lands. In implementing that statute the Secretary has to look very closely at the provisions of section 18 of the Act. In section 18 Congress recognized the desire of states to be full partners in the process of developing the five-year leasing program. In recognizing the need for energy and meeting the nation's energy needs Congress had to balance environmental sensitivity with productivity of various regions of the country, and also a sharing of the risks and benefits. It was recognized that sales had to be examined and considered in light of their location and relationship to transportation facilities and the various markets for that energy. The well-being of the citizens of affected states also must be considered in developing that program and moving forward with its implementation. Well-being has to be defined in a manner far broader than as just the "raving" of a few environmentalists, as some people say, or the shrill cry that Secretary Watt attributed to the people of California when Sale 53 was reopened by this

action. . . .

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. . . gone a great way in defining the national interest. They have identified the need for marine mammal protection, and for marine and estuarine sanctuaries. They have passed the Endangered Species Act to protect species that otherwise might become extinct. They passed the Clean Air Act and the Clean Water Act. And finally, and perhaps most importantly, the Coastal Zone Management Act. All of these identify things which are in the national interest. The people of Oregon, of California, and of Alaska, all states that are faced with offshore oil and gas development, have to look at all of these issues. The people of California raise a concern that the range of the threatened sea otter is bracketed by two of the major portions of Sale 53 as proposed by Secretary Watt. The protection of that sea otter is also in the national interest.

I have in my office a box about this big that is packed with over 60,000 signatures on petitions from all over the country: Illinois, Iowa, the East Coast; I even have some in there from Europe. People who have signed a petition say, "Protect the sea otter, because I came to California and I went to Monterey and I saw that sea otter out there--boy, that sure was nice." I have in my office information on more than 150,000 signatures on petitions in opposition to leasing the northern four basins of Sale 53. I submit to you that that's not a "shrill cry" from a few environmentalists.

There are alternatives to outer continental shelf oil and gas activity that have to be considered. Oregon and California have extensive wind resources and extensive potential for geothermal development. Any place with existing industrial activity has a potential for co-generation using the waste heat from industrial activities to produce electricity. And there are many more jobs involved in development of these alternative energy sources than there are in capital-intensive oil and gas development on the OCS, which requires highly trained, highly technical personnel. As others have said before, we also have to deal with conservation, which is probably one of the more important alternatives in helping our existing resources last longer. We have to make sure that there is a balance as provided by the OCS Lands Acts Amendments, that the risks do not outweigh the benefits from whatever oil and gas is projected to be extracted from a particular area.

I said earlier that the national interest in the well-being of an area consists of more than just environmental concern. California's coastal economy is based primarily on tourism. The coastal counties affected by Sale 53 had in 1979 a tourist income valued at over \$6.2 billion. Each year the commercial fishery of

coastal California affected by Sale 53 has a catch of over a billion dollars. The Secretary, in his announcement on Friday of his actions with regard to the Santa Maria Basin in Sale 53, said that the value of the entire sale was over \$42 billion. That's a one-time cumulative value of a proposed sale based on numbers that are often challenged and perhaps open to challenge. During a twenty-year period, if we don't count for inflation, the value of tourism and commercial fisheries in coastal California is worth over \$150 billion. Is the risk to those resources greater than the benefits? We certainly think so. Congressman Weaver today noted the short-sighted tendency of the "new supply-siders," as he put it, to push short-term exploitation of resources at the expense of long-term management of renewable resources. He urged that the unwise economics of exploitation without environmental protection be evaluated. He called it the height of insanity. I suggest that in addition it is also very irresponsible, and violates the stewardship responsibilities that belong to every public servant, especially those charged with the management of public lands.

By the way of example, and just to give you a few more of the issues that have to be considered in weighing and balancing the need for oil and gas development: Is it wise to increase the rate of leasing when you have inadequate drill rigs to exploit the resource--inadequate pipe, drill bits, blow-out preventers, and other safety equipment and a shortage of trained crews that are capable of using that equipment? Recent safety studies have indicated that one of the primary causes of accidents and injuries on drilling rigs is the shortage of trained crews. And as a Shell executive recently observed, if activity proceeds as it has in the past year or two, there will be an extreme shortage of trained drill crews to operate the equipment. To proceed with a short-sighted surge of oil and gas activity that causes a boom and then a bust when you don't find something--as they did in 1974 in the MAFLA Sale in the Eastern Gulf--is that wise? Is that responsible management, responsible public policy? Is it wise to lease more areas of the OCS when there are presently 700 existing leases with 3.5 million acres that are unexplored? Is it wise to lease in areas like northern California or along Oregon's coast where you have a tourist and fishing economy that isn't prepared to provide the infrastructure needed by oil and gas activity? Or where development in those areas would be extremely stressful on social systems, on the capacity of public services, and on just the whole mix of what makes up that coastal economy and what makes it attractive to the people who spend their tourist dollars there? Is it wise to lease in areas where, based on current information which is admittedly inadequate, seventy percent of the time, if an oil spill should occur, the present technology is neither available nor capable of containing an oil spill and preventing it from washing up on the beaches or doing its damage to the fishery? And finally, is it wise to allow offshore activity which would result in air quality degradation onshore, which might in turn lead to EPA sanctions on local governments, preventing other onshore development as a

result of air quality violations completely outside the control of local officials? Is it wise to risk an oil spill in the range of the sea otter, where a single spill of 1,000 barrels could wipe out seventy-five percent of the existing population? Many of the numbers that I have cited to you today come directly from Bureau of Land Management's Environmental Impact Statement for Sale 53 which, as Michele Perrault pointed out, is woefully inadequate.

What we have suggested in California--and we think it is a rational course that should be pursued elsewhere--is that where there is sufficient oil and gas to explore, you proceed in an orderly fashion as equipment and information become available to support that activity. As the GAO pointed out in its recent report, the permit process should be set up in such a way as to quickly and efficiently process permits for development, so that it can proceed in a rational fashion. California has done that, and the GAO report cites the California example and suggests that other states follow it. I'm sure there are other ways--perhaps better ways--to deal with the issue, but California has made the commitment. California has been in the business of oil and gas exploration in the state tidelands since 1898 or so. We've been dealing with federal oil and gas activity on the OCS since the late 50's and early 60's. We currently produce 150,000 barrels a day in the state tidelands--that being only a portion of the over 1 million barrels a day produced in California. We have extensive onshore reserves and we are moving quickly to make it possible to develop those reserves. But we suggest that to move into northern California where the resource is simply not sufficient to justify the risk is, as Congressman Weaver said, the height of insanity.

Thank you.

HOLLIS DOLE:

Thank you very much, Gary. Now comes question and answer time. I think probably that would be better put by saying questions and responses, because having been on panels such as this before I've never--well, I shouldn't say never--but seldom do I ever hear real answers come forth.

[Question inaudible.]

REID STONE:

No, I can't give you a percentage on that. We can't give you an answer until the explorations are done. We mentioned earlier that roughly thirty wells were drilled up and down the Pacific Coast in northern California, Oregon, and Washington - seven here in Oregon as I recall. All of the exploratory wells had shows of oil in them, but because of the type of formation

they were in they were not tested. And there is no indication other than by seismic work, where you can look at the potential size of the reservoir, of how much oil is there, until exploration is actually conducted and tests have been made. All of these areas have potential for oil, and I think our estimates are very conservative. I think Hollis will verify that the Survey's estimates of potential tend to be very conservative. We make estimates in ranges rather than in absolute amounts. We give risk values--say, one in five--to our estimates. And so, until we explore these areas, we can't give you a definitive answer.

HOLLIS DOLE:

If I might just add to that briefly: I would say that it isn't only oil and gas we're talking about. I certainly concur that we've got to look at conservation, geothermal, and solar and OPEC, and all the rest of them for answers. I think that the problem here as perceived by many is lack of energy. And I'm not always convinced that it's a question of one source versus another source. It's my opinion that we have to develop as many sources as possible in as short a time as possible. Would one of you others care to comment on this?

JON CHRISTENSON:

I would like to respond to your question. My understanding is that current estimates hold that the outer continental shelf holds maybe thirty to sixty percent of the undiscovered resources that exist within the United States. I can also tell you that for Oregon, or what's considered the Oregon/Washington province--it's a term that would cover the offshore area--that the usual estimate is that about 600 million barrels of crude might be out there. In addition, there may be 100 billion cubic feet of associated and dissolved gas and 500 billion cubic feet of non-associated gas. But those are only estimates. From my observation, USGS is conservative. Again from observation, state agencies are usually more conservative than USGS.

GARY MIDKIFF:

Excuse me, Hollis, I just want to say that I agree: we do have to use all the different sources that are available. As you pointed out, alternative sources have to be developed. We have to develop the technology and bring those systems on line, but we also have to balance the cost against some of those things. In California we've suggested, OK, eighty percent of the oil is in the southern part of Santa Maria--let's go for the eighty percent. Let's hold a sale as soon as we can reasonably conclude that enough information is available. If it can be done safely, then we will help you expedite your permits. So, I agree. We do

need to develop our alternative sources and I think we need to expend a lot more effort in that area. Government needs to put more emphasis on it, and we need to do what we can in those areas of the OCS where it's reasonable, where we can trust the technology, and where we can make sure that we can protect other competing uses from potential damage. So, let's all work together, and go where it's reasonable and not rush into those areas where it's marginal.

[Question inaudible.]

HOLLIS DOLE:

As I understand your question, you are really asking: What opportunities will the people of Oregon have, what opportunities for input will the State of Oregon have in offshore lease sales? Well, inasmuch as most of the areas involved lie beyond the three mile limit, I think probably that should be referred to Reid Stone and then, Stan, if you want to comment on it further, fine.

REID STONE:

Actually, opportunity for public comment is primarily at the stage of the leasing process which is under the authority of the Bureau of Land Management. The Environmental Impact Statement is one of the public documents which are reviewed by the state; however, in proposing a lease sale there are a series of meetings that are held throughout the area. In the case of each one of the sales that have been held both the proposed lease terms and the proposed leasing areas are held open for public comment. And I know that the Bureau of Land Management reviews all of these questions. When it comes to subjects like drilling muds or the training of people, these are referred to the Geological Survey for our comment and review.

And I can assure you that there is no one in the OCS operations who does not go through a training school approved by our people. We have staff engineers who inspect training schools. All of our people have been through them. Every person who works in the OCS drilling operation itself--I'm not talking about a cook or a steward on a ship, but rather about a crew member who is working on the rig--must complete a training program and instruction in each one of the phases such as blow-out prevention, according to his or her particular job. He or she must be trained by a school that we have certified. Now, we do our very best to see that these are qualified schools and we do have people check them on a regular basis. If you want to get into it deeper, we'll be glad to show you the types of requirements I mean. Other questions will all be answered, if not to your satisfaction, then certainly to the best of our ability.

HOLLIS DOLE:

That's the federal side, now the state side.

STAN HAMILTON:

We could probably go on all day with this. Quite a bit of work has already been done by agencies of the State of Oregon in trying to get a handle on what would occur both on the far offshore under federal jurisdiction and also in the nearshore zone. But one of the things I think is fairly evident is that we haven't done enough yet. There are several agencies in Oregon that would be involved in representing the public in different aspects of offshore exploration and development. All of these agencies would have a limited veto in areas where they have legitimate concerns--in other words, their concerns would have to be met to their satisfaction before drilling or leasing would occur. The Energy Facility Siting Council of the Department of Energy would, for example, have considerable interest and involvement in the siting of drilling platforms or receiving facilities for petroleum products as they come onshore. Like the EPA, the Department of Environmental Quality would have considerable interest in water quality and potential oil spills, and in how those spills would be handled if they did occur. The Department of Geology and Mineral Industries is the state's expert agency on production of petroleum products, and their responsibility would be to ensure that drilling activities proceed under the best possible technology and that products used in that drilling are the best possible ones to be found. Also to shut the operation down if it didn't meet standards.

At the county level, anything that happened out to the three mile limit would have to be considered for consistency with the comprehensive plan that would provide opportunity for public hearings and for consideration at the local level. The Land Conservation and Development Commission goals and guidelines--specifically the ocean resources goal, the beaches and dune goal, and perhaps the coastal shoreline goal--would all have to be taken into consideration in any type of development if not exploration.

By exploration, I'm talking about the non-destructive type. If you get into drilling for exploration, then it would come under the jurisdiction of these agencies. The Fish and Wildlife Department would pursue its own interests on behalf of the public for the protection of fish and wildlife resources offshore. And they have been quite vigorous in their efforts to maintain those resources.

Probably the final opportunity for public comment would be at the State Land Board level. Legislation requires that several

public hearings be held, certainly in all affected counties. The State Land Board consists of the top three elected officials, and would certainly have to be responsive to input from local citizens, from the public, and from all interested groups. Most agencies are responsive to public concerns in this state. One that I just happened to think of as I was talking here has responsibility for work safety and the safety of people who are working on the rigs. The Department of Labor not only maintains training programs, but also inspection programs to try to ensure that safety standards are met. That's about the only thing I can say in response to your question. I am certain that there are other points to be made.

JON CHRISTENSON:

Mr. Chairman, I would like to answer that question.

HOLLIS DOLE:

Well, just before you do, it's amazing how time flies when you're having fun. We're just into the fun part of it, but I note here that Peter Friedman is going to be speaking to us very shortly and we're going to be listening to him on an empty stomach if we're not careful. So I look to you for a short answer.

JON CHRISTENSON:

I interpreted that lady's question a little bit differently. I had the impression that it wasn't a question of what your bureaucrats are doing for you, but rather how you can get involved in the decisionmaking process. And specifically how you may affect the lease stipulations that are coming out from the Bureau of Land Management and the Secretary of Interior.

There are about nine different steps that occur prior to the decision on the notice of sale. First it starts with a call for nominations, and then you have tentative tract selection, final tract selection, a draft Environmental Impact Statement, a final Environmental Impact Statement, and a proposed notice of sale. As far as comments on the specific stipulations, the public is invited to submit comments to the Secretary. There is a proviso that they notify the governor of the state they they are doing so.

There is also another review process. That's through the coastal zone management agency, LCDC. On Lease Sale 53 the proposed notice of sale was reviewed, the lease stipulations were also reviewed, and comments were submitted. A public hearing was held on those lease stipulations and comments were received. Anyone from the general public could have come and testified or

submitted comments.

I guess what I would like to say is that I believe in what Bob Knecht said, that coastal zone management can work, for state agencies as well as the public. I think what's needed is that we've got to implement it. There have been some recent concerns with fishing off Oregon and Washington--something over 1,000 crab pots were destroyed by a local petroleum corporation when they were involved in seismic exploration activities. The fishermen I've talked to indicated that they received no notice whatsoever of that exploratory activity. If we're going to streamline this process, if we're going to make it work, we've got to get notice and we've got to get the information out to people so we don't have an overreaction. But I think the process is there.

REID STONE:

Jon, I might respond to the last part of that. The notice to fishermen was carried in the "Marine Notice to Mariners," which is published I believe weekly. But the crab fishermen did not read this notice. This is not something that they pay attention to. We have asked representatives of the industry and representatives of the fishing industry to recommend a way of communicating. The crab fishermen will not notify us of their location, where their crab pots are. This is a problem, to be sure. But we are seeking a solution to it and I'm sure we'll find one. We are working between the two industries to try to determine what can be done in cases like this.

GARY MIDKIFF:

Back in response to your question: in California the steps in the process that Jon enumerated are adequate. The Department of Interior will not only request that the Governor participate in each step of the process, but also that there be public notice. In California we've been able to work closely with local governments and we've also tried to work as closely as possible with the Coalition which Michele represents. I would suggest that you get your name on the Bureau of Land Management's mailing list for OCS public notices, and that you try to put together a coalition of people interested in the sales in order to make sure that you work together and share ideas and communicate as effectively as possible. I'm sure that the people from the State of Oregon would be as happy to hear from local governments and individuals as we are in California. In the case of our state's response to Sale 53 and the revised proposed notice of sale, we transmitted to the Department of Interior some 300 pages worth of comments from local government, private individuals, and state agencies. I guess the answer is: We want your input. We want to hear where you stand. At each step in the process there are times when you can participate and can make comments.

This is Governor Brown's response to the revised proposed notice of sale for Sale 53 which was submitted April 7 to the Secretary of Interior. I don't have a lot of copies. I have only two as a matter of fact, but maybe we can get some copies made. It proposes lease stipulations for sale 53. Historically we have had only mixed success in getting our recommendations accepted. But we are continuing to work on that, and an informed public is probably the greatest single tool we have to make sure that our interests are represented. Only you can apply pressure sufficient to make sure that public interest is served.

* * * *

[Break for lunch]

PART TWO: FISHERY MANAGEMENT IN OREGON

PETER FRIEDMAN:

I would like to thank Professor Hildreth and the Law School's Ocean & Coastal Law Center and Land, Air & Water for the invitation to speak today. I am particularly impressed with the calibre of the panel that is going to follow me and pick me apart afterwards. I work for the Senate Committee on Commerce, Science, and Transportation, specifically for Senator Packwood, who is chairman of the Committee. This Committee controls much of the substance and pace of any legislation dealing with ocean and coastal law. I think this conference is particularly timely in that all three of its topics--coastal and offshore energy development, fisheries management, and Oregon coastal development--have undergone and will certainly continue to undergo significant federal review over the next few months.

Before moving to the topic of my talk, the Fisheries Conservation Management Act or the FCMA, let me mention the status of certain specific pieces of federal law mentioned today which have already come under the scrutiny of the Commerce Committee. On marine sanctuaries: Senator Packwood has always supported this program. The Commerce Committee has already held a hearing on it and has recommended to the Senate that the marine sanctuaries program be extended for another two years at a cost of \$2.25 million each year. I'm pretty confident that that will pass the Senate and the House in the same form, and will be ready for the President's signature by the end of this month.

The Marine Mammal Protection Act: In this the Commerce Committee is going to differ a bit from the Administration's policy which in turn reflects Secretary Watt's feeling that the federal government has been too involved in environmental protection. The Commerce Committee will not accept the Administration's position that there should be a straight one-year re-authorization with no amendments. In fact, the Commerce

Committee will probably move for multi-year re-authorization with an attempt to deal with some of the problems where state management of the coastal zone conflicts with the fishing industry. It appears now that the House of Representatives will also follow this lead.

On the Coast Guard: Someone has already mentioned the problem with cutting back of funding for the Coast Guard, which plays such an important role in enforcing the FCMA, in enforcing some of the pollution control legislation, and in monitoring offshore oil and gas leasing and drilling. The Commerce Committee has already suggested funding the Coast Guard at significantly higher levels than the President has proposed. That's not settled yet, and we can expect some floor fighting on it.

Sea Grant: As you know the Administration proposes to terminate the program, essentially cutting appropriations from their current level of about \$40 million down to about \$1.8 million--about enough to pay someone to lock the doors. Next year it would go down to zero. I think it likely that between Senators Packwood and Hatfield, funding for the program can be saved. It will suffer a cut, maybe twenty to twenty-five percent in funding. But that is a lot better than what the President proposed, a 100 percent cut. I don't mean to give the impression that there won't be cuts elsewhere in order to make up for these additional funding initiatives by the Commerce Committee. Let me make a disclaimer here. I'm not speaking for Senator Packwood, nor for any other Senator; the views I express are designed to stimulate some discussion, and I hope to make some contribution to our efforts to amend the FCMA. But they do reflect the counsel that I give to Senator Packwood and to the other Northwest Senators, and to anybody else who has an interest in the oceans.

The FCMA was intended to accomplish two fundamental goals. First, to manage and conserve the fishery stocks off our coast, and second, to spur development of the U.S. fishing industry. Criticism has arisen over the Act's ability to accomplish either of these goals, and Congress has responded over the last four years with major amendments. In 1978 and again in 1980 they responded in the form of the American Fisheries Promotion Act.

Turning first to the Act's ability to accomplish the goal of management and conservation of fishery stocks, let me say that our marine fisheries are dynamic. Stocks, fishing and processing operations, markets--all these can be subject to very rapid change. Such fluctuations call for a quick response time by the regulatory process. Fishery management plans are necessary to protect the stocks, to protect the fishermen who fish those stocks, and to protect the processors. In most cases the amendment process provided by the Act, coupled with a number of other legal requirements which I'll mention in a moment, reacts much too slowly. The process of developing, approving, and

implementing fishery management plans takes 300 days, almost a year, and statistics for one full fishing year are obviously needed to make a responsive management plan for the next year. In fact, often it takes so long to gather those statistics that agencies don't have them in time to make an intelligent management plan for the following year. We see that every year in the salmon plan. The figures are either too low or too high because they just don't have accurate statistics. Consequently, the fishery management regulations and the process itself respond too slowly to changing conditions. They frustrate those involved and they increase the cost of the whole fishery management Act. At times they place an unreasonable burden on biologists, on the fishing industry, on the conservationists, on the tribes, and on any sector of the public which has an interest in promoting one or another aim of the Fishery Conservation and Management Act. There is an urgent need to find a better way to do business.

Various local groups have expressed dissatisfaction. I don't like to put the commercial salmon fishermen and the Northwest treaty tribes in the same boat, but on this issue they are. Both argue that the Act, through the administration of the Pacific Fishery Management Council, is crippling their interests by improperly managing precious salmon resources. Obviously they are both arguing from different viewpoints and different goals, but it's the same argument. I guess that is the definition of a true compromise: nobody's happy. Another example: Washington and Oregon king crabbers, who have probably in the past deserved the credit for developing the Alaska king crab industry, are dismayed and I think justifiably angered by their treatment at the hands of the North Pacific Fishery Management Council, which seems strongly to favor Alaska fishermen. Both the executive and legislative branches have begun to address that problem. On February 17, President Reagan announced a review of all federal regulations. A month later the fishery management plans were targeted as one of twenty-seven such regulatory plans in need of review and possible revamping. That is pretty incredible when one considers the economic impact of the fishing industry in comparison with other areas--automobile, emission standards, clean water, clean air--and those are just the environmental ones. He selected the fishery management plan process out of all those. Senator Packwood is scheduling Commerce Committee hearings on the Fishery Conservation Management Act later this spring and summer and the House of Representatives will, I believe, do so also.

Let me toss out four basic approaches which might be taken towards addressing this problem of unresponsive or possibly ineffective management. I toss these out just for discussion. One option is to return fishery management to the states. The U.N. Law of the Sea negotiations are pretty much set on twelve-mile territorial seas. With the major exception of the Bering Sea shelf, that would include most of the U.S. fishing industry within its coverage. I alluded to the problem of discrimination in favor of Alaskans. I heard at lunch somebody mentioning that

the State of California was going to--or people in the State of California wanted to--initiate a certain type of discrimination favoring California fishermen. If you had a twelve-mile territorial sea and jurisdiction were given over to the states, I think you might have some interesting conflicts and a number of constitutional questions. In any case, good business for lawyers. My feeling is generally that it is unacceptable to turn all management over to the states. Regional planning is necessary in order to deal with Indian treaty rights and also to minimize discrimination against nonresident fishermen. Regional planning has got to stay, but that option is being discussed.

The second option would be for regional councils to assess the biological health of the stocks. They would not make any allocative decisions, but would simply open and close the season as the health of the stocks required. Perhaps, however, this simplicity would lead to chaos.

The third option is to streamline the current fishery management plans so that the requirements of the National Environmental Policy Act (NEPA) and the Administrative Procedure Act (APA) might be waived. This would speed up the process by perhaps 100 days, but at the expense of reducing public opportunity to comment.

The fourth option is to significantly reduce federal review of council decisions. Some federal oversight is of course necessary, but the level of proof demanded of the councils and their strict review by the Department of Commerce can, and I think should, be replaced by more discretionary decisionmaking. About a month ago, I was down the coast talking to a number of fishing groups, processors, harvesters, and so on, and I proposed for the sake of discussion that anything the council decided should be final. There would be no review by the Department of Commerce or the National Marine Fisheries Service. That's it. First they said, great idea--we'll get the decisionmaking in the hands of the local people here in Portland or in the Northwest generally. They thought it was great, until they pondered it a second time and wondered, what if we're not represented on the council? What if everybody claims they are not properly represented on the council? There would be no form of redress, no appeal process. That would make it a little harder to take, although nobody really had any suggestion about what middle ground might be taken.

Everybody wants efficient management of the FCMA. No dispute on that. Everybody knows there are problems; everybody thinks that the whole regulatory process should be re-examined. But nobody proposes anything specific as to how this might be accomplished. I invite anybody here who feels that he or she can contribute to the upcoming effort to streamline the FCMA to do so. People in Washington, D.C. have as many questions as anybody else. If there are some answers to be found here, they can be used.

The second fundamental goal of the FCMA--one which has received far more Congressional attention than any other--is the goal of providing an environment in which the U.S. fishing industry can grow. Exports of fish are this year near all-time high levels, valued at \$1 billion. The problem, however, is that imports account for \$3.6 billion, resulting in a fisheries balance of trade deficit of \$2.7 billion. That's a lot of money, especially when one compares it to the entire U.S. balance of trade deficit. This \$2.7 billion, just the fish imports, accounts for eleven percent of the total U.S. balance of trade deficit. The U.S. has sufficient fish stocks to eliminate most of this deficit. We will always import some caviar and some luxury fish, but we could wipe out most of the deficit. This has been one of the guiding philosophies behind the FCMA, that eventually we must replace the foreign fishing in our waters with American industry.

The U.S. was not the first country to declare preferential rights to the resources within the zone extending 200 miles from our coastline. Anybody who knew any tuna fishermen in the early 70's who had their boats seized by the Ecuadorian navy would attest to that. But since the early 70's the 200-mile zone concept has been reaffirmed under the U.N. Law of the Sea negotiations, and I think it's clear now that we do have a preferential right and that it is enforceable.

Article 262 of the Draft Convention of the Law of the Sea negotiations requires that coastal states give other nations access to their surplus catch. This reaffirms the full utilization concept of the FCMA. But Articles 69 and 70, in typical fashion for the Law of the Sea draft, dilute this mandate and make it unenforceable by specifying that participation by other nations must be on terms satisfactory to all parties. Who is to define what constitutes surplus fish? Is "surplus" purely a biological term, or can "socio-economic" considerations be used by a coastal state to prevent other countries from entering its 200-mile economic zone? I conclude that while there exists room for conjecture, the Law of the Sea treaty will not prevent the U.S. from asserting more aggressive control over the resources within our 200-mile zone. Obviously, however, successful conclusion of the Law of the Sea Treaty will require a complete review of the legal underpinnings of the FCMA, especially as it relates to the twelve-mile sea.

A presumption is often made that the U.S. would be better off without foreign fishing in our waters. Initiatives have been proposed in recent years by members of the Oregon delegation to terminate all foreign fishing within the U.S. waters. Such proposals have not gone anywhere for a number of reasons. It's my own personal view that it is true that this country would be better off with a rapid phase-down in foreign fishing. It might be appropriate to view the U.S. (at least in the volume fisheries, like Pacific whiting, hake, and pollack) as "colonies" of Japan, Russia, and other nations that take fish from our

waters. Russia, of course, has not had an allocation since they invaded Afghanistan. But I have a hard time believing that fish allocated to Poland and East Germany don't end up in Russian mouths, and that is a little bit ironic.

McDonald's fish sandwiches are a prime example of our "colonization." Our own national resource, the fish within the 200-mile zone, are taken out of our waters, processed abroad and finished and sold back to this country. Value is added to the product, but its value is added in a foreign economy. We are essentially paying other countries to prepare our fish for us. Such a formula minimizes opportunities for employment, capital investment, property, profits, and increasing the tax base for the American economy. The question is, do joint ventures really change this formula?

Joint ventures have so far provided an excellent means for the U.S. dramatically to increase its ability to harvest fish within our zone. However, the control over the product and the opportunity for adding value remains in the hands of foreign nations. Congress recognized this in 1978 when the FCMA was amended to create the domestic processor preference rule. But joint ventures continue to increase. Foreign nations recognize that processing and marketing control is the key. The Japanese clearly see their future in U.S. waters not in harvesting, even though they remain the largest foreign harvester active in our waters. Reducing their fishing operations in our waters will cause them some domestic unemployment and some substantial political problems at home, but it makes long-term economic sense. The extent of foreign ownership of Alaska and Pacific Northwest processors and their potential for market manipulation (and I have done some studies recently on the effects of foreign ownership of the largest American processors) is evidence of this policy of retaining control over processing and marketing and letting the "colony," the United States, do the labor-intensive work of harvesting. Japan, Korea, Scandinavian and other European nations have been willing to enter into joint venture arrangements for this reason. The interesting thing is this: Should an American corporation want to turn the tables and let the foreign nation harvest and even process the fish, while the American corporation retained the marketing rights, the resistance of that foreign country would be incredibly fierce. By resisting this effort for the United States to retain control of marketing rights over the fish taken from our waters, their economists know what they are doing.

Obviously, it is easy to say that Americans should harvest and process and market all the fish in our zone. But it's more difficult to accomplish. Foreign countries have government subsidies, and in many cases they aren't even market economies. The primary goal is to provide protein for a domestic population, and the concern is not so much whether the enterprise turns a profit. And the United States is not a high per capita fish consuming nation--certainly not to the extent that Japan is.

Those countries which have a long history of consumption of large quantities of fish have developed impressive expertise. The Japanese have eaten processed pollack for hundreds of years, but to the U.S. pollack is "an underutilized fishery".

Then you get the plain economics of it. Through use of floating processors, other nations have a great economic edge. A U.S. shore-based processor has tremendous competition. He or she must contend with OSHA, EPA, minimum wage standards--and that's just the federal side of things, not the county, the state, the city or port restrictions. It's obviously difficult for that individual or that corporation to compete on equal terms with a foreign processor who is not subject to any of those regulations. That's why I think Oregon companies such as Eureka Fisheries, which are attempting to compete with this foreign market, deserve some recognition and support. Any company that goes in there and tries to meet the McDonald's market is going to have a tough row to hoe in this country and should be applauded. Can the FCMA alone address these impediments? I would say not.

In recent years, Congress has focused on increased investment incentives to encourage construction of new and competitive processing capacity. Examples are the capital construction fund, a tax deferral mechanism, and federal loan guarantees now available to fishermen who want to build new boats, and federally guaranteed loans of 87.5 percent, which are now available to the processors as a result of last year's American Fishery Promotion Act. Capital construction funds and tax deferral mechanisms are not yet available, but may be initiated next year. The American processing community feels that these would provide tremendous incentives and a way to catch up in new high-technology processing.

Countervailing duties are still another option to protect the U.S. fishing industry from subsidized or unregulated foreign industries. Countervailing duties would require assessing the economic gain a foreign country or processor might have by not being subject to OSHA or other similar standards, and figuring out by how much the foreign processor can reduce the price of his fish because he is not subject to such regulations. The resulting amount would be applied as a tariff to any fish brought in from that foreign processor. Such a tariff would equalize the economic competitiveness of the foreign and the domestic processor. To the extent that the Act does provide a mechanism to promote the U.S. fishing industry and to reduce the foreign presence, it is critical that it be administered aggressively.

The National Oceanic and Atmospheric Administration (NOAA), the Department of Commerce, and the State Department all share in this duty. NOAA falls within the constant scrutiny of the U.S. fishing industry and of Congress. NOAA makes recommendations to the State Department as to the quantities of surplus fish. The State Department then actually allocates surplus fish to foreign

countries. While NOAA, the Commerce Department, and Congress focus on the U.S. fishing industry, the State Department must balance all U.S. interests. Or so they say.

Legitimate concern for other sectors of the American economy coupled with a timid negotiating approach has resulted in more fish being allocated to the wrong countries than would be best for the U.S. fishing industry. When I say a "timid" negotiating posture by the State Department, anyone can point to the East Coast-Canadian fishing treaty as an example. The State Department has certainly not been as aggressive as the U.S. fishing industry, as Congress, or as NOAA would like it to be.

The State Department cites the advantage of having these extra surplus fish as leverage so that the U.S. can accomplish its goals both in the fishing sector and in all other sectors of the U.S. economy. An example of this is found in our dealings with Mexico. Tough competition from the subsidized Mexican shrimp industry combined with high fuel prices has decimated the U.S. Gulf shrimp fleet. This country's dependence on Mexican oil and gas simply reduces the ability of the State Department to extract fishing concessions from Mexico. On the contrary, it might be fair to conclude that the U.S. is willfully trading access to U.S. fishery resources and markets for their oil and gas. This is a balancing act in which the fishing industry comes out on the low end.

On the other hand, Korea, for example, has shown some willingness to reduce fish import barriers in response to prodding by the U.S., and herein lies a particularly fertile area for action by the State Department for aggressive negotiation. Those countries which want to keep fishing in our zone must be made to display behavior which is conducive to the growth of the American fishing industry. This tough approach is known as the "fish and chips" policy and it was specifically mandated by the American Fisheries Promotion Act of last year. This year we are seeing some results [Remainder of talk lost by tape change.]

PANEL DISCUSSION: FISHERY MANAGEMENT IN OREGON

Panel: EMIL BERG, moderator: Portland attorney.

JOHN PLATT (in absentia): Columbia River Intertribal Fish Commission.

DON ADAMS: salmon troller.

ROBERT LOEFFEL: Oregon Dept. of Fish and Wildlife.

BEVERLY HALL: Ass't Attorney General, State of Oregon.

DR. RICHARD SCHWINT: President, Continental Marine Corp.

REPRESENTATIVE WILLIAM BRAD BURY: Oregon District 48.

EMIL BERG:

My name is Emil Berg and I'm a Portland attorney. I will be moderating the panel discussion. The panel members are Dr. Richard Schwint, president of Continental Marine Corporation. To his right is Beverly Hall, Assistant Attorney General for the State of Oregon. She advises the Oregon Department of Fish and Wildlife. To her right, Mr. Friedman, who has just spoken. To my immediate left is Mr. Don Adams, a salmon troller, and to his left is Mr. Bob Loeffel of the Oregon Department of Fish and Wildlife. At the far end is Representative Bill Bradbury of the Oregon Legislature. A good way to start this discussion is to ask whether any of our panel members have particular comments about how well the FCMA is working as a management tool for Oregon fisheries? Dr. Schwint?

DR. RICHARD SCHWINT:

I'd like to address this strictly from the standpoint of the joint venture fishing efforts we have undertaken. The original Soviet-American joint venture, which a former partner and I put together, was necessary just to prove that American harvesting capacity with present boats could provide enough quality product to supply a processing vessel. That initial effort occurred three years ago. We were able to show that an eighty-six-foot vessel properly rigged could provide as much fish as a processing vessel could reasonably demand. As the joint venture expanded the following year we found a problem. In terms of the management of the fisheries conservation zone, the problem is not so much whether the American fishermen could handle the product, but rather that we were dealing in an environment which is managed for other than economic reasons.

First, our problems. It took me \$21,000 in legal fees plus three months of my time to get the initial permit. Politically it was very unpopular to form any agreement with a company that had "communists" or Russians involved. From a pure economic standpoint there was no doubt: only the Soviets have a market for hake, so economically it was very straightforward. The FCMA was initially run with an eye for the political ramifications of what we were doing.

The second year we were involved in the joint venture there was a problem not only of political ramifications but also of social issues. Were these American vessels going to take product away from shoreside processors whether or not the vessel could

make more money on the joint venture? Taking it away from shoreside processors would create unemployment and a variety of other problems.

The current year presents another problem. The spectre that looms over everybody who has made a commitment to this fishery is that they could suddenly find themselves without markets for their product without any way to recover their starting costs. If the Russians invade Afghanistan, we are suddenly left without markets. This agreement to use the Russian processors will probably be voided for political reasons.

Our big problem with the FCMA is that too many departments have jurisdiction. We have the State Department and the Commerce Department. We had better throw in the Department of Health, Education and Welfare, because social issues are being addressed in this same program. From an industry standpoint, we will continue this fishery so long as we can make a reasonable return on our investment. The risk of taking that posture should be commensurate with the return that we are going to get. We are not in a position to absorb and fund social programs. We are not in the position to take political stances. The FCMA creates a very difficult environment for a U.S. fishing company. My feeling is that the Department of Commerce alone should control the FCMA, because by definition it should be controlled and managed on an economic basis.

EMIL BERG:

Thank you. We also have other members on the panel who represent the government of the State of Oregon and who have to work in coordination with the federal authorities and deal with the FCMA from that perspective. Particularly Ms. Hall and Mr. Loeffel, and I wonder if they could give us their impressions of what difficulties the State of Oregon has in managing the salmon fishery under the FCMA, and what improvements could be made?

BEVERLY HALL:

We have a lot of problems managing the salmon fishery under the FCMA. First, it's not an effective tool for salmon management. From the standpoint of the salmon, it would be better not to have a troll fishery. But simply to have terminal fisheries in the river at the point of origin is politically impossible. A lot of people have a lot of money invested in troll fishing, but the regulations that come out of the FCMA represent a lot of political pushing and pulling, and don't result in good salmon management.

From the standpoint of the Columbia River Indian tribes, whom I've represented here today, the Columbia River Management Plan, which is a federal court decree in United States v. Oregon,

provides a certain percentage of the in-river harvest to the Columbia River treaty tribes. This is, of course, premised on being able to get some fish back into the river. When the fish are caught out in the ocean, particularly by Canadians totally outside Oregon's jurisdiction, or by Alaskans over whom we have very little political influence, not many fish survive to get back into the Columbia River, regardless of the regulations adopted by the Pacific Regional Council.

The treaty Indians are now in their second or third year of lawsuits designed to require the Secretary of Commerce to take Indian treaty fishing rights into account in approving the salmon regulations. The tribes lost in the trial court and the appeal will be heard by the Ninth Circuit in Portland on May 6th. By and large, I think that it would be far better to return to a management policy with less federal involvement and more state and regional management.

The Columbia River Fisheries Council consists of representatives of Oregon, Washington, Idaho, and the Indian tribes and various federal agencies. It is not functioning with the greatest efficiency, but it doesn't have to go through the bureaucratic procedures that seem to be required by the FCMA. I think that Mr. Friedman's concern about interstate disagreements is somewhat misplaced. For example, we recently had a situation with California where California closed its shrimp season a little earlier than Oregon. Shrimp are migratory and they trot back and forth across the state line. A number of boats registered in both Oregon and California would go down and fish outside the California three-mile limit and land the shrimp in Oregon ports. The California Director of Fish and Game thought that this was a great opportunity for an original jurisdiction suit. His attorneys and I thought otherwise and simply worked out an arrangement where we would continue to close Oregon ports to the landing of shrimp taken in violation of the California fishing season. This has worked out well and was done very informally in an afternoon's discussion. So my recommendation would be for considerably less federal involvement in salmon fishery management, and probably in some other fishery areas, although I have not been as involved in other areas as I have been in salmon.

BOB LOEFFEL:

Bev Hall has just commented on the FCMA with regard to salmon, I'll comment a little more generally. Even though we work for the same agency, we haven't checked our positions that closely and we may have some different views. Let's just say that our views, to the extent which they differ, are personal and not state policy. I'm a states' rights advocate, but I'm also a realist and I can see that when you are dealing with fishery resources you are talking about something that's bigger than any state. It's bigger even than the state of Alaska, as large as that state is. We have salmon that come down here and are caught off Alaska, and in that sense those resources go beyond Alaska's boundaries. They are mobile. Shrimp are another good example of a trans-boundary resource. There are others, such as Pacific ocean perch, which we share with Washington. In addition, the fleet itself moves up and down the coast. Ideally, from an economic viewpoint the fleet should be allowed to move without hindrance. And yet, when you do that you are traversing state jurisdictions and perhaps different management policies. So I feel that in all respects we do need a regional approach to managing our marine fisheries. In that sense the FCMA has a role in salmon management, if we are going to have an ocean salmon fishery.

The FCMA gives us leverage in working with Alaska to get Columbia River fish back down this way, leverage that we didn't have when we were simply two states with different ends to serve. We have salmon raised in the Columbia River that mature and are in fisheries off California and elsewhere before they return. I went to Sacramento ten years ago, appeared in their legislature, and asked them to remember that those fish came from Oregon and to let a few of them come back. Their response after about five minutes of my testimony was to tell me when the next plane left. The Council approach, the regional approach, takes that problem and puts it under a single agency which, one hopes, will responsibly address the harvest of the resource, how is it best used, and then considers the social and economic matters and makes decisions as to where the harvest should occur.

We could argue that this isn't good from the State of Oregon's viewpoint because it takes responsibility away from us. It may take responsibility, but it doesn't take away the benefits that we get from those resources. They still come into Oregon. Therefore, we have an obligation not just to turn to the federal government for funding, but also to look for a meaningful state role. The Department of Fish and Wildlife has very actively participated in the development of fishery management plans through the FCMA, and we haven't held back so long as we have had the monetary and manpower resources to address those problems. That state/federal machinery is a plus and we need to work with it and strengthen it. Its weaknesses for example, the 300-day review time that doesn't permit good implementation which Peter Friedman referred to need some adjustment. That doesn't mean you should scrub the whole act, however.

EMIL BERG:

Mr. Adams, what is your view as a salmon troller?

DON ADAMS:

I would like to address something that Dr. Schwint said. I wonder if the trollers are going to have the same problems with joint venture boats as they have with the Russians. For instance, a couple of years ago I came back in at about fifty fathoms and a Russian boat cut me out. There was a large rip current that I thought might have some salmon in it, and as I put my gear out and tried to troll down this particular rip, the Russian boat cut me out. If I hadn't moved it would have run over me. And after he dragged his net through at all depths, there was no use fishing there at all. Now are joint ventures going to do the same thing or not?

DR. RICHARD SCHWINT:

Everybody tries to be a good neighbor. I've heard of this and I agree that it is a problem. What has to be done is just to define the rules of the road. If someone is fishing in a particular area, nobody else should have a right to fish there during the time they have their gear set in that area. Beyond that we need some way to enforce those rules. That should not be a problem. But it is a problem right now, where the stronger of the two competitors can literally force you off with the bigger boat. However, on my own salmon seiner I would say that our biggest problem is that every time we make a set, we know that unless we do our pursing very quickly we will be "corked" by the next boat, an American vessel whose skipper probably lives two or three blocks down the street from my skipper. What I am saying is that there is very intense competition.

DON ADAMS:

I'm talking about off Oregon where you don't net salmon.

DR. SCHWINT:

Yes, but that is competition, isn't it? They are competing for the same fish you are.

DON ADAMS:

There is one other point: The rules of the road do not recognize salmon trollers as having any right-of-way whatsoever. Since we are not dragging a net we don't have any right-of-way. Any trawler that comes along can push us out.

DR. SCHWINT:

That is a problem.

EMIL BERG:

Representative Bradbury, do you have any ideas about how state legislation could improve these things?

REPRESENTATIVE WILLIAM BRADBURY:

Not specifically. There is some state legislation we've introduced and some being considered, but because this is a federal act, we are at their mercy.

I wanted to touch briefly on the two-hundred-mile limit and the Fisheries Conservation and Management Act. Fishermen in 1976 were very enthusiastic about the 200-mile-limit. They thought we wouldn't have many foreigners in our waters. Particularly from the salmon standpoint where there is a very deeply felt belief that Russian trawlers are scooping up vast quantities of salmon as an incidental catch. In this regard, I think that Mr. Friedman's comments were gentle but very much on the mark. Even with the 200-mile limit the foreigners are still out there, and although they are being regulated, they are presumably still making some incidental catches.

The cost of gaining some control over the foreigners, however, has been a massive influx of federal and regional regulations and the loss of state control. Particularly in the salmon industry. We have turned the Coast Guard into a bunch of cops. There is a strong sense, and I think Mr. Adams would agree, that the State Department is treating fishermen on the south coast of Oregon as pawns in a much bigger international game over which we have very little if any control. A game which has no clear benefit to the constituency I represent on the Oregon coast. Decisions are being made by the State Department that have nothing to do with the best interests of people on the south coast. Very specifically, I think most people here are probably aware of the sorry tale of the salmon troller. The season has gotten shorter, because we do have a problem with the resource, and we are working hard to turn that around. The troll fleet at this point is close to bankruptcy. Bruce Laird will speak to you later on coastal planning. He works for Western

Bank and one of his colleagues was before the House Agricultural and Natural Resources Committee on Friday, testifying on the impact the shorter seasons have had. The 1980 season probably reduced deposits in coastal banks by \$50 million. That's a big loss for a coastal economy that is already hard hit.

Now, we do have a problem with the resource. But are we regulating that resource in a sensible manner? As Mr. Friedman has said, the Pacific Fishery Management Council is very slow; they don't seem to be able to respond in a sensible fashion. This season, for example, the Oregon troll fleet and the Oregon Department of Fish and Wildlife, probably for the first time in many, many years, got together and came up with an agreement about what the season should be. We won part of that and we lost part. The funny thing is that we lost the 'Chinook only' fishery in June, and one of the big reasons for Oregon not getting a 'Chinook only' fishery was that they were trying to protect the Klamath River stocks which are embroiled in a treaty controversy with the Klamath tribes. At the same time the Pacific Fishery Management Council allowed a Chinook fishery in Northern California, they closed the season on the Klamath River stocks. They shut down Oregon, but they let California fish. There is, in my view, a real lack of logic to that decision, and we have introduced a resolution in the House and Senate appealing to the Secretary of Commerce to overturn that decision. Now, whether that will have any influence on the Secretary of Commerce is of course another question.

Those are instances of specific management decisions which are basically political in nature. It would probably be fair to say that a majority of my fishing constituents favor the removal of the State of Oregon from the Pacific Fishery Management Council. I can't say that I'm 100 percent for that, for Bob Loeffel makes a very good point--we have a regional resource and we have to deal with it on a regional basis. But from a political standpoint there is a strong sentiment against the Management Council at this time.

RICHARD HILDRETH:

Emil, could I interrupt just to read a statement from John Platt? He is listed on the program as a panelist, and the flu epidemic knocked him down. But he did send a brief statement and I thought I would read it into the record for your consideration. He sends his sincere regrets that the flu prevented him from being here. He said his presentation would have focused on three issues: First, has not the Fishery Conservation and Management Act failed to prevent overfishing of salmon, especially when one considers that practically every native run on the West Coast has failed to meet spawning escapements during the Act's effective period, even on rivers where dams and terminal fisheries are not significant mortality factors? Second, why has there been no effective coordination

between the Pacific Fishery Management Council and the North Pacific Fishery Management Council, as well as none between those two agencies and in-river fishery management goals and actions? And third, why have Oregon and Washington, as members of the Pacific Fishery Management Council, failed to support direct management objectives, such as quotas for Columbia River Chinook, when the states obligated themselves by the five year plan to enact or recommend for enactment ocean fishery management measures which would achieve spawning escapements? Again, John sends his regrets for not being present and his thanks for reading the statement.

EMIL BERG:

I think it might be a good idea if we tried to answer those three questions. Does anyone have a particular response he or she would like to make?

ROBERT LOEFFEL:

With regard to the failure to place a Chinook quota, Chinook are primarily located off the coasts of Washington, British Columbia, and Alaska. The Council's reasoning on this has been practical. We are actually managing--if you want to put it that way--two separate fisheries, one for Chinook and one for Coho. The two are superimposed, one on the other. For the most part the two species re-enter the Columbia River at the same time, and it is hard to manage both simultaneously. Perhaps they have flipped coins at the northern end and decided that Coho is the more important fish and really needs more attention than Chinook. Others will say, as Mr. Platt would have, that Chinook stocks are in a very bad state. Some take the position that we can't put quotas on both and still have a fishery. The two salmon stocks just simply conflict. Management of each is mutually exclusive of the other. We can manage Coho, manage the stocks tight enough to do the job. But at the same time, because of those restrictions, the impact they have on the quantity of fishing time and the harvest will have a significant impact on the harvest of Chinook. It's a hard problem, and practical quota management can be done for only one species at a time. I think that conversely the Council could come around and manage Chinook, but then they would have to let the Coho fortunes fall where they might.

DR. SCHWINT:

I would like to make just one statement on the salmon issue, and I know it will be offensive to some people. We as a company spend or generate about five percent of our revenue from salmon. We spend ninety percent of our time discussing salmon in meetings like this. The federal government spends ninety-five

percent of its time in the Councils trying to solve the salmon problem. Bluntly speaking, we are not putting any of our effort on the economic aspects of the problems. I recognize that there are tremendous problems for the individuals involved, but I find this meeting to be so very typical. If you asked the processors on the coast, What is the contribution that salmon make to the total fishery industry in Oregon?--unless their experience is vastly different from ours, they would say that we are putting an awful lot of effort and money into managing a problem for social and not for economic reasons. And if we want to manage the salmon for social reasons, then fine--let's take all the time necessary to do it. But let's not call the issues economic.

ROBERT LOEFFEL:

May I come back on that for a minute? Dr. Schwint makes the point very well: Salmon accounts for something in the neighborhood of five percent of our fisheries landing. But if you look at it on a poundage or value basis, its importance increases because of its proportionately greater value. Still, we are talking of a few million--under ten million pounds annually in recent years--as compared with something well over 100 million pounds of our total production. But our groundfish fishery is healthy. Its volume is great and another plant has just been approved, details of which have been worked out over a four year period with, I think, good cooperation between industry and government. Probably the important thing is that the groundfish industry isn't feeling the pinch. It is in a healthy condition where there is an abundant resource and smooth management.

But you have been hearing of the salmon fishery. It's quite different. There have been some real problems connected with salmon. It just happened that the FCMA came on the scene exactly when the trauma of the resource downturn began, and that machinery imposed some restrictions that caused a real hardship on the industry. If we are careful with the groundfish fishery, I don't think we'll see the same kinds of problems.

DON ADAMS:

Some of the salmon trollers and crabbers have tried to broaden their base by going into the black cod fishery. And that's turned out to be a disaster. I've heard some of the black codders complaining (and I was one, although not very committed) that the Commission would not let us fish for black cod. If the Japanese can come back in later and fish for the same cod they won't let us fish for, then they will say it's "underutilized." As long as this happens, we can't broaden our base to fish for black cod. That was a disaster--just about like the salmon--and we went into it in order to lighten up a little on the salmon.

BEVERLY HALL:

The real problem with the salmon fishery (and I think that what Dr. Schwint said is exactly right), all of these meetings where we spend our time talking about salmon are a waste of time because the real problem with the salmon fishery is that there aren't enough salmon. Everyone is trying to get an increasing share of a diminishing resource. The really honest solution would be to ban salmon fishing for four or five years and get one full life-cycle back to see what's left and whether the salmon runs can be rebuilt to where they are economically viable. Politically that is obviously unfeasible. But that, I think, would be a reasonable solution to the problem. Do you want me to address some of John Platt's concerns here?

EMIL BERG:

If you would like to.

BEVERLY HALL:

Well, as far as overfishing goes, we have been talking a lot about that. I would like to talk about some of the other points John made. Coordination between the Pacific Fishery Management Council and the North Pacific Fishery Management Council does go on. Oregon and Washington are both represented on the North Pacific Council. The problem is they are always outvoted by Alaska. And I was just suggesting to Peter Friedman that maybe one solution would be to require that coastal salmon regulations all be set by the Pacific Council. If Alaska had to come down here and deal with Idaho and California and the Indians in setting their own salmon season on fish which originate in the Columbia River, I think that we would see a higher level of coordination evolve. As far as John's third concern, I cannot speak for Washington, but Oregon has always tried to recommend regulations which would get adequate numbers of fish into the Columbia River. The problem is that the Indian tribes believe that the Columbia River Plan gives them a fixed number of fish, whereas Oregon and Washington believe that the Columbia River Plan represents a guarantee of a "best efforts" attempt to get as many fish as possible (or at least 300,000 fish) into the Columbia River. Since we adopted the Plan we haven't had 300,000 fish. That's the problem.

DR. SCHWINT:

I would like to respond to something that Mr. Adams said, because I think he made an excellent point. I don't think there is any question at all that the fishermen are very skilled, dedicated people. But they are overfishing a resource, namely

salmon, where there just aren't enough fish to go around. The black cod is a beautiful example by which we can illustrate several points regarding the management of this fishery relative to foreign fishing efforts. First of all, the black cod fishery was developed primarily for export. By their own fishing effort, the Japanese created a large market demand for black cod. When they were slowly being eased out, they bought very heavily from American companies. The Japanese have a history of creating a demand and then pulling out of the market, which results in a market collapse. So it goes in these boom and bust cycles. It's a very smart tool for managing resources on an international basis. When these things have occurred, our management councils have then always taken the attitude, "Well, my goodness, now we have a problem; therefore we will manage it by excluding American fisheries."

Very specifically, I feel that black cod should be harvested by U.S. vessels exclusively. Within our own company we have already found that there is a domestic market for black cod, but we cannot serve that domestic market under the uncertainties of current management. The black cod is a viable alternative to salmon, but only to the extent that our management programs recognize it as exclusively a United States resource. And how can we convince the Councils, Peter? How can we convince everybody else that until we control both processing and marketing we are wasting our time and effort? At this stage, the only thing we can definitely control is the harvesting. But in those smaller resources like black cod we do have the ability to process and market all that we catch. I think we should concentrate on those definable fisheries where we can totally exclude foreign effort.

EMIL BERG:

This would probably be a good time to open this panel up to dialogue with the audience, and so I would like to solicit questions or statements. Yes?

[Question inaudible.]

DR. SCHWINT:

I think it's broader than that. Let me remind you that I own a salmon seiner personally and I've been in the business. I have no argument that salmon is one of the resources that can be managed very effectively by terminal fisheries. Now, if we boil it down to economics and nothing more, then we should harvest salmon in the most efficient way to get the best quality and price for the product, with the greatest profit margin. The rest of what we're discussing is being done for other than economic reasons. Every company on the coast probably does the same thing. We have to provide these markets to coastal

communities. It is basically a service that we are providing, for the return we make is very marginal at best. There are many times when we sell salmon out the door for no more than what it costs us to put it through the plant, period. And maybe we are doing it "for social and other reasons." Now, maybe we are not just good marketers. I don't know. But that is the reality of it.

[Question inaudible.]

BEVERLY HALL:

We don't think it does. Walleye is not a native Columbia stock, as I'm sure you know. The question is whether Walleye in the Columbia has a significant impact on other native species, and by that I think he means salmon. This is an issue on which we had quite a go-around last year before the Fish and Wildlife Commission. The Columbia River Indians wanted to sell Walleye, which they caught in their nets incidental to their salmon take. We saw no reason why they shouldn't do it, except that the Walleye sport fishermen came in mass and persuaded the Commission that the Walleye were a valuable recreational fishery. They do eat a few salmon smolts, but so far we haven't found that the Walleye are a substantial problem; they are not a threat to salmon conservation. But they are a matter of disagreement right now between the state and the Indian tribes.

[Question inaudible.]

BOB LOEFFEL:

Part of your question related to control. Bev may be able to quote you the law better than I can, but I think we have the control that we need on the books. The problem is simply covert activity. In this case, which occurred not even down in the lower Columbia, but somewhere well up in the watershed, the alien fish were introduced. There are laws on the books and I could cite a case of some piranhas that was in our office recently. Active efforts to keep the non-indigenous, non-wanted species out of our waters are continuing.

[Question inaudible.]

BEVERLY HALL:

The laws aren't much good if people don't observe them. That is the problem.

QUESTION:

My understanding is that the current black cod resource,

identified as 13,000 metric tons for the Oregon, Washington, California area, is reserved entirely for U.S. harvest. That may not be true of the Gulf of Alaska stocks. Is that what you were referring to?

DR. SCHWINT:

Let me be very specific. There is a company in Coos Bay that was given permits to outfit two vessels to fish for black cod, and those vessels were given permission to use foreign crews. There could be some circumventing, and that sort of thing would need to be tightened up. There are no provisions for foreign joint venture fisheries to come into groundfish at this point. That doesn't mean that they couldn't change. Regarding the black cod, it could well have been a circumvention of the intent of the Act through a facade.

QUESTION:

I don't think there is any question but that we have to circumvent it, and I would assume that some agency might have thought it was in their own interest to allow it to be circumvented.

DR. SCHWINT:

I would submit, assuming that they did some homework, that they weren't actually aware of the makeup of this. But maybe I'm wrong in that. I know to what you refer, but I don't know the details.

QUESTION:

You are aware of what I'm referring to?

DR. SCHWINT:

Most certainly.

QUESTION:

They can reserve the black cod for us, but if there is no Japanese market, it doesn't do any good to fish. Where can you sell it? And then, I've heard that the Japanese figure that if they don't buy the fish this year, next year we'll let them in to do the fishing themselves.

EMIL BERG:

That raises the issue of the advantages of joint ventures. We've heard discussion of problems of the salmon trollers and Dr. Schwint's discussion of the distinction between economic problems and social problems, and then we've had an assertion by Ms. Hall that the salmon stocks are in bad shape and that the best thing from an environmental standpoint would be just not to fish them for four or five years. I think all of those things could be disputed, but what I'm curious about, and what I think might be helpful, is if someone would address the question of what a joint venture activity can do for salmon fishermen on the Oregon coast who have small boats and don't have access to the capital to get larger boats.

DR. SCHWINT:

I don't want to sound facetious, but basically the only way is to find jobs aboard those boats, because there is no way that the small troller is going to be able to harvest any meaningful quantity of fish from a joint venture.

If we ignore those individuals specifically, if I can speak a little more broadly, let me give you what my practical feeling is about the fishery. I think we have been constantly manipulated by very sophisticated players in the international game. We've been manipulated under the guise of many other things--energy, political considerations, and many other things--but mostly it's been economic manipulation. When we first got started in the fishery, we were told categorically that the Russians were doing us a favor, that they would buy the fish from us only because the U.S. government was forcing them to do it, and that they couldn't make any profit unless they harvested themselves. So what happens? The crisis in Afghanistan comes around and the Russians are prohibited from catching fish. Who's out there right now with the big processing fleet? The Russians. Well, they certainly are not catching any fish now. They are buying it. Obviously they are making a profit.

This year there has been an effort to put together a joint venture with the Polish people. It's gone on for weeks and even months, and what's happened? We have been unable to put together a joint venture, but they have been allowed to come in and harvest because "they were unsuccessful in dealing with the American joint venture effort." We have put time in together with the Bulgarian fleet and we have been complaining to the State Department that they are "target" fishing. We sat in on the negotiations with the people from these foreign countries who deny in public that there is any effort at all on their part to "target" any species. And yet, one of their price proposals to us was the following: We can pay "X" amount for hake if we can't get incidental species, we can pay "Y" if we get incidental species. That's reality.

I'm saying that if the joint venture is going to be successful ultimately, it has to be successful to the point that the product is harvested by United States fishing vessels and processed on foreign vessels, until we can gear up to have that capacity ourselves. The title to the product should remain with the U.S. company, and should then be brought into the United States where it is secondarily processed and distributed into domestic markets. And until we take that attitude, we are going to get whipped in the international market place. I think we have the ability to do it. Let's look at the facts. The Patagonian and the South American resource of hake and whiting and also the South African resource are not managed. They are being depleted. For the first time in about five years the price of pollack has changed. We couldn't be in the pollack market before, because the price has always been sixty-nine or seventy cents a pound. Suddenly it's up to ninety-five cents or a dollar. It's changing very dramatically. We feel very strongly that if the FCMA is going to be a strong law, it's got to be managed with the economic return to the United States maximized. And then if you maximize the economic return the social benefits are obvious.

[Question inaudible.]

DR. SCHWINT:

I definitely feel that would be ideal. The Japanese play the game beautifully. Some years they say they don't need the fish, and the years we want to keep them out they say, "Gee whiz, we need all this. Our people are undergoing economic hardship." I think we could really play hardball. We could say categorically that the U.S. fleet at this point has the capacity to harvest probably 70,000-80,000 metric tons under our own terms and conditions, which are not that much more expensive than what they're trying to dictate to us now. It might mean in the first year or two that we're thirty or forty percent short of the sustainable yield. But I don't see that as a big price to pay to get control of these fisheries.

I think that the FCMA should be run by the Department of Commerce, period. Other departments should be advisory, but advisory only. If we can do that at least we know whom we are working with and where the final authority is vested.

EMIL BERG:

We probably should bring this to a close fairly soon. I'd like to raise an additional point and perhaps have some response to that. The way the discussion has been going makes it obvious that you cannot consider the FCMA and its effect in isolation from other things. You can't consider the FCMA aside from the financial problems of society. You also have to consider the

FCMA in relation to Indian treaty rights and to other federal statutes, such as the Marine Mammal Protection Act. I think that there are some important problems with this Act for the purpose of commercial fisheries in Oregon, and we ought to address that Act briefly. Does anyone have any statement about that?

DON ADAMS:

I certainly do. I think we ought to go back to permitting bounty hunters on the seals in the Columbia River. If you have ever watched them at work in gill nets, you would see how they take a nip out of each fish and the fish are then commercially unsalable. A few years ago one enterprising seal went up to the fish ladder and sat and waited for the run. He ate his fill and went back down again. Seals are not an endangered species. Salmon are.

[Remarks of Richard Mathews, Oregon Department of Land Conservation and Development, not recorded.]

PANEL DISCUSSION: PLANNING AND DEVELOPMENT ON THE OREGON COAST.

MARADEL GALE, MODERATOR: Department of Urban and Regional Planning, University of Oregon.

MARGUERITE WATKINS, President, Oregon Shores Conservation Coalition.

JAY RASMUSSEN, Executive Director, Oregon Coastal Zone Management Association.

RICHARD BENNER, Staff Attorney, 1000 Friends of Oregon.

BRUCE LAIRD, Port Commissioner of Coos Bay, Vice-President, Western Bank.

[First part of panel discussion not recorded. Tape resumes with remarks of . . .]

BRUCE LAIRD:

. . . And I can't stress this enough because of the complexity. At this point I'd like to back up and "make a funny." The land use planning statute--the LUBA provision especially--has oftentimes been referred to as the "Attorney's Full Employment Act."

RICHARD BENNER:

I've always heard it as the "Land Use Planners' Full Employment Act."

BRUCE LAIRD:

Well, that's another version. I think it's the same joke. But the cost is something we've got to talk about, because the escalating cost of land use planning and contention with the permit process have driven business into the hands of the large industries and the large port municipalities. The small ports and small governments--and especially the small entrepreneur--absolutely cannot contend with the cost. Thus, a lot of business which would otherwise be located in the coast just isn't there. Small businesses simply cannot contend with the cost of the permit system. It's unfortunate, but such are the facts. One of the other failings, in my opinion, lies in the planning process itself. Planning is based (and this observation comes only from my own involvement as a citizen official) upon being able to predict the future, to predict change, and be able to contend with it. Ten years ago in the Port of Coos Bay, no one that I know of was able to predict salmon ranching or coal export or the discovery of large reserves of natural gas and petroleum off our coast. Now, whether these will be developed or whether anything will come of it, I don't know. But the planning process has not foreseen such things. And the necessary changes and alterations in our plan will be both expensive and time-consuming. I think I'll keep my remarks short. I probably have put my foot in my mouth by now, so with that, I'll pass it on.

MARADEL GALE:

I think I'll ask Dick Benner to respond next so that we keep some balance in the order of our response.

RICHARD BENNER:

Balance? As I am trying to look at what to expect out of the planning process in the 1980's, I'm forced to start by looking at the experience over the past seven years. Those are the years in which I've been involved in the coastal planning process, starting back at the Oregon Coastal Conservation & Development days in 1973 when Maradel herself was sitting on that Commission. I remember some of the thoughts that were in people's minds about what they expected out of the planning process, and it was interesting to hear Mr. Laird talk about some of the things that he finds frustrating about the planning process. Here it is 1981--eight years later.

I recall those issues being discussed by a number of committees and by the Commission itself. Such values and objectives are what the planning process is all about. For example, one of the precipitating factors that drove the state to adopt, first of all, the Oregon coastal conservation statute and Senate Bill 100 was that we were concerned about what was going

on in our estuaries. We've watched a significant portion of tideland and marshland being filled in particular estuaries without any feeling for where we were going, without a grasp of the long-range consequences. And as a result, resource agencies, at both the state and federal level, were a bit paranoid too. They were afraid to issue a permit for a relatively large-scale development, since they didn't know what the consequences might be. The agencies were starting to demand from permit applicants and local governments and from other state agencies some kind of plan that could be relied on. They sought some assurance that they would be carrying out their statutory functions, that is, protecting the resource in the long run. From my perspective, from state agency perspectives, and from Mr. Laird's perspective, what we are looking for is some kind of certainty in the planning process, some set of standards that everybody can count on. Certainty requires that standards be written down so that the investor and the planner can read them and get a fairly good idea of what was going to happen during the planning period.

Another thing that motivated the early planning efforts was that we looked at the seventeen major coastal estuaries and the twelve (I'm not sure of that figure) port districts. We were beginning to perceive that the pot of federal money that was used for navigational improvements was gradually going to dry up and that there ought to be some plan for the coast that would enable us to look at the resources in the long run. We also needed to look at the estuaries where we had already made some improvements and to figure out some way to allocate those resources for the common good. It was also necessary to cut down on the competition for those resources so that we didn't have twelve port districts all looking at those federal funds and thinking that they were going to be Oregon's first deep-water port.

Those are some of the things that people were thinking about when they developed the policies. And now as I look back over the eight-year period, I have to say that I'm just as disappointed in the outcome at this point as Mr. Laird is. It's taken much longer than anyone expected. We don't have the certainty we wanted about resource protection or economic planning. It's just not there yet.

There are some structural problems in this process that I think we ought to take a look at. The goals that were adopted as part of the coastal program were principally resource-protection goals. But if you read them carefully--particularly the estuary goal--you find that the wording of the goal is "to protect and develop where appropriate." The trick to the planning process is to figure out where it's "appropriate" to protect and where it's "appropriate" to develop. One of the principal failings I've seen in the last four years is that the standards developed for estuaries, shorelands, and beaches and dunes have not been enforced. They've not been enforced at either the local or the state level. When you have standards that aren't enforced, two things happen. People lose respect for the standards, and you

don't get the product you thought you were going to get--and by golly we've seen both of those things. There isn't much respect for those standards on the coast today--even though they've been around for four years in the coastal goals--and we're sure not getting what we thought we were going to get. LCDC has promised the Office of Coastal Zone Management that it would make sure that its standards were enforced, but LCDC has not done it. Only once in four years has LCDC gone to court to enforce the beaches and dunes goal, and that was against the City of Cannon Beach to prevent development of a condominium on a foredune. That's one time in four years.

The burden for enforcement has thus fallen on citizens. There isn't much in it for them. There's no economic stake. You can't recover your attorney's fees. You pay all the filing fees, and you get only a portion of it back if you win. You get some emotional satisfaction, and that's about it. Well, the reservoir for that kind of thing is only so large. Enforcement of the program has been very weak and even non-existent, and the Office of Coastal Zone Management itself has done virtually nothing to use its leverage to require the state to enforce a program. Implementation of the goals in terms of incorporating the state's standards into local plans, as Dick Mathews said, is taking a long, long time. We still don't have estuary plans for the major estuaries. The result, of course, is that neither Mr. Laird nor his clients nor the ports have the certainty they've been crying for, and they won't have it until those plans are complete. And yet, to a certain extent, I think they have only themselves to blame because there's been no greater recalcitrance toward planning than we've witnessed on the southern Oregon coast.

The state agency that's been responsible for allocating the funds shares some of the responsibilities for the failure. I'm talking about LCDC and Dick Mathews' department. The quality of plan supervision has been very poor. Hundreds of thousands of dollars have been poured into the planning effort at Coos Bay. We finally have our product, which nobody seems to be happy with, and it doesn't take a very probing view to point the finger at quality control. I think the state agency bears part of the responsibility for that, because for four years it has failed to articulate the meaning of the coastal goals. Talk to a coastal planner (and we have a couple of them here) and ask them how frustrated they are about trying to implement this phantom provision in a coastal goal. They call the agency but can't get answer about what it means. As a result, they have to plan in the dark. They write a plan, involve citizens, spend a lot of money, submit it to the agency, and only then do they find out what the meaning of the coastal goal is. In 1976 the organization I work for implored LCDC to adopt rules, to interpret its goals--not just the coastal goals, but all of them. The agency resisted in part because it didn't have the staff and it didn't have the money. Those are common problems, and you can point your finger back to the legislature which failed to allocate enough money to accomplish that part of the

planning game. Nonetheless, it's now 1981, and hundreds of thousands of dollars have been invested. And we still don't know how the state is going to come down on interpretation of several key goal requirements.

The shorelands goal: What constitutes the boundary of "shorelands"? What kinds of uses are permitted? Long-range planning for estuaries: What is an acceptable justification for a port district's allocation of an estuarine area for development? We're still struggling with that. In sympathy to the agency, however, it's a very complex problem. We are, in the State of Oregon, to a certain extent at the frontier and somewhat alone in trying to resolve these policy questions. It's naturally going to take time. Nonetheless, the result has been disappointing.

One of my major disappointments with the program was the recent action taken by LCDC to reclassify the Nehalem Estuary as a shallow draft development estuary. To me, that decision typified the failure of the agency to grasp its own coastal program and represented a complete disregard for the very values and objectives of the program that were responsible for its formulation back in 1973-1977. Here's this little estuary with a decrepit jetty that can never be competitive with other port districts. The Corps of Engineers (at least sub rosa) did not want to spend any money to rehabilitate that jetty. All the facts and figures we were able to see showed that the Port of Nehalem could not be and perhaps never will be competitive with ports to the north and to the south in terms of recreational boating, commercial fishing, and lumber barge traffic. And yet the Land Conservation and Development Commission, in a highly emotional meeting after a pitch from several state legislators from the coast, caved in and changed the classification to a shallow draft development estuary.

I'd like to stop on a positive note--we're almost there. The Coos Bay planning effort is very close to completion although there are several key steps yet to be taken. The CREST planning effort, which involves the other large and most economically important estuary on the coast, is very close to completion. It's extremely frustrating for all of us to be so close to completion and to watch an amendment to the Coastal Zone Management Act reaffirm the conservation direction of that legislation, and then to lose funding which we are apparently going to do. That's really going to be a blow to Oregon. Somewhere we are going to have to find the money to wind up those two planning efforts. After they're completed, we're going to have some of the things that Mr. Laird wants from the planning process. We're going to start to reap some of the dividends of this very long and arduous process. But not until those plans are done.

Thank you.

MARADEL GALE:

Thank you, Richard. I'd like to ask Jay Rasmussen to respond now.

JAY RASMUSSEN:

Thank you. I find myself in a rather strange position because I'm usually the "doomsayer," and what has been said up till now will almost make me sound like an optimist. To show my prognosticating ability: I thought that the fisheries panel would be a hard act to follow and that this panel might be a rather mundane discussion of dredge materials, disposal systems, and so on. I think I've been proved wrong there. Also, I usually do not find myself in agreement with Mr. Benner, but except perhaps for his discussion on enforcement, I'd have to say that I agree with many things he said.

I'd like to start in reverse order on a positive note and then perhaps on a negative note. First of all, the Oregon coastal management program predates the national one, and in a sense the local one predates even the state program. In 1975, when LCDC got its staff, OCZMA also began, and in 1977 changed its name to what it is today. OCZMA considers itself the successor to that early effort. We are always attempting to provide that elusive balance of uses that Dean Bell talked about this morning, and we have supported coastal zone management for some time. We think there have been some positive accomplishments. Perhaps the most positive benefit that has accrued from the program has been a heightened awareness of the coast itself. The Association in 1979 requested Governor Atiyeh to proclaim 1980 as the "Year of the Coast," as president Carter had done for the nation. I want to be upbeat on this, but I must tell you that I wrote a seven-page letter to the Governor which explained all the benefits and the reasons why we thought that the coast should be so singled out. He sent a form letter back. It said, "Please type it up, make it a little longer than fifty words. Here's the format. It cannot be a controversial item and it cannot indicate that the Governor supports it." Even so, I went ahead with it, and we have a proclamation to that effect.

I think that awareness of the coast and its problems is increasing. People on the coast, if not in the valley, are becoming informed. As a one-time teacher I sometimes hate the thought of the jargon and terminology that many have picked up. But it's no longer unusual on the coast to hear someone opposed to development start talking in terms of mitigation and the citing of goals. With the situation right now in Newport regarding "Jumpoff Joe," people are coming up to our office to borrow materials--citizens, attorneys on both sides. So there has been a great deal of interest and I hope it's positive.

I think that the planning and management of Oregon's coast, and particularly its estuaries and beaches and dunes, have been very significant. I don't think anyone would question that to study, to inquire, to plan, are necessary. They're absolutely necessary to a sane living. The process that we've started here has some advantages. To this date, however (and here I become negative) I'd have to say that coastal zone management has been an unrealized promise. As Mr. Knecht indicated this morning, the term is imprecise--it can mean "all things to all men," in the words of St. Paul. You can protect it, you can restore it, you can develop it, or you can enhance it. Which should you do? Which should you put the emphasis on? Should you try to balance all those? In trying to meet all of the goals, perhaps we've failed every one of them. It's also difficult at this time to say whether coastal zone management has been a success or an absolute failure. Perhaps it's too early to tell. John Clark from the Conservation Foundation will be here in a couple of weeks. He is a very notable conservationist, and a year ago, when I was back in Washington, D.C., he said that by 1983 we ought to be able to see that coastal zone management has made a positive difference somewhere. I think that's when we'll really know. On the Oregon coast, however, the Coastal Zone Management Program has so far only institutionalized the status quo. It has sought to maintain the existing system rather than to restore or develop it.

In most states the majority of the population resides in the coastal zone. Oregon is an exception. Come on over, for example, to Otter Crest and look towards Newport on a late afternoon and you'll notice that Newport is an "oasis" between the blue of the ocean and the green of the forest. Just a very small spot on that fragile edge. The coast is a relatively undeveloped area.

The same goes with ports. Many of the coastal states have large port facilities or are involved in large port activities with tremendous waterfronts that need redevelopment, that could use updating or cleaning up. In Oregon that is usually not the case. Nehalem is a good example. In Nehalem renovation means development. There's nothing there to rehabilitate. It has been neglected for such a long time.

In this state at least, coastal zone management emphasizes resource protection over redevelopment. We have spent most of our time until this moment, as Dick indicated, talking about planning. There's nothing wrong with planning. Much of that planning, as I said, has served to maintain the status quo. But we have not gone on to the process of redevelopment or enhancement. This year for the first time the grant from the federal Office of Coastal Zone Management contains money for an enhancement program. Salmon and trout enhancement. A lot of money--around \$124,000 over a seventeen-month period. From a larger perspective that's not a lot of money. Granted that coastal zone management doesn't get a lot of money; more money is spent in one week in Nicaragua, excuse me, El Salvador, than is

spent for coastal zone management. But not enough money has gone into enhancement.

The other reason why its promise is unrealized--in Oregon particularly--is that the Oregon program is so comprehensive that it requires a great deal of effort on the part of every level of government, and specifically on local government. Tillamook County has one goal to plan for every 1,000 people. It now has two shallow draft estuaries. All of this requires a great deal of planning. The CREST Program requires that Clatsop County establish the need for a coal transshipment site and do an economic analysis of it. Clatsop County, with a population of only around 30,000, is required to assess economic impact on a regional basis. (That is something of an overstatement, but there's a certain amount of truth to it.) In other words, in order to support the need for one good deep-water site for a coal transshipment (and there might be several such coming to the state or to this region over the next couple of years) they have to establish that need on a regional basis. So it's a very difficult job. In implementing their plans local governments are going to be faced with a great deal of trouble.

Last of all, I want to mention an example of how good intentions go astray. At a meeting a couple of weeks ago we talked about the definition of a coastal shorelands boundary. The Department right now dictates that coastal shorelands boundaries should be placed 1,000 feet from a coastal lake or estuary--including diked flood-plains. That definition includes diked floodplains which are heavily used for agriculture on the Oregon coast. The Department also interprets Goals 3 and 17 to mean that within this area of 1,000 feet "farm uses" are permitted, but "non-farm uses" are not. And a farm dwelling is considered a "non-farm use." Therefore you could subdivide your property for agricultural uses but you couldn't build a house on it unless you can prove that the dwelling could not be built on an upland site in an "urban or urbanizable area." Such a boundary does not correspond to a watershed, nor does it correspond to established Goal 3 agricultural practices.

Lastly, I just want to mention one of the reasons why the prognosis for coastal zone management funding is so gloomy for the national level. Coastal zone management has not developed a good and identified constituency. Many other programs do it. You start talking about social programs, and you can get thousands of people to testify before the federal government. (California might be an exception; I'm not sure.) But when you start talking about the coast generally, there are some problems. Getting back to my summary on a depressing note, Dean Bell indicated that to achieve a balance of uses is not easy. Perhaps it's not even possible to achieve the balance of uses between the need to exploit resources and the need to protect them. But I suppose I'm still in this business because I think it's worth the effort. I think it's especially worth the effort when you consider what the alternatives might be.

Thank you.

MARGUERITE WATKINS:

I first met Maradel, our panel moderator, early in the 1970's when she was the first president of the Oregon Environmental Council. I haven't seen her much in recent years, but I understood that she was getting her law degree and here, for heaven's sake, she's now on the staff teaching law to planners! And I told her that I wished she lived in our area, because we keep showing the law to some of our planners and elected officials, without much success.

One of the reasons it has cost so much money for planning is that officials have been reluctant to "bite the bullet" and develop plans that are in compliance with the state goals. Although I have to agree it's hard to "hit a moving target," still, we've had so much money go down the drain because many of the policies we worked on for two years didn't comply with the goals at all. The League of Women Voters appealed certain provisions in our plans, and they were set aside. So we had to start all over again. It has been a really frustrating problem. One of the things that really bothers me about all of this is that until you have an "acknowledged" plan, you're supposed to follow all the goals in your land use actions. Up and down the coast this simply has not been done.

The Oregon Shores Conservation Coalition has been dealing with problems in many areas in the coastal zone and been fighting many battles in the ten years of its existence. One of the current fights concerns the hazardous area of "Jumpoff Joe" in Newport. It's a very hazardous area and now it's being built on. Developers want to build on it. Such issues are provided for in the goals and should be addressed. We have special wildlife and rare plants that are threatened. Then we have the Big Creek development on the coast in western Lane County. We're supposed to be protecting scenic areas like Yaquina Head. We've got the protection, but we don't have the money yet. We keep fighting this fill and removal business. We have the South Slough Sanctuary, the first estuarine sanctuary in the United States, and just in the last few months, trees were clearcut right down to the water. We have problems with sedimentation in our estuaries; Tillamook has an exceedingly bad problem. And our plans don't really address the problems of urban or rural runoff from arid or from forest lands. We have to keep our deep-draft channel dredged out every year--they take a million cubic yards out--and a lot of that is good soil that should be used up on the hills to grow more trees and more agricultural products. Our plans don't address these problems. As a matter of fact, the Department of Forestry doesn't want the plans to address those problems. They got a law passed in the last legislature that says that the standards in the plans can't exceed the forest practice rules. So we can't address that problem through the plans. We can't address the problem of shoreland protection in

the Coos Bay estuary when it comes to cutting trees. We have critical water resource problems in western Lane County . . . [portion lost during tape change.] . . . our members in the northern part of the state state that there is no public participation on the Tongue Point project. Now, these are things that should be addressed by all jurisdictions who don't already have an acknowledged plan because they're supposed to be complying with the goals. One of the problems that we're concerned about is rip-rapping on river banks and on ocean shorelands. What is the effect of the rip-rapping? I've heard just a part of one lecture by a hydrologist who talked about the problems created by rip-rapping. We all understand the need for rip-rapping, but few of us have any understanding (and I have only a little--enough to titillate me) about the problems.

In Coos Bay, we have a major coal project, which really looks great for our area. We have a very important coal resource, and despite what Bruce said earlier, we have been talking about that coal resource for ten years that I know of. But who is going to do the impact studies? How are we going to get the answers that we need? We will have transportation problems, because the coal will come from the farthest reaches of the county on an inadequate highway through several of our small towns. We've got the processing facilities, and we're not sure just exactly what that involves. But to whom do we turn for answers? Coos County doesn't have the money, just like Astoria or Clatsop County. And with CZM money on the way out, is the state going to help us? How are we going to get the answers?

I'd like to talk just a little bit about the offshore fisheries and the discussion we had about fishing. You know, when we first got into environmental planning in Coos Bay, there were a lot of people testifying in favor of protecting the estuaries. But we didn't hear a thing from the fishermen, even though we were trying to protect the very resource on which their livelihood depended. And so I finally went out and called on a number of the producers and then some of the fishermen. I explained to them what we were trying to do, and asked, "Where were you when we needed you?" And they said, almost to the man, "Well, we really are watching what you're doing very closely and we appreciate it. But we're very independent and we don't like to get involved in the political process." Well, after about a year or two, one fisherman came to a hearing, and I tell you, he really dumbfounded everybody. Those in charge were so glad to get the word from the fishermen, to hear what the estuary meant to them.

Things have changed. We are hearing more now from fishermen. They're getting more political, and are beginning to work together. The salmon enhancement program has really been an eye-catcher on the south coast and has had a great deal of support throughout the community. But one thing I am looking for is to use that clout to protect the ecosystem on which the salmon and other fish need, in our streams and in our estuaries. It's

one thing to plant eggs in boxes up in the streams, but it's another to fight to keep out silt and sedimentation. We've got to work with the Forestry Department and change the forest practice rules. Road construction must be done more carefully so that we don't have slides that wipe out the production of whole streams.

And so, this is what I'm looking for. I really want fishermen to look at the big picture of offshore fisheries. Sixty percent of West Coast commercial fish spend part of their lives in streams or estuaries. (On the East Coast it's more like eighty percent.) So we just can't "plant" them. We've got to see that they have good water quality in which to grow.

Bruce mentioned the user fees that the Reagan administration is thinking about charging for channel work. When we were trying to get the deep-draft channel in Coos Bay, one of the things that the League of Women Voters included in their testimony in support of the deep-draft channel was the suggestion that fees be charged and that the federal government not be expected to pay for the whole thing. Rather, costs should be divided between federal, state and local government and the user. One of the reasons we need the channel is that ships keep getting bigger. Why do they do that? Because it's cheaper. More economical. So what happens? We taxpayers pay for the deeper channel so that shipping companies can save money. So I can see a real need for a division of the costs of dredging among state, federal, local governments and users.

I have to agree that planning is a complex business. It is difficult, but you have to approach it from a positive and not a negative point of view. That's where our biggest problem has been. It's been approached with reluctance and with an attempt to get by with as little as possible. I don't think it'll work that way, and I hope that LCDC will see to it that we aren't content with that.

Thank you.

MARADEL GALE:

Thank you, Marguerite. Since Dick Mathews has been taking flack from all sides as the representative of the Department of Land Conservation and Development, I think it's appropriate to give him a chance to respond. Then we'll open the floor up for questions.

RICHARD MATHEWS:

I agree with most of the comments that were made. Looking back on how far this program has come over the last eight years, it's easy to agree. The comments by Bruce about the cost and

delays in the permit system and so on, those are exactly the problems that comprehensive planning is supposed to eliminate, once that plan is acknowledged and all of the natural resource agencies have signed off to that plan. The processing of that permit is going to be a lot faster than it is today.

Unfortunately, the people on the coast are still operating under a system that was in existence before Senate Bill 100 came along, and that system is not going to change until the plans have been submitted and acknowledged. Of course, there are going to be things that we can't anticipate in planning, such as the coal transshipment projects coming through now that we didn't know about two years ago.

Planning is an ongoing process. A comprehensive plan is going to be amended over time. Regarding Dick's comments about standards not being enforced--we didn't expect the development of comprehensive planning to take this long. I certainly hope that we can enforce those goals and standards better than we have in the past. This planning law has been put before the Oregon voters three times now, and two of those were very close. I think at that time the program was riding as close to the edge as we could manage, and we were enforcing standards about as far as the legislature would let us. Certainly there has been a failure to articulate the standards early on. We didn't anticipate--nobody could have anticipated the policy issues that came up when the comprehensive plans were submitted or neared completion. We simply couldn't anticipate all the programs in the early stage. Regarding the Nehalem reclassification, I would have to agree with Dick. It was an example of a staff decision conflicting with a Commission decision.

A word about quality control on grants. I certainly wish we had more quality control in the early days. We've certainly been more exacting on quality control on coastal grants this year. Because of that, I think several of the jurisdictions may receive only fifty percent of the money allotted. In regard to Jay's comment I don't think the purpose of the program is simply to maintain the status quo. You don't seek to maintain the status quo and yet have to appear before the voters three times in the last eight years. You won't really see the benefits of the program until 1983 or so. We have yet to see the benefits, and those benefits will be for both development and conservation.

MARGUERITE WATKINS:

I forgot to say the thing I was leading up to. When the plans are complete and acknowledged to be in compliance with the goals, will local governments then make their own decisions consistent with their own acknowledged plan? This is the real worry I have. Even now, there is real reluctance to comply with the goals. How will that change after plans are acknowledged? I have a real fear that the citizen groups who have been

"watchdogging" the process all these years aren't going to get any respite. We're still going to have to keep watching.

BRUCE LAIRD:

To change directions a little bit, Dick Benner made a remark about the recalcitrance of Coos and Curry counties in formulating their comprehensive plans, and that is absolutely true. In fact, Curry County questions the legality of statewide land use planning and has completely resisted all planning for a number of years. That reluctance has delayed planning and driven the cost up. But I'd like to back up to my original comments about the distrust which coastal communities--especially Coos and Curry counties--feel toward comprehensive planning. Many people feel that they are "playing with a stacked deck," and that they are the victims of economic manipulation. Most reasonable people agree that we cannot have random, uncontrolled development. No one wants that. But by the same token, if you're playing with a stacked deck, many people don't want to get into the game. Unfortunately the situation has now become so severe that most people now say, "Okay, we don't like it, but we've got to go along. We've got to get that plan acknowledged." The value of the acknowledged plan is so important that now everybody has caved in and says, "We've gotta play along." What Dick Benner said is true; there has been a great deal of resistance to planning, and I believe there still is.

MARADEL GALE:

Economic competition is a severe hindrance to any kind of coordinated coastal planning. When I was serving on the Coastal Commission we initially attempted to classify the estuaries and their suitability for particular uses. When that suggestion was first raised to the Commission, the hostility was really apparent because of the potential for economic harm to residents around those estuaries and to those port commissioners whose jurisdictions which were not included in the deep-draft or shallow-draft development categories. I've been chuckling about what was said about Coos and Curry counties because of their hostility to this idea which I raised at a Commission meeting. An editorial was subsequently written for one of the county newspapers which said in effect that if Maradel Gale ever set foot in Coos County she should be shot, and if she ever set foot in Curry County she'd be hung for advancing the notion that it might be a good idea to classify estuaries.

So I know that this is a longstanding concern. Much of the opposition is caused by the fear that these changes might dramatically affect people's chances of getting ahead economically, and that's obviously a very big issue on the coast. But the hostility is extremely deep-seated and probably more so on the south coast area than elsewhere.

RICHARD MATHEWS:

I'd like to reinforce what was just said. As Dick brought up regarding the classification of the Nehalem estuary, those people who are opposed to it for reasons other than the cost of rehabilitating the jetties were making a statement of their belief that another shallow-draft estuary is not necessary. That's tantamount to writing off the possibility of development of underutilized human resources in that area, as goal 9 requires. But there have to be definite state decisions as to where growth is going to occur, and when those decisions become manifest at the local level there's going to be opposition. When it comes to the classification of an estuary, the state exerts a certain degree of authority over the local level. I'm not saying that's bad or good, but it is a fact of life. There's one other thing which I dislike and now make reference to: We hear complaints from various groups that the state has not done this or that and that the goals are not being enforced. I'm glad, by the way, that Dick Benner's report on agricultural lands made no particular mention of the coast. So maybe we're enforcing the agricultural land preservation provisions better or perhaps they were just not included.

That's an argument you hear at every level. I've attended a number of federal level coastal zone management meetings along with Dick, and one of the arguments you typically hear is the states telling the federal government, "Yes, we like coastal zone management. We certainly think it's worthwhile. We also like those money grants, but we don't want any restrictions on them." I have to smile because it's the same thing I hear local governments telling the state. Sometimes you can go to public meetings and hear citizens telling the locals the same thing. So it's not an easy process. I don't mean to belittle it at all, or to make it seem unworthy or futile. But it is difficult.

[Question inaudible.]

RICHARD MATHEWS:

Well, I don't think the program will fade away. Whether there is a specific "coastal section" within the department is not important to the administration of the program. The coastal goals will remain to the extent that the state wants to maintain the federal consistency part of the program. I don't think we'll see the coastal program and the coastal jurisdictions funded to the level they have been in the past, at a level above the rest of the noncoastal jurisdictions in the state. The funding level will fall back to where it was, or will be equal to or on a par with the other noncoastal jurisdictions. But I think that we will maintain a coastal management program in any event. It's a question of whether the legislature is willing to invest

additional general funds to maintain the necessary staff. It's going to be a legislative decision whether the program is funded to the extent required to maintain compliance with the federal Coastal Management Program.

[Question inaudible.]

DICK MATHEWS:

If we lose funding for coastal planning we'll be left with a skeleton of regulations and standards, but we won't have the money to finish the plans. And that's going to be extremely frustrating because of the concerns expressed by Mr. Laird about not having certainty from the planning process. We'll be faced with having nothing to count on. The standards won't go away. What I expect, though, is that we'll have the same kind of enforcement problems in the future that we've had in the past. But in the estuaries those standards are more likely to be enforced because there is a separate state agency involved in the permit process. But we wouldn't have the benefit of the plan and the planning standards of the goal. I would expect, on the other hand, that the shorelands goal would fade away, because it's always been a "low priority" goal and it is ultimately implemented at the local level. And if there should be no funding to complete the plans, there is really no constituency in existence to speak for that goal. I would expect to see the coastal shorelands goal disappear, but not the estuary goal.

MARGUERITE WATKINS:

Well, I have to disagree with that. Dick said that we have another agency to enforce the estuary goal. I assume you're talking about the Division of State Lands? Well, we've had too many problems with illegal fills. It takes so long for the Division to do anything about them. Too long for effective enforcement. Ten years? Two years? It's been very slow.

RICHARD BENNER:

Could I respond real quickly to that? I would like to add to what Dick mentioned. One of the problems that we're seeing now is that some years ago the state and the local governments were using federal funds for their comprehensive land use planning. In some cases that included planning for all eighteen goals. In a sense then, the federal CZM funds have been used to subsidize state land use planning on the Oregon coast. Roughly one-third of the Department's budget right now is paid out of coastal zone funds. We had no problem with that initially. Our association never has objected to using those funds on the coast for coastal purposes. We are one of the forces pushing for an additional field representative on the coast. We will continue

to do so. But if we had used those resources more wisely in the past, we would have been farther down the line by this time. And to answer the question from the audience, our association will be telling the state that they have responsibility to maintain sufficient funding. It might not be enough to get those plans done and implemented, but I think it's their duty.

I think they'd be hard-pressed to say that Oregonians have not accrued some state-wide benefits from those funds, and the accruing benefits could pay back the costs within the next year or two. It would be a tragedy to see plans so near completion falter on the lack of federal funding.

MARADEL GALE:

I think we have come to the end of our hour, so I would like to thank the panelists and Dick Mathews, our speaker, for their presentations, and you the audience for your attention.

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