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FINAL

EVALUATION FINDINGS FOR THE
CALIFORNIA COASTAL MANAGEMENT PROGRAM
FOR THE PERIOD FROM SEPTEMBER 1989 THROUGH JUNE 1993

Office of Ocean and Coastal Resource Management
National Ocean Service
National Oceanic and Atmospheric Administration
United States Department of Commerce

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EXECUTIVE SUMMARY

The State of California is adhering to its Federally approved Coastal Management Program (CaCMP) by generally implementing and enforcing the CaCMP; addressing the coastal management needs identified in Section 303(2)(A) - (K) of the Coastal Zone Management Act; and adhering to the terms of its Federal financial assistance awards.

The Evaluation Team identified several major accomplishments during the review period. The CaCMP's lead agencies -- the California Coastal Commission (CCC), San Francisco Bay Conservation and Development Commission (BCDC) and State Coastal Conservancy (SCC) -- pursued innovative, new relationships with other State and Federal agencies and the private sector in an effort to bridge the widening gap between the resources provided by the State and NOAA for CaCMP implementation, and the agencies' statutory mandates. In many cases these new relationships transcend traditional interagency relations, introduce new ways of sharing resources and information, and establish cooperative approaches to data collection, research, information synthesis, and implementation through shared responsibilities in achieving mutual goals.

The overriding problem identified in this evaluation is the lack of adequate funding and staff resources for CaCMP implementation, which now threaten several core components of the CaCMP. Over the last five years, CCC's state funding has been reduced by 34%, BCDC's by 25% and SCC's by 96%. Despite cutting out virtually all discretionary expenditures, this has resulted in unavoidable staff reductions of 36% at CCC and 15% at BCDC. In FY 1993, CCC, BCDC and SCC have the lowest level of funding and staff resources since the CaCMP began in 1976.

The cumulative impacts of these reductions have resulted in serious adverse effects on most core CaCMP functions, including permitting, monitoring and enforcement, Federal consistency review, local coastal programs, public access, and planning and policy development on coastal issues of statewide significance, such as transportation, wetlands, hazards, oil and gas development, and nonpoint source pollution control. The budget reductions have also had the effect of curtailing opportunities for citizen participation in the coastal decision-making process. OCRM is concerned that continued erosion of funding for the CaCMP could jeopardize the State's ability to adhere to its Federally-approved program.

The principal accomplishments and recommendations are listed below in the order in which they appear in this report.

Major Accomplishments

A. CALIFORNIA COASTAL COMMISSION (CCC)

1. Despite budget and staff reductions, the CCC has still found ways to develop new interagency coordination initiatives -- making it possible for diverse entities to work together to advance their mutual interests more effectively than any single entity could do alone. Two noteworthy examples of these initiatives are the Santa Monica Mountains Enforcement Task Force and the Monterey Bay Initiative. The Santa Monica Mountains Enforcement Task Force, organized and operated by the CCC, brings together 26 governmental entities that have regulatory authority in the Santa Monica Mountains/Malibu Canyons area of the California coast to coordinate their enforcement activities to reduce illegal development. The Task Force has been very successful in improving the detection and prosecution of serious violations in an expeditious and cost effective manner. In the Monterey Bay Initiative, CCC played a key role in coordinating local and state agency involvement in the designation of the Monterey Bay National Marine Sanctuary and in the subsequent coastal resource management partnerships that are evolving in the area. Notably, these partnerships include public and private institutions and organizations at the local, state and Federal level and cross ocean and land jurisdictional boundaries.

2. CCC's Coastal Conservation Education Program is an award-winning program of public education and outreach that involves the public in coastal issues in a positive way. It involves curricula and educational materials for all age groups; an Adopt-A-Beach program; several award-winning posters, brochures and public service announcements; and a very successful 1992 Coastweeks program at which 39,000 people last year volunteered to clean up over 400 sites along the California coast. An innovative public/private partnership provides financial and promotional support for the program and has been critical to keeping the program going during times of severe State funding shortages.

3. One of the latest in the CCC's long list of noteworthy achievements in securing public access to the coast is the opening of the 3 and 1/2 mile long Pecho Coast Trail in San Luis Obispo County. The opening in February, 1993, culminated a 10 year planning and construction effort and allows the public for the first time to enjoy a spectacular stretch of coast that had been privately-owned and virtually off limits to the public since the time of Spanish rule in California.

4. Recognizing national and statewide demographic trends, which show that "minority" groups will constitute a majority of the U.S. population in the next century, and that these groups have historically had limited involvement in environmental issues and programs, CCC has developed a four-pronged initiative to expand ethnic diversity in all aspects of its operations. The

initiative involves: (1) a tremendous effort to revise job descriptions and rebuild state registers to remove impediments in the California civil service system to successful minority recruitment, (2) a specialized outreach program to encourage minority participation in coastal management in California, (3) an expanded coastal resources education program focusing on urban schools with a broad mix of ethnic representation, and (4) a minority internship program to develop a pool of environmental professionals among underrepresented minorities in coastal management at the CCC.

B. SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION (BCDC)

1. BCDC has continued its leadership on dredging issues by its participation in the development of a Long-Term Management Strategy (LTMS) for dredged material disposal in the San Francisco Bay region. During this process, BCDC staff have lead the effort to study upland disposal and reuse alternatives for dredged materials. These studies have resulted in the identification of several innovative and cost effective upland disposal and reuse alternatives, including use for wetlands restoration, use in landfills, and use in levee maintenance.

2. During this review period, BCDC successfully negotiated and arranged creative funding for the public purchase of approximately 10,000 acres of inactive salt ponds in the North Bay from the Cargill Salt Company. Public purchase of Cargill's property provides the opportunity to restore and enhance nearly 16 square miles of San Francisco Bay wetlands (an area almost a third the size of the City of San Francisco).

3. BCDC staff have explored a number of innovative ways to provide additional funding for BCDC's programs and cut the costs of BCDC's operations in order to deal creatively with the impacts of funding constraints. This effort has lead already to legislative approval of a dredging impact fee to fund BCDC's participation in the LTMS project. BCDC is now actively pursuing several other creative funding proposals at the state level.

C. STATE COASTAL CONSERVANCY (SCC)

1. The SCC is currently putting a significant portion of its available funds and substantial staff effort into the restoration of an 830 acre tract of land in the North Bay, known as Sonoma Baylands. All of the area was formerly wetlands. Part of the restoration is being done in cooperation with BCDC in order to demonstrate the use of clean dredged material to elevate subsided areas sufficiently for wetland vegetation to recolonize rapidly. Later phases of the restoration will use part of the property as a rehandling facility for dredged material that is non-toxic but not suitable for aquatic disposal, and will restore a third part of the property as shorebird habitat, which will involve maintaining 6" to 1' inundations throughout the winter months. The project

will provide multiple public benefits, including providing critical habitat for endangered species, expanding greatly needed waterfowl habitat along the Pacific Flyway, and demonstrating the cost effective use of clean dredged material as a resource.

Summary of Findings and Recommendations

Recommendations are presented in two forms: (1) NECESSARY ACTIONS address programmatic requirements and must be carried out by any date(s) indicated; if no date is indicated, action must be taken by the next scheduled evaluation. (2) PROGRAM SUGGESTIONS denote actions that OCRM believes the state should take to improve the program, but are not mandatory at this time.

A. CALIFORNIA COASTAL COMMISSION

Summary of Findings

1. **Staffing:** Lack of staff at CCC now threatens CaCMP program implementation in several key areas, such as permitting, monitoring and enforcement, local coastal planning, public access, Federal consistency and policy development on statewide coastal issues.
2. **Coastal Development Permitting:** CCC lacks technical expertise in wetlands biology and coastal geology necessary to perform its permit reviews effectively. Budget and staff reductions at CCC are also restricting citizen access to the decision-making process.
3. **Monitoring and Enforcement:** During this review period and in response to recommendations in the last evaluation, CCC made several improvements to its enforcement process, including increasing fulltime staff for enforcement, obtaining authority for Cease and Desist and Restoration Orders, developing After-the-Fact permit guidance, developing an automated enforcement tracking system, and establishing the Santa Monica Mountains Enforcement Task Force. Unfortunately, budget and staff reductions are threatening to undermine these improvements and are making it very difficult for CCC to provide adequate monitoring and enforcement in most areas.
4. **Federal consistency:** CCC has corrected procedural problems with its Federal consistency process noted in the last evaluation and has undertaken several commendable initiatives to improve coordination and streamline the Federal consistency review process. CCC's two fulltime staff for this function statewide are handling a growing Federal consistency workload with exemplary efficiency but they are hobbled by lack of travel funds to coordinate with Federal agencies or monitor the projects they review. Despite these constraints, CCC remains at the "cutting edge" on Federal consistency.

5. **Local Coastal Planning:** Although some progress continues to be made in developing LCPs and 64% of LCP segments are now certified, budget and staff reductions have forced the CCC to eliminate LCP grants and most technical assistance, and the Legislature has temporarily suspended the mandate for remaining localities without certified LCPs to develop them. In addition, outside parties are concerned that certified LCPs and Port Master Plans (PMPs) are being weakened by piecemeal amendments, while CCC lacks the staff to be involved proactively in most local coastal planning or in reviewing the cumulative impacts of incremental amendments. CCC has also had to abandon its periodic review process after completing just two reviews, one of which, Sand City, remains very controversial. Particular concerns were expressed about the lack of oversight of PMPs, and especially about piecemeal amendment of the San Diego Unified Port District's PMP, which citizens believe is jeopardizing the remaining wildlife habitat in South San Diego Bay. Unlike LCPs, there is currently no provision in the California Coastal Act for reviews of certified PMPs.

6. **Public Access:** CCC has obtained many offers to dedicate (OTD) public access easements, which have not yet been accepted and are nearing expiration of their terms. Because of staff reductions and inadequate computer equipment, CCC has been unable to identify, prioritize and take effective action on these expiring easements, nor was it aware of SCC's independent efforts to do so. Unless positive action is taken promptly, public access opportunities may be lost irretrievably.

7. **Coastal Nonpoint Pollution Control Program:** The CCC was an early leader in the development of this program. However, as the program broadens into a statewide program, progress has slowed.

8. **Wetlands Mitigation and Restoration:** The CCC must deal with two relatively new issues: (1) mitigation which is shifting habitat from one type to another -- i.e., from shallow-water habitat for waterfowl to deepwater habitat for fish; and (2) the use of wetland restoration as mitigation in advance of adequate knowledge about how to do it successfully. Mitigation alternatives for California Ports' projects remains a continuing controversial issue. In addition, the Governor has requested (in his recently released wetlands policy statement) a study of state assumption of wetland permitting authority under Section 404 of the Clean Water Act, which could have significant implications for both CCC and BCDC.

9. **Other Policy Issues:** Most of those interviewed for this evaluation felt that CCC should be focusing more on statewide coastal policy issues and policy coordination, but CCC is unable to do so because the direct permitting workload occupies most of its remaining staff. Among the statewide issues where CCC's expertise is needed are offshore oil and gas transportation and

extended reach drilling; fisheries; desalination; ocean resource management; coastal hazards; and port expansion.

10. **Equipment:** CCC's severe shortage of computers and antiquated equipment (Wang word processors) reduce efficiency in all facets of its operations because of inadequate capability for data storage, retrieval, communications and computer mapping.

11. **Outreach:** CCC needs to improve public understanding of its role in dealing with today's coastal issues, and its permitting process, to clear up public confusion and build renewed support for coastal management and nonpoint pollution control.

Summary of Recommendations

NECESSARY ACTION A-1: The CCC must prepare a staffing analysis which identifies minimum unmet staffing needs for CaCMP program implementation, analyzes the geographic and functional distribution of CCC's existing staff and any adjustments of that staff that can be made to meet these needs, and identifies those needs that can only be met with new staff resources. The staffing analysis must be completed and submitted to OCRM within six months of receipt of the final evaluation findings. (Note: CCC has informed OCRM that it annually prepares a staffing analysis as part of its budget request to the Resources Agency. This staffing analysis may meet the requirements of this Necessary Action if it contains all of the elements mentioned above.)

NECESSARY ACTION A-2: The CCC must include at least one fulltime staff person for enforcement in all of its Area Offices in the staffing analysis required under Necessary Action A-1. The staffing analysis must also identify needs for interns or other supporting staff in each Area Office to conduct monitoring activities and document enforcement cases.

NECESSARY ACTION A-3: The CCC and SCC must establish regular meetings or other regular coordination on their Joint Coastal Access Program and their efforts to identify expiring public access easements. A list of expiring easements must be developed and prioritized for immediate action by September 1, 1994.

NECESSARY ACTION A-4: The CCC must work with OCRM/Coastal Programs Division staff to develop priorities and an action plan for submitting program changes to the CaCMP to OCRM for review. The action plan must be submitted to OCRM by July 15, 1994.

PROGRAM SUGGESTION A-1:

a. The CCC should consider convening an Engineering Criteria Review Board, similar to the one BCDC had established which relied on pro bono geologic and engineering expertise, to assist the CCC in its review of grading and other permit applications which raise geologic and engineering issues. The

Board could be run by CCC's existing staff engineer, if some of her time could be made available.

b. The CCC should consider creating a directory of technical experts from academia and the private sector who would be willing to review project proposals or mitigation plans on a pro bono basis, if time allows.

PROGRAM SUGGESTION A-2: To improve citizen accessibility to the decision-making process, CCC should consider:

a. Establishing a Permit Review Committee to provide a pre-hearing on selected regular calendar permits and make recommendations to the full CCC. The Permit Review Committee could be made up of 3-5 Commissioners, who could travel to areas close to the site of proposed projects economically and could take the time to provide a fuller discussion of views and concerns on controversial proposals than the full Commission's agenda allows.

b. Requiring that regular calendar permit applications be advertised in local newspapers at the applicant's expense and be posted in CCC's Area Offices in order to provide the public with timely notice of the proposal.

c. Establishing deadlines for the production of staff reports and CCC meeting agendas so that they reach the public at least one week before the Commission is scheduled to meet and in time to give the public a reasonable opportunity to prepare written comments.

d. Scheduling Commission meetings in areas of the coast other than San Francisco and Los Angeles, if at all financially possible.

PROGRAM SUGGESTION A-3:

a. CCC should have at least one up-to-date personal computer (PC) at each Area Office, linked to a PC in Headquarters, and all capable of running the automated enforcement tracking system. This would allow all enforcement staff to have ready access to the information they need to perform their jobs efficiently and effectively.

b. CCC should continue to explore with NOAA and other Federal and state agencies the possibility of a joint aerial surveillance program to detect unpermitted activities.

c. CCC should continue its enforcement training workshops, which are open to the public. CCC should schedule these workshops regularly and notify the public and local governments in the areas where they are held. CCC should consider establishing and publicizing a tollfree number that citizens can use to report Coastal Act violations and should consider the use of citizen volunteers in its Area Offices to help follow-up on reports of violations and document enforcement cases.

d. CCC should consider expanding the concept of the Santa Monica Enforcement Task Force to other appropriate areas of the coast as resources become available.

PROGRAM SUGGESTION A-4:

a. CCC should consider making it a practice for one of its two Federal consistency staff to attend at least one day of

each Commission meeting, to be available for informal networking with Federal agencies and other interested parties.

b. CCC should make available a modest travel budget, if funds permit, for Federal consistency staff to perform site visits to projects they are reviewing.

c. CCC should consider using the funds set aside from its 1986 review of Chevron's Development and Production Plan for Platform Gail to carry out the cumulative impacts study of the Santa Barbara Channel. CCC may be able to stretch its funds further by linking up with the Coast Guard, the Corps of Engineers, the Environmental Protection Agency, the Ports of Los Angeles and Long Beach, NOAA's National Marine Sanctuary Program and National Marine Fisheries Service, the State Department of Fish and Game and others to pool funds and expertise these entities might use for special-purpose studies on such matters as navigation, fishing, port development, dredged material disposal, oil spill contingency planning, and protection of the Channel's unique resources. The region's future needs for oil transportation should be an issue included within this study.

PROGRAM SUGGESTION A-5:

a. The CCC should consider undertaking a Regional Cumulative Assessment Project in the San Diego area. The project should involve the local governments in the area as well as the San Diego Unified Port District. The CCC should review the San Diego Unified Port District's PMP and the cumulative impact of development proposals within the jurisdiction of the PMP as a part of this project.

b. The CCC should consider conducting a workshop (or series of workshops) with local, regional and state entities to develop a plan to address the future of local coastal planning in California. The plan should cover all stages of local coastal planning from state guidelines to local preparation and adoption to implementation by localities and CCC. The affected parties should consider whether to request that the Legislature provide funding for LCP development, provide sanctions for not developing an LCP within a specified period of time (for example, inability to access available funding and technical assistance), and require that LCPs be periodically updated at some required time intervals.

PROGRAM SUGGESTION A-6:

a. CCC and SCC should consider developing a pro bono project, in cooperation with private law firms or university law schools, under which attorneys or law students could assist the CCC and SCC to perfect public access easements.

b. CCC and SCC should seek alternative funding sources, including asking the Legislature for special funds, for coastal access signage and to prepare an updated report to the Governor and Legislature on the status and needs of the coastal access program in California.

PROGRAM SUGGESTION A-7:

a. CCC should consider convening a scientific review panel to prepare a regional overview of wetland habitat needs and

mitigation opportunities from Point Conception south to the California border with Mexico. The regional overview could identify critical habitat needs, potential mitigation sites and what functions each site could do well. The purpose of the overview would be to provide a regional context for future project by project habitat protection and mitigation decisions in Southern California.

b. CCC should consider convening a separate panel of interested parties (e.g., port officials, port users, citizen groups, academics and state and Federal agencies) to assist the Ports in identifying alternative forms of mitigation for port projects. Once the necessary scientific work is done to confirm the feasibility of a given alternative, this panel might be able to assist the Ports in responding to the Beverly Bill, including developing performance standards and monitoring regimes for alternative mitigation projects. CCC should explore opportunities for partially funding this panel as a demonstration project under the CZM Fund, if Federal appropriations allow.

c. CCC should include in its staffing analysis under Necessary Action A-1 consideration of relocating its Ports Coordinator from its San Francisco Headquarters to its Long Beach Area Office.

PROGRAM SUGGESTION A-8:

CCC should conduct an overall review of its equipment needs in both Headquarters and Area Offices. This should include inventorying existing equipment, identifying and prioritizing needs, and developing a budget to meet those needs. CCC should present the results of its review to the California Resources Agency and OCRM and discuss options for special funding, equipment transfers or other means to meet CCC's priority needs.

PROGRAM SUGGESTION A-9:

The CCC should consider developing brief information publications or fact sheets. One publication should explain why the California Coastal Act was passed in 1976 and why coastal management is still needed in California. This publication should explain the linkage between continued coastal development and resource protection, access, and health and safety concerns. A second publication should explain the CCC's permitting process, including actual statistics on costs, processing times, paperwork requirements, and approvals/denials, so that when exaggerated claims are reported, people can ascertain the facts. A third publication should explain what nonpoint pollution is, what a watershed is, how people's activities in inland parts of a watershed affect coastal resources through drainage from higher to lower elevations in the watershed, and how the Coastal Nonpoint Pollution Control Program will help to control this form of pollution. These documents might be produced cost effectively by relying primarily on volunteers with CCC staff oversight. They could be photocopied, if no printing funds were available, and offered to citizens, interest groups, businesses, the Legislature, and others concerned about California's coastal resources.

B. SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION (BCDC)

Summary of Findings

1. Planning:

a. Through its participation in the Long Term Management Strategy (LTMS) on dredging and dredge spoil disposal in San Francisco Bay, BCDC has identified alternatives to in-Bay disposal which would use dredged material as a resource rather than a waste.

b. BCDC has played a key role in the development of a Comprehensive Conservation and Management Plan (CCMP) for the San Francisco Estuary Project (SFEP), part of the National Estuary Program.

c. Funding and staff reductions have virtually eliminated BCDC's ability to engage in proactive long-range planning for many critical issues facing San Francisco Bay, such as marsh and mudflat policy development, freshwater diversions affecting the Bay, airport expansion and major transportation planning needs around the Bay, nonpoint source pollution control, and coastal hazards.

2. Permitting: BCDC has undertaken several commendable initiatives to streamline permitting processes. Unfortunately, with large transportation issues looming, BCDC has not been able to hold Engineering Criteria Review Board (ECRB) meetings because BCDC lost its staff engineer to run the Board. In addition, public participation opportunities have been reduced due to budget constraints.

3. Enforcement: BCDC has the tools necessary for an effective enforcement program, but lacks adequate staff for this function. At the time of the evaluation site visit, BCDC had no fulltime staff devoted exclusively to enforcement. Although BCDC's Enforcement Committee and two staff attorneys spend a considerable amount of time handling enforcement cases, the only full-time staff working on enforcement were two interns.

4. Federal consistency: BCDC continues to implement Federal consistency effectively. OCRM has offered to work with BCDC and affected Federal agencies on resolving issues that have arisen regarding Federal consistency review of base closures, the applicability of BCDC's new dredging impact fee, and time limits on Federal consistency concurrences.

5. Public Information: Due to budget constraints, BCDC has had to drop its public information program at a time when it is more needed than ever.

Summary of Recommendations:

NECESSARY ACTION B-1: BCDC must try to secure additional funding so it can devote fulltime staff to its enforcement program. If additional financial support can be secured, BCDC must assign at least one fulltime staff person to this function and resume regular field monitoring to detect unpermitted activities. BCDC must report to OCRM on its enforcement staffing and its effort to secure additional funding for a fulltime enforcement position by September 1, 1994.

PROGRAM SUGGESTION B-1: BCDC has played a key role in the development of the LTMS. As the process enters the critical phase where policy choices will be made, BCDC should continue its active involvement and support for disposal options that, where possible, increase reliance on upland disposal and reuse and decrease reliance on in-Bay disposal of dredged material.

PROGRAM SUGGESTION B-2: Since the SFEP's CCMP is so closely related to the San Francisco Bay Plan, that BCDC implements, BCDC should continue its active involvement in the SFEP and in implementing the CCMP.

PROGRAM SUGGESTION B-3: As soon as funds and staff permit, BCDC should expand its proactive planning program to address more fully the major issues that will affect the future of the Bay. BCDC should prioritize long-range planning needs so that limited funds can be applied to the highest priority planning projects. BCDC should continue to seek innovative special funding for planning activities, such as the dredging impact fee that is funding its participation in the LTMS.

PROGRAM SUGGESTION B-4: BCDC should ask the Governor and Legislature, through the State Resources Agency and the Department of Finance, to reinstate the position and funding for BCDC's staff engineer, so that the Engineering Criteria Review Board can be reactivated.

PROGRAM SUGGESTION B-5: BCDC should reconsider its policy of charging for staff reports, in relation to the revenue received versus the adverse impact on public participation, and report its conclusions to OCRM. BCDC should also consider whether it is possible to allocate some time on its agenda for presentation of citizen issues and concerns.

PROGRAM SUGGESTION B-6:

a. Funds should be sought from the Legislature to update and reprint the San Francisco Bay Plan. The Plan should incorporate all approved changes to date, so that citizens and applicants alike can go to one source for up-to-date policy guidance and requirements governing permitting and Federal consistency review of activities in San Francisco Bay.

b. BCDC should also consider resuming the development of a brief annual summary of the state of the Bay and its activities to protect the Bay. The summary might be developed cost effectively by relying primarily on volunteers with BCDC staff oversight. It could be photocopied if no printing funds were available, and offered to interest groups, the media, citizens, the Legislature and others concerned about the Bay and its resources.

c. As the only governmental entity representing all of the diverse interests in San Francisco Bay, BCDC should consider requesting support and funding, through the State Resources Agency and the Department of Finance, from the Governor and Legislature to undertake a comprehensive study of the issues that will impact the Bay into the 21st century. This could include the planning issues mentioned on pages 60-62. Other states and regions have found such studies useful for both environmental stewardship and economic renewal. Such a study would be compatible with other business/environmental efforts to promote regional growth strategies for the Bay. BCDC should investigate alternative funding sources for this study.

C. STATE COASTAL CONSERVANCY (SCC)

Summary of Findings

1. **Public Access:** Although SCC does presently not for the time being have funds to assist the CCC in perfecting outstanding offers to dedicate (OTD) public access easements, it recently took over inventorying of OTDs and is automating the inventory as staffing permits. This will make it possible to identify expiring OTDs more quickly and easily. However, the Evaluation Team found that the CCC was not aware of the SCC's inventorying efforts. Also, coastal access signage does not identify the SCC or CCC, nor does it acknowledge their roles in making the access possible.

2. **Wetlands Mitigation/Restoration:** The SCC has put together many wetlands mitigation/restoration projects over its 20+ year existence, but to the Evaluation Team's knowledge, there has been no published follow-up on the results.

3. **Nonpoint Source Pollution:** The SCC has played a limited role in the development of California's Coastal Nonpoint Pollution Control Program (CNPCP).

Summary of Recommendations

NECESSARY ACTION C-1: The SCC must meet with the CCC, including the CCC's Public Access Coordinator, to discuss the OTD inventory, clarify the respective roles of the SCC and the CCC in its further development and updating, and arrange for regular coordination to identify priority OTDs, especially those whose terms are expiring, where prompt action to arrange acceptance is needed. This Necessary Action must be completed by September 1, 1994.

PROGRAM SUGGESTION C-1: The SCC and CCC should ask the Legislature for funding for coastal access signs and should consider revising new signs to acknowledge their role in securing public access.

PROGRAM SUGGESTION C-2: The SCC should evaluate and summarize the results of its wetlands mitigation and restoration projects to date, and publish the results.

PROGRAM SUGGESTION C-3: The SCC should work with the CCC and the State Water Board to analyze where SCC's expertise would be most useful in the development of California's CNPCP and develop a specific plan, agreed to by all parties, for its participation.

INTRODUCTION

Section 312 of the Coastal Zone Management Act (CZMA) requires the Secretary of Commerce to conduct a continuing review of the performance of states with approved coastal management programs. This responsibility was delegated to the Director of the Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), United States Department of Commerce.

This evaluation report sets forth the findings and recommendations of the Director with respect to the performance of the California Coastal Management Program (CaCMP) for the period from September, 1989 through June, 1993. The report contains a summary, a brief description of the CaCMP, information about review procedures, findings and recommendations, a discussion of program changes, and a conclusion.

Recommendations are presented in two forms: NECESSARY ACTIONS address programmatic requirements that must be carried out by any date(s) indicated and PROGRAM SUGGESTIONS denote actions that OCRM believes the state should take to improve the program, but are not mandatory at this time. If no dates are indicated, the state is expected to have addressed the recommendations by the following program review. Program Suggestions that must be reiterated in consecutive evaluations to address continuing problems may be elevated to Necessary Actions. The findings in this report will be considered by NOAA in making decisions regarding financial assistance awards.

II. PROGRAM DESCRIPTION

The CaCMP is comprised of two segments, one for the San Francisco Bay and the other for the remainder of California's coast. On February 16, 1977, NOAA approved the management program for the San Francisco Bay segment, which is administered by the Bay Conservation and Development Commission (BCDC), and on November 7, 1977, NOAA approved the management program for the rest of the coast, which is administered by the California Coastal Commission (CCC). The Governor designated the CCC as the lead agency for the administration of NOAA grants for program implementation under Section 306 of the CZMA.

The State's basic coastal management goals for the Pacific coast segment of the CaCMP are expressed in Chapter 1 of the California Coastal Act (CCA). These goals are to:

- Protect, maintain, and where feasible enhance and restore the overall quality of the coastal environment and its natural and manmade resources.
- Assure orderly, balanced use and conservation of coastal resources taking into account the social and economic needs of the people of the State.
- Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resource conservation principles and constitutionally protected rights of private property owners.
- Assure priority for coastal-dependent development over other development on the coast.
- Encourage State-local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

The CCA also contains specific policies pertaining to public access, recreation, marine resources, land resources, residential and industrial development, and port development. These policies are implemented through the coastal development permit process and the development and certification of LCPs which the CCA requires all coastal cities and counties to prepare.

The State's goals for management of the San Francisco Bay segment of the CaCMP are expressed in Chapter 1 of the McAteer-Petris Act of 1965, as amended, and include the following:

- Limit further filling of the Bay to water-oriented uses and then only when the public benefits from the fill clearly exceed the detriment from the loss of water area.
- Identify shoreline areas that are needed for high priority water-oriented uses such as ports, water-related industry, airports, water-related recreation, and similar uses, so that they can be reserved for such uses, thereby preventing unnecessary filling.
- Increase public access to and along San Francisco Bay.
- Undertake a continuing review of all characteristics of the Bay.

A third statute of the CaCMP, the Conservancy Act of 1976, established the Coastal Conservancy, which plays an integral role in implementing State coastal policies concerning agricultural land protection, critical area restoration, public access, and resource enhancement. The Conservancy's acquisition and restoration responsibilities complement the CCC and the BCDC planning and regulatory functions.

A. CALIFORNIA COASTAL COMMISSION (CCC)

The CCA established the CCC to control development within the State's coastal zone in order to protect unique coastal zone resources and enhance public access to the shoreline in a manner which furthers the policies of the CCA. The CCC consists of 12 Commissioners and 3 ex-officio members representing other State agencies (the Resources Agency, the State Lands Commission, and the Business and Transportation Agency). The membership includes six city council members or county supervisors, nominated by local governments, and six non-elected members of the public representing the six coastal regions. Four of these appointments are allotted each to the Governor, to the Speaker of the Assembly and to the Senate Rules Committee.

Until July 1981, six Regional Commissions had direct permitting authority for almost all coastal development in areas without certified local coastal programs (LCPs). All Regional Commission actions on permit applications could be appealed to the CCC. In July 1981, the Regional Commissions were dissolved and the CCC assumed direct permitting authority for areas without a certified LCP. When an LCP is certified by the CCC as consistent with the goals and policies of the CCA, permit authority for that area is assumed by the local government. After LCP certification, however, development in state tide-lands, submerged lands and public trust lands continues to require a permit from the CCC. Aggrieved persons may appeal to the CCC

limited types of local government decisions made under certified LCPs. The staff which the CCC had assigned to the Regional Commissions now serves as district office staff of the CCC.

Under the CCA, LCPs are required for coastal cities and counties. Four ports have prepared master programs in conformance with the port development policies of the CCA. LCP development is carried out in three phases: (1) identification of conflicts between the applicable policies of the CCA and the preexisting land use plan and preparation of a work program to resolve those conflicts; (2) preparation of a land use plan; and (3) preparation of implementing ordinances. Most local governments have completed the first phase and are developing or have completed land use plans and ordinances. Elsewhere in this report is a more detailed discussion of the rate of the LCP adoption and certification.

B. BAY AREA CONSERVATION AND DEVELOPMENT COMMISSION (BCDC)

Under the McAteer-Petris Act, filling, extraction of materials, or substantial change of use within the BCDC's jurisdiction requires a permit. The BCDC has prepared a management plan, called the San Francisco Bay Plan, which contains the enforceable policies BCDC uses in reviewing permit applications for projects in the Bay and along the Bay shoreline. The Bay Plan, which is one component of the CaCMP, contains policies on fish and wildlife, water pollution, surface waters, marshes and mudflats, fresh water inflow, dredging, water-related industries, ports, airports, recreation, public access, salt ponds, transportation, project appearance and design, and scenic views. A 1969 amendment to the McAteer-Petris Act approved the Bay Plan and established the BCDC as the management agency for the Bay. BCDC's coastal management program for the San Francisco Bay segment of the California coastal zone is incorporated into the CaCMP.

In addition to the permit program, the BCDC, with the support and cooperation of local governments, develops special area plans, consistent with the McAteer-Petris Act and the San Francisco Bay Plan policies, which contain enforceable policies and use designations regarding filling, dredging, or changes in specific areas. Developed with the cooperation of local governments and State and Federal agencies, such special area plans are adopted by the BCDC as amendments to the Bay Plan and by local governments as amendments to their general plans and zoning ordinances.

The Suisun Marsh Protection Act of 1974 gave BCDC greater authority over the Suisun Marsh wetlands and required local governments to prepare local protection plans for the wetlands and surrounding upland area to be certified by the BCDC. The BCDC maintains permanent permit authority over development in the Suisun Marsh wetlands and appellate authority over local government permits in the surrounding upland area.

C. STATE COASTAL CONSERVANCY (SCC)

The California Coastal Conservancy, whose enabling legislation is a part of the CaCMP, the CCC, and the BCDC carry out the State's comprehensive coastal access program. In 1979, the California Legislature amended the CCA to create the Joint Coastal Access Program to coordinate the efforts of public agencies and non-profit organizations to purchase, develop, operate, and maintain public accessways along the coast. The Conservancy acquires coastal lands through State and Federal funding sources and develops or improves facilities through grants to local governments from the same sources.

The Joint Access Program was required by State law to prepare standards and recommendations for identifying, acquiring, developing, and managing coastal accessways. The CCC and the Conservancy adopted standards in 1980 which were expanded in 1981 and included in the California Outdoor Recreation Resources Plan. The standards and recommendations form the basic guidelines used to review LCPs for adequacy of public access provisions and local applications for Conservancy grants, and in negotiations with other agencies to open and manage public accessways.

The Conservancy is responsible for implementing a program of agricultural lands protection, area restoration, public access, and resource enhancement in the coastal zone. The Conservancy is empowered to: (1) acquire agricultural lands to prevent the loss of such lands to other uses, and to assemble such lands into parcels of adequate size to permit continued agricultural production; (2) provide grants to local agencies for, or undertake itself, projects designed to restore areas which may be adversely affecting the coastal environment or impeding orderly development due to poor lot layout, scattered ownerships, incompatible land uses, or other conditions; (3) award grants to local or state public agencies for, or undertake itself, projects designed to enhance natural and scenic values threatened by dredging or filling, improper location of improvements, and other conditions; (4) undertake projects in the preservation of significant coastal resource areas until other public agencies are willing or able to acquire such sites; (5) award grants to the California Department of Parks and Recreation or to local public agencies for the purpose of acquiring and developing public accessways to the coast; and (6) award grants and provide technical assistance to nonprofit organizations.

III. PROGRAM REVIEW PROCEDURES

The OCRM Policy Coordination Division (Evaluation Staff) began its current review of the CaCMP in March 1993. The review included an analysis of the CaCMP program documents, the evaluation period financial assistance awards and performance reports, correspondence relating to the CaCMP, written and oral comments from interested citizens, government officials and organizations and other relevant information. The Evaluation staff worked with other OCRM officials to prepare notification letters to the State lead agencies which identified issues for evaluation. The State lead agencies prepared briefing materials for the Evaluation Team on each of the issues cited in these letters. These briefing materials were also used as a primary source of information on CaCMP operations.

OCRM informed Federal agencies which participated in the development and review of the CaCMP of the evaluation and requested them to answer questions about the State's performance during the review period. OCRM held meetings with numerous interested Federal agencies.

OCRM conducted an on-site review of the CaCMP June 7 through July 17, 1993. The on-site evaluation team included Vickie Allin, Chief, Policy Coordination Division; David McKinnie, Evaluation Staff, Policy Coordination Division; John King, Pacific Region, Coastal Programs Division; and Ralph Cantral, Director of the Florida Coastal Management Program.

The evaluation team held meetings with representatives of State, Federal, and local agencies, public interest groups, industry, citizens' organizations and individuals involved in coastal management issues. A list of those who met with OCRM during the evaluation is attached (Appendix A). The evaluation team held public meetings during the site visit at the following times and places: San Rafael on June 9, 1993 at 7:00 p.m. and Los Angeles on June 15, 1993 at 7:00 p.m. Those persons signing in at the public meetings are listed in Appendix B. At the meetings, the evaluation team provided written information to the public describing the purpose of the meeting. All written comments presented at the public meeting or subsequently forwarded to the OCRM are a part of the official record of this evaluation and are retained in the OCRM California evaluation files. OCRM's responses to written comments are contained in Appendix C.

IV. ACCOMPLISHMENTS

As described elsewhere in these findings, all of the CaCMP's lead agencies -- the California Coastal Commission, the San Francisco Bay Conservation and Development Commission, and the State Coastal Conservancy -- have faced massive reductions in funding and staff levels. In many cases, their ability to fulfill their mandates under the CZMA, the California Coastal Act, and other statutes is jeopardized. There can be no doubt, however, that the situation would be far worse had they not immediately pursued innovative, new relationships with other state and Federal agencies and the private sector in an effort to bridge the widening gap between the resources provided by the State and NOAA, and the agencies' statutory responsibilities. In many cases, these new relationships transcend traditional interagency relations, introduce new ways of sharing resources and information, and establish cooperative approaches to data collection, research, information synthesis, and implementation through shared responsibilities in achieving mutual goals.

The speed with which the agencies developed and adopted what is essentially an entirely new way of conducting agency operations demonstrates an ability to respond constructively to unfavorable conditions for which both agency leadership and staff should be commended. The accomplishments cited below illustrate just a few of the results of these new relationships.

A. CALIFORNIA COASTAL COMMISSION (CCC)

1. Interagency Coordination Initiatives

Despite tremendous problems caused by loss of staff and funding, the CCC has still found ways to carve out new ground in developing cooperative activities -- making it possible for diverse entities to work together to advance their mutual interests more effectively than any single entity could do alone. Two noteworthy examples of these initiatives are the Santa Monica Mountains Enforcement Task Force and the Monterey Bay Initiative.

a. Santa Monica Mountains Enforcement Task Force

Although, in most areas of the California coast, the coastal zone landward boundary is 1000 feet (or less) from mean high tide, in significant coastal estuarine, habitat, and recreational areas, it extends inland for up to 5 miles. The Santa Monica Mountains/Malibu Canyons is one such area. Twenty-six governmental entities, including the CCC, have regulatory authority in this area. These entities regulate development activities such as construction, demolition, grading, vegetation removal, streambed alteration, and installation of shoreline protective structures. Other regulatory responsibilities include law enforcement, water quality, wildlife management,

wildfire control, insect control, weed abatement, recreation, and other areas necessary to protect public health and safety.

Many important wildlife species and their sensitive habitats are found throughout the Santa Monica Mountains/Malibu Canyons area, as are significant archeological sites. A major earthquake fault zone is located in the area and there are seasonal risks of landslides, brush fires and shoreline damage due to storms and erosion. For many years, there have been a disproportionate number of Coastal Act violations reported in this area.

Because of these natural hazards and sensitive resources, and because of the multiple agency jurisdictions, in the late 1980s, a CCC Commissioner and LA County Supervisor proposed the creation of an enforcement task force to allow the various local and state agencies to work together to protect the Santa Monica Mountains natural resources, coordinate enforcement activities, and reduce the amount of illegal development activity occurring in the area. The Santa Monica Mountains Enforcement Task Force was formed in January, 1990. Since its inception, the Task Force has given priority to violation cases involving "repeat offenders" and to cases involving irreversible damage to the natural resources of the Santa Monica Mountains area, especially to beaches, wetlands and streams. The Task Force meets monthly to discuss the status of existing cases, to review new cases, and to develop effective enforcement strategies. The members of the Task Force include:

- o California Attorney General's Office,
- o California Coastal Commission,
- o California Department of Fish and Game,
- o California Department of Parks and Recreation,
- o California State Lands Commission
- o California Highway Patrol,
- o Ca. Regional Water Quality Control Board: LA Region,
- o Malibu Department of Building and Safety,
- o Malibu City Council,
- o LA County Counsel,
- o LA County Department of Beaches and Harbors,
- o LA County Division of Building and Safety,
- o LA County Department of Health Services,
- o LA County Department of Regional Planning,
- o LA County District Attorney's Office,
- o LA County Fire Department,
- o LA County Mosquito Abatement District,
- o LA County Sheriff's Department,
- o LA County Supervisor's Office: Third District,
- o LA County Agriculture Commissioner: Weed Abatement Div.,
- o National Park Service: SMM National Recreation Area,
- o Santa Monica Bay Restoration Project, and
- o Santa Monica Mountains Conservancy

Since its inception, the Task Force has had a marked positive effect on enforcement in the Santa Monica Mountains area. Because many enforcement cases involve violations of several agencies' regulations or permitting requirements, enforcement agencies have been able to coordinate their enforcement activities and develop unified enforcement strategies on cases of mutual interest. This has resulted in more efficient and effective enforcement, including several high profile enforcement actions, which have received widespread publicity. The publicity for enforcement may be one of the most important factors in the long-run, because of its deterrent effect. The Task Force also has carved out a positive role in public education and has produced a Directory, a brochure on how to obtain permits in the Santa Monica Mountains and Malibu Beach area, and a brochure on how to report violations. Further, individual agencies' scarce resources have been maximized. Through information sharing, the designation of a "lead" agency for prosecuting a particular case and other efficiencies, Task Force participants have been able to fulfill their enforcement responsibilities more completely and cost effectively.

The Task Force is being viewed as a model for more coordinated enforcement in other areas. Task Force members believe that wherever there are large numbers of enforcement cases and wherever the coastal zone extends inland far enough to cross many agency jurisdictional lines, this kind of task force would be a useful tool. Already representatives of Ventura County have attended Task Force meetings and expressed interest in developing a similar task force.

The CCC is the backbone of the Task Force. Although the Task Force is currently co-chaired by representatives from the Regional Water Quality Control Board and the National Park Service/SMM National Recreation Area, all logistical and operational support for the Task Force is provided by the CCC's Ventura Area Office. As Task Force members told the Evaluation Team, without the CCC's willingness to provide organizational and staff support, the Task Force could not continue. Because of the CCC's severe budget and staff constraints, it is unlikely that the CCC could support another such effort without additional resources. It should be noted that grant assistance from the Environmental Protection Agency's Santa Monica Bay Restoration Project (National Estuary Project) has partially supported the CCC's involvement in the Task Force, particularly allowing the CCC to focus on violation issues relating to nonpoint source pollution.

b. Monterey Bay Initiative

CCC also played a key role in coordinating local and state agency involvement in the designation of the Monterey Bay National Marine Sanctuary (MBNMS). There was huge public support for the sanctuary, which was seen as the coming of age of coastal protection on the Central California coast. The CCC Central Coast

Area Office has facilitated coordination with the cities and counties, and has facilitated joint projects with the nearby Elkhorn Slough National Estuarine Research Reserve (ESNERR). For example, the CCC helped to develop and generate outside grant support for a demonstration project at ESNERR to evaluate agricultural runoff from strawberry farming and develop nonpoint source pollution controls to protect the water quality of Monterey Bay. The results will feed into the CCC's Regional Cumulative Assessment Project (RECAP), described briefly below and on page 41, and the State's development of a Coastal Nonpoint Pollution Control Program under Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (see pages 47-48).

The CCC's coordination activities are also helping to bring the sanctuary, reserve and coastal program together in areas of common interest, such as facilitating the publication and translation of research results at the local level. The CCC Central Coast Area Office Director serves on the research committee of the MBNMS and on the advisory committee of the ESNERR. From these positions, she is able to identify management needs for information and research, and emphasize the importance of public outreach to inform the public of research results and translate research results for use at the local level.

The CCC has other interagency efforts underway. As mentioned above, one promising effort is ReCAP, which will identify broad coastal development trends and the cumulative impacts of those trends in identified coastal regions. The pilot ReCAP is being conducted in the Monterey/Central Coast region. In addition, the CCC's early sponsorship of the Morro Bay pilot nonpoint source study has been instrumental in both clarifying the issues for implementation of California's Section 6217 Coastal Nonpoint Pollution Control Program and in developing the partnership between CCC, the State and Regional Water Quality Control Boards, and local governments on this important program. CCC has also tried to facilitate coordination between scientists and resource managers wherever possible. Through coordination with the California Regional Marine Research Board (under the "Mitchell Bill"), which is developing research goals for California, its staffs' participation on marine sanctuary and estuarine reserve scientific advisory panels, its coordination with Federal agencies, including NOAA, on photogrammetry, oil spill contingency planning, and geographic information systems, and other efforts, CCC is continuing to reach out both to producers and users of scientific information to improve coastal management decision-making.

2. Coastal Conservation Education Program

The CCC has developed an excellent, multi-faceted program of public education and outreach to involve the public in coastal issues in a positive way. Called the Coastal Conservation

Education Program, it consists of: (1) a school Adopt-A-Beach curriculum, (2) a Youth Group Guide adapted to the special needs of youth organizations such as Campfire, Scouts, YMCA, YWCA, 4H, etc., (3) a citizens organizations Adopt-A-Beach manual with particular emphasis on broadening community involvement, (4) a Beach Managers' Guide to the Adopt-A-Beach program structure, (5) general public educational materials such as public service announcements, feature articles, TV and radio appearances, and (6) an education outreach program for schools and youth and citizen groups.

The program was launched on Coastweeks in September/October, 1989, with 10,000 people pitching in to clean up over 200 sites all along the California coast. By Coastweeks '93, the number of volunteers had almost quadrupled (to 39,000) and the number of cleanup sites doubled (to over 400). In addition, through the Adopt-A-Beach Program, cleanup is no longer a one day a year event. Many clean up volunteers have joined the Adopt-A-Beach Program to keep their adopted areas clean and free of marine debris all year long.

Along with these "hands on" events to raise public awareness and understanding of coastal pollution, and focus on what the public can do to prevent it, are the curricula and youth and citizens guides to facilitate learning about the coasts, and several award-winning posters, brochures and public service announcements (PSAs), which have been developed to promote the program. Among other honors, the Adopt-A-Beach PSA has received the "Take Pride in California" award, a JOEY (San Jose Convention and Visitors Bureau/San Jose Film and Video Commission Award of Excellence), an ADDY (Northern California Advertising Association award for the best Regional/National Campaign in Public Service Advertising), a TELLY (Telluride National Educational Film and Video Festival award for best PSA), a State Information Officers Council Award, a nomination for best PSA at the Sacramento Film Festival and a nomination for an EMMY.

The Adopt-A-Beach Program also formed a partnership in 1990 with the Nautical Heritage Society to create "COASTLINK '90." COASTLINK '90 was part of the Governors officially proclaimed YEAR OF THE COAST. The Adopt-A-Beach program was part of a permanent exhibit aboard the tallship CALIFORNIAN, which celebrated the YEAR OF THE COAST with a special tour, stopping at 17 ports of call along the California coast. In addition to the display, anyone wanting to board the ship took the Coastal Pledge and signed up to participate in Adopt-A-Beach.

The CCC organized a special celebration of the 20th Anniversary of Earth Day. As part of this celebration, the CCC worked with the media to focus special attention on one success story in the Los Angeles area. Students participating in the Venice High School Adopt-A-Beach program took what they learned at the beach (that "Recycling is a Solution to Pollution"), and applied that knowledge through initiation of a recycling program

in their school. They then used the proceeds from the recycling program to purchase and preserve threatened rainforests in Costa Rica.

As an example of the CCC's efforts to identify alternative funding sources, the Coastal Conservation Education Program is supported entirely by a public/private partnership to provide financial and promotional support. Private partners include Lucky Stores, Inc., Pepsi, Kraft General Foods, the American Plastics Council, the California State Parks Foundation, and the advertising firm of Foote, Cone and Belding, Inc. These sponsors were especially critical to the program in 1993, when the State's budget crisis almost ended it. They stepped in to provide the financial and promotional support that made statewide organizing possible.

The Coastal Conservation Education Program received national recognition when it was awarded first place in the 1990 and 1991 "Take Pride in America" awards and first place in the 1991 "Keep America Beautiful" National Awards competition in the State/Federal Agency category. The program continues to develop in innovative ways and increase its beneficial connections with educators and citizens interested in learning about coastal issues.

3. The Pecho Coast Trail

The CCC has a long record of noteworthy achievement in securing increased public access to the California coast. One of its latest successes is the opening of the 3 1/2 mile long Pecho Coast Trail in San Luis Obispo County. The opening in February, 1993, culminated a 10 year planning and construction effort and allows the public for the first time to enjoy a spectacular stretch of coast that had been privately owned, and virtually closed to the public, since the time of Spanish rule in California.

The Trail resulted from a condition placed by CCC on a coastal development permit requested by Pacific Gas & Electric (PG&E) in 1983 to expand its nuclear facility located in San Luis Obispo County. The condition required PG&E to dedicate a 3 1/2 mile long lateral bluff trail for public use and develop a detailed plan to provide public access compatible with the security needs of the nearby nuclear powerplant and without endangering the area's sensitive natural resources. The most sensitive resource concern is protection of sea otters which pup on the area's small pocket beaches. This is a very rare occurrence attributable to the long history of minimal human disturbance.

The "Accessway Management Plan" resulting from this condition provides for public access limited to docent-led tours of no more than 15 people two times per week. The Nature Conservancy, a

national non-profit conservation organization, has agreed to operate and maintain the Trail under a Memorandum of Understanding with CCC and PG&E. A beautiful brochure has been produced to acquaint the public with the Trail. As a further permit condition, PG&E established a fund which paid for construction of the Trail and some operation and maintenance. Efforts are underway to create a "Friends of the Pecho Coast Trail" organization to ensure the Trail's long-term maintenance.

4. Ethnic Diversity Initiative

The CCC has developed a four-pronged initiative to expand ethnic diversity in all aspects of its operations. This initiative recognizes national and statewide demographic trends, which show that "minority" groups will constitute a majority of the U.S. population in the next century. It also recognizes that minority groups, even though they may be disproportionately exposed to environmental hazards, have historically had limited involvement in environmental issues and programs. These groups need to be engaged in developing a common environmental agenda for the future.

The initiative consists of:

(1) *Staffing.* Building on CCC's existing Affirmative Action Program, CCC is taking actions to remove impediments to successful minority recruitment. CCC was among the first to focus on low minority participation as a particular problem of environmental programs. As a partial solution to this problem, CCC has undertaken a tremendous effort to review and revise job specifications and interview literally hundreds of people in order to rebuild state registers for coastal program analyst positions.

(2) *Outreach.* CCC is developing and implementing an outreach program to encourage minority participation in coastal management in California, including creating a "Listeners Bureau," a combined Speakers Bureau and feedback mechanism through which Commissioners and staff become the CCC's eyes and ears, as well as voices, in fostering discussions with minority leaders in local communities.

(3) *Education.* CCC is expanding its coastal resources education program by focusing on urban area schools having a broad mix of ethnic representation with the purpose of increasing awareness about the importance of coastal resources and of career opportunities in environmental programs. This includes building on the success of the Adopt-A-Beach program in involving minority youth by filling two gaps -- developing a high school age curriculum to supplement the award-winning existing K through 6 curriculum, and raising funds for buses to bring inner city children without independent transportation to the beach as part of Adopt-A-Beach.

(4) *Minority Internship Program.* The CCC is modifying its existing internship program by creating new and more meaningful opportunities for minority participation. The CCC plans to use essentially all of its very limited FY 1994 available funding for internships to hire minority interns to perform enforcement functions at its Headquarters and Area Offices.

B. SAN FRANCISCO BAY AREA CONSERVATION AND DEVELOPMENT COMMISSION (BCDC)

1. Leadership in Dredging Issues

BCDC has continued its long history of leadership on dredging issues. During this review period, BCDC has been responsible for advancing the debate on dredging issues beyond permit streamlining and disposal to the reuse of dredged material as a resource.

Much of BCDC's leadership during this review period has occurred through its participation in the development of a Long-Term Management Strategy (LTMS) for dredged material disposal in the region. (See related discussion, pages 58-59.) During this process, BCDC staff have lead the effort to study upland disposal and reuse alternatives for dredged material. These studies have resulted in the identification of several innovative and feasible upland disposal and reuse alternatives, including:

a. *Wetlands Restoration.* Clean dredged material can be used to raise the elevation of subsided and low-lying diked areas so that they will rapidly recolonize as marsh if the dikes are breached. This reuse alternative is being proposed in the Sonoma Baylands project, which is being sponsored by the State Coastal Conservancy (see pages 15-16). At Sonoma Baylands, clean dredged material from the Port of Oakland is proposed to be used to raise a subsided 322 acre hay field to an elevation at which tidal wetland vegetation can rapidly recolonize. If the dike protecting the hay field were simply breached, natural processes would take 40-50 years to raise the elevation of the field sufficiently for wetland vegetation to recolonize. Using clean dredged material is expected to shorten this time period to 10 years.

b. *Use in Landfills.* BCDC worked with the Port of San Francisco to dispose of 12,000 cubic yards of dredged material that was not suitable for aquatic disposal by using it as capping material for a sanitary landfill. The dredged material from the Bay consists of fine grain sediments which are highly suitable in physical structure for lining, capping and daily cover in landfills. However, because up to 80% of dredged material is water, its use as a capping material required that it first be dried to remove the water. To do this, BCDC identified a marina located near the landfill that possessed disposal ponds capable of drying the dredged material. When dried, the material was trucked to the landfill, thus assisting both the Port and the landfill to meet their needs in a cost effective manner.

There is substantial potential for productive reuse of dredged material in landfills and as upland fill for many other projects. The bottleneck is the limited availability of drying ponds, so BCDC is currently studying the development of a rehandling facility to dry dredged material in large quantities.

c. **Levee Maintenance.** BCDC is working with the California Department of Water Resources (DWR) and the U.S. Army Corps of Engineers (COE) to conduct pilot projects to test the suitability of dredged material to stabilize failing levees in the Sacramento-San Joaquin Delta upstream from San Francisco Bay. The Delta consists of a series of islands which have subsided up to 20 feet below sea level and are protected by fragile peat levees. If these levees were to fail, the Delta would become a saline inland sea. Because much of California's drinking water comes from the Delta, such an event would be catastrophic. However, there are concerns about the water quality impacts of using dredged material to stabilize the levees because of salts and low levels of contaminants they may contain. The pilot projects have so far shown that the use of dredged material is effective in stabilizing the levees and that there are no indications of adverse water quality impacts. DWR has indicated that, if the water quality issues can be resolved, it could use millions of cubic yards of dredged material from San Francisco Bay to stabilize these levees.

BCDC is also participating in the design of a one-stop permitting process for dredging projects in the region and has obtained legislation authorizing the assessment of a dredging impact fee on BCDC dredging permits to fund BCDC's continuing participation in the LTMS.

2. Wetland Restoration/Cargill Acquisition

In addition to its important role in the Sonoma Baylands project (described above), a Trustee Committee, chaired by a member of BCDC's staff, has successfully negotiated and arranged funding for the public purchase of approximately 10,000 acres of inactive salt ponds in the North Bay west of the Napa River from the Cargill Salt Company. Public purchase of Cargill's property will permanently protect the existing significant wildlife value of the ponds and provides an opportunity to restore and enhance nearly 16 square miles of San Francisco Bay wetlands (an area almost a third the size of the City of San Francisco).

Cargill has agreed to the sale of its property to the public for \$10 million. (The property was recently appraised at \$34.9 million.) Cargill has offered to donate any value in excess of \$10 million to the public. Most of the funds for the purchase (\$6.5 million) will come from the Shell Oil Spill Litigation Settlement Trustee Committee, which was established in 1990 to administer a \$10.8 million fund created to settle multiple

governmental claims against Shell Oil Company over damage to natural resources in San Francisco Bay resulting from a 1988 oil spill at Shell's Martinez refinery. BCDC is one of the six governmental agencies which make up the Trustee Committee. The Trustee Committee has secured commitments from three other state agencies -- the State Coastal Conservancy, State Lands Commission and Wildlife Conservation Board -- for the remaining \$3.5 million.

Because the property is low-lying, the ground level elevations may have to be increased in order to recreate the type of intertidal wetlands that have suffered the heaviest losses over the past century. Therefore, public acquisition of the Cargill property may provide another opportunity to use dredged material as fill to achieve the appropriate elevations, and thus accommodate the disposal of a large volume of material from the dredging that is critical to maintaining the Bay Area's maritime industry.

3. Innovative Funding for Coastal Management

As discussed in detail in Section V of these findings, lack of funding is the single most critical issue affecting coastal management in California. BCDC staff have explored a number of innovative ways to provide additional funding for BCDC's programs and cut the costs of BCDC's operations in order to deal creatively with the impacts of funding constraints. Already BCDC has secured legislative approval of a dredging impact fee to fund its participation in the LTMS project. Other proposals include increasing permit fees and penalties, imposing a fill impact fee, establishing a special license plate, conducting a pilot project to test government deregulation and expenditure control, and increasing its share of Federal CZMA funding. BCDC staff presented these ideas for creative funding to other state CZM managers at the 1993 OCRM Managers meeting and are actively pursuing them at the state level.

C. STATE COASTAL CONSERVANCY (SCC)

1. Sonoma Baylands Restoration Project

The SCC is currently putting a significant portion of its available funds and substantial staff effort into the restoration of an 830 acre tract of land in the North Bay, known as Sonoma Baylands. All of the area was formerly wetlands, and will be restored to tidal wetlands to create habitat for species such as the endangered salt marsh harvest mouse, California clapper rail and San Pablo song sparrow.

The restoration is proceeding in three phases. Phase one involves restoring a 322 acre hay field to tidal marsh. This phase is being done in cooperation with BCDC in order to demonstrate the use of clean dredged material to elevate the subsided area sufficiently for wetland vegetation to recolonize rapidly. Detailed cost estimates for this project show that the

use of dredged material for this purpose (estimated at \$7-9 per cubic yard) compares favorably with the cost of deep ocean disposal of dredged material (estimated at \$8-10 per cubic yard) and is far below the COE's cost estimates for upland disposal of dredged material (estimated at \$20-30 per cubic yard).

Phase two will involve exploring the use of another third of the property as a rehandling facility for dredged material that is non-toxic but not suitable for aquatic disposal. Phase three will restore the last third of the property as shorebird habitat, which will involve maintaining 6" to 1' inundations throughout the winter months.

This project will provide multiple public benefits. It will restore over 1 square mile of tidal wetlands in an area where 95% of the original wetlands have been destroyed. It will provide critical habitat for endangered species. It will expand greatly needed feeding and resting areas for waterfowl along the Pacific Flyway. It will also demonstrate the cost effective use of clean dredged material as a resource, thus offering a partial solution to the region's dredge disposal problems and creating public benefits at the same time.

V. REVIEW FINDINGS AND RECOMMENDATIONS

Introduction:

OCRM's FY 1990 evaluation of the CaCMP identified the lack of funding and staff resources as a significant reason for inadequate performance in some program areas. Since that time, the State's deepening recession and escalating budget shortfalls have made the situation worse. At this time, we find that insufficient funding and reduced staff threaten several core components of the CaCMP.

The State of California is very large by any measure. It ranks first in overall population (almost 30 million in 1990) and in coastal population (almost 22 million in 1990), and fifth in shoreline mileage (3,427 miles). If it were a country, it would have the eighth largest economy (as measured by Gross Domestic Product) in the world. Thus, the program and workload to manage the State's coastal resources, reflecting the heavy demand for those resources, is commensurately large. Since the limited Federal budget for Coastal Zone Management and the statutory allocation formula results in the same amount of Federal funding for California as for several other states with a fraction of its population and economic development, the CaCMP relies heavily on State funding for its survival. However, over the last decade, while workload (e.g., permits, Federal Consistency reviews, enforcement cases) has remained about steady and new state and Federal statutory responsibilities (e.g., the new Coastal Nonpoint Pollution Control Program) have been added, the State's funding for coastal management has declined precipitously.

In the early part of the decade, the funding reductions were mostly limited to the CCC and reflected a deep philosophical division in the State about coastal management in general and the CCC's implementation of it in particular. However, over the last five years, funding reductions have affected all of the CaCMP agencies progressively, as the State has been gripped by a deepening recession that shows little sign of abating. In addition to the national economic recession, the State has been disproportionately affected by military spending cuts and base closures. The State is also going through profound social changes as it loses high paying technical jobs, while it is experiencing substantial population growth from legal and illegal immigration. The result is a decrease in taxpayers and an increase in taxusers, which is causing increasingly severe State revenue shortfalls as well as fundamental economic and cultural changes.

Over the last five years, CCC's state funding has been cut by 34%, BCDC's by 25% and SCC's by 96%. Despite cutting out virtually all discretionary expenditures, this has resulted in unavoidable cuts in budgeted personnel years (PYs) of 15% at BCDC and 36% at CCC. In FY 1993, CCC, BCDC and SCC had the lowest level of funding and staff resources since the CaCMP began in 1976.

The cumulative impact of these budget cuts has been profound. Permit processing times have increased (by up to 20 days at BCDC). Enforcement has been drastically curtailed, resulting in more unpermitted activities, increased backlogs of reported violations and compromised prosecutions of violations because of lack of staff to document the cases in a timely fashion and lack of Attorney General staff to prosecute. Planning and policy development on coastal issues of statewide significance has been drastically curtailed, except where there are specially-budgeted sources of funds to support necessary staff. This has included deferring planning for major transportation projects, wetlands policies, seismic safety, oil transportation and many other areas.

CCC financial and technical assistance to local governments for the development and implementation of Local Coastal Programs has been virtually eliminated, despite the fact that only 81 of 126 coastal segments have fully certified LCPs. Local governments are even more financially strapped than the State at this time and their incentive to pursue LCPs without CCC assistance is virtually nil. This creates a "Catch-22" situation for the CCC, since it must administer direct coastal development permitting authority in areas without certified LCPs.

The loss of technical expertise - i.e., staff biologists, geologists and engineers -- has eliminated the independent technical expertise needed by both CCC and BCDC to make complex permitting decisions. In some cases, applicants have had to fund third party technical reviews, thus increasing project costs. In addition, BCDC's highly regarded and effective Engineering Criteria Review Board -- which was cited as a major accomplishment in the last program evaluation findings -- has not been able to meet because BCDC lost its staff engineer, who ran the Board.

With only one-fifth of a person-year to run the joint CCC/SCC Public Access Program, work to secure additional public access to the coast has ground to a halt. Since program approval, the program has secured over 2300 offers to dedicate public access easements to the coast. Now, timelimits are beginning to run out on some of these offers to dedicate (OTD), but the agencies have almost no resources to assure that they are accepted.

Funding for the SCC programs, which are supported primarily by state revenue bonds, has declined by 96% since 1989 due to the lack of a new bond initiative. All of the SCC's FY 1993 funds (\$2 M) are going into one project -- Sonoma Baylands. Thus, all other SCC programs for wetland and watershed restoration, agricultural lands preservation, and public access enhancement have been deferred until new funding is available. This has not only crippled the SCC's initiatives but has eliminated the SCC's ability to support the implementation of the Coastal Act's regulatory program, as intended in the CaCAMP.

Finally, the Evaluation Team is concerned about the severe impact the budget cuts have had on curtailing citizen participation in the coastal decision-making process. BCDC has had to cancel half of its meetings, causing delays to permit applicants and reducing public participation opportunities. BCDC has also begun to charge for copies of its staff reports and the San Francisco Bay Plan, on which it bases all permit decisions, is out-of-print. CCC has curtailed almost all meetings outside of San Francisco and Los Angeles to save money, thus increasing the distance the public must travel to comment on project proposals. Most seriously, because of staff shortages, staff reports often come out too late for the public to comment prior to Commission decisions on projects. The Evaluation Team repeatedly heard that the public is being left out of the decision-making process.

The CaCMP agencies -- CCC, BCDC and SCC -- are now at the point of having to trade-off one element of the core coastal management program against another. Increasing enforcement, LCP implementation activities or the public access program, for example, means reducing the permit processing staff, which would mean increased delays in the permit process and violating statutory deadlines in some cases. Although OCRM is in general agreement with the priorities that have been set by the CaCMP agencies to deal with budget cuts, OCRM is concerned that continued erosion of funding for the CaCMP could jeopardize the State's ability to adhere to its Federally-approved program.

These and other issues are discussed in more detail below.

A. CALIFORNIA COASTAL COMMISSION (CCC)

The CCC is no stranger to budget constraints, having faced budget reductions since 1983. Since the CCC has felt the impacts of reductions in funding for a longer period than the other CaCMP agencies, they are stretched even thinner. Thus, during this review period, with all discretionary items already cut out, the latest rounds of budget reductions have left little alternative but to make increasingly severe staff reductions. As will be described later in this section, the impact of budget and staff reductions has been felt everywhere, but is especially problematic in three areas: technical support for permitting, monitoring and enforcement, and local coastal planning.

1. Staffing

CCC's experienced, capable and highly dedicated staff is widely held to be the reason that the California Coastal Act continues as a viable force despite a decade of underfunding. Many staff have been with CCC since the Coastal Act was passed in 1976. Due to their experience and hard work, they are exceptionally productive. Most of the people we talked to said the CCC could not have continued to function at the high level people have come to expect without the staff's experience and productivity.

However, despite what some commenters termed the "amazing job [that CCC has done] of maintaining the coastal management program with minimal staff," and the "amazing commitment" of CCC's people, lack of staffing now threatens CaCMP program implementation in several key areas. For example, because of lack of staff, CCC has had to retreat from its excellent efforts to improve its monitoring and enforcement program. Unpermitted activities are a serious problem, and CCC is not able to take advantage of its new enforcement tools. Even though CCC has made processing of permits/appeals the top priority of its remaining staff, they are hobbled by lack of technical expertise (e.g., marine and estuarine biology and coastal geology) and lack of staffing is causing delays in even the most important projects. The staff are so overworked that staff reports come out at the last minute, they have no time to answer the public's questions and the public are frustrated by increasing barriers to participation in the decision-making process.

Lack of staffing is also causing frustration for local governments, both those with certified LCPs and those without. Those with certified LCPs find the remaining CCC staff so focused on processing permits, appeals, incremental LCP and PMP amendments, and other mandated functions that they have little time to work with the local governments on new coastal projects, emerging issues and comprehensive plan updates. Those without certified LCPs find virtually no technical assistance is available to them to develop a local coastal program. California's port authorities find lack of CCC staff a serious obstacle because they

say they cannot get early staff involvement in projects (and associated amendments to Port Master Plans). (Note: CCC staff disagreed with this characterization, saying that, to their knowledge, the CCC is consistently involved with FMP amendments in their early stages.) They find that CCC review at the permitting stage is much too late, and are also concerned because CCC lacks the technical expertise necessary to evaluate many port projects. The ports want CCC staff to visit them and see projects regularly.

Staffing seems to be especially problematic at CCC area offices. The Evaluation Team visited two area offices during the evaluation site visit -- Central Coast and San Diego -- and found critical staff shortages at both. For example, the Central Coast office has half the planners (3 vs 6 person years) it had five years ago to deal with 19 jurisdictions, three-quarters of which are undergoing major LCP revisions. In San Diego, one person is responsible for management of the office, all planning including LCP amendment review, and all enforcement. Clearly, it is impossible for any one person to handle this workload effectively. As a result, the Evaluation Team heard that planning opportunities were being lost, LCP reviews were occurring too late to avert major controversy, necessary projects were being held up, and there was practically no enforcement, except in the most egregious cases.

Other impacts of inadequate staffing are discussed in detail in other parts of these findings. The point is that staffing levels have sunk below the level where adequate program implementation can occur. The staff must be augmented (which will require increased funding) if the CaCMP is to continue to be implemented as conceived under the California Coastal Act and as approved by NOAA. The 1990 evaluation recommended that the CCC undertake a comprehensive staff analysis, which was not completed to our knowledge (although a reorganization of area offices did occur in order to balance better the permitting workload, as described on pages 22-23). Since staff shortages so pervasively affect program implementation, it is very important that this staff analysis be performed soon.

NECESSARY ACTION A-1: The CCC must prepare a staffing analysis which identifies minimum unmet staffing needs for CaCMP program implementation, analyzes the geographic and functional distribution of CCC's existing staff and any adjustments of that staff that can be made to meet these needs, and identifies those needs that can only be met with new staff resources. The staffing analysis must be completed and submitted to OCRM within six months of receipt of the final evaluation findings. (Note: CCC has informed OCRM that it annually prepares a staffing analysis as part of its budget request to the Resources Agency. This staffing analysis may meet the requirements of this Necessary Action if it contains all of the elements mentioned above.)

2. Coastal Development Permitting

One of the avenues for coastal management in California is the regulation of development under the California Coastal Act (CCA or Coastal Act). Under the Coastal Act, in areas of the coastal zone with certified Local Coastal Programs (LCPs), local governments exercise direct permitting authority, but certain activities are appealable to the CCC. These include:

a. Any development between the sea and the first public road or within 300 feet of the inland extent of the beach or mean high tide line, whichever is a greater distance.

b. Any development located on tidelands, submerged lands, public trust lands, within 100 feet of any streams, wetlands, estuaries, or within 300 feet of the top of the seaward face of any coastal bluff.

c. Any development located in a sensitive coastal resource area.

d. Any development located in unincorporated areas when the proposed use is not designated as the principal permitted use under the zoning ordinance.

e. Major public works or major energy projects.

f. Within certified port plans, specific types of uses listed in Section 30715 of the California Coastal Act (i.e., residential or office development, oil production facilities, etc.).¹

In addition, in areas of the coastal zone without certified LCPs, the CCC retains direct permitting authority under the Coastal Act. Permits and appeals are processed in a similar manner.

The Coastal Act permits/appeals handled directly by the CCC fall into one of four categories: (1) waivers of permits, (2) the Administrative Calendar for minor projects, (3) the Consent Calendar for projects of any size that do not raise a significant issue under the Coastal Act, and (4) the Regular Calendar for major projects, which require a staff report, public hearing and Commission vote. The CCC staff estimate that less than 10% of permits/appeals are considered on the Regular Calendar.

Reorganization of Area Offices

During this review period, the CCC reorganized its area offices by closing the Santa Barbara office and moving it to Ventura. The purpose of the reorganization was to improve

¹ State of California Coastal Management Program and FEIS, U.S. Department of Commerce, NOAA, August 16, 1977, page 21.

handling of permit/appeals workload. Prior to the reorganization, 60-70% of permits/appeals were from the South coast area. Now the new Ventura office handles the large workload from the Malibu area and overall workload is better balanced, as follows:

<u>Approx. % of Permits/appeals</u>	<u>Area Office</u>
32%	San Francisco/Santa Cruz
25%	Ventura
25%	Long Beach
18%	San Diego

Technical Assistance for Permit Review

CCC lacks sufficient in-house technical expertise necessary for effective permit review and assistance to local governments. CCC now has only one biologist (supported by a CZMA Sec. 309 enhancement grant) and no geologists. Given the steep topography of much of the California coast, and the increasing need to deal with highly technical hydrological and biological issues in evaluating proposed mitigation projects, these are major needs. CCC still has one civil engineer, but her time is being devoted to (and paid for by) a Section 309 coastal zone enhancement project.

CCC's lack of in-house technical expertise creates disadvantages for both applicants and the public. Applicants are disadvantaged because review of their projects is delayed while CCC tries to obtain necessary technical expertise from outside the agency. In some cases, applicants have even had to pay for outside technical experts to review their proposals. In addition, CCC is unable to provide them with technical assistance to design their projects to avoid or minimize resource impacts. The public is disadvantaged because lack of in-house technical expertise means they are forced to go out and hire their own technical experts to counter what they perceive as over-reliance on the applicant's technical experts. Most important, the Evaluation Team heard concerns that, because of the lack of technical expertise, the CCC is making mistakes on permits that raise complex technical issues (e.g., grading permits, marsh restoration, etc.) and coastal resources are being lost.

Technical Assistance for Advanced Planning

During this review period, Assembly Bill 2559 was enacted, which gives the CCC authority to convene scientific review panels to provide expert scientific advice on coastal issues. Such panels would be ideal to deal with long-range planning issues, such as assisting the resource agencies and the ports with determining acceptable mitigation ratios for port projects involving wetland fill, but CCC lacks the in-house technical staff to work with the panels and the money to pay their travel and per diem.

Some interviewees suggested that the CCC explore making more use of technical expertise from other State agencies. However, other interviewees said they thought this was impractical because (a) other State agencies have much narrower mandates than CCC, (b) CCC is called upon to evaluate the adequacy of other agencies' technical work, and (c) as CCC becomes necessarily more and more involved in wetlands restoration and other highly technical issues, it needs continuous expertise which is very difficult to borrow.

The CCC must include its technical assistance needs in the staffing analysis required under Necessary Action A-1. In addition, we have the following suggestions.

PROGRAM SUGGESTION A-1:

a. The CCC should consider convening an Engineering Criteria Review Board, similar to the one BCDC had established which relied on pro bono geologic and engineering expertise, to assist the CCC in its review of grading and other permit applications which raise geologic and engineering issues. The Board could be run by CCC's existing staff engineer, if some of her time could be made available.

b. The CCC should consider creating a directory of technical experts from academia and the private sector who would be willing to review project proposals or mitigation plans on a pro bono basis, if time allows.

Public Participation in the Decision-making Process

In its statewide meetings, the Evaluation Team repeatedly heard that budget and staff reductions at CCC are having the effect of curtailing public input to the decision-making process. Staff are overworked and therefore the public's access to them is severely restricted. Staff reports come out too late for interested parties to have time to analyze them, develop written comments and get those comments to the CCC in advance of Commission meetings. Commission agendas also come out too late for citizens to plan effectively to participate in the meetings.

Because of budget reductions, the Commission meets only once a month and the meetings are usually held either in Los Angeles or San Francisco to save travel costs. Thus, the meetings may be, and often are, hundreds of miles from the site of proposed projects -- too far for many members of the interested public to travel. For example, during the evaluation site visit, the Commission meeting held in San Rafael, outside of San Francisco, heard significant changes to Local Coastal Programs in southern California. The Evaluation Team heard many pleas that the Commission become more accessible to the public by scheduling permit items at meetings close to the affected area if at all possible. Many commentators felt that this was the only way for

the public to have a reasonable opportunity to participate and for the Commission to make its decisions with a true feel for public concerns.

Another problem is that even if they make it to the Commission meeting, there is often no real opportunity for the interested public to present their views because both sides (the applicant and the public) get 15 minutes. The applicant has the entire 15 minutes to present his or her case, but the 15 minutes for the public is divided up among all those who wish to speak. This may leave individual speakers with only 2-3 minutes, or even less, to present their concerns. For example, the Evaluation Team was told that there were over 30 opponents who wanted to speak on each of two controversial proposals -- one dealing with oil transportation from Point Arguello and the other dealing with the San Joaquin Toll Road. Under the Commission's rules, they would have 1/2 minute each. Citizens understand that the Commission has many items on its agenda and must limit discussion time on any one item. However, they suggest that if they were allowed to see the speaker sign-in sheets at the meetings, they could coordinate with other speakers informally in order to use their very limited time most effectively to present their views.

Finally, even if interested groups have managed to produce written comments in advance of the Commission meeting (which requires extraordinary effort because the staff report may only be received on the Thursday or Friday before the Commission meets on the following Tuesday), the comments are handed to the Commissioners at the meeting. This gives the Commissioners the choice of reading the comments or listening to the presentations. As one commenter put it, "When [the Commission] meetings are out-of-town, there may be no locals to testify. Since the Commissioners don't have time to read anything, it seems like its the most eloquent lawyer who prevails." The result is that the public is effectively left out of the decision-making process.

PROGRAM SUGGESTION A-2: To improve citizen accessibility to the decision-making process, OCRM suggests that the CCC consider the following:

a. Establishing a Permit Review Committee to provide a pre-hearing on selected regular calendar permits and make recommendations to the full CCC. The Permit Review Committee could be made up of 3-5 Commissioners, who could travel to areas close to the site of proposed projects economically and could take the time to provide a fuller discussion of views and concerns on controversial proposals than the full Commission's agenda allows.

b. Requiring that regular calendar permit applications be advertised in local newspapers at the applicant's expense and be posted in CCC Area Offices in order to provide the public with timely notice of the proposal.

c. Establishing deadlines for the production of staff reports and CCC meeting agendas so that they reach the public at least a week before the Commission is scheduled to meet and in time to give the public a reasonable opportunity to prepare written comments.

d. Scheduling Commission meetings in other areas of the coast besides San Francisco and Los Angeles, if at all financially possible.

3. Monitoring and Enforcement

The last California program evaluation found that monitoring and enforcement of the California Coastal Act needed improvement in several areas. Problems identified included lack of staff for enforcement, inadequate monitoring to detect unpermitted activities, lack of necessary enforcement tools (e.g., cease and desist authority, administrative fines), slow documentation of cases (which can compromise prosecution of violations), and inadequate policies and procedures for processing after-the-fact permits.

During this review period, the CCC has made a good faith effort to address these problems and improvements in enforcement have resulted. Specifically, CCC has:

Increased Staffing for Enforcement. At the time of the previous evaluation (September, 1989), CCC had only one fulltime permanent staff person devoted to enforcement, assisted by interns in the Headquarters and Area Offices. Now there are four fulltime staff for enforcement statewide. Until July, 1992, there were also 13 interns assigned to perform enforcement program duties. However, because of the State's continuing budget crisis, all of the interns had to be laid off in July, 1992 and have not been replaced. In addition, budget cuts may require laying off one of the four fulltime enforcement staff. CCC hopes to hire three minority interns through its new ethnic diversity initiative (see page 22) for six month enforcement internships in its San Diego, Long Beach and Santa Cruz Area Offices, respectively.

Obtained New Enforcement Tools. In 1991 and 1992, the California Legislature passed, and the Governor signed, two bills -- SB 317 and SB 1449 -- which gave the CCC authority to issue Cease and Desist Orders, increased penalties for violations of the Coastal Act, and gave the CCC, local governments and port governing bodies authority to order restoration of sites where violations of the Coastal Act are causing continuing resource damage.

Issued After-the-Fact Permit Guidance. In 1993, the CCC revised its policy and process for after-the-fact (ATF) permitting, including doubling the fees for ATF permit processing and streamlining its case processing so that referrals are more timely.

Developed an Automated Enforcement Tracking System.

The CCC's new automated enforcement database, known as "CRICKET," replaces an old manual system and, although not fully implemented, has significantly improved the Commission's ability to track the enforcement caseload and organize information for case referrals. CRICKET has not been fully implemented for two reasons: (1) staff are not available to input all enforcement case data, and (2) CCC lacks necessary computer equipment in Area Offices to communicate with the central database in Headquarters. Further, CCC's existing computers are obsolete Wang systems that are not compatible with standard personal computers in other government agencies that the CRICKET system needs to access. (Equipment problems are discussed in more detail on pages 96-97.)

Established the Santa Monica Mountains Enforcement Task Force. As discussed in more detail in the Accomplishments section of these findings (pages 11-15), CCC is to be commended for taking the initiative to establish this Task Force of government agencies at all levels which have enforcement jurisdiction in the Santa Monica Mountains area. This is an area where CCC has experienced some of its most frequent and serious enforcement problems in the past, and linking up with other agencies has made it possible to improve detection and prosecution of serious violations much more expeditiously and efficiently.

These measures have greatly enhanced the CCC enforcement program's efficiency and effectiveness. As a result, during the review period, the backlog of enforcement cases was reduced by 30%. The presence of a fulltime enforcement staff member in the Ventura Office has reduced the incidence of violations in the Malibu area by almost half. The Commission has used its power to issue Cease and Desist and Restoration Orders on three occasions to take decisive action on violation cases. The enforcement tracking system has improved efficiency by providing quicker access to enforcement information. The creation of the Santa Monica Mountains Task Force has opened up tremendous opportunities to improve enforcement of all cooperating agency mandates by pooling information, technical expertise and staff resources to speed enforcement actions and prosecute violations successfully. Unfortunately, budget cuts and resulting staff cuts threaten to undermine all of the progress that has been made.

Lack of staff for enforcement was the biggest concern raised to the Evaluation Team by citizens, interest groups and local government officials. Because of lack of funding for staff, CCC has not been able to take advantage of its new enforcement tools except in a few instances. Since the enforcement interns were largely responsible for monitoring both permitted and unpermitted activities, their loss has meant that proactive permit monitoring was suspended and the CCC now relies exclusively on citizen reports of violations. Citizens complained that an intense public outcry is required for anything to be done. Financially strapped local governments, without either adequate staff or enforcement

authorities, need help from the CCC to enforce the Coastal Act but cannot get it. They fear that resources are being lost because people are aware of the lack of monitoring and enforcement capability.

The Santa Monica Mountains Task Force has made a vast improvement in enforcement in that area. CCC's one fulltime enforcement staff member in Ventura is the backbone of the Task Force -- scheduling meetings, preparing agendas, arranging meeting sites, producing minutes, and coordinating follow-up actions. However, this position may be lost in the latest round of budget cuts. In addition, this excellent program could be applied elsewhere, but CCC does not have the staff to create and run additional task forces.

To compound the problems even further, budget reductions are jeopardizing crucial legal support from the California Attorney General's (AG's) Office. As a result of budget reductions and resulting staff reductions in the AG's office, the AG has recently instituted a new policy for "discretionary" legal activities, such as prosecution of violations of state law. Under the new policy, state agencies that exceed a fixed number of hours of legal services for such activities must pay for the excess hours used. This policy could have a chilling effect on Coastal Act enforcement because of CCC's inability to pay for prosecution of cases.

OCRM agrees with CCC's enforcement priorities -- targeting cases with the most serious resource impacts. However, clearly, with the exception of the Santa Monica Mountains Task Force, CCC's ability to have a proactive enforcement program has been lost. Although past data indicate high (over 95%) compliance with permit conditions for permitted activities, they also indicate that unpermitted activities have been responsible for most serious Coastal Act violations. Without any monitoring of unpermitted activities, the CCC does not even know what resources are being lost because of these activities.

NECESSARY ACTION A-2: The CCC must include at least one fulltime staff person for enforcement in all of its Area Offices in the staffing analysis required under Necessary Action A-1. The staffing analysis must also identify needs for interns or other supporting staff in each Area Office to conduct monitoring activities and document enforcement cases.

PROGRAM SUGGESTION A-3:

a. CCC should have at least one up-to-date personal computer (PC) at each Area Office, linked to a PC in Headquarters, and all capable of running the automated enforcement tracking system. This would allow all enforcement staff to have ready access to the information they need to do their jobs efficiently and effectively.

b. CCC should continue to explore with NOAA and other Federal and state agencies the possibility of a joint aerial surveillance program to detect unpermitted activities.

c. CCC should continue its enforcement training workshops, which are open to the public. CCC should schedule these workshops regularly and notify the public and local governments in the areas where they are held. CCC should consider establishing and publicizing a tollfree number that citizens can use to report Coastal Act violations and should consider the use of citizen volunteers in its Area Offices to help follow-up on reports of violations and document enforcement cases.

d. CCC should consider expanding the concept of the Santa Monica Enforcement Task Force to other appropriate areas of the coast as resources become available.

4. Conduct of Federal Consistency Reviews

An important part of OCRM's evaluation of the CaCMP is the State's conduct of its Federal consistency responsibilities. In the last CaCMP program evaluation, OCRM noted several problems with CCC's application of the Federal consistency provisions. Those problems included failure to define clearly the basis for an objection and to base objections on the enforceable policies of the CaCMP; failure to identify specific alternatives (if they exist) that would make the proposed activity consistent with the CaCMP; inappropriate use of "partial" and "conceptual" concurrences; and the perception that Federal consistency reviews are used to create new policy. CCC reports, and this evaluation verifies, that the problems noted above have been corrected. Specifically, CCC has:

- abandoned the practice of objecting to a Federal license because it was "inextricably linked" to another Federal license;
- clearly defined the basis for its objection based on the enforceable policies of the Coastal Act and consistently interpreted those policies;
- reorganized its staff reports to identify more clearly specific alternatives (if they exist) that would make the proposed activity consistent with the CaCMP; and
- ceased the practice of adopting "partial" and "conceptual" concurrences.²

In addition, during this review period, the CCC Federal consistency staff have undertaken several initiatives to enhance

² California Coastal Commission, OCRM Evaluation Federal Consistency Briefing Summary, n.d., page 3.

coordination with Federal agencies and applicants and to streamline the Federal consistency review process. These initiatives include:

- *enhancing outreach* by conducting two public briefings (one each in northern and southern California) on the Federal consistency process, and holding a series of coordination meetings with Federal agencies conducting activities affecting the coastal zone to explain the Federal consistency review process and relevant CaCMP policies;

- *improving information* on Federal consistency by revising the document "Federal Consistency in a Nutshell" to reflect issues relevant to California and completing (and regularly updating) the Commission's Federal consistency database and compendia of CCC's Federal consistency decisions;

- *streamlining the Federal consistency review process* by encouraging the submittal of draft consistency determinations, where time allows, to aid applicants in the preparation of their formal submittals and in early issue resolution, developing with the U.S. Navy a general consistency determination pursuant to 15 CFR 930.37(b) for the repair and maintenance of piers and shoreline structures that do not result in significant coastal zone effects, and developing with the Army Corps a series of form letters that allow for speedy individual Federal consistency review of projects qualifying for some Corps Nationwide Permits; and

- *creatively resolving differences* in order to avoid Federal consistency objections by working with the Navy to develop a set of mitigation measures to minimize coastal zone effects from the transportation of dredged material to a new disposal site approximately 55 miles offshore San Francisco Bay, and working with EPA to develop necessary information on the fate of sediment disposed at a dredged material disposal site offshore Los Angeles on nearby recreational fishing areas. Under the agreement, EPA modified its consistency determination so that it expired in five years. EPA will then resubmit a consistency determination for this project along with the results of a five-year monitoring program.³

During this review period, the CCC reviewed a total of 329 projects under Federal consistency. Of these, 128 were consistency determinations or certifications, and 201 were negative, or "no effects," determinations. Of the 128 consistency determinations or certifications, there were 108 concurrences, 16 withdrawals, and 4 objections (two of which were later resolved into concurrences).⁴ Each of the 128 consistency determinations

³ Ibid.

⁴ Ibid.

and certifications requires preparation of an individual staff report describing the proposed project and providing a detailed analysis of whether it is consistent or inconsistent with the numerous policies of the California Coastal Act.

The CCC has two fulltime staff to handle this workload statewide, as well as to review and analyze negative determinations, train and coordinate with Federal agencies and applicants, maintain the Federal consistency database, produce updated compendia of Federal consistency decisions, draft Federal consistency regulations, and perform other related activities such as the coordination and streamlining initiatives described above. (Note: This staff performs Federal consistency reviews of the vast majority of Federal and Federally-licensed projects not related to oil and gas projects. The CCC's Energy Division staff has responsibility for Federal consistency on these types of projects, which have been infrequent in recent years due to limited outer continental shelf energy activity.) The Evaluation Team was told that this staff's workload has increased significantly in the past two years, in part because of the Commission's decision to object to some of the Corps of Engineers proposed Nationwide Permits. As discussed in more detail below, this has had the effect of shifting some of the Corps' Section 404 regulatory burden to the CCC. After reviewing some of the excellent staff reports prepared by this staff, the Evaluation Team is convinced that only because of their vast experience and high motivation can this small staff handle the workload. CCC is therefore in a very vulnerable position with respect to implementation of this key component of their approved program, because if either one of these staff members were to leave, or become ill for any lengthy period, CCC has no backup to handle Federal consistency reviews. OCRM was told by Federal agencies that understaffing of CCC's Federal consistency review function is a big problem for Federal agencies whose activities require Federal consistency review. The Evaluation Team was told that although the present staff are very responsive, more people would help everyone and speed the process generally.

In addition to inadequate staffing, the existing Federal consistency staff are located in San Francisco and have almost no travel budget to conduct site visits, attend coordination meetings outside of the San Francisco area (or Commission meetings, for that matter), or monitor the projects they review. For example, a Navy representative in southern California told the Evaluation Team that CCC's Federal consistency staff have not been able to attend the Navy's quarterly coordination meetings to which they have been invited. The Navy does more consistency determinations than any other entity in California and anticipates several big coastal projects in the next few years. CCC's participation in their early planning meetings would be invaluable for identifying issues and resolving problems in advance of formal submission of the consistency determinations, but CCC cannot find the \$200 in travel funds that would be necessary to attend. Another Federal agency representative said the CCC staff's inability to do site

visits to see the projects they are reviewing increases the burden on applicants and Federal agencies, and decreases the value of the reviews (because, essentially, the staff are having to review projects in the dark). Several commenters expressed frustration that they never get to see CCC's Federal consistency staff and suggested that if one of the staff could at least attend Commission meetings, it would give them a chance to do informal networking -- i.e., discuss upcoming projects and identifying/resolve potential issues.

Despite the increased number of Federal consistency projects, the Evaluation Team was told that Federal consistency is less controversial in California than it has been in the past. Reasons given for this include: CCC has learned to work better with Federal agencies, Federal agencies are more cooperative, and moratoria on offshore oil and gas leasing have removed the most contentious issue from the Federal consistency agenda.

However, Federal compliance with NOAA regulations on phased Federal consistency review remains an unresolved issue. Specifically, the COE is submitting consistency determinations for projects at the feasibility stage, when no final design for the project exists. Once the Commission concurs with the consistency determination at this stage, the COE does not resubmit the project for later Federal consistency review. NOAA regulations encourage Federal consistency review as early in the project approval process as possible (15 CFR 903.34(b)). However, they also provide that "in cases where major Federal decisions related to a proposed development project will be made in phases based upon developing information, with each subsequent phase subject to Federal agency discretion to implement alternative decisions based upon such information (e.g., planning, siting and design decisions), a consistency determination will be required for each major decision." (15 CFR 930.37(c)). The CCC has attempted to work cooperatively with the COE to resolve this issue and in May, 1992 wrote to the South Pacific District Engineer of the COE to request a meeting. However, to date, the COE has not responded to the Commission's letter. OCRM's Federal Consistency Coordinator has been apprised of this issue so that it can be raised in ongoing Federal consistency coordination meetings with the COE.

Federal consistency continues to be an important tool in the CaCMP and CCC, despite the constraints mentioned above, is still applying Federal consistency in ways that keep it at the cutting edge of coastal management. Emerging Federal consistency issues in California include:

- o *Base Closures.* CCC intends to assert Federal consistency review over the closure of Ft. Ord on the central California coast. CCC is working with Department of Defense agencies in the planning process, to the extent limited staffing permits. Ft. Ord is the largest coastal facility that is closing and its reuse poses substantial issues of jurisdiction (e.g., State Parks has applied to manage the land west of Highway 1, as

has the City of Sand City; the use of this prime coastal land could be expected to be very different depending on who obtains jurisdiction over it), and infrastructure impacts on the coastal zone (e.g., an example is a proposal for an intermodal transportation corridor on the east side of Highway 1). Working with DOD, state agencies, 5 cities and Monterey County to develop a reuse plan for this base represents a huge additional workload for the CCC staff, but this is a significant opportunity to promote environmentally sound reuse of this critical area.

Already discussions have raised the issue of whether the consistency determination will deal with only the closure itself or also with the impacts of reuse. The military would prefer that it only cover the closure because they say they are not in a position to guarantee how the base will be reused after they pull out. CCC has taken the position that the consistency determination must include and analyze the coastal zone impacts of the preferred reuse option, a position that NOAA supports. (See related discussion under BCDC consistency, page 67.)

o *Commercialization of Military Facilities.* The U.S. Air Force is considering the development of a commercial launch facility at Vandenberg Air Force Base in southern California under the Commercial Space Act. To date, their consistency determinations have analyzed the "spillover" effects of military activities at the base on the state's coastal zone, since Federal lands are excluded from the coastal zone under the Coastal Zone Management Act. However, there is a question whether Federal land is still excluded from the coastal zone if it is leased to a private commercial vendor.

o *Cumulative Impacts to Commercial Fishing.* In September, 1986, the CCC voted to object to Chevron's consistency certification for an amended Development and Production Plan (DPP) for Platform Gail in the Santa Barbara Channel. However, in a November, 1986 Settlement Agreement among the CCC, the U.S. Minerals Management Service (MMS) and Chevron, the CCC agreed not to challenge, either administratively or judicially, the MMS approval of the Platform Gail amended DPP. The CCC's consistency review and subsequent Settlement Agreement contained a provision that required Chevron to provide funds (\$100K) toward a study to assess the cumulative impacts of OCS development on commercial fisheries in the Santa Barbara Channel area. The cumulative impact study has not been conducted to date. Commenters suggested that now -- in a period in which offshore oil and gas leasing moratoria have removed the most contentious oil and gas issues -- would be the ideal time to do it.

o *Coordination with National Estuary Program (NEP) Projects.* The CCC staff have been working with staff from the Santa Monica Bay NEP to determine how their Comprehensive Conservation and Management Plan (CCMP), which is nearing completion, will be reviewed for consistency with the CaCMP.

(Note: BCDC is also dealing with this issue in its work with the San Francisco Estuary Project, see pages 59-60.)

The CCC's staffing needs for its Federal consistency function should be contained in the required staffing analysis under Necessary Action A-1. In addition, we have the following suggestions:

PROGRAM SUGGESTION A-4:

a. CCC should consider making it a practice for one of its two Federal consistency staff to attend at least one day of each Commission meeting, to be available for informal networking with other Federal agencies and other interested parties.

b. CCC should make available a modest travel budget, if funds permit, for Federal consistency staff to perform site visits to projects they are reviewing.

c. CCC should consider using the funds set aside from its 1986 review of Chevron's Development and Production Plan for Platform Gail to carry out the cumulative impacts study of the Santa Barbara Channel. CCC may be able to stretch its funds further by linking up with the Coast Guard, the Corps of Engineers, the Environmental Protection Agency, the Ports of Los Angeles and Long Beach, NOAA's National Marine Sanctuary Program and National Marine Fisheries Service, the State Department of Fish and Game and others to pool funds and expertise these entities might use for special-purpose studies on such matters as navigation, fishing, port development, dredged material disposal, oil spill contingency planning, and protection of the Channel's unique resources. The region's future needs for oil transportation should be an issue included within this study.

5. Local Coastal Planning

The State of California determined that major portions of its coastal zone management program could best be implemented at the local level with State overview and guidance. For areas where the CCC has not retained jurisdiction, the Coastal Act provides for a partnership between State and local governments, under which coastal policies are implemented through local land use regulation with an overview by a continuing State Commission -- the CCC. The Coastal Act requires that local governments lying partially or wholly within the coastal zone, and specified ports (i.e., Hueneme, Los Angeles, Long Beach and San Diego), prepare local coastal programs or port master plans and submit them to the CCC for certification. Local coastal programs consist of an approved local land use plan (LUP) and implementing zoning ordinances. Local land use plans are reviewed by the CCC to establish their consistency with the policies of the Coastal Act, and zoning ordinances are reviewed to assure conformance with and ability to carry out the approved land use plan. After certification of a local coastal program (or port master plan) and after zoning and

other implementing actions have become effective, most permitting authority for new coastal development is delegated to local governments or port governing bodies, except for the appeal provisions described earlier on pages 37-38. After certification, the CCC's role is to: (a) regulate development in areas of retained jurisdiction (tidelands, submerged lands, or public trust lands); (b) monitor local government coastal development permits for compliance with LCPs; (c) provide technical assistance to local governments on LCP and coastal development permit issues, as staff resources allow; (d) review and decide on appeals of certain local coastal program permit actions (see discussion beginning on page 37); (e) review and certify amendments to approved local coastal programs; and (f) conduct periodic reviews, at least every five years, to determine if approved local coastal programs are being implemented effectively.⁶

There are 73 cities and counties either totally or partially within the coastal zone and subject to the Coastal Act requirements. Many local governments elected to divide their jurisdictions into segments, resulting in a total of 126 segments for the 73 localities. During this review period, 13 new LCP segments were certified, bringing the total certified to 81, or 64% of the 126 total segments. These newly certified segments are:

- Emerald Bay Segment (Orange County)
- City of Dana Point
- City of Arcata
- Santa Catalina Island Segment (Los Angeles County)
- City of Capitola
- City of Laguna Niguel
- Marine Del Ray Segment (Los Angeles County)
- City of National City
- City of Guadalupe
- Airport/Goleta Slough Segment (Santa Barbara County)
- City of Palos Verdes Estates
- County of Mendocino
- City of Laguna Beach

In addition to the LCP segments effectively certified, the CCC certified five land use plans (LUPs), as follows:

- City of Pacific Grove
- San Pedro segment of Los Angeles City
- City of Santa Monica
- Skyline segment of Monterey City
- City of Del Mar

The CCC points out that with the certification of the Mendocino County LCP, all counties north of Los Angeles are now certified and 85% of the geographic area of California's coastal zone is

⁶ State of California Coastal Management Program and FEIS (1977), pages 21 and 56-59.

certified.⁷ However, only 64% of coastal jurisdictions have certified LCPs.

When the CaCMP was approved in August, 1977, all LCPs were to have been completed and certified by January 1, 1981. However, as the enormity of the task became apparent, the deadline was extended several times and the original intent of the Coastal Act has not been fully realized. During this review period, the CCC prepared an LCP completion strategy, which classified outstanding LCPs into Priority I, II and III levels for the purposes of targeting available financial and staff resources. However, in 1993, the California Assembly decided to relieve localities of the requirement to fulfill several specifically identified unfunded state mandates. This has had the effect of relieving remaining coastal cities and counties that do not yet have certified LCPs of the requirement to develop them, at least temporarily.

The reason for the Assembly's action stems from the State's recession and budget crisis. Until 1992, the CCC's local assistance program provided at least some level of both technical and financial assistance to local governments to develop approved LCPs. As progressive cuts dug deeper and deeper into CCC's staff and funding, local coastal grants and technical assistance were first cut back and, in 1992, local coastal grants were suspended entirely. Now CCC does not even have the funds and staff to produce its Local Assistance Notes, a newsletter that provided a forum for coastal communities to exchange information on their LCPs.

As the CCC funds and technical assistance to assist them in developing LCPs were cut, the local governments were also being impacted by the recession and, for the first time, by the impacts of Proposition 13 that limited property tax revenues some 15 years ago. At the time Prop 13 was passed, the State had a revenue surplus, so it stepped in to replace the revenues local governments lost as a result of Prop 13. However, the State currently has a large budget shortfall and can no longer financially assist the local governments. Thus, the local governments find themselves dealing with a double revenue shortfall -- reduced revenues due to the recession and the loss of property tax revenues due to Prop 13. As a result, they are having to make drastic cuts in local staff and programs. Local planning departments have no incentive, and greatly diminished capacity, to develop LCPs, and every incentive to leave the permitting workload with the CCC. In fact, the Evaluation Team was told that some communities which have certified LCPs have asked that their programs be decertified because they have no funds or staff to run them. This could have a significant impact on the CCC and on the State's ability to implement the CaCMP. On the other hand, the Evaluation Team was also told that because of

⁷ California Coastal Commission, OCRM Evaluation Local Coastal Program Certification Summary, 6/14/93.

the current budgetary constraints, even small amounts of funds would be a big incentive for local governments to keep up their LCPs.

LCP Amendments

The Evaluation Team heard a number of concerns about the LCP amendment review process. These included concerns that CCC, because of staff shortages, cannot become involved in reviewing proposed amendments until too late in the process, and that the amendment review process is unnecessarily cumbersome and time consuming.

Several local officials expressed frustration that, because of staff shortages, CCC area offices cannot become involved in the LCP amendment process adequately or in a timely manner. They want to involve CCC early in the process, when the flexibility to make changes to deal with problems is greatest. Instead, they find that, because of high permit workloads, CCC cannot review amendments until late in the process and they may raise substantial concerns. At that point, much time and effort has been expended and plans are difficult to change.

In addition, they felt the amendment review process was unnecessarily cumbersome and time-consuming. One local official said there appeared to be no distinction between review of major and minor LCP amendments. For example, minor changes to implementing ordinances, such as regulations for recycling, may take 6-8 months to be certified (approved) by the CCC. The result is split implementation -- i.e., the regulations go into effect outside the coastal zone before they go into effect inside the coastal zone. This causes confusion for the public and added work for the local governments. Some local government officials also said they have the CCC review and clear on their public notices concerning LCP amendments even though they are not sure this is required.

The Evaluation Team heard two fundamental substantive concerns with the amendment process. First, environmental groups were concerned at what they see as constant piecemeal changes which are eroding the protections in several existing LCPs (e.g., San Diego LCP, San Diego Unified Port District Port Master Plan, Mendocino County LCP). The CCC's amendment by amendment review process is not geared to looking at the cumulative impacts of these incremental changes, which environmental groups believe are fundamentally changing the direction of specific LCPs and of local coastal planning in California. (CCC staff note that the CCC's Regional Cumulative Assessment Project is intended to help address this problem.) Second was the desire of some local communities to convert their LCPs from documents containing specific coastal protection criteria and standards to general policy documents. The Coastal Act envisions the Land Use Plan (LUP) component of a local coastal program as the document containing applicable

resource protection and development policies. The specific standards and criteria to implement the LUP policies are contained in the companion regulatory component (e.g., local ordinances). The Coastal Act specifies that the standard of review for LUPs is Chapter 3 of the Coastal Act, which contains all of the State's coastal resources planning and management policies. By contrast, the standard of review for regulations implementing the LUP is only that they be consistent with and able to carry out the LUP policies. Thus, the LUP must provide enough detail to determine how the policies it contains will be carried out. At least one coastal community, La Jolla (in the City of San Diego), is revising its LUP to remove these specific standards and criteria.

The current revision of the LUP component of the La Jolla LCP illustrates both procedural and substantive concerns with the LCP amendment process. City officials told the Evaluation Team they began these revisions over 3 years ago. They said they had submitted documents to CCC for 1 and 1/2 years without receiving a single comment. Then, late in the process, they found that CCC had major concerns. CCC staff say they actually commented on the La Jolla LUP revisions earlier than normal -- before the LUP amendment was submitted to the San Diego Planning Commission. They say that with high permit workloads and minimal staff, they cannot usually comment on LCP amendments until even later in the process. CCC staff also note that one officially filed, the CCC carries out its reviews and takes action within the statutorily mandated time limits (90 days for LUP amendments and 60 days for zoning changes.)

Environmental representatives and citizens who spoke to the Evaluation Team were extremely concerned over the proposed revisions to the La Jolla LUP, which they view as degrading the existing local coastal program. They cite the removal of setback requirements and the proposed exemption of 1 to 4 unit developments from the need for a coastal development permit, except in a very narrow shoreline band, as examples of how the revisions are eliminating existing protections of coastal resources in the current La Jolla LUP. City officials respond that CCC and environmental groups want the LUP to include implementing regulations, whereas they see the LUP as a policy document.

CCC's position, as expressed in its comments, is that the LUP is the controlling land use document and must contain specific standards and protections. This has always been CCC's position, based on the Coastal Act, which states:

"Land use plan means the relevant portions of a local government's general plan, or local coastal element, which are sufficiently detailed to indicate the kinds, location, and intensity of land uses, the applicable resource protection and development policies and, where necessary, a listing of implementing actions." (Section 30108.55)

The local officials in La Jolla are taking a new and different approach to their LCP revisions, which has significant policy implications for the CaCMP. CCC is trying to hold the line, but the fact that they did not have the staff to get involved earlier in the amendment process and do not now have the staff to provide any technical assistance to La Jolla or any other coastal community substantially weakens their ability to uphold the Coastal Act's requirements and the existing framework of coastal protection along much of California's coast.

Periodic Review

Section 30519.5 of the California Coastal Act requires the CCC to review certified LCPs at least every 5 years after certification. The purpose of the review is to determine whether the LCPs are being effectively implemented in conformance with Coastal Act policies. If, after conducting this review, the CCC determines that an LCP is not being carried out in conformity with Coastal Act policies, the CCC is required to prepare a report to the local government containing recommendations for corrective action. This report is advisory only: the local government may accept or reject the CCC's recommendations. However, if the local government does not take the CCC's recommendations, it must, within one year of receiving the CCC's report, submit a response to the CCC setting forth its reasons for not doing so. The CCC, after reviewing the local government's response, may "where appropriate" report to the Legislature and recommend legislative action necessary to assure effective implementation of the Coastal Act's policies.

Although most of the 81 certified LCP segments are due or overdue for periodic review, to date only two periodic reviews have been completed -- for the Cities of Trinidad and Sand City. The Trinidad review was completed during the previous review period and is discussed in the June, 1990 evaluation findings. The Sand City review was completed in September, 1991 and is discussed below.

Sand City Periodic Review

Sand City is located about two miles north of Monterey on the central California coast. It is an "industrial" city, with several hundred businesses but less than 200 fulltime residents. It includes substantial oceanfront jurisdiction west of Highway 1. This oceanfront is largely undeveloped, except for substantial sand mining operations and a waste disposal site. However, many years ago, small oceanfront lots (average size 25' x 90') were platted and given away as a promotion. The entire first tier of these lots, seaward of Front Street, a paper street, are now underwater due to erosion. The second tier of lots is now a storm wave runup area.

The Sand City LCP was certified by the CCC in 1984. All parties agree that prior to its certification, it did not receive much public input or review. As a result, issues that could and perhaps should have been anticipated have arisen. First, in the mid-1980s, a development project was proposed in the beach and dune area which has been in litigation ever since. The proposed project was a 229 unit hotel on a portion of Sand City's beach. Issues of coastal erosion, public participation and water supply arose during review of this project. After the project was denied by the CCC, the developer sued the CCC and also brought an action against several staff of the CCC's Central Coast Office before the California Personnel Review Board, which is allowed under California law. (CCC reports that its case was upheld in court.) Although the City of Sand City is not a party to either this lawsuit or personnel action, City representatives told the Evaluation Team that they view the CCC's denial of this project as an effort to thwart the Sand City LCP. The unfortunate course of events on this project has clearly made it more difficult for the City and CCC to work out other issues.

The second issue to arise was over the permissible uses of Sand City's oceanfront area. The City's LCP does not provide for public parks and recreational uses along its 1.5 miles of oceanfront, except as provided by individual development projects. Over the past few years the Big Sur Land Trust and Monterey Peninsula Regional Park District have purchased over 100 oceanfront parcels in a paper subdivision in Sand City. In 1989, the State Department of Parks and Recreation purchased a parcel which included 500 feet of oceanfront. In that year, 1989, the Monterey Regional Parks District also proposed to the CCC that the Sand City LCP be amended to provide that parks and open space become a preferred use of the City's oceanfront area. (Note: Section 30518 of the Coastal Act allows outside parties to propose LCP amendments to the CCC if the proposed amendments deal with energy facilities that are needed to meet public needs of an area greater than that included within the certified LCP or if the proposing party is authorized to undertake public works projects.) The City has resisted this proposal vigorously because it does not wish to give up the prospect of high density development of its oceanfront area, and the revenue such development would provide.

In the midst of these issues, the CCC conducted its periodic review of the Sand City LCP and issued its report in September, 1990. The CCC report was extensive, analyzing Coastal Act policies, the LCP provisions dealing with those policies and making recommendations in 10 areas: public access, recreation and visitor-serving facilities, coastal hazards, environmentally sensitive habitats, archaeological resources, visual resources, water resources, wastewater disposal, land use, and post certification implementation procedures. Rather than respond to the report, as called for in the Coastal Act, the City sued the CCC. The City's suit was dismissed at both the trial court and appellate court level, but City representatives told the Evaluation Team they were considering another appeal. The City

also claims it is due \$6 million from the CCC in "lost projected revenue" from development of its oceanfront area, although OCRM is unaware of any circumstances in which a speculative claim for "lost projected revenue" has been sustained anywhere. The City's representatives requested OCRM's assistance to facilitate mediation between the City, State Parks and the CCC.

The basis for the court's dismissal of Sand City's suit was that the City had not exhausted the administrative process because it had not responded to CCC's report. This response is not only necessary to follow the Coastal Act's procedures, but is also essential to determine if there is any room for a mediated settlement of the issues. Although the CCC certainly does not have funding to hire a third party mediator, it might be possible to interest a private non-profit organization in such a mediation on a pro bono basis, but any mediator would first have to determine that there was room for compromise -- i.e., that a mediated settlement was feasible. This cannot be done until the City's position on the issues is clarified. Until and unless the City responds to the CCC's report, the "ball is in the City's court."

Future of Periodic Review

As mentioned earlier, environmental and citizens groups who spoke with the Evaluation Team are disheartened by piecemeal amendments which they believe are eroding the coastal protection elements in some LCPs and Port Master Plans. They view the periodic review process as the key quality control over these plans, because by its very nature the amendment review process does not look at the cumulative impact of plan changes over time. Some local officials, although they understood the CCC's need to put priority for limited staff on servicing the permit workload, also felt that in the absence of periodic review, a slow degradation of LCPs was taking place. (CCC staff note, however, that when certain local governments have sought to revamp comprehensively their LCPs, the amendment process, coupled with early and frequent CCC staff contact, has proven an effective vehicle for strengthening LCPs even in the absence of a periodic review (e.g., City of Santa Cruz' LCP).)

CCC reported to the Evaluation Team that any further work on periodic reviews has been suspended because of budget and staff reductions and the necessary reallocation of staff to other work priorities. Instead, CCC is undertaking ReCAP -- a new initiative under the CZMA Section 309 Coastal Zone Enhancement Program -- as an alternative to the periodic review process. ReCAP stands for Regional Cumulative Assessment Project. The Commission's ReCAP strategy is to identify broad coastal development trends and cumulative impacts of those trends to major coastal resources in an identified coastal region, which are not evident in the CCC's

and local governments' permit-by-permit reviews.⁸ The pilot ReCAP is being conducted by the CCC's San Francisco and Central Coast Offices. One of the goals of ReCAP is to revise the periodic review process. CCC says that through ReCAP, it will develop a way to evaluate LCPs regionally, rather than individually as called for in the periodic review process. CCC believes this approach will provide a broader perspective on trends in coastal resources and uses as well as be a more cost effective approach to the periodic review requirement.

OCRM commends the CCC for the leadership it is showing, through ReCAP, to develop the information and methodologies to evaluate the cumulative impacts of individual development decisions on coastal resources and statewide policies. This is a type of analysis that is greatly needed in many parts of the State, as well as many other places on America's coasts. However, while we agree it is a promising approach to periodic review, it may be necessary to retain the ability to review LCPs individually in some cases.

Port Master Plans (PMPs)

Section 30701 of the California Coastal Act extends local coastal planning also to four specifically identified California ports -- Ports Hueneme, Los Angeles, Long Beach and the San Diego Unified Port District.⁹ These ports are required to develop port master plans (PMPs) encompassing allowable land and water uses within the port district. After certification of the PMPs by the CCC, permit authority for projects consistent with the PMP is delegated to the port governing bodies, with appeals to the CCC allowed only for: oil refineries; crude oil and liquified natural gas onshore facilities; buildings, roads and highways not principally for internal use; and petrochemical production plans.¹⁰ In addition, PMPs can be amended. The CCC can certify or reject a port's application for a proposed amendment. Unlike LCPs, which implement a comprehensive and highly specific set of coastal policies contained in Chapter 3 of the Coastal Act, PMPs implement a much less comprehensive and more permissive set of policies contained in Chapter 8 of the Act. The Evaluation Team heard many concerns expressed about the PMPs in general and the San Diego Unified Port District's PMP in particular.

San Diego Unified Port District PMP

The San Diego Unified Port District's PMP was certified in 1980 and has been amended 18 times in the subsequent 13 years. Citizens groups in the San Diego area are concerned about the

⁸ California Coastal Commission, "Regional Cumulative Assessment Project Working Paper, #1," February 1, 1993.

⁹ The ports of San Francisco Bay are excluded from this provision because they are regulated by BCDC.

¹⁰ State of California Coastal Management Program and FEIS, U.S. Department of Commerce, NOAA, August 16, 1977, page 63.

piecemeal development projects within the jurisdiction of the PMP that they believe are threatening the remaining habitat within the Bay, especially in the South Bay. The San Diego PMP originally identified the South Bay as an area for resource protection, because it had been set aside as mitigation for development projects in the North Bay. Now there are at least four large proposals for developments in the South Bay -- National City Marina, Chula Vista Nautical Activity Center and expanded marina, a salt pond development, and the Imperial Beach bayfront development -- as well as several smaller proposed projects. Citizens groups believe the San Diego Unified Port District, through incremental amendment of its PMP to accommodate these proposals, is trying to back out of its commitment to preserve the South Bay as mitigation for past projects.

Citizens who spoke to the Evaluation Team also pointed to the serious impacts of recreational boating on the wildlife of South San Diego Bay. The disturbance of waterbirds from boat traffic has been well documented. The National Marine Fisheries Service (NMFS) reports that studies in an Upper Mississippi River backwater area of similar size to Central and South San Diego Bay (i.e., about 9,200 acres) showed that ducks were flushed from their nests by sail boats within 300-400 meters and by powerboats within 700 meters, or over half a mile.¹¹ Many of the proposed developments in the South Bay involve additional marina capacity. The Chula Vista Nautical Activity Center and the National City Marina, mentioned above, envision over 500 new boat slips. In addition, the Port's 1991-1996 Capital Improvement Plan includes the construction of two new boat ramps and anchorage facilities for 250 boats near National City Marine Terminal. Furthermore, construction of a 400 boat marina at Pier 14 of the Naval Station and a second marina at the Naval Submarine Base, Point Loma, are proposed on Navy property.¹² The U.S. Fish and Wildlife Service (USFWS) expressed concern to the Port about the impacts of these proposed projects, and the additional recreational boating they would generate in the South Bay, on wildlife in general and the endangered brown pelican and California least tern in particular.

Citizens groups also contend that the Port has suppressed a 1990 biological study, entitled the "South San Diego Bay Enhancement Plan," which the Port itself partially funded (in partnership with SCC), but which is critical of the Port's policies. (Note: The Evaluation Team was unsuccessful in scheduling an interview with representatives of the San Diego Unified Port District, despite repeated attempts.)

There is very little waterfowl habitat left in the San Diego area, or in all of southern California. South San Diego Bay is a key stop in the Pacific Flyway and the only resting and feeding

¹¹ Letter from Richard Zambal, Deputy Field Officer, U.S. Fish and Wildlife Service, to Mr. Don Nay, San Diego Unified Port District, 11/7/92.

¹² Ibid.

area of any size in over 900 miles. It is a biodiversity hot spot, with over 475 shorebird species alone. Environmental groups, academics, citizens and other Federal and state agency representatives who spoke with the Evaluation Team all favored a comprehensive planning approach, in which all development proposals could be reviewed in the context of the region's remaining natural resources and resource needs. They believe the CCC, as the only overseer of the Port's PMP, should promote such an approach.

Summary

The Evaluation Team heard that local coastal planning in California is at a crossroads. Most of those with whom we spoke felt that it has been successful in the past, but question its future. With no assistance available to help local governments, no sanctions for not implementing LCPs, and, at least temporarily, no mandate for remaining localities without LCPs to develop them, there is no incentive for local governments to continue to participate in coastal management. Many communities, especially in southern California, have not developed LCPs and of those that have, many are very out-of-date. In addition, the periodic review process has fallen by the wayside and, even if the CCC had the resources to carry it out, it is only an advisory mechanism. Thus, many groups see an increasing trend toward piecemeal amendments and general weakening of the LCPs and PMPs. These groups see the State as moving away from the concept of comprehensive planning as embodied in the original LCP and PMP provisions of the Coastal Act.

The Evaluation Team believes that if LCPs are to continue as key components of coastal management in California, there must be both increased resources for local governments and correction of the disincentives to local participation that are inherent in the LCP process itself. That is, there must be positive incentives -- both financial and technical -- available to local governments to develop and implement LCPs, a systematic and adequately staffed review process, and some sanctions for not participating. There must also be adequate capability to provide technical assistance to ports and oversight of PMPs.

The CCC's staffing needs for local coastal program assistance must be included in the staffing analysis required under Necessary Action A-1. In addition, we have the following recommendations.

PROGRAM SUGGESTION A-5:

a. The CCC should consider undertaking a Regional Cumulative Assessment Project in the San Diego area. The project should involve the local governments in the area as well as the San Diego Unified Port District. The CCC should review the San Diego Unified Port District's PMP and the cumulative impact of

development proposals within the jurisdiction of the PMP as a part of this project.

b. The CCC should consider conducting a workshop (or series of workshops) with local, regional and state entities to develop a plan to address the future of local coastal planning in California. The plan should cover all stages of local coastal planning from state guidelines to local preparation and adoption to implementation by locals and CCC. The affected parties should consider whether to request that the Legislature amend the Coastal Act to reimpose the mandate for LCP development, provide sanctions for not developing an LCP within a specified period of time (for example, inability to access available funding and technical assistance), and require that LCPs be updated at some required time interval.

6. Public Access

The CCC and SCC's Joint Coastal Access Program has historically been an area of noteworthy achievement. The need for increased public access to California's coast was one of the major motivators leading to passage of the California Coastal Act. Since the Joint Coastal Access Program began in 1979, SCC has spent over \$32M providing public access to California's coastline and beaches. This funding has leveraged an additional \$120M from cities, counties, regional park districts, other public agencies and nonprofit organizations. As a result of this cooperative effort, over 196 public access projects have been completed along the coast and around San Francisco Bay. These projects range from informal beach trails to elaborate waterfront promenades with boat launches, restrooms, play areas, picnic tables, parking lots, open meadows and waterfront trails.¹³

During the same period, CCC has obtained over 2,300 public access easements as conditions of obtaining coastal development permits. These easements include both lateral (along the beach and bluff) and vertical (from the first public road to the beach) dedications. In many cases, these easements have provided the only beach access to many coastal locations. As of June 1991, more than 800 of these easements have been accepted by local governments, the State, and nonprofit organizations, and have been made permanent.¹⁴

However, this is another program that has been severely impacted by budget reductions. (SCC impacts are discussed in Section C, pages 71-73.) The CCC's Public Access Coordinator has had to take on other (permitting) workload and at the time of the site visit, was spending only 20% of her time on access. Many

¹³ State Coastal Conservancy and California Coastal Commission, Eleventh Annual Report to the Governor and Legislature on the Joint Coastal Access Program, June 1991, page 3.

¹⁴ Ibid.

public access easements that have not yet been accepted are nearing expiration of their terms (usually 21 years), but because of computer equipment limitations, the Public Access Coordinator does not have an automated database capable of easily identifying these expiring easements. In addition, the Evaluation Team learned during the site visit that SCC staff were attempting to automate the access database and identify expiring easements, but are having extreme difficulty converting data from the antiquated WANG system that the CCC uses to store this information. Unless positive action is taken on expiring easements promptly, public access opportunities may be lost irretrievably.

In addition, lack of staff has caused the CCC to put affirmative public access efforts, like those that resulted in the Pecho Coast Trail (see page 11) on hold. Lack of enforcement staff make CCC unable to respond effectively to access violations (such as locked gates, no parking signs in areas set aside for public parking, etc.) which are restricting the public's ability to use public access that has already been secured. The CCC has also had to give up its coastal access signage program because of budget reductions. This may not seem to be important, but the Evaluation Team visited many creative and unconventional public accessways which the public would not know existed except for the signs.

The CCC's public access staffing needs should be included in the staffing analysis under Necessary Action A-1. In addition, we have the following recommendations.

NECESSARY ACTION A-3:

As also recommended on page 125, the CCC and SCC Joint Coastal Access Program must expedite their efforts to identify expiring public access easements. A list of expiring public access OTDs must be developed and prioritized for immediate action by September 1, 1994.

PROGRAM SUGGESTION A-6:

a. CCC and SCC should consider developing a pro bono project, in cooperation with private law firms or university law schools, under which attorneys or law students could assist the CCC and SCC to perfect public access easements.

b. CCC and SCC should seek alternative funding sources, including asking the Legislature for special funds, for coastal access signage and to prepare an updated report to the Governor and Legislature on the status and needs of the coastal access program in California.

7. Coastal Nonpoint Pollution Control Program (Section 6217 of the Coastal Zone Act Reauthorization Amendments)

Although states are not required to have Coastal Nonpoint Pollution Control Programs (CNPCPs) under Section 6217 completed until July, 1995, the Evaluation Team did inquire into California's progress in addressing this new mandate. Soon after this new provision was enacted in the November, 1990 CZMA reauthorization, the CCC was an early leader in developing approaches to its implementation.

The new 6217 program called on the CCC to become a partner with the State Water Board and nine semi-autonomous Regional Water Boards with widely varied expertise and experience, and each dealing with different terrain, land uses and levels of citizen support. As a first step toward developing this partnership, CCC and EPA funded a staff person to do a pilot nonpoint source study of the Morro Bay watershed. Morro Bay was chosen because the Regional Water Board in the area was interested and there was a mix of agricultural, mining and urban nonpoint sources of pollution with which the 6217 program would have to deal. At the time of the evaluation site visit, the draft report on the Morro Bay study was about to be issued. Its main conclusion was that the Regional Water Board should be the principal implementer of the 6217 program given its existing and potential authority to regulate waste discharges, but that its ability to do so is constrained by a lack of in-house expertise to deal with basin plans and policies involving land uses. EPA informed us that they have funded a person half-time at the Central Coast Regional Water Board to do a two-year follow-up to this study, which they hope will demonstrate the feasibility of implementing 6217, at least on a regional basis.

At the time of the evaluation site visit, the future direction of the 6217 program in California was evolving. Representatives of the State Water Board told the Evaluation Team they recognized that because CCC's jurisdiction was limited to the coastal zone, and because the coastal zone boundary was unlikely to change, there would be heavy reliance on the Water Boards for implementation of 6217. They were moving toward a statewide program for nonpoint pollution control because they do not want one set of guidelines to apply within the coastal zone and a different set of guidelines to apply outside the coastal zone. They saw 6217 integrated into a statewide nonpoint source program modelled after their Stormwater Management Program. They also wanted to implement 6217 using the same public process they used for the Stormwater Management Program, including committees, task forces and an advisory panel from cities and counties to make recommendations on the statewide nonpoint source program.

A statewide approach to nonpoint source pollution control certainly makes sense. However, there were several concerns about the details of the Water Board's approach. EPA expressed concern about adding layers of bureaucracy to the planning process and

about finding the money to support the extensive public process the Water Board contemplates. There were also questions about the role of the CCC in a statewide program and about the authorities that can be brought to bear to implement the nonpoint pollution control program outside of the coastal zone.

Although it is not appropriate for this evaluation to make recommendations on 6217 at this time, it is clear that the CCC must continue to assert a leadership role in the development of this program and the State and Regional Water Boards should take advantage of CCC's planning and land use expertise in the design of a statewide nonpoint source program.

8. Wetlands Mitigation and Restoration

Wetlands mitigation and restoration continue to be key coastal issues in California. With over 90% of its natural wetlands already lost, very little resource remains. CCC is widely viewed as the strongest wetland protector in California and continues to be a leader in policy development in this area. For example, the wetlands restoration project it negotiated as mitigation for the San Onofre nuclear powerplant is the first project of its kind mandating performance standards to enhance the probability of creating a functional ecosystem. To accomplish this goal, it will employ the best science available and independent review and monitoring. In addition, in FY 1994, the CCC will be working on a Coastal Zone Enhancement (Section 309) Project of Special Merit to develop performance guidelines for wetlands mitigation.

However, three relatively new issues were raised to the Evaluation Team. First, some commenters expressed concern over the issue of out-of-kind mitigation which shifts habitat from one type to another. Since so little wetland resource remains, some wetland mitigation projects involve converting existing shallow water habitat into deep water habitat to mitigate for fish losses. Some commenters expressed concern that shallow water habitat, on which shorebirds depend, is being lost, while deep water habitat is being increased. (Note: CCC staff reported that most port mitigation projects involve the restoration of severely degraded wetland and lagoon complexes in order to restore original ecosystem function (i.e., a mix of subtidal, intertidal and upland habitat). Often this requires modification of existing transitory shallow water habitat (e.g., habitat in the process of being further degraded by sedimentation caused by upland watershed development). Because wetland restoration is still a controversial activity, and because commenters may have one particular focus (e.g., shorebirds, butterflies, fish) there are differing opinions on the optimal design of a wetland/lagoon restoration project. The CCC focus is on an ecosystem approach to restoration without a bias for or against a particular habitat type.)

Commenters asserted that the conversion of shallow to deep water habitat is taking place without knowledge of what the tradeoffs are and in a piecemeal fashion, without consideration of regional needs for habitat types. The Evaluation Team was told that the entire Pacific Flyway may be jeopardized. The CCC should be a leader, working with NMFS, USFWS and other appropriate agencies and groups, in defining these tradeoffs. In addition, the ReCAP approach that it has initiated in Central California would be well-suited to assessing regional trends and needs for wetlands mitigation, as well as other needs, in Southern California where these issues are most critical at this time.

Second, although wetland restoration has become the preferred form of mitigation for many activities, Dr. Joy Zedler, a well-known wetland ecologist with San Diego State University informed the Evaluation Team that her research on wetland restoration over the past 20 years shows that wetland restoration does not yet produce functional wetlands in Southern California. This research suggests that much more needs to be known about how to do wetland restoration successfully and that it is premature to rely on wetland restoration in the meantime. The San Onofre mitigation project mentioned above is the first such project known to incorporate performance standards to enhance the probability of creating a functional ecosystem. CCC was instrumental in developing this mitigation project and should apply its knowledge more generally to the role that wetland restoration versus other forms of mitigation should play in mitigating for future development projects. To do this, the CCC needs technical expertise in such areas as wetlands biology and hydrology. These needs were previously discussed on pages 23-24. (CCC notes that it recently was able to hire a biologist, supported, in part, by CZMA Sec. 309 Enhancement Grant funds.)

Third, at the time of the site visit, the Evaluation Team was told that California was about to issue a new wetlands policy statement which would call upon BCDC and the San Francisco Regional Water Board to conduct a pilot study of state assumption of Section 404 permitting authority under the Federal Clean Water Act. Such a study would have important policy implications for the CaCMP. BCDC, CCC and SCC should all be involved in assessing those implications.

In addition, although not a new issue, the Ports' continue to call for reasonable alternatives to wetlands restoration as mitigation for their projects. One alternative they see is the creation of artificial reefs. While the CCC has supported Port efforts to document the feasibility of artificial reefs, it has not yet been convinced that artificial reefs would serve as adequate mitigation for port landfills of deep water. The CCC went so far as to approve the granting of mitigation credits to the Ports of Los Angeles and Long Beach to further experimental work on artificial reefs. However, the project did not go forward due to opposition by the state Department of Fish and Game (DFG). In 1992, the California Legislature enacted SB 1677 (the Beverly

Bill) which authorized the ports to conduct a study of deepwater habitat creation or enhancement as potential port mitigation. The Ports developed a report which identified alternative forms of mitigation (principal among them, artificial reefs.) The CCC, SCC and DFG participated in this process by reviewing that report. The CCC should endeavor to increase its pro-active involvement in efforts to identify and evaluate alternative forms of mitigation for port projects. This could promote both the economic vitality of the Ports and the conservation of coastal resources.

The State will be facing important and somewhat novel wetlands policy issues in the years to come. CCC's special responsibilities under the California Coastal Act cast it in a leadership role on state wetlands policy but it needs more technically trained staff to perform this role effectively. In addition, in the recent past, CCC has not had the staff to focus much attention on the Ports. Its only dedicated staffperson, its Ports Coordinator, is located at the San Francisco headquarters and does not have a travel budget to visit the Ports or work with them directly. Because of the many port-related issues that came to the attention of the Evaluation Team during this evaluation, we suggest that CCC consider increasing its focus on Port development and mitigation. Staffing needs for these purposes should be included in the staffing analysis under Necessary Action A-1. We also believe CCC should initiate a ReCAP project in Southern California (see Program Suggestion A-5 , page 44.) In addition, we have the following recommendations.

PROGRAM SUGGESTION A-7:

a. CCC should consider convening a scientific review panel to prepare a regional overview of wetland habitat needs and mitigation opportunities from Point Conception south to the California border with Mexico. The regional overview could identify critical habitat needs, potential mitigation sites and what functions each site could do well. The purpose of the overview would be to provide a regional context for future project by project habitat protection and mitigation decisions in Southern California.

b. CCC should consider convening a separate panel of interested parties (e.g., port officials, port users, citizens groups, academics and state and Federal agencies) to assist the Ports in identifying alternative forms of mitigation for port projects. Once the necessary scientific work is done to confirm the feasibility of a given alternative, this panel might be able to assist the Ports in responding to the Beverly Bill, including developing performance standards and monitoring regimes for alternative mitigation projects. CCC should explore opportunities for partially funding this panel as a demonstration project under the CZM Fund, if Federal appropriations allow.

c. CCC should include in its staffing analysis under Necessary Action A-1 consideration of relocating its Ports

Coordinator from its San Francisco Headquarters to its Long Beach or San Diego Area Office.

9. Other Policy Issues

Most of those interviewed, from all sectors and levels of government, felt the CCC should be focusing more on statewide coastal policy issues and policy coordination, and less on detailed permit issues. All agree that CCC has done an exemplary job of policy coordination when it has had the resources to play this role. Examples cited are the Santa Monica Mountains Enforcement Task Force, the CCC's leadership in coordinating state agency participation in designating the Monterey Bay National Marine Sanctuary, CCC's nonpoint source and watershed planning study in Morro Bay, and ReCAP. However, CCC is in a "Catch-22" situation -- it has had to drop LCP assistance due to lack of staff, but this means increased direct permitting workload, which consumes more staff. Following are several areas where CCC's expertise in policy coordination is needed now.

o *Oil Transportation.* One of the most contentious issues that arose during the review period concerns the issue of oil tankering. Under the California Coastal Act, pipelines are preferred over tankers for the transport of crude oil (Section 30265) because of the lower risk of oil spills and lower air emissions. When the Point Arguello Producers submitted a consistency certification on their Development and Production Plan (DPP) to the CCC in 1983, the Commission concurred with it based on the Producers' promise to transport their crude oil by pipeline from Gaviota (in Santa Barbara County) to refineries in Los Angeles, and to take the lead in building a pipeline to Los Angeles if one was not constructed by 1986. No new pipeline was constructed by the time the field commenced production in June, 1991. The Producers were able to send some of their product through an existing pipeline to Los Angeles (Line 63), but because of capacity constraints, they still sought to tanker up to 50,000 barrels per day.

In August, 1992, Santa Barbara County approved a permit that would have allowed the Producers to tanker their oil on an "interim" basis provided they used existing capacity in Line 63 and signed a contract with a pipeline developer which would ensure construction of additional pipeline capacity. (Note: A signed contract was deemed necessary because, after spending \$885 million in the 1980's to build a pipeline from Santa Barbara County to Texas based upon the expectation that Exxon would use it, the All American Pipeline Company finds its pipeline virtually empty after Exxon changed its preferred refinery destination. Based on this history, no pipeline developer will build another pipeline until the producers first sign a contract to use the pipeline once constructed.) The Producers appealed the County's decision to the CCC. At the same time, they made plans to send some of their crude oil to Martinez, near San Francisco, where it would be

loaded on tankers and taken to Los Angeles refineries, thus exposing a substantial portion of the California coast to the risk of an oil spill. At that time, the environmental community urged CCC to exercise its authority under 15 CFR 930.86 to request Federal enforcement of the approved DPP. Instead, on appeal on the County's permit, the CCC granted an interim tankering permit which allows the Producers to tanker from Gaviota to Los Angeles contingent in part on conditions that they: (1) cease tankering from Martinez; (2) transport at least 40,000 barrels of oil per day by pipeline to a final refining destination; and (3) support the development of new pipeline capacity to Los Angeles. All tankering must cease by January 1, 1996.

Environmental groups believe this agreement undermines both the Coastal Act and Santa Barbara County's approved LCP. Although not pleased with all the conditions of the permit, the Point Arguello Producers accepted the tanker permit in July, 1993. Other commenters felt the agreement was the best compromise that could be obtained at this time.

Pipeline siting and related oil transportation issues are likely to dominate energy policy debate in California for the rest of this decade. The Coastal Act policy statement expressing a preference for pipeline transport of crude oil also calls on the Governor to "help coordinate decisions concerning the transport and refining of offshore oil in a manner which considers state and local studies undertaken to date, which fully addresses the concerns of all affected regions, and which promotes the greatest benefits to the people of California."⁵ Both Coastal Act policy and the CCC's recent experiences in fostering policy coordination and problem solving place the CCC in a good position to facilitate the long-term strategic planning necessary to meet the region's oil transportation needs while protecting coastal resources and water dependent uses. Such long-term planning could also encompass related energy issues brought to the attention of the Evaluation Team, including (1) what to do with existing offshore leases, and (2) whether to allow extended reach drilling from land, which could generate substantial revenue for the State.

o *Oil Spill Prevention and Response.* The Legislature gave responsibility and resources for implementing California's new oil spill contingency planning legislation (SB2040) to the California Department of Fish and Game. However, the Evaluation Team was told that citizens still turn to CCC's small energy staff for analysis of issues and public information on this program. CCC and BCDC are coordinating their participation in this program in a cost effective way by sharing one supervisor and available staff between the two agencies. However, their limited staff and resources only allow them to participate in a reactive mode. For example, at present, OCRM understands that there is no State plan

⁵ California Public Resources Code, Division 20, California Coastal Act (Supplement January, 1993) Section 30265 (f).

to deal with the thousands of volunteers who might show up to help with an oil spill. CCC's excellent Coastal Conservation Education Program could help to develop training materials and pre-training programs for these volunteers, if funds were available.

o *Fisheries.* A representative of the fishing industry credits the CCC with helping to reverse the trend toward forcing fishermen out of coastal locations. However, this representative said that loss of habitat due to bad land use practices outside of the coastal zone (e.g., timbering on Federal lands, destruction of riverbanks and streams and nonpoint pollution) threatens the future of fisheries. He cited a Humboldt Harbor marina project as an example of a good compromise negotiated by CCC which allowed a modern marina to be built that was sited to save wildlife habitat. He said the fishing industry would like to see these principles extended to other areas. For the fishing industry, it is not a question of jobs versus the environment -- the two are one and the same.

o *Desalination.* As a result of California's long drought, there are 10 active desalination proposals but very little information on the environmental impacts of brine generation and disposal from desalination operations, or on environmentally sound design of these projects. Although recent rains have temporarily alleviated freshwater shortages, long-term trends indicate continued demand for freshwater exceeding natural supplies. The CCC has just produced a final draft report on this issue entitled, Seawater Desalination in California, which describes current desalination technology, the current status of desalination proposals, and coastal issues related to the siting and construction of desalination plants. This report is an excellent example of CCC's role in facilitating the development of coastal policy and should be followed up.

o *California Ocean Resources Management Act (CORMA).* The State Resources Agency has just issued its draft plan and policy options for ocean resources management under this Act. The CCC, as the implementer of Coastal Act policies, has an important interest in seeing that ocean resources management policies and coastal management policies are compatible and mutually supportive.

o *Hazards.* California is one of the most vulnerable states to natural hazards. The 1990 Loma Prieta earthquake, centered in Santa Cruz, caused major damage and loss of life along a 150 mile section of the Central California coast and San Francisco Bay. Shoreline erosion is also a serious coastal issue, as is building along California's steep slopes and bluffs. The catastrophic 1993 California wildfires caused extensive destruction along the southern California coast, especially in the Malibu Canyons area. Land use practices that do not adequately consider these risks can not only cause loss of life and destruction of property, but can also destroy coastal habitats and resources.

Geologic hazards can require large land areas to be graded in order to render them safe or suitable for construction. However, grading can be very environmentally destructive. The CCC, recognizing the need to provide planners with clear guidance about environmentally sound grading practices, produced that Landform Alteration Handbook. The Handbook preparation involved outreach to interested parties, an external review panel, scientific review, and coordination with state agency hazards experts. A "user friendly" format and case studies are now being developed. The CCC also needs to be able to provide technical assistance to permit applicants to deal with this issue and needs to do much more to minimize exposure to other coastal hazards. The CCC is doing all it can to meet these needs with available resources. For example, it is attempting to coordinate with other state and Federal agencies on shoreline mapping to identify seriously eroding areas. However, it is hobbled by lack of staff.

o **Port Expansion:** At the time of the 1989 evaluation, the Ports of LA and Long Beach had developed what they called a "2020 Plan" to provide for their landfill expansion needs through the Year 2020. It involved upwards of 2,000 acres of new fill, with the associated disposal and mitigation issues. Since that time, the Port of Long Beach has rethought its approach to expansion. Its new approach involves minimizing the need for new landfills by optimizing use of existing land within the Port, changing existing facilities to reflect new needs, and purchasing 700 acres of uplands within and adjacent to the Port to forestall large additional fills. The Port of LA, however, still plans to construct the 2020 Plan landfills. CCC should be working actively with the Ports to plan for their long-term expansion needs in ways that minimize adverse impacts to the coastal zone, but does not have the technical staff to do so.

Summary

CCC should include staffing needs for policy development and planning in its staffing analysis under Necessary Action A-1. With minimal increases in staff, CCC could build on its proven successes in bringing together entities with common interests throughout the state to develop plans and programs on important coastal issues.

10. **Equipment**

The CCC is really struggling with antiquated equipment. Except for a few modern Personal Computers (PCs) purchased with Federal CZMA Section 306 program implementation funds, the equipment in use at CCC is Wang word processors. These word processors represent technology from the 1970's and have been obtained over the years as other state agencies have surplusd their obsolete equipment. Although they are adequate for word processing applications, they are clearly inadequate to meet the

CCC's data storage, retrieval, communications and computer mapping needs.

As a result, the CCC's planning, permitting and enforcement functions are all hampered. Area offices cannot communicate electronically with the San Francisco Headquarters or access the Headquarters permitting and enforcement databases. Staff at both Headquarters and Area Offices cannot access existing resource information databases that would help them to evaluate permit applications and enforcement cases. They cannot import existing digital data that they need for coastal mapping. They cannot communicate with other state agency databases or access available information from California's world class academic research institutions. Thus, processing of permits and enforcement actions is delayed, decision-making cannot take advantage of available scientific information, and citizens are precluded from accessing information about projects that may affect them.

In addition, there are not even enough of these old word processors to go around. For instance, in the San Diego Area Office, there are five shared Wang terminals for 9 professional staff. Also, because equipment is so old, it is becoming increasingly difficult to find spare parts or people who can make repairs when the equipment breaks down.

This situation is extremely inefficient. It unnecessarily reduces the productivity of CCC staff, and with so few staff remaining, allowing them to be as productive as possible is critical.

PROGRAM SUGGESTION A-8:

CCC should conduct an overall review of its equipment needs in both Headquarters and Area Offices. This should include inventorying what exists, identifying and prioritizing needs, and developing a budget to meet those needs. CCC should present the results of its review to the California Resources Agency and OCRM and discuss options for special funding, equipment transfers or other means to meet CCC's priority needs.

11. Outreach

Despite CCC's exemplary programs in public access (see Accomplishments section), many commenters believe that more and different outreach efforts are needed. The Evaluation Team heard from several thoughtful citizens and local officials who are not sure the public of today understands the CCC, what it does and why. They are concerned the current public outreach opportunities do not impart an understanding of the institutional process and the bigger context in which the CCC operates.

In addition, they believe that targeted outreach on the CCC's permitting process is critical. One commenter said that the

public hears horror stories about the CCC's permitting process, but when he takes them through the process, it sounds reasonable. The Evaluation Team can attest to the continuing controversy surrounding the coastal development permitting process. Several residents from the Santa Monica Mountains/Malibu Canyons area attended our evaluation public meeting in Los Angeles. As explained earlier, in this relatively less urbanized area of the coast, the coastal zone landward boundary extends inland for up to five miles and overlaps with the jurisdictions of some 25 other state and local agencies. The residents who spoke at the public meeting did not appear to understand why their property was considered to be within California's coastal zone and said they failed to see how their activities on land this far inland could affect the coast. They also tended to hold the CCC responsible for problems with obtaining local building permits and other matters clearly outside of the CCC's jurisdiction. An outreach document to explain the CCC's permitting process (including what it covers, the steps in the process, the Commissioners' roles, the time required and how many permit applications are actually approved and denied) is needed. (Note: A publication has been prepared by the Santa Monica Mountains Enforcement Task Force to explain to the public of that area in general the regulatory requirements of all 26 agencies with regulatory jurisdiction in the area. However, a document which distinguishes the CCC's requirements, and explains the basis for them, is clearly needed here as well as elsewhere on the coast.)

The public's confusion about how actions miles inland can affect coastal resources should be of fundamental concern because an understanding of how waste disposal practices, construction practices, paving, grading, lawn fertilizing, vegetation removal, agricultural practices and other human activities far inland can result in pollution and degradation of coastal resources is at the heart of coastal management in general, and the control of nonpoint source pollution in particular. Interviewees told the Evaluation Team that the CCC's excellent efforts to work with the State and Regional Water Boards to develop a Coastal Nonpoint Pollution Control Program for California need to be augmented by targeted public outreach documents that explain this subject.

The CCC has proposed a 20 year retrospective report on protection of California's coast, which would be an excellent way to address several of these needs, as well as produce many other "value-added" outreach products. However, no funds are currently available for this project and less costly, and less ambitious, alternatives may exist to meet priority outreach needs.

PROGRAM SUGGESTION A-9:

The CCC should consider developing brief information publications or fact sheets, and updating and widely disseminating its existing information publications such as its "California's Coastal Act of 1976: Questions and Answers." This or a new publication needs to explain why the California Coastal Act was

passed in 1976 and why coastal management is still needed in California. It should also explain the linkage between continued coastal development and resource protection, access, and health and safety concerns. The CCC's publication explaining the CCC's permitting process should include actual statistics on costs, processing times, paperwork requirements, and approvals/denials, so that when exaggerated claims are reported, people can ascertain the facts. Another publication is needed to explain what nonpoint pollution is, what a watershed is, how people's activities in inland parts of a watershed affect coastal resources through drainage from higher to lower elevations in the watershed, and how the Coastal Nonpoint Pollution Control Program will help to control this form of pollution. These documents might be produced or revised cost effectively by relying primarily on volunteers with CCC staff oversight. They could be photocopied, if no printing funds were available, and offered to citizens, interest groups, businesses, the Legislature, and others concerned about California's coastal resources.

B. SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION (BCDC).

As summarized above, BCDC's operations have been severely curtailed by funding reductions and the resulting inability to fill positions. At the same time, BCDC continues to carry out its core permitting responsibilities in a highly effective manner and to receive widespread community support. It is viewed as largely successful in accomplishing its goals of decreasing Bay fill, increasing the acreage of the Bay and increasing public access to the Bay shoreline. It is marshalling the resources it has in cost effective and innovative ways to operate efficiently and stay at the cutting edge on key coastal issues, as described in Section IV, Accomplishments. However, its effectiveness in many important areas is being reduced by budget and staff reductions, as described below.

1. Planning

a. Long-Term Management Strategy (LTMS) for dredged material disposal.

About 8-12 million cubic yards of dredged material must be disposed annually from dredging projects in San Francisco Bay. Historically, most of this material has been disposed at a site near Alcatraz Island. So much dredged material has accumulated at this site that mounding problems may require its closure. At the same time, 19 million cubic yards of dredging projects, including a deep draft channel into the Port of Oakland, are stalled until an acceptable alternative to the Alcatraz Island site can be found.

The Long Term Management Strategy (LTMS) grew out of previous unsuccessful efforts to identify acceptable dredged materials disposal sites on a project-by-project basis. It represents a pooling of agencies' expertise to solve the problem on a regional basis. The U.S. Army Corps of Engineers (COE), as the agency responsible for carrying out the dredging projects, is the convener of the LTMS. Other agencies involved include the U.S. Environmental Protection Agency (EPA), the State Water Quality Control Board (State Water Board), the Regional Water Quality Control Board (Regional Water Board) and BCDC.

The LTMS working group is conducting a series of technical studies on Bay disposal issues:

- 1) The study of the potential for ocean disposal is being headed by EPA. As a result of this study, EPA expects to designate a new ocean disposal site about 50 miles offshore San Francisco and off of the outer continental shelf.
- 2) The study of the effects of in-Bay disposal on beneficial uses of the Bay is being headed by the Regional Water Board.

3) The study of upland disposal and reuse options is being headed by BCDC.

The reuse of dredged material for marsh restoration at Sonoma Baylands, previously mentioned on p. 13, Section IV, is a part of this study. Through this project and other efforts, BCDC is evaluating whether the use of dredged material as a resource is feasible and can be competitive on a cost basis with other dredged material disposal alternatives. For example, at Sonoma Baylands, the use of dredged material for marsh restoration is projected to cost \$7 - \$9 per cubic yard. This compares to \$4 per cubic yard for in-Bay disposal at Alcatraz Island, \$8 - \$10 per cubic yard for ocean disposal, and \$20 - \$30 per cubic yard, which is the figure estimated by the COE and port officials for upland disposal.

The technical studies are to be completed by mid-1994. Then a dredged material disposal management plan for the region will be developed, during which policy decisions will be made concerning the use of various disposal options. A joint EIS/EIR will also be prepared and a single dredging permit will be developed for the region.

BCDC's participation in the LTMS has been possible only because of special funding. BCDC took the initiative to propose and secure approval of a short-term dredging impact fee on Bay dredging projects that will support BCDC's participation in the LTMS.

PROGRAM SUGGESTION B-1:

BCDC has played a key role in the development of the LTMS. As the process enters the critical phase where policy choices will be made, BCDC should continue its active involvement and support for disposal options that, where possible, increase reliance on upland disposal and reuse and decrease reliance on in-Bay disposal of dredged material.

b. San Francisco Estuary Project (SFEP)

The SFEP was one of the first of a number of nationally-significant estuaries around the country selected to be a part of the National Estuary Program (NEP), authorized under Section 320 of the Federal Clean Water Act. Under the NEP, each selected estuary is studied intensively to determine the causes of water quality problems and a plan, called a Comprehensive Conservation and Management Plan (CCMP), is developed prescribing actions the participants believe are necessary to correct those problems and prevent further decline of the estuary's water quality and natural resources. Although development of CCMPs is funded by EPA under the Clean Water Act, implementation presently is not funded, nor

does the Act provide the authority necessary to implement a CCMP. Rather, the NEP relies on state authorities, including authority under a state's Coastal Zone Management Program, to implement the CCMP.

BCDC has played a key role throughout the development of a CCMP for San Francisco Bay. BCDC has served on the Management Committee and almost all subcommittees of the SFEP and has helped to develop the management options that are reflected in the CCMP. BCDC conducted a review of the CCMP for consistency with its San Francisco Bay coastal management program, in preparation for its formal submission to the Governor and Legislature. BCDC found nothing inconsistent or unacceptable in the CCMP, although recognizing that some CCMP recommendations would require expanding BCDC's authority to review activities in upland habitat adjacent to the Bay (i.e., diked historic baylands). It remains to be seen how the Governor and Legislature will view the overall CCMP and the changes it recommends in BCDC's authority under the San Francisco Bay Plan.

One of BCDC's most innovative roles in the SFEP was to join with the Greenbelt Alliance and the University of California at Berkeley to make a proposal as a consultant to EPA to do a study of current land uses and land use projections in the San Francisco Bay watershed and the impacts of land use change on pollution of the Bay. This study went far beyond the relatively small amount of technical work in this area that has characterized other NEP projects. It resulted in a Report on the Effects of Land Use Change in the Greater San Francisco Bay Area that allowed projecting water pollution levels in the Bay from current land uses and from two alternative growth scenarios. The results of the study were used in developing the recommendations in the CCMP and also resulted in the creation of a Bay Delta Commission, with similar types of authority as BCDC had when it began in 1965.

The SFEP is entering the implementation phase. The San Francisco area Congressional delegation has introduced Federal legislation to fund implementation of the CCMP. Whether or not this funding is forthcoming, an implementation committee will be formed if the Governor approves the Plan.

PROGRAM SUGGESTION B-2:

Since the SFEP's CCMP is so closely related to the San Francisco Bay Plan that BCDC implements, BCDC should continue its active involvement in the SFEP and in implementing the CCMP.

c. Other Planning Needs

One casualty of BCDC's funding cuts has been its leadership role in the planning for several priority issues affecting San Francisco Bay. Since its creation, BCDC has been proactive in

identifying critical issues affecting San Francisco Bay, providing the public with well-reasoned studies and reports that clarify and analyze the issues, and taking a leadership role in building community consensus on actions to deal with issues in a progressive manner. BCDC's role in the development of a LTMS for San Francisco Bay dredged material disposal is an illustration of this. However, BCDC's involvement in the LTMS is specially funded by a short-term fee on dredging projects. Because of funding reductions, BCDC is unable to do much other planning work that is not specially funded. As a result, BCDC is unable to play its traditional role in several current issues that could be critically important to the future health of San Francisco Bay. These include:

- o *Marshes and mudflats.* Marshes and Mudflats is a section of the Bay Plan which was completed in 1968 and has not been updated since. It includes policies for protection of marshes and mudflats within BCDC's jurisdiction. BCDC needs to update this section of the Bay Plan because it is 25 years old and because consideration needs to be given to policies on protecting areas adjacent to marshes and mudflats. However, BCDC is unable to undertake this task due to staffing constraints.

- o *Freshwater diversion.* San Francisco Bay is an estuary, relying on freshwater inflows from the American, San Joaquin and Sacramento Rivers to mix with salt water from the Pacific Ocean and create the productive estuarine environment of the Bay. However, these rivers are dammed and much of their water is provided to agricultural interests, often at prices that are heavily subsidized by Federal and state taxpayers. Recently enacted Federal legislation introduced by Congressman Miller (D-CA) will gradually bring the cost of water to within market levels. However, improved state water quality standards also need to be developed to recognize needs for lower salinity and higher freshwater inflows to San Francisco Bay. BCDC, with its focus on the health of San Francisco Bay, should be working with the State and Regional Water Boards and the wide range of interests involved in this issue, to arrive at feasible and innovative solutions, but is unable to do so due to budget constraints.

- o *Airport expansion.* All three airports in the San Francisco Bay area are near the Bay and two of the three are located on fill in the Bay. San Francisco International Airport is planning a major expansion that could impact the Bay. The McAteer-Petris Act prohibits further Bay fill for airport runways if capacity remains within the regional airport system. BCDC should be involved now in the planning for airport expansion in order to avoid negative impacts, rather than finding itself in the reactive mode of awaiting a permit application, when many design opportunities may have passed, but is unable to provide staff time for this purpose due to budget constraints.

- o *General transportation issues.* Serious traffic and congestion problems in San Francisco are stimulating plans for

major road expansions. Four of the six biggest permit applications that BCDC dealt with last year were for freeway expansions, and these are only the first of many expected to be submitted. Once again, BCDC should be involved in the early planning of these projects individually and in planning to deal with the overall issue of providing an adequate transportation system that minimizes Bay fill, but is unable to do so due to budget constraints.

o *Nonpoint source pollution.* Three-fourths of the State of California drains into San Francisco Bay. Thus, a wide range of contaminants from urban runoff, stormwater runoff, and agricultural runoff and irrigation return flows are deposited in the Bay. Yet, due to budget constraints, BCDC has made the judgment that it cannot afford to participate in the development of a Coastal Nonpoint Pollution Control Plan (CNPCP) for California, under Section 6217 of the Federal Coastal Zone Act Reauthorization Amendments of 1990 (CZARA). OCRM recognizes that the Federal share of this program is severely underfunded. However, we believe that BCDC's expertise and authorities are critical ingredients and should be available in developing the California CNPCP.

o *Coastal hazards.* Many planning priorities that have had to be deferred or dropped due to budget constraints fall into this category. They include updating the seismic safety element of the San Francisco Bay Plan (produced in 1968 and not updated since then), analyzing Bay area bridges after the 1990 Loma Prieta earthquake, and responding to the California Department of Transportation's (CalTrans) proposal to dump Loma Prieta and future earthquake rubble in the Bay. (NOTE: Much of the damage from the Loma Prieta earthquake occurred in the Marina district of San Francisco to structures which had been built on rubble from the 1906 earthquake.) In addition, implementation of BCDC's innovative and forward-looking Sea Level Rise policy is on hold because, due to budget reductions, there is no staff engineer to work with local governments on implementing the policy in areas landward of BCDC's jurisdiction.

PROGRAM SUGGESTION B-3:

As soon as funds and staff permit, BCDC should expand its proactive planning program to address more fully the major issues that will affect the future of the Bay. BCDC should prioritize the issues described above and other planning needs so that limited funds can be applied to the highest priority planning projects. BCDC should continue to seek innovative special funding for planning activities, such as the dredging impact fee that is funding its participation in the LTMS.

2. Permitting

BCDC has four permit staff positions assigned exclusively to permit work (down from 7) to handle 250-280 permit applications per year. BCDC has placed a priority on retaining staff for this function because permit processing deadlines must be met regardless of budget constraints. Although the numbers of permit applications have remained relatively constant over the past 10-15 years, the types of projects have changed. The Evaluation Team was told that all the easy projects have been done. For example, as previously mentioned, four of the the six major projects BCDC reviewed last year were for freeways. Now BCDC is reviewing a project for a second San Mateo bridge, involving some 9 miles of fill. BCDC is also working on reauthorizing permits for five houseboat marinas in the Bay, which involve complex issues of residential use of public trust areas, pollution control, public safety and affordable housing.

a. Technical Assistance

Providing technical assistance to applicants to design projects from the beginning to minimize adverse impacts has been one of BCDC's most important roles. BCDC has been able to maintain a reduced level of engineering assistance by utilizing two private engineers who provide 10 hours per week each of pro bono technical assistance to applicants in designing their projects to minimize Bay fill. However, as mentioned previously, BCDC has not been able to hold Engineering Criteria Review Board (ECRB) meetings because BCDC lost its staff engineer position.

The ECRB provided critical input on the design of projects to minimize geologic instability. The 1990 Loma Prieta earthquake showed the effectiveness of this input in minimizing damage to structures designed with ECRB involvement. Every day that passes increases the likelihood of another catastrophic earthquake. The steep slopes and soil types, and the large amount of filled area, in the Bay area exacerbate the vulnerability to geologic hazards. The ECRB provided critical technical assistance on these hazards in an extremely cost effective manner. By relying on pro bono experts, its only cost to the taxpayers was the one technical staff person (engineer) at BCDC needed to provide the staff support to keep the process going. Unfortunately, with large transportation projects looming, BCDC has not been able to hold ECRB meetings just when they are needed most.

PROGRAM SUGGESTION B-4:

BCDC should ask the Governor and Legislature to reinstate the position and funding for BCDC's staff engineer, so that the ECRB can be reactivated.

b. Permit Processing

BCDC permit applications are divided into three categories: (1) major permits, which require a public hearing and Commission vote; (2) administrative permits, which are issued for minor work; and (3) regionwide permits, for activities that have been pre-authorized by the Commission. Federal projects requiring a Federal consistency determination are processed similarly to Commission permit applications.

The Evaluation Team heard that BCDC's administration of its regulatory authorities under the McAteer-Petris Act is viewed as fair and even-handed by representatives of industry and environmental groups alike. Environmental groups generally believe BCDC has been an effective steward of the Bay's resources, to the extent it can be within its limited jurisdiction. Industry groups believe that BCDC's permit process and permit decisions are both understandable and predictable. While environmental groups are concerned that BCDC be able to continue its leadership in planning for key issues, such as dredging, transportation, diked historic baylands, nonpoint source pollution and seismic safety, industry representatives were most concerned about consolidating bureaucracy and reducing bureaucratic requirements. Both groups support BCDC's involvement in the LTMS and the single dredging permit it will generate.

BCDC has undertaken several commendable initiatives to streamline permitting processes, both to ease paperwork burdens and reduce processing times for applicants and to minimize its own staff requirements to process permits. These include:

- o holding a workshop for Federal agencies to explain its new consolidated application form, which consolidates information for both permit applications and Federal consistency reviews in one form;

- o amending its regulations to expand the types of projects (i.e., multiple boat docks up to 5,000 square feet, some environmental testing facilities, and most single family residences) that may be authorized through administrative permits; and

- o adding new regionwide permits authorizing certain projects (i.e., single boat docks up to 1,000 square feet and the drilling of test wells) to proceed once notice is provided.

The Commission adopted new regulations on repair of historic structures and is developing new regulations on repair and reconstruction of pile-supported residences, both of which will expedite the authorization of such projects. In addition, in keeping with the LTMS proposal for a single application and permit for dredging projects in the San Francisco Bay area, the Commission adopted revisions to its regulations on administrative

review of dredging projects to make them consistent with those of the Regional Water Quality Control Board and the Corps of Engineers, and is working with the State and Regional Water Quality Control Boards and the California Environmental Protection Agency to develop an application form for use by all state, and possibly federal, agencies that have jurisdiction over dredging projects in the Bay.

c. Regulatory jurisdiction under the McAteer-Petris Act

BCDC's regulatory jurisdiction under the McAteer-Petris Act is both substantively and geographically narrow. Substantively, it is limited to reviewing projects to minimize Bay fill and increase public access to the shoreline. Geographically, it is limited to the Bay waters and land within 100 feet of the line of highest tidal action. The Evaluation Team heard from some groups who believe that BCDC cannot really protect the Bay without increased jurisdiction over landward activities that affect Bay resources, especially the conversion of the Bay's remaining wetlands. Other groups feel that BCDC's success is largely due to its limited jurisdiction, which limits the Commission's discretion in decision-making and thus makes for predictable and consistent outcomes.

BCDC's jurisdiction may be reconsidered soon in the context of two upcoming events:

1) The SFEP CCMP recommends increasing BCDC's jurisdiction over diked historic baylands in order to assure that their future use protects Bay wetland habitat values and does not increase pollution of the Bay.

2) The Evaluation Team was told that the Governor would soon announce a State Wetlands Policy which will call on BCDC and the Regional Water Quality Control Board to undertake a study of State assumption of permitting authority under Section 404 of the Clean Water Act. Although state assumption is viewed primarily as a regulatory streamlining measure, it could have impacts on BCDC's authority and responsibility for regulation of wetlands.

OCRM will follow both of these matters closely because they could have important impacts on the CaCMP and the protection of wetlands in California.

d. Public Participation in the Permitting Process

Public participation opportunities have been reduced due to budget constraints. Commission meetings have been cut in half (from twice per month to once per month) and BCDC has begun to charge for its staff reports on permit applications and other matters. The Evaluation Team heard concerns about what was perceived as the growing remoteness of BCDC from its citizen base and about the need for more outreach to citizens who should be

involved in managing the public's resources. Concern was expressed that the policy of charging for staff reports has discouraged citizen participation and could increase the influence on BCDC of industry advocates who have the resources to appear regularly before it. Another concern was that BCDC meetings should be as open as possible. Presently, BCDC does not accept comments at meetings on non-agenda items. Therefore, citizens are precluded from discussing upcoming projects or general planning issues of concern, unless there is a specific permit application before BCDC.

PROGRAM SUGGESTION B-5:

BCDC should reconsider its policy of charging for staff reports in relation to the revenue received versus the adverse impact on public participation and report its conclusions to OCRM. BCDC should also consider whether it is possible to allocate some time on its agenda for presentation of citizen issues and concerns.

3. Enforcement

Enforcement is the key to any effective management program. No matter how good the laws that underpin the program, they will not work unless they are effectively and consistently enforced. Enforcement at BCDC was a concern of the last 312 program evaluation. There, OCRM found that further efforts were needed to detect violations and expedited administrative procedures were needed to help reduce the backlog of enforcement cases. BCDC has taken positive actions to improve its enforcement and streamline its procedures by obtaining the services of two *pro bono* attorneys to investigate and prepare enforcement cases and by adopting standardized fines for minor violations. Unfortunately, since BCDC lost its enforcement analyst, it has not been able to continue the use of *pro bono* attorney services, since it does not have staff able to supervise and assist these volunteer counsel

For some years, BCDC has made use of an Enforcement Committee to provide more meaningful hearings for persons who are charged with violating the McAteer-Petris Act or a condition of a BCDC permit. Consisting of 5 BCDC Commissioners and 1 Alternate, the Enforcement Committee hears the parties and the public and makes recommendations on enforcement action to the full Commission. This process allows time for a fuller hearing of the parties' positions, while streamlining the presentation of enforcement cases to the full Commission, thus making the best use of their limited time. Since the number of full Commission meetings has been cut in half to save money, such streamlining actions are essential to avoid delays in processing cases.

BCDC also has the tools necessary for an effective enforcement program -- having both administrative fine and Cease

and Desist authority. During the review period, BCDC used these tools effectively in several enforcement cases.

However, BCDC currently lacks the staff for an effective enforcement program. At the time of the site visit, the Evaluation Team found that BCDC's enforcement function, which at one time had 3 fulltime staff, now has no fulltime staff assigned exclusively to enforcement. Although BCDC's Enforcement Committee and two staff attorneys spend a considerable amount of time handling enforcement cases, the only full-time staff working on enforcement were 2 interns. BCDC's caseload of enforcement cases is declining because it has no regular field monitoring to detect new violations. BCDC relies almost exclusively, therefore, on citizen reports of violations and, because of limited staffing, it cannot even follow-up on most reports. It has no regular effort to detect unpermitted activities, even though experience has shown that this is where most resource damage occurs.

NECESSARY ACTION B-1:

BCDC must try to secure additional funding so it can devote fulltime staff to its enforcement program. If additional financial support can be secured, BCDC must assign at least one fulltime staff person to this function and resume regular field monitoring to detect unpermitted activities. BCDC must report to OCRM on its effort to secure additional funding for a fulltime enforcement position by September 1, 1994.

4. Federal Consistency Review

BCDC continued to implement its Federal Consistency authority fully and correctly. The Evaluation Team heard no complaints about the use of the consolidated application form for both BCDC permits and Federal Consistency reviews. Federal agencies said their working relationships with BCDC staff were generally good and that processing of their Federal Consistency determinations was efficient and generally predictable.

Three issues arose during this review period, however:

- 1) BCDC has asserted Federal Consistency review authority over Department of Defense base closures in the San Francisco Bay area. This has lead to an issue concerning the reuse of land after the military has left. The DOD representative with whom the Evaluation Team spoke said that the military is not in a position to guarantee how the land on former military bases will be used after the military has left and therefore would prefer not to identify a preferred reuse option in its Environmental Impact Report on base closures. BCDC insists that a preferred reuse option must be identified for its Federal consistency review and OCRM supports this position. OCRM has been working with BCDC, CCC and DOD to resolve this issue and DOD has agreed to submit its Record of Decision (ROD) for Federal consistency review, which

will contain all information on reuse options considered and the reuse option preferred at the time the ROD is prepared.

2) The applicability of BCDC's permits and permit fees to federal agencies continued to be an issue during this evaluation period. OCRM's position is that, under certain circumstances, the federal Clean Water Act requires federal agencies to obtain state permits and, in these instances, the state permit can be part of the federal consistency determination. Further, OCRM has stated that BCDC's permit appears to be the type of permit that federal agencies must obtain. OCRM, however, also supports the position that it is the responsibility of the affected federal agency to make the legal determination as to whether it must obtain a given state permit, and whether it is authorized to pay any associated fees.

A related issue is the applicability of a specific permit fee to the U.S. Army Corps of Engineers (COE) and other federal agencies. In 1991, the state legislature passed Assembly Bill 1059, which authorized BCDC to impose a dredging impact fee of up to \$0.10 per cubic yard for material dredged from, or disposed of within, BCDC's area of jurisdiction. The intent of this fee is to allow BCDC to participate in the Long Term Management Strategy (LTMS) process. The LTMS process is being sponsored by the COE and EPA, and is intended to develop a long range strategy for the disposal of material dredged from San Francisco Bay. The COE has expressed concerns that since they are already sponsoring the LTMS process, they should not be subject to additional charges through the application of the dredging impact fee.

OCRM has offered to work with BCDC and the affected federal agencies to resolve these issues.

3) Another issue that was raised to the Evaluation Team was what happens when the expiration of a Federal consistency concurrence does not coincide with the expiration of a Federal agency's permit. In the example given, the COE approved a 5-year dredging project but BCDC only approved the project for 1 year. BCDC uses limited term approvals in cases where it does not want to hold up a project but has some question about its long-term impacts. OCRM believes that these are projects where it would be appropriate to conduct a phased Federal consistency review, which would allow the project to proceed but would provide for later review after time to collect and consider information concerning the project's impacts. However, some Federal agencies are reluctant to agree to phased consistency review of their projects.

OCRM has offered to work with BCDC and affected Federal agencies to resolve this issue.

5. Public Information

Three and one-half to four million people now live in the San Francisco Bay area who were not there when the San Francisco Bay Plan was developed and the McAteer-Petris Act was passed. The Evaluation Team heard concerns that these people may not realize how shallow the Bay is, how productive it is, or how vulnerable it remains to filling, pollution and habitat loss. BCDC has been very successful in halting the filling of the Bay that at one time seemed inexorable. (Prior to the Bay Plan and the McAteer-Petris Act, there were so many proposals for Bay fill, people feared they would soon be able to walk across the Bay.) However, protecting the Bay requires constant vigilance, and constant vigilance demands public support. BCDC may be in danger of becoming a victim of its own success, in that people may no longer perceive a problem.

Unfortunately, BCDC has had to drop its public information program at a time when it is more needed than ever. The award-winning San Francisco Bay Plan is currently out-of-print. This makes it difficult for both citizens and applicants to understand what is required because they cannot easily consult an up-to-date Bay Plan. All public information publications, including BCDC's excellent Annual Reports, have been dropped. Other efforts to control costs, such as fewer meetings and charging for staff reports, further restrict public information about the health of the Bay and projects that could affect it.

PROGRAM SUGGESTION B-6:

a. Funds should be sought from the Legislature to update and reprint the San Francisco Bay Plan. The Plan should incorporate all approved changes to date, so that citizens and applicants alike can go to one source for up-to-date policy guidance and requirements governing permitting and Federal consistency review of activities in San Francisco Bay.

b. BCDC should also consider resuming the development of a brief annual summary of the state of the Bay and its activities to protect the Bay. The summary might be developed cost effectively by relying primarily on volunteers with BCDC staff oversight. It could be photocopied if no printing funds were available, and offered to interest groups, the media, citizens, the Legislature and others concerned about the Bay and its resources.

c. As the only governmental entity representing all of the diverse interests in San Francisco Bay, BCDC should consider requesting support and funding, through the State Resources Agency and the Department of Finance, from the Governor and Legislature to undertake a comprehensive study of the issues that will impact the Bay into the 21st century. This could include the planning issues mentioned above (pages 60-62). Other states and regions have found such studies useful for both environmental stewardship

and economic renewal. Such a study would be compatible with other business/environmental efforts to promote regional growth strategies for the Bay. BCDC should investigate alternative funding sources for this study.

C. THE STATE COASTAL CONSERVANCY (SCC)

The SCC is generally well regarded in California. It is viewed as having a high degree of integrity and creativity. Staff received praise for the way in which they work with local communities.

The SCC is well known for its success in putting large projects together -- such as the Sonoma Baylands Restoration project described earlier (pages 15-16). Its staff are skilled at pooling Federal, state, local and private funding sources to develop projects that meet statewide, regional and local needs and which often serve as demonstrations for new approaches to solving coastal problems. For example, the SCC put together Transfer of Development Rights (TDR) demonstration projects for the buildout of four subdivisions in the Santa Monica Mountains area. Through these projects, it developed the ground rules for a successful TDR program in California. However, it is now out of funds and thus unable to implement the TDR program elsewhere.

Generally, the SCC needs its own funds to provide a base from which it can leverage other funds for projects. For the first time, it finds itself without this "seed money" and, thus, without the impetus to get projects started. This lack of funding jeopardizes a key component of the CaCMP, at a time when the need has never been greater for the special functions which SCC can perform. However, the Evaluation Team heard that, in at least one way, the SCC's budget constraints may actually be a benefit in that they are forcing the identification of criteria and the setting of priorities for projects which should improve targeting of funds to the best projects. This should put the SCC in a good position should a proposed bond issue be placed on the ballot and passed in 1994.

1. Public Access

a. Offers to Dedicate

In addition to acquiring lands for public access, the SCC has played a key role in assisting the CCC to perfect so-called Offers to Dedicate (OTDs). OTDs are offers to dedicate public access easements that may be made voluntarily or as a condition of obtaining a CCC permit. These offers are outstanding for a fixed term, usually 21 years. During that time, they can be perfected when an organization, public or private, agrees to accept them. Accepting an OTD means taking responsibility for maintaining the accessway for public use, including accepting liability for its use. Finding organizations willing to accept OTDs is not always easy. The CCC has obtained over 2300 OTDs over the years, but only about one-third have been accepted. (The CCC anticipates 400 "lateral" OTDs, i.e., OTDs running laterally along the shore or

beach, will be accepted by the State Lands Commission.) The terms of unaccepted OTDs made in the 1970s will begin to expire soon.

When it had funding, the SCC was able to assist the CCC in finding organizations to accept OTDs by providing funds for design and technical assistance and by making acceptance of an OTD a condition of receipt of SCC funds. This is no longer possible for the time being. However, the Evaluation Team learned during the site visit that SCC staff were attempting to automate the access database and identify expiring easements, but are having extreme difficulty converting data from the antiquated WANG system that the CCC uses to store this information.

NECESSARY ACTION C-1:

Staff of the CCC and SCC Joint Coastal Access Program must expedite their identification of expiring public access easements. As required by Necessary Action A-3, a list of expiring public access OTDs must be developed and prioritized for immediate action by September 1, 1994.

b. Signage

The SCC and CCC employ simple signs bearing the words "Coastal Access" to identify for the public all the many places along the coast where they have secured additional public accessways. The Evaluation Team saw many of these signs along the areas of the coast we visited. However, nowhere do these signs acknowledge the role of the SCC or CCC in making this access possible. Since the CaCAMP's permitting requirements are sometimes very visible to the public, the Evaluation Team believes that the public benefits from the CaCAMP should also be visible. More important, the SCC and CCC have no funds for new signs or to replace lost signs. Many of the accessways secured for the public are not apparent without such signs.

PROGRAM SUGGESTION C-1:

a. The SCC and CCC should ask the Legislature for funding for coastal access signs.

b. The SCC and CCC should consider revising their new access signage to acknowledge their role in securing access for the public.

2. Wetlands Mitigation/Restoration

The Sonoma Baylands project is an illustration of a complex, innovative project in which the SCC, in conjunction with BCDC and others, is demonstrating not only novel wetland restoration

techniques but also novel beneficial uses of dredged material. This project may lead the way toward at least partial resolution of one of the most difficult environmental problems of this generation -- how to dispose of dredged material in an environmentally sound manner.

The SCC has put together many wetlands mitigation/restoration projects over its 20+ year existence, but to the Evaluation Team's knowledge, there has been no published follow-up on the results. Such follow-up is needed, especially since many of these projects were intended to demonstrate new concepts. It is important for users around the country to know what was successful, what was unsuccessful and why, so that successful concepts and techniques can be transferred elsewhere and so that mistakes are not repeated.

PROGRAM SUGGESTION C-2:

The SCC should evaluate and summarize the results to date of its wetlands mitigation/restoration projects and publish the results.

3. Nonpoint Source Pollution

The SCC has played a limited role in the development of California's Coastal Nonpoint Pollution Control Program (CNPCP) under Section 6217 of the Federal Coastal Zone Act Reauthorization Amendments. (See related discussion, page 47.) However, given the magnitude of the nonpoint pollution problem, the diffuse sources, and the minuscule funding available for the program nationwide, successful state programs must go beyond direct regulation to involve stakeholders in cooperative efforts to reduce nonpoint pollution. Pulling together cooperative efforts, involving disparate public and private groups, into model programs for dealing with coastal problems is what SCC does. Therefore, the Evaluation Team believes the SCC should play a larger role in the development of California's CNPCP.

PROGRAM SUGGESTION C-3:

The SCC should work with the CCC and the State Water Board to analyze where SCC's expertise would be most useful in the development of California's CNPCP and develop a specific plan, agreed to by all parties, for its participation.

VI. PROGRAM CHANGES

One function of the evaluation is to determine whether the state has changed its coastal management program and whether it has submitted those changes to OCRM for processing as program amendments or routine program implementation (RPI). NOAA regulations define amendments as substantial changes to enforceable policies or authorities related to boundaries, uses subject to the management program, criteria or procedures for designating or managing areas of particular concern or areas for preservation or restoration, or consideration of the national interest involved in the planning for, or citing of, facilities which are necessary to meet requirements which are other than local in nature. An RPI is a further detailing of a state's coastal management program as a result of implementing the approved program which does not result in substantial changes to the program.

OCRM approved 23 packages of program changes to the CaCMP during the evaluation review period, which are detailed in Appendix D. All of these changes were classified as routine program implementation (RPI) under NOAA's regulations.

The state is up-to-date in submitting changes to the BCDC and SCC components of the CaCMP. However, the CCC is substantially in arrears in submitting changes to its part of the CaCMP. For example, there have been several changes to the California Coastal Act, which CCC administers, which have not been submitted to OCRM for approval. In addition, the CCC is not up-to-date in submitting changes to Local Coastal Programs. The last package of LCP changes submitted to OCRM dealt with changes (major and minor LCP amendments) from 1985-1989.

NECESSARY ACTION A-4:

The CCC must work with OCRM/Coastal Programs Division staff to develop priorities and an action plan for submitting outstanding changes to the CaCMP. The action plan must be submitted to OCRM by July 15, 1994.

CONCLUSION

Based on OCRM's evaluation covering the period September, 1989 through June 1993, I find that the State of California is generally adhering to the provisions of the CaCMP and the underlying requirements of the CZMA (Sections 306(d) and 312(a)) and its implementing regulations (15 CFR Part 923).


All of the CaCMP's lead agencies -- the CCC, BCDC and SCC -- have faced massive budget reductions during the review period. At CCC, and to a somewhat lesser extent at BCDC, these budget reductions have necessitated severe staff reductions. As discussed in these findings, lack of adequate staffing to perform core program functions is the cause of most of the problems identified in this evaluation. Lack of technical staff for permit reviews, lack of staff to monitor and enforce core laws, lack of staff to assist and oversee local coastal programs and port master plans, and inability to conduct long-range planning on critical statewide coastal issues are all serious concerns of OCRM. In addition, budget and staff reductions have had the effect of curtailing opportunities for public participation in the CaCMP and, as a result, citizens feel left out of the decision-making process.

The CaCMP's lead agencies are to be commended for the creative initiatives they have taken to deal with funding shortages. For example, OCRM was very impressed with the innovative, new relationships they have forged with other local, State and Federal agencies and the private sector to carry out shared responsibilities in the most efficient and effective manner. However, these innovations cannot replace a minimum level of staff to perform core program functions. OCRM is concerned that continued erosion of funding and staff for the CaCMP could jeopardize the State's ability to adhere to its Federally-approved program.

OCRM has made several recommendations to deal with these issues. **NECESSARY ACTIONS** must be complied with by the date(s) so indicated; if no date is indicated, then appropriate action must be taken by the next regularly scheduled evaluation of the CaCMP. **PROGRAM SUGGESTIONS** are actions that OCRM believes would improve the program but are not mandatory at this time.

This is a programmatic evaluation of the CaCMP that may have implications regarding the award of financial assistance; however, it does not make any judgment on, or replace, any financial audit(s) related to the allowability or allocability of costs incurred.

6/3/94
DATE



Director
Office of Ocean and Coastal
Resource Management

APPENDIX A

PERSONS CONTACTED DURING SITE VISIT

Thomas Gwyn	Port of Oakland (Chair, CCC)
Tom Crandall	California Coastal Commission
Dave Loomis	California Coastal Commission
Nancy Cave	California Coastal Commission
Adrienne Klein	California Coastal Commission
Gabriela Goldfarb	California Coastal Commission
Jim Burns	California Coastal Commission
Ron Kukulka	State Coastal Conservancy
Karen Rust	State Coastal Conservancy
Peter Grenell	State Coastal Conservancy
Will Travis	BCDC
Linda Scourtis	BCDC
Robert R. Tufts	Jackson, Tufts, Cole & Black (Chair, BCDC)
Marget Aramburu	Delta Commission
Nancy Wakeman	Save the Bay
Ray Gorman	Save the Bay
Ellen Johnck	Bay Planning Coalition
Barbara Salzman	Marin Audubon Society
Ann Notthoff	NRDC
Warner Chabot	Local Government
Norbert Dall	Dall & Associates
Stephanie Dall	Dall & Associates
Jim Hessinger	City Attorney, Sand City
Ed Iman	Caltrans
Bob Radovich	California Fish & Game
Dwight E. Sanders	State Lands Commission
Eugenia Laychak	Coastal Resources Center
Lynn Sadler	Planning and Conservation League
John McCaull	National Audubon Society
Linda Barr	Sierra Club
Paul Thayer	Assembly Natural Resources Commission
Jim Rote	State Legislature
Sid Taylor	State Water Resources Control Board
Bill Allayaud	Coastal Commission 6217 Program
Ronald Lew	Coastal Commission 6217 Program
Steve McAdam	BCDC
Steve Goldbeck	BCDC
Jennifer Ruffolo	BCDC
Jeffery Blanchfield	BCDC
Alan Pendleton	BCDC
Will Shafroth	California Resources Agency
Brian Baird	California Resources Agency
Marc del Piero	State Water-Board Member
Jack Liebster	California Coastal Commission
Totten Heffelfinger	BCDC Enforcement Committee
Angelo Siracusa	President, Bay Area Council (Vice Chair, BCDC)
Lisa Weil	American Oceans Campaign

Dan Silver	Endangered Habitats League
Melvin L. Nutter	League for Coastal Protection
Sara Wan	League for Coastal Protection
Mark Gold	Heal the Bay
John W. Gunderson	U.S. Air Force
Jim Johnston	U.S. Air Force
David Mathewson	Port of Los Angeles
Don Rice	Port of Los Angeles
Ralph Appy	Port of Los Angeles
Robert Kanter	Port of Long Beach
Dr. Richard F. Ambrose	Environmental Science & Engineering Program, UCLA
Catherine Tyrrell	SMBRP/RWECB
Robert Paternoster	City of Long Beach
Charles Roberts	Executive Director, Port of Oakland
Jim McGrath	Port of Oakland
Linda Parry	San Leandro City Council (and BCDC Commissioner)
Rosemary Corbin	Richmond City Council (and BCDC Commissioner)
Bob Douglas	Cargill Salt
Laurel Marcus	State Coastal Conservancy
Jim Bybee	NMFS
Annette Rose	Marin County Board of Superisors (and BCDC Commissioner)
J. T. Wick	Marin County Planner
Matt Rodriquez	Assistant Attorney General
George Malone	Los Angeles County
Dennis Slavin	Los Angeles County
Bill Douros	Santa Barbara County
Jim Sandoval	City of Del Mar
Dan Muslin	U.S. Navy
Georgia Sparkman	City of San Diego
Victoria Touchstone	San Dieguito River Park Joint Powers Authority
Jim Peugh	San Diego Audubon Society
Normal Sullivan	San Diego Audubon Society
Atti Hughes	La Jolla, California
Opal Trueblood	Torrey Pines Community Planning Group Compact, etc.
Dave Odell	Save Everyone's Access (Sea) and Torrey Pines Association
Lori Saldaña	City of San Diego Wetlands Advisory Board
Alice Goodkind	City of Del Mar Lagoon Committe
John H. Kennedy	Friends of the San Dieguito River Valley
Merry Goodenough	U.S. Navy
Tom Wakeman	Corps of Engineers
Gail Louis	Corps of Engineers, San Francisco
Terry Fleming	San Francisco Estuary Project
Suzanne Marr	NEP Program
Jovita Pajarillo	Near Coastal Waters and Wetlands Planning
Zeke Grader	EPA, Nonpoint Source Program
Lennie Roberts	Pacific Coast Federal of Fishermen
	Save Our Coast

Marci Glazer	Center for Marine Conservation
Peter Katzlberger	City of Santa Cruz
Gary Patton	Santa Cruz County Board of Supervisors
Vicki Nichols	Save Our Shores
Tom Lahue	Surfrider Foundation, Santa Cruz Chapter
Melanie Mayer	CA Regional Water Quality Control Board, Central Coast Region
Judy Pennycook	First District Supervisor
Steven Maki	Monterey County
Karin Strasser Kauffman	Second District Supervisor Monterey County Board of Supervisors
Bud Carney	Monterey County, Local Coastal Program
Brian Steen	Big Sea Land Trust
Gary Tate	Monterey Peninsula Regional Park District
Jim Raives	California Coastal Commission
Mark Delaplaine	California Coastal Commission
Susan Hansch	California Coastal Commission
Leslie Ewing	California Coastal Commission
John Van Koops	California Coastal Commission
Zachary Hymanson	California Coastal Commission
Tami Grove	California Coastal Commission Central Coast Office
Les Strnad	California Coastal Commission Central Coast Office
Dave Loomis	California Coastal Commission Central Coast Office
Linda Locklin	California Coastal Commission Central Coast Office
Steven Laughlin	AMBAG
Mark Silberstein	Elkhorn Slough NERR
Rick Starr	Sea Grant Extension
Gary Griggs	University of California Santa Cruz
Terry Jackson	Monterey Bay NMS
Scott Kathey	Monterey Bay NMS
Terry Covington	Western States Petroleum Association
Deborah Lee	California Coastal Commission San Diego Office
Larry Steffen	Moss Landing Harbor District

APPENDIX B

PUBLIC MEETING ATTENDEES

David Miller	Pillsbury, Madison & Sutro
Eugenia McNaughton	MEC Analytical Systems
Iylene Weiss	Ballona Lagoon Marine Preserve
Norman Haynie	Self
Ken Healing	Self
Pam Emerson	California Coastal Commission
Lloyd Wright	Self
Tom Bates	Concerned Citizens for Property Rights
Carole Bush	
Jim Bickhart	Los Angeles Councilwoman Ruth Galanter
Louise G. Bill	Self and other property owners
Charleen Kabrin	Self and neighbors
Bill Manhart	Self
Arthur Starz	Self
L.R. Whitdeer	The Fred Apollo Family
Santos Flaniken	
Kathleen Kenny	Self
Jim Fossbinder	Attorney for Ms. Kenny and Mr. Starz

APPENDIX C

SANTA MONICA MOUNTAIN ENFORCEMENT TASK FORCE

Madelyn Glickfeld	CCC Commissioner
Susan Friend	California Coastal Commission South Central Coastal Office
John L. Lewis	CRWQCB - LA
Ernie Quintana	National Park Service
Denise Kamult (?)	National Park Service
Behzad R. Saleh	Los Angeles County Health
Russ Guiney	State Parks
Don Wallace	Supervisor Edelman's Office Third District
Jim Safarik	Los Angeles County Building & Safety
Dennis Vinopal	Los Angeles County Agriculture Commission
Richard Sokulsky	Los Angeles County Agriculture Commission
Sarah Maurice	City of Malibu - Planning
Tony Gross	National Park Service
Ken Erhard	Los Angeles County Department of Public Works
Mark Sanchez	Los Angeles County Department of Public Works
Christopher Price	California Coastal Commission South Central Coast Office
Chris Kern	California Coastal Commission
Daniel Olivas	California State AG
Nancy Cave	California Coastal Commission
Gabriela Goldfarb	California Coastal Commission

APPENDIX D

CALIFORNIA PROGRAM EVALUATION
Record of Program Changes For the Period from May, 1989 to May 1993

<u>File No.</u>	<u>Description</u>	<u>Date of Change</u>	<u>Date Received</u>	<u>Date Approved</u>
73	BCDC- Change in definition of "historic ship"	6/1/89	8/8/89	8/31/89
74	CCC-LCP Amendments --		9/26/89	10/23/89
	Amendment			
	City of Coronado	1-86 Major	1/14/87	
		1-87 Major	7/10/87	
		1-88 Major	7/ 13/88	
	City and County of San Francisco	1-88 Major	3/23/88	
	Sonoma County	1-83 Major	6/23/83	
		1-86 Major	4/11/86	
		2-86 Major	6/11/86	
		1-87 Major	6/9/87	
		1-88 Minor	7/14/88	
		2-88 Major	2/8/89	
		1-89 Major	4/12/89	
	City of Point Arena	1-86 Major	1/13/87	
		2-88 Major	11/15/88	
	City of Trinidad	1-87 Major	7/8/87	
		2-87 Minor	7/8/87	
		3-87 Minor	10/14/87	
	City of Crescent City	1-86 Major	11/12/86	
		1-86 Minor	3/14/86	
		1-89 Minor	4/12/89	
		1-89 Major	5/10/89	

<u>File No.</u>	<u>Description</u>	<u>Date of Change</u>	<u>Date Received</u>	<u>Date Approved</u>	
74 (cont.)	Del Norte County	1-88 Major	12/16/88	9/26/89	10/23/89
		2-88 Minor	8/11/88	"	"
		3-88 Minor	9/13/88		
		5-88 Minor	11/15/88		
		6-88 Minor	1/11/89		
	Humboldt County	2-88 Minor	10/13/88		
		1-89 Minor	7/14/89		
	Marin County	1-87 Major	9/8/87		
		1-87 Minor	9/8/87		
		2-89 Minor	7/14/89		
75	BCDC- Bay Plan Amendment Revisions to Transportation Findings and Policies	10/5/89	10/11/89	11/8/89	
76	CCC-LCP Amendments --		10/30/89	11/21/89	
	<u>Amendment</u>				
	City of Port Hueneme	1-88 Minor	2/14/88		
	City of San Buenaventura	2-86 Major	12/10/86 , 1/14/87		
	City of Carpinteria	1-86 Major	9/12/86		
		1-86 Minor	9/12/86		
		1-87 Major	10/14/87		
		2-87 Major	12/11/87		
		3-87 Major	2/25/88		
		2-88 Major	3/8/89		
	City of Fort Bragg	1-88 Major	7/14/88		
	City of Eureka	1-85 Major	10/22/85		
		1-88 Major	11/15/88		
		2-88 Major	1/11/89		
		2-88 Minor	11/15/88		
	Humboldt County	1-88 Major	8/11/88		

<u>File No.</u>	<u>Description</u>	<u>3-88 Major</u>	<u>11/15/88</u> <u>Date of Change</u>	<u>Date Received</u>	<u>Date Approved</u>
77	BCDC-- Changes to Enforcement and Permit Regulations		10/89	11/27/89	12/19/89
78	CCC- LCP Amendments --	<u>Amendment</u>		12/11/89	1/4/90
	Del Norte County	2-88 Major	1/11/89		
		1-89 Minor	4/12/89		
		2-89 Minor	9/15/89		
	Humboldt County	1-85 Major (in part)	9/26/85		
		2-89 Major	8/9/89		
	City of Fort Bragg	1-89 Major	8/9/89		
	City of Port Arena	3-88 Major	3/8/89		
		2-89 Minor	10/10/89		
	Marin County	1-89 Major	6/13/89		
	San Mateo County	1-88 Major	11/15/88		
79	CCC-- Changes to CA Code of Regulations Sections Amended: 13015; 13024; 13053; 13056; 13083; 13084; 13096; 13109.1; 13109.5; 13113; 13143; 13146; 13152; 13202; 13316; 13321; 13524; 13545; 13545.5; 13577; Title of Article 13, subch. 1, ch. 5; Title of Article 2, subch. 8, ch. 6. Sections Repealed: 13025.1, 13256 (Summary of amendments attached)		8/89	1/16/90	2/9/90
80	San Diego City LCP		10/14/88	2/7/90	3/7/90
81	Monterey County LCP			3/2/90	3/30/90
82	BCDC- Changes to Permit form & Regulations		2/15/90	4/23/90	5/18/90

File No.	Description	Date of Change	Date Received	Date Approved
83	BCDC- Changes to San Francisco Waterfront Total Design Plan	8/16/90	8/27/90	9/20/90
84	BCDC - Changes to Sec. 10601(a)-- definition of "minor repairs or improvements"	7/19/90	9/24/90	10/18/90
85	BCDC - Changes to Sections 66651 and 66670-66682 of the McAteer-Petris Act (White Slough)	7/13/90	1/29/91	2/25/91
86	BCDC - Change to Section 10381(a) of regulations-- re: notice to adjoining property holders	12/20/90	3/25/91	4/19/91
87	1987 Coastal Act Revision (PRC § 30171.5 and 30261(b)) Repeal of Liquefied Natural Gas Terminal Act of 1977		8/16/91	9/13/91
88	BCDC- 1) Changes to Section 11000-11005 -- format for program amendments; 2) Change in designation for Pierce Island	7/18/91 9/5/91	9/23/91	10/18/91
89	BCDC- Permit Fees Sections 10310(d); 10330; 10338; 11711(c)	9/5/91	11/27/91	12/24/91
90	CCC-- SB 2040 - Oil Spill Bill -- Creates requirements for oil spill prevention, response, and contingency plans.	1990	12/27/91	1/24/92
	AB 1427- Electric lines siting -- Amended a requirement for revising designations of sites where siting is	1991	"	"

inconsistent with Commission's laws & policies.

<u>File No.</u>	<u>Description</u>	<u>Date of Change</u>	<u>Date Received</u>	<u>Date Approved</u>
90(b.)	BCDC- SB 2040 - Oil Spill Bill AB 1427- Electric lines siting AB 1059- LTMS Dredging Fees - Regards funding (through user fees) for BCDC participation in development in the Long Term Management Strategy for dredging and dredged material disposal.	1990 1991 1991	1/6/92	1/31/92
91	BCDC- Bay Plan Amendment Revised findings and policies re: dredging	5/21/92	6/15/92	7/13/92
92	BCDC- Regulations re: "minor" projects	3/19/92	8/13/92	9/3/92
93	BCDC- Regulations - Fees for documents	4/16/92	9/9/92	10/8/92
94	BCDC- Regulations re: hearsay evidence	6/18/92	10/5/92	10/30/92
95	CCC - Orange County LCPs Sunset Beach Segment (*Also see file #56) Aliso Viejo Segment (*Also see file #34) Emerald Bay Segment Irvine Coast Segment City of Dana Point (*Also see File #55) City of Laguna Niguel * These changes were not approved in the previous evaluation period, but were resubmitted and approved during the current evaluation period.	10/83 9/83 9/13/89 1/19/82 9/89 12/87, 2/86	10/20/92	11/17/92
96	BCDC - Regulations	7/16/92	11/16/92	12/11/92

File No.	Fill for historic structure; Section 10704 Description	Date of Change	Date Received	Date Approved
--	BCDC - New and revised Regulations re: user fees	7/16/92	12/8/92	1/4/93
--	BCDC - 1) Amendment of § 11000: Information required to consider a plan amendment. 2) Addition of § 11008: Payment of cost of processing of an amendment to a Commission document.	7/16/92	12/22/92	1/15/93
--	BCDC - Amendments to Regulations: Administrative permits for dredging and dredged material disposal.	10/5/92	2/8/93	3/8/93
--	BCDC - Addition of § 11396: Standardized penalties for minor violations.	11/19/92	3/8/93	4/5/93
--	BCDC - Changes to the Processing of Federal Consistency and Commission Region wide Permits	7/16/92	3/8/93	4/5/93

APPENDIX E: RESPONSES TO WRITTEN COMMENTS

Commenter: Mr. Kenneth E. Healing
5111 Velvet Lane
Culver City, CA. 90230

Comment: Mr. Healing owns property in Tuna Canyon in the Santa Monica Mountains. His property is surrounded by public property which is part of the Santa Monica Mountains National Recreation Area. The National Park Service has placed his land on a priority list for public acquisition. In 1989, Mr. Healing says he was denied a "building" permit to build a home on his property by the CCC. He states that the CCC inappropriately considered the issue of potential acquisition in denying his permit in order to keep the price of his property down, and that the CCC's hearing process did not afford him the due process of a legal proceeding. He states that his rights to his property have been taken from him.

Response: Mr. Healing's concerns raise both procedural and substantive issues. Procedurally, the CCC's hearings are not required to follow rules of evidence, allow cross-examination of witnesses, etc. because they are not trials. They are informal administrative processes. If Mr. Healing is not satisfied with these processes, he, like any other citizen, has recourse to the courts.

Substantively, it is not appropriate for OCRM to comment on Mr. Healing's allegation of a taking. However, OCRM is concerned that Mr. Healing appears to have confused the CCC's jurisdiction with that of other state and local agencies. He says the CCC denied him a "building" permit, yet it is the LA County Division of Building and Safety, not the CCC, which issues building permits in his area. Apparently, Mr. Healing needed permits/approvals from several state and local agencies, some or all of which were denied, but he appears to hold the CCC exclusively responsible for a long stalemate in which he has been prevented from building on his property but it has not yet been publicly acquired. OCRM believes the CCC needs to do a better job of explaining to the public about its permitting process, distinguishing its coastal development permit from other required permits, and explaining the criteria the CCC considers in making its decisions. OCRM recommends actions on page 56 of these Findings to deal with this problem.

Commenter: Mr. Warner Chabot
Warner Chabot & Associates
116 New Montgomery Street, Suite 910
San Francisco, CA. 94105

Comment: Mr. Chabot expressed concern about the CCC's antiquated computer and information technology that limits its effectiveness in permit processing, public involvement and planning. Mr. Chabot provided several examples of the inefficiencies created by the CCC staff's inability to access permit data and existing coastal resource/use databases of other agencies and the staff's inability to produce maps and graphic displays of critical data for informed decisions on complex coastal issues.

Response: OCRM shares Mr. Chabot's concerns. This problem is discussed in the Findings (pages 54-55). OCRM recommends that CCC conduct an overall review of its computer needs to present to OCRM and the California State Resources Agency.

Commenter: Association of Monterey Bay Area Governments (AMBAG)
445 Reservation Road, Suite G, Marina
P.O. Box 838, Marina, CA. 93933-0838

Comment: AMBAG presented a statement supporting the CaCMP and the three state agencies empowered with its implementation. AMBAG, along with other coastal California Councils of Government, provides programs that support CaCMP implementation and provide technical assistance to coastal communities. AMBAG requests that CCC and OCRM/NOAA support these planning activities with Federal CZMA funds.

Response: OCRM is aware of the important support provided by AMBAG and other coastal California Councils of Government for CaCMP implementation and the severe financial constraints facing Councils of Government and local communities in California. However, the three lead state CZM agencies face similar funding constraints. It is OCRM's policy to allow the lead state CZM agencies considerable discretion in proposing allocations of Federal financial assistance under the CZMA, as long as the proposed allocations comply with NOAA/OCRM's regulations and guidelines. However, given the budget and staffing situation at the lead agencies that is documented in these findings, further diversion of Federal financial assistance from these agencies would be questionable at this time unless their funding from the State or other sources increased.

Commenter: Ms. Opal Trueblood
13014 Caminito del Rocio
Del Mar, CA. 92014-3606

Comment: Ms. Trueblood expresses four concerns:

(1) Ms. Trueblood is concerned about lack of a Coastal Master Plan and comprehensive planning in the South San Diego Bay area which is allowing piecemeal commercial and recreational development to encroach on and threaten sensitive coastal resources. As a key stop in the Pacific Flyway, Ms. Trueblood believes that it is vital that South San Diego Bay be protected from incompatible commercial and recreational uses that require deep water estuaries.

Response: OCRM shares this concern and recommends that the CCC undertake a Regional Cumulative Assessment Project in the San Diego area. (See related discussion, pp. 42-44).

(2) Ms. Trueblood is concerned that the California Coastal Act (and San Diego's certified LCP) are being weakened by newly formulated ordinances. She believes coastal resource protections may be vitiated by these ordinances, which are placing most decisions in ministerial categories to be decided by staff personnel and limiting public participation opportunities.

Response: OCRM heard concerns from many sources that piecemeal changes are eroding the protections in several existing LCPs and PMPs. OCRM is also concerned at CCC's inability to carry out the periodic reviews of LCPs, as envisioned by the California Coastal Act, because CCC's amendment by amendment review process is not geared to identifying the cumulative impacts of piecemeal changes. OCRM recommends that CCC involve affected parties in developing a plan to address these issues as well as the future of local coastal planning in California. (See related discussion, pp. 37-42 and 44-45.)

(3) Ms. Trueblood is concerned that certain CCC practices thwart citizen participation in coastal decision-making. She is especially concerned with the late issuance of staff reports on permit applications, which does not allow citizens time to respond prior to CCC hearings and decisions on the applications.

Response: OCRM shares Ms. Trueblood's concern about barriers to citizen participation in coastal decision-making but believes these are due at least as much to inadequate resources and staff as to CCC procedures. OCRM makes several recommendations to deal with this problem. (See related discussion, pp. 24-26.)

(4) Ms. Trueblood is concerned about lack of enforcement in the San Diego area due to inadequate CCC staff resources.

Response: OCRM shares Ms. Trueblood's concerns about inadequate staff resources for enforcement and makes several recommendations to deal with the problem. (See related discussion, pp. 26-29.)

Commenter: Mr. William E. Claycomb
Save Our Bay (forming)
457 Delaware Street
Imperial Beach, CA. 91932

Comment: Most of South San Diego Bay's remaining wetlands are within the jurisdiction of the San Diego Unified Port District and its Port Master Plan. Mr. Claycomb is extremely concerned about piecemeal amendments to the SDUPD's PMP to allow commercial and recreational activities that threaten the sensitive waterfowl habitat in South San Diego Bay. He is particularly concerned about the adverse impacts of recreational boating in this extremely shallow-water area, and provides substantial documentation of its ill effects on waterfowl. He notes that South San Diego Bay is so important to the Pacific Flyway (it is the only stop of any size in over 900 miles), but its essential shallow-water habitat is being destroyed by dredging, filling, pollution, piecemeal projects, marine construction and boating activities that harrass shorebirds and cause them to abandon their nests. He notes that 92% of the saltmarsh in San Diego Bay has already been lost. He also contends that commercial development is threatening state-owned tidelands and he is critical of the CCC for lack of oversight of SDUPD's PMP.

Response: OCRM heard many concerns about piecemeal development threatening South San Diego Bay habitat and resources. OCRM shares these concerns. OCRM is also concerned that both institutional and resource constraints limit CCC's ability to provide oversight of the SDUPD's PMP and to promote comprehensive planning that appears to be so needed in this area.

The institutional constraint is the different treatment of LCPs and PMPs under the California Coastal Act. LCPs are required to implement the policies of Chapter 3, which require balancing of activities that promote recreational uses of coastal areas with the need to protect wetlands and water quality. PMPs, on the other hand, are only required to implement the more permissive policies of Chapter 8, which do not contain this balancing requirement. The resource constraints have resulted in loss of funding to assist local communities and ports in comprehensive coastal planning, and loss of staff to provide technical assistance, oversight and periodic review.

OCRM believes that the future of local coastal planning in California is now in question. OCRM recommends that CCC involve affected parties in developing a plan to address the future of local coastal planning and recommends CCC undertake a Regional Cumulative Assessment Project in the San Diego Bay area, which would address Mr. Claycomb's and others' concerns about piecemeal development that threatens critical coastal habitat.

Commenter: Norbert H. Dall
Dall and Associates
6700 Freeport Blvd, Suite 206
Sacramento, CA. 95822

Comment: Mr. Dall and his partner, Stephanie D. Dall, represent the City of Sand City in its lawsuit over the CCC's periodic review of the City of Sand City LCP. Mr. Dall, Ms. Stephanie Dall and Mr. James Heisinger, Sand City's Attorney, met with the Evaluation Team during the site visit. In his written comments, Mr. Dall provides additional documentation and explanation of the City's concerns regarding the Sand City periodic review, the local coastal planning process as it was applied to the City of Sand City, and the lack of funds and technical assistance to assist Sand City and other coastal communities with local coastal planning. Mr. Dall also expressed concern that the Monterey Peninsula Regional Park District proposed amendment to the Sand City LCP was improperly accepted by the CCC for processing because the Park District had not provided required notice to the City and others. He requested OCRM's assistance in identifying feasible funding, conflict resolution and other options for addressing the "decade-long impasse over Sand City's LCP."

Response: The facts in this complicated case are discussed in detail in the Findings (pp. 39-41). OCRM is not in a position to comment on the various administrative and judicial proceedings. However, as we state on page 41, the City has never responded directly to the CCC's periodic review report and recommendations. Such a response is not only necessary to follow Coastal Act procedures but is essential to determine if a mediated settlement of the issues is possible. Conflict resolution cannot occur until the City's position on the issues is clarified and an evaluation of whether there is room for compromise can be made.

Commenter: Ms. Lucille Vinyard
Sierra Club Redwood Chapter
P.O. Box 466
Santa Rosa, CA. 95402

Comment: Ms. Vinyard is concerned about the cumulative effects of the logging of small stands of redwoods along the California coast. Small acreages (e.g., less than three acres) are usually exempted from the requirement for a timber harvesting plan (THP) which the California Division of Forestry requires for larger acreages. Ms. Vinyard is concerned that the logging of many small acreages in the same general area is having devastating cumulative effects on many watersheds – not only destroying habitat and wildlife but choking numerous small streams that are essential contributors to the groundwater supply. She is concerned that local coastal planning is not protecting an important coastal resource – redwoods – and is allowing the haphazard development that brought the Coastal Act into existence in the first place.

Response: OCRM believes it is essential that state CZM programs address so-called "cumulative impacts." However, CZM programs are hard-pressed to do so because long-established statutory regimes require that land use decisions be made on a case-by-case basis. The 1990 CZMA reauthorization included a new program of coastal zone enhancement grants to encourage state CZM programs to improve their programs to achieve eight national objectives. One of these national objectives is the "development and adoption of procedures to assess, consider and control cumulative and secondary impacts of coastal growth and development, including the collective effect of various individual uses and activities on coastal resources..." (Coastal Zone Act Reauthorization Amendments of 1990, Section 309(a)(5)). Under this program, CCC has initiated a pilot Regional Cumulative Assessment Project (RECAP) in the Monterey Bay area to develop and test a strategy for identifying broad coastal development trends and the cumulative impacts of those trends to major coastal resources, which are not evident in the CCC's and local governments permit-by-permit reviews.

Ms. Vinyard's comments also touch on concerns about the effectiveness of local coastal planning. These issues are discussed in detail in the Findings (pp. 34-45).

Finally, Ms. Vinyard recommends ending the exemption of small acreages from the requirement for a THP. OCRM notes that this recommendation is outside the scope of this review and outside the scope of CCC's jurisdiction. However, OCRM encourages CCC to raise this issue with the California Division of Forestry.

Commenter: Ms. Linda Krop
Staff Attorney
Environmental Defense Center
906 Garden Street, Suite 2
Santa Barbara, CA. 93101

Comment: Ms. Krop expressed concern about recent actions taken by the CCC regarding oil transportation via marine tankering. Specifically, she expressed concern about the CCC's recent decision on the Pt. Arguello Producers' appeal of Santa Barbara County's permit under its certified LCP. She is concerned that this decision, which overturns the Santa Barbara County permit, undermines the LCP and fails to enforce the CCC's own Federal consistency certification of the Development and Production Plan for Pt. Arguello.

Response: OCRM is aware of the controversy surrounding the CCC's decision on the Pt. Arguello appeal. This case is discussed in the Findings (pp. 51-52). OCRM is not in a position to comment on the CCC's specific decision in this case, but encourages CCC to consider facilitating a long-term planning effort, involving all affected parties, to meet the region's oil transportation needs while protecting coastal resources and water dependent uses.

Ms. Krop also expressed three other concerns. First, she expressed concern that the CCC has not completed an inventory of shoreline resources, which is essential to restore resources adequately in the event of an oil spill. She notes that the CCC's permit requires the Producers to prepare such an inventory, but it will not be completed until after tankering ceases.

Response: OCRM recommends (p. 34) that CCC consider using funds set aside in its 1986 review of Chevron's Development and Production Plan for Platform Gail to carry out a cumulative impacts study in the Santa Barbara Channel that was originally envisioned in that review. This study could encompass at least compilation of existing information on shoreline resources and could also become the starting point for the long-term plan mentioned above.

Second, Ms. Krop expressed concern that public participation in coastal decision-making has been severely limited on occasion by late staff reports and CCC hearing procedures which usually limit opponents of projects to a few minutes per speaker.

Response: OCRM shares these concerns and recommends several actions to improve opportunities for public participation. (See related discussion, pp. 24-26.)

Third, Ms. Krop expressed concern that inadequate funding of the CCC has impaired the staff's ability to implement and enforce key elements of the CaCMP.

Response: OCRM agrees. Inadequate funding and staff resources are the cause of most of the problems identified in these Findings. OCRM is concerned that continued erosion of funding and staff for the CaCMP could jeopardize the State's ability to adhere to its Federally-approved coastal management program.

Commenter: Ms. Ann Notthoff
Senior Planner
Natural Resources Defense Council
71 Stevenson Street
San Francisco, CA. 94105

Comment: Ms. Notthoff enclosed CCC Voting Charts prepared by NRDC and the League for Coastal Protection for the years 1988 through 1991, which analyze the Commission's voting record for that period.

Response: OCRM appreciates this information. OCRM heard praise from all sides for the new Chair of the CCC, Mr. Thomas Gwynn, who was credited with restoring stability to the Commission.

Commenter: J. Lisle Reed
Regional Director
U.S. Department of the Interior, Minerals Management Service
Pacific OCS Region
770 Paseo Camarillo
Camarillo, CA. 93010-6064

Comment: Overall, Mr. Reed states that efforts of CCC and MMS during the evaluation period on reviews of specific OCS projects and other cooperative efforts resulted in a better and more effective working relationship, one MMS is very interested in continuing and enhancing. MMS' comments included detailed background information on the basis for CCC review of OCS projects under both the CZMA and the Outer Continental Shelf Lands Act (OCSLA), information on CCC's review of specific projects during the evaluation period, and a summary of efforts MMS and CCC have made during the evaluation period to ensure timely coordination, identify important issues and necessary information as early in the review process as possible, and streamline the review process. MMS also provided information on program initiatives it has undertaken during the evaluation period, involving the CCC and other state and local agencies, to improve coordination in the review of OCS activities and provide additional resource information for the reviews.

Response: OCRM appreciates MMS' thorough comments, which have assisted the Evaluation Team substantially in documenting the improved working relationships between MMS and CCC. MMS and CCC have coordinated effectively during the evaluation period to secure adequate information, provide timely reviews and incorporate necessary conditions and mitigation into plans as early as possible. MMS points out that incorporating conditions/mitigation into plans before MMS' final approval yields important results by assuring that conditions/mitigation are designed effectively, are mutually understood by all parties, and are enforceable by MMS. OCRM was also impressed with MMS' coordination initiatives and encourages CCC to continue its active participation in them, to the extent its limited staff and resources permit.

Commenter: Mrs. John C. Hughes
7520 Hillside Drive
La Jolla, CA. 92037

Comment: Mrs. Hughes expresses concern that the La Jolla LCP update threatens resource protections in the existing La Jolla LCP. She is concerned that the draft LCP update removes specificity from the LUP and would no longer support the implementing ordinances. She cites as examples, removal of policies concerning bluff top and geologic setbacks, shoreline protection works, prescriptive rights, and redevelopment impacts.

Response: OCRM heard concerns from several sources about the challenge posed by local communities proposing to convert their LCPs from documents containing specific coastal protection criteria and standards to general policy documents. (See related discussion, pp. 37-39.) OCRM is concerned that CCC's lack of staff substantially weakens their ability to uphold the Coastal Act's requirements for local coastal planning. OCRM recommends (p. 44) that CCC identify staffing needs for local coastal program assistance and (p. 45) that CCC convene a workshop (or series of workshops) with affected entities to develop a plan to address the future of local coastal planning in California.

Commenter: Mr. Dave Odell
524 Coast Blvd. South
LaJolla, CA. 92037

Comment: Mr. Odell expressed support for the San Diego Assn. of Government (SANDAG) shoreline erosion review, which he believes will have positive results if funding can be found to implement it. He expressed concern about: (1) lack of enforcement, especially regarding illegal encroachments on public lands and in sensitive resource areas; (2) the La Jolla and San Diego LCP updates, which remove specific standards and criteria for public access to the coast as well as reduce public rights to appeal certain projects to the City Council; (3) late CCC staff reports which restrict the public's opportunity to participate in coastal decisions; and (4) a weak San Diego draft ordinance on urban runoff pollution control.

Response: Although Mr. Odell's enforcement concerns are within the jurisdiction of the City of San Diego, OCRM is also concerned about the CCC's lack of staff and resources to assist local governments and to enforce its own coastal development permits. This lack of CCC enforcement capability was particularly evident in OCRM's visit to CCC's San Diego Area Office. (See related discussion and recommendations, p. 21 and pp. 26-29.) OCRM is also concerned that local governments lack the resources to enforce their LCPs effectively. (See related discussion and recommendations, p. 36 and p. 44.)

Mr. Odell's concern regarding LCP updates is shared by a number of other commenters and interviewees. OCRM discusses this issue in detail in the Findings, pp. 37-39.

Mr. Odell's concern regarding barriers to public participation in coastal decision-making is also widely shared. (See related discussion and recommendations, pp. 24-26.)

Mr. Odell's concern about urban runoff is a part of a larger issue -- control of nonpoint sources of pollution statewide. One of the programs to deal with this problem -- the CZMA's new Section 6217 Coastal Nonpoint Pollution Control Program (CNPCP) -- is discussed on pp. 47-48 of the Findings. Although states are not required to have CNPCPs completed until July, 1995, California has been an early leader in developing innovative strategies to implement this new program, and OCRM hopes this leadership will continue.

Commenter: Ms. Dolores Welty
Conservation Chair
Friends of Batiquitos Lagoon
P.O. Box 2736
Leucadia, CA. 92024

Comment: Ms. Welty expresses several comments and concerns:

(1) She expresses concern that the landward boundary of the coastal zone in the San Diego area is too narrow to protect coastal resources adequately.

Response: Once approved, any changes to the landward boundary of a state's CZM program must be initiated by the state. However, through the CZMA's Section 6217 Coastal Nonpoint Pollution Control Program (CNPCP), OCRM has made recommendations to each coastal state with an approved CZM program regarding landward boundaries for the CNPCP necessary to control nonpoint source pollution. Generally, our recommendations for California stress including more of the watershed areas. However, as the CNPCP will be implemented by both the CCC and the state NPS program, our recommendations do not require the state to alter its coastal zone boundary. California is now considering our recommendations as it develops its CNPCP.

(2) Ms. Welty asks OCRM to consider a moratorium on ocean dumping of sewage.

Response: OCRM is concerned about estuarine and marine pollution from sewage disposal. OCRM is also the Federal partner under the CZMA in the Tijuana River National Estuarine Research Reserve, located in the South San Diego Bay area, which is suffering radical alteration and deterioration due to raw sewage discharges from the City of Tijuana, Mexico. However, OCRM has no jurisdiction or authority over ocean dumping. Federal authority over ocean dumping is exercised by EPA under Titles I and II of the Marine Protection, Research and Sanctuaries Act (also known as the Ocean Dumping Act). However, this is also a state and international issue. At the state level, as reported on p. 53, California has embarked on the development of a California Ocean Resources Management Plan (CORMA). At the international level, EPA, the State, NOAA and others are working with Mexico through various bilateral channels to build a sewage treatment plant for the City of Tijuana, Mexico and

take other actions to control sewage pollution of Southern California's marine and estuarine resources.

(3) Ms. Welty expresses concern that unimaginative and inefficient transportation planning destroys wetlands and other coastal resources needlessly.

Response: OCRM is aware of the impacts that coastal highways can cause by direct filling of wetlands, restricting tidal flow to remaining wetlands, and polluted highway runoff. The CCC and local communities through their LCPs can be important players in planning to minimize these impacts, but they are hobbled by staff and resource constraints. OCRM directs California's attention to the Connecticut Coastal Management Program's innovative efforts to reopen restricted wetlands to tidal flushing and to work with that state's Transportation Department to use Federal ISTEA (Intermodal Surface Transportation Efficiency Act) funds for mitigating wetlands impacts from transportation projects. This would also be an appropriate issue to include with the Regional Cumulative Assessment Project for the San Diego area recommended on p. 44 of the Findings.

(4) Ms. Welty expresses concern that lack of funding threatens the progress in coastal planning and protection achieved over the last 20 years. Her association wants more money spent for the coasts.

Response: OCRM shares this concern and appreciates the Friends of Batiquitos Lagoon's commitment to coastal protection. (See related discussion and recommendations, pp. 20-21 and 34-45.)

(5) Although Ms. Welty praised CCC staff, she expressed concern about the integrity of a former CCC Commissioner.

Response: OCRM is aware that a former CCC Commissioner has pleaded guilty to abusing his authority. However, OCRM heard from many sources that the new CCC Chair, Mr. Thomas Gwynn, has restored both integrity and stability to the CCC.

(6) Ms. Welty is concerned that enforcement is inadequate.

Response: OCRM is concerned that lack of resources and staff threaten CCC's enforcement program. (See related discussion and recommendations, pp. 26-29.)

(7) Ms. Welty is concerned that there is not enough scientific input to coastal decisions.

Response: The CCC has recognized this problem and, to the extent its limited resources have permitted, has been especially proactive in increasing scientific input to coastal decisions through its participation on research committees of National Estuarine Research Reserves and National Marine Sanctuaries in California, its work on the Coastal Nonpoint Pollution Control Program mentioned above, and its use of pro bono expertise from the academic community. However, lack of staff and computer equipment limitations have prevented CCC from taking advantage of its new authority to convene Scientific Advisory Panels and from accessing existing scientific information from university and agency databases. CCC's lack of in-house technical expertise in wetland biology/hydrology and coastal geology for its permitting program is a serious problem discussed on p. 23 of the Findings.

Concerning the issue of the appropriate width of buffers around coastal wetlands, OCRM is aware this is a controversial issue. This issue is being reviewed at the Federal level by EPA and NOAA as a part of refining the "management measures" guidance for the Coastal Nonpoint Pollution Control Program, and by many coastal states through their CZM programs and their participation in EPA's Section 319 Nonpoint Source Planning and Section 320 National Estuary Programs.

(8) Ms. Welty says studies are needed showing the interdependence of our wetlands and the role they play in sustaining migrating birds.

Response: OCRM is aware of the critical role that wetlands, especially shallow-water wetlands, play in sustaining migrating birds. We are aware of the importance of South San Diego Bay wetlands and other shallow-water wetland areas such as Baticuitos Lagoon in the regard. (See related discussion and recommendations, pp. 42-44 and 48-51.)

(9) Ms. Welty reports on a San Diego County wide effort to study nonpoint pollution from agriculture and urban storm drains emptying directly into the ocean, as well as a public education program on this issue in the San Diego Schools.

Response: OCRM commends the citizens of San Diego County for this effort and hopes it will work into the State's Coastal Nonpoint Pollution Control Program and other water quality programs.

(10) Ms. Welty is concerned about water dependent uses and agriculture being forced out of the coastal zone by non-water dependent uses, such as industrial development.

Response: This is an important concern of coastal management nationwide. California has been a leader in protecting water access for such traditional water dependent uses as fishing. However, population growth and development will continue to exert pressure to displace traditional uses of coastal areas. Balancing these pressures is what coastal management is all about.

(11) Ms. Welty lists several other important coastal issues in the San Diego area, including coastal hazards, habitat destruction, population pressures, and marine debris. She thinks Southern California would benefit from a Regional Cumulative Assessment Project like the one the CCC is undertaking in Monterey.

Response: OCRM agrees there are numerous coastal development and protection issues in the San Diego area that need to be addressed in a comprehensive fashion but are beyond the scope of existing LCPs. The CCC seems to be one of the few entities with a broad enough mission for this purpose. We therefore recommend (p. 44) that CCC consider initiating a Regional Cumulative Assessment Project in the San Diego area.

