University of Rhode Island
DigitalCommons@URI

Theses and Major Papers | Marine Affairs

1989

Intergovernmental Relations and OCS Oil and Gas Development

Gretchen Honan
University of Rhode Island

Follow this and additional works at: https://digitalcommons.uri.edu/ma_etds

 Part of the Natural Resources Management and Policy Commons, Oceanography and Atmospheric Sciences and Meteorology Commons, and the Oil, Gas, and Energy Commons

Recommended Citation

Honan, Gretchen, "Intergovernmental Relations and OCS Oil and Gas Development" (1989). *Theses and Major Papers.* Paper 398.
https://digitalcommons.uri.edu/ma_etds/398

This Major Paper is brought to you by the University of Rhode Island. It has been accepted for inclusion in Theses and Major Papers by an authorized administrator of DigitalCommons@URI. For more information, please contact digitalcommons-group@uri.edu. For permission to reuse copyrighted content, contact the author directly.

INTERGOVERNMENTAL RELATIONS AND OUTER CONTINENTAL SHELF OIL AND GAS DEVELOPMENT OFF THE COAST OF CALIFORNIA

BY

GRETCHEN HONAN

A MAJOR PAPER SUBMITTED IN PARTIAL FULFILLMENT
OF THE REQUIREMENTS FOR THE DEGREE OF
MASTER OF MARINE AFFAIRS

UNIVERSITY OF RHODE ISLAND

1989

MASTER OF MARINE AFFAIRS

MAJOR PAPER

OF

GRETCHEN HONAN

APPROVED: 

Major Professor: Dr. Richard H. Burroughs

UNIVERSITY OF RHODE ISLAND

1989

ABSTRACT

Oil and gas exploration and development in federal waters off the coast of California have been a source of conflict between federal and state governments for a number of years. More recently local governments and local citizenry have joined in the battle to prevent development of outer continental shelf (OCS) oil and gas reserves. Between 1985 and 1986 the passage of thirteen local land use initiatives prohibiting or requiring voter approval of onshore facilities to service offshore platforms occurred. These initiatives reflect growing local dissatisfaction with the present legislative structure governing OCS development. From their perspective the existing OCS development process does not weigh heavily enough the onshore impacts associated with offshore development, nor provide sufficient opportunity for local input. "In the absence of a formal source of power the local concerns have utilized the zoning authority granted by the state in an attempt to influence federal OCS development. This exercise of political skill and acumen by the locals have made them a player in the intergovernmental relations surrounding OCS development.

Three political science models of intergovernmental

relations (IGR), the separate, inclusive and overlapping authority models describe the changes in IGR which have occurred in OCS governance as well as describing the view each IGR player holds concerning its role in the process. The differing perspectives of IGR held by the federal, state and local levels contribute to the continuing conflict over OCS development.

ACKNOWLEDGMENTS

I would like to thank the many representatives of local governments, federal agencies, oil concerns and private organizations who have contributed to this research, among them: Mr. Dan Haifly, Save Our Shores, Santa Cruz, California and Mr. Robert Griffen, Attorney, San Luis Obispo, California who provided information on the land use initiates and insight into the local perspective on OCS development; and the American Petroleum Institute and Western Oil and Gas Association who provided access to their literature and valuable discussions on the industry perspective on OCS development.

I would especially like to acknowledge Dr. Richard Burroughs for his excellent guidance from the inception of this project through to the final draft. His knowledge of marine issues and processes, and public policy coupled with his keen analytic ability and persistence were constant helps and sources of much needed inspiration and direction.

TABLE OF CONTENTS

TABLE OF CONTENTS (continued)

LIST OF TABLES

LIST OF FIGURES

CHAPTER ONE

INTRODUCTION

In this paper, theories of intergovernmental relations (IGR) are used to explain the dynamics of the relationships among the national, the state and the local governments as they interact to regulate oil and gas development on the outer continental shelf off the coast of California. In specific, three approaches to intergovernmental relations the separate, inclusive, and overlapping authority models are used to explain the major changes in national-state-local relations pertaining to outer continental shelf leasing since 1953. These models are also used to suggest the source of the current breakdown in intergovernmental relations.

Theories of Intergovernmental Relations: The New Federalism

According to Michael Reagan and John Sanzone (1981), the concept of "Federalism" has changed in recent years. Old style federalism emphasizes the constitutional division of authority and functions between the national and state governments with each level receiving its powers from the people independent

of each other level. For example, the state derives its right to govern from the Constitution and not from the federal government. Each has, as well, its own separate sphere of authority operating in autonomy from the other governmental bodies. New style federalism on the other hand, is more of a political and pragmatic concept than a legal one. It stresses the interdependence and sharing of functions between the federal and state governments and the leverage that each is able to exert on the other (Table 1). As a result, it is difficult to draw a clear line delineating where one sphere of jurisdiction ends and the other begins. Whereas conventional federalism is a static notion with federal-state relationships fixed, the new federalism pictures a dynamic relationship constantly changing in response to social, economic and political factors. The cutting edge of this new Federalism lies in the case by case interactions of the levels of government as they share in expanding governmental functions.

The balance of power that evolves from the interactions of the levels of government is determined by the position, political acumen, expertise and leadership exercised by each (Wright, 1978). Because of this, who is influencing whom varies over time

TABLE 1.
Old and New Style Federalism

	Old Federalism	New Federalism
AUTHORITY	Separate spheres and sharing of functions	Interdependence
JURISDICTION	Clear jurisdictional boundaries	Overlapping jurisdictional boundaries
SOURCE OF POWER	Constitution	Changing balance of power

depending upon the attitudes and the actions of each level of government over a given policy issue. The key to the new federalism is that no level of government can act independently in areas of policy affecting more than one government level, but must through exchange arrive at an outcome acceptable to all parties. This concept of New federalism is further explored in the work of Deil S. Wright (Wright, 1982). His contention being that the analytic utility of the term federalism has been blunted as federalism is a much used and sometimes abused term with a legal legacy and emphasis on national/state relationships (Wright, 1982, p.29). Wright prefers the less emotionally charged term intergovernmental relations. The conceptual base of IGR, different than and preferred over federalism, will be used therefore to explore and summarize the government roles in OCS development.

Governance of Outer Continental Shelf Resources: An Overview

Governance of outer continental shelf (OCS) resources, the focus of this paper, is undertaken primarily by the federal government with the state, and to a lesser degree, the local governments involved in aspects of the decision making process. The role each level of government plays is formally defined by

Congress in the federal OCS leasing program contained in the Outer Continental Shelf Lands Act of 1953 (OCSLA), as amended in 1978. Recent local actions in passing land use initiatives controlling onshore development associated with OCS development reveal a dissatisfaction with the existing balance of power and a breakdown in intergovernmental relations. According to Deil S. Wright there are three basic models of intergovernmental relations that can be used to explain and aggregate past and present experiences in the policy making process (Wright, 1982). The following chapters will develop these models of intergovernmental relations and use them to analyze the changing role of state and local governments, suggesting the relationship that would best facilitate OCS governance in the future.

CHAPTER TWO

MODELS OF IGR

Separate Authority Model

The separate authority model (or dual federalism) postulates that there exists a distinct boundary between national and state governments (figure 1). This model implies that the "national-state power relationships are independent and autonomous, linked only tangentially" (Wright, 1982, p.30). It further implies that the local government is a sub-set of the state government without its own sphere of jurisdiction. For several decades the Supreme Court attempted to set distinct boundaries between the national and state spheres of jurisdiction in keeping with the concept of old style federalism. However, authority clashes between state and national governments and ambiguities in legislation have left the boundary indistinct. In the case of outer continental shelf oil and gas development, this model would predict that the federal government has sole jurisdiction beyond the territorial sea and the state government sole authority within the territorial sea .

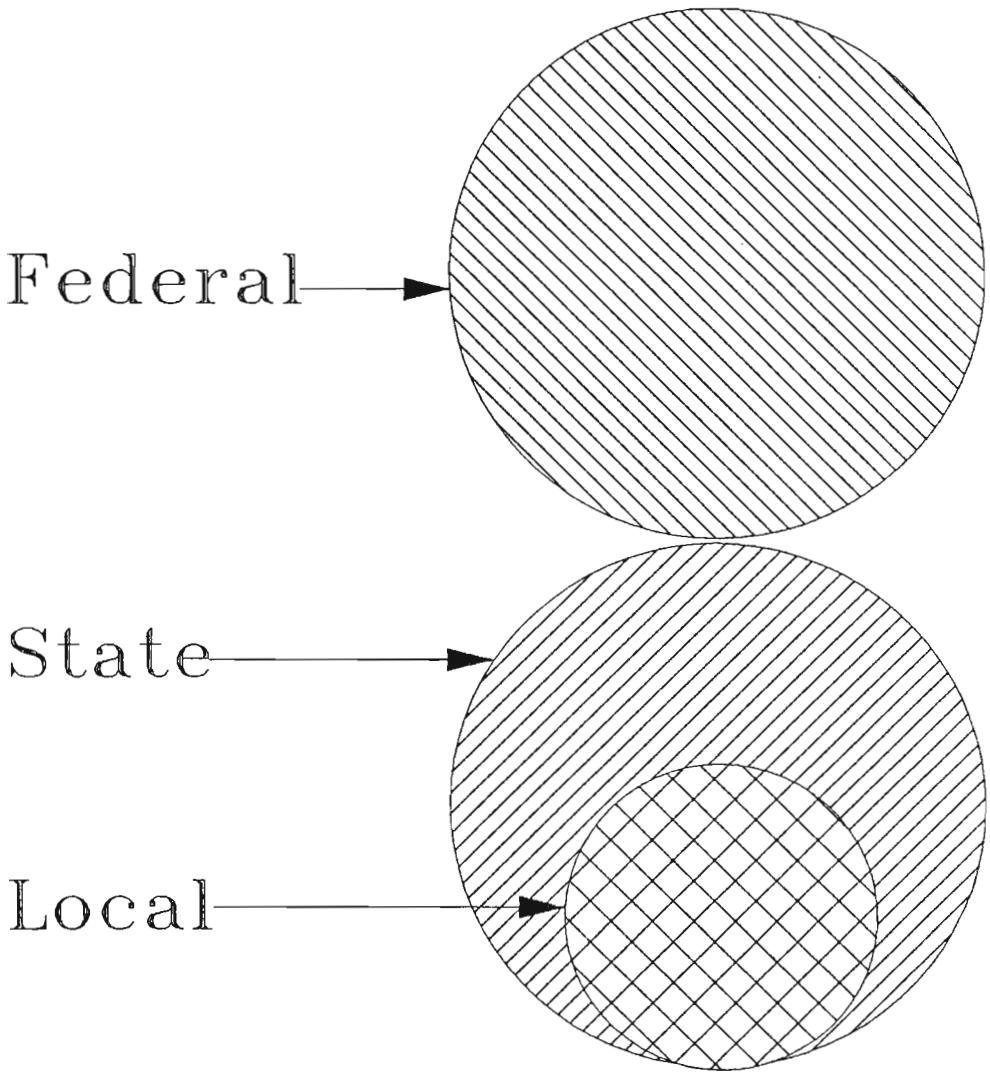


Figure 1. Separate Authority Model

Inclusive-Authority Model

The second model of IGR is referred to as the inclusive-authority model (figure 2). This model is based on a hierarchical pattern of authority. The state and local governments are seen as subservient to the national government with only incidental and insignificant impact on public policy. The national government expands its power by decreasing the area of influence given the states and local governments or by enlarging its circle with or without enlarging the state and/or local circles. This second strategy is known as "enlarging the pie" (Wright, 1982, p.32). This can be accomplished through legislative means as well as through the interpretation of legislation by the courts. The premise that state and local governments depend totally on decisions that are made at a national level is supported by several different approaches.

The first approach sees the state guided by a corps of national leaders with state and local governments and their political leaders carried along powerless to affect important political or societal choices. This view is referred to as the power elite approach.

Second, the technocratic-pluralist approach, sees decision making dispersed among quasi-public or even private economic powers that have a national scope.

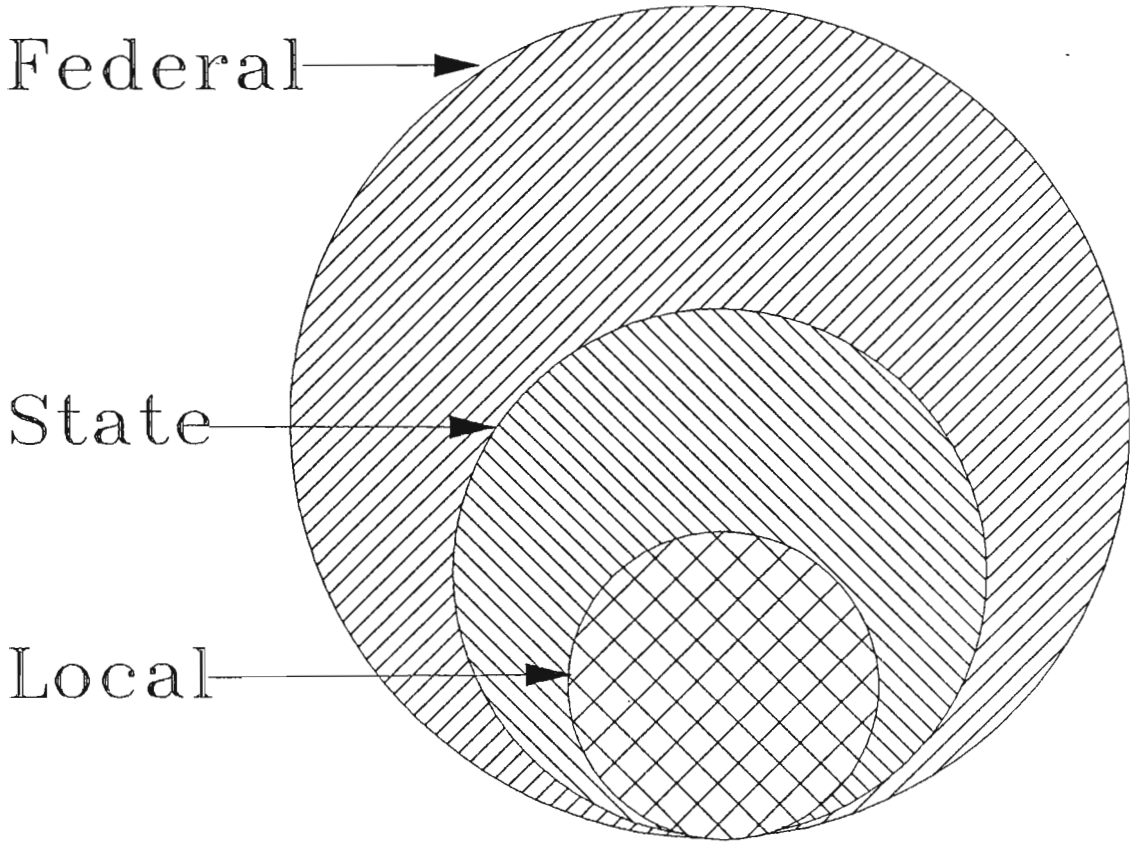


Figure 2. Inclusive Authority Model

States or other agencies can not counteract these powerful private interest groups. An example would be the health industry which establishes standards and makes decisions that control the health of the nation despite the police power given to states to control the health, welfare, morals and safety of its citizens.

A third view identifies large corporate enterprises as the recipients of economic power carrying out important societal functions normally the responsibility of local government. For the purposes of this analysis the oil company can be viewed as somewhere between the technocratic-pluralist and the corporate approaches, as their behavior and decisions greatly influence the direction and policies of the federal government in the energy arena.

In the final approach the states are viewed as administrative districts of the national government, carrying out centrally established policies. The states themselves bringing to bear little if any influence over the establishment of the policies or how they are to be executed.

In summary each of these approaches to describing federal-state-local relations has in common the concept of a strong national government with state and local governments totally dependent upon it to make the necessary policy decisions. This model recognizes

a state and local government role in policy and decision making, however use of their input is subject to the approval of the next highest level of government. In the case of OCS development, for example, local input would be subject to state review and state government input subject to federal government review as will be discussed in reference to the OCSLA Amendments of 1978 in Chapter Three. Use of the lower level inputs would, in general, be subject to the discretion of the national government. The national government indisputably rules according to this model.

Overlapping-Authority Model

The third model of IGR, the overlapping-authority model, is thought by academic researchers to be the most representative of how policy decisions are made, and fits closely to the description of the New Federalism given by Reagan and Sanzone in the Introduction to this paper. This model stresses the interdependence of the various levels of government. As a consequence, the areas of autonomy or single-jurisdiction are comparatively small while substantial areas of governmental operations involve national, state and local units simultaneously. Because, according to this model, the power or influence of any one jurisdiction is limited, bargaining emerges as the

predominate mode of operation used by each level to secure political gains. Bargaining entails agreements and exchanges among parties. Exchanges made in the bargaining process transfer resources and influence across governmental lines making it possible to alter authority relationships. The national government does not necessarily rule, but neither do the state or local governments. Each outcome in a shared policy-making arena is a negotiated outcome, dependent largely on the political skill of the participants. As a result, power is widely dispersed and, therefore, nearly uniformly distributed. This model suggests that each level of government has a role in OCS policy or decision making and that depending on the political skill of each level who bears greatest influence will change over time.

As can be seen by the drawing in figure 3 the area of national-state-local overlap is the greatest and areas of autonomy the smallest. This power distribution stresses the interdependence that permeates the concept of IGR. A comparison of the authority patterns and types of relationships associated with each model are summarized in Table 2.

Competitive or Cooperative Bargaining

The model says nothing about the nature of the relationships that develop within the areas of

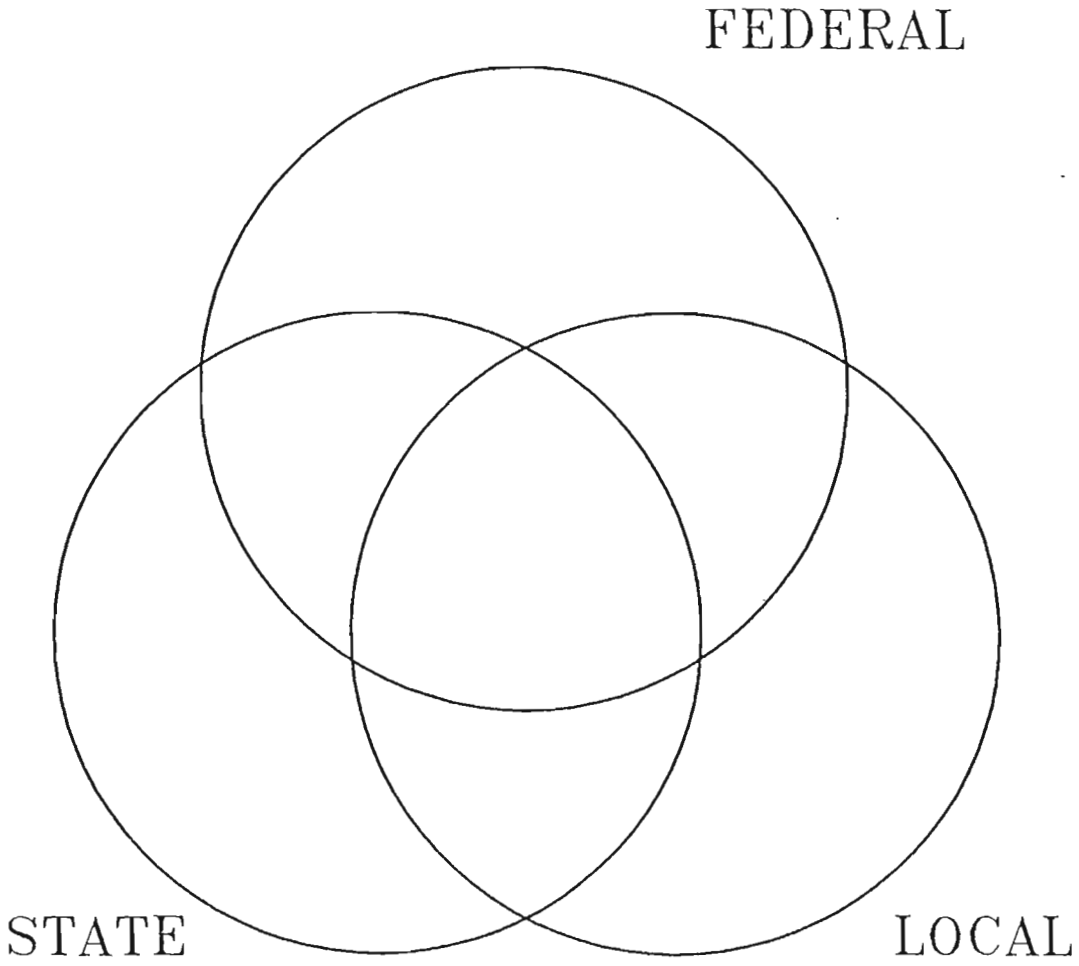


Figure 3. Overlapping Authority Model

Table 2.

IGR Model Characteristics

DESIGNATION:	Separate	Inclusive	Overlapping
AUTHORITY PATTERN:	Autonomy (no external authority)	Hierarchy (dominant authority)	Bargaining (equal authority)
RELATIONSHIP:	Independent	Dependent	Independent

overlapping jurisdiction. They can be cooperative or competitive depending on the nature of the issue and the attitude of the participants.

The most significant indicators of the state of IGR under the overlapping-authority model are the perspectives held by each level of government toward the others and themselves (Wright, 1978) . Very simply, their perspectives can be expressed by means of three diagrams (figure 4). The national government tends to consider its views as the broadest and most circumspect while viewing state and local governments as increasingly myopic and parochial in their concerns. The inverted triangle is a good representation of the national perspective on the state and local view of problems and policies.

State officials see their own approach to areas of policy development and implementation as far reaching, sucinct and appropriate to the issue at hand. As illustrated by the diamond shape, on either side of the broad state concerns are the more narrow special purpose and restricted outlooks of the national and the local governments.

As seen from the local level there tends to be the perception that the states possess the narrow and limiting perspective, where both the local and national governments have a compatibly broad outlook. This is particularly true when viewing the sources of

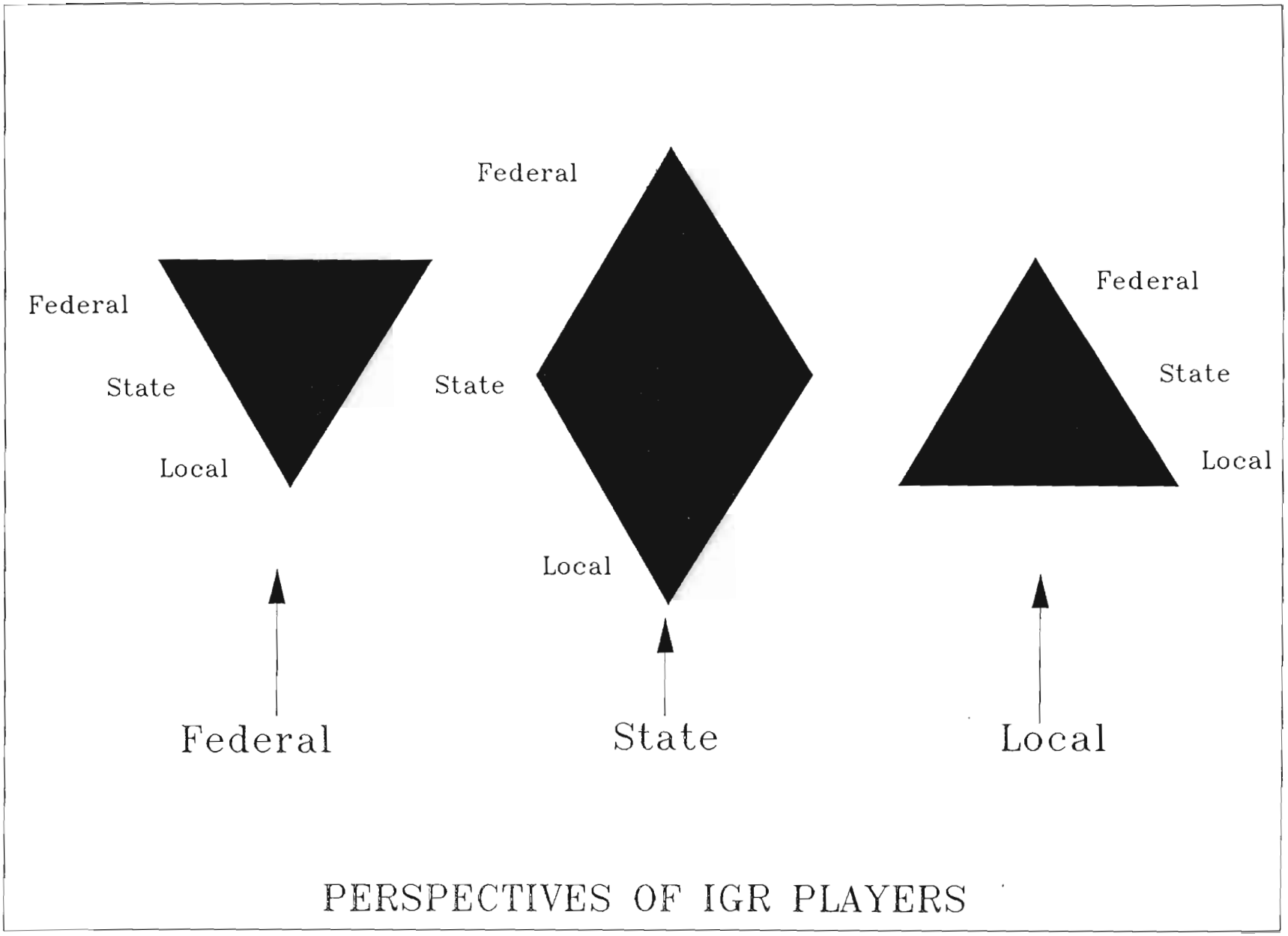


Figure 4. Perspectives of IGR Players

funding and grants coming in to local governments. There is an increasingly, a direct national-local channel without passing funds through the state government.

In issues related to policy, however, it would be expected that the local government would view the national perspective as quite narrow and the triangle would best represent this viewpoint. If each of these graphs of government perspectives is overlain there is little harmony or agreement but rather conflicting opinions concerning who is best qualified to be the principle decision maker. The intensity of these opinions will vary depending on the issue and there may, as well be points of agreement between two or more parties. If the players have not developed an appropriate level of respect for the concerns and abilities of the other participants then the trust necessary for bargaining to take place will be non-existent. If on a given policy issue, such as OCS development, the perspectives of each level of government as described above are held, then we would expect there to be a highly polarized relationship between the national and local governments with little or no agreement between them.

Summary

The notion of IGR and the three models developed here can be useful tools in understanding the patterns of governance. They can aid in analyzing the legis-

lation and the daily operation of governance in the OCS development arena and can help define, if not all, at least some of the sources of conflict among government levels in the dispute over OCS development. The concept of IGR, as it is extended to the overlapping-authority model is more neutral than that of federalism with its emphasis on national-state relations and legalism. In general, IGR does not assume that hierarchical relationships exist as does federalism, and it can include a broad range of interests other than strictly governmental bodies with concerns in shaping political outcomes.

The concepts and models of IGR presented here are also useful tools for understanding the disagreement and tension which exists between varying levels of government. With each level viewing the role of each other differently the understanding essential for the proper working of IGR is lacking. Until the power and the concerns of each level of government are acknowledged by the others the ensuing tensions and conflicts will continue to take valuable time and resources away from constructive governance.

The following chapter will discuss the major factors leading to passage of the 1978 Amendments to the OCSLA of 1953. The legally defined roles of the government parties involved in OCS development are contained in these pieces of legislation.

CHAPTER THREE

THE ROLE OF STATE AND LOCAL GOVERNMENTS IN OCS DEVELOPMENT

Introduction

The Outer Continental Shelf Lands Act Amendments of 1978 (OCSLAA) were the first major revisions to the OCSLA of 1953. In part they were an attempt by Congress to respond to the growing opposition of state and local coastal governments to their lack of inclusion in the decision making process for outer continental shelf resource development. Until passage of the 1978 amendments OCS legislation gave the Secretary of Interior alone control over leasing decisions. With passage of the amendments the states, and to some degree, the local governments were provided with opportunities to comment on Department of Interior lease plans. Further, it was required that they be consulted at various stages of the planning and development process. No formal grant of authority was given to the states and the Secretary of Interior retained the right to accept or reject state and local comments based on his evaluation of a balance

between national interests and state concerns. As early as 1978 complaints abounded that the OCSLA Amendments of 1978 were insufficient and inadequate in addressing state and local concerns in OCS development.

Jurisdictional Questions

As far back as 1845 controversy between federal and state governments surrounded the question of jurisdiction and use of the continental shelf lands and resources. In 1845 the U.S. Supreme Court settled a federal/state dispute in Pollard's Lessee v. Hagan, (U.S. Supreme Court, 1845) finding that the states and not the federal government had title to the area "washed by the tides". Following this decision it was commonly assumed by coastal states that they owned the submerged lands beyond their tidelands as well. The use of such lands was beyond the limits of the existing oil and gas exploration and development technology, however, and no test of sovereignty was to occur for many years. As the enormous value of offshore resources became apparent and the technology for recovering these resources became available, disputes arose between coastal states and the federal government over ownership and control of submerged lands (U.S. Congress, House, 1977).

The federal solution to the controversy was the issuance in 1945 of Executive Order No. 9633 and Proclamation No. 2667, more commonly known as the Truman Proclamation on the Continental Shelf. This

proclamation asserts federal jurisdiction over the entire continental shelf, stating:

> the U.S. regards the natural resources of the subsoil and seabed of the continental shelf beneath the high seas contiguous to the coasts of the U.S. and appertaining to the U.S., subject to its jurisdiction and control (Executive Order 9633, 1945).

The Truman Proclamation fulfilled President Roosevelt's direction that "inventive genius" be used to extend federal jurisdiction to include the valuable resources of the continental shelf, however, it did not settle federal/state jurisdictional differences. In the 1947 and 1950 cases U.S. v. California, U.S. v. Texas and U.S. v. Louisiana coastal states' title to the submerged lands were challenged by the federal government. The decision of the U.S. Supreme Court in each of these cases reasserted that federal rights and interests are paramount with regard to the seabed of the marginal sea.

Congress, however, was decidedly more sympathetic toward the states. In 1953 it passed Public Law 83-91, the Submerged Lands Act of 1953 (SLA), which recognized state title to the sea bed and the resources up to three miles off their coast (figure 5). During debate on PL 83-91 the question arose whether the 1920 Mineral Leasing Act applied to the outer continental shelf areas remaining under federal jurisdiction, assuming passage of the PL 83-91 . If the Act did not apply there was a question concerning

the legality of the federal government leasing OCS lands. To clarify federal jurisdiction, Congress passed the Outer Continental Shelf Lands Act of 1953 (OCSLA). This act applied to all lands seaward, that is, outside of state waters that "are subject to U.S. jurisdiction and control" (figure 5). By Truman Proclamation definition, such lands are "the subsoil and seabed of the continental shelf beneath the high seas contiguous to the coasts of the U.S...". The OCSLA, therefore, formally extends U.S. law and jurisdiction to the seabed and subsoil of the outer continental shelf.

It would appear that the SLA of 1953 and the OCSLA of 1953 clearly establish the seaward boundary for federal and state jurisdictions in keeping with a strictly separate-authority model of IGR. Unfortunately, the dichotomy of interests is not so clear-cut. In the SLA the federal government "reserves powers of regulation and control...for constitutional purposes of commerce, navigation, national defense, and international affairs..." in the territorial waters and seabed. Subsequent federal legislation such as the National Environmental Policy Act (NEPA) of 1969, the Coastal Zone Management Act (CZMA) of 1972, and the Coastal Energy Impact Program (CEIP) of 1976, amending the CZMA, created state rights and interests in federal actions in the outer continental shelf (Christie, 1979).

The provisions of NEPA, CZMA, and the CEIP can be

Figure 5. Jurisdictions

viewed as a back door approach to establishing a state role in the OCS leasing process without attempting direct amendment of the OCSLA of 1953.

Outer Continental Shelf Lands Act Of 1953

The OCSLA of 1953 (appendix 1) grants the authority for management of the OCS to the Secretary of the Interior and establishes only general guidelines and directives to be followed in administering this program. It was left to the Department of the Interior to develop the specifics of the federal OCS resource management program through its authority to promulgate rules and regulations. This fragmented approach to policy development with little comprehensive direction characterized federal OCS policy until enactment of the 1978 amendments.

The open-ended grant of authority to the Secretary of Interior to develop an OCS leasing program was based on the oil situation in the 1950s. At that time there was unproved technology for deep water production and an expectation that offshore production would be a relatively small supplement to U.S. reliance on onshore production. Both of these factors changed dramatically by the 1970s.

Technological Advances

From 1950 to the late 1970s drilling equipment was rapidly being developed to operate under various environmental conditions in increasing water depths.

In 1965 the record drilling depth achieved was 632 feet, by Exxon Corporation off the coast of California. In 1977 the record depth for a drilling operation was in 3,937 feet of water off the coast of Africa (Crooke, 1984). Nearly all of the U.S. offshore fields developed by the 1970s consisted of fixed-leg platforms or man-made islands. In 1947 the fixed-leg platform depth achievable was 20 feet. In 1976 the water depth that could be reached was 850 feet (figure 6). New types of guyed towers and tension-leg platforms offered the promise of extending platform capability still further. Guyed-tower technology was thought to be cost-effective in 2,000-2,500 feet of water (Crooke, 1984).

The significance of this advance in technology, as it relates to offshore drilling, is shown in figure 7. Drilling in the late 1970s was now possible beyond the 200 meter water depth opening for exploration from 75% to 94% of the U.S. potentially recoverable offshore petroleum resources. Prior to 1965 only 10% to 25% of the ultimately recoverable petroleum resources offshore could be tapped to meet domestic demand. The long term implications of this for domestic and international energy supply are significant. Larger areas of potentially high oil and gas productivity were now opened for exploration. This was bound to spur legal and jurisdictional battles (Burroughs, 1986, p. 125, 134).

In the late 1970s testimony before Congress by

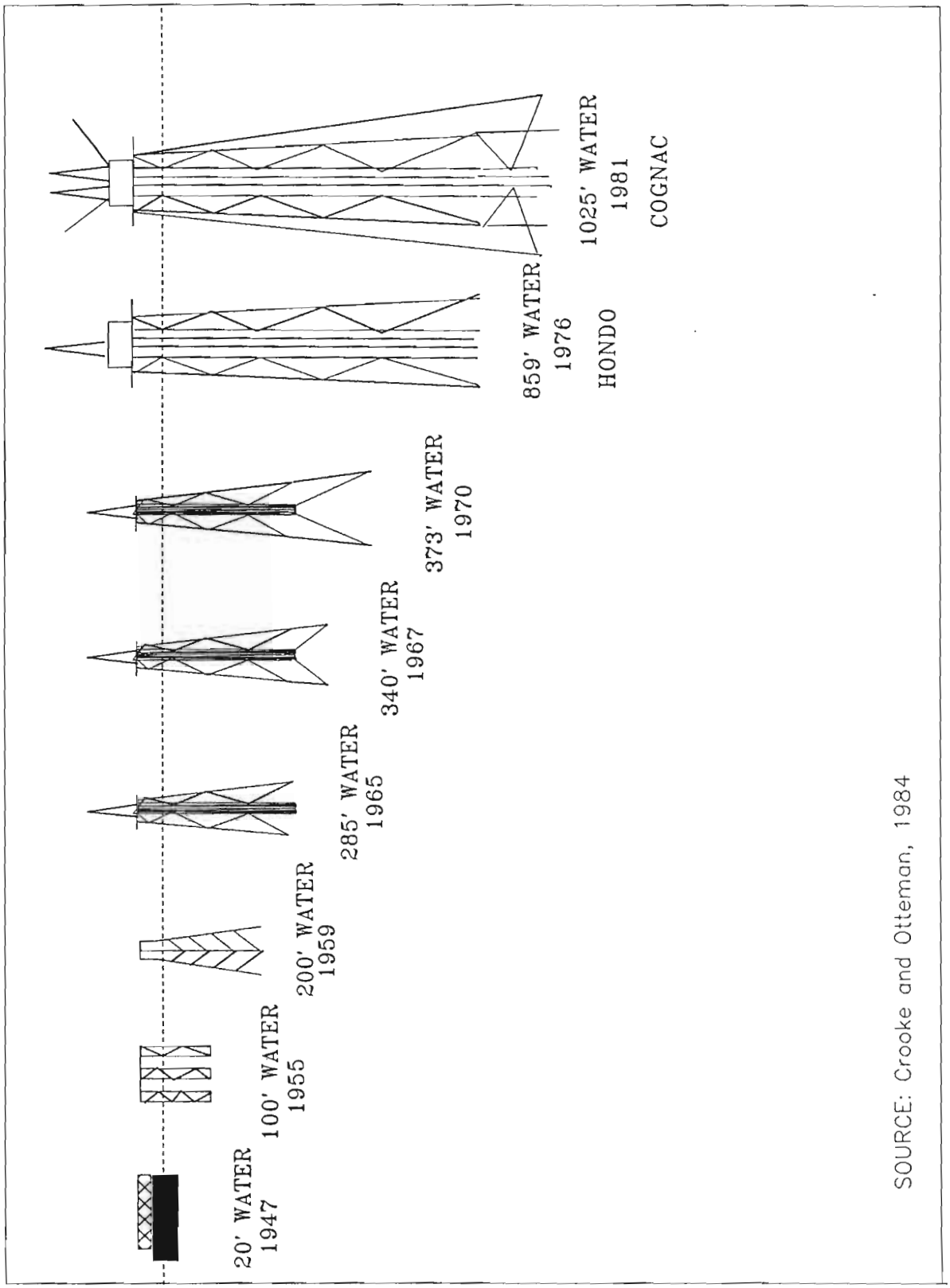
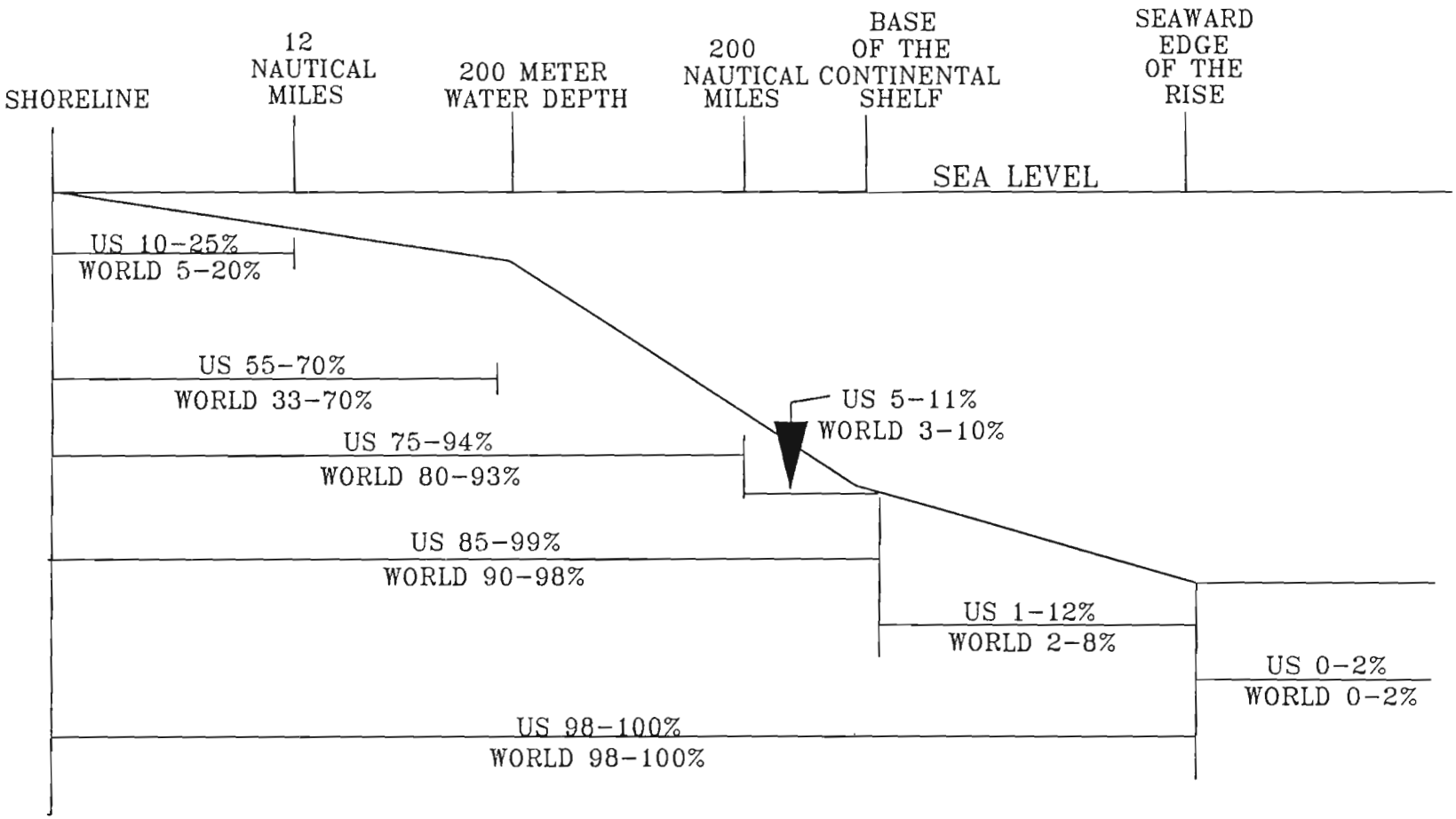


Figure 6. Water Depths Reached by Exploratory Drilling



ESTIMATED DISTRIBUTION OF OFFSHORE
POTENTIAL ULTIMATELY RECOVERABLE PETROLEUM
SOURCE: Crooke and Otteman, 1984

Figure 7. Area of Seabed Opened by Exploration

energy industry representatives and most government specialists, and a 1976 Congressional Research Service report concluded that the OCS held promise as the largest source of domestic oil (U.S. Senate, 1977). This determination represents a reversal of the pre-1950 projections that on land sources were more important than OCS reserves. The chances of finding large new U.S. fields on land were thought to be small, except possibly in Alaska. The U.S. Geological Survey (USGS) estimated in 1976 that "fully 1/3 of the nation's discoverable and producible oil reserves are offshore, as are 22% of our natural gas deposits" (U.S. Senate, 1977). This clearly increased the importance, the interest and the activity associated with leasing of OCS submerged lands.

Environmental and State Concerns

The advances in technology and the increase in leasing activity since the 1950s were strong incentives for rethinking federal OCS policy. The historic blowout from offshore oil drilling in the Santa Barbara channel occurred on January 28, 1969 resulting in the largest oil spill in U.S. history and producing another incentive for OCS reform. This event brought to national attention concerns about offshore oil development, and raised questions about the adequacy of the existing regulations and policies governing oil exploration and development. The provisions included in the OCSLA of 1953 may have been

appropriate for the conditions at the time the act was written, and appropriate to achieve the goal of energy development, however, it was becoming evident that the Act was not sufficient to address the complex issues surfacing in the face of the growing scope of OCS activity. Increasingly, the Department of the Interior was faced with state and local government law suits regarding proposed lease sales (U.S. House of Representatives, 1977). One of the most notable is the 1975 Supreme Court case U.S. v. Maine. In this case the state of Maine and thirteen other Atlantic coast states claimed ownership of the continental shelf in protest against the OCS policies and procedures of the federal government.

State and local governments were arguing at public hearings on environmental impact statements, in letters to the Secretary of the Interior and at Congressional OCS hearings that it was their beaches, estuaries and other shoreline areas that would be damaged by a spill, their onshore coastal lands that would be sites for necessary support facilities, their coastal communities that would experience the possible boom town effects from development. Yet, it was a federal decision and a federal administrative process which controlled OCS oil development. Furthermore, any revenues received for OCS leases and production went into the U.S. Treasury, not the affected coastal state treasury (U.S. House of Representatives, 1977).

In 1974 hearings on OCS oil and gas policy the

Interior Department and large oil company representatives argued that no change in the OCSLA was necessary. In the same hearings state representatives, environmental organizations, and citizens groups urged that reform take place (U.S. House of Representatives, 1974). Finally, in the late 1970s the growing "energy independence" movement, which stressed the need for accelerated oil exploration and development, a shortfall in leasing activity due to industry uncertainty and lack of experience in frontier areas and, the increasing threat of state and local government law suits led to recognition by the executive branch, the oil companies and Congress that amendments to the OCSLA were indeed necessary.

Industry - Government Ties

It is not surprising that in earlier hearings the Department of the Interior and the large oil company representatives opposed OCSLA amendment. One of the major complaints voiced by critics of the OCSLA was that the "the present law's grant of total discretion to the Secretary of Interior led to a situation where the petroleum industry had until recently, a too dominant voice in setting policy" (U.S. Senate, 1977). A group of researchers at the University of Oklahoma stated in a study on energy exploration that;

> In making and administering OCS policy, direct continuous participation has been largely limited to the petroleum industry and government. Since government and industry have had almost identical policy objectives, policy

> has been made and administered with extraordinary ease...Within the Department itself, many of the Secretary's advisors are either recruited from industry or are persons who spent part of their careers in industry. At the operational level, detailed OCS orders regulating OCS development have been and are the product of a process of industry - government cooperation....(U.S. Senate Report, 1977).

This close industry-agency relationship often meant that state and local government interests were disregarded. They were shut-out and unable to influence the decision-making process. State and local officials testified to unsatisfactory dealings with the Department of the Interior making it clear that more remained to be done to provide information, adequate time for assessment and a genuine role for them in off-shore leasing policy decisions.

The Department of the Interior responded to the growing concern and focus on state and local participation by establishing an OCS Advisory Board with members from coastal states, the private sector, and the Federal government. The purpose of the Board was to advise the Department of the Interior (DOI) on all aspects of exploration and development of OCS resources. A further DOI response was the publication in November 1975 of final regulations providing for new procedures for state governmental participation in OCS decisions. This included a 60-day review and comment period on the lease development plan submitted by industry. Both of these steps were welcomed by state and local communities but still severely limited the level of involvement they could have in the

leasing process. The need for formal legislative change to bring about an adequate level of state and local participation became clear.

Legislative Reform

Extensive hearings and investigations into the issues involved in OCS leasing and development have been held by Congress since at least 1970. Legislation was introduced to both Houses in 1974 and again in 1976. The 94th Congress built up a substantial public record on the OCSLA and at that time became convinced of the need for its revision. In early testimony Senator Henry Jackson, Chief sponsor of the Senate OCS legislation, testified that the OCSLA;

> ...did not provide clear policy guidance to govern (OCS) leasing. The bill has never been amended though times and conditions have changed drastically in the intervening years. These developments (improved technology, decline of onshore production, increased importance of OCS resources, increased environmental and coastal awareness, new intergovernmental cooperation efforts, and accelerated lease schedules) emphasize the need for legislation that reflects the changes of the last 20 years and the growing importance of this great national resource (U.S. Senate, 1977).

The legislation proposed in the 94th Congress passed both Houses, however, due to differences in the House and Senate version they were referred to conference late in the last session. As such, there

was not sufficient time for reconsideration of the bill. When the 95th Congress convened, the OCS reform legislation, as reported from the Conference in the 94th session, was introduced in the House of Representatives and the Senate as H.R. 1614 and S. 9, respectively. Hearings were held on the bills and testimony was received from Administration witnesses, officials of affected coastal states, industry and environmental groups, and various other public interest groups. The outcome of these hearings and Committee actions was the passage of the Outer Continental Shelf Lands Act Amendments of 1978 on September 18, 1978 (appendix 2). The major provisions of the Act that were directed at increasing state and local participation in the OCS oil and gas decision-making process are summarized in Table 3. A more complete discussion is included as appendix 3.

Effects on State and Local Access

These measures have changed the process used to make OCS leasing decisions. The legislative and institutional arrangement prior to enactment of the 1978 OCSLAA allowed minimal state or local access to the decision-making process or to information used in decision-making. Following a strictly separate-authority model, state and local government jurisdictions were not recognized by the OCSLA of 1953 as having a legitimate role in the leasing of OCS resources. The interest of the affected states and to some degree the affected local governments are

recognized by the 1978 amendments granting increased opportunities for input prior to decision points.

Two important factors in influencing decision making are not only who has the authority to make the decision, but who has access to the decision-making process and the timing of the access (Kelman, 1984). This grant of increased access to the decision-making process allows the state and local governments increased opportunities to influence the Secretary's decision.

However, as much of the detailed information provided to the affected states does not come until the exploration and development stage, state comments on the environmental sensitivity of areas at the pre-lease stage are constrained by their lack of data. Several researchers have suggested that this problem could be remedied by earlier circulation of the draft EIS prepared for proposed lease sales or by providing confidential access to industry submissions at the 5-year plan development stage (Corwin, 1984). The usefulness of earlier draft EIS circulation is debatable since no drilling has taken place at this time and the location and quantities of oil are unknown.

The standing given the state and local governments under Section 23 creates a litigious approach to OCS decision-making and should be viewed cautiously as a method for increasing state and local influence on the

TABLE 3.
Provisions For State Participation in OCS Leasing

	SECTION OF OCSLAA	SUBJECT	PROVISION
REVISIONS	8(g)	Leasing w/in 3mi. of state's Territorial sea	Consult w/ states in regard to shared oil pools - and shared revenues
	11(c)	Geological and Geophysical exploration plans	Certification of consistency with state CZM plan
NEW SECTIONS	18	Outer Continental Shelf Leasing Program	Prep of & state review & comment on oil/gas schedule of proposed lease sales for a 5 year period
	19	Proposed Lease Sale	Coordination and consultation w/state and local officials re: size, timing and location of proposed lease sales
	25	Environmental Impacts	State comments on DEIS at time of 5-yr leasing program review
	25	Production and Development Plans	Coordination and consultation w/state & local officials & certification of consistency of production and development plans w/ state CZM program
	26	OCS Oil and Gas Information	Secretary directed to provide information on proposed plans, reports, EIS, tract nominations, and other information including priviledged information in the custody of the Secretary

Source: Adapted from Table by Office of Technology Assessment (1980) and from the OCSLAA of 1978

federal process. In the dissenting majority and minority opinions on H.R. 1614, House of Representative members argued that this provision alone may serve to undo what other provisions of the Amendments sought to achieve (U.S. House of Representatives, 1977, p. 234). That is, a process for efficient leasing of OCS tracts that eliminated time consuming delays due to law suits by disenfranchised parties such as state and local governments. This invitation to litigation creates a condition that could result in more delays than prior to enactment of the OCSLAA.

Maintenance of Federal Authority: a Hierarchical Pattern

Finally, the access granted to the state and to the local governments by the 1978 amendments in no way lessened the absolute authority of the Secretary of the Interior to manage the OCS program. Although the new sections of the Act increase the amount of coordination and review granted to state governments, the final decision making is still left with the Secretary of the Interior. The amendments recognize the state right to information on leasing, development and production but for the most part leave to the discretion of the states whether or not local comments are forwarded to the Secretary of the Interior. Accordingly, the 1978 amendments follow strictly the hierarchical view of IGR as is evidenced by the provisions of Sections 18, 19

and 25. In requiring the Secretary to develop a 5-year schedule of proposed lease sales, Sections 18 and 19 require that suggestions be solicited from the Governor of any affected state. The Secretary is then required to respond in writing to the Governor of such states giving the reasons for acceptance or rejection of state comments. While the Secretary must respond to state comments, the discretionary authority to determine if the recommendations "provide for a reasonable balance between national interests and the well-being of the citizens of the affected states" remains with the federal government. The Secretary's decision is final and can not be challenged on substantive grounds but only if arbitrary and capricious. In this way, a dominate federal role is maintained despite the apparent concession to state interests.

In Section 25 local government comments on environmental impact statements and production and development plans are allowed, but only if solicited by the governor of the affected state and submitted to the Secretary through the governor of the state. These provisions support the inclusive-authority model of IGR by recognizing the legitimacy of the role of the lower levels of government only as they are sanctioned by the next highest level of government.

CHAPTER FOUR

PERSPECTIVES OF THE IGR PLAYERS ON THE GOVERNANCE MODEL IN OPERATION

Introduction

In the previous chapter we examined the legally defined roles of the OCS players and traced the changing state and local government involvement in the OCS process as prescribed by law. In this chapter we will examine federal, state,and local actions and perspectives which reveal the model of IGR each believes to be in operation.

In general, the federal government actions are in accord with the inclusive-authority model. State and local governments actions and reactions suggest that they operate in the context of the overlapping-authority model. Much of the resulting conflict over OCS development can be explained in terms of how the model being applied by the government agencies involved influenced their behavior.

The Federal Government Perspective

From the federal government's perspective the pattern of governance in operation fits the inclusive-

authority model. National superiority is maintained and lower level inputs are subject to the review and discretionary use of the next level of government. This is evidenced by the 1981 decision of the then new Secretary of Interior, James Watt, to include 4 of the 5 basins in Lease Sale No. 53, which had previously been exempted by Secretary Andrus following negotiations with the State of California. The fact that this action was within the scope of the Secretary's discretionary power, based on his determination of the national interest, supports the premise that the federal government rules. The very structure of the OCSLAA, as discussed in chapter three, follows the inclusive-authority model. In the 1981 OCSLAA oversite hearings state and local government officials accused the Department of Interior of discouraging "the participation in the OCS process of local jurisdictions. Directly contrary to the intention of the OCSLAA." This accusation was due to proposed rule making requiring the local governments to submit their responses to the 5-year plan to the Governor of the state prior to submission to the Secretary. Although the City of Santa Cruz, in this example, may have accused the Department of the Interior of discouraging participation the regulations followed the clear wording of the OCSLAA which directs local participation through the state government in accord with a hierarchical view of IGR.

State and Local Government Perspective

From the state and local perspective, however, the OCSLAA of 1978 can appear to grant a greater role in the process for OCS decision making than it actually does. Although it provides for greater access it does not grant to the state or local governments any real veto power. Based on the reactions of the state and local governments to the OCSLAA it is clear they feel a different model is in operation. Believing they are sharing in the governance process, the state and locals have attempted to play a role in OCS development, one they feel has been circumvented by the federal government. The action by Secretary Watt in the example of Lease Sale No. 53 severely eroded state confidence in the OCSLAA. The only avenue that appeared open to the aggrieved state was litigation. As Governor Brown of California testified before the OCSLAA oversight hearing in April 1981;

> ...given the bipartisan opposition of Democrats, Republicans, Boards of Supervisors, fishing industry, tourist industry, and other concerned people, instead of accelerating offshore drilling, this action by the Secretary will retard appropriate offshore drilling and delay it several years because there is no doubt that many people in California...will take Secretary Watt to court and keep him there long after he's departed Washington (U.S. House of Representatives, 1981).

The provisions of Section 18 and Section 19 of the OCSLAA provide for state input into the 5-year plan and proposed lease sales and are referred to as the "negative nomination process". In 1978 oversight

hearings before the House of Representatives, California coastal counties and cities complained that the negative nomination process had not been respected by the federal government. State and local governments, they argued, had put extensive efforts and expenditures into analyzing tract data to make reasonable selections of tracts that should be excluded from lease sales. Yet, these negative nominations were not given serious weighting by DOI in the tract selection process. Further, adequate response to concerns raised by the state over certain tracts was not given. The state argued that it was attempting to play a meaningful role under the guidance of the OCSLAA but that it had not been given a meaningful role by the federal agency administering the program (U.S. House of Representatives, 1981).

Local Land Use Initiatives

In 1984, a U.S. Supreme Court ruling (U.S. Supreme Court, 1984) held that leasing plans developed by the DOI did not have to be consistent with the state coastal zone management plan. The decision did not effect requirements of consistency for exploration, development and production plans. The decision, in effect, closed the back door influence the states enjoyed over OCS leasing through the CZMA of 1972. Following this decision thirteen California coastal counties and cities passed land use initiatives prohibiting or requiring voter approval of onshore

facilities related to offshore oil and gas development. This move by local governments to influence OCS development through land use controls is due to a "frustration by the local governments that they have not been able to participate" in OCS leasing decisions (Robert Griffen, pers conv, 1988). To these communities and to others within the state, the OCSLAA have not provided sufficient state, but particularly local access to influence the decision-making process or enough authority to make their participation anything other than 'a sham.'

Summary

One continuing source of conflict between the IGR players then, is the model each presupposes should be in operation. The existing state and local government role is adequate under the inclusive-authority model but woefully inadequate under the overlapping-authority model. While the federal administrators of the OCS program feel the state and local governments are given ample opportunity for comment on federal actions the state and local governments feel excluded by these same opportunities. The grass roots revolt of local municipalities can be seen as ushering in IGR more closely aligned with the overlapping-authority model. Whether this will foster cooperation or continued conflict depends to some degree upon how each player views the legitimacy of the role and concerns of each other player.

CHAPTER FIVE

ANALYSIS OF INTERGOVERNMENTAL RELATIONS

Summary of Legislatively Mandated IGR Changes

As was demonstrated in Chapter Three, the regime under which Outer Continental Shelf Lands Act (OCSLA) issues were resolved and development was managed prior to 1978 fits closely with the separate-authority model. Efforts were made by the Supreme Court, the Congress, the Department of the Interior and the States to clearly define and delineate the separate areas of jurisdiction. The Submerged Lands Act of 1953 (SLA) sought to identify the area of state superiority and sole authority while the Truman Proclamation on the Continental Shelf and the OCSLA of 1953 sought to demarcate the strictly federal sphere of control. On the basis of the SLA and the OCSLA it would be accurate to describe the federal and the state roles in offshore leasing as touching only tangentially - at the boundary of the territorial sea. This view is further substantiated by the open-ended grant of authority to the Secretary of Interior under the OCSLA of 1953, to develop an OCS leasing program without consideration of the views of the state or local governments.

It would appear that a clear boundary was established between the federal and state jurisdictions. However, as was stated earlier this is not strictly the case. Certain provisions of the Submerged Lands Act and subsequent federal legislation establish state and federal competence beyond strictly their respective jurisdictional areas (Kanouse, 1980). The resulting state role in the OCS process can be viewed as an intermediary step leading to intergovernmental relations that fit the inclusive-authority model. As discussed in Chapter Three, the inclusive-authority model of intergovernmental relations is clearly exemplified in the OCSLA Amendments of 1978 where state and local input is allowed but only through the next highest level of government.

Effects of Local Land Use Initiatives on IGR

Local government's exertion of power, rather than any legislative action has led to their expanded role in OCS development. Local governments have become a power to be dealt with through use of the zoning authority granted by the state. This new found local power base has caused the onshore component of offshore oil and gas development to take on new importance. This demonstration of the local government's power, political acumen and intense interest in OCS activity suggests a larger role in the decision making process than is allowed by current laws and policies.

Initiative Characteristics

The land use initiatives fall into three categories. Those requiring onshore facility approval by a vote of the people, those prohibiting onshore facilities and one calling for a two year moratorium to be followed by a permanent ban if warranted (Table 4). A synopsis of the major provisions of the thirteen local land use initiatives and the full text of the measures are included in Appendix 4. The passage of these initiatives was orchestrated by a number of individuals and organizations concerned with the proliferation of OCS lease sales off the coasts of central and northern California. Twelve of the thirteen initiatives were approved by the local populace and one by board action.

The Western Oil and Gas Association (WOGA) brought suit in the United States District Court against each of the thirteen initiatives based on the Supremacy and Commerce Clauses of the Constitution. The suit was dismissed by the federal judge on the grounds that the issue was not legally ripe and that a suit should follow an actual permit denial. The State Lands Commission and the California Coastal Commission (CCC) intervened as defendants in the case. Further discussion of the legal ramifications of the initiatives is included in Appendix 5.

Affects of the Land Use Ordinances on the OCS Process

Table 5 summarizes the major steps and the time

required for the OCS leasing, exploration, development and production stages. The oil companies apply for permits for onshore facilities during the exploration stage. Up until this point the local role is limited to the input opportunities afforded the public. To summarize the local governments may only participate in hearings and provide comments on the state's coastal consistency determination and the state and federal EIR/S. The permitting of onshore facilities is their first real opportunity to exercise jurisdictional control. This occurs after the oil companies have spent a substantial amount of money on tract leases and exploration, and the key federal approvals have been given. Because of the momentum the project has acquired by this point the locals are literally forced to permit and site onshore facilities (Spectra, undated, p. 45). One implication of the local ordinances is that the local voters feel that the county and city governments have been too accommodating to development requests and that another control, namely voter approval or prohibition is necessary to protect their interests (Haifly, pers. conv. Mar 1988).

The first test of a local land use initiative occurred on June 7, 1988 in San Luis Obispo County. Shell oil company applied for a permit for an onshore pipeline and dewatering facility to service Platform Julius approved earlier by the California Coastal

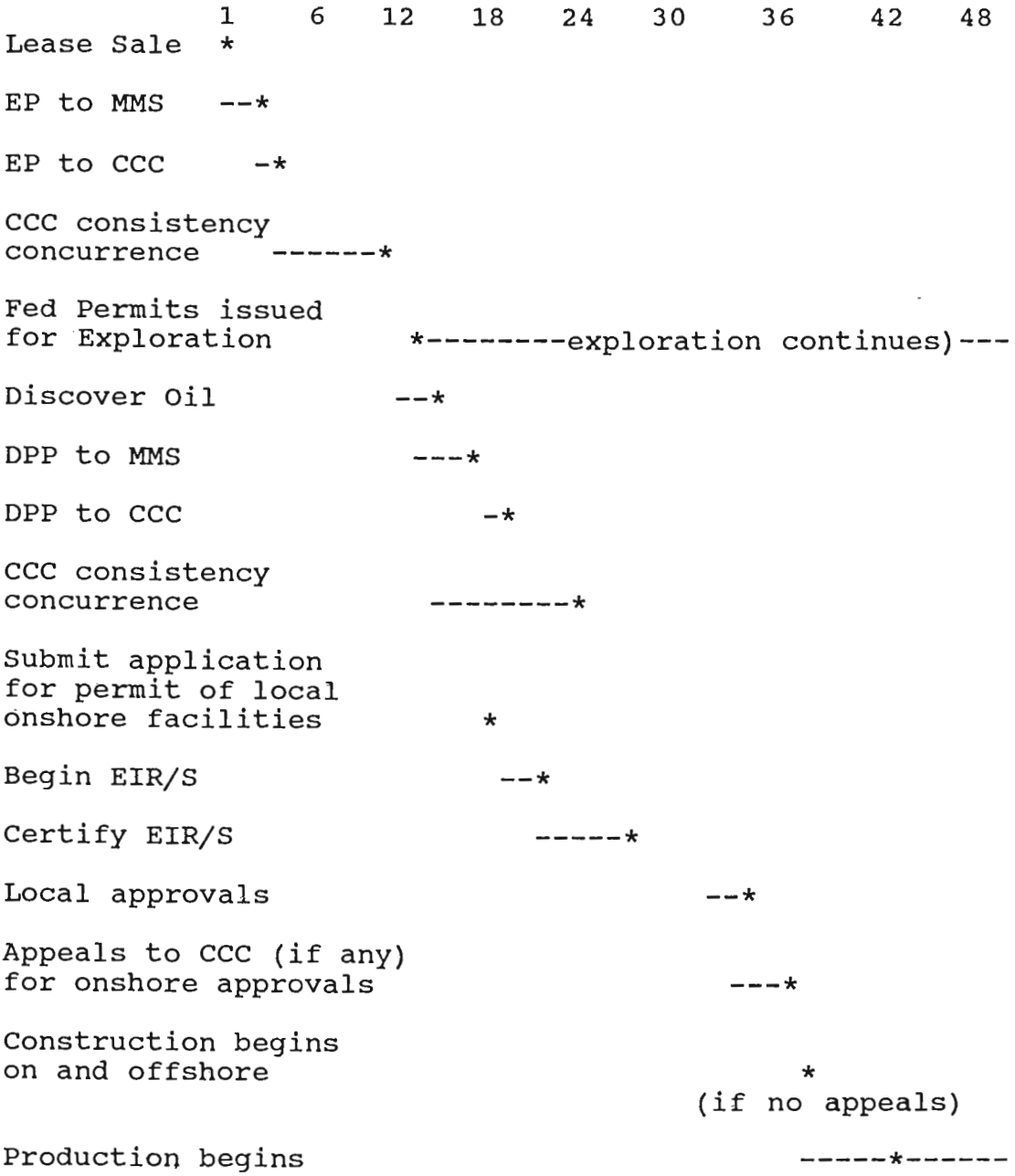
Table 4.
Local Land Use Ordinances

COMMUNITY	DATE	MEANS OF PASSAGE	TYPE
CITIES			
Santa Cruz	11/85	Election (82%)	A
San Diego	11/86	Election(76.8%)	P
Oceanside	11/86	Election (64%)	P
Morro Bay	11/86	Election (70%)	P
Monterey	11/86	Election (76%)	A
San Francisco	11/86	Election (71.5%)	M
San Luis Obispo	6/86	Election (78%)	A
COUNTIES			
Santa Cruz	6/86	Election (78%)	A
Sonoma	11/86	Election (74.3%)	A
San Mateo	11/86	Election (61%)	A
Monterey	11/86	Election (73.8%)	A
San Luis Obispo	11/86	Election (52.9%)	A
San Diego	11/86	Board Action (5-0)	P

A = Approval of onshore facility must include a vote of the people.
P = Prohibition of onshore facilities
M = Moratorium for two years - Supervisors may make finding to vote a permanent ban after two years

Source: Save Our Shores, Santa Cruz, California, undated

Table 5.
General Summary of Steps and Time Required Between Lease Sale and Production (in months).



Source: Understanding the Offshore Oil and Gas Development Process, A Citizens Guide, Spectra Information and Communication, undated, page 8.

Commission. The request was approved by the San Luis Obispo County Planning Department and submitted to the voters on June 7th. The voters overturned the Planning Department's approval (Personal comm). The next step for Shell oil to take is to revise the permit request to better reflect the air quality concerns raised by opponents of the permit, then resubmit the proposal to the voters or file suit.

Representatives of those opposing the first Shell oil proposal see the local land use initiatives as strengthening the local level's bargaining position and ability to extract concessions from oil companies in recognition of the burden borne by the local municipalities. Concessions they are unable to secure earlier in the process. A spokesman for the Minerals Management Service stated that if development is stymied due to delays at the local permit stage interest in future leases will likely lessen due to the increased uncertainty posed by the local land use controls (Alcorn, pers conv, May, 1988). If this is the case then the local municipalities are certainly a power to be dealt with.

An alternative result may be, however, a proliferation of treatment and storage facilities in waters greater than three miles offshore. Such facilities would require CCC consistency review but if denied the decision would be appealable to the Department of Commerce. Local coastal governments would have no direct authority over such offshore

treatment and storage facilities and would therefore be outside the decision process. If the local concern is greater than merely to control the impacts of onshore facilities and extends to influence over offshore leasing and development then the local government would lose rather than gain control if treatment and storage facilities moved to the OCS area.

Views on the Local Land Use Initiatives

This section will focus on discussions with and literature from representatives of the national, and the local governments concerned with OCS development in California. The state role is an important one as it relates to approval of the local land use ordinances in Local Coastal Plan (LCP) amendments and industry appeals of local permit decisions. However, the key players in this issue are the development interests and the local municipalities.

The views of the American Petroleum Institute (API), which represents the major oil companies operating or holding leases off the coast of California and the views of representatives of the Minerals Management Service (MMS) of the Department of the Interior are used to shed further light on the federal view of the local land use initiatives. Interviews with the advocates of the initiatives and literature aimed at fostering local participation in the OCS development process were used as sources for the local perspective.

Development Perspective

The reaction of API to the initiatives is that this latest move is but another in the series of state and local actions aimed at prohibiting offshore oil and gas development without consideration of national energy needs (Jackson, pers conv, 1988). With California the third largest energy consumer in the world (third after the USA and USSR) API views this as a naive and self-seeking attempt to blockade the coast from San Diego to San Francisco. The move to place the permit decision-making power in the hands of the voters moves the approval process even further away from a set of clear guidelines that guarantees the operators some consistency in review. This creates greater uncertainty in the process and increases the time and money involved in securing permits. It concerns API that successful negotiation of project design criteria and mitigation measures at the state and local government levels may be overturned by the voters without the benefit of input as to what measures would be acceptable. They feel that the outright bans on development are reactionary and further polarize and isolate the IGR members and do little or nothing toward developing IGR and fostering bargaining.

MMS is not concerned with the ordinances directly, but as they may affect industry interest in leasing and inhibit oil and gas production. From the MMS perspective a major problem is the perception by local

municipalities that information which would make planning for onshore facilities possible at an earlier stage is being withheld or that MMS is unwilling to make firm agreements to exclude tracts requested by the state and local governments (Alcorn, pers conv, 1988). The locals often assume a complete and full knowledge by MMS or industry concerning the location and the extent of oil reserves when, in fact, geotechnical data may be lacking or subject to varying interpretations. Tracts that looked promising at the 5-year plan stage may hold little promise at the lease stage, and vice versa. Consequently, it is difficult for MMS to agree with states or localities to forgo leasing in areas that hold certain environmental value or where onshore impacts would be less acceptable when the reserves in those areas may appear to be the most promising. The rapidity with which information on oil reserves changesmeans that agreements made with the state or the local governments must be dynamic.

Local Perspective

Advocates of the initiative movement state that the fact that onshore development, if banned, can move offshore and denial of permits be appealed through DOC the local citizenry is forced to be responsible, informed, and rational in their campaigns for/against permit measures (Griffen, pers conv, 1988). From the local perspective uncertainty in the location and the extent of oil and gas reserves is viewed as a strategy of the MMS and the oil companies to circumvent

the local-state concerns. The local governments want to know where and when development would take place to plan for anticipated onshore impacts and to secure adequate mitigation concessions from the oil companies. With the present leasing process and bidding process piece meal planning, and approvals are made. The cumulative impacts of successive lease sales can not be adequately addressed by the local coastal planners under this system.

The locals believe that there is a lack of willingness on the part of the federal government to perceive them and to a less extent the states in a partnership role. A perfunctory job of involving the cities and counties has been undertaken by the MMS and the local entities are aware of their lack of influence and recognition.

According to Mr. Robert Griffen, an attorney with California Polytechnic Institute at San Luis Obispo and former City Councilmen, OCS development is touted by the federal government as a national security issue. There existed prior to the land use initiatives no useful tools to make IGR work. The initiatives are an attempt to do this gaining some degree of control over OCS development and shifting the balance of power away from exclusively the federal government. As a result of ineffective IGR, the issues of local land use planning and impacts have not been given sufficient weight in the decision making process. Consequently, there has been no buy in, no local ownership of the

plan and a feeling of heavy-handedness on the part of the federal government in allowing leases to be sold and developed with the assumption that the local governments will accommodate the onshore facilities necessary for the offshore development.

What would satisfy or appease many of the local advocates is a national energy policy that shows the build out expected over time with the required or probable onshore components so that the local concerns can see what the cumulative impact of OCS development will potentially be. In addition to a national policy inauguration as a partner in the planning for rational OCS exploitation is necessary before locals can feel their concerns have, at the least, been included in the process leading to a decision. Further, Mr. Griffen and others feel that the local governments will be much more accepting of OCS development if they have had a part in the process leading to the ultimate outcome. In the absence of such a role, the locals will settle for exercising the powers they posses to secure a presence and influence over OCS leasing. Their actions indicate their power and the consequent need to include the locals in a bargaining relationship if OCS development is to proceed. The broad discretionary authority of the Secretary of the Interior could be used to include rather than exclude local and state governments in a decision making role, formalizing the overlapping-authority model. The question then becomes, should the effort be made under existing

legislation to develop cooperative bargaining relationships? The answer to this question depends largely on what is being demanded. Can exchanges be made and all parties still accomplish their main objectives, or is what the local governments want beyond what the federal government is able to concede without losing the right to extract OCS resources?

Objectives

What are the objectives that each player brings to the OCS governance game? In general, the federal government objective is to plan for and manage the development of the nations petro-chemical reserves. Specifically, the purpose of the OCSLA of 1953, as amended is to develop OCS oil and gas reserves as quickly as possible; the first and primary purpose of the Act is to:

> establish policies and procedures for managing the oil and natural gas resources of the Outer continental shelf which are intended to result in expedited exploration and development of the Outer continental Shelf in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources and maintain a favorable balance of payments in world trade...(43 U.S.C. 1331-1356, 1801-1866(1986)).

These federal goals all take precedence over environmental concerns and consistency with the state's coastal management program. The OCSLA does provide for a balancing of the state interests but again the emphasis is on national goals for energy development (Spectra, undated, p. 49).

The state government's objective is to protect the state resources and economy and to insure that the wise planning for and location of energy facilities occurs. The major piece of state legislation (the Coastal Act of 1976) mandates the planning for and implementation of ordinances to regulate the use of coastal lands.

The local government objective is conceived as protecting the economic and political health of the local community; above consideration of the welfare of coastal resource users. Research by Fawcett (1986) suggests that in urbanizing areas the state, more so than the local municipality, is concerned with protection of coastal resources. In these areas the locals are concerned with preserving development options. While in urbanized areas, where development has already taken place there is more state-local agreement over resource protection. In general, the local objective may be to protect the economic and political health of the community but the local ordinances identify more specific objectives addressed in the next paragraphs.

What do the local land use initiatives identify as the specific issues that would need to be addressed to satisfy local concerns? Table 6 lists the objections stated in the ordinances. Based on this list, the following would be necessary:

- require that state and local air pollution control standards apply to platforms,

- o eliminate the threat of oil spills,
- o insure that drilling mud disposal does not release toxins,
- o insure that the fishing, tourism and coastal agriculture industries are not affected,
- o insure that harbor recreation uses are not displaced,
- o insure that helicopter noise is not disturbing,
- o control increased demands for fresh water, sewage treatment and coastal land, and
- o develop a conservation and renewable energy strategy.

In addition, the ordinances pinpoint as objectionable practices accelerated federal leasing, lack of regional economic impact assessment, excessive authority of the Secretary of Interior, reduced local agency input into final leasing decisions and failure to consider laws, goals and policies of the State of California.

It is not opposition to a few localized impacts but opposition to all aspects of OCS development. It is difficult therefore, to tell from the initiatives alone whether the adversaries relationships would change if the federal government were to accept, for example, the air quality standard demand or even establish revenue sharing, reinstate federal consistency for lease sales or develop a national energy policy that shows leasing succession over time. No oil at any time, in any place,

Table 6
Objections as Stated in the Local
Land Use Initiatives

Monterey County Ordinance:

Chapter 16.5

3. General Objections
 a. Federal government does not require that offshore oil and gas developments comply with state and local air pollution rules.
 b. Oil spill danger degrading environment, spoiling beaches and exposing marine life to danger.
 c. Drilling muds releasing toxins into the environment
 d. Jeopardize local economy by interfering with fishing industry, tourism, use of coastal land for agriculture.

4. Onshore Impact Objections
 a. Recreational uses of harbors usurped by oil industry boats,
 b. Noisy helicopter traffic
 c. Freshwater demands
 d. Sewage treatment demands
 e. Industrial staging areas usurping agricultural uses

5. Lack of Conservation and renewable energy strategy.

Monterey City:

Same list of objections as stated above and problems with the Department of Interior plans for oil and gas exploration and extraction:

1. Accelerated leasing prior to adequate environmental studies
2. Regional economic impacts not considered
3. Excessive authority granted to the Secretary of the Interior
4. Reduced local agency input into final leasing decisions
5. Failure to consider the laws, goals and policies of the State of California

Morro Bay:

Stated purpose is "to prevent Morro Bay from becoming an oil port, personnel boat center or other logistical base for offshore oil operations." Protection of the City's visual and environmental qualities, existing fishing use, tourism, and insufficient water for support facilities are cited as reasons for the initiative.

Table 6. (Continued)

Oceanside:
Stated purpose is opposition to development "...in support of offshore crude oil or natural gas development."

City of San Diego:
Initiative states "uncaring bureaucrats in Washington continue to insist the area off our coasts be opened to oil and gas exploration...(we) cannot justify the search for oil and gas off San Diego."

San Diego County: not available

San Francisco:
Text references the "environmental degrading associated with drilling."

City of San Luis Obispo:
Lists the same objections as the City of Monterey.

San Luis Obispo County:
Concern that serious effects will result from any new onshore processing, storage or service facilities.

San Mateo County:
Argument in favor of the measure states that it is "about protecting our Coast from oil development."

Santa Cruz:
Same as the City of Monterey

Santa Cruz County:

Sonoma County:
Same as the City of Monterey

Source: Local Land Use Initiatives, as cited.

under any circumstances appears to be the ultimatum of the local land use initiatives. If this is the case, then even if the federal government were disposed to move toward formalizing the overlapping-authority model it would not be to their advantage to do so.

It is interesting to note that the land use initiatives do not mention anything about sharing of federal OCS revenues with the local or the state governments. In the absence of revenue sharing it is difficult to predict whether such a policy would change local attitudes toward OCS development. The affect of the Coastal Energy Impact Program (CEIP) sheds some light on the possible affects of revenue sharing. The CEIP provided loans and grants to assist coastal states and communities in mitigating the adverse impacts of energy development. A 1980 Department of Commerce evaluation found that the CEIP had not changed coastal state and communities attitudes toward OCS development (Fitzgerald 1988, p.326). Nevertheless, the House Merchant Marine Fisheries Committee and the Senate Commerce Committee considered revenue sharing and block grant bills as a means to minimize coastal states opposition to OCS development. The bill was defeated in the Senate and the same wording included in the 1985 budget act was dropped due to the high cost of the OCSLAA section 8(g) outlays (Fitzgerald, 1988).

CHAPTER SIX

CONCLUSIONS

The broad theory of IGR developed in the Introduction to this paper suggests that shared governance, whether formal or informal in nature, would best facilitate orderly decision making. It, however, does not guarantee an absence of conflict among the governing bodies. The fact that the objectives of the three levels of government are different poses a continuing problem. The fact that the federal objective, as stated in the OCSLA and the local objectives, as stated and inferred from the land use initiatives, are so diametrically opposed creates an even larger problem. As a result, the two parties are extremely polarized. They simply do not agree on their respective roles, and see very different models of IGR in operation. Factors which contribute to continued conflict.

Clearly, the State of California and the local coastal communities are not satisfied with the hierarchical authority pattern presently controlling the OCS leasing process. The local land use initiatives indicate a breakdown in IGR and the determination of local coastal communities to oppose a process which they feel excludes them while expecting them to bear the

consequences of federal action.

The overlapping-authority model suggests that bargaining, relying on exchanges being made among the parties, should replace the hierarchical form of authority. However, at this stage voluntary exchanges in support of cooperative bargaining are unlikely and coerced exchanges, as a result of exertion of local power, are more likely.

The passage of the land use initiatives may increase the importance of securing land side permits in the overall OCS development process; focusing increased attention on the local arena. The long term ability of the initiatives to affect a change in the OCS balance of power is unknown. Clearly, local coastal communities are attempting to gain influence over OCS development. If this attempt fails there will be others. To reduce the threat of future conflict and legitimize the roles of state and local governments following the overlapping-authority model, a change in the existing system must take place.

Since 1978 the Department of Interior has provided the State of California an increasing level of participation in the OCS planning and development process. However, the state and local governments are still on the outside of the system. The existing process must be expanded to give the state and the local governments some "weight." For example, the assumption that OCS issues are national security issues regardless of the ramifications to state and local concerns should

no longer be accepted without a national energy plan which substantiates this argument. A more narrow definition of the Secretary's authority should be made so that his or her decisions are not so politically favorable to pro-industry Presidential Administrations but follow some prescribed policy format.

From the federal perspective revenue sharing may still be a way to establish a federal-state partnership in the OCS. According to a Department of the Interior spokesman revenue sharing may be the only incentive sufficient to counterbalance the state and local perception of potential harm from OCS development (Fitzgerald, 1988, p.333). Revenue sharing may have some ameliorating affect on state opposition but is not likely to affect local opposition. According to local representatives it may be too late for revenue sharing to affect strong anti-oil sentiments.

The overlapping-authority model will continue to operate informally as the federal, state and local governments use their powers to influence and counteract one another. This model is not likely to be formally incorporated into OCSLA legislation, however, as the ante is too high for the federal government and the payoff too uncertain. At present it appears to be to their advantage to support the existing legislatively defined power structure. To let the state and/or local governments into this process is to reduce rather than enlarge the area of federal jurisdiction and control. If the federal government were to have some reasonable

assurance that bargaining would reduce conflicts by defining acceptable and unacceptable OCS lease developments (thereby assuring approval more readily on some tracts even though precluding development on others) there would be greater incentive for them to seek inclusion of the lower government levels. As it stands now, the federal government would be unable to meet local demands as outlined in the local land use initiatives and their objective of development. It is not only necessary that the federal government, but also that the local government be willing to make concessions in order for bargaining to be effective.

The conflict and distrust which presently exist between the IGR players in OCS governance will not be easy to overcome. The trust necessary for bargaining to be effective must be slowly developed and maintained through the efforts of all the IGR players. In the absence of this trust each party will continue to exercise its legislative, judicial and procedural forms of power in an attempt to increase its influence and to control the influence of others. The result will be a limiting of the power of any one entity and the forging of a competitive bargaining pattern.

BIBLIOGRAPHY

Archer, J. H. and Knecht R. W., The U.S. National Coastal Zone Management Program - Problems and Opportunities in the Next Phase

Armstrong, J.M. and Ryner, P.C., 1978, Coastal Waters: A Management Analysis, Ann Arbor Science Publishers Inc, Ann Arbor, Michigan, Chapter 10.

Basile, R.J. 1978, OCS Development and Its Onshore Impact, Environmental Comment, February 1978, pp.3-7

Burroughs, R. H., 1986, Seafloor Area Within Reach of Petroleum Technology. Ocean Management, 10:125-135

California Coastal Commission, 1981. Coastal Energy Development: The California Experience - a Guide for Local Coastal Governments.

Christie, D. 1979. Coastal Energy Impact Program Boundaries on the Atlantic Coast: A Case Study of the Law Applicable to Lateral Seaward Boundaries. Virginia Journal of International Law, 19:841.

Crooke, R.C. and L.G. Otteman, 1984, Offshore Oil and Gas Technology Assessment, p. 209-245 in USGS Circular 929, Symposium Proceedings: A National Program for the Assessment and Development of the Mineral Resources ofthe U.S. Exclusive Economic Zone.

Comment. 1980. Achieving Federalism in the regulation of coastal energy facility siting. Ecology Law Quarterly, 8:533.

Corwin, E. 1984. Prospects for increased state and public control over OCS leasing: The timing of the environmental impact statement. San Diego Law Review, 21:709-731

Exxon USA, 1976. Onshore Effects of Offshore Oil. Public Affairs Department Fawcett, J.A. 1986, Redefining Local Government Power: The Influence of Informal Powers in Challenging Joint Implementation of a State Coastal Plan, Policy Review Studies, 6:300-339

Fitzgerald, E. A. 1988, Outer Continental Shelf Oil and Gas Revenues: Coastal States Should be Entitled to a Share, Coastal Management, 16:319-339

Giuliano, F. A. 1983, Introduction to Oil and Gas Technology, 2nd Edition, Intercomp Resource Development and Engineering, Inc.

Hildreth, R. 1986. Ocean Resources and Intergovernmental Relations in the 1980s: Outer Continental Shelf Hydrocarbons and Minerals.

Kelman, S. 1984. Politics a Framework for Analysis, In: Making Public Policy a Hopeful View of American Government.

Kanouse, R. 1980. Achieving Federalism in the Regulation of Coastal Energy Facility Siting. Ecology Law Quarterly, 8:533.

Mc Gregor, G. I. 1988, Local Government Law, Land Use Control, and Limits to Governmental Power - Part II. The Coastal Society Bulletin, 11:15-21

Miller, D. S. 1984. Offshore Federalism; Evolving Federal State Relations in Offshore Oil and Gas Development. Ecology Law Quarterly, 11:401-450.

Office of Technological Assessment, undated, unpublished table.

Reagan, M. and Sanzone, J. 1978, 1981. The New Federalism. 1st and 2nd edition, Oxford University Press, Inc.

Save Our Shores, undated, Santa Cruz, California

Speech, presented by Clair Ghylin, Chevron USA, San Francisco, May 7, 1987.

Speech, presented by William Bettenberg, Department of the Interior, Seattle, May 28, 1987

Spectra Information and Communication, undated. Understanding the Offshore Oil and Gas Development Process, A Citizens Guide. Prepared for the City of Santa Cruz, 115 pp.

U.S. House of Representatives, 1978 Ad Hoc Select Committee on Outer Continental Shelf. 1978. Oversight on the Outer Continental Shelf Lands Act Amendments of 1978. Part 1 and Part 5.

U.S. House of Representatives, 1977, Report by the Ad Hoc Select Committee on Outer Continental Shelf. Outer Continental Shelf Lands Act Amendments of 1977.

U. S. Senate, 1977, Report of the Committee on Energy and Natural Resources. Outer Continental Shelf Lands Act Amendments of 1977.

U.S. House of Representatives, 1981, Hearings Before a Subcommittee of the Committee on Government Operations. 1981. Department of the Interior Offshore Leasing Oversight.

U.S. Supreme Court, 1845. Ruling No. 02-1675, 1845

U.S. Supreme Court, 1984. Ruling No. 82-1326, January 11, 1984

Wright, D. S., 1978. Understanding Intergovernmental Relations. 1st edition, Brooks/Cole Publishing Company, Monterey, California.

Wright, D.S., 1982. Understanding Intergovernmental Relations. 2nd edition, Brooks/Cole Publishing Company, Monterey, California.

APPENDIX 1

Truman Proclamation

BASIC MATERIALS ON OUTER CONTINENTAL SHELF LANDS

DOCUMENT NO. 1

Truman Proclamation on the Continental Shelf

(COMMITTEE STAFF NOTE: The proclamation of September 28, 1945, is the first assertion by the Government of the United States of sovereignty over the mineral deposits of lands lying outside the historic 3-mile limit (the distance a cannon shot could carry at the time Thomas Jefferson was Secretary of State).

(Although superseded by the Outer Continental Shelf Lands Act, which gives congressional sanction to the extension of our national sovereignty, the Truman proclamation is still cited by the State Department and some foreign relations statements as the basis of our national claims.

(Also the proclamation has been used as a basis for the assertion of greatly expanded sea boundaries by other countries, such as Peru's claim to 200 miles out.

(This proclamation marks a new development in international law.)

PROCLAMATION 2667

Policy of the United States with Respect to the Natural Resources of the Subsoil and the Sea Bed of the Continental Shelf. *

Whereas the Government of the United States of America, aware of the long range world-wide need for new sources of petroleum and other minerals, holds the view that efforts to discover and make available new supplies of these resources should be encouraged; and

Whereas its competent experts are of the opinion that such resources underlie many parts of the continental shelf off the coasts of the United States of America, and that with modern technological progress their utilization is already practicable or will become so at an early date; and

Whereas recognized jurisdiction over these resources is required in the interest of their conservation and prudent utilization when and as development is undertaken; and

Whereas it is the view of the Government of the United States that the exercise of jurisdiction over the natural resources of the subsoil and sea bed of the continental shelf by the contiguous nation is reasonable and just, since the effectiveness of measures to utilize or conserve these resources would be contingent upon cooperation and protection from the shore, since the continental shelf may be regarded as an extension of the land-mass of the coastal nation and thus naturally appurtenant to it, since these resources frequently form a seaward extension of a pool or deposit lying within the territory, and since self-protection compels the coastal nation to keep close watch over activities off its shores which are of the nature necessary for utilization of these resources;

Now, Therefore, I, Harry S. Truman, President of the United States of America, do hereby proclaim the following policy of the United States of America with respect to the natural resources of the subsoil and sea bed of the continental shelf.

Having concern for the urgency of conserving and prudently utilizing its natural resources, the Government of the United States regards the natural resources of the subsoil and sea bed of the continental shelf beneath the high seas but contiguous to the coasts of the United States as appertaining to the United States, subject to

* See Executive Order 9633, 3 C.F.R. 1943-1948.

33-388 O—69——2

its jurisdiction and control. In cases where the continental shelf extends to the shores of another State, or is shared with an adjacent State, the boundary shall be determined by the United States and the State concerned in accordance with equitable principles. The character as high seas of the waters above the continental shelf and the right to their free and unimpeded navigation are in no way thus affected.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 28th day of September, in the year of our Lord nineteen hundred and forty-five, and of the Independence of the [SEAL] United States of America the one hundred and seventieth.

HARRY S. TRUMAN.

By the President:
DEAN ACHESON,
Acting Secretary of State.

DOCUMENT NO. 2

The California Case

(COMMITTEE STAFF NOTE: While the immediate issue before the Supreme Court of the United States in this case involved Federal versus State rights, rather than the extent of the national sovereignty vis-a-vis other nations, nevertheless the Court does discuss some of the issues of external sovereignty over the waters adjacent to our shores. The Court's holding with respect to the State's ownership of the submerged lands within the 3-mile limit was, in effect, reversed by the Submerged Lands Act of 1953 (67 Stat. 29; 43 U.S.C. 1301), but the same Congress, he 83d, did assert Federal sovereignty over the submerged lands beyond he State's sea boundary).

APPENDIX 2

Outer Continental Shelf Lands Act of 1953

Public Law 212

CHAPTER 345

August 7, 1953
[H. R. 5134]

AN ACT

To provide for the jurisdiction of the United States over the submerged lands of the outer Continental Shelf, and to authorize the Secretary of the Interior to lease such lands for certain purposes.

Outer Continental Shelf Lands Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Outer Continental Shelf Lands Act".

SEC. 2. DEFINITIONS.—When used in this Act—

(a) The term "outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (Public Law 31, Eighty-third Congress, first session), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control;

Ante, p. 29.

(b) The term "Secretary" means the Secretary of the Interior;

(c) The term "mineral lease" means any form of authorization for the exploration for, or development or removal of deposits of, oil, gas, or other minerals; and

(d) The term "person" includes, in addition to a natural person, an association, a State, a political subdivision of a State, or a private, public, or municipal corporation.

SEC. 3. JURISDICTION OVER OUTER CONTINENTAL SHELF.—(a) It is hereby declared to be the policy of the United States that the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act.

(b) This Act shall be construed in such manner that the character as high seas of the waters above the outer Continental Shelf and the right to navigation and fishing therein shall not be affected.

SEC. 4. LAWS APPLICABLE TO OUTER CONTINENTAL SHELF.—(a) (1) The Constitution and laws and civil and political jurisdiction of the United States are hereby extended to the subsoil and seabed of the outer Continental Shelf and to all artificial islands and fixed structures which may be erected thereon for the purpose of exploring for, developing, removing, and transporting resources therefrom, to the same extent as if the outer Continental Shelf were an area of exclusive Federal jurisdiction located within a State: *Provided, however*, That mineral leases on the outer Continental Shelf shall be maintained or issued only under the provisions of this Act.

State laws.

(2) To the extent that they are applicable and not inconsistent with this Act or with other Federal laws and regulations of the Secretary now in effect or hereafter adopted, the civil and criminal laws of each adjacent State as of the effective date of this Act are hereby declared to be the law of the United States for that portion of the subsoil and seabed of the outer Continental Shelf, and artificial islands and fixed structures erected thereon, which would be within the area of the State if its boundaries were extended seaward to the outer margin of the outer Continental Shelf, and the President shall determine and publish in the Federal Register such projected lines extending seaward and defining each such area. All of such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States. State taxation laws shall not apply to the outer Continental Shelf.

Publication of projected State lines.

(3) The provisions of this section for adoption of State law as the law of the United States shall never be interpreted as a basis for claiming any interest in or jurisdiction on behalf of any State for any

purpose over the seabed and subsoil of the outer Continental Shelf, or the property and natural resources thereof or the revenues therefrom.

Jurisdiction of U. S. district courts.

(b) The United States district courts shall have original jurisdiction of cases and controversies arising out of or in connection with any operations conducted on the outer Continental Shelf for the purpose of exploring for, developing, removing or transporting by pipeline the natural resources, or involving rights to the natural resources of the subsoil and seabed of the outer Continental Shelf, and proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the adjacent State nearest the place where the cause of action arose.

Worker's compensation.

(c) With respect to disability or death of an employee resulting from any injury occurring as the result of operations described in subsection (b), compensation shall be payable under the provisions of the Longshoremen's and Harbor Workers' Compensation Act. For the purposes of the extension of the provisions of the Longshoremen's and Harbor Workers' Compensation Act under this section—

44 Stat. 1424. 33 USC 901.

(1) the term "employee" does not include a master or member of a crew of any vessel, or an officer or employee of the United States or any agency thereof or of any State or foreign government, or of any political subdivision thereof;

(2) the term "employer" means an employer any of whose employees are employed in such operations; and

(3) the term "United States" when used in a geographical sense includes the outer Continental Shelf and artificial islands and fixed structures thereon.

61 Stat. 136. 29 USC 167.

(d) For the purposes of the National Labor Relations Act, as amended, any unfair labor practice, as defined in such Act, occurring upon any artificial island or fixed structure referred to in subsection (a) shall be deemed to have occurred within the judicial district of the adjacent State nearest the place of location of such island or structure.

Coast Guard regulations, etc.

(e) (1) The head of the Department in which the Coast Guard is operating shall have authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on the islands and structures referred to in subsection (a) or on the waters adjacent thereto, as he may deem necessary.

(2) The head of the Department in which the Coast Guard is operating may mark for the protection of navigation any such island or structure whenever the owner has failed suitably to mark the same in accordance with regulations issued hereunder, and the owner shall pay the cost thereof. Any person, firm, company, or corporation who shall fail or refuse to obey any of the lawful rules and regulations issued hereunder shall be guilty of a misdemeanor and shall be fined not more than $100 for each offense. Each day during which such violation shall continue shall be considered a new offense.

Penalty.

Artificial islands, etc.

(f) The authority of the Secretary of the Army to prevent obstruction to navigation in the navigable waters of the United States is hereby extended to artificial islands and fixed structures located on the outer Continental Shelf.

(g) The specific application by this section of certain provisions of law to the subsoil and seabed of the outer Continental Shelf and the artificial islands and fixed structures referred to in subsection (a) or to acts or offenses occurring or committed thereon shall not give rise to any inference that the application to such islands and structures, acts, or offenses of any other provision of law is not intended.

SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—(a) (1) The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein, and, notwithstanding any other provisions herein, such rules and regulations shall apply to all operations conducted under a lease issued or maintained under the provisions of this Act. In the enforcement of conservation laws, rules, and regulations the Secretary is authorized to cooperate with the conservation agencies of the adjacent States. Without limiting the generality of the foregoing provisions of this section, the rules and regulations prescribed by the Secretary thereunder may provide for the assignment or relinquishment of leases, for the sale of royalty oil and gas accruing or reserved to the United States at not less than market value, and, in the interest of conservation, for unitization, pooling, drilling agreements, suspension of operations or production, reduction of rentals or royalties, compensatory royalty agreements, subsurface storage of oil or gas in any of said submerged lands, and drilling or other easements necessary for operations or production.

Prevention of waste.

Cooperation with State conservation agencies.

Penalty.

(2) Any person who knowingly and willfully violates any rule or regulation prescribed by the Secretary for the prevention of waste, the conservation of the natural resources, or the protection of correlative rights shall be deemed guilty of a misdemeanor and punishable by a fine of not more than $2,000 or by imprisonment for not more than six months, or by both such fine and imprisonment, and each day of violation shall be deemed to be a separate offense. The issuance and continuance in effect of any lease, or of any extension, renewal, or replacement of any lease under the provisions of this Act shall be conditioned upon compliance with the regulations issued under this Act and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 8 hereof, or with the regulations issued under the provisions of section 6 (b), clause (2), hereof if the lease is maintained under the provisions of section 6 hereof.

Cancellation of lease.

(b) (1) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6 (b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in section 8 (j), if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

(2) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6 (b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of section 4 (b) of this Act.

Pipeline rights-of-way.

(c) Rights-of-way through the submerged lands of the outer Con-

tinental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulphur, or other mineral under such regulations and upon such conditions as to the application therefor and the survey, location and width thereof as may be prescribed by the Secretary, and upon the express condition that such oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from said submerged lands in the vicinity of the pipeline in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed thereunder shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any United States district court having jurisdiction under the provisions of section 4 (b) of this Act.

Forfeiture of grant.

SEC. 6. MAINTENANCE OF LEASES ON OUTER CONTINENTAL SHELF.—(a) The provisions of this section shall apply to any mineral lease covering submerged lands of the outer Continental Shelf issued by any State (including any extension, renewal, or replacement thereof heretofore granted pursuant to such lease or under the laws of such State) if—

(1) such lease, or a true copy thereof, is filed with the Secretary by the lessee or his duly authorized agent within ninety days from the effective date of this Act, or within such further period or periods as provided in section 7 hereof or as may be fixed from time to time by the Secretary;

Filing of lease, etc.

(2) such lease was issued prior to December 21, 1948, and would have been on June 5, 1950, in force and effect in accordance with its terms and provisions and the law of the State issuing it had the State had authority to issue such lease;

(3) there is filed with the Secretary, within the period or periods specified in paragraph (1) of this subsection, (A) a certificate issued by the State official or agency having jurisdiction over such lease stating that it would have been in force and effect as required by the provisions of paragraph (2) of this subsection, or (B) in the absence of such certificate, evidence in the form of affidavits, receipts, canceled checks, or other documents that may be required by the Secretary, sufficient to prove that such lease would have been so in force and effect;

(4) except as otherwise provided in section 7 hereof, all rents, royalties, and other sums payable under such lease between June 5, 1950, and the effective date of this Act, which have not been paid in accordance with the provisions thereof, or to the Secretary or to the Secretary of the Navy, are paid to the Secretary within the period or periods specified in paragraph (1) of this subsection, and all rents, royalties, and other sums payable under such lease after the effective date of this Act, are paid to the Secretary, who shall deposit such payments in the Treasury in accordance with section 9 of this Act;

Sums payable.

(5) the holder of such lease certifies that such lease shall continue to be subject to the overriding royalty obligations existing on the effective date of this Act;

(6) such lease was not obtained by fraud or misrepresentation;

(7) such lease, if issued on or after June 23, 1947, was issued upon the basis of competitive bidding;

Royalty.

(8) such lease provides for a royalty to the lessor on oil and gas of not less than 12½ per centum and on sulphur of not less than 5 per centum in amount or value of the production saved, removed, or sold from the lease, or, in any case in which the lease provides for a lesser royalty, the holder thereof consents in writing, filed with the Secretary, to the increase of the royalty to the minimum herein specified;

(9) the holder thereof pays to the Secretary within the period or periods specified in paragraph (1) of this subsection an amount equivalent to any severance, gross production, or occupation taxes imposed by the State issuing the lease on the production from the lease, less the State's royalty interest in such production, between June 5, 1950, and the effective date of this Act and not heretofore paid to the State, and thereafter pays to the Secretary as an additional royalty on the production from the lease, less the United States' royalty interest in such production, a sum of money equal to the amount of the severance, gross production, or occupation taxes which would have been payable on such production to the State issuing the lease under its laws as they existed on the effective date of this Act;

Termination of lease.

(10) such lease will terminate within a period of not more than five years from the effective date of this Act in the absence of production or operations for drilling, or, in any case in which the lease provides for a longer period, the holder thereof consents in writing, filed with the Secretary, to the reduction of such period so that it will not exceed the maximum period herein specified; and

Surety bond.

(11) the holder of such lease furnishes such surety bond, if any, as the Secretary may require and complies with such other reasonable requirements as the Secretary may deem necessary to protect the interests of the United States.

Maintenance of lease.

(b) Any person holding a mineral lease, which as determined by the Secretary meets the requirements of subsection (a) of this section, may continue to maintain such lease, and may conduct operations thereunder, in accordance with (1) its provisions as to the area, the minerals covered, rentals and, subject to the provisions of paragraphs (8), (9) and (10) of subsection (a) of this section, as to royalties and as to the term thereof and of any extensions, renewals, or replacements authorized therein or heretofore authorized by the laws of the State issuing such lease, or, if oil or gas was not being produced in paying quantities from such lease on or before December 11, 1950, or if production in paying quantities has ceased since June 5, 1950, or if the primary term of such lease has expired since December 11, 1950, then for a term from the effective date hereof equal to the term remaining unexpired on December 11, 1950, under the provisions of such lease or any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of such State, and (2) such regulations as the Secretary may under section 5 of this Act prescribe within ninety days after making his determination that such lease meets the requirements of subsection (a) of this section: *Provided, however,*

Sulphur.

That any rights to sulphur under any lease maintained under the provisions of this subsection shall not extend beyond the primary term of such lease or any extension thereof under the provisions of such subsection (b) unless sulphur is being produced in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are being conducted on the area covered by such lease on the date of expiration of such primary term or extension: *Provided further,* That if sulphur is being produced in paying quantities on such date, then such rights

shall continue to be maintained in accordance with such lease and the provisions of this Act: *Provided further*, That, if the primary term of a lease being maintained under subsection (b) hereof has expired prior to the effective date of this Act and oil or gas is being produced in paying quantities on such date, then such rights to sulphur as the lessee may have under such lease shall continue for twenty-four months from the effective date of this Act and as long thereafter as sulphur is produced in paying quantities, or drilling, well working, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are being conducted on the area covered by the lease.

Nonwaiver of U. S. claims.

(c) The permission granted in subsection (b) of this section shall not be construed to be a waiver of such claims, if any, as the United States may have against the lessor or the lessee or any other person respecting sums payable or paid for or under the lease, or respecting activities conducted under the lease, prior to the effective date of this Act.

Court review of determination.

(d) Any person complaining of a negative determination by the Secretary of the Interior under this section may have such determination reviewed by the United States District Court for the District of Columbia by filing a petition for review within sixty days after receiving notice of such action by the Secretary.

Lands beneath navigable waters.

(e) In the event any lease maintained under this section covers lands beneath navigable waters, as that term is used in the Submerged Lands Act, as well as lands of the outer Continental Shelf, the provisions of this section shall apply to such lease only insofar as it covers lands of the outer Continental Shelf.

Agreements with State.

SEC. 7. CONTROVERSY OVER JURISDICTION.—In the event of a controversy between the United States and a State as to whether or not lands are subject to the provisions of this Act, the Secretary is authorized, notwithstanding the provisions of subsections (a) and (b) of section 6 of this Act, and with the concurrence of the Attorney General of the United States, to negotiate and enter into agreements with the State, its political subdivision or grantee or a lessee thereof, respecting operations under existing mineral leases and payment and impounding of rents, royalties, and other sums payable thereunder, or with the State, its political subdivision or grantee, respecting the issuance or nonissuance of new mineral leases pending the settlement or adjudication of the controversy. The authorization contained in the preceding sentence of this section shall not be construed to be a limitation upon the authority conferred on the Secretary in other sections of this Act. Payments made pursuant to such agreement, or pursuant to any stipulation between the United States and a State, shall be considered as compliance with section 6 (a) (4) hereof. Upon the termination of such agreement or stipulation by reason of the final settlement or adjudication of such controversy, if the lands subject to any mineral lease are determined to be in whole or in part lands subject to the provisions of this Act, the lessee, if he has not already done so, shall comply with the requirements of section 6 (a), and thereupon the provisions of section 6 (b) shall govern such lease. The notice concerning "Oil and Gas Operations in the Submerged Coastal Lands of the Gulf of Mexico" issued by the Secretary on December 11, 1950 (15 F. R. 8835), as amended by the notice dated January 26, 1951 (16 F. R. 953), and as supplemented by the notices dated February 2, 1951 (16 F. R. 1203), March 5, 1951 (16 F. R. 2195), April 23, 1951 (16 F. R. 3623), June 25, 1951 (16 F. R. 6404), August 22, 1951 (16 F. R. 8720), October 24, 1951 (16 F. R. 10998), December 21, 1951 (17 F. R. 43), March 25, 1952 (17 F. R. 2821), June 26, 1952 (17 F. R. 5833), and December 24, 1952 (18 F. R. 48), respectively, is hereby approved and confirmed.

Bids.
Oil and gas leases.

SEC. 8. LEASING OF OUTER CONTINENTAL SHELF.—(a) In order to meet the urgent need for further exploration and development of the oil and gas deposits of the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the highest responsible qualified bidder by competitive bidding under regulations promulgated in advance, oil and gas leases on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding shall be (1) by sealed bids, and (2) at the discretion of the Secretary, on the basis of a cash bonus with a royalty fixed by the Secretary at not less than 12½ per centum in amount or value of the production saved, removed or sold, or on the basis of royalty, but at not less than the per centum above mentioned, with a cash bonus fixed by the Secretary.

(b) An oil and gas lease issued by the Secretary pursuant to this section shall (1) cover a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, (2) be for a period of five years and as long thereafter as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon, (3) require the payment of a royalty of not less than 12½ per centum, in the amount or value of the production saved, removed, or sold from the lease, and (4) contain such rental provisions and such other terms and provisions as the Secretary may prescribe at the time of offering the area for lease.

Sulphur leases.

(c) In order to meet the urgent need for further exploration and development of the sulphur deposits in the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding sulphur leases on submerged lands of the outer Continental Shelf, which are not covered by leases which include sulphur and meet the requirements of subsection (a) of section 6 of this Act, and which sulphur leases shall be offered for bid by sealed bids and granted on separate leases from oil and gas leases, and for a separate consideration, and without priority or preference accorded to oil and gas lessees on the same area.

(d) A sulphur lease issued by the Secretary pursuant to this section shall (1) cover an area of such size and dimensions as the Secretary may determine, (2) be for a period of not more than ten years and so long thereafter as sulphur may be produced from the area in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are conducted thereon, (3) require the payment to the United States of such royalty as may be specified in the lease but not less than 5 per centum of the gross production or value of the sulphur at the wellhead, and (4) contain such rental provisions and such other terms and provisions as the Secretary may by regulation prescribe at the time of offering the area for lease.

Other mineral leases.

(e) The Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding leases of any mineral other than oil, gas, and sulphur in any area of the outer Continental Shelf not then under lease for such mineral upon such royalty, rental, and other terms and conditions as the Secretary may prescribe at the time of offering the area for lease.

Notices, publication.

(f) Notice of sale of leases, and the terms of bidding, authorized by this section shall be published at least thirty days before the date of sale in accordance with rules and regulations promulgated by the Secretary.

Deposits.

(g) All moneys paid to the Secretary for or under leases granted pursuant to this section shall be deposited in the Treasury in accordance with section 9 of this Act.

(h) The issuance of any lease by the Secretary pursuant to this Act, or the making of any interim arrangements by the Secretary pursuant to section 7 of this Act shall not prejudice the ultimate settlement or adjudication of the question as to whether or not the area involved is in the outer Continental Shelf.

Cancellation.

(i) The Secretary may cancel any lease obtained by fraud or misrepresentation.

(j) Any person complaining of a cancellation of a lease by the Secretary may have the Secretary's action reviewed in the United States District Court for the District of Columbia by filing a petition for review within sixty days after the Secretary takes such action.

SEC. 9. DISPOSITION OF REVENUES.—All rentals, royalties, and other sums paid to the Secretary or the Secretary of the Navy under any lease on the outer Continental Shelf for the period from June 5, 1950, to date, and thereafter shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

SEC. 10. REFUNDS.—(a) Subject to the provisions of subsection (b) hereof, when it appears to the satisfaction of the Secretary that any person has made a payment to the United States in connection with any lease under this Act in excess of the amount he was lawfully required to pay, such excess shall be repaid without interest to such person or his legal representative, if a request for repayment of such excess is filed with the Secretary within two years after the making of the payment, or within ninety days after the effective date of this Act. The Secretary shall certify the amounts of all such repayments to the Secretary of the Treasury, who is authorized and directed to make such repayments out of any moneys in the special account established under section 9 of this Act and to issue his warrant in settlement thereof.

Report to Congress.

(b) No refund of or credit for such excess payment shall be made until after the expiration of thirty days from the date upon which a report giving the name of the person to whom the refund or credit is to be made, the amount of such refund or credit, and a summary of the facts upon which the determination of the Secretary was made is submitted to the President of the Senate and the Speaker of the House of Representatives for transmittal to the appropriate legislative committee of each body, respectively: *Provided*, That if the Congress shall not be in session on the date of such submission or shall adjourn prior to the expiration of thirty days from the date of such submission, then such payment or credit shall not be made until thirty days after the opening day of the next succeeding session of Congress.

SEC. 11. GEOLOGICAL AND GEOPHYSICAL EXPLORATIONS.—Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the outer Continental Shelf, which do not interfere with or endanger actual operations under any lease maintained or granted pursuant to this Act, and which are not unduly harmful to aquatic life in such area.

SEC. 12. RESERVATIONS.—(a) The President of the United States may, from time to time, withdraw from disposition any of the unleased lands of the outer Continental Shelf.

War.

(b) In time of war, or when the President shall so prescribe, the United States shall have the right of first refusal to purchase at the market price all or any portion of any mineral produced from the outer Continental Shelf.

(c) All leases issued under this Act, and leases, the maintenance and operation of which are authorized under this Act, shall contain or be

construed to contain a provision whereby authority is vested in the Secretary, upon a recommendation of the Secretary of Defense, during a state of war or national emergency declared by the Congress or the President of the United States after the effective date of this Act, to suspend operations under any lease; and all such leases shall contain or be construed to contain provisions for the payment of just compensation to the lessee whose operations are thus suspended.

National defense areas.

(d) The United States reserves and retains the right to designate by and through the Secretary of Defense, with the approval of the President, as areas restricted from exploration and operation that part of the outer Continental Shelf needed for national defense; and so long as such designation remains in effect no exploration or operations may be conducted on any part of the surface of such area except with the concurrence of the Secretary of Defense; and if operations or production under any lease theretofore issued on lands within any such restricted area shall be suspended, any payment of rentals, minimum royalty, and royalty prescribed by such lease likewise shall be suspended during such period of suspension of operation and production, and the term of such lease shall be extended by adding thereto any such suspension period, and the United States shall be liable to the lessee for such compensation as is required to be paid under the Constitution of the United States.

Uranium, thorium, etc.

60 Stat. 760
42 USC 1805.

(e) All uranium, thorium, and all other materials determined pursuant to paragraph (1) of subsection (b) of section 5 of the Atomic Energy Act of 1946, as amended, to be peculiarly essential to the production of fissionable material, contained, in whatever concentration, in deposits in the subsoil or seabed of the outer Continental Shelf are hereby reserved for the use of the United States.

Helium.

(f) The United States reserves and retains the ownership of and the right to extract all helium, under such rules and regulations as shall be prescribed by the Secretary, contained in gas produced from any portion of the outer Continental Shelf which may be subject to any lease maintained or granted pursuant to this Act, but the helium shall be extracted from such gas so as to cause no substantial delay in the delivery of gas produced to the purchaser of such gas.

18 F. R. 405.

SEC. 13. NAVAL PETROLEUM RESERVE EXECUTIVE ORDER REPEALED.—Executive Order Numbered 10426, dated January 16, 1953, entitled "Setting Aside Submerged Lands of the Continental Shelf as a Naval Petroleum Reserve", is hereby revoked.

SEC. 14. PRIOR CLAIMS NOT AFFECTED.—Nothing herein contained shall affect such rights, if any, as may have been acquired under any law of the United States by any person in lands subject to this Act and such rights, if any, shall be governed by the law in effect at the time they may have been acquired: *Provided, however*, That nothing herein contained is intended or shall be construed as a finding, interpretation, or construction by the Congress that the law under which such rights may be claimed in fact applies to the lands subject to this Act or authorizes or compels the granting of such rights in such lands, and that the determination of the applicability or effect of such law shall be unaffected by anything herein contained.

SEC. 15. REPORT BY SECRETARY.—As soon as practicable after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives a report detailing the amounts of all moneys received and expended in connection with the administration of this Act during the preceding fiscal year.

SEC. 16. APPROPRIATIONS.—There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 17. SEPARABILITY.—If any provision of this Act, or any section, subsection, sentence, clause, phrase or individual word, or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of any such provision, section, subsection, sentence, clause, phrase or individual word to other persons and circumstances shall not be affected thereby.

Approved August 7, 1953.

Public Law 213 CHAPTER 346

AN ACT

August 7, 1953
[H. R. 4152]

To extend the time for exemption from income taxes for certain members of the Armed Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 22 (b) (13) of the Internal Revenue Code (relating to exclusion from gross income of compensation of certain members of the Armed Forces) is hereby amended by striking out "January 1, 1954" wherever it appears therein and inserting in lieu thereof "January 1, 1955".

59 Stat. 571; 65 Stat. 484.
26 USC 22.

SEC. 2. Section 1621 (a) (1) of the Internal Revenue Code (relating to definition of the term "wages") is hereby amended by striking out "January 1, 1954" and inserting in lieu thereof "January 1, 1955".

65 Stat. 484.
26 USC 1621.

SEC. 3. (a) That the third sentence of section 25 (b) (3) of the Internal Revenue Code, relating to the definition of dependent, is amended to read as follows: "For the purposes of determining whether any of the foregoing relationships exist (1) a legally adopted child of a person or (2) a child for which petition for adoption was filed by a person in the appropriate court and denied because of mental incapacity of surviving natural parent to agree to such adoption, shall be considered a child of such person by blood."

"Dependent."
58 Stat. 238.
26 USC 25.

(b) The provisions of subsection (a) shall be applicable to taxable years beginning after December 31, 1945.

Applicability.

Approved August 7, 1953.

Public Law 214 CHAPTER 347

AN ACT

August 7, 1953
[S. 2539]

To authorize the loan of two submarines to the Government of Turkey.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized to lend to the Government of Turkey for a period of not more than five years, two submarines. The President shall, prior to the delivery of the submarines to the Government of Turkey, conclude an agreement with the Government providing for the return of the submarines in accordance with the provisions of this Act and in substantially the same condition as when loaned. All expenses involved in the activation of the submarines including repairs, alterations, outfitting, and logistic support shall be charged to funds programed for the Turkish Government under the Mutual Security Act.

Turkey.
Loan of submarines.

65 Stat. 373.
22 USC 1651 note.

Approved August 7, 1953.

APPENDIX 3

The Outer Continental Shelf Lands Act Amendments

Appendix 3

The Outer Continental Shelf Lands Act Amendments

Revisions To Existing Sections

Section 8. Leasing of Outer Continental Shelf.

This section was amended to include requirements that the Secretary, when soliciting nominations for the leasing of lands within three miles of the seaward boundary of any coastal state, provide information to the governor of each state and consult with the governor following receipt of tract nominations. If the Secretary selects tracts that may contain oil pools underlying both the OCS and lands subject to state jurisdiction, he is required to offer the governor an opportunity to enter into an agreement concerning the disposition of revenues to ensure "their fair and equitable division between the state and federal government." If an agreement can not be reached the tract may be leased and the revenues directed to an escrow account until such time as the state and federal government can reach a decision on an equitable disposition of revenues.

Section 11(c). Geological and Geophysical Explorations.

This section requires the submission of an exploration plan to the Secretary by a lease holder prior to commencement of exploration. Further, it requires the Secretary to secure state concurrence with the accompanying consistency certification prior to granting a license or permit for any activity "described in detail in an exploration plan and affecting any land use or water use in the coastal zone of a state."

New Sections

Section 18. Outer Continental Shelf Leasing Program.

This section requires the Secretary of Interior to develop and revise five-year schedules of "proposed lease sales indicating as precisely as possible the size, timing, and location of leasing activities." The timing and location of exploration, development, and production of oil and gas are to be based on consideration of seven factors.27 One of these statutory factors requires the Secretary to consider the "laws, goals and policies of affected states which have been specifically identified by the governors of such states as relevant matters for the Secretary's consideration." This includes the state's federally approved coastal zone management program.

Suggestions for development of the 5-year plan are to be invited from other federal agencies and from the governor of any state that may be affected. According

to these provisions the Secretary may consider local government suggestions if they have been previously submitted to the governor of the affected state. The Secretary is also required to submit to the governor of each affected state the 5-year plan prior to publication in the Federal Register for review and comment. The governor may then in turn solicit comments from those local governments in his state which he determines will be affected by the program. The Secretary is required to respond in writing to the governor granting or denying such requests and stating his reasons why. There is no such requirement that he respond to the local government comments.

Section 19. Coordination and Consultation With Affected States and Local Governments.

Under this section, the affected state's governor and the executive of any affected local government "may submit recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan." The Secretary must accept the recommendations of the governor and may accept local government recommendations.

The Secretary is given the discretionary power to determine if the recommendations "provide for a reasonable balance between the national interest and the well-being of the citizens of the affected states", and is only required to respond in writing to the states and not the local executives. The Secretary's decision is "final and shall not, alone be a basis for invalidation of a proposed lease sale...unless found to be arbitrary or capricious."

Section 25. Oil and Gas Development and Production.

Development and production planning may require the development of an environmental impact statement. This section requires that the impact statement be transmitted by the Secretary to the governor of any affected state, and if requested, to local governments. If development plan approval does not require a DEIS the Secretary is obligated to forward the plan to the governor of any affected state to solicit comments and recommendations.

Again, the local governments within affected states may comment but are required to respond through "the governor of his state."

Section 26. Outer Continental Shelf Oil and Gas Information Program.

This section gives the Secretary access to all data and information obtained during exploration, development and production of oil and gas pursuant to the OCSLAA. In turn, the Secretary is required to provide the affected states and, upon request, affected local governments, with a summary of data to assist in planning for the onshore impacts of possible oil and gas development and production. Provision is made through written agreement for a state representative to obtain access to privileged information regarding activity adjacent to that state.

Section 23. Citizen Suits, Court Jurisdiction, and Judicial Review.

Although it would at first appear that section 23 has little to do with sate and local government access to the decision making process, it does provide for "any person" adversely affected to compel compliance with the Act. "Any person" includes state and local governments. This section gives standing in court and can be used by state and local governments to affect OCS decisions.

Synopsis of Local Land Use Initiatives Related to OCS Activity

MONTEREY COUNTY: Offshore and Onshore Oil Development Ordinance.

Requires voter approval of new onshore facilities of at least 20,000 square feet supporting offshore oil and gas exploration and development and expresses the strong opposition of the citizens of Monterey County to proposed developments offshore affecting the Monterey County coastline, environment, character and economy.

MONTEREY CITY: Ordinance Opposing Oil and Gas Drilling Off the Coast of Central and Northern California

Requires voter approval to change zoning to accommodate onshore oil facilities related to offshore oil and gas exploration and development.

MORRO BAY: Ordinance Prohibiting Offshore Oil Development Support Facilities Within The City of Morro Bay

No construction, reconstruction, operation or maintenance of any commercial or industrial facility within the city or any other aid or support which operates directly or indirectly in support of any offshore oil or gas exploration, development, drilling, pumping or production...no pipeline operation for transmission of any oil or natural gas taken from any offshore oil, gas, drilling or pumping operation.

No zoning change without voter approval.

Does not amend or rescind any consistent provisions of Local Coastal Plan (LCP) but does strengthen and define such consistency provisions.

OCEANSIDE:

No action to authorize or permit construction, operation or maintenance of any pipeline within the city for the transmission of any crude oil or natural gas taken from any offshore crude oil or gas operation within 100 nautical miles off the coastline of San Diego County.

No action to authorize or permit any commercial or industrial facility which operates directly or indirectly in support of any offshore drilling or pumping operations.

CITY OF SAN DIEGO:

No action to authorize or permit construction, operation or maintenance of any pipeline within the city for the transmission of oil or gas taken from any offshore crude oil or gas operation within 100 nautical miles off coastline of San Diego County.

Synopsis of Local Land Use Initiatives Related to OCS Activity (Continued)

No action to authorize or permit any commercial or industrial facility which operates directly or indirectly in support of any offshore drilling or pumping operations.

SAN DIEGO COUNTY:
Prohibition of onshore facilities

CITY OF SAN FRANCISCO: Oil Development Moratorium

Two year Moratorium on the use, development, or construction of crude oil and gas processing and support facilities. The City Planning Commission is directed to study the need for permanent controls.

CITY OF SAN LUIS OBISPO: Ordinance Opposing Oil and Gas Drilling
Off the Coast of Central and Northern California to Express Opposition to Intensive Oil and Gas Drilling

(1) Urges development of a comprehensive oil and gas support facilities control ordinance.
(2) Prohibits onshore support facilities or permitting of such until an appropriate zone district is proposed and such proposal is approved by a vote of the people.
(3) Directs the City to use its resources to help other governments coordinate their efforts to prevent intensive oil and gas drilling off the coast of central and northern California.
(4) Directs the City to take all further and reasonable steps within the City Council's legal power to prevent intensive oil and gas drilling.

SAN LUIS OBISPO COUNTY: An Initiative Ordinance by the Voters of the County Requiring Voter Approval of New Onshore Facilities Supporting Offshore Oil and Gas Activities
The County has authority under state law to enact ordinances regulating land use in the interest of public health, safety and general welfare. Based on this initiative the County has no authority to allow onshore support facility for offshore oil and gas activity without a majority vote of the public.

SAN MATEO COUNTY: Coastal Protection Initiative
Prohibits onshore facilities and pipelines for offshore gas and oil activities in the coastal zone and requires a vote of the public not the Board of Supervisors to change the LCP.

Synopsis of Local Land Use initiatives Related to OCS Activity (Continued)

CITY OF SANTA CRUZ: Ordinance Opposing Oil and Gas Drilling Off the Coast of Central and Northern California

(1) Directs the City to request the President of the United States, Secretary of the Interior, Governor and Mayor to prevent inclusion of northern and central California waters in the five year plan, overturn the existing five year plan and include local government positions in any comments or review of this issue.

(2) No zoning change allowed to accommodate facilities for offshore oil or gas drilling.

(3) Directs the City to use its resources to help other governments coordinate their efforts to prevent intensive oil and gas drilling off the coast of central and northern California.

(4) Take any other legal steps to prevent oil and/or gas drilling off the coast of northern or central California.

SANTA CRUZ COUNTY: Approval of onshore facilities must include a vote of the people

SONOMA COUNTY: On-Shore Support Facilities Measure Requires voter approval for onshore facilities supporting offshore oil and gas exploration and development and expresses the strong opposition of the citizens of the County of Sonoma to proposed off-shore oil and gas developments.

Appendix 4.

Local Land Use Initiatives

OCS INITIATIVES PASSED DURING NOVEMBER 1986

* * * * * * * * * * * * * * * *

MONTEREY CITY

MONTEREY COUNTY

MORRO BAY

OCEANSIDE

SAN DIEGO CITY

SAN FRANCISCO

SAN LUIS OBISPO CITY*

SAN LUIS OBISPO COUNTY

SAN MATEO COUNTY

SANTA CRUZ*

SONOMA COUNTY

* passed earlier in 1986 or 1985

Measure H - Monterey County

MONTEREY COUNTY MEASURE A
OFFSHORE AND ONSHORE OIL DEVELOPMENT ORDINANCE
(Full Text of Ordinance No. 3167)

ORDINANCE REQUIRING VOTER APPROVAL FOR NEW ONSHORE FACILITIES OF AT LEAST 20,000 SQUARE FEET SUPPORTING OFFSHORE OIL AND GAS EXPLORATION AND DEVELOPMENT, AND EXPRESSING THE STRONG OPPOSITION OF THE CITIZENS OF MONTEREY COUNTY TO PROPOSED OFFSHORE OIL DEVELOPMENTS AFFECTING THE MONTEREY COUNTY COAST, AND THE ENVIRONMENT, CHARACTER AND ECONOMY OF MONTEREY COUNTY

people of the County of Monterey do ordain as follows:

ON 1.

purpose of this ordinance is to express the strong opposition of the people of rey County to proposed offshore oil developments which would negatively affect the rey County coast, the character and environment of the community, and the local rey County economy. A further purpose of this ordinance is to assure that any sed onshore facilities to support the exploration for and development of offshore oil as will be permitted only after a vote of the people.

ON 2.

Monterey County Code is hereby amended by adding Chapter 16.55 to read as s:

Chapter 16.55

ONSHORE FACILITIES SUPPORTING OFFSHORE OIL AND GAS EXPLORATION AND DEVELOPMENT

ons:

- 5.010 Findings.
- 5.020 Voter Approval for Onshore Facilities.
- 5.030 Recodification and Amendment.
- 5.040 Severability.

.010 FINDINGS.

hereby found and determined as follows:

The federal government has proposed to open up virtually the entire California line to offshore oil and gas exploration and development, including the coastline off rey County.

Coastal areas off Monterey County have been determined to be high priority areas ffshore oil and gas exploration and development by various multinational oil anies.

Offshore oil and gas development off Monterey County would have the following icant effects upon this community:

If offshore oil and gas development occurs off the Monterey County coast, signi- new air pollution is absolutely inevitable. One drillship produces approximately the amount of air pollution as 23,000 cars driving fifty miles per day. Despite this fact, ederal government does not presently require that offshore oil and gas developments ly with State and local air pollution rules.

Offshore oil and gas development off the Monterey County coast would expose the to the danger of massive oil spills, from an oil well blowout or a tanker accident. if a major accident never occurs, routine small oil releases are absolutely inevitable hore oil and gas development is permitted. Such small releases of oil would degrade ensitive marine environment, put oil on our beaches, and expose both marine mals and seabirds to great danger.

Offshore oil and gas development off the Monterey County coast would inevitably in the discharge of large volumes of highly toxic drilling muds onto the ocean floor. e toxic materials would degrade our sensitive marine environment, put all forms of e life at greater risk, and pose a threat to human beings who might later eat fish umintated with accumulated toxics.

. Offshore oil and gas development off the Monterey County coast would put the ng local economy in jeopardy, because: (1) such offshore oil and gas development d significantly and substantially interfere with the operations of our fishing industry; ould detract from the experience of visitors to our coast, and, particularly if massive il occurs, place our tourism industry in danger; and (3) place significant pressures oastal lands and water needed for agriculture, and would hence threaten our agri- al industry.

The onshore impacts of offshore oil and gas development would be substantial:

. The recreational use of local port facilities could be usurped by oil industry boats.

. Noisy helicopter traffic could become a significant irritant to County residents.

. The massive fresh water supplies needed for offshore oil and gas development t require that water be diverted from existing users, or that costly and environ- ally-damaging dam and water projects be constructed.

. Existing and approved sewage treatment facilities cannot accomodate onshore rements. Expansion of existing and approved facilities would be in violation of State Federal air and water quality standards.

. Coastal agricultural and other lands would be needed for oil processing, treatment, transportation facilities, or for supply bases for offshore oil and gas development, mally transforming our open and agricultural lands along the coast into the industrial ng area for oil and gas developments offshore.

Rather than consuming offshore oil and gas resources now, our nation should erve these resources, since they are non-renewable. Our nation should develop a nal energy strategy based on energy conservation and the increasing use of wable energy sources. Instead, the federal government has presently reduced or nated efforts to increase energy conservation, and to develop renewable energy ces, at the same time that it is attempting to increase the development of non- wable energy sources like offshore oil and gas. The citizens of Monterey County are willing and able to do their part in conserving energy, and in developing a society less dependent on non-renewable fossil fuel resources.

6. The citizens of Monterey County have no legal way directly to control offshore oil and gas exploration or development, since oil and gas developments which occur offshore are under the jurisdiction of the federal government. The citizens of Montery County do, however, have the legal ability to make significant decisions about onshore facilities which support offshore oil and gas exploration and development.

7. Since the effects of offshore oil and gas development on the people of Monterey County would be significant, it is appropriate that the people of Monterey County reserve for themselves, to the maximum degree possible, decisions on major new onshore facilities which support offshore oil and gas exploration and development.

16.55.020 VOTER APPROVAL FOR ONSHORE FACILITIES.

1. No permit, entitlement, lease, or other authorization of any kind within the County of Monterey which would authorize or allow the development, construction, or installation of any onshore facility necessary for or intended to support offshore oil or gas exploration or development shall be granted unless such authorization is approved by a majority vote of the qualified electors of Monterey County, in a general or special election. For the purpose of this ordinance, the term "onshore facility" means any facility or land use of at least 20,000 square feet necessary for or intended to support offshore oil or gas exploration, or the development, production, storage, processing, or transportation of oil or gas resources produced or developed offshore, or other activities related to the development of offshore oil or gas resources.

2. When any person proposes to undertake the development within Monterey County of any offshore energy facility related to the exploration or development of offshore oil or gas resources, and requests an amendment of the County's certified Local Coastal Program to facilitate such development, the local government determination required by Public Resources Code Section 30515 shall include a vote of the qualified electors of Monterey County, in a general or special election, and no local government determination approving such an amendment shall be valid unless a majority of the electors voting in such election approve the amendment proposed. The Board of Supervisors of Monterey County are hereby authorized and directed to enact any further ordinances or regulations necessary to give effect to this paragraph, and specifically to require that the person seeking any such amendment to the County's certified Local Coastal Program pay all costs associated with the special or general election required herein.

16.55.030 RECODIFICATION AND AMENDMENT.

Nothing shall prevent the Board of Supervisors of Monterey County from recodifying the substantive provisions of this ordinance from time to time to incorporate the provisions of this ordinance into the County Code in the most appropriate location. No substantive provision of this ordinance, however, shall be amended or repealed, except by a vote of the people.

16.55.040 SEVERABILITY.

If any portion of this ordinance is hereafter determined to be invalid, all remaining portions of this ordinance shall remain in full force and effect, and to this extent, the provisions of this ordinance are severable.

SECTION 3.

Within thirty (30) days after the certification of the adoption of this referendum ordinance, the Board of Supervisors shall send a copy of this measure, with a letter stating the results of the election, to all of the following persons: The President of the United States; the United States Secretary of the Interior; the Chairperson of the United States Senate Committee on Energy and Resources; the United States Senators and United States Representatives representing the State of California in the United States Congress; the Governor of the State of California; the California State Senator representing Monterey County, and the California State Assembly Member representing Monterey County.

SECTION 4.

This ordinance shall take effect as provided by law.

Measure G – Monterey City

MEASURES E, F & G continued

MEASURE F - TEXT

Amend Charter Section 2.4 as follows:

"Sec. 2.4 Canvass of Returns.

The Council of said City shall meet at its usual meeting place at the first regular or adjourned meeting following any municipal election and duly canvass the returns and declare the results thereof. The Council shall install any newly-elected officers as soon after said canvass as possible, provided however, no officer shall be installed prior to filing by said officer of all disclosure or other statements required by ordinance or State law."

MEASURE G - TEXT

"ORDINANCE OPPOSING OIL AND GAS DRILLING OFF THE COAST OF CENTRAL AND NORTHERN CALIFORNIA

THE PEOPLE OF THE CITY OF MONTEREY DO ORDAIN AS FOLLOWS:

SECTION 1. Title.

The title of this Ordinance shall be: Ordinance Opposing Oil and Gas Drilling Off the Coast of Central and Northern California.

SECTION 2. Purpose.

The purpose of this Ordinance is:

1. To express strong opposition to any oil or gas drilling off the coast of Central or Northern California.

2. To enable the Monterey City Council to take strong and effective action to oppose such oil and gas drilling.

SECTION 3. Findings.

The people of the City of Monterey make the following findings:

1. Potential Adverse Community Impacts of Oil Drilling Off the Coast of Central and/or Northern California:

Environmental Degradation

(a) The development of crude oil and gas processing and support facilities related to oil and gas drilling and production may create unacceptable risks to the quality of life, the environment, and the long-term economic well being of Monterey.

(b) Spills of crude oil from tankers, pipelines, refineries, storage facilities and staging areas would have serious environmental and economic consequences; including destruction of marine and avian life; fouling of beaches, estuaries and other bodies of water; degradation of scenic coastal resources; harm to fishing and tourist industries; danger of fire and explosion and creation of noxious odors. These dangers exist because spill containment and cleanup technologies are currently inadequate. Presently, only 5 to 15 percent of spilled oil has been recovered in past cleanup efforts, according to the federal government. Even small spills at Moss Landing have resulted in increased fatalities of marine birds and mammals.

(c) On-shore disposal or storage of drilling muds, cuttings and produced waters can result in serious degradation of water quality. These by-products of drilling activities can contain very substantial amounts of toxics, additives, oil and grease, and heavy metals, all of which, when introduced into the environment cause serious adverse impacts to the health and welfare of the residents of Monterey.

(d) The increased emission of pollutants, including volatile organic compounds, from activities connected with loading, unloading, ballasting, flushing, refining and storage operations would degrade air quality.

(e) Oil and gas processing and support facilities would create increased levels of noise detrimental to the quality of life in Monterey.

(f) Environmental studies designed to evaluate the potential impacts of oil and gas exploration and extraction activities on sensitive marine and coastal resources are not yet complete. Until these studies are completed, it is impossible to weigh the risks of offshore oil development against the potential royalties or energy benefits.

(g) Environmental impact reports prepared to assess the effects of offshore drilling actually predict large scale oilspills. In addition to the massive destruction of marine life, spills could reach the shoreline, destroying habitat and reducing or eliminating seabird and other animal populations.

(h) The California sea otter is protected as a threatened species. Drilling and the associated spill potential could render this animal extinct - particularly because of the otter's sensitivity to oiling of its fur.

(i) Oil spill containment technologies do not exist for sea conditions with waves or swells exceeding seven feet, a common occurrence off-shore of Northern and Central California. Spills could not effectively be directed away from sensitive estuaries and bays where oil contamination would have the most devastating and long-lasting impacts.

Effects on the Monterey Economy

(j) Tourism is the City's largest industry and provides a large and growing base for many of the City's secondary industries. The quality of the City's beaches is the prime factor in the success of the tourist industry and oil and gas development anywhere off Central or Northern California could have a disastrous effect on City beaches and the tourist industry.

(k) Both fishing and agriculture continue to play an important role in the economy of the City of Monterey and the rest of Monterey County. Oil and gas exploration and extraction are in direct conflict with the local fishing industry. Degraded air quality resulting from oil and gas extraction activities causes fallout which reduces the quality and quantity of local agricultural production and associated processing industries.

Impact on Onshore Facilities

(l) Support facilities for offshore oil and gas development cannot be accommodated in the City of Monterey. The City's Local Coastal Plans contain no sites designated for heavy coastal dependent industries (the classification for onshore support facilities associated with offshore oil development). Any site in the City would have disastrous effects on the local economy and environment.

Problems in Department of the Interior Plans for Oil and Gas Exploration and Extraction

As exemplified in the five-year OCS Oil and Gas Leasing Plans, the Federal Department of the Interior has:

1) Attempted to accelerate and increase oil and gas drilling before adequate environmental studies have been completed;

2) Not seriously considered adverse regional economic impacts;

3) Granted excessive authority to the Secretary of the Interior;

4) Reduced the input of local agencies into final leasing decisions; and

5) Failed to consider the laws, goals and policies, of the State of California as required by the OCS Land Act.

SECTION 3.5. Definitions.

"CRUDE OIL AND GAS PROCESSING AND SUPPORT FACILITIES" means:

(a) REFINERIES. Facilities that process, convert, refine and/or treat crude oil and gas, including facilities that separate crude oil and gas from sea water and dissolved chemicals;

(b) PIPELINES AND PIPELINE FACILITIES. Pipelines, pipeline landfalls and other related methods by which crude oil and gas are transported to crude oil and gas processing and support facilities;

(c) CRUDE OIL TANKER FACILITIES. Facilities, including marine terminals, for the purpose of accommodating the loading or unloading of crude oil and natural gas;

(d) STORAGE FACILITIES. Facilities for the purpose of storing crude oil and gas, including tank farms, or storing chemicals, drilling muds, cuttings, produced waters and other toxic materials used in the production of oil and gas products;

(e) STAGING AREAS. Facilities, yards and other areas designated for the purpose of transporting equipment to be used in or personnel employed in the construction or operation of oil drilling facilities;

(f) WASTE DISPOSAL FACILITIES. Facilities for the purpose of disposing of drilling muds, cuttings and produced waters generated in the course of drilling oil and gas wells.

SECTION 4. Implementation.

(a) Within one month of the Certification of the November 4, 1986 Municipal Election, the Monterey City Council shall request the President of the United States, the Secretary of the Interior, the Governor of the State of California, and Federal and State Legislative representatives of the City of Monterey to take whatever actions may be within their power to prevent the inclusion of waters off the Northern and Central California coastline as sites for well drilling in the five year OCS Oil and Gas Leasing Program, to overturn the five year OCS Plan for this area, and to include local government positions in any comments or review on this issue.

(b) No zoning changes to accommodate onshore support facilities for offshore oil or gas drilling shall be enacted without a vote of the people of the City of Monterey.

(c) The Monterey City Council shall use its resources to organize and help coordinate the efforts of other coastal governments to prevent oil and gas drilling off the coast of Central and Northern California.

(d) The Monterey City Council shall take any further steps within its legal powers to prevent oil and/or gas drilling off the coast of Northern or Central California.

SECTION 5. Severability.

If any provisions of this Ordinance are held to be invalid, the remainder of the Ordinance shall not be affected thereby.

SECTION 6.

This Ordinance shall take effect as provided by Section 4013 of the Elections Code of the State of California."

SIDE 2

TOP

E

OFFICIAL BALLOT
GENERAL ELECTION

MONTEREY COUNTY NOVEMBER 4, 1986

This ballot stub shall be torn off by precinct board member and handed to the voter

Monterey

MEASURES SUBMITTED TO VOTE OF VOTERS

COUNTY

MONTEREY COUNTY MEASURE A
OFFSHORE AND ONSHORE OIL DEVELOPMENT ORDINANCE

A — Shall an ordinance be enacted by the County of Monterey requiring voter approval for new onshore facilities of at least 20,000 square feet supporting offshore oil and gas exploration and development, and expressing the strong opposition of the citizens of Monterey County to proposed offshore oil developments affecting the Monterey County coast, and the environment, character and economy of Monterey County?

YES +
NO +

← County Measure A

CITY

***CITY OF MONTEREY**

CITY OF MONTEREY CHARTER AMENDMENTS
VISITOR ACCOMMODATION ZONE

E — Shall Section 8.7 entitled "Visitor Accommodation Zone" be added to the Monterey City Charter to provide development standards for visitor accommodations such as hotels, motels, bread and breakfast facilities and similar overnight accommodation facilities and to adopt the zoning maps designating parcels in the VAF Zone with amendments through November 4, 1986?

YES –
NO –

CITY OF MONTEREY CHARTER AMENDMENTS
CANVASS OF ELECTION RETURNS

F — Shall Charter Section 2.4 relating to the canvass of election returns and installation of officers be amended to require the Council to meet at its next regular or adjourned meeting following an election for said purpose?

YES –
NO –

OFFSHORE DRILLING ORDINANCE

G — Shall the people of the City of Monterey adopt an ordinance opposing offshore drilling for oil and gas off the Coast of Central and Northern California; making certain findings relating to the potential adverse effects thereof; defining and prohibiting onshore support facilities and requiring the City Council to urge State and Federal authorities to exclude said waters from the OCS Oil and Gas Leasing Program?

YES +
NO +

← City Measure G

27507

E

MEASURE C

City of Morro Bay - ORDINANCE PROHIBITING OFFSHORE OIL DEVELOPMENT SUPPORT FACILITIES WITHIN THE CITY OF MORRO BAY

The people of the City of Morro Bay do ordain as follows:

Title 17 ZONING shall be Amended to Add a new Chapter 17.72 as follows:

17.72 Ordinance Prohibiting Offshore Oil Development Support Facilities Within Morro Bay.

17.72.010 PURPOSE

The purpose of this ordinance is:

To prevent Morro Bay from becoming an oil port, personnel-boat center or other logistical base for offshore oil operation.

17.72.020 FINDINGS

These findings are based on the City of Morro Bay's General Plan, Housing Element; EIR for Appropriative Water Rights in the Morro and Chorro Basin, May 1986; Quarterly and Annual Water Reports and other documents and information available and familiar to the City Council and the people of Morro Bay.

A. Environment Degradation

1. The City of Morro Bay is a small community with many unique and environmentally sensitive habitat areas. There are critical wetlands habitats for several rare and endangered plant and animal species. Morro Bay is a bird sanctuary established by the local Audubon Society.

2. The Estuary is among the last remaining natural estuaries along the coast of California and needs to be protected.

3. The City of Morro Bay is located in a physical setting with spectacular visual qualities. The visual resources of the community serve as valuable assets to both City residents and visitors.

4. Environmental studies designed to evaluate the potential impacts of oil and gas exploration and extraction activities on sensitive marine and coastal resources are not yet complete. Until these studies are completed, it is impossible to weigh the risks of offshore oil development against the potential royalties or energy benefits.

5. Environmental impact reports prepared to assess the effects of offshore drilling actually predict large scale oilspills. In addition to the destruction of marine life, spills could reach the shoreline, destroying habitat and reducing or eliminating seabird and other animal populations.

6. Oil spill containment technologies do not exist for sea conditions with waves or swells exceeding seven feet, a common occurrence off-shore of Central California. Spills could not effectively be directed away from sensitive estuaries and bays where oil contamination would have a most devastating and long-lasting impact.

B. Effects on Morro Bay Economy

1. The commercial fishing industry historically played a significant role in the development of Morro Bay, and continues to provide an economic source for the community as well as serving as an important tourist attraction. The California Coastal Act of 1976 requires Morro Bay to protect and, where feasible, upgrade commercial and recreational fishing facilities. The City has a policy of giving priority to commercial fishery in existing harbor facilities and in new harbor development.

2. Morro Bay is one of the last true fishing ports along the coast of California and as such should be preserved.

3. There is a shortage of suitable wharfage space, moorings and areas for expansion of the commercial fishing industry. Morro Bay Harbor cannot accommodate boats of the size generally associated with oil development service bases. To do so would require a total redesign and redevelopment of the Harbor and a tremendous amount of dredging. Lands available for additional wharfage are critical to the City's plans to develop facilities to meet the priority needs of the commercial fishing industry.

4. Due to the similarities in the requirements of commercial fishing boats and of oil support vessels, and because the oil industry can afford to pay more for the services required by their boats than can the fishing industry, commercial fishing would tend to be displaced.

5. Tourism is an important part of the City's economy with the quality of the beaches and the beautiful visual resources being a prime factor in the success of the tourist industry. Oil and gas development anywhere off Central California could have disastrous effect on beaches within the City and the tourist industry.

C. Impact of Onshore Facilities

1. Support facilities for offshore oil and gas development cannot be accommodated in the City of Morro Bay. The City's Local Coastal Program contain no sites designated for onshore support facilities associated with offshore oil development. Any site in the City would have debilitative effects on the local economy and environment.

2. The City relies solely on finite groundwater basins currently in overdraft conditions, resulting in a complete building moratorium which has only been partially alleviated. There is not sufficient water to accommodate any oil support facilities in the City.

3. The Goals for 1986 in the General Plan, Housing Element, particularly for affordable housing are not being met due to lack of water. Location of oil crews in Morro Bay would put greater demand for housing than could be met thereby displacing lower income residents.

D. Consistency

1. This ordinance is consistent with the City's General Plan.

2. This ordinance is consistent with the City's Local Coastal Program.

17.72.030 IMPLEMENTATION

There shall be no construction, reconstruction, operation or maintenance of any commercial or industrial facility within the City, including but not limited to business or personnel office, oil or gas storage facilities, pipe, drilling materials, or equipment repair or storage facilities, or any other aid or support, which operates directly or indirectly in support of any offshore oil or gas exploration, development, drilling, pumping or production; nor shall there be any construction, reconstruction, operation or maintenance of any pipeline within the City for the transmission of any oil or natural gas taken or removed from any offshore oil or gas drilling or pumping operations.

17.72.040 ZONING CHANGES

A. This ordinance shall not be amended nor repealed without a vote of the people.

B. No zoning changes to accommodate onshore support facilities for offshore oil or gas exploration, development, drilling, pumping or production shall be enacted without a vote of the people of the City of Morro Bay.

17.72.050 EFFECT OF ADOPTION

A. Adoption of this ordinance by the people of the City of Morro Bay shall repeal that Initiative Ordinance Number 283 adopted by the City Council of the City of Morro Bay on April 28, 1986 which became effective on May 28, 1986.

B. Adoption of this ordinance by the people does not amend nor rescind any consistent provisions of the General Plan, Local Coastal Program or Zoning ordinances but does strengthen and define such consistent provisions.

17.72.060 SEVERABILITY

If any section, sentence, clause, phrase, or part of this Ordinance is held to be invalid, the remainder of the Ordinance shall be given full effect consistent with the intent and purpose of the Ordinance.

Shall the City of Oceanside adopt the proposed Charter?	Yes	
	No	

Shall the City of Oceanside enact necessary ordinances to implement the following policy: "Neither the City Council nor any officer or employee of the City shall take any action, or permit any action to be taken, which directly or indirectly authorizes or permits the construction, operation, or maintenance of any pipeline within the City for the transmission of any crude oil or natural gas taken or removed from any offshore crude oil or natural gas drilling or pumping operations within 100 nautical miles of the coastline of the County of San Diego; nor shall the City Council or any officer or employee of the City take any action, or permit any action to be taken, which directly or indirectly authorizes or permits the construction, operation or maintenance of any commercial or industrial facility within the City, but not necessarily limited to crude oil or natural gas storage facilities, which operates directly or indirectly in support of any offshore crude oil or natural gas drilling or pumping operations within 100 nautical miles of the coastline of the County of San Diego"?	Yes	
	No	

SECTION 3. That the proposed Charter to be submitted to the voters is attached as Exhibit A, and the proposed measure submitted to the voters relative to the Offshore Oil and Gas Development is set forth in Section 2 above.

SECTION 4. That the ballots to be used at the election shall be in form and content as required by law.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD IN SAID CITY ON TUESDAY, NOVEMBER 4, 1986, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES AND FOR THE SUBMISSION OF TWO (2) BALLOT MEASURES

WHEREAS, under the provisions of the laws relating to General Law Cities in the State of California, a General Municipal Election shall be held on Tuesday, November 4, 1986, for the election of municipal officers; and

WHEREAS, the City Council also desires to submit to the voters at the election questions relating to a City Charter and Offshore Oil and Gas development;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OCEANSIDE, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to the requirements of the laws of the State of California relating to General Law Cities, there is called and ordered to be held in the City of Oceanside, California, on Tuesday, November 4, 1986, a General Municipal Election for the purpose of electing Members of the City Council for the full term of four (4) years.

SECTION 2. That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election the following questions:

. . . . . .

. . . . . .

. . . . . .

CITY OF SAN DIEGO
Proposition B
(This proposition will appear on the ballot in the following form.)

B **AMENDS THE CHARTER OF THE CITY OF SAN DIEGO BY ADDING SECTION 2.1.** Neither the City Council nor any officer or employee of the City shall take any action, or permit any action to be taken, which directly or indirectly authorizes or permits the construction, operation or maintenance of any pipeline within the City for the transmission of any crude oil or natural gas taken or removed from any offshore crude oil or natural gas drilling or pumping operations within 100 nautical miles of the coastline of the County of San Diego; nor shall the City Council or any officer or employee of the City take any action, or permit any action to be taken, which directly or indirectly authorizes or permits the construction, operation or maintenance of any commercial or industrial facility within the City, including but not necessarily limited to crude oil or natural gas storage facilities, which operates directly or indirectly in support of any offshore crude oil or natural gas drilling or pumping operations within 100 nautical miles of the coastline of the County of San Diego.

CHARTER AMENDMENT

Amend the Charter of The City of San Diego by adding section 2.1 to article I, to read as follows:

Neither the City Council nor any officer or employee of the City shall take any action, or permit any action to be taken, which directly or indirectly authorizes or permits the construction, operation or maintenance of any pipeline within the City for the transmission of any crude oil or natural gas taken or removed from any offshore crude oil or natural gas drilling or pumping operations within 100 nautical miles of the coastline of the County of San Diego; nor shall the City Council or any officer or employee of the City take any action, or permit any action to be taken, which directly or indirectly authorizes or permits the construction, operation or maintenance of any commercial or industrial facility within the City, including but not necessarily limited to crude oil or natural gas storage facilities, which operates directly or indirectly in support of any offshore crude oil or natural gas drilling or pumping operations within 100 nautical miles of the coastline of the County of San Diego.

ARGUMENT IN FAVOR OF PROPOSITION B

San Diego's coastline and beaches are among its most prized natural assets.

Yet uncaring bureaucrats in Washington continue to insist the area off our coast be opened to oil and gas exploration.

Proposition B would amend the City Charter to protect San Diego's coast by prohibiting construction of on-shore facilities which would aid drilling for oil and natural gas off our coastline.

The risks to San Diego's coast are too great and the potential benefits too small to justify the search for oil off San Diego.

That's why the support for Proposition B is virtually unanimous.

The Mayor and San Diego City Council support it. So do the Sierra Club, Save Our Shores and numerous community planning groups.

Not only would drilling create the possibility of disastrous oil spills like the one at Santa Barbara, but it would bring visual blight and added air pollution that would make it even tougher to meet State and Federal clean air standards.

Our tourism and fishing industries would suffer seriously in the event of an oil spill. And the Navy may be required to move certain activities because its coastal training areas could be impaired.

Proposition B gives San Diegans a chance to say "no" to Big Oil, to save San Diego's natural beauty from outside interests.

On Nov. 4, cast a vote for keeping YOUR coast and beaches free of oil and pollution.

Vote "Yes" on Proposition B.

Ed Struiksma
Deputy Mayor, City of San Diego

Mike Gotch
San Diego City Councilmember

Dr. Cedric Garland
Chairman, Save Our Shores

Susan A. Carter, President
Citizens Coordinate for Century III

Mayor and City Council of San Diego

ARGUMENT AGAINST PROPOSITION B

No argument against the proposition was filed in the office of the City Clerk.

N Oil Development Moratorium

PROPOSITION N

Shall the City impose a two-year moratorium on permits for development of crude oil and gas processing and support facilities within San Francisco?

YES 308
NO 309

Analysis

by Ballot Simplification Committee

THE WAY IT IS NOW: Location and operation of crude oil and gas processing and support facilities in San Francisco, including refineries, pipelines and storage tanks, are regulated by the City. Various City agencies issue licenses and permits for the use, development or construction of these crude oil and gas facilities.

THE PROPOSAL: Proposition N would stop the use, development or construction of crude oil and gas processing and support facilities in San Francisco for the next two years. The City Planning Commission would study the need for permanent controls.

A YES VOTE MEANS: If you vote yes, you want the City to stop the use, development or construction of crude oil and gas processing and support facilities in San Francisco for the next two years.

A NO VOTE MEANS: If you vote no, you want the City to continue to regulate crude oil and gas processing and support facilities in San Francisco under existing laws.

How "N" Got on the Ballot

On July 28 an ordinance placing a two year ban on new oil and gas facilities was delivered to the Registrar by four members of the Board of Supervisors with instructions that it be placed on the ballot.

The City Charter allows four or more supervisors to submit an ordinance to the voters without using either the initiative or the legislative process.

The July 28 document was signed by Supervisors Harry Britt, Wendy Nelder, Nancy Walker and Carol Ruth Silver.

Controller's Statement on "N"

City Controller John C. Farrell has issued the following statement on the fiscal impact of Proposition N:

"Should the proposed Initiative Ordinance be enacted, in my opinion, it would not affect the cost o government."

THE TEXT OF PROPOSITION N APPEARS ON PAGE 95

POLL WORKERS NEEDED

Election day workers are needed at the polls in most San Francisco Neighborhoods. Bilingual citizens are particularly encouraged to apply.

NOTE: YOUR POLLING PLACE MAY HAVE CHANGED. PLEASE REFER TO MAILING LABEL ON BACK COVER.

Oil Development Moratorium

N

ARGUMENT IN FAVOR OF PROPOSITION N

The development of onshore support facilities for offshore crude l and gas drilling and production will create unacceptable risks to e quality of life, the environment, and the long-term economic ell-being of San Francisco.

Potential problems include spills from tankers, pipelines, storage nks, and refineries; degradation of coastal scenic resources; foul- g of water supplies resulting from disposal of toxics; increased nissions of pollutants into the air; and increased noise pollution.

This moratorium on development of onshore support facilities ohibits development of such facilities for two years, during which ne the City Planning Commission can study permanent controls r recommendation to the Board of Supervisors.

San Francisco must defend its tourism, fishing, and other industries from being damaged by greedy outside interests. We must keep our living environment clean. Vote Yes on proposition N.

Harry Britt, Supervisor
Richard Hongisto, Supervisor
Willie B. Kennedy, Supervisor
Quentin L. Kopp, Supervisor
Bill Maher, Supervisor
John L. Molinari, Supervisor
Wendy Nelder, Supervisor
Louise H. Renne, Supervisor
Carol Ruth Silver, Supervisor
Nancy G. Walker, Supervisor
Doris Ward, Supervisor

ARGUMENT IN FAVOR OF PROPOSITION N

• Yes on Proposition N.

• Also halt BART environmental and economic mismanagement: The BART Board's recent non-cost effective fare increase st BART both revenue and ridership. It further increased Bay Area automobile pollution and traffic jams.

San Franciscans for BART Safety

ARGUMENT AGAINST PROPOSITION N

risdictions are vested in State and Federal.

artin Eng

TEXT OF PROPOSED ORDINANCE PROPOSITION N

OTE: These sections are entirely new.

Be it ordained by the People of the City and unty of San Francisco:

Section 1. Findings.

(a) The development of crude oil and gas ocessing and support facilities related to oil d gas drilling and production may create acceptable risks to the quality of life, the environment, and the long-term economic well- ing of San Francisco.

(b) Spills of crude oil from tankers, pipe- es, refineries, storage facilities and staging eas would have serious environmental and onomic consequences, including destruction marine and avian life; fouling of beaches, es- uaries and other bodies of water; degradation scenic coastal resources; harm to fishing d tourist industries; danger of fire and ex- sion and creation of noxious odors. These ngers exist because spill containment and anup technologies are currently inade- ate. Presently, only 5 to 15 percent of spilled has been recovered in past cleanup efforts, according to the federal government.

(c) On-shore disposal or storage of drilling muds, cuttings and produced waters can result in serious degradation of water quality. These by-products of drilling activities can contain very substantial amounts of toxics, additives, oil and grease, and heavy metals, all of which, when introduced into the environment, cause serious adverse impacts to the health and welfare of the residents of San Francisco.

(d) San Francisco has been declared an air quality non-attainment area by the federal government and is already suffering from the adverse consequences of air pollution. The increased emission of pollutants, including volatile organic compounds, from activities connected with loading, unloading, ballasting, flushing, refining and storage operations would further degrade air quality.

(e) Oil and gas processing and support facilities would create increased levels of noise detrimental to the quality of life in San Francisco.

Section 2. Definitions.

"CRUDE OIL AND GAS PROCESSING AND SUPPORT FACILITIES" means:

(a) REFINERIES: Facilities that process, convert, refine and/or treat crude oil and gas, including facilities that separate crude oil and gas from sea water and dissolved chemicals;

(b) PIPELINES AND PIPELINE FACILITIES: Pipelines, pipeline landfalls and other related methods by which crude oil and gas are transported to crude oil and gas processing and support facilities;

(c) CRUDE OIL TANKER FACILITIES: Facilities, including marine terminals, for the purpose of accommodating the loading or unloading of crude oil and natural gas;

(d) STORAGE FACILITIES: Facilities for the purpose of storing crude oil and gas, including tank farms, or storing chemicals, drilling muds, cuttings, produced waters and other toxic materials used in the production of

(continued on page 103)

Arguments printed on this page are the opinion of the authors and have not been checked for accuracy by any official agency.

MEASURE _____

CITY OF SAN LUIS OBISPO - ORDINANCE OPPOSING OIL AND GAS DRILLING OFF THE COAST OF CENTRAL AND NORTHERN CALIFORNIA

The People of the City of San Luis Obispo do ordain as follows:

SECTION 1. Title. The title of this Ordinance shall be Ordinance Opposing Oil and Gas Drilling off the Coast of Central and Northern California.

SECTION 2. Purposes. The purposes of this Ordinance are:

A. To express clear opposition to intensive oil or gas drilling off the coast of Central and Northern California; and

B. To enable the San Luis Obispo City Council to take strong and effective action to oppose intensive oil and gas drilling

C. To regulate the use of land within the City of San Luis Obispo intended for onshore support of offshore drilling activities

SECTION 3. Findings. The People of the City of San Luis Obispo make the following findings:

A. Potential Adverse Community and Area Impacts of Oil Drilling off the Coast of Central and/or Northern California.

1.) Environment Degradation.

a. State and federal environmental studies on the potential impacts of oil and gas exploration and extraction activities on sensitive marine and coastal resources are not yet complete. Until these studies are completed, it is impossible to weigh the risks of intensive offshore oil and gas development against potential royalties or energy benefits.

b. Environmental impact reports prepared to assess the effects of offshore drilling actually predict large scale oilspills in

12

6-12

addition to the massive destruction of marine life. Spills could reach the shoreline, destroying habitat and reducing or eliminating seabird and other animal populations

c. The California sea otter is protected as a threatened species. Drilling and the associated spill potential could render this animal extinct--particularly because of the otter's sensitivity to oiling of its fur.

d. Oil spill containment technologies do not exist for sea conditions with waves or swells exceeding seven feet, a common occurrence offshore of Northern and Central California. Spills could not effectively be directed away from sensitive estuaries and bays where oil contamination would have the most devastating and long-lasting impacts

2) Effects on the Local Economy

a. Recreation and tourism provide a large and growing base for the economic health of San Luis Obispo. The quality of the beaches and coastal vistas are prime factors in the success of the tourist industry and oil and gas development off the Central and Northern California coast could have a disastrous effect on the area's economic well-being. These natural resources form the basis of a strong tourist trade upon which this community relies.

b. Fishing and agriculture play an important role in the economy of the area. Intensive oil and gas exploration and extraction are in direct conflict with the fishing industry. Degraded air quality resulting from oil and gas extraction activities causes fallout which

reduces the quality and quantity of local agricultural production and associated processing industries

3.) Impact of Onshore Facilities. Facilities which directly support offshore oil and gas development cannot be accommodated within the City of San Luis Obispo. Any such use in or adjacent to the City would have disastrous effects on the local economy and environment.

B. Problems with Department of Interior Plans for Oil and Gas Exploration and Extraction. As exemplified in the five-year OCS Oil and Gas Leasing Plans, the Federal Department of Interior has:

1.) Attempted to accelerate and increase oil and gas drilling before adequate environmental studies have been completed;

2.) Not seriously considered adverse regional economic impacts;

3.) Granted excessive authority to the Secretary of the Interior;

4.) Reduced consultation with local agencies into final leasing decisions; and

5.) Failed to consider the laws, goals, and policies of the State of California, as required by the federal OCS Lands Act.

SECTION 4. Implementation.

A. Within one month of the Certification of the June 3, 1986 Municipal Election, the City Council shall:

1.) Request the President of the United States, the Secretary of the Interior, the Governor of the State of California, and the Federal and State legislative representatives of the City of San Luis Obispo to take whatever actions may be within their power to prevent the inclusion of

waters off the Northern and Central California coastline as sites for well drilling in the five-year OCS Oil and Gas Leasing Program, to overturn the five-year OCS Plan for this area, and to include local government positions in any comments or review on this issue.

2.) Urge the San Luis Obispo County Board of Supervisors to develop and enact a comprehensive and unified oil and gas support facilities control ordinance which shall, consistent with state and federal requirements, set strict standards to control and mitigate adverse impacts of such facilities on:

a. air and water quality;

b. noise and vibrations;

c. coastal development and habitats;

d. recreation and tourism; and

e. odors, traffic, and residential land uses

B. No onshore support facility for offshore oil or gas drilling shall be allowed or permitted within the City of San Luis Obispo until such time that the City Council proposes the inclusion of such uses in an appropriate zone district(s) and said proposal has been approved by a vote of the people of the City of San Luis Obispo. For the purpose of this Ordinance, the term "onshore support facility" means any activity or land use required to directly support the exploration, development, production, storage, processing, transportation, or related aspects of offshore energy resource extraction.

C. The City Council shall use its resources to organize and help coordinate the efforts of other coastal governments to prevent intensive oil and gas drilling off the coast of Central and Northern California

B-1

D. The City Council shall take all further and reasonable steps within its legal powers to prevent intensive oil and or gas drilling off the coast of Northern or Central California

SECTION 5. Severability. If any provisions of this Ordinance are held to be invalid, the remainder of the Ordinance shall not be affected thereby

SECTION 6. Ordinance Effect. This Ordinance shall take effect as provided by Section 4013 of the California Elections Code.

(=R-2 Moas-grif)

AN INITIATIVE ORDINANCE BY THE
VOTERS OF THE
COUNTY OF SAN LUIS OBISPO
REQUIRING VOTER APPROVAL OF
NEW ONSHORE FACILITIES
SUPPORTING OFFSHORE OIL AND GAS ACTIVITIES

WHEREAS, the County of San Luis Obispo has authority under State law, through its Board of Supervisors, to enact ordinances regulating land use in the interest of public health, safety, and general welfare; and

WHEREAS, the voters of the County are empowered by the California Constitution and State law to enact such ordinances by a direct initiative process; and

WHEREAS, there is broad citizen concern that serious effects will result from any new onshore processing, storage, or service facilities supporting intensified offshore oil and gas development authorized by the federal and state governments; and

WHEREAS, such facilities threaten the vital and diverse economic character and quality of life in the area; and

WHEREAS, the voters of the County intend by this ordinance to retain unto themselves the final authority to allow such onshore support facilities following any approvals granted by the Board of Supervisors or other County entity, department, or official.

NOW, THEREFORE, the People of the County of San Luis Obispo do ordain as follows:

SECTION 1. No permit, entitlement, lease, or other authorization of any kind within the County of San Luis Obispo which would authorize or allow the development, construction, installation, or expansion of any onshore support facility for offshore oil and gas activity shall be final unless such authorization is approved by a majority of the votes cast by a vote of the people

of the County of San Luis Obispo in a general or special election. For the purpose of this ordinance, the term "onshore support facility" means any land use, installation, or activity required to support the exploration, development, production, storage, processing, transportation, or related activities of offshore energy resources.

SECTION 2. Authorizations obtained from the County after January 1, 1986, shall be subject to the provisions of this ordinance.

SECTION 3. If any section, sentence, clause, phrase, or part of this ordinance shall be held invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall be given full effect consistent with the intent and purpose of the ordinance.

REBUTTAL TO ARGUMENT AGAINST MEASURE A

MEASURE A IS FAIR AND REASONABLE. IT WAS PUT ON THE BALLOT BY 33,000 CITIZENS BECAUSE OUR COAST NEEDS STRONG, RELIABLE PROTECTION, NOT POLITICS AS USUAL.

Measure A does everything that you, the voters can do by ballot measure to prevent destructive oil drilling. Measure A definitely is "about protecting our Coast from oil development."

Measure A does go further. It requires the approval of voters before urban development is allowed on Coastal farm lands, watersheds, and scenic areas. It gives you control rather than land speculators, developers, and oil companies.

Measure A makes no material changes in County policies. It stabilizes a limited number of key Coastal safeguards. It applies only to the Coastal area, not to everything West of 280. It does not take away a property owner's existing rights to build a house or make improvements.

Measure A will not hurt farmers. It will prevent the sprawling development and land price speculation that drives out farmers and ranchers. Persons who want to farm support Measure A. The 1985 County Agriculture Report shows 45,000 acres are now being used for crops and grazing, not the 7,000 acres opponents allege.

Measure A does not prevent improvements on Highway 92 or a Devil's Slide bypass. It leaves standing existing county policy that permits those projects.

Protection of the Coast is crucial for life in San Mateo County. By pulling the Yes lever on Measure A you will preserve our wonderful, unspoiled Coast.

VOTE YES ON MEASURE A.

/s/	Melvin B. Lane Publisher, Sunset Magazine	August 28, 1986
/s/	Arlen Gregorio Former County Supervisor and State Senator	August 27, 1986
/s/	Lenore (Lennie) Roberts Chair, Save Our Coast Committee	August 29, 1986
/s/	William B. Freedman, M.D. Sierra Club	August 29, 1986
/s/	Robert Cevasco Coastside Farmer	August 29, 1986

VOTER'S INFORMATION PAMPHLET

Containing Information On

MEASURE A

GENERAL ELECTION

TUESDAY, NOVEMBER 4, 1986

This pamphlet contains the complete text of Measure A.

Ordered printed and distributed by
MARVIN CHURCH, COUNTY CLERK-RECORDER

COASTAL PROTECTION INITIATIVE

MEASURE A

"Initiative measure proposing ordinance amending County Local Coastal Program. Reenacts or changes 37 specified policies concerning new development, public works, energy, agriculture, sensitive habitats, and visual resources. Prevents Board of Supervisors from changing these policies without election."

(Full Text)

The people of the County of San Mateo do ordain as follows:

Section 1. The purposes of this ordinance are:

(1) To protect the farm lands, forests, beaches, scenic beauty and other natural resources of the San Mateo Coast from poorly located, excessive and harmful development;

(2) To preserve watersheds, environmentally sensitive areas and wildlife habitats;

(3) To maintain agriculture and timber uses on the Coast, including provision of housing for employees;

(4) To limit urban-type development to existing urban areas;

(5) To prevent the construction of onshore facilities and pipelines for offshore oil drilling;

(6) To limit the costs to County taxpayers of roads, fire protection, law enforcement, and other government services by restricting distant and sprawling development on the Coastside;

(7) To stabilize and make more permanent essential safeguards of the County's Local Coastal Program, by requiring that any impairment of those safeguards be approved by the voters of the County; and

(8) In general, to conserve the natural heritage and beauty as well as the remarkable diversity of San Mateo County, for current and future generations, yet allow reasonable use of the land.

Section 2. Findings:

(1) **Importance of San Mateo Coastside.** The San Mateo Coastside is a vital and beautiful natural resource. Its fields, forests, beaches, streams, hillsides and wildlife add immeasurably to the quality of the environment and life in the County. They provide an important contrast to the County's heavily built-up urban areas, as well as offer habitat for a large variety of wild plants and animals.

(2) **Harm to Historic and Natural Qualities.** There has been a great amount of development in San Mateo County, including construction on the Coastside. Many of the valuable historic and natural qualities of the County have been destroyed or impaired; much that remains is in jeopardy. If safeguards are not maintained and strengthened, many of these remaining qualities will be permanently lost.

(3) **Pressure for Intensive Development.** Pressures for building on the Coastside are intensifying rapidly, especially with the construction or proposed construction of larger highways, increased water supplies, and new sewage treatment facilities. The possibilities of extensive urban development are great. Without adequate protections, the Coastside ultimately could be densely developed.

(4) **Impact of Oil Drilling.** There is imminent threat of major oil drilling off the San Mateo Coast, with resulting construction of extensive onshore industrial facilities, degradation of beaches, marine habitats, and coastal marshes, air and water pollution, and destruction of invaluable scenic views by offshore drilling platforms.

(5) **Protection of Agriculture and Tourism.** Agriculture is the second largest industry in the County. It should be protected against displacement or serious interference by commercial, residential, or other development. Tourism, also a major industry in the County, is critically dependent upon preservation of coastside natural and scenic qualities.

(6) **Reduction of Costs to Taxpayers.** Distant, sprawling development on the Coast will add materially to the cost to County taxpayers of providing roads, fire protection, law enforcement and other services.

(7) **Maintenance of Coastal Protection Safeguards.** The County earlier adopted a strong Local Coastal Program to protect Coastal resources, after many studies and extensive public participation. The County Government has shown a willingness, however, to weaken the protections of this Program and to permit excessive and poorly located development. Because of the vital importance of the Coast, it is necessary to provide more stability and permanence to the Local Coastal Program, by requiring that changes in essential policies by approved by the voters of San Mateo County.

Section 3. **Enactment of Key Local Coastal Program Policies**

The following policy provisions of the San Mateo County Local Coastal Program, as amended in this section, are enacted by this ordinance. These provisions may be repealed or amended only by the voters of San Mateo County, except that the Board of Supervisors, in conformance with the California Coastal Act of 1976 and other state law, may amend the provisions to further restrict non-agricultural development, density, or use. Other provisions of the Local Coastal Program may be amended by the Board of Supervisors in conformance with the Coastal Act, provided that the amendments are consistent with the provisions of this ordinance.

Local Coastal Program Policies

LOCATING AND PLANNING NEW DEVELOPMENT COMPONENT

The County will:

RURAL AREAS

1.8 Land Uses and Development Densities in Rural Areas

a. Allow new development (as defined in section 30106 of the California Coastal Act of 1976) in rural areas only if it is demonstrated that it will not (1) have significant adverse impacts, either individually or cumulatively, on coastal resources or (2) diminish the ability to keep all prime agricultural land and other land suitable for agriculture (as defined in the Agriculture Component) in agricultural production.

b. Permit in rural areas land uses designated on the Local Coastal Program Land Use Plan Maps and conditional uses, at densities specified in Table 1.2 and 1.3.

c. Require density credits for non-agricultural land uses in rural areas, including any residential use, except affordable housing (to the extent authorized in Policy 3.27 of the Local Coastal Program on March 25, 1986, the date notice of circulation of this ordinance was published) and farm labor housing. One density credit shall be required for each 315 gallons maximum daily water use as a result of a land use. For purposes of this ordinance, a single family dwelling unit shall be deemed to use 315 gallons per day. In order to give priority to Public and Commercial Recreation land uses, one density credit shall be required for those uses for each 630 gallons of maximum daily water use. Water use shall be calculated on the best available information and shall include all appurtenant uses, e.g. landscaping, swimming pools, etc.

TABLE 1.3
MAXIMUM DENSITY CREDITS

In the rural areas of the Coastal Zone which are zoned Planned Agricultural District, Resource Management, or Timberland Preserve, determine the maximum number of density credits to which any legal parcel is entitled by using the following method of calculation.

a. **Prime Agricultural Lands**
One density credit for that portion of a parcel which is prime agricultural land as defined in Policy 5.1. For parcels with less than 160 acres of prime land, density credit shall be proportioned on the basis of 1 credit per 160 acres (i.e. shall be that fraction of one density credit which equals the number of acres of prime land divided by 160).

b. **Lands With Landslide Susceptibility**
One density credit for that portion of a parcel which lies within any of the three least stable categories (categories V, VI and L) as shown on the U.S. Geological Survey Map MF 360, "Landslide Susceptibility in San Mateo County," or its current replacement. For parcels with less than 160 acres of such land, density credit shall be proportioned on the basis of 1 credit per 160 acres.

c. **Land With Slope 50% or Greater**
One density credit for that portion of a parcel which has a slope 50% or greater. For parcels with less than 160 acres of such land, density credit shall be proportioned on the basis of 1 credit per 160 acres.

d. **Remote Lands**
One density credit per 160 acres for that portion of a parcel over 1/2 mile from a public road that was an existing, all-weather, through public road before the County Local Coastal Program was initially certified in November 1980.

e. **Land With Slope 30% But Less Than 50%**
One density credit per 80 acres for that portion of a parcel which has a slope 30% but less than 50%.

f. **Land Within Rift Zones or Active Faults**
One density credit per 80 acres for that portion of a parcel which is located within the rift zone or zone of fractured rock of an active fault as defined by the U.S. Geological Survey and mapped on USGS Map MF 355, "Active faults, probably active faults, and associated fracture zones in San Mateo County," or its current replacement.

g. **Lands Within 100 Year Flood Plain**
One density credit per 60 acres for that portion of a parcel falling within a 100 year flood plain as most recently defined by the Federal Emergency Management Agency, the U.S. Geological Survey, or the U.S. Army Corps of Engineers.

h. **Land With Slope 15% But Less Than 30%**
One density credit per 60 acres for that portion of a parcel with a slope in excess of 15% but less than 30%.

i. **Land Within Agricultural Preserves or Exclusive Agricultural Districts**
One density credit per 60 acres for that portion of a parcel within agricultural preserves or the exclusive Agricultural Districts as defined in the Resource Conservation Area Density Matrix Policy on March 25, 1986.

j. **All Other Lands**
One density credit per 40 acres for that portion or portions of a parcel not within the above areas.

k. **Bonus Density Credit for New Water Storage Capacity**
One bonus density credit shall be allowed for each 24.5 acre feet of new water storage capacity demonstrated to be needed and developed for agricultural cultivation or livestock. Water from this storage may be used only for agricultural purposes. These bonus credits may be used on site or transferred to another parcel. However, none of the credits may be used on prime agricultural lands or in scenic corridors. Use of the credits shall be subject to Planning Commission approval in accordance with the provisions of this and other county ordinances.

If the same portion of a parcel is covered by two or more of the subsections a. through j., the density credit for that portion shall be calculated solely on the basis of the subsection which permits the least density credit.

1.9 Conservation Easements

a. In rural areas designated as open space on the Land Use Plan Maps require the applicant for a land division, as a condition of approval, to grant to the County (and the County to accept) a conservation easement containing a covenant, running with the land in perpetuity, which limits the use of the land covered by the easement to uses consistent with open space (as defined in the California Open Space Land Acts of 1972 on January 1, 1980).

b. Exempt land divisions which solely provide affordable housing, as defined in Policy 3.7 of the Local Coastal Program on March 25, 1986, from the requirements in subsection a.

1.18 Location of New Development

a. Direct new development to existing urban areas and rural service centers in order to: (1) discourage urban sprawl, (2) maximize the efficiency of public facilities, services, and utilities, (3) minimize energy consumption, (4) encourage the orderly formation and development of local governmental agencies, (5) protect and enhance the natural environment, and (6) revitalize existing developed areas.

1.28 Legalizing Parcels

Require a Coastal Development Permit when issuing a Certificate of Compliance to legalize parcels under Section 66499.35(b) of the California Government Code (i.e., parcels illegally created without benefit of required government review and approval).

1.29 Coastal Development Permits Standards for Legalizing Parcels

Require Coastal Development Permits to legalize parcels. Where applicable, conditions permits to meet the following standards. (Permit applications shall be considered as "conditional uses" for purposes of review.)

a. On developed illegal parcels created before Proposition 20 (effective date January 1, 1973), on lands located within 1,000 yards of the Mean High Tide Line, or the Coastal Act of 1976 (effective date January 1, 1977), on lands shown on the official maps adopted by the Legislature, which received all required building permits or government approvals for development, a Coastal Development Permit to legalize the parcel shall be issued without conditions.

b. On developed illegal parcels created before Proposition 20, on lands within 1,000 yards of the Mean High Tide Line, or the Coastal Act of 1976, on lands shown on the official maps adopted by the Legislature, which received a Coastal Permit for the development, a Coastal Permit to legalize the parcel shall be issued without conditions.

c. On illegal parcels created and developed after Proposition 20, on lands within 1,000 yards of the Mean High Tide Line, or the Coastal Act of 1976, on lands shown on the official maps adopted by the Legislature, a Coastal Development Permit shall be issued if the development and parcel configuration do not have any substantial adverse impact on coastal resources, in conformance with the standards of the Coastal Development District regulations. Permits to legalize this type of development and parcel shall be conditioned to maximize consistency with Local Coastal Program resource protection policies.

d. On undeveloped parcels created before Proposition 20, on lands within 1,000 yards of the Mean High Tide Line, or the Coastal Act of 1976, on lands shown on the official maps adopted by the Legislature, a Coastal Permit shall be issued to legalize the parcel if the parcel configuration will not have any substantial adverse impact on coastal resources, in conformance with the standards of the Coastal Development District regulations. Permits to legalize this type of parcel shall be conditioned to maximize consistency with Local Coastal Program resource protection policies. A separate Coastal Development Permit, subject to all applicable Local Coastal Program requirements, shall be required for any development of the parcel.

e. On undeveloped illegal parcels created after Proposition 20, on lands located within 1,000 yards of the Mean High Tide Line, or the Coastal Act of 1976, on lands shown on the official map adopted by the Legislature, a Coastal Development Permit is necessary to legalize the parcel. A permit may be issued only if the land division is in conformance with the standards of the Coastal Development District regulations.

GENERAL POLICIES PUBLIC WORKS COMPONENT

The County will:

2.4 Ordinance Conformity

As a condition of Coastal Development Permit approval, special districts, public utilities and other government agencies shall conform to the County's zoning ordinance and the policies of the Local Coastal Program.

2.6 Capacity Limits

Limit development or expansion of public works facilities to a capacity which does not exceed that needed to serve buildout of the Local Coastal Program.

2.14 Establishing Service Area Boundaries

a. Confine urban level services provided by governmental agencies, special districts and public utilities to urban areas, rural service centers and rural residential areas as designated by the Local Coastal Program on March 25, 1986.

b. Redraft the boundaries of special districts or public utilities providing urban level services to correspond to the boundaries or urban areas, rural service centers and rural residential areas established by the Local Coastal Program.

c. Allow exceptions to a. and b. when all alternatives have been fully explored and a special district or public utility is required to maintain some rural land within its boundaries in order to continue a service to its customers which is (1) otherwise consistent with the policies of the Local Coastal Program, (2) maintains the rural nature of undeveloped areas, particularly the use and productivity of agricultural land, (3) maintains the present level of service to existing users in undeveloped areas, and (4) where an illegal situation or great hardship would be created by detachment from a special district or public utility.

2.15 New or Expanded Special Districts

Allow the formation or expansion of special districts only when the new or expanded district would not cause or allow development or uses inconsistent with the Local Coastal Program.

ONSHORE FACILITIES FOR OFFSHORE OIL

4.23 Permit Requirement

a. Define onshore facilities for offshore oil as temporary or permanent service bases, including but not limited to warehouse, open storage or stockpiling areas, offices, communication centers, harbor or wharf development or improvement, parking and helipad areas, processing plants and oil storage tanks.

4.25 Locational Criteria

Prohibit onshore facilities for offshore oil or gas from locating in the Coastal Zone.

PIPELINES AND TRANSMISSION LINES

4.28 Permit Requirements

Require the issuance of a Coastal Development Permit for all pipelines and transmission lines in the Coastal Zone which are not under the jurisdiction of the California Energy Commission. Prohibit pipelines for the transmission of offshore oil and gas.

AGRICULTURE COMPONENT

The County will:

OPEN FIELD AGRICULTURE

5.1 Definition of Prime Agricultural Lands

Define prime agricultural lands as:

(1) All land which qualifies for rating as Class I or Class II in the U.S. Department of Agriculture Soil Conservation Service Land Use Capability Classification, as well as all Class III lands capable of growing artichokes or Brussels sprouts.

(2) All land which qualifies for rating 80-100 in the Storie Index Rating.

(3) Land which supports livestock for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the U.S. Department of Agriculture.

(4) Land planted with fruit or nut bearing trees, vines, bushes, or crops which have a non-bearing period of less than five years and which normally return during the commercial bearing period, on an annual basis, from the production of unprocessed agricultural plant production not less than $200 per acre.

(5) Land which has returned from the production of an unprocessed agricultural plant product an annual value that is not less than $200 per acre within three of the five previous years.

The $200 per acre amount in subsection (4) and (5) shall be adjusted regularly for inflation, using 1965 as the base year, according to a recognized consumer price index.

5.2 Designation of Prime Agricultural Lands

Designate any parcel which contains prime agricultural lands as Agriculture on the Local Coastal Program Land Use Plan Map, subject to the following exceptions: State Park Lands existing as of the date of Local Coastal Program certification, urban areas, rural service centers, and solid waste disposal sites necessary for the health, safety, and welfare of the County.

5.3 Definition of Lands Suitable for Agriculture

Define other lands suitable for agriculture as lands on which existing or potential agricultural use is feasible, including dry farming, animal grazing, and timber harvesting.

5.4 Designation of Lands Suitable for Agriculture

Designate any parcel, which contains other lands suitable for agriculture as Agriculture on the Local Coastal Program Land Use Plan Maps, subject to the following exceptions: urban areas, rural service centers, State Park lands existing as of the date of Land Use Plan certification, and solid waste disposal sites necessary for the health, safety and welfare of the County.

5.5 Permitted Uses on Prime Agricultural Lands Designated as Agriculture

a. Permit agricultural and agriculturally related development on prime agricultural lands. Specifically, allow only the following uses: (1) agricultural including, but not limited to, the cultivation of food, fiber or flowers, and the grazing, growing, or pasturing of livestock; (2) non-residential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, stables for farm animals, fences, water wells, well covers, pump houses, and water storage tanks, water impoundments, water pollution control facilities for agricultural purposes, and temporary roadstands for seasonal sale of produce grown in San Mateo County: (3) soil dependent greenhouse and nurseries; and (4) repairs, alterations, and additions to existing single-family residences.

b. Conditionally permit the following uses: (1) single-family residences; (2) farm labor housing; (3) public recreation and shoreline access trails, (4) non-soil dependent greenhouses and nurseries; (5) onshore oil and gas exploration, production, and minimum necessary related storage; (6) uses ancillary to agriculture; (7) permanent roadstands for the sale of produce, provided that the amount of prime agricultural land converted does not exceed one-quarter (1/4) acre; (8) facilities for the processing, storing, packaging and shipping of agricultural products; and (9) commercial wood lots and temporary storage of logs.

5.6 Permitted Uses on Lands Suitable for Agriculture Designated as Agriculture

a. Permit agricultural and agriculturally related development on land suitable for agriculture. Specifically, allow only the following uses: (1) agriculture including, but not limited to, the cultivation of food, fiber or flowers, and the grazing, growing, or pasturing of livestock; (2) non-residential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, fences, water wells, well covers, pump houses, water storage tanks, water impoundments, water pollution control facilities for agricultural purpose, and temporary roadstands for seasonal sale of produce grown in San Mateo County; (3) dairies; (4) greenhouses and nurseries; and (5) repairs, alterations, and additions to existing single-family residences.

b. Conditionally permit the following uses; (1) single-family residences, (2) farm labor housing, (3) multi-family residences if affordable housing, (4) public recreation and shoreline access trails, (5) schools, (6) fire stations, (7) commercial recreation including country inns, stables, riding academies, rod and gun clubs, and private beaches, (8) aquacultural activities, (9) wineries, (10) timber harvesting, commercial wood lots and storage of logs, (11) onshore oil and gas exploration, production, and storage, (12) facilities for the processing, storing, packaging and shipping of agricultural products, (13) uses ancillary to agricultural, (14) dog kennels and breeding facilities, (15) limited, low intensity scientific/technical research and test facilities, and (16) permanent roadstands for the sale of produce.

5.7 Division of Prime Agricultural Land Designated as Agricultural

a. Prohibit the division of parcels consisting entirely of prime agricultural land.

b. Prohibit the division of prime agricultural land within a parcel, unless it can be demonstrated that existing or potential agricultural productivity would not be reduced.

c. Prohibit the creation of new parcels whose only building site would be on prime agricultural land.

5.8 Conversion of Prime Agricultural Land Designated as Agriculture

a. Prohibit conversion of prime agricultural land within a parcel to a conditionally permitted use unless it can be demonstrated.

(1) that no alternative site exists for the use,

(2) clearly defined buffer areas are provided between agricultural and non-agricultural uses,

(3) the productivity of any adjacent agricultural land will not be diminished, and

(4) public service and facility expansions and permitted uses will not impair agricultural viability, including by increased assessment costs or degraded air and water quality.

b. In the case of a recreational facility on prime agricultural land owned by a public agency, require the agency:

(1) to execute a recordable agreement with the County that all prime agricultural land and other land suitable for agriculture which is not needed for recreational development or for the protection and vital functioning of a sensitive habitat will be permently protected for agriculture and,

(2) whenever legally feasible, to agree to lease the maximum amount of agricultural land to active farm operators on terms compatible with the primary recreational and habitat use.

5.9 Division of Land Suitable for Agriculture Designated as Agriculture

a. Prohibit the division of lands suitable for agriculture unless it can be demonstrated that existing or potential agricultural productivity of any resulting parcel determined to be feasible for agricultural would not be reduced.

5.10 Conversion of Land Suitable for Agriculture Designated as Agriculture

a. Prohibit the conversion of lands suitable for agriculture within a parcel to conditionally permitted uses unless all of the following can be demonstrated:
(1) all agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable,
(2) continued or renewed agricultural use of the soils is not feasible as defined by Section 30108 of the Coastal Act,
(3) clearly defined buffer areas are developed between agricultural and non-agricultural uses,
(4) the productivity of any adjacent agricultural lands is not diminished,
(5) public service and facility expansions and permitted uses do not impair agricultural viability, including by increased assessment costs or degraded air and water quality.

b. For parcels adjacent to urban areas, permit conversion if the viability of agricultural uses is severely limited by conflicts with urban uses, the conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development, and conditions (3), (4) and (5) in subsection a. are satisfied.

5.11 Maximum Density of Development Per Parcel

a. Limit non-agricultural development densities to those permitted in rural areas of the Coastal Zones under the Locating and Planning New Development Component.

b. Further, limit non-agricultural development densities to that amount which can be accommodated without adversely affecting the viability of agriculture.

c. In any event, allow the use of one density credit on each legal parcel.

d. A density credit bonus may be allowed for the merger of contiguous parcels. The maximum bonus shall be calculated by
(1) determining the total number of density credits on all parcels included in a master development plan, and
(2) multiplying that total by 25% if the merger is entirely of parcels of 40 acres or less, or by 10% if some or all of the parcels combined are larger than 40 acres. The merged parcel shall be entitled to the number of density credits on the separate parcels prior to merger plus the bonus calculated under this subsection. The total number of density credits may be used on the merged parcel. Once a parcel or portion of a parcel has been part of a merger for which bonus density credit has been given under this subsection no bonus credit may be allowed for any subsequent merger involving that parcel or portion of a parcel.

e. Density credits on parcels consisting entirely of prime agricultural land, or of prime agricultural land and land which is not developable under the Local Coastal Program, may be transferred to other parcels in the Coastal Zone, provided that the entire parcel from which credits are transferred is restricted permanently to agricultural use by an easement granted to the county or other governmental agency. Credits transferred may not be used in scenic corridors or on prime agricultural lands; they may be used only in accordance with the policies and standards of the Local Coastal Program.

5.12 Minimum Parcel Size for Agricultural Parcels

Determine minimum parcel sizes on a case by case basis to ensure maximum existing or potential agricultural productivity.

5.13 Minimum Parcel Size for Non-Agricultural Parcels

a. Determine minimum parcel size on a case by case basis to ensure that domestic well water and on-site sewage disposal requirements are met.

b. Make all non-agricultural parcels as small as practicable (residential parcels may not exceed 5 acres) and cluster them in one or as few clusters as possible.

5.14 Master Land Division Plan

a. In rural areas designated as Agriculture on the Local Coastal Program Land Use Plan Maps on March 25, 1986, require the filing of a Master Land Division Plan before the division of any parcel. The plan must demonstrate: (1) how the parcel will ultimately be divided, in accordance with permitted maximum density of development, and (2) which parcels will be used for agricultural and non-agriculture uses, if conversion to those uses are permitted. Division may occur in phases. All phased divisions must conform to the Master Land Divison Plan.

b. Exempt land divisions which solely provide affordable housing, as defined in Policy 3.7 on March 25, 1986, from the requirements in a.

credits to which the parcel divided is entitled, prior to division, under Table 1.3 and Policy 5.11 d. and e., except as authorized by Policy 3.27 on March 25, 1986.

5.15 Mitigation of Land Use Conflicts

a. When a parcel on or adjacent to prime agricultural land or other land suitable for agricultural is subdivided for non-agricultural uses, require that the following statement be included, as a condition of approval, on all parcel and final maps and in each parcel deed:
"This subdivision is adjacent to property utilized for agricultural purposes. Residents of the subdivision may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers, and from the pursuit of agricultural operations, including plowing, spraying, pruning and harvesting, which occassionally generate dust, smoke, noise, and odor. San Mateo County has established agriculture as a priority use on productive agricultural lands, and residents of adjacent property should be prepared to accept such inconvenience or discomfort from normal, necessary farm operations."

b. Require the clustering of all non-agricultural development in locations most prolective of existing or potential agricultural uses.

c. Require that clearly defined buffer areas be provided between agricultural and non-agricultural uses.

d. Require public agencies owning land next to agricultural operations to mitigate rodent, weed, insect, and disease infestation, if these problems have been identified by the County's Agricultural Commissioner.

5.16 Easements on Agricultural Parcels

As a condition of approval of a Master Land Division Plan, require the applicant to grant to the County (and the County to accept) an easement containing a covenant, running with the land in perpetuity, which limits the use of the land covered by the easement to agricultural uses, non-residential development customarily considered accessory to agriculture, and farm labor housing. The easement shall specify that, anytime after 3 years from the date of recordation of the easement, land within the boundaries of the easement may be converted to other uses consistent with open space (as defined in the California Open Space Lands Act of 1972 on January 1, 1980) upon a finding that changed circumstances beyond the control of the land owner or operator have rendered the land unusable for agriculture and upon approval by the State Coastal Commission of a Local Coastal Program amendment changing the land use designation to Open Space. Uses consistent with the definition of open space shall mean those uses specified in the Resource Management Zone (as in effect on November 18, 1980). Any land use allowed on a parcel through modification of an agricultural use easement shall recognize the site's natural resources and limitations. Such uses shall not include the removal of significant vegetation (except for renewed timber harvesting activities consistent with the policies of the Local Coastal Program), or significant alterations to natural landforms.

5.22 Protection of Agricultural Water Supplies

Before approving any division or conversion of prime agricultural land or land suitable for agriculture require that:

a. All non-agricultural uses permitted on a parcel demonstrate the existing availability of a potable and adequate on-site well water source.

b. Adequate water supplies for agricultural production and sensitive habitat protection in the watershed are not diminished.

c. All new non-agricultural parcels are severed from land bordering a stream and their deeds prohibit the transfer of riparian rights.

SENSITIVE HABITATS COMPONENT

GENERAL POLICIES

The County will:

7.1 Definition of Sensitive Habitats

Define sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable and any area which meets one of the following criteria: (1) habitats containing or supporting "rare and endangered" species as defined by the State Fish and Game Commission, (2) all perennial and intermittent streams and their tributaries, (3) coastal tide lands and marshes, (4) coastal and offshore areas containing breeding or nesting sites and coastal areas

used by migratory and resident water-associated birds for resting areas and feeding, (5) areas used for scientific study and research concerning fish and wildlife, (6) lakes and ponds and adjacent shore habitat, (7) existing game and wildlife refuges and reserves, and (8) sand dunes.

Sensitive habitat areas include, but are not limited to, riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs, and habitats supporting rare, endangered, and unique species.

7.3 Protection of Sensitive Habitats

a. Prohibit any land use or development which would have significant adverse impact on sensitive habitat areas.

b. Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of the habitats.

7.4 Permitted Uses in Sensitive Habitats

a. Permit only resource dependent uses in sensitive habitats. Resource dependent uses for riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs, and habitats supporting rare, endangered, and unique species shall be the uses permitted in Policies 7.9, 7.16, 7.23, 7.26, 7.30, 7.33, and 7.44, respectively, of the County Local Coastal Program on March 25, 1986.

b In sensitive habitats, require that all permitted uses comply with U.S. Fish and Wildlife and State Department of Fish and Game regulations.

VISUAL RESOURCES COMPONENT

The County will:

8.15 Structures

Minimize the number of structures located in open fields and grassland areas; require that structures be designed in scale with the rural character of the region, and that they be clustered near existing natural or man-made vertical features.

8.7 Ridgelines and Hilltops

a. Prohibit the location of new development on ridgelines and hilltops unless there is no other buildable area on the parcel.

b. Prohibit the removal of tree masses which would destroy the silhouette of ridgeline or hilltop forms.

c. Restrict the height of structures to prevent their projection above ridgeline or hilltop silhouettes.

d. Prohibit land divisions which would create parcels whose only building site would be on ridgelines or hilltops.

8.15 Coastal Views

Prevent development (including buildings, structures, fences, un-natural obstructions, signs, and landscaping) from substantially blocking views to or along the shoreline from coastal roads, roadside rests and vista points, recreation areas, and beaches.

8.17 Alteration of Landforms

Minimize the visual degradation of natural landforms caused by cutting, filling, or grading for building sites, access roads, or public utilities by:

a. Concentrating development so that steep hillsides may be left undisturbed.

b. Requiring structures to be designed to fit hillsides rather than altering the landform to accommodate buildings designed for level sites.

c. Prohibiting new development which requires grading, cutting, or filling that would substantially alter or destroy the appearance of natural landforms.

d. Restoring as much as possible the natural topographic contours after any permitted temporary alteration of landforms during construction, timber harvesting, or mineral extraction.

8.18 Location of New Development

Require

a. The new development be located, sited, and designed to fit the physical setting, so that its presence is subordinate to the pre-existing character of the site, enhances the scenic and visual qualities of the area, or maintains the natural characteristics of existing major water courses, established and mature trees, or dominant vegetative communities.

b. That roads, buildings, and other structural improvements be constructed to fit the natural topography and to minimize grading and modification of existing landforms.

c. That private roads and driveways be shared, where feasible, to reduce the amount of grading, cutting and filling required to provide access.

d. That all development minimize the impacts of noise, light, glare and odors on adjacent properties and the community at large.

Section 4. **Rural Area Designations**

(a) For purposes of this ordinance, "rural areas" are areas outside the urban/rural boundary, as drawn on the Local Coastal Program Land Use Plan Maps in effect on March 25, 1986, that were designated Agriculture, General Open Space, Timber Preserve or Public Recreation on those maps on that date. Rural areas designated as General Open Space on those maps on that date shall be deemed "open space on the Land Use Plan Maps" for purposes of Policy 1.9 a.

(b) Rural areas shall be regarded as zoned Planned Agricultural District, Resource Management, or Timberland Preserve for purposes of Section 3, Table 1.3, if they were zoned Planned Agricultural District, Resource Management/Coastal Zone, or Timberland Preserve Zone/Coastal Zone on March 25, 1986.

Section 5. **Restriction of Onshore Oil Facilities**

Policies 4.23b, 4.24 and 4.27 of the Local Coastal Program on March 25, 1986, regarding onshore facilities for offshore oil and gas exploration and production, are limited to those situations, if any, in which state or federal law requires that onshore facilities be permitted. Policies 4.29-4.37 shall apply to pipelines for the transmission of offshore oil and gas only to the extent that the County must permit those pipelines under state or federal law.

Section 6. **Exceptions to Policies**

Exceptions and exemptions provided in the Local Coastal Program, on March 25, 1986, to the Policies in Section 3 shall be permitted, except to the extent otherwise provided by this ordinance. These exceptions and exemptions may be deleted or restricted by the Board of Supervisors, but they may not be increased, expanded or otherwise altered.

Section 7. **Conflict with Other Provisions**

In case of conflict with other policies of the Local Coastal Program or other county plans, ordinances, regulations or policies, the provisions of this ordinance shall govern.

Section 8. **Nonapplicability of Provisions**

The provisions of this ordinance shall not be applicable to the extent, but only to the extent, that they would violate the constitution or law of the United States or the State of California.

Section 9. **County Government Responsibilities**

(a) The Board of Supervisors and other officials and employees of the County Government are mandated by the citizens of the County to apply and enforce the provisions of this ordinance and the Local Coastal Program generally, except to the extent that application of any provision is determined by a valid and final order of the California Coastal Commission to violate the California Coastal Act of 1976, or is determined by a valid order of a court to violate the Constitution or law of California or the United States.

(b) The Board of Supervisors shall submit any amendments to the Local Coastal Program by this ordinance, which require approval, to the California Coastal Commission, not later than 60 days after the ordinance becomes effective, in an appropriate manner with necessary supporting documents and information.

Section 10. **Repeal or Amendment of Ordinance**

(a) This ordinance may be repealed or amended only by a majority of the voters of San Mateo County voting in a valid election. The Board of Supervisors may, by four-fifths vote, after consideration by the County Planning Commission, submit proposed amendments to the voters.

(b) Amendments to the Local Coastal Program with respect to Farm Labor Housing Areas do not require voter approval, but this exception to voter approval shall be limited to areas whose designation as a Farm Labor Housing Area was approved by the County Planning Commission prior to March 25, 1986.

Section 11. **Severability**

If any provision or application of any provision of this ordinance is held unconstitutional or violative of any state or federal law the invalidation shall not affect the validity or operative effect of any other provision or any other application of any provision. To this end the provisions and applications of the provisions of this ordinance are severable and would have been enacted even though other provisions or applications are held unconstitutional or otherwise violative of law.

MEASURE A
IMPARTIAL ANALYSIS BY DISTRICT ATTORNEY

Pursuant to state law, San Mateo County has adopted a Local Coastal Program. The Local Coastal Program requires a permit for all development in the Coastal Zone subject to certain exemptions and sets forth the policies which govern the issuance of such a permit.

The policies contained in the Local Coastal Program currently may be changed either by a majority vote of the Board of Supervisors or at an election by a majority of the voters. Measure A would prevent the Board of Supervisors, with certain exceptions, from changing the 37 policies and the other provisions enacted by Measure A without an election. The Board of Supervisors could submit proposed amendments to the provisions of Measure A to the voters by four-fifths vote, after consideration by the County Planning Commission. Other provisions of the Local Coastal Program not included within Measure A could be amended by the Board of Supervisors in conformance with the Coastal Act, provided that the amendments are consistent with the provisions of Measure A.

Measure A would also reenact or change 37 specified policies of the Local Coastal Program. Measure A would:

1. Amend the policies concerning locating and planning new development to limit the exemption from density credit requirements and conservation easements for affordable housing in rural areas; to add a bonus density credit for new water storage capacity; and to limit available density credits to the least density credit permitted when two or more policies authorize such credit.

2. Amend the policies concerning public works to restrict service area boundaries for public agencies and utilities.

3. Amend the policies concerning energy to prohibit onshore facilities for offshore gas as well as offshore oil from locating in the Coastal Zone.

4. Amend the policies concerning agriculture to add certain additional permitted uses; to allow transfer of density credits from prime agricultural land only if the land has a permanent agricultural easement; to establish a 5-acre limit for residential parcels; and to change the requirements for land divisions.

5. Amend the policies concerning sensitive habitats to limit the uses permitted in sensitive habitats.

6. Amend the policies concerning visual resources to minimize the number of structures located in open fields and grassland areas; to require that structures be designed in scale with the rural character of the region; and to require clustering of structures near existing natural or manmade vertical features.

A "Yes" vote on Measure A would enact the changes to the County's Local Coastal Program discussed above and would prevent the Board of Supervisors from changing the provisions of Measure A without an election. A "No" vote on Measure A would defeat these changes and would retain the ability of the Board of Supervisors to amend all provisions of the Local Coastal Program without an election.

State law provides that if Measure A and Measure B are both approved by a majority of voters at the November 4, 1986 election, and if the provisions of those measure conflict, the measure receiving the highest number of affirmative votes shall control.

ARGUMENT IN FAVOR OF MEASURE A

BY VOTING YES on Measure A, the initiative signed by 33, 313 citizens, you can protect the beautiful San Mateo Coast from oil drilling and urban sprawl. Under Measure A, the Board of Supervisors could not repeal essential safeguards for the Coast without the consent of you, the voters. Measure A prohibits onshore facilities and pipelines for offshore oil and gas production. It limits urban-type development to existing urban areas. By contrast, Measure B, which the Board put on the ballot, would not prohibit oil pipelines, nor excessive and badly located development.

THE COAST IS OUR NATURAL HERITAGE

The beaches, fields, forests, watersheds, and scenery of the Coast are essential for outdoor recreation and the quality of life in San Mateo County. Measure A would protect that heritage. It would preserve agriculture and tourism, two of the County's most important industries. It would protect critical watersheds and water supplies.

Measure A is fair. It imposes no additional restrictions on property owners. It simply prevents the Board, without voter approval, from weakening crucial development policies that are already part of the County's Coastal Program. These policies maintain a reasonable balance between growth and environmental protection. Measure A allows a Devil's Slide Bypass and needed improvements to Route 92, while preventing further traffic congestion created by urban sprawl.

THE COAST IS IN DANGER

There is an imminent threat of major oil drilling off the San Mateo Coast. The Board of Supervisors has shown that it is willing to discard coastal protections, under constant pressure from well-financed land speculators and development interests. Key Coastal protections should not be abolished without the consent of you, the voters.

SAVE OUR IRREPLACEABLE COAST
VOTE YES ON MEASURE A. VOTE NO ON B.

/s/	Robert Cevasco Coastside Farmer	August 19, 1986
/s/	Michael B. Day, President League of Conservation Voters, San Mateo County Chapter	August 19, 1986
/s/	Georgia A. Perkins Sierra Club	August 19, 1986
/s/	Lenore (Lennie) Roberts Chair, Save Our Coast Committee	August 19 ,1986
/s/	Albert R. Schreck	August 18, 1986

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE A

Measure A is a fraud. It does NOT protect agriculture.

In fact, it will hurt farmers, agriculture and recreation.

Measure A will prohibit farmers from selling off certain land not suitable for agriculture to raise cash to keep their farms operating.

Of the 57,000 acres of rural land along the coast, only 7,000 acres have soil good enough to farm. Measure A will unfairly freeze land not suitable for agriculture into land zoned only for agriculture. If Measure A passes, it will be nearly impossible for this unused land to be used for parks or recreation areas. Any changes on any single parcel will require a county-wide vote of all the people through more and more ballot initiatives.

Unlike the environmental extremists who sponsored Measure A, farmers don't have the time — or money — for annual political campaigns.

Measure A also inhibits badly-needed improvements to Highway 92 — improvements that would help both farmers and people who want to visit the coast.

Farmers love the coastside. We live here. We work here.

Keep the coast for all to enjoy. Vote no on Measure A.

/s/ Chazz Hesselein, President
San Mateo County Farm Bureau — August 29, 1986

/s/ Jean J. Flocks, President
San Mateo County Harbor District — August 29, 1986

/s/ R.H. "Hank" Sciaroni
Retired Farm Advisor
University of California — August 29, 1986

/s/ Edward Campinotti, Chairman
San Mateo County
Agricultural Advisory Committee — August 29, 1986

ARGUMENT AGAINST MEASURE A

Don't be fooled! Measure A isn't really about protecting our coast from offshore oil and gas development. This 6,400 word change in our laws is far more reaching than oil and gas.

Measure A is a slick attempt to block new housing on more than 75,000 acres of rural land west of Highway 280 by freezing present zoning on EVERY PARCEL. Any zoning change to allow more housing on any single parcel would require a vote of approval from the voters in another county-wide voter initiative.

This unreasonable law will hurt farmers. Here's why:

Around 57,000 acres of this rural land are presently zoned for agriculture. However, only about 7,000 acres are being farmed. The remaining 50,000 aren't farmed because the soil is too poor. Measure A unfairly locks every parcel in these 50,000 acres into land zoned for farming, thereby restricting the farmers' ability to acquire needed financing.

The right way to limit growth is to limit new building permits as in Measure B. Zoning decisions should be made through the public hearing process.

Measure A could also prevent much needed improvements to Highway 92 by requiring county-wide votes on proposed improvements. Such delays will add to the cost and the time of improving Highway 92 so the public can enjoy easier and safer access to the coast.

Measure A is a dangerous and self-serving attempt by environmental extremists to impose their ideas on us all.

Save our coast. Save our farmers. Vote no on A.

/s/ Chazz Hesselein, President
San Mateo County Farm Bureau 8/19/86

CITY OF SANTA CRUZ - ORDINANCE OPPOSING OIL AND GAS DRILLING OFF THE COAST OF CENTRAL AND NORTHERN CALIFORNIA

(Full Text of Ordinance)

The people of the City of Santa Cruz do ordain as follows:

SECTION 1. The title of this Ordinance shall be: Ordinance Opposing Oil and Gas Drilling off the Coast of Central and Northern California.

SECTION 2. Purpose.

The purpose of this Ordinance is:

1. To express strong opposition to any oil or gas drilling off the coast of Central or Northern California.

2. To enable the Santa Cruz City Council to take strong and effective action to oppose such oil and gas drilling.

SECTION 3. Findings.

The people of the City of Santa Cruz make the following findings:

1. Potential Adverse Community Impacts of Oil Drilling Off the Coast of Central and/or Northern California:

a. Environment Degradation

1) Environmental studies designed to evaluate the potential impacts of oil and gas exploration and extraction activities on sensitive marine and coastal resources are not yet complete. Until these studies are completed, it is impossible to weigh the risks of offshore oil development against the potential royalties or energy benefits.

2) Environmental impact reports prepared to assess the effects of offshore drilling actually predict large scale oilspills. In addition to the massive destruction of marine life, spills could reach the shoreline, destroying habitat and reducing or eliminating seabird and other animal populations.

3) The California sea otter is protected as a threatened species. Drilling and the associated spill potential could render this animal extinct - particularly because of the otter's sensitivity to oiling of its fur.

4) Oil spill containment technologies do not exist for sea conditions with waves or swells exceeding seven feet, a common occurrence off-shore of Northern and Central California. Spills could not effectively be directed away from sensitive estuaries and bays where oil contamination would have the most devastating and long-lasting impacts.

b. Effects on the Santa Cruz Economy

1) Tourism is the City's largest industry and provides a large and growing base for many of the City's secondary industries. The quality of the City's beaches is the prime factor in the success of the tourist industry and oil and gas development anywhere off Central or Northern California could have a disastrous effect on City beaches and the tourist industry.

2) Oil spills reaching the shoreline would leave tar on the City beaches. Even the small spills at Moss Landing have resulted in increased fatalities of marine birds and mammals, leaving carcasses to rot on City beaches.

3) Both fishing and agriculture continue to play an important role in the economy of the City of Santa Cruz and the rest of Santa Cruz County. Oil and gas exploration and extraction are in direct conflict with the local fishing industry. Degraded air quality resulting from oil and gas extraction activities causes fallout which reduces the quality and quantity of local agricultural production and associated processing industries.

c. Impact of Onshore Facilities

1) Support facilities for offshore oil and gas development cannot be accommodated in the City of Santa Cruz. The City's Local Coastal Plans contain no sites designated for heavy coastal dependent industries (the classification for onshore support facilities associated with offshore oil development). Any site in the City would have disastrous effects on the local economy and environment.

2. Problems in Department of the Interior Plans for Oil and Gas Exploration and Extraction

a. As exemplified in the five-year OCS Oil and Gas Leasing Plans, the Federal Department of the Interior has:

1) Attempted to accelerate and increase oil and gas drilling before adequate environmental studies have been completed:

2) Not seriously considered adverse regional economic impacts.

3) Granted excessive authority to the Secretary of the Interior:

4) Reduced the input of local agencies into final leasing decisions; and

5) Failed to consider the laws, goals and policies, of the State of California as required by the OCS Land Act.

SECTION 4. Implementation

1. Within one month of the Certification of the November 5, 1985 Municipal Election, the Santa Cruz City Council shall request the President of the United States, the Secretary of the Interior, the Governor of the [illegible] of the City of Santa Cruz to take whatever actions may be within their power to prevent the inclusion of waters off the Northern and Central California coastline as sites for well drilling in the five year OCS Oil and Gas Leasing Program, to overturn the five year OCS Plan for this area, and to include local government positions in any comments or review on this issue.

2. No zoning changes to accommodate onshore support facilities for offshore oil or gas drilling shall be enacted without a vote of the people of the City of Santa Cruz.

3. The Santa Cruz City Council shall use its resources to organize and help coordinate the efforts of other coastal governments to prevent oil and gas drilling off the coast of Central and Northern California.

4. The Santa Cruz City Council shall take any further steps within its legal powers to prevent oil and/or gas drilling off the coast of Northern or Central California.

SECTION 5. Severability

If any provisions of this Ordinance are held to be invalid, the remainder of the Ordinance shall not be affected thereby.

SECTION 6. This Ordinance shall take effect as provided by Section 4013 of the Elections Code of the State of California.

ANALYSIS OF THE FINANCIAL IMPACT ON THE CITY OF THE ORDINANCE OPPOSING OIL AND GAS DRILLING OFF THE COAST OF CENTRAL AND NORTHERN CALIFORNIA

By the Chief Financial Officer of the City of Santa Cruz

This ordinance would require the City Council to take action to oppose any oil or gas drilling off the coast of Central and Northern California including:

1. Requesting federal and state officials to exclude the Central and Northern California coastlines from the Oil and Gas Leasing Program.
2. Submitting any zoning change which would accommodate onshore support facilities to a city-wide vote.
3. Organizing and coordinating efforts of other coastal governments to oppose oil and gas drilling.

Adoption of this ordinance is expected to result in no material increase in cost to the City.

s/ Robert J. Shepherd
Director of Finance
CITY OF SANTA CRUZ

ARGUMENT IN FAVOR OF MEASURE A

For a number of years, opposition of all segments of our community--from the tourist industry to those active in their concern for the environment--has prevented oil drilling off the Santa Cruz coast.

Acting on this concern, the City Council belongs to an organization of coastal governments monitoring this situation closely, has provided testimony and resolutions for numerous legislative committees, and, along with others, pressed a lawsuit that prevented exploratory drilling off the Santa Cruz coast--which would have begun this past June.

Despite such opposition, the federal and state administrations are interested in opening up portions of our coast to the oil companies. A tentative settlement recently reached in Washington might protect our coast for a few years. If the oil companies have their way, even this will not be enacted into law.

There could be severe local impacts:

* Oil spills could spoil the scenic beaches that form the backbone of our tourist industry.
* The California sea otter population could be completely jeopardized.
* Air quality would be impacted by the petroleum-driven motors of the oil rigs.
* On-shore support facilities would dramatically change the nature of our economy.

Measure "A" takes a strong position against drilling off the Santa Cruz coast, and would prevent any zoning change for on-shore support facilities until such a change is approved by a vote of the people.

A strong, unified statement will be heard in Washington and Sacramento. Whether there are attempts to open our coast for drilling next year, or in fifteen years, passage of Measure "A" would allow Santa Cruz voters to decide whether environmental and economic safeguards are adequate.

Send a loud message to those who would threaten our coast, and let them know that they cannot proceed until they convince local voters of the wisdom of their plans. Vote "Yes" on Measure "A".

s/ Mardi Wormhoudt, Mayor
Santa Cruz City Council

NO ARGUMENT AGAINST THIS MEASURE WAS SUBMITTED

SIDE 1 CARD F SIDE 2

Sample Ballot

OFFICIAL BALLOT

F

CONSOLIDATED
GENERAL ELECTION

Sonoma County, California
TUESDAY, NOVEMBER 4, 1986

This ballot stub shall be torn off by precinct board member and handed to the voter

MARK YOUR CHOICE(S) IN THIS MANNER ONLY →

Voting Area

MEASURES SUBMITTED TO VOTE OF VOTERS

COUNTY

ON-SHORE SUPPORT FACILITIES MEASURE A

A — Shall the ordinance requiring voter approval for on-shore facilities supporting off-shore oil and gas exploration and development and expressing the strong opposition of the citizens of the County of Sonoma to proposed off-shore oil and gas developments affecting Sonoma County be approved?

YES ☐
NO ☐

NUCLEAR FREE ZONE INITIATIVE MEASURE B

B — Shall an ordinance prohibiting the production, transportation, storage, processing, disposal and use of nuclear weapons and nuclear weapon components, including enriched nuclear material and radioactive waste, within Sonoma County and creating a task force to investigate compliance with the ordinance and to make recommendations regarding tax credit guidelines designed to encourage conversion of affected industries to non-nuclear weapons related activities be adopted?

YES ☐
NO ☐

DISTRICT

FLOOD CONTROL ZONE 1A BENEFIT ASSESSMENT MEASURE J

J — Shall the Sonoma County Water Agency be authorized to levy a benefit assessment in accordance with Sonoma County Water Agency Ordinance No. 9, to remain in effect for 10 years to finance the maintenance and operation cost of flood control services and the cost of installation and improvement of flood control facilities within Zone 1A with a maximum assessment of $10.00 per benefit assessment unit per year, a single family residence on a 0.22 acre lot having one benefit assessment unit?

YES ☐
NO ☐

49605

F

← Sonoma County, Measure A.

Sonoma County

MEASURE A
(Full Text of Proposed Ordinance)

ORDINANCE NO. 3592R

ORDINANCE OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, REQUIRING VOTER APPROVAL FOR COASTAL PLAN AMENDMENTS TO ALLOW ON-SHORE FACILITIES SUPPORTING OFF-SHORE OIL AND GAS EXPLORATION AND DEVELOPMENT, AND EXPRESSING THE STRONG OPPOSITION OF THE CITIZENS OF SONOMA COUNTY TO PROPOSED OFF-SHORE OIL DEVELOPMENTS AFFECTING THE SONOMA COUNTY COAST, AND THE ENVIRONMENT, CHARACTER AND ECONOMY OF SONOMA COUNTY

The People of the County of Sonoma, State of California, do ordain as follows:

SECTION I. The purpose of this ordinance is to express the strong current opposition of the people of Sonoma County to proposed off-shore oil developments which would negatively affect the Sonoma County Coast, the character and environment of the community and the local Sonoma County economy. A further purpose of this ordinance is to provide that proposed amendments to Sonoma County's Certified Local Coastal Program to allow the development, construction or installation of on-shore facilities for or intended to support off-shore oil and gas exploration or development will be approved by the County only after a vote of the people of the County of Sonoma.

SECTION II. The citizens of the County of Sonoma hereby declare their current opposition to off-shore oil developments affecting Sonoma County and the Sonoma County Coast, for the reasons stated in Section III of this Ordinance.

SECTION III. The Sonoma County Code is hereby amended by adding Chapter 30 to read as follows:

Chapter 30. On-Shore Facilities Supporting
Off-Shore Oil and Gas Exploration and Development

Section 30-1. Title.

"This chapter shall be known as the On-Shore Oil and Gas Facilities Ordinance of Sonoma County."

Section 30-2. Findings.

It is hereby found and determined as follows:

(a) The Federal Government has proposed to open up virtually the entire California coastline to off-shore oil and gas exploration and development including the coastline off Sonoma County.

(b) Coastal areas off Sonoma County have been determined to be high priority areas for off-shore oil and gas exploration and development by various multi-national oil companies.

(c) Off-shore oil and gas development off the coast of Sonoma County would have the following significant effects upon the County:

1. If off-shore oil and gas development occurs off the Sonoma County coast, significant new air pollution is inevitable. One drill ship produces approximately the same amount of air pollution as 23,000 cars driving 50 miles per day. Despite this fact, the Federal Government does not presently require that off-shore oil and gas developments comply with state and local air pollution rules.

2. Off-shore oil and gas development would expose the coast to the danger of massive oil spills from an oil well blowout or a tanker accident. Even if a major accident never occurs, routine small oil releases are inevitable if off-shore oil and gas development is permitted. Such releases of oil would degrade the sensitive marine environment, put oil on the beaches and expose both marine mammals and sea birds to great danger.

3. Off-shore oil and gas development off the Sonoma County coast would inevitably result in the discharge of large volumes of highly toxic drilling muds into the ocean floor. These toxic materials would degrade the sensitive marine environment, put all forms of marine life at greater risk, and pose a threat to human beings who may later eat fish contaminated with accumulated toxic material.

4. Off-shore oil and gas development off the Sonoma County coast would put the existing local economy in jeopardy, because: (i) Such development would significantly and substantially interfere with the operation of the local fishing industry. (ii) Such development would detract from the experience of visitors to the Sonoma County coast and, particularly if a massive oil spill occurs, place the Sonoma County tourism industry in danger. The Sonoma County tourism industry is a major component of the Sonoma County economy which has, in recent years, become even more important. A large number of businesses directly and indirectly catering to visitors to the County are dependent upon tourist dollars for their economic well being. (iii) The recreational use of local port facilities could be usurped by oil industry boats.

5. Noisy helicopter traffic could become a significant irritant to County residents.

6. The massive fresh water supply needed for off-shore oil and gas development might require that water be diverted from existing agricultural, residential and business users, or that costly and environmentally damaging dam and water projects be constructed. The majority of the coastal area of Sonoma County is characterized as a Class IV water scarce area by County water availability maps. The water problem is most acute in the County's largest harbor, Bodega Bay, where a building moratorium is currently in place because of the lack of water.

7. Coastal agriculture and other lands would be needed for oil processing, treatment and transporation facilities, or for supply bases for off-shore oil and gas development, potentially transforming open agricultural and timber lands along the coast into the industrial staging area for oil and gas developments off-shore.

8. The coastal zone is subject to earthquake hazards. The San Andreas Fault runs parallel to the coast coming inland at Bodega Harbor and Fort Ross. Geologic and historic records indicate that earthquakes have and will occur on this portion of the fault. An earthquake could be accompanied by surface rupture, ground shaking and ground failure. The location of oil and gas support facilities in this geologically unstable area could well result in an environmental disaster.

9. The coastal area is served by State Highway One from Valley Ford to Gualala. Highway One is a two-lane twisting and curving road which is totally unsuitable for the intensity and type of vehicular and truck traffic that would be generated by heavy oil and gas industrial uses. Moreover, the Coastal Plan indicates that traffic congestion is already a problem occurring in Bodega Bay where minor road improvements will not be adequate to relieve the critical capacity deficiencies.

10. The vast majority of the 55 mile coastline is made up of bluffs, coves and promontories which are not suitable for siting oil and gas support facilities. The County's major port, Bodega Bay, has site problems which are set forth in more detail elsewhere herein.

(d) The County of Sonoma produces its fair share of regional energy needs. The Sonoma County Geothermal Resources Management Plan indicates that the development in Sonoma County at the Geysers is the largest producing geothermal field in the world producing approximately 1500 megawatts of electricity annually. This amount of electricity is enough to serve 1.5 million people, far in excess of the current County population of approximately 350,000.

Pacific Gas and Electric estimates that by 1988 the electricity generated at the Geysers will constitute about ten percent (10%) of PG&E's total generating capacity. Both PG&E and Union Oil estimate that by 1990 the Geysers will be producing enough electricity to serve a city of more than 2 million people; by the year 2000, industry officials estimate that the current electrical output can be doubled.

Sonoma County is already an exporter of energy and thus has met and will continue to meet its burden to contribute to the production of area-wide, state and national energy needs. Because of the existing level of this contribution and the fact that the field life of geothermal plants is from 30 to 50 years, the development of the Sonoma County coast for oil and gas production should not be accomplished in the name of regional, state or national energy needs.

(e) Rather than consuming off-shore oil and gas resources now, our nation should conserve these resources, since they are non-renewable. Moreover, the accelerated production and expenditure of hydrocarbon fuels aggravates the global warming trend, a trend which may have long-term adverse impacts on the County as a whole and, in particular, on coastal communities which could be subject to inundation if global oceans continue to rise as a result of polar icecap melting. Our nation should develop a national energy strategy based on energy conservation emphasizing the increasing use of renewable energy sources such as geothermal production and reinjection. Instead, the federal government has presently reduced or eliminated efforts to increase energy conservation and to develop renewable energy sources, at the same time that it is attempting to increase the development of nonrenewable energy sources like off-shore oil and gas. The citizens of Sonoma County are willing and able to do their part in conserving energy and in developing a society less dependent on non-renewable fossil fuel resources.

(f) The citizens of Sonoma County have no way to control off-shore oil and gas exploration or development, since such development occurs off-shore

(Continued Next Page)

under the jurisdiction of the federal government. The citizens of Sonoma County do, however, have the ability to make decisions about the propriety of amending the County's Certified Local Coastal Program for the purpose of developing on-shore facilities which support off-shore oil and gas exploration. Due to the dramatic impacts of such on-shore developments on the character, economy and environment of Sonoma County, it is crucial that the people of Sonoma County reserve to themselves, to the maximum degree possible, the authority to approve the nature, extent and location of such development. When balanced against the dramatic impacts of such development, the referendum process is reasonably calculated to address local concerns while not unduly interfering with federal and state energy objectives. This is especially true in light of the local override procedure set forth in section 30515 of the Coastal Act.

Section 30-3. Voter Approval for On-Shore Facilities.

(a) When any person proposes to undertake the development within Sonoma County of any on-shore energy facility relating to the exploration or development of off-shore oil or gas resources and requests an amendment of the County's Certified Local Coastal Program to facilitate such development, a determination by the Board of Supervisors pursuant to Public Resources Code section 30515 that the proposed amendment is in conformity with the policies of the Coastal Act and that the Certified Local Coastal Program should be amended to incorporate such development shall not be effective unless a majority of the electors of Sonoma County, in a general or special election, approve the proposed amendment. The decision on whether to call a special election or a general election shall be in the discretion of the Board of Supervisors.

(b) The Board of Supervisors of Sonoma County is hereby authorized and directed to enact any further ordinances or regulations necessary to give effect to this section and specifically may require that the person seeking any such amendment to the County's Certified Local Coastal Program pay, to the extent permitted by law, all costs associated with the special or general election required herein.

(c) The referendum provided for by this section is intended to extend only to those legislative acts which may be validly exercised by the Sonoma County Board of Supervisors in connection with the amendment of the County's Certified Local Coastal Program to provide for the development of on-shore facilities to support off-shore oil and gas exploration and development. Neither this chapter nor this section is intended, and shall not be construed, to apply to any activity or program which is regulated by federal or state law, to the extent that such application of this section or chapter would conflict with such law or would unduly interfere with the achievement of federal or state regulatory activities. It is the intention of the Board of Supervisors and the people of the County of Sonoma that this ordinance shall be interpreted to be compatible with federal and state enactments, and in furtherance of the public purposes which those enactments express.

Section 30-4. Cooperation with Other Jurisdictions.

The Board of Supervisors is authorized to cooperate with other California coastal cities and counties for the purpose of discouraging, to the extent permitted by law, oil and gas drilling off the coast of Northern California.

Section 30-5. Recodification or Amendment.

(a) Nothing shall prevent the Board of Supervisors of Sonoma County from recodifying the substantive provisions of this ordinance from time to time to incorporate the provisions of this ordinance into the County Code in the most appropriate location.

(b) No substantive provision of this ordinance shall be amended or repealed without a vote of the People.

SECTION IV. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION V. Within thirty (30) days after the certification of the adoption of this referendum ordinance, the Board of Supervisors shall send a copy of this measure with a letter stating the results of the election to all of the following persons: The President of the United States, United States Secretary of the Interior, the Chairperson of the United States Senate Committee on Energy and National Resources, the Chairperson of the United States House of Representatives Committee on Interior and Insular Affairs, the United States Senators and the United States Representatives representing any portion of the County of Sonoma in the United States Congress, the Governor of the State of California and the Sonoma County representatives in the California Legislature.

SECTION VI. This ordinance shall be effective thirty (30) days after the certification of the adoption of this referendum ordinance.

IMPARTIAL ANALYSIS OF SONOMA COUNTY COASTAL LAND USE DEVELOPMENT MEASURE A

The County of Sonoma has adopted a Coastal Plan which regulates land use development in the coastal area of the County. Currently, the Coastal Plan may be amended by securing the approval of the Sonoma County Board of Supervisors and the California Coastal Commission. Currently, the Coastal Plan may be amended, without a vote of the people of Sonoma County, to allow the development of on-shore oil and gas facilities to support off-shore oil and gas drilling.

Measure A, if adopted by a majority vote, would modify the Coastal Plan amendment procedures by requiring voter approval of any decision of the Board of Supervisors to amend the Coastal Plan to allow the development of on-shore oil and gas support facilities. Measure A would also express the opposition of the citizens of Sonoma County to proposed off-shore oil developments affecting the Sonoma County coast and the environment, character and economy of Sonoma County.

Measure A will operate as follows: if any person proposes to develop on-shore oil or gas support facilities, that person may request that the County amend its local Coastal Plan to accommodate such development. After receiving a recommendation from the Planning Commission, the request will be referred to the Board of Supervisors for a decision. The Board may either deny or approve the requested amendment.

If the Board of Supervisors denies the request to amend the Coastal Plan, the developer may then petition the State Coastal Commission with a request that the Coastal Commission overrule the Board of Supervisors' denial. If the Board of Supervisors votes to approve an amendment to accommodate the development, the approval would be referred to the voters for approval in a general or special election.

If the result of the election is voter approval of the amendment, the amendment would then be referred to the California Coastal Commission for certification. If the result of the election is that the voters deny the Coastal Plan amendment, the developer, as is the case with a Board of Supervisors' denial, may request the Coastal Commission to override the denial.

s/ James P. Botz, County Counsel

ARGUMENT IN FAVOR OF MEASURE A

Vote YES on Measure A. This measure expresses our opposition to proposed offshore oil developments affecting our coast, and reserves for the people the approval of coastal plan amendments to allow onshore facilities which support offshore oil development.

Offshore oil development could mean the transformation of coastal lands into industrial staging areas for the oil industry. Our coastal agriculture might be displaced by oil processing, treatment, and transportation facilities.

One result of offshore oil development would be substantial new air pollution. Offshore oil development would also bring the threat of massive oil spills, and the certainty of numerous small spills, which would degrade our sensitive ocean environment and put oil on our beaches. Clean up would be difficult.

Offshore oil development would mean the discharge of toxic drilling muds onto the ocean floor. Such toxic materials would harm the marine environment, and pose a threat to human beings, who may later eat fish contaminated with accumulated toxics.

Offshore oil development would pose a significant danger to a local economy which is based on fishing, agriculture, and tourism. The energy needs of our nation can largely be met by increasing energy conservation and the use of renewable energy sources. Offshore oil development puts our local community at risk, while doing little to meet our nation's future energy needs. Sonoma County already produces 5% of California's energy needs at the Geysers.

Our community cannot directly control offshore oil development. We can, however, let our voice be heard -- in the most direct way possible -- and we can keep control over onshore developments which facilitate offshore oil production. Measure A will make all coastal plan amendments to allow such developments subject to a vote of the people.

Please vote YES on Measure A. Help preserve our coast.

s/ Janet Nicholas, Supervisor
First District

s/ Jim Harberson, Supervisor
Second District

s/ Helen Rudee, Supervisor
Third District

s/ Ernie Carpenter, Supervisor
Fifth District

s/ Nick Esposti, Chairman,
Supervisor Fourth District

NO ARGUMENT AGAINST THIS MEASURE WAS SUBMITTED

Appendix 5.

Legal Ramifications

According to an Opinion by the California Attorney General the County Board of Supervisors or the CCC must ratify the local measures before they can take effect. As of the writing of this paper only two measures have been processed as amendments to LCPs and approved by the CCC. These are the San Mateo County and San Luis Obispo County initiatives. Under the guidelines of the CZMA of 1972 the amended LCPs must be forwarded to the federal Office of Ocean and Coastal Resource Management (OCRM) at the Washington D.C. level for approval before they become a formal part of the federally approved coastal zone management plan. The OCRM is within the Department of Commerce and would presumably have a close tie to the Minerals Management Service or at least be easily influenced by the policies of the Secretary of the Interior. If approval of the local coastal plan amendments is denied the local land use initiatives would still be a part of the state plan but not of the federal plan. Federal projects would, therefore, not have to demonstrate consistency with the provisions of the various initiatives. The affect that these initiatives will have on leasing and or development of the OCS, regardless of their status as federal plan amendments, remains to be seen.