



REGULATORY AGENCY ACTION

LITIGATION:

In City of Los Angeles v. California Waste Management Board, No. C730900 (Los Angeles Superior Court), CWMB is attempting to enforce the terms of a 1978 permit granted to Lopez Canyon Sanitary Landfill. Lopez Canyon claims the terms of the 1978 permit were altered through an engineering study conducted in 1983. In August, the court preliminarily enjoined CWMB from enforcing its permit. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 114 for detailed background information on this case.)

On September 26, the Los Angeles Superior Court issued a writ of mandate preventing CWMB from enforcing the terms of the 1978 permit. If the court had upheld the 1978 permit, the operator would have been forced to cease dumping at Lopez Canyon, because dumping has exceeded the provisions of the 1978 permit. Los Angeles Deputy City Attorney Christopher Westoff stated that the effect of the court's decision will be maintenance of the status quo. More specifically, the City of Los Angeles (the landfill operator) will continue to operate in accordance with an order issued by the Los Angeles County Department of Health Services (the LEA) on July 21, which order expanded the 1978 permit. It allows garbage to be piled higher than 1,725 feet while the city prepares an unused portion of the site for dumping.

At CWMB's September meeting, community representatives from neighborhoods next to Lopez Canyon complained about operations at Lopez since July. These complaints dealt primarily with the height of fills and excessive noise. In response to the concerns expressed by local residents, Assemblymember Richard Katz asked the Board in September to designate a point person to collect data on the landfill from all involved agencies and to provide status reports to agency and public officials. Board staff designated Charles Coffee, director of solid waste management with the County of Los Angeles, as the contact person. The staff directed Mr. Coffee to prepare and present monthly reports on monitoring and enforcement activities at the Lopez Canyon Landfill at the regularly scheduled Board meetings.

Thus, at CWMB's September, October, and November meetings, Mr. Coffee summarized the activities of the state Department of Health Services

(DHS), the Los Angeles Regional Water Quality Control Board, the South Coast Air Quality Management District, and the County of Los Angeles Department of Health Services (LEA) relevant to Lopez Canyon. Mr. Coffee's reports indicate that the LEA has continued to respond to complaints and carry out daily inspections of the landfill for compliance with the state minimum standards and compliance with the notice and order issued on July 21.

RECENT MEETINGS:

A major earthquake measuring 7.1 on the Richter scale occurred in the San Francisco Bay area on October 17. Because solid waste facilities are subject to damage from seismic activity, Board staff immediately began assessing damage at facilities located in the twelve counties most severely affected by the earthquake. These counties include Alameda, Contra Costa, Marin, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, and Sonoma.

On October 18, Board staff conducted telephone surveys of LEAs and prompted them to assess damage at facilities within their jurisdiction. In addition, two teams, consisting of staff geologists and inspectors, traveled to the affected areas on October 19-20 to conduct field investigations at selected facilities.

At CWMB's November 8-9 meeting, staff reported on the status of earthquake-affected landfills. Minor damage to gas collection and water flow diversion systems was reported, but all problems were quickly repaired. The quake caused at least one landfill fire, but emergency fire crews controlled the situation almost immediately. The Board also adopted emergency regulations (sections 17000-17010, Title 14 of the CCR), addressing emergency responses to the earthquake.

FUTURE MEETINGS

To be announced.

COASTAL COMMISSION

Director: Peter Douglas
Chairperson: Michael Wornum
(415) 543-8555

The California Coastal Commission was established by the California Coastal Act of 1976, Public Resources

Code section 30000 *et seq.*, to regulate conservation and development in the coastal zone. The coastal zone, as defined in the Coastal Act, extends three miles seaward and generally 1,000 yards inland. This zone determines the geographical jurisdiction of the Commission. The Commission has authority to control development in state tidelands, public trust lands within the coastal zone and other areas of the coastal strip where control has not been returned to the local government.

The Commission is also designated the state management agency for the purpose of administering the Federal Coastal Zone Management Act (CZMA) in California. Under this federal statute, the Commission has authority to review oil exploration and development in the three mile state coastal zone, as well as federally sanctioned oil activities beyond the three mile zone which directly affect the coastal zone. The Commission determines whether these activities are consistent with the federally certified California Coastal Management Program (CCMP). The CCMP is based upon the policies of the Coastal Act. A "consistency certification" is prepared by the proposing company and must adequately address the major issues of the Coastal Act. The Commission then either concurs with, or objects to, the certification.

A major component of the CCMP is the preparation by local governments of local coastal programs (LCPs), mandated by the Coastal Act of 1976. Each LCP consists of a land use plan and implementing ordinances. Most local governments prepare these in two separate phases, but some are prepared simultaneously as a total LCP. An LCP does not become final until both phases are certified, formally adopted by the local government, and then "effectively certified" by the Commission. Until an LCP has been certified, virtually all development within the coastal zone of a local area must be approved by the Commission. After certification of an LCP, the Commission's regulatory authority is transferred to the local government subject to limited appeal to the Commission. Of the 125 certifiable local areas in California, 72 (58%) have received certification from the Commission as of January 1, 1990.

The Commission is composed of fifteen members: twelve are voting members and are appointed by the Governor, the Senate Rules Committee and the



Speaker of the Assembly. Each appoints two public members and two locally elected officials of coastal districts. The three remaining nonvoting members are the Secretaries of the Resources Agency and the Business and Transportation Agency, and the Chair of the State Lands Commission. The Commission's regulations are codified in Chapters 1-11, Division 1.5, Title 14 of the California Code of Regulations (CCR).

MAJOR PROJECTS:

Commission Testifies at Presidential Offshore Oil Leasing Task Force Hearings. Following the postponement of the leasing of tracts off the coast of northern (Lease Sale 91) and southern (Lease Sale 95) California, President Bush appointed a cabinet-level task force to examine the environmental and economic impacts of oil drilling off the California coast. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 100; Vol. 9, No. 1 (Winter 1989) p. 89; and Vol. 8, No. 4 (Fall 1989) p. 102 for background information.) The Coastal Commission recently provided testimony to the task force at public hearings in San Diego and Los Angeles for a report which was scheduled to be submitted to the President on January 1, 1990.

In addition to the information gathered at these hearings, the task force is reviewing conclusions and recommendations made by the National Academy of Sciences in a special report. The report, issued in November, concluded that oceanographic information available thus far is inadequate to make a final decision regarding offshore oil drilling. The Academy further recommended that leasing continue but that drilling be postponed until additional studies can be completed. The federal budget for fiscal year 1990 has banned all offshore lease sales through September 30, 1990.

Attorney General's Report Regarding the Extension of the U.S. Territorial Sea. According to a report issued by the California Department of Justice, President Reagan's proclamation extending the seaward boundary of the United States to twelve miles from the coastline extends neither California state boundaries nor the permit jurisdiction of the Coastal Commission. However, more federally conducted or supported activities will directly affect the coastal zone. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 100 for background information.)

LEGISLATION:

SB 718 (Rosenthal) would appropriate \$500,000 of funds received by the state under the federal Outer Continental Shelf Lands Act to the Secretary of the Environmental Affairs Agency, to be allocated to specified air pollution control districts and air quality management districts to ensure that offshore oil operations conform to federal and state air pollution requirements. This bill is pending in the Assembly Ways and Means Committee's suspense file.

The following is a status update on bills described in CRLR Vol. 9, No. 4 (Fall 1989) at page 116:

AB 1000 (Hayden) would require the Coastal Commission, in reviewing any application for a coastal development permit, to consider any potential impact on water quality or marine resources and, under specified circumstances, to incorporate into the permit conditions to mitigate adverse effects. This bill is pending in the Senate Rules Committee.

SB 1499 (Roberti), which would require the Commission to conduct a study on various options and mechanisms which may be used to deal with low- and moderate-income housing units in the coastal zone of southern California, is pending in the Assembly Natural Resources Committee. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 90 and Vol. 8, No. 4 (Fall 1988) pp. 103-04 for extensive background information on this issue.)

AB 2072 (Friedman) would require any alternate Commission member to be a county supervisor or city councilmember from the same region as the person making the appointment. This bill is pending in the Senate Rules Committee.

AB 36 (Hauser) would prohibit the State Lands Commission from leasing all state-owned tide and submerged lands situated in Mendocino and Humboldt counties for oil and gas purposes until January 1, 1995. This bill is pending in the Senate Governmental Organization Committee.

AB 145 (Costa), which would enact the California Wildlife, Park, Recreation, Coastal, History, and Museum Bond Act of 1990, is pending on the Assembly floor at this writing.

AB 1735 (Friedman) would prohibit a Commission member and any interested person from conducting an ex parte communication, require a Commission member to report such communication, and provide that any Commission member who knowingly commits an ex parte

communication violation is subject to a civil fine not exceeding \$7,500. This bill is pending in the Senate inactive file.

SB 1500 (Hart), which would have prohibited any new development within an existing wetlands area if the development would cause degradation or destruction to the wetlands, died in committee.

AB 306 (Allen) would have included the recreation fishing industry within the scope of a program which provides funds to address the impacts of oil and gas exploration or development. This bill died in committee.

AB 678 (Frizzelle), which would have changed the LCP requirements to include drainage channels or drainage ditches within the provision requiring channelization, dams, or other substantial alternations of rivers or streams, died in committee.

RECENT MEETINGS:

At its November 15 meeting, the Commission approved an application by the California Department of Fish and Game (DFG) to place a sunken vessel in one hundred feet of water offshore of Point Vicente in Los Angeles County. This project is the latest in a series of artificial fishing reefs with vessels as components created by DFG off the southern California coast. Other sites include the Bolsa Chica Artificial Reef, the Palawan, and the Mission Bay Park Artificial Reef. These projects are referred to as fish aggregation devices (FADs) because they bring large numbers of fish together in predictable locations. It is not known whether FADs increase the numbers of game fish by creating new habitat.

As in the past, the Commission found that the Point Vicente project, as conditioned, complies with the Coastal Act. But the Commission has expressed a concern about the cumulative impact of these structures on marine resources. In order for the Commission to be able to assess the cumulative effects of the placement of FADs along the nearshore southern California coast, DFG agreed to assess the effect of this project on local fish populations. The Commission will use this study to evaluate future artificial reef projects, especially FADs.

Also at its November 15 meeting, the Commission engaged in an extended discussion of the current process for reviewing applications for local coastal program (LCP) grants. These grants support the preparation by local govern-



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ments of land use plans and implementing ordinances that will provide the basis for issuing coastal use permits after the LCP is approved by the local government and the Commission.

Current practice has involved incorporation into grant contracts with local governments a requirement for quarterly progress reports. Several Commissioners expressed frustration that, despite this requirement, LCPs are being completed at a very slow pace. As a result, the Commission is required to deal directly with permit applications which would otherwise be handled locally. The possibility of completion within one year as a new precondition for approval of LCP grants was discussed. But inasmuch as rulemaking on this subject had not been included in the meeting agenda, the discussion was suspended and the Commission staff was directed to examine the problem in light of the concerns expressed.

At the December 13 meeting, Commission staff returned an amended recommendation on LCP grants. The original recommendation of approval on the grant applications of ten local governments had been reduced to four. Of the four, three were local governments in regions that generate a large load of permit applications. These governments also have reason to believe that their LCP work will be completed within one year (Mendocino County, City of Los Angeles, and City of Santa Monica). The other grant recipient is a city newly included in the coastal zone by its annexation of approximately fifty acres of land. This city (Guadalupe) has generated no permit applications to date, but will require a relatively short time to complete its LCP.

Also at the December 13 meeting in San Francisco, the Commission's Executive Director presented a report on the status of its budget for fiscal year 1989-90. The report included the Commission's plans to meet a \$651,000 (11%) cut in its annual budget, which resulted from the breakdown of negotiations between legislators and the Governor to reallocate some Commission funds in the 1989 Budget Restoration Bill. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 22 for background information.) Inflation and unforeseeable expenses, such as a number of workers' compensation and employee transportation claims following the October 17 San Francisco Bay area earthquake, have made the Governor's budget cuts

even more damaging. Measures to meet the Commission's budget crisis include severe restrictions on staff travel, office and support personnel expenditures, holding staff positions vacant, and restriction of workshops and seminars.

Also on December 13, the Commission was offered a brief report of the environmental impact of the October 17 Loma Prieta earthquake. While damage resulting from the quake is currently estimated at \$8 billion, long-term environmental damage such as damage to underground water systems and shoreline landslide controls may not be fully known for years.

On December 14, the Commission held public hearings regarding its draft of the Outer Continental shelf Compendium of Coastal Commission Decisions under the federal Consistency Provisions, Phase I, Outer Continental Shelf Oil and Gas Related Onshore Facilities, of July 31, 1989. The document summarizes the Commission's decisions over the last five years regarding offshore and related onshore energy projects.

Also on December 14, the Commission received a preliminary report on the issues evolving from the Exxon Valdez oil disaster which occurred in Alaska last March. The report focused on potential prevention measures in California, as well as local communities' ability to respond to a similar accident. In addition, the report made specific recommendations, including the exploration of alternative fuels and the increased protection of marine wildlife.

The report was submitted in conjunction with a workshop held by the Commission on the implications of the Alaskan oil spill for California. Comments were received from representatives of the State of Alaska, the U.S. Coast Guard, the National Oceanic and Atmospheric Administration, DFG, and the Sea World Research Institute. Like the report, the workshop focused on the lessons to be learned in California from the disaster in Alaska. The workshop was intended as part of a series, but due to recent budget cuts, no follow-up workshop has been scheduled.

Also in December, the Commission expressed its opposition to a proposal by the National Marine Fisheries Service in Seattle to move approximately sixty sea lions from Washington to the Channel Islands National Park off the coast of Santa Barbara. The Commission's objection is based on its determination

that the proposal is inconsistent with the state's coastal plan and on concerns that the move would have an adverse impact on fisheries in that area.

Testimony before the Commission by representatives of the California Gillnetters Association suggested that the displaced animals would disrupt fishing operations by destroying netted fish, and that the move would be ineffectual because the animals would return to Washington as they have after previous moves.

The federal proposal is a response to complaints by Washington fishers that the sea lions are severely depleting the salmon and steelhead populations by preventing adult fish from reaching their spawning grounds. Washington officials have tried without success to drive the sea lions out of the area surrounding the fish ladders at the Ballard Locks in Seattle. Their methods have included the use of firecrackers, rubber bullets, and other forms of harassment. A report issued by the Washington state Wildlife Department favors the federal relocation plan as the only alternative to the "lethal removal alternative." That option is not preferred, according to the report, because it would result in strong opposition from some segments of the public. Last year, Washington officials trapped 39 sea lions and released them near the mouth of the Columbia River, about 200 miles from the capture point. Thirteen of the animals returned to the locks in an average of fifteen days.

The failure of last year's relocation effort led the fisheries service to propose moving the animals to the Channel Islands, where the existing sea lion population is estimated to be as high as 70,000. A spokesman for the Coastal Commission conceded that the Fisheries Service has the authority to override its objection. The Commission has not, however, ruled out legal action to stop the relocation.

FUTURE MEETINGS:

To be announced.

DEPARTMENT OF FISH AND GAME

Director: *Pete Bontadelli*
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The Department of Fish and Game (DFG), created pursuant to Fish and Game Code section 700 *et seq.*, man-