



same while prices paid for glass increased measurably. Prices paid to both collectors and the public was unchanged from the previous quarter for plastic, while newspaper prices to collectors were higher this quarter and prices to the public were unchanged.

#### FUTURE MEETINGS:

To be announced.

#### COASTAL COMMISSION

*Director: Peter Douglas*  
*Chairperson: Michael Wornum*  
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The California Coastal Commission was established by the California Coastal Act of 1976 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. After certification of an LCP, the Commission's regulatory authority is transferred to the local government subject to limited appeal to the Commission. There are 69 county and city local coastal programs.

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.

#### MAJOR PROJECTS:

*Lease Sales Delayed.* Donald Hodel, Secretary of the U.S. Department of the Interior, recently announced that several planned lease sales of offshore drilling tracts will be delayed. On June 6, Hodel directed the Department's Minerals Management Service to delay publication of the final environmental impact statement (EIS) on proposed Lease Sale 91 until after a new President is elected. Lease Sale 91, the first sale to be held under Interior's Five-Year Lease Sale Program, calls for the sale of tracts offshore central Humboldt County and all of Mendocino County. (See CRLR Vol. 8, No. 2 (Spring 1988) p. 103; Vol. 7, No. 4 (Fall 1987) pp. 92-93; Vol. 7, No. 3 (Summer 1987) p. 116; and Vol. 7, No. 2 (Spring 1987) p. 91 for background information.) The EIS was previously scheduled for release in August 1988.

Interior also recently announced that Lease Sale 95, which includes offshore tracts from San Luis Obispo County to the Mexican border, would be delayed until January 1990, also to allow more time for preparation of a final EIS.

*Commission Budget in Limbo.* The Coastal Commission recently requested a \$518,000 increase in state funding to enable it to alleviate a two-year backlog of complaints about violations of state law intended to protect environmentally sensitive coastal areas. However, Governor Deukmejian rejected any increase in the Commission's budget, and at one point proposed a \$417,000 cut in its budget (including closure of two Commission offices). The Governor, who promised to eliminate the Commission in a 1982 campaign promise, criticized the Commission for its failure to approve local coastal plans (LCPs) in a timely manner. According to a February

report by Legislative Analyst Elizabeth Hill, however, the Commission is unable to investigate and prosecute complaints as well as evaluate LCPs as a result of the Governor's past budget cuts. At this writing, several Democratic Assemblymembers are attempting to restore the cuts proposed by the Deukmejian administration.

#### LEGISLATION:

The following is a status update on bills which were discussed in detail in CRLR Vol. 8, No. 2 (Spring 1988) at pages 103-05:

*AB 2766 (Hauser)*, as amended May 19, would include discarded nonbiodegradable materials within the definition of "garbage" for purposes of section 4400 of the Health and Safety Code, which prohibits the dumping of garbage in the ocean within twenty miles of the coast. This bill passed the Assembly on June 9 and is pending in the Senate Committee on Natural Resources and Wildlife.

*AB 2838 (Farr)*, which would enact the California Ocean Resources Management Act of 1988, to become operative on July 1, 1989, and establish the California Ocean Resources Management Advisory Committee, is pending on the Assembly floor at this writing.

*AB 4122 (Hayden)* would have changed the composition of the Coastal Commission and prohibited Commission members from engaging in fundraising for elective office candidates. This bill died in the Assembly Natural Resources Committee.

*SB 2211 (McCorquodale)*, which would revise the procedures for certification of land use plans of LCPs, has passed the Senate and is pending on the Assembly floor at this writing.

*AB 4479 (Hayden)*, which would have created additional requirements before further leasing, exploration, development, and production of oil and gas on the Outer Continental Shelf may be approved, failed passage in the Assembly Ways and Means Committee on June 1.

*AB 4639 (Friedman)*, which would prohibit Coastal Commission members from engaging in ex parte communication, is pending on the Assembly floor at this writing.

*SB 2066 (Dills)*, as amended April 19, would exempt specified Los Angeles industrial property from any requirement for a coastal development permit from the City of Los Angeles prior to certification of its LCP. This bill passed the Senate on May 5 and is pending in



the Assembly Natural Resources Committee.

*SB 2630 (McCorquodale)*, which would amend the Coastal Act to declare the importance of fishing activities, has passed the Senate and is pending on the Assembly floor at this writing.

*SB 2691 (Hart)*, as amended June 6, would require the Water Resources Control Board's (WRCB) California Ocean Plan to include, by January 1, 1991, a water quality component for bays and estuaries, and numerical water quality objectives for the ocean, bays, and estuaries of California. By January 1, 1993, the Plan must also include numerical sediment quality objectives. This bill passed the Senate on June 8 and is pending in the Assembly Water, Parks and Wildlife Committee.

*SB 2694 (Hart)*, which would require the State Lands Commission to prepare a comprehensive study of the effects of exploration of gas and oil resources in California waters, passed the Senate on June 9 and is pending in the Assembly Natural Resources Committee.

*SB 2761 (Greene)*, pertaining to mitigation procedures, failed passage in the Senate Committee on Natural Resources and Wildlife.

*AJR 76 (Sher)*, requesting the President and the U.S. Department of Commerce to discontinue procedures to decertify the Commission, was adopted by the Assembly on June 2 and is pending in the Senate Committee on Natural Resources and Wildlife.

*AB 639 (Killea)*, which would enact the Coastal Resources Conservation Bond Act of 1988, is still pending in the Senate Appropriations Committee.

*AB 1990 (Hayden)*, which would require the WRCB to conduct a study of a standardized ocean monitoring and discharge reporting system for national pollutant discharge elimination system (NPDES) permit holders who are required to file discharge reports, passed the Assembly and is pending in the Senate Appropriations Committee.

*SB 529 (Dills)*, creating the California Wetlands Mitigation Task Force, is pending on the Assembly floor.

*SB 267 (Dills)*, which would allow the Ports of Long Beach, Los Angeles, and San Diego to use revenues from their granted lands for acquisition or improvement of other land located inside or outside their jurisdictional boundary, passed the Senate and is pending in the Assembly Natural Resources Committee.

*SB 1517 (Bergeson)*, as amended on May 19, would enact the Bolsa Bay

Harbor and Conservation District Act, which would establish the Bolsa Bay Harbor and Conservation District within a specified area of the unincorporated territory of Orange County, to provide (among other things) for implementation of the certified Bolsa Chica Local Coastal Program and construction of specified harbor and related facilities, including water and sewer facilities. (For background information, see CRLR Vol. 7, No. 4 (Fall 1987) pp. 91-92.) This bill has passed the Senate and is pending in the Assembly Natural Resources Committee.

The following bills died in committee or were dropped by their authors: *AB 2968 (Frizzelle)*, regarding the coastal development permit process; *AB 2911 (Hauser)*, regarding LCP amendments for onshore energy facilities related to offshore oil and gas development; *SB 2011 (Ellis)*, regarding the permissible annual number of LCP amendments; *AB 4168 (Frazee)*, which would have created a Shoreline Erosion Task Force; *SB 2547 (Rosenthal)*, regarding ocean incineration of hazardous waste; and *SB 2688 (Robbins)*, regarding surcharges on fines for parking offenses within coastal zones.

## LITIGATION:

In *State of California v. Mack*, the Commission challenges recent conditions to continued federal funding imposed upon it by the National Oceanic and Atmospheric Administration (NOAA). (See CRLR Vol. 8, No. 2 (Spring 1988) p. 103; Vol. 8, No. 1 (Winter 1988) p. 92; and Vol. 7, No. 4 (Fall 1987) p. 91 for background information.) In late 1987, NOAA (as part of its responsibility to review the Commission's progress in implementing and enforcing the CCMP, which has been approved by NOAA) withheld much of the Commission's federal funding after the Commission refused to comply with NOAA's demand that it prepare and submit for approval guidelines that would provide greater predictability for parties seeking consistency determinations for proposed activities affecting the Outer Continental Shelf (OCS). At first the Commission refused, but then acceded under protest to NOAA's request. Part of the disputed federal funding has been released, and the Commission now challenges NOAA's authority to condition its grant of the funds on the Commission's satisfaction of NOAA's demand.

On April 14, U.S. District Court Judge Eugene Lynch granted the Commission's motion for preliminary injunc-

tion, enjoining NOAA from taking any steps, during the pendency of the litigation, to enforce its demand that the Commission prepare the OCS guidelines or to withdraw federal financial assistance based on the Commission's failure to prepare the guidelines. The court found that NOAA lacks the authority "to coerce a modification of a state's previously approved coastal management program through conditions attached to federal funding;" and that whether NOAA has attempted to do just that, or whether NOAA's demand is "merely a requirement for a particular form of program implementation" is a "close" question.

The court found that, at minimum, the Commission had "raised serious questions about NOAA's authority to condition funding on program changes," and that it had demonstrated possible irreparable injury and severe hardship if the injunction were not granted.

In *Exxon v. Fischer, et al.*, filed in 1983, Exxon alleged that the Commission misapplied Coastal Act policies and exceeded its statutory authority under the CZMA in objecting to its Option A Santa Ynez Unit Development and Production Plan. (See CRLR Vol. 8, No. 2 (Spring 1988) p. 106 for background information.) Because the Commission recently granted a permit in connection with Exxon's Option B alternative for development of its Santa Ynez project, it is anticipated that Exxon will request a dismissal of its appeal to the Secretary of Commerce and its lawsuits regarding the Commission's objection to the Option A alternative.

On April 21, Texaco filed a lawsuit in Los Angeles Superior Court to overturn the Commission's rejection of its proposed eight-well oil and gas exploration project in the Santa Barbara Channel. In its complaint, Texaco alleges that the Commission abused its discretion, acted outside its legal authority, and relied on findings which have no factual or legal basis in refusing to find the Texaco plan consistent with the CCMP. Texaco has also appealed the Commission's decision to the Secretary of Commerce. In its February 26 decision, the Commission found that Texaco's plan would entail a substantial risk of oil spillage and would constitute too great a risk to marine resources, and rejected the plan. The lawsuit filed by Texaco seeks a court order setting aside the Commission's rejection and ordering the Commission to approve the plan.

*Santa Barbara County v. Hodel*, dis-



cussed in CRLR Vol. 7, No. 4 (Fall 1987) at page 93, has been dismissed. The County dropped the suit in recognition of Exxon's acceptance of the County's onshore permit, including requirements for OCS facilities.

In *WOGA v. Sonoma, et al.*, the Western Oil and Gas Association (WOGA) filed suit challenging local ordinances which restrict or prohibit onshore support facilities for offshore oil and gas exploration. (See CRLR Vol. 7, No. 4 (Fall 1987) pp. 92-93 for background information.) In its suit, WOGA claims that the ordinances are unconstitutional, violating the Supremacy and Commerce Clauses. In late November, the State Lands Commission and the Coastal Commission intervened as defendants, contending that administrative remedies have not been exhausted and that the ordinances are constitutional.

On February 8, the parties argued motions to dismiss filed by the local and state government defendants, and a motion for partial summary judgment filed by WOGA. On April 21, the court issued its rulings, granting the motions for dismissal with respect to all of the ordinances except those applying outside the coastal zone, and denying WOGA's motion for summary judgment. The court's order includes a determination that WOGA has not exhausted its administrative remedies, in that under the Coastal Act it could request that the Commission amend a local coastal plan to provide for additional energy facilities. The court also found that the ordinances are not preempted by the CZMA, the Outer Continental Shelf Lands Act, or certain other statutes providing for Coast Guard regulation of tanker activities.

In *WOGA v. Santa Barbara*, WOGA challenges a consolidation policy adopted by the County of Santa Barbara. The policy has been filed with the Coastal Commission as a proposed amendment to the county's local coastal plan. WOGA contends that implementation of the policy would violate due process and the Commerce Clause, and that the LCP procedure was a violation of the California Environmental Quality Act. The Coastal Commission filed a motion to intervene based on two concerns. First, the Commission seeks to protect its procedures for review of LCP provisions from interference by the courts. Second, an adverse ruling on the Commerce Clause issue may affect its implementation of Coastal Act consolidation policies. The Commission's motion was granted; motions for dismissal and/or

summary judgment were expected to be filed in July.

In *People of the State of California v. Hodel*, Attorney General John Van de Kamp, the Coastal Commission and the State Lands Commission have sued the Secretary of the U.S. Department of the Interior on his approval of the Final Lease Program for 1987-1992. (See *supra* MAJOR PROJECTS; see also CRLR Vol. 7, No. 4 (Fall 1987) pp. 92-92 and Vol. 7, No. 3 (Summer 1987) p. 116 for background information.) The state's brief filed on March 21 alleges violations of the National Environmental Policy Act, section 18 of the Outer Continental Shelf Lands Act, and Section 11 of the Continuing Appropriations Act for Fiscal Year 1987 regarding leasing offshore California. Oral argument is scheduled before the District of Columbia Circuit Court of Appeals on September 7.

In *Santa Barbara and Ventura Counties v. California Coastal Commission*, Santa Barbara and Ventura counties have filed a petition for writ of mandate in state court challenging the Commission's concurrence in the consistency certification for Cities Service's Platform Julius. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 93 for background information.) The petitioners allege that the Commission failed to properly implement the California Environmental Quality Act and the air pollution control requirements of the Santa Barbara and Ventura County Air Pollution Control Districts. A hearing in the case was scheduled during August.

#### FUTURE MEETINGS:

September 13-16 in Marina del Rey.  
October 11-14 in San Diego.

### DEPARTMENT OF FISH AND GAME

Director: Pete Bontadelli  
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The Department of Fish and Game (DFG) manages California's fish and wildlife resources. Created in 1951 as part of the state Resources Agency, DFG regulates recreational activities such as sport fishing, hunting, guide services and hunting club operations. The Department also controls commercial fishing, fish processing, trapping, mining and gamebird breeding.

In addition, DFG serves an informational function. The Department procures and evaluates biological data to monitor the health of wildlife popula-

tions and habitats. The Department uses this information to formulate proposed legislation as well as the regulations which are presented to the Fish and Game Commission.

The Fish and Game Commission (FGC) is the policy-making board of DFG. The five-member body promulgates policies and regulations consistent with the powers and obligations conferred by state legislation. Each member is appointed to a six-year term.

As part of the management of wildlife resources, DFG maintains fish hatcheries for recreational fishing, sustains game and waterfowl populations and protects land and water habitats. DFG manages 100 million acres of land, 5,000 lakes, 30,000 miles of streams and rivers and 1,100 miles of coastline. Over 1,100 species and subspecies of birds and mammals and 175 species and subspecies of fish, amphibians and reptiles are under DFG's protection.

The Department's revenues come from several sources, the largest of which is the sale of hunting and fishing licenses and commercial fishing privilege taxes. Federal taxes on fish and game equipment, court fines on fish and game law violators, state contributions and public donations provide the remaining funds. Some of the state revenues come from the Environmental Protection Program through the sale of personalized automobile license plates.

DFG contains an independent Wildlife Conservation Board which has separate funding and authority. Only some of its activities relate to the Department. It is primarily concerned with the creation of recreation areas in order to restore, protect and preserve wildlife.

On June 30, the Senate confirmed Pete Bontadelli as DFG's Director by a vote of 22-0. Bontadelli was supported by an unusual coalition of organizations, including the Sierra Club, the Defenders of Wildlife, the Planning and Conservation League, the National Rifle Association, and the California Rifle and Pistol Association.

#### MAJOR PROJECTS:

*Approval of Mountain Lion, Bighorn, and Tule Elk Hunting Seasons.* At its April 8 meeting, the DFG adopted proposed section 369, Title 14 of the California Code of Regulations (CCR), which would provide for the hunting of mountain lions. The DFG's attempts to authorize mountain lion hunts has been the source of much controversy and public opposition for the past several years. (For background information, see