

December 14, 1976
LL Presidents Mailing (2 copies)
H. A. 1. d.
Program - Land Use

TO: LL Presidents & NR or Land Use Chairs
(please forward 2nd copy)
FROM: Bobette Higgins

BACKGROUNDER ON COASTAL ZONE MANAGEMENT

In response to intense pressures, conflicts, and recognition of the importance of the coastal zone of the United States, Congress passed (in 1972) the Coastal Zone Management Act (CZMA). The Act authorized a federal program to be administered by the Secretary of Commerce, who delegated this responsibility to the National Oceanic and Atmospheric Administration (NOAA). The CZMA Act was amended by Congress on July 26, 1976.

The composite of the two Acts affirms a national interest in the effective management, beneficial use, protection, and development of the coastal zone, and provides assistance and encouragement to the coastal states to develop and implement rational programs for managing their coastal zones. Six financial assistance grant and loan programs are authorized by the CZMA.

Section 305 authorizes annual grants to assist any United States coastal state or territory in the development of a management program for the land and water resources of its coastal zone (called program development grants). The important 1976 amendments to the Act make four changes to Section 305:

- New work elements have been added requiring planning processes related to beach and public coastal area access, energy facility siting and shoreline erosion;
- The number of 305 grants that a state may receive has been increased from three to four;
- Federal funding for a grant has been increased to 80%;
- Grants may be made to state programs to aid in the implementation of those elements of the program that are completed while the remaining aspects are being developed. Those remaining program elements must be clearly identified and a reasonable time schedule given for their completion.

After developing a management program, the state submits it to the Secretary of Commerce for approval. If approved, the state is then eligible for annual grants under Section 306 to administer its program (called program administration grants). Section 306 has also been amended to increase the federal funding level to 80%. In addition, the state coastal zone management agency is required to notify a local government of any decision in conflict with local zoning actions. The amendments also allow the local government a 30-day period in which to make comments, and require that no action be taken during this period which conflicts or interferes with a management program decision.

New sections--308, 309, and 310 were inserted as follows:

Section 308 establishes a coastal energy impact assistance program consisting of:

- Annual formula grants (with the federal government paying the entire amount) to coastal states, based upon specific outer continental shelf energy activity criteria. (The purpose is to encourage those states which have extensive oil resources in their OCS to develop these).
- Planning grants (80% federal funding) to study and plan for economic, social, and environmental consequences resulting from new or expanded energy facilities.

--Financial assistance to coastal states or local governments impacted by energy facility activity, consisting mainly of loans and grants to assist in providing new or expanded public facilities related to coastal energy activity, including grants if the states' coastal zone suffers any unavoidable loss of valuable environmental or recreational resources and if such loss results from coastal energy activity.

In order to be eligible for assistance under Section 308, states must be receiving 305 or 306 grants, or be developing a management program consistent with policies already established.

The new Section 309 allows grants (90% federal share) to states to coordinate, study, plan, and implement unified coastal zone management programs.

The new Section 310 allows the Secretary to conduct a program of research, study and training to support state management programs, and allows grants to states to carry out research and training required to support their programs.

In addition to the estuarine sanctuary program to preserve a representative series of undisturbed estuarine areas for long-term scientific and educational purposes, the new Section 315 provides grants (50% federal share) to states to acquire lands for protection of and access to beaches and other public coastal areas of environmental, recreational, historical, aesthetic, ecological, or cultural value and for the preservation of islands.

Most importantly, besides the financial assistance incentive for state participation, CZMA stipulates that federal activities affecting and development projects within the coastal zone shall be, to the maximum extent practicable, consistent with approved state management programs. (This "federal consistency" requirement has been extensively discussed in advisory committee meetings and is viewed as a way for states to recoup power "eroded" to the federal government in recent years). Also, the state must certify that all applications for licenses or permits affecting land or water uses within its coastal zone program management boundary are consistent with its management program.

The CZMA amendments of 1976 amend Section 307 to require that any OCS activity described in an exploration, development, or production plan be certified (by the person submitting the plan to the Secretary of the Interior) as being consistent with the approved state management program. The state must concur with such certification prior to any approval action by the Department of the Interior. Section 307 is further amended to provide for mediation when serious disagreement arises between a federal agency and a state with respect to the administration of a state's program, and to require local public hearings as part of the mediation.

Guidelines defining the procedures by which states can qualify to receive development grants under Section 305 of the CZMA, and the policies for development of a state management program, were published in the Federal Register on November 29, 1973. By the end of FY 1976, 33 out of 34 eligible states and territories had received program development grants and one state (Washington) had received program approval under Section 306. (Aside: Although the Washington program was approved, it is interesting to note that a speaker from NOAA during a recent land use conference in D.C., seemed to think that approval had been somewhat premature, and that they were scrutinizing state programs with considerably more care before granting approval).

The developing Texas coastal management program has reached the stage where it is ready to send to the legislature a package of bills implementing the proposed state program. If these are passed, the program then goes to the federal government for approval.

TO: LL Presidents and Land Use Chairs (please
forward 2nd copy)
FROM: Bobette Higgins, Land Use Chair, LWV-T
RE: Coastal Management Meeting

LWV of Texas
October 29, 1976
LL Presidents (2 copies)
II. A. 1. d.
Program - Land Use

There will be a very important meeting to review proposed legislation implementing the Texas Coastal Management Program on Thursday, December 16, in Houston at the Spring Branch Memorial Library (off I-10). It is absolutely vital that all--repeat ALL--coastal Leagues have at least one representative present, and I am asking that as many (upland) Leagues as possible get someone to this important meeting. I will be driving to Houston from Denton on Tuesday, the 14th, and can take three people with me (no charge).

Please send me now the names and addresses of your League representatives for this meeting.

Jep Hill of the staff of TCMP (who is drafting the bills for the program) will be present to speak and answer questions. And we'll work out a plan for legislative action. Lynne Johnson of Houston is coordinating arrangements for our meeting--and am I ever grateful.

I (fervently, enthusiastically, optimistically) remind you that this is our top environmental/natural resource legislative priority. And (gleefully, thankfully), by golly, if ever we had swat and influence and POWER, it's now--thanks to the presidential debates. For crying out loud--let's use it!!

If any of you wish to observe the TCMP Advisory Committee meetings, please do so. We meet at the Host International Airport Hotel, Room 747-B, on November 19 and December 15 (Houston airport).

LWV of Texas
September 17, 1976
LL Presidents & NR/Land Use Chair
Program--Vertical
NR--Land Use

TO: Local League Presidents and Land Use/NR Chairs
FROM: Bobette Higgins, Land Use, LWV-T Chair
RE: Statement on the Texas Coastal Management Program

STATEMENT TO THE GENERAL LAND OFFICE ON THE
RECOMMENDATIONS FOR THE TEXAS COASTAL MANAGEMENT PROGRAM

BY THE
LEAGUE OF WOMEN VOTERS OF TEXAS

September 1, 1976
Austin, Texas

The League of Women Voters of Texas has long been interested in the well-being of the Texas coast--both of the people who live in the region, and the fragile but economically and aesthetically important natural systems there. League members who live on the coast might be expected to have coastal concern uppermost in their minds, but other members from all over the state share these concerns. They have frequently voiced these during this series of public hearings.

Because of this interest, it is a particular pleasure to say that League members are able to enthusiastically endorse the recommendations of the Texas Coastal Management Program.

Those parts of the program we wish to single out for strong endorsement are those involved with the institutional arrangements for the implementation of the process. We strongly support the recommendation restructuring the ICNRE. We are pleased that at last the ICNRE will be able to function in fact, and not only in theory. In some of the comments directed toward this most significant recommendation, we have heard expressed doubts that the replacement of the executive directors of the agencies by the members of their respective boards and commissions would work. It has been said that the ICNRE should be staffed with "professionals." We disagree. We believe that the involvement of the members of the boards will make the ICNRE more accountable to the public. We further believe that rather than DECREASING the participation of the executive directors of these agencies, it is more likely that their participation will be increased, since their policy-making board members will need their assistance and expertise, and will likely see to it that these persons attend ICNRE meetings, which is now all too frequently not the case. We also commend the suggestion that the ICNRE be staffed, which is not now the policy. We also approve the recommendation that representatives from the Governor's Energy Advisory Council, the Attorney General, and the Legislative Budget Board serve in an advisory capacity. We strongly urge that the GEAC become voting members, if this is permissible under the law. We find refreshingly meritorious the suggestion that the restructured ICNRE be designed to self-destruct at the end of a four year trial period unless continued by the legislature, thus assuring that the automatic continuation of an ineffective agency is unlikely.

We urge all of the affected agencies to support the restructuring of the ICNRE as recommended, and to work for its successful implementation. Not to do so would seem to be speak a self-serving desire on the part of the agencies to protect their own turf at all costs.

The League of Women Voters supports the establishment of an organized data management system, seeing this as a long overdue need, and one which is of benefit not only to coastal matters, but to the entire state.

The League full supports the activity assessment routine, believing that without it, any sensible management program would be an impossibility.

We support the contention that the proposed process would improve state-federal coordination, and urge the adoption of this recommendation.

We favor the establishment of uniform saltwater fishing regulations.

Some local Leagues have expressed reservations concerning the recommendation that the state assume the Corps of Engineers jurisdiction over dredge and fill activities in salt water; this same concern has been voiced by others at the public hearings I have attended, and may need to be reexamined.

As most people in the room are aware, the league has long been advocating public participation in the decision making process. We therefore support, even more than we support the program, the process through which it was developed. We have been more than pleased with the extraordinary efforts made by the TCMP staff to involve the public in this process. We appreciate the extra effort, time and expense involved in the process of including the public as conscientiously as you have done. We appreciate the patience and courtesy of the staff who answer the same questions over and over, and seem to consider this neither an imposition, nor an inquisition, as has sometimes been the case when League members have attempted to participate on other appropriate occasions, before other agencies.

As a member of the citizens advisory committee, I have witnessed the remarkable result that can be achieved when an agency is committed to the principle of openly and wholeheartedly involving diverse members of the public in their decision making. The members of this committee have come to know each other, to respect differing opinions, to listen with an open mind, and to work out extremely difficult problems. Public participation CAN work. It has worked. And this committee is living proof of this.

I think some mention needs to be made of the objections raised by some people to this proposed program. It has been called weak and lacking in real control. At the other extreme, it has been called a dire threat to private property rights. It is neither of these, and yet is at the same time, both of these. This program is not rigid dogma, not a plan at all. It establishes a process, it facilitates planning. And it is no more a threat to private property rights than person's neighbor is a threat to his rights. All of our rights are subject to the needs and rights of others. This program sets in place a process which can protect and assure the maintenance of private property rights with a minimum of governmental interference.

By League standards, this program is not ideal. It offers little wetlands protection. Many aspects which are now voluntary should, in our opinion, be mandatory. It is a minimal program. But it is infinitely better than the chaotic state which now exists. It can be made to work. It is politically feasible. It MUST be made to work, if the state is to continue to have this responsibility rather than abdicating in favor of the federal government.

Those of us on the advisory committee have seen two examples of what happens to states who do too little, too late, in managing their coasts. The heads of the Coastal Management programs in California and New Jersey met with us and described their state programs. Despite the fact that our coast and their coasts are not identical, it became clear that we have many elements in common. And it became obvious that while

Texas does not yet have the intense coastal problems caused by unmanaged growth that both these states have, and therefore perhaps do not need such restrictive CM programs, IF we will act now, we can avoid both the monumental problems, and the stringent controls necessary to abate them.

We live in an age in which it is deemed commendable to manage everything on God's green earth, except God's green earth. And for many years we in Texas were able to live comfortably in this manner, because people were few and the land was seemingly endless and bountifully supplied with natural resources; but like the Indians whose land this once was, and the settlers in covered wagons who brought with them our lingering pioneer ethic, those times are gone. It is now time to protect as well as use our coastal resources. We therefore suggest that, in the best pioneer tradition, it is time again to circle the wagons.

Texas Coastal Management Program

EXECUTIVE
SUMMARY



Publications of the Texas Coastal Management Program:

Existing Data: An Annotated Bibliography of Research Activities in the Coastal Zone, August, 1974.

Present Authority: Authority of Governmental Entities in the Texas Coastal Zone, January, 1975.

Public Participation: A Report of Public Participation, June to October, 1974, January, 1975.

The Coastal Economy: An Economic Report, October, 1975.

Resources of the Texas Coastal Region, October, 1975.

Texas Coastal Management Program (hearing draft), June, 1976.

Texas Coastal Management Program: Executive Summary (hearing draft), June, 1976.

Texas Coastal Management Program: Appendices (hearing draft), June, 1976.

Current Permitting Processes in State and Federal Natural Resource Agencies (2 vols.), June, 1976.

Public Hearing Transcripts (10 vols.), September, 1976.

Texas Coastal Management Program:

Report to the Governor and the 65th Legislature, November, 1976.

Texas Coastal Management Program:

Report to the Governor and the 65th Legislature—Executive Summary, November, 1976.

Texas Coastal Management Program:

Report to the Governor and the 65th Legislature—Appendices, November, 1976.

Conducted by
RPC, Inc.
RON JONES, DIRECTOR

TEXAS COASTAL MANAGEMENT PROGRAM

REPORT TO THE GOVERNOR AND THE 65TH LEGISLATURE

EXECUTIVE SUMMARY

General Land Office of Texas

Bob Armstrong, Commissioner



NOVEMBER 1976

This program is funded in part through financial assistance provided by the Coastal Zone Management Act of 1972, administered by the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration.

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The contents of this report have been reviewed by the Texas Coastal Management Program Advisory Committee, and the program staff has considered their comments. The report does not necessarily reflect their views, however, and the staff of the Coastal Management Program assumes all responsibility for its contents.



General Land Office

AUSTIN, TEXAS 78701
BOB ARMSTRONG, COMMISSIONER

November 1, 1976

The Honorable Dolph Briscoe
Governor of Texas
Austin, Texas 78711

Dear Governor Briscoe:

In response to your request and designation, I began in June of 1974 to lead an effort on behalf of all the state's natural resource agencies to develop a coastal management program for Texas. This summary presents recommendations for an improved coastal management process. They appeared in draft form in June and were the subject of ten public hearings in August and September. Following these hearings, the recommendations were revised and amended, and they appear here in their final form for consideration by you and the 65th Texas Legislature.

In order to develop recommendations that were responsive to the needs of all the people of Texas, I appointed a 41-member advisory committee whose diverse viewpoints and experience represented virtually all the major interests along the Texas coast. I have consulted them frequently, and they have given generously of their time and effort to discuss and criticize our work. Considering the diversity of their perspectives on the Texas coast, I have been pleasantly surprised by how well they have worked together to discuss many difficult issues. I am also gratified that, despite their differences, they are nearly unanimous in supporting the recommendations presented in this document.

I believe that all the people of Texas will benefit from the recommendations and therefore look forward to their implementation.

Yours truly,

Bob Armstrong, Commissioner
GENERAL LAND OFFICE

ACKNOWLEDGMENTS

At the request of Governor Briscoe, the General Land Office of Texas has led the state's efforts to develop an improved coastal management process. Under contract to the General Land Office, RPC, Inc., of Austin, Texas, has provided the following professional staff for the program:

Ron Jones, Director
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Charles M. Woodruff, Jr., Head, Resource Capability Division
David E. Brown, Head, Institutional and Legal Division
Gary Catron, Head, Public Participation Division

William L. Longley, Andrew E. Reed, Stephen Minick, Charlie Nims, Christine Gever, Molly M. Moore, James C. Morriss III, Polly A. McGlew, Arthur L. Eatman, Sally A. Mitchell, Sharon Howard, and Pat Wiles.

Assisting in the program from the General Land Office staff were:

John D. Macklin, Jr., Acting Director, Planning Program
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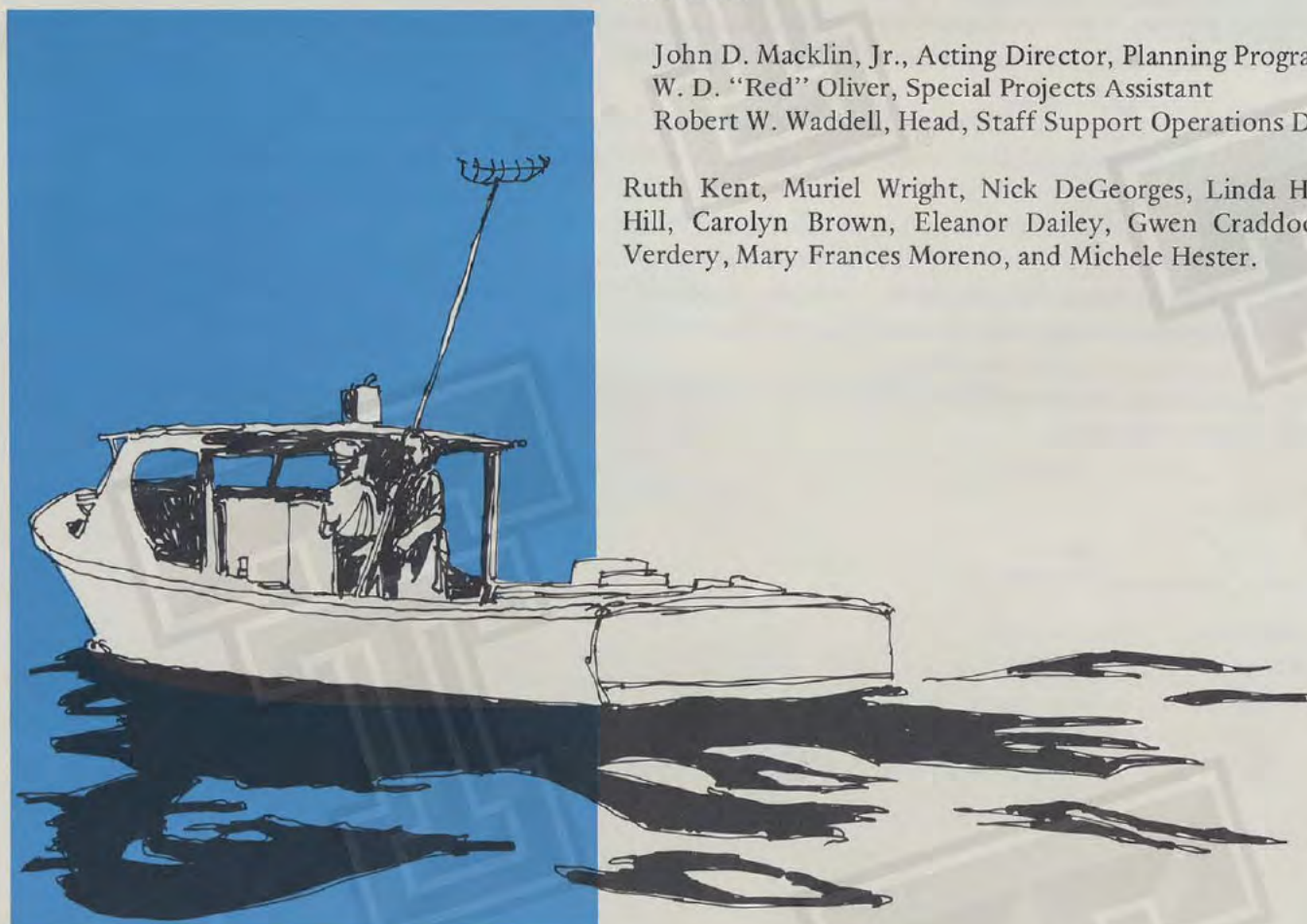


TABLE OF CONTENTS

PREFACE	1
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CHAPTER I – THE IMPORTANCE OF THE TEXAS GULF COAST

Overview	4
Economic Productivity	4
Livability	6
Natural Resources	6
Role of Government	10
Summary	11

CHAPTER II – CURRENT COASTAL MANAGEMENT AUTHORITY

Overview	13
The Market System	13
State Coastal Management–	
Background and Authority	14
Legislative and Executive Roles	14
Informal State Management Priorities	15
Coordination of Agency Activities	16
Summary	19

CHAPTER III – THE PROBLEMS

Overview	21
Policy Planning and Coordination	22
Information and Research Management	22
Systematic Activity Assessment	23
Natural Hazards	23
Bay and Estuarine Management	23

CHAPTER IV – A PROPOSAL FOR IMPROVED COASTAL MANAGEMENT

Overview	24
Establishment of the NRC	27
Proposed Changes in Information Management	29
Proposed Activity-Assessment Routine	30
Proposed Management Boundary	30
Proposed Review of Hazard Responses	31
Coastal Waters and Submerged Lands	31
Bay and Estuarine Productivity	32
Federal Coordination	33
Summary of Recommendations	34

CHAPTER V – ADVANTAGES OF THE PROPOSED MANAGEMENT PROGRAM

Overview	36
Preservation of State Control of Coastal Policy	36
Increased Accountability of State Agencies	39
Increased Efficiency in State Coastal Programs	41
Practicality	43
Potential Disadvantages and Costs	43
Creation of the NRC and Establishment of the Activity-Assessment Routine	44
Costs for Transfer of Wetlands Permitting Procedures	44
Possibilities of Federal Funding	45
Costs of Change	45
Control of Cost by Existing Agencies	47
Summary	47

LIST OF ILLUSTRATIONS

Figures

1 Economic Sectors that Directly "Bid" for Goods from Coastal Waters	7
2 Nonmarket Values of Coastal Waters	7
3 Composite Resource Areas of Coastal Waters and Shorelands	9
4 Responsibilities of Various State Agencies	16
5 Examples of Coastal Areas Regulated by State Agencies	17
Map Plates 1-7—The Coastal Boundary	48-54

PREFACE

The State of Texas has long been concerned with such coastal matters as storm protection, waterway development, recreational facilities development, fisheries management, and beach protection. In 1969, the state began a four-year study of its coastal resources. As a result of this study, legislation affecting management of the coastal public lands and various other coastal topics was enacted. This study also led to the recommendation that the state seek funds under the federal Coastal Zone Management Act of 1972 to develop a coastal management process to coordinate the state's many coastal activities and policies.

Following this recommendation, the governor designated the Commissioner of the General Land Office, Bob Armstrong, to lead the state's efforts in this task and to apply for partial federal funding of those efforts. Federal matching funds were received in June, 1974, and the Texas Coastal Management Program was initiated as a joint undertaking of the state's natural resource agencies.

The objectives of the Coastal Management Program are, through interagency cooperation and extensive public participation, to develop and recommend to the governor and legislature

1. an improved and flexible policymaking process which will ensure a continuing balance among future economic, environmental, and social needs along the coast, and
2. the steps for implementing such a process.

This document summarizes the recommendations developed by this program. Public hearings on these recommendations were held according to the following schedule:

Monday, August 9	Brownsville Fort Brown Hotel
Wednesday, August 11	Corpus Christi Emerald Beach Holiday Inn
Friday, August 13	Victoria Victoria Bank & Trust Building
Monday, August 16	Bay City Service Center
Wednesday, August 18	Houston Marriott Motor Hotel
Friday, August 20	Galveston County Courthouse
Monday, August 23	Beaumont Red Carpet Inn
Wednesday, August 25	Dallas Marriott Motor Hotel Stemmons Freeway

Monday, August 30 San Antonio
 El Tropicano Hotel

Wednesday, September 1 Austin
 Stephen F. Austin
 State Office Building

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Public commentary received at these hearings, through the program advisory committee, and through letters to the program staff was reviewed and taken into consideration in preparing these final recommendations for submission to the governor and to the legislature.



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Austin
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Copies of this summary, the program's main report, and the hearing transcripts have been placed in the State Library in Austin and in public libraries throughout the coast. While supplies last, copies of these and other Coastal Management Program documents are available free of charge from:

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Texas Coastal Management Program
General Land Office
1700 North Congress Avenue
Austin, Texas 78701
(512) 475-6902



Overview

The Texas Gulf Coast commands the state's attention for four reasons. First, the economic productivity of the coastal area holds statewide and national importance, and it continues to grow. Second, the coastal area offers an attractive mix of social, economic, and natural amenities; it is very "livable." Third, the natural resource base of the coast is vital to its productivity and livability. To assure the continued productivity and livability of the coast in the face of its increased use and intensive development, the complex interactions of its natural resource systems must be better understood and managed. Fourth, the state must play a role in coastal management because a large part of the coastal resource base is publicly owned and still more of it is subject to established regulatory and public investment programs.

The importance of the coast, for both today and the foreseeable future, is evident in the fact that the coast concentrates a third of the state's population and a third of its economic activity into a tenth of the state's land area. It has grown rapidly, and most indicators point to continued growth. Developmental pressures will be greatest in urban areas with port facilities, but increasing demands for recreational areas, port and waterway development, industrial sites, mineral production, freshwater supplies, second homes, and environmental amenities will be felt throughout the coast.

Economic Productivity

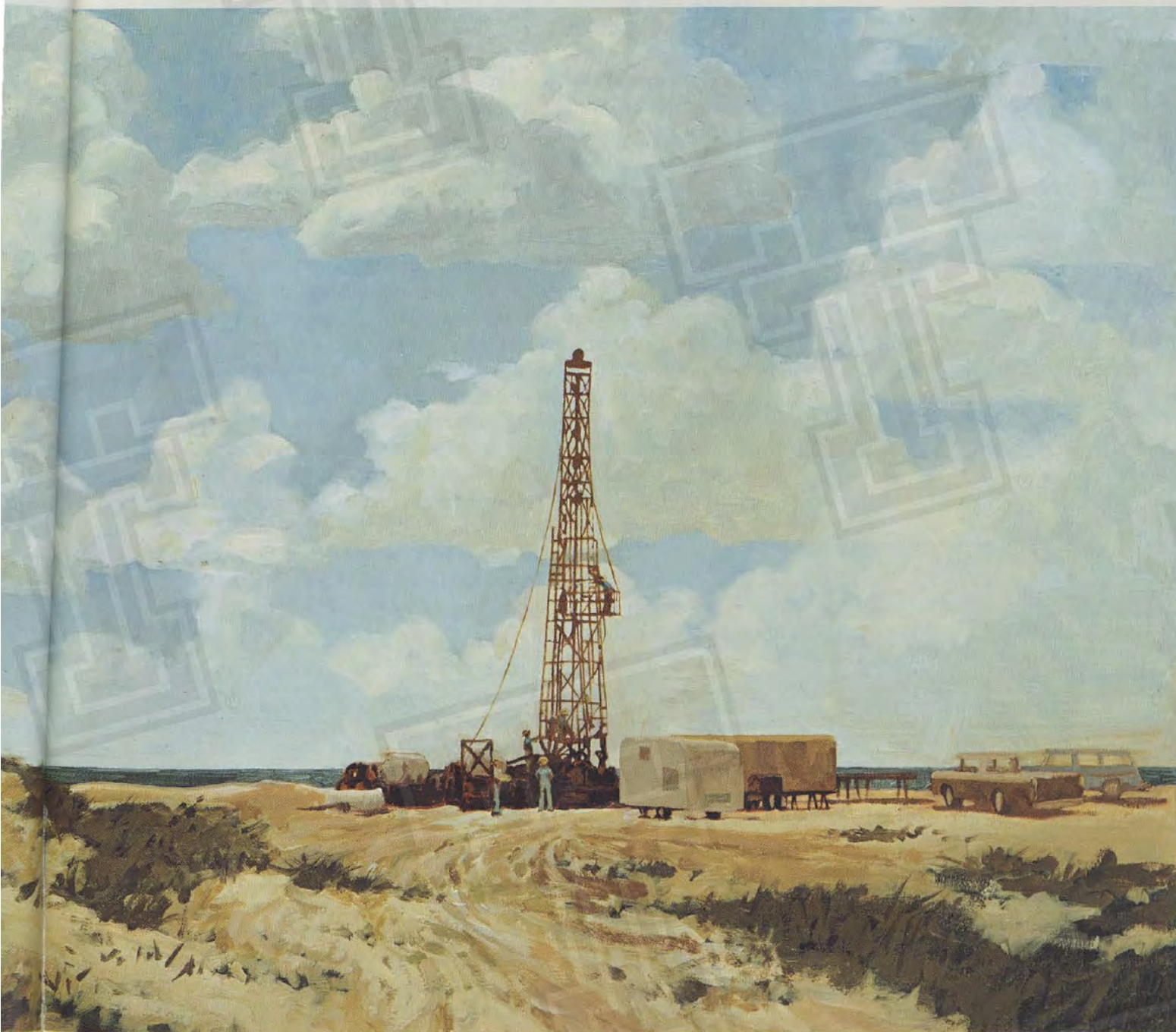
Historically, the vast and highly productive natural resources of the Texas Gulf Coast have made it a major contributor to the prosperity and well-being of the state and the nation. For example, 40 percent of the nation's petrochemical industry and 25 percent of the nation's refining capacity are located on the Texas coast, three Texas ports are among the 10 largest in the nation, and the state's 2,500 miles of shoreline are a great attraction to over 10 million visitors who come to the state annually.

The three economic sectors depending directly upon coastal waters—waterborne transportation, commercial fishing, and most of the recreation and tourism in the coastal region—compete with each other for the use of the coastal resources. Port facilities and dredged channels that may interfere with continued biologic productivity in some parts of the coastal waters can have adverse effects on sport and commercial fishing. Likewise, aesthetic considerations that benefit recreation and tourism sometimes conflict with the intensive uses of coastal waters for ports and waterways. Other economic sectors, too, make competing demands for fresh water and for space either directly or indirectly (fig. 1). These sectors include petroleum



CHAPTER I

THE IMPORTANCE OF THE TEXAS GULF COAST





producers and refiners, petrochemical and metals manufacturers, agriculture, and housing. The water demands of these sectors and of the municipalities of the state may reduce the inflows of freshwater, sediment, and nutrients to coastal ecosystems. Likewise, the waterways needed to sustain the Texas economy require extensive dredging. Wetlands and other areas necessary for the continued biologic productivity of the state's bays may be damaged by changed freshwater, nutrient, or sediment inflows or by the disposal of dredged materials.

Livability

Direct economic activities, however, are not the only measure of coastal productivity; the "livability" of the coast must be considered. "Livability" is defined by the qualities that make an area a good place to live. A "livable" place offers more than satisfaction of the necessities; it offers a balance between continuing economic opportunities and other attractive qualities. On the coast, these qualities include a mixture of natural resources, not all of which are adequately taken into account by the marketplace (fig. 2): an adequate freshwater supply, including unpolluted surface water and groundwater producible without adverse effects, a pleasant climate, clean fresh air, open spaces, beaches, and fishing and hunting opportunities. Other components of livability are the availability of jobs, public safety, public facilities, and freedom from unnecessary governmental restrictions on the use of resources. Retaining all these components requires a balance between development and preservation. People demand a mixture of elements for a high quality of life, but they assign different priorities to these elements.

Just as the various economic sectors compete for resources, some of the components of livability conflict with one another. For example, jobs often depend on intensive economic activities that conflict with aesthetics or other social values. Freedom from governmental control may not be consistent with a desire for facilities or services funded with tax dollars.

Natural Resources

The livability and abundant economic productivity of the coast make it important, but why should there be concern about it? The answer is that the natural resource base which makes possible the livability and the economic activities of the coast is being changed by these very activities. When a river is dammed for flood control or water supply, freshwater, nutrient, and sediment inflows to the bays may be curtailed. When a channel is dredged, bay circulation patterns are changed by both the channel and its spoil area. When a marsh is partly filled for a recreational or second-home development, marsh productivity is diminished. The complexity and interdependence of both the human and natural systems along the coast mean that activities using coastal resources may have unseen but important repercussions. To assure a lasting and desirable mix of benefits

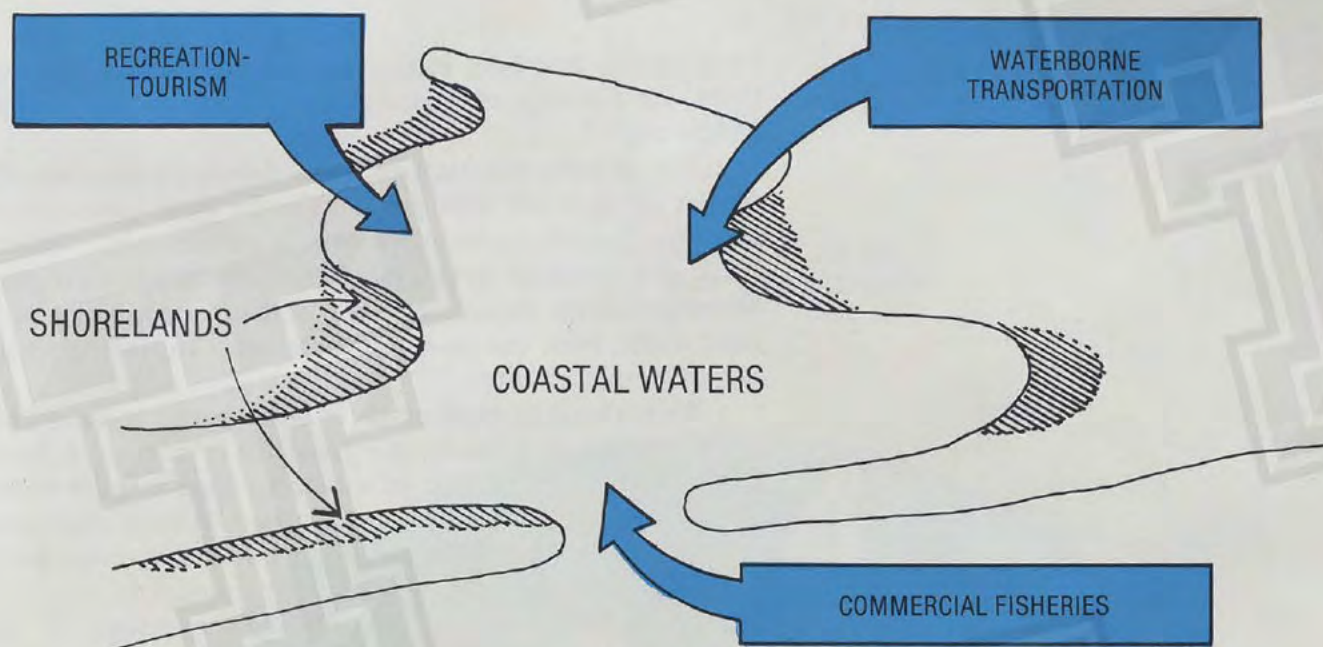


Figure 1
ECONOMIC SECTORS THAT DIRECTLY "BID"
FOR GOODS FROM COASTAL WATERS

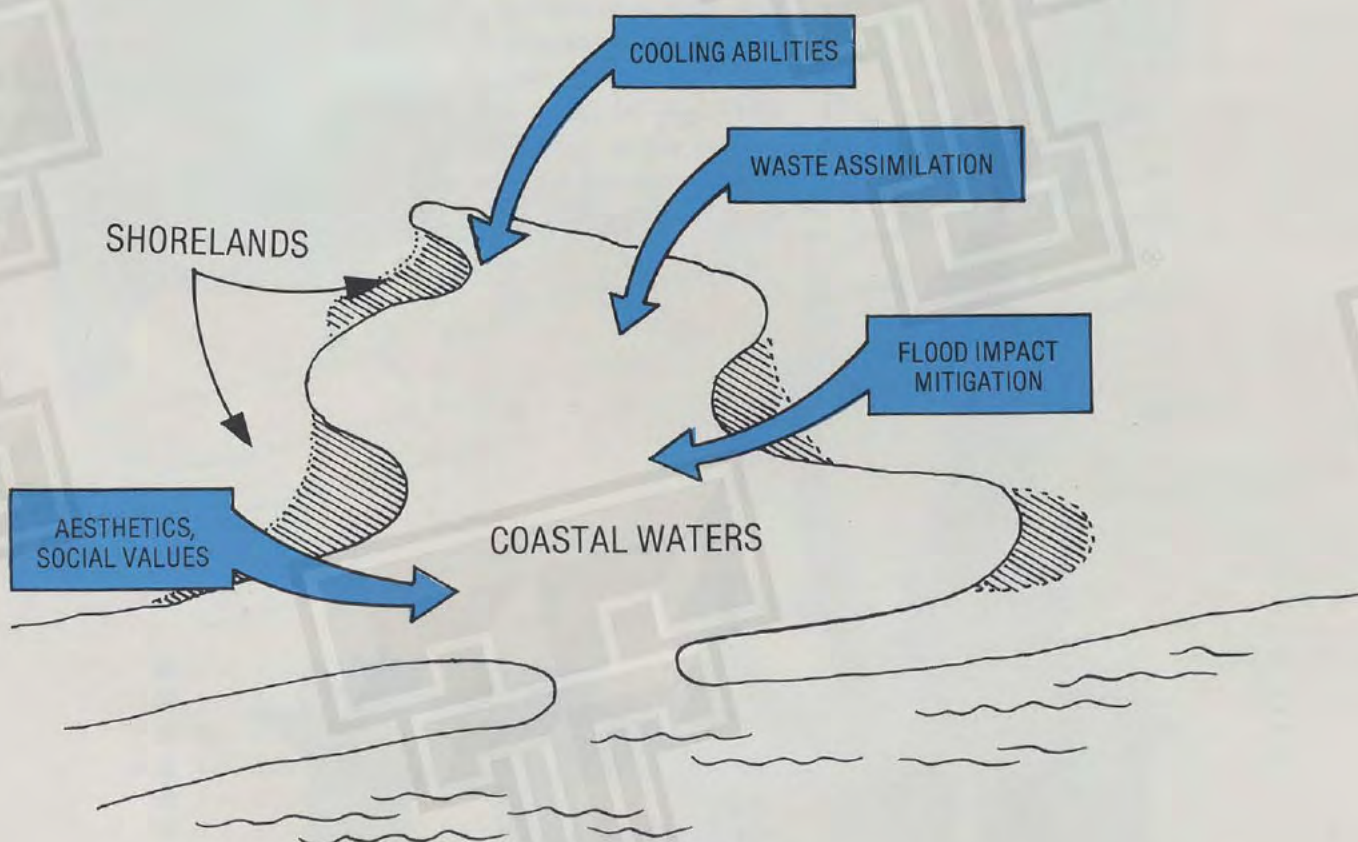


Figure 2
NONMARKET VALUES OF COASTAL WATERS

from coastal resources in the face of growing demands upon them, the workings of coastal resource systems must be better understood.

Not all areas of coastal waters or shorelands are alike. They do not all yield the same products in the same quantities, nor do they need the same ingredients to sustain them. Although beach and shoreface areas, marshes, oyster reefs, tidal passes, submerged grass areas, tidal flats, and other resources of the coast differ from one another, these areas are interconnected and affect one another.

To understand each of these areas in the context of the coastal system as a whole, the coastal system may be broken into a manageable number of subunits. These may be referred to as "composite resource areas" (fig. 3) since they group together into functional units various physical features and life forms which are typically associated in nature.

"Composite resource areas," whether natural or man-made, are mappable entities defined by local characteristics of processes, substrate, landforms, soils, biota, and other factors that naturally support certain levels of human activities without appreciable environmental harm or human hazard. Each composite resource area can be described in terms of its "sustaining parameters"—that is, specific energy and material inputs, products, and characteristic features which, in combination, make that area a functional unit. Resource areas are interconnected by movements of materials, organisms, and energy.

These composite resource areas and their sustaining parameters must be taken into account if public and private decision-makers are to harmonize the intensive use and development of coastal resource systems with the continued economic productivity and livability of the area.

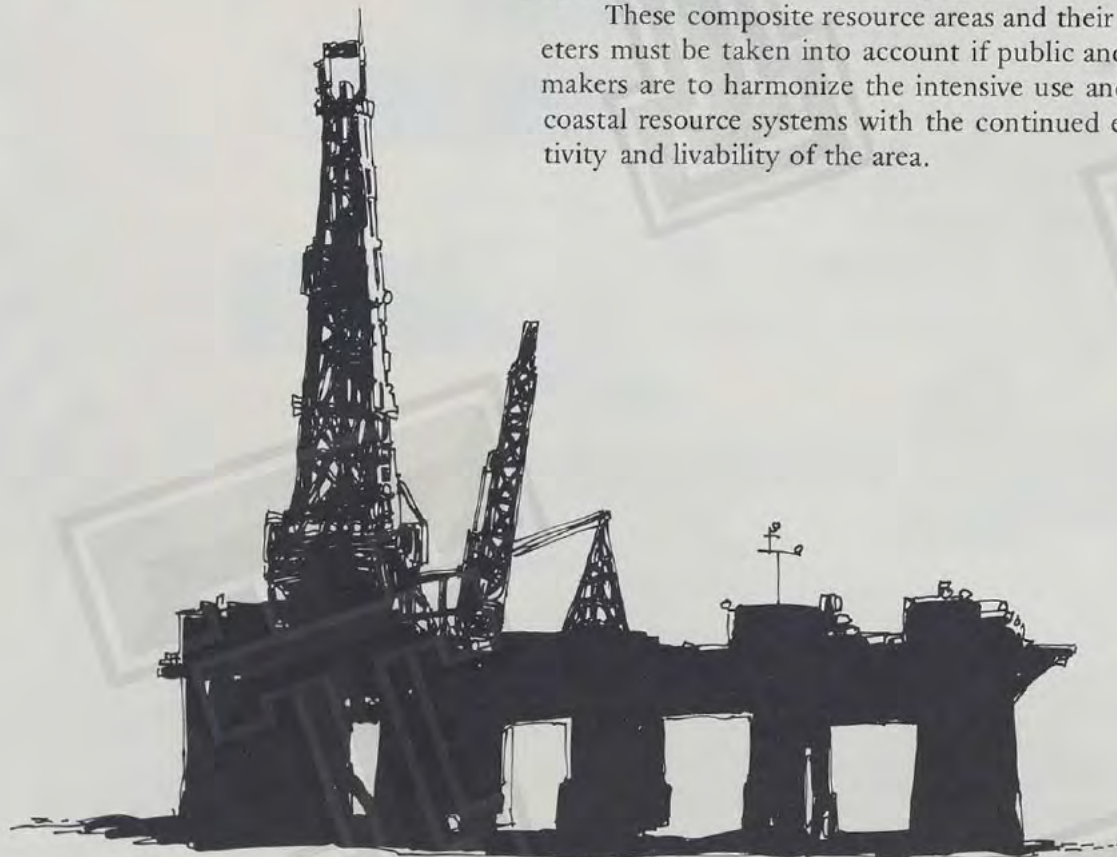
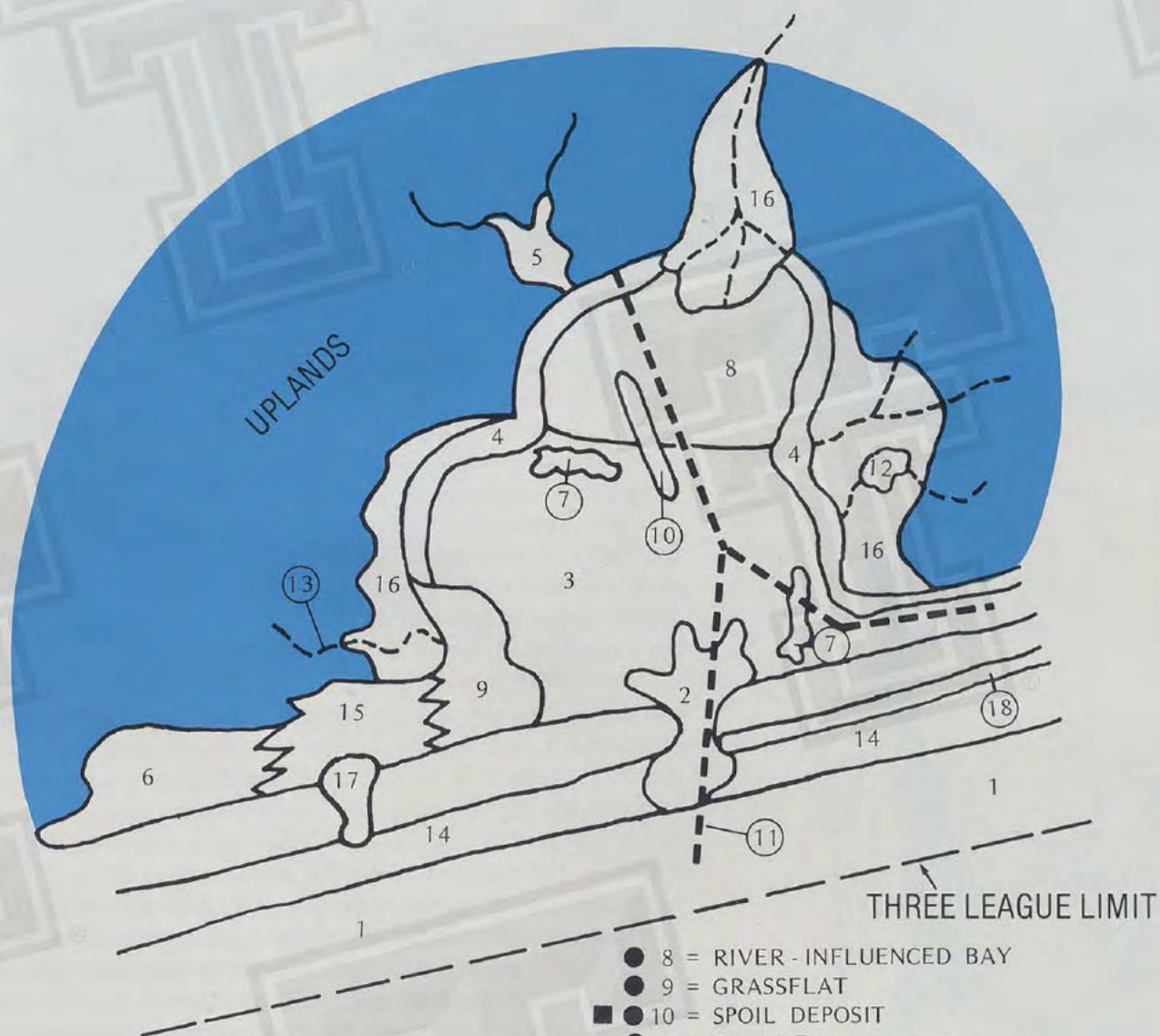


Figure 3
COMPOSITE RESOURCE AREAS OF
COASTAL WATERS AND SHORELANDS



- 1 = NEARSHORE GULF
- 2 = INLET/TIDAL DELTA
- 3 = MEDIUM-SALINITY BAY
- ● 4 = BAY TRANSITIONAL AREA
- 5 = RESTRICTED BAY
- 6 = HYPERSALINE BAY/LAGOON
- 7 = REEF AND REEF-FLANK AREA

- 8 = RIVER-INFLUENCED BAY
- 9 = GRASSFLAT
- ● 10 = SPOIL DEPOSIT
- 11 = CHANNEL - - - - -
- 12 = COASTAL LAKE
- 13 = TIDAL STREAM - - - - -
- ● 14 = BEACH/UPPER SHOREFACE
- 15 = WIND-TIDAL FLAT
- 16 = TIDAL MARSH
- 17 = WASHOVER COMPLEX
- 18 = ACTIVE DUNE COMPLEX

● COASTAL WATERS ■ SHORELANDS

■ ● COMBINATION COASTAL WATERS AND SHORELANDS



Role of Government

Given the rising demand for the economic resources and livability of the coast, and given the complex interdependence within and among the human and natural systems of the coast, why are these coastal issues governmental concerns rather than merely private sector matters? The answer is that a large part of the coastal resource base is publicly owned and still more of it is subject to long-established regulatory and public investment programs.

All coastal salt water is publicly owned, as are the fish and wildlife in these waters. Nearly 4,000,000 acres of submerged lands and tidelands are owned by the state, and many thousand more acres of coastal waters, islands, and peninsulas are publicly owned parks, refuges, and ports.

The state also conducts many regulatory and investment functions in the coastal area. Regulatory activities such as the state's air and water quality programs, solid waste disposal programs, fisheries regulation, and public safety regulations have been established. Some of the regulatory activities, such as fishery regulations, are designed to protect public resources. Others are enacted to protect the public's interest against undesirable externalities, or "spillover effects." An example of such a spillover problem is air pollution, which cannot be adequately resolved by private enterprise alone because not all the costs and benefits of the decision to dispose of wastes into the air are borne by the parties making the decision. Significant costs are borne by others in the area whose health and property are damaged by the polluted air. Apart from governmental action, the polluter would have no economic incentive to avoid imposing this cost upon others. In addition, the public investment in public facilities on the coast such as parks, roadways, and waterways is large, and the state's disaster relief and preparedness activities for the coast are also important. Finally, promotional programs for industry, tourism, and marine resources are also conducted by the state. Clearly, the state is a major investor in the Texas Gulf Coast and an important source of the developmental pressure upon the coast. Therefore, the state should organize and conduct its activities on the coast effectively, efficiently, and with a view to its continued productivity and livability.



Summary

The coast is a focus for concern because the increasing use and demand for coastal resources raises doubts that the economic productivity and livability supported by coastal resources will be maintained. Coastal resources, economic productivity, and livability are interdependent. Economic activities use natural resources, and natural resources provide the "raw materials" for a livable environment. Economic activities also produce jobs and dollar flows that increase livability and provide tax revenues. Livability, in turn, is determined by intangible values of resources, both natural and social. These matters fall within the scope of state governmental concern because of the state's long-established role as a major owner and regulator of coastal resources, and as an investor in public facilities such as waterways and parks.

CHAPTER II
**CURRENT COASTAL
MANAGEMENT AUTHORITY**





Overview

Although most management decisions affecting the coastal area are made by private interests operating in a market economy, they are made within the framework of local, state, and federal regulation. The role of state government has three basic facets:

1. The state owns and manages extensive coastal public resources.
2. State government currently exercises extensive regulatory authority over many privately owned coastal resources and exercises further regulatory authority in the interest of public safety.
3. The state is a major investor in a variety of coastal facilities.

Because the Coastal Management Program has observed considerable interest among the public in the state's role in managing coastal resources, and because both the state and federal governments want the state to play a proper and effective role in coastal matters of greater than local concern, this chapter examines the role of state government in coastal management.

The Market System

The private sector—from the individual citizen who shops in the grocery store to the giant, multinational corporations—makes most of the decisions that affect coastal resource uses. Such decisions as what use will be made of a particular tract of land, what product a plant will manufacture, or what crops will be planted are made by private decision-makers in response to market forces.

When public problems arise from private decisions concerning coastal resources, government necessarily intervenes in the market system. Only a small portion of all coastal decisions, however, cause such problems.

Government also intervenes by providing public works and services—roads, schools, dams, ports, and police and fire protection—which the private sector cannot economically furnish to all segments of the public. Finally, state government manages publicly owned resources such as lands, waters, and fish.

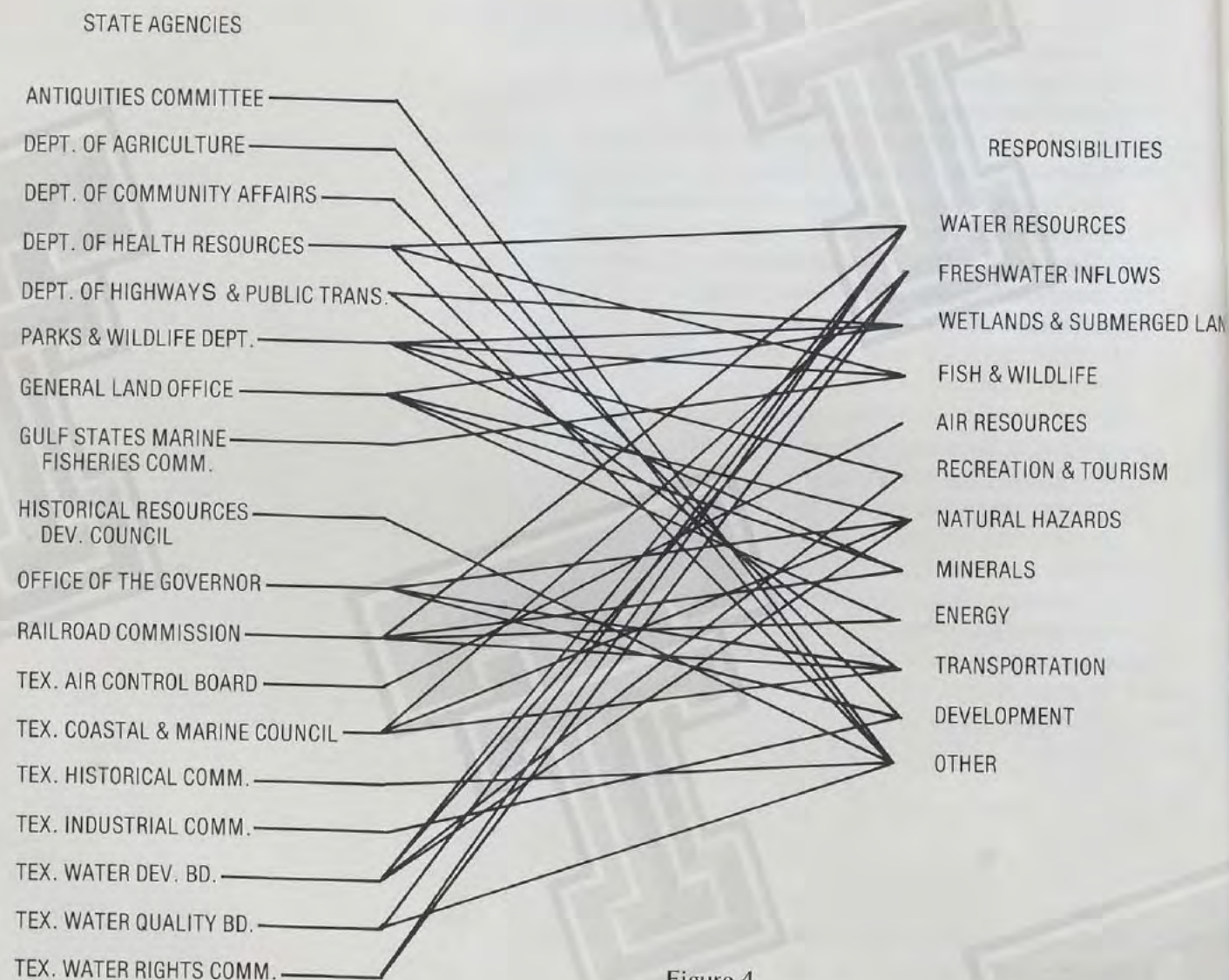


Figure 4

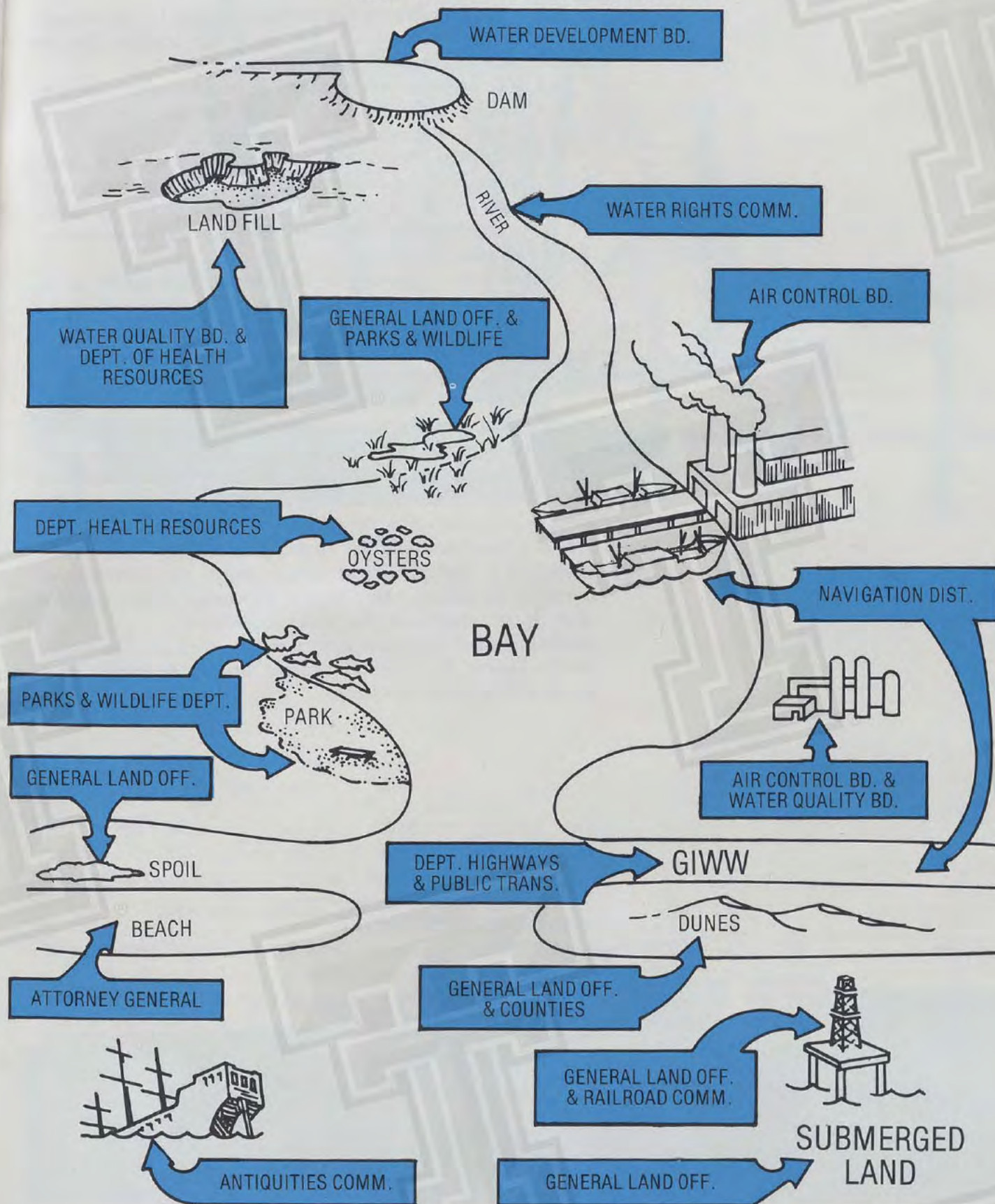
RESPONSIBILITIES OF VARIOUS STATE AGENCIES

Coordination of Agency Activities

The principal entity for the coordination of state agency coastal activities is the Interagency Council on Natural Resources and the Environment (ICNRE). Composed of the executive directors and elected heads of the state agencies responsible for management of natural resources, the council is chaired by a representative of the governor. The ICNRE was established by an executive order of the governor under the authority of a 1967 statute that created the Governor's Division of Planning Coordination (now the Governor's Budget and Planning Office) and authorized the governor to create interagency councils to coordinate state planning activities. The effectiveness of the ICNRE can be debated, but the following general statements can be made about council operations:

Figure 5

EXAMPLES OF COASTAL AREAS
REGULATED BY STATE AGENCIES



1. The effectiveness is determined largely by the strength and persistence of the leadership exerted by the governor or his designated chairman.
2. The principal role has been to improve communication among agencies. The council has no authority to require cooperation and coordination.
3. Typically, the council's meetings are spent in broad discussion and condemnation of federal intrusions into state affairs, establishing committees to study issues, and scheduling subsequent meetings of the council or its subcommittees.
4. Member agencies generally pay little attention to the council.
5. Few executive directors attend council meetings and significant program or policy differences between or among agencies are seldom discussed.

Besides the formal coordination mechanism, many informal procedures exist among agencies. Agencies at the local, state, and federal levels that have similar responsibilities frequently establish informal relationships as personnel who work together trade information. These informal procedures frequently go further than the formal procedures in providing the necessary coordination, but they do not always exist where needed and depend almost totally upon the initiatives of individual personnel, who can and do change. These informal channels are inadequate for policy coordination. Agency staff members cannot formulate agency policy; thus, coordination is usually limited to technical matters, leaving the major inter-agency policy issues unresolved.





Summary

Coastal management has been a concern in Texas for a century. Most management decisions are now and will continue to be made by the market system. The coastal resources of this state are managed partially by a variety of local, state, and federal governments acting as regulators, owners, or investors. Acting through a number of agencies, most of which operate under appointive boards or commissions, the state has the necessary authority to regulate coastal resources with the exception of some wetlands. Coastal management in Texas does not lack policy, programs, and personnel; but it does need better linkages between legislative policy and budgeting decisions so that better policy-level coordination among its many agencies can be assured. This form of government offers advantages which Texans have traditionally believed very important; however, these advantages need not be purchased at the price of poor coordination.

CHAPTER III **THE PROBLEMS**



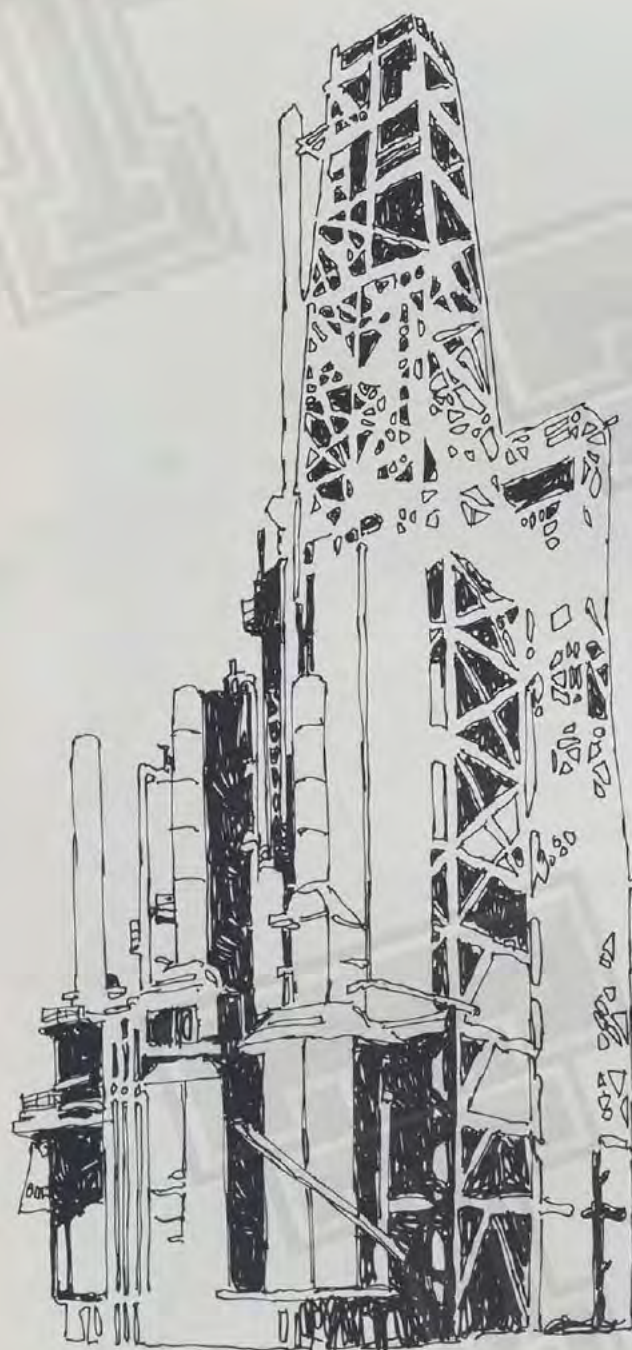


Overview

Growth and development along the Texas Gulf Coast are both desirable and necessary. There are problems, however, with the way the state performs its three-part role as coastal owner-regulator-investor, and these problems may prevent realization of the full potential of the coast. The state's present network of coastal agencies, programs, and priorities has been built up in a piecemeal fashion, new parts addressing narrowly defined problems without regard to the whole of the coastal economic, environmental, and social systems. As a result, the state's priorities can be easily confused or forgotten, management efforts by one agency may be frustrated by programs of another, and important state needs can be overlooked. These management problems cost the taxpayers money and short-change the public interest.

The problems are as follow:

1. State policy planning and coordination are inadequate to ensure effective and economical government.
2. The state's data management and research coordination practices do not adequately serve management needs.
3. Present state decision-making processes are not sufficiently responsive to the complex interactions among the natural and economic systems of the coast.
4. Further data and information programs are needed in response to coastal hazards.
5. New policies and programs are needed to assure balanced management of the state's bay and estuarine systems.



Policy Planning and Coordination

The responsibility for coastal management functions and for other activities that affect coastal resources is divided among a great many agencies, each with a separate mission and each of which typically answers only to its own separate board or commission. These boards and commissions are only indirectly accountable to the governor and, under present arrangements, are substantially beyond legislative scrutiny. Given limited accountability, considerable agency autonomy is to be expected, and interagency coordination at the level of budgetary policy planning occurs only to the extent that it is mutually advantageous to the agencies involved. Efforts to solve this problem through the present interagency coordinating mechanism, the ICNRE, have failed because policymakers have not been placed on the ICNRE and because the participants do not have a sufficient incentive to coordinate their policies and activities. Some technique, short of creating a superagency, must be found to assure that state agencies are held accountable for coordinating their plans and programs affecting the coast.

Information and Research Management

Intelligent management of complex natural systems requires reliable, well-organized information which is systematically gathered in response to the state's most important management concerns. However, state decision-making is often frustrated by one or more data management problems. In some cases, important coastal information has not been developed, while in other cases the same information has been gathered time and again. In some instances research has been conducted but never made available to those who would need or use it; in others, the results of needed research are not useful because the data have not been developed or presented properly. Present procedures offer no assurance that the state's priority needs for research and data will guide the spending of the state's research dollars. On the other hand, research institutions seeking to build their efforts around the state's highest priority data needs may find it difficult to discover what those priority data needs are.

Attempting to manage complex coastal resources without an adequate information system assures that the public will pay at least twice—once when tax dollars are misspent for invalid, duplicative, or unnecessary research, and again when faulty decision-making improperly delays or permits a coastal activity.

The basic cause of data management problems is that data-collection efforts are fragmented. Commonly, data are collected by agencies and institutions that are separated from managers and regulators, and there are often no formal lines of communication among the various entities.

Data are often collected simply because the money is available. There is a definite need for pure research, but some publicly funded research should be directed at public problems.

These problems must be clearly defined, and the state's budgetary review process should measure research proposals and performance against the state's needs.

Systematic Activity Assessment

Prudent and effective decisions affecting complex coastal natural, economic, and social systems require not only data, but careful and systematic use of those data in assessing the consequences of activities. Virtually every important coastal activity requires one or more state permits, and decisions are made every day on activities which have significant consequences for the coast. Yet, in many instances there are no systematic procedures to evaluate the chain of consequences a given act may impose upon the coast. Thus, it is likely that many unimportant questions will be asked of a permit applicant and that many important ones will not be asked. This injects unnecessary risks of delay and arbitrariness into the state's decision processes. A systematic procedure is needed which will bring all relevant data to bear on these decisions and which will identify the criteria on which judgments must be founded. Such a procedure would also aid the state in identifying and ranking its data needs.

Natural Hazards

More information on these hazards should be developed and the public must be better informed of them in order to minimize their losses.

Bay and Estuarine Management

The state's bays and estuaries are an important public resource. They provide habitat for fish, birds, and other wildlife; they afford recreation and scenic enjoyment to both tourists and residents; and they contain important archaeological sites and historic treasures. These same bays and estuaries provide waterways and mineral production sites essential to the state's economy, and waterside locations are highly prized for resort and second home development. Despite the fact that the multiple uses and values of the state's bays and estuaries are well known, the permitting for various interacting bay uses is conducted by several different agencies—but without unifying policies as to the consequences of their separate decisions. Most significantly, provision must be made for adequate inflows of fresh water, sediment, and nutrients into the bays so that acceptable levels of biologic productivity can be assured. Furthermore, to achieve the best combinations of uses of these bays, careful plans for siting waterways and spoil disposal areas must be made, and activities which would disturb bay bottoms and wetlands must be closely examined.



Overview

To improve the present coastal management efforts of the state will require only a few changes, but they are very important ones. The improvements will make better use of present funds, personnel, and programs; yet they can be achieved without creating a superagency, expanding bureaucracy, increasing costs of government, or infringing on property rights. The process necessary to achieve this improvement is established by the following four recommendations.

1. The ICNRE should be transformed into a policy-level council for reviewing, proposing, and coordinating the state's coastal policies and activities. For convenience, this council will be referred to as the Natural Resources Council (NRC). This change should make coastal management more accountable to the public, the governor, and the legislature. It should also direct existing funds and personnel to the most important coastal needs.
2. An organized information system, housed in the Governor's Office, should be established. This system would provide the basis for better permitting and planning decisions on the use of coastal resources. It would also improve agency coordination in existing permitting procedures and other review processes. Finally, the information system would furnish a means for updating the boundaries of the coastal management area and for identifying new coastal data needs.
3. A process should be established for assessing, in advance, the probable economic, environmental, and social effects of specific activities planned for particular coastal locations. As part of their assessments of coastal activities, state agencies should be required to use this or a similar routine and should be required to consider the concerns of other state and federal agencies in reviewing coastal activities.
4. The management process should focus on the coastal waters and the shorelands closely related to these waters in order to assure that improved coordination, information, and decision-making processes for this area are provided.

Other recommendations directed to specific topics are

1. that subsidence control and sand dune regulation be reviewed,
2. that state wetlands policies and programs be clarified and better coordinated and that a state wetlands regulatory program applicable to all dredge and fill operations in coastal waters except major navigation proj-



CHAPTER IV

**A PROPOSAL FOR
IMPROVED
COASTAL MANAGEMENT**



ects be created so that delegation of Corps of Engineers authority in this area can be pursued,

3. that the necessary levels of freshwater inflow to the bays and estuaries be recommended to the governor and that equitable means to assure these levels in drought times be proposed to the governor, and
4. that an improved state-federal coordination technique be implemented.

These proposed recommendations do not present the only way to manage the coast, but they offer a set of improvements which are practical and can be effective within the board and commission form of government established by the state constitution. The following principles have been considered in evaluating the state's alternatives:

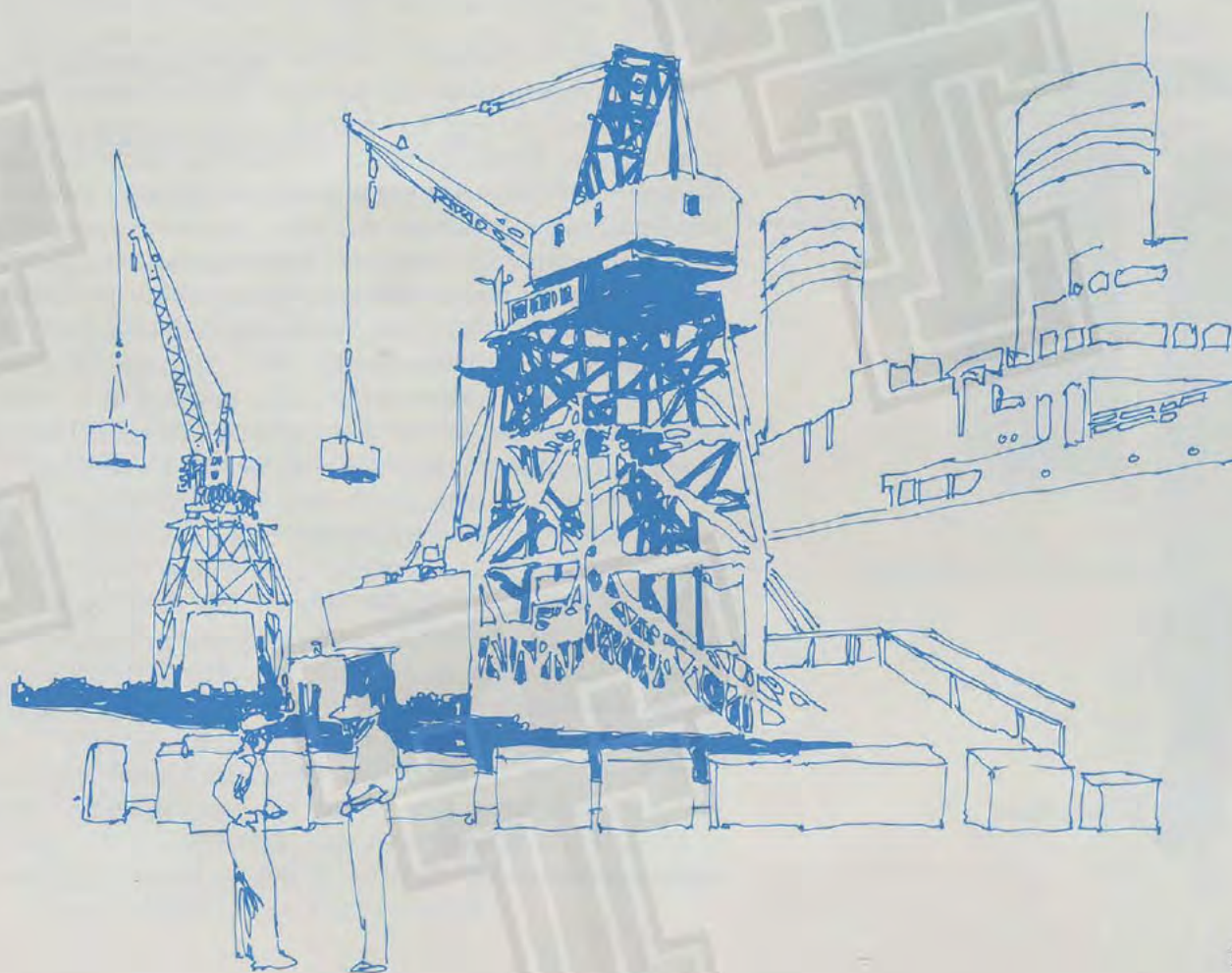
1. Human well-being should be the first concern of the government in balancing resource use with continuing coastal resource productivity.
2. Private property rights should be protected.
3. Improved coastal management should help solve problems not adequately met by present public or private actions.
4. Where market allocation of resources works satisfactorily, it should continue without undue governmental intervention.
5. Insofar as possible, the current coastal management policies and practices that have proved successful should be retained.
6. Some general policy priorities for coastal management exist, but there should be a systematic way to review and recommend priorities.
7. Coastal management should be fair. The various considerations applied in governmental decision-making on coastal resources and activities should be identified, and decisions should be based on rational standards.
8. A systematic and flexible activity-assessment process is needed to allow the state's agencies to exercise their present authority properly and to avoid arbitrary decisions.
9. Decisions must take into account overriding state or national concerns, and a flexible management process will be needed to allow for changes in these concerns.
10. The preferences and priorities of local citizens should be considered, and whenever possible, decisions should be made at a local level of government.
11. The coastal management process and governmental decision-makers should be accountable to the public.
12. Coastal management should be visible and understandable to the people. There must be effective means for the public to be informed about and comment on the workings of the coastal management process.



13. Coastal management should be cost-effective. It should make better use of existing governmental expenditures and strive to avoid new, higher costs in government by focusing efforts on highest priority needs and reducing duplication.
14. Finally, Texas' coastal program should satisfy requirements under the federal Coastal Zone Management Act of 1972. A federally approved program will be able to extend state authority over most federal activities within the state's coastal management area. Approval will also mean federal matching funds will be available to help implement the program.

Establishment of the NRC

Four changes are needed to transform the present ICNRE into a natural resources council (NRC) which can serve as a policy-level council for reviewing, proposing, and coordinating the state's coastal policies. First, each agency currently represented on the ICNRE should be represented on the NRC by a gubernatorially designated member of that agency's board or commission who would serve as the voting member for that agency. Executive directors would continue to attend—and would be more likely to attend—but as nonvoting members.





Other support staff from each agency would attend as requested by their respective executive directors. The present ICNRE should not be expected to coordinate the state's coastal policies and activities because it is composed principally of agency executive directors—administrators—rather than officials responsible for policy-level deliberations. Board and commission members, however, are private citizens appointed by the governor to establish agency policies pursuant to constitutional and legislative directives. In contrast to an executive director, whose perspective is necessarily narrower because of his responsibility for a single agency, a board or commission member is called upon to take a larger view in setting agency policy. Effective policy coordination among agencies also requires this broader perspective.

The second change required is to provide that the NRC's membership include, in addition to all agencies presently represented on the ICNRE, nonvoting representatives of the Governor's Energy Advisory Council, the Attorney General's Office, and the Legislative Budget Board (LBB). The first two are necessary because they have important policy concerns affecting the coast. A representative of the LBB is needed in order that the NRC may serve as a continuous source of information on coastal matters to the LBB.

Third, the NRC should be chaired by the governor, the state's chief fiscal and planning officer. In his absence, only a full-time personal representative of his office should lead the council.

Fourth, a 15-member citizens' advisory panel to the NRC should be appointed by the governor. This committee would be an important channel for further citizen participation in the state's policy formation process. Since the NRC's responsibilities are not limited to coastal issues, the advisory panel should not be drawn solely from the coast. Statewide representation balancing economic, social, and environmental interests is suggested, with no fewer than five positions to be filled from coastal counties. This group would be provided staff services from the small staff serving the NRC. Through its powers to monitor the NRC and to hold public hearings, this committee could increase the public visibility and accountability of the state agencies and would assure that local views are aired.

Supported by a small staff responsible to the governor, the council would develop and present recommendations for coastal policies, priorities, and activities in a biennial report to the governor and legislature. Other council functions would include commenting on coastal programs proposed in budget requests, recommending data management standards, developing techniques for systematic permit review, monitoring coastal planning and research, and conducting special studies.

To prevent continuation of an ineffective organization beyond a reasonable trial period, the NRC should be designed to dissolve automatically at the end of four years unless the legislature finds that the council merits continuation. Written

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into the council's statutory charter, this feature should put the council on notice that a superfluous organization will not be tolerated. Such a provision would also clearly communicate the people's intent that the council perform its function vigorously.

This transformation of the ICNRE into the NRC offers four important advantages. First, it increases the visibility of agency policies and actions so that the legislature, in exercising its budgetary authority, and the governor can hold the state's agencies more accountable for the effectiveness and economy of their efforts. Because the essential problem of coastal management in Texas is not a lack of policies, but a failure to support those policies with adequate funding, performance reviews, and coordinating efforts, the proposed NRC is the appropriate response to the Texas situation. Other states may lack information, policies, programs, or personnel, but in Texas, the need is to assure the appropriate ties between budgeting and performance. It does not, however, create a superagency or threaten the legitimate independence of agencies to check and balance each other. Second, the minor changes required for implementation are neither difficult nor costly, because the proposed recommendations would leave the operating authority for coastal management with the state's existing agencies. Third, the NRC would offer greater opportunity for gubernatorial leadership in all matters of coastal policy and budgeting. Finally, providing for automatic dissolution of the agency at the end of four years puts the council on notice of the need for effective performance, and it assures that if the council is ineffective, it will not continue past its trial period.

Proposed Changes in Information Management

To assure thorough coordination of the state's information management activities and to provide the current, reliable data necessary for managing coastal resources effectively and economically, three improvements in present practices are needed. First, to assure coordination of the state's coastal research and monitoring efforts, the NRC should identify and rank the state's coastal data needs. This will provide the governor and legislature with valuable background information for determining funding priorities. Specific information is needed:

1. The locations and identifying characteristics of the composite resource areas found in coastal waters should be monitored, and current systems diagrams of the characteristics, processes, and products of each composite resource area of coastal waters should be maintained.
2. Further details are required on the causal relationships linking the coastal activities to environmental changes, and linking environmental changes back to economic consequences.
3. Additional economic data to refine the state's input/output model are needed, especially for those sectors using or depending on coastal waters.





4. Information on the nonmarket values of coastal resources is needed. This would include natural productivity as well as aesthetic and social values.

Second, to ensure that the information gathered by many different institutions is compatible with existing state data systems and equipment, the NRC should develop and recommend to the governor standard data formats, data-gathering procedures, and storage systems for use by the state. The Governor's Office should then require all state research and monitoring projects to satisfy those criteria. The Texas Natural Resource Information System (TNRIS) has made significant progress toward identifying such standards, and the NRC should build upon that effort.

Third, to assure ready availability of state data to all users, a computerized data bank responsible to the governor and linking all university and state agency data banks should be established.

Proposed Activity-Assessment Routine

To ensure systematic consideration of the environmental, economic, and social consequences of coastal activities by the state's permitting agencies, all permitting agencies should be required to develop decision-making processes which take reasonable account of these considerations, whether by voluntary adoption of the proposed assessment routine or by use of a similar systematic review process. To assist the state's agencies in meeting this requirement, an activity-assessment routine is proposed. This routine organizes the permit application evaluation process so that the decision-maker is directed in an ordered sequence to the important environmental, economic, and social questions presented by a permit application. The analytical routine also identifies steps which might be taken to enhance or reduce specific consequences of an activity. This process does not restrict the decision-maker's discretion in awarding or denying a permit. It does make possible, however, a full accounting of the facts and reasons underlying a decision; and any interested party should be entitled to such an accounting.

To assure full and fair consideration of the whole of state policy and of the legitimate national interest, all agencies should be directed to harmonize their coastal decisions to the fullest extent possible under present law with all of the state's coastal policies and with the national interest.

Proposed Management Boundary

The proposed boundary for state coastal management purposes includes the coastal waters and only those closely related shorelands that are intimately related to the coastal waters. This means that only a fraction of each coastal county is within the management area (plates 1-7).

The seaward boundary of the coastal management area lies three marine leagues (10.35 miles) offshore in the Gulf of Mexico, and all islands in the state's coastal waters are included

in the management area. The landward boundary includes both coastal waters and those shorelands that are so closely connected with the coastal waters that human or natural effects on one area will cause effects on the other. This boundary is difficult to locate permanently because areas such as dunes or wetlands shift. Salt- to brackish-water marshes are in the management area, but freshwater wetlands are excluded. Only those dunes and blowout areas next to the Gulf shoreline are included.

This management area is proposed for two reasons. First, it establishes the geographic area within which the state's coastal management activities should be focused to improve the coordination, economy, effectiveness, and accountability of government. Second, if the state's coastal program is certified as expected under the federal coastal management act, then the proposed boundary determines the area in which federal activities must conform to the state's program.

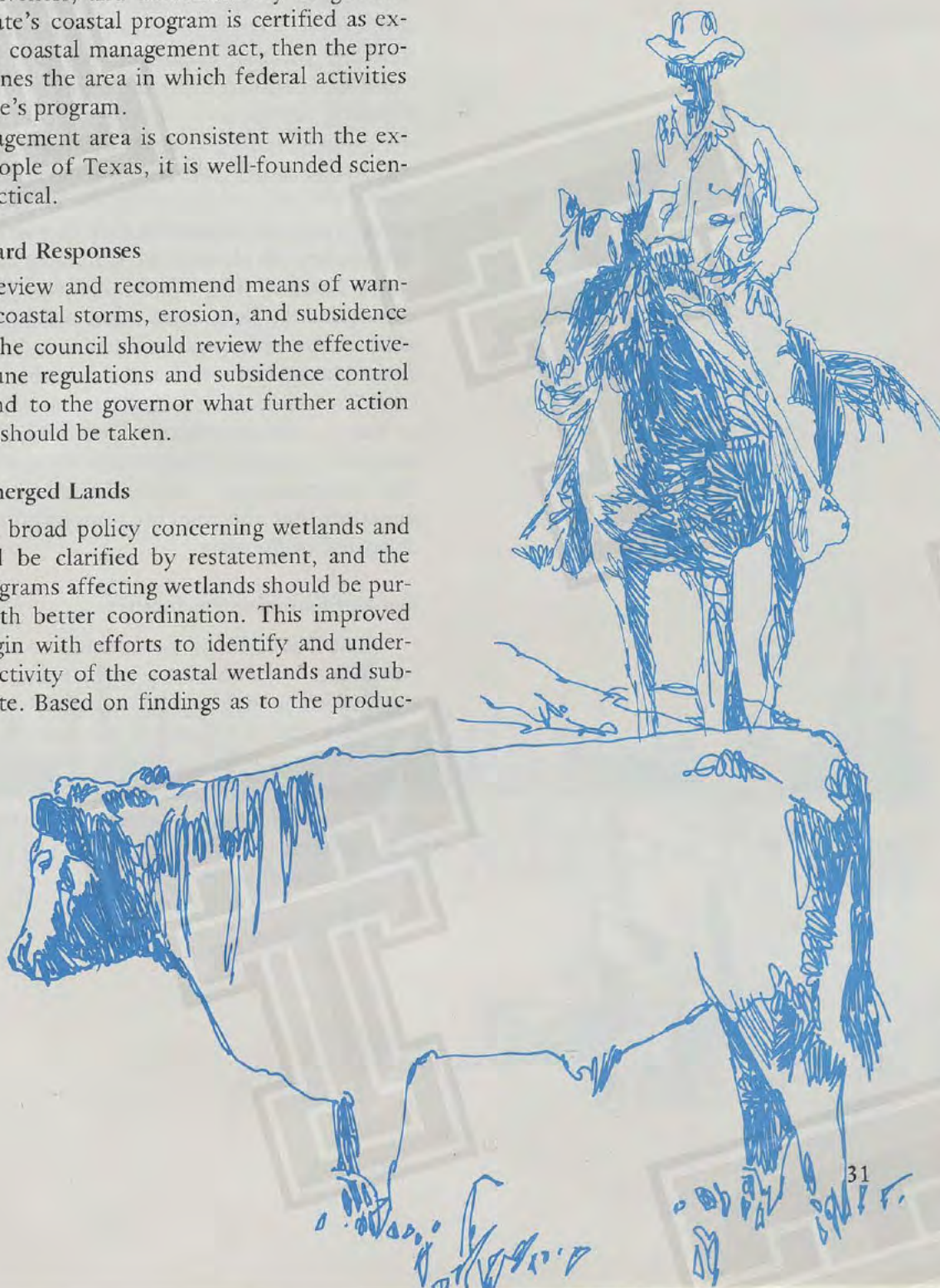
The proposed management area is consistent with the expressed wishes of the people of Texas, it is well-founded scientifically, and yet it is practical.

Proposed Review of Hazard Responses

The NRC should review and recommend means of warning property owners of coastal storms, erosion, and subsidence problems. In addition, the council should review the effectiveness of existing sand dune regulations and subsidence control measures and recommend to the governor what further action on these matters, if any, should be taken.

Coastal Waters and Submerged Lands

The state's present broad policy concerning wetlands and submerged lands should be clarified by restatement, and the state's activities and programs affecting wetlands should be pursued vigorously and with better coordination. This improved coordination should begin with efforts to identify and understand the varying productivity of the coastal wetlands and submerged lands of the state. Based on findings as to the produc-



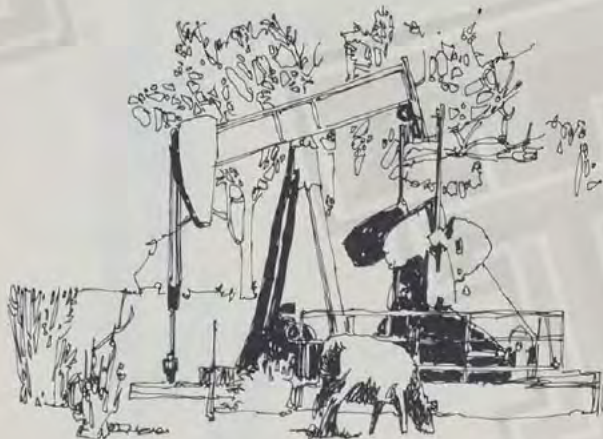
tivity of specific wetland areas, the state should make a concerted attempt to acquire by gift or purchase for public management those areas of critically important productivity.

These state efforts toward better information, policy clarification, and interagency program coordination will be augmented by implementing the foregoing recommendations for data management, activity assessment, and policy-level program review. Better data management and activity assessment should also enable the state's agencies to participate more effectively in the processes of the Corps of Engineers for regulating dredge and fill operations in coastal waters.

Present Corps processes for deciding dredge and fill permit applications have been criticized as too protracted and not sufficiently focused upon the relevant issues. To expedite, to rationalize, and to bring under more local control the processes affecting dredge and fill operations in coastal waters, the state should be prepared to assume primary responsibility for regulating dredge or fill activities which occur in coastal waters but which are not conducted by or under contract to the Corps. State wetlands regulation should not be undertaken unless it can be done in place of the Corps' wetlands regulation activities under Section 404 of the Federal Water Pollution Control Amendments. This means that a delegation of Corps responsibility is desirable and should be sought under both the Coastal Zone Management Act and any other relevant federal legislation. To assure state preparedness, appropriate state statutory authority vesting regulatory responsibility in a specified agency should be enacted. The statute should be written, however, so that commencement of regulation awaits the governor's determination that the relevant responsibilities of the Corps can be delegated to the state.

Bay and Estuarine Productivity

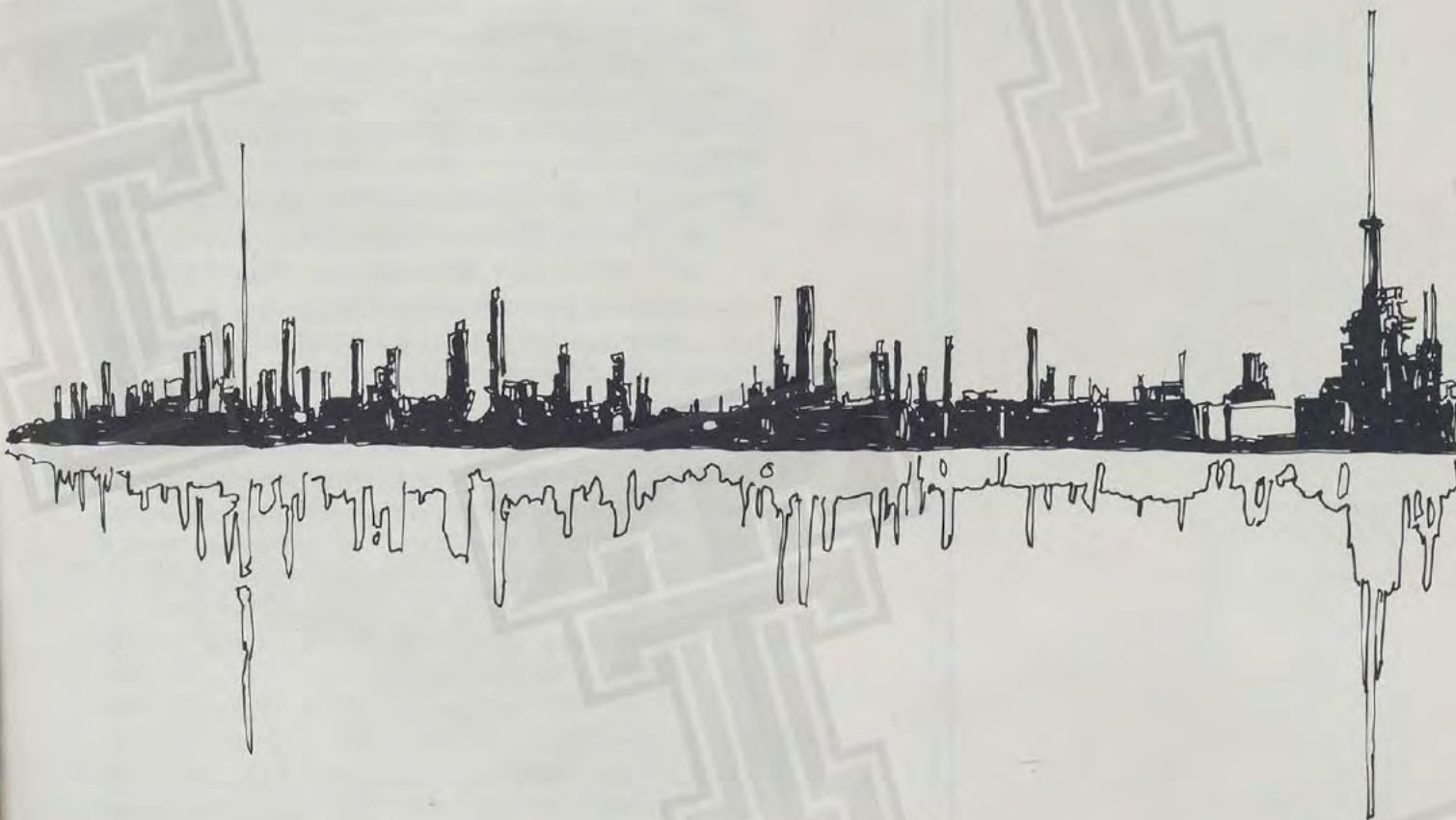
The NRC should be directed to recommend to the governor means of determining performance standards and methods to ensure the delivery of adequate amounts of fresh water, nutrients, and sediments to the bays and estuaries. The inflow standards should be determined on the basis of the available data about the requirements of these areas. The water needs of upland areas should be taken into account, and the NRC's recommendations should be reviewed as better information becomes available.



Federal Coordination

The state should obtain federal approval of its coastal management program so that it can require that federal activities in or affecting its coastal area conform to the state's program "to the maximum extent practicable." To be approved, a state program must include a method for considering the national interest in its coastal resources and for protecting that interest. To meet these requirements, it is recommended that the following actions be taken:

1. The NRC should be directed to maintain proper coordination with all interested federal agencies through the Governor's Office of State-Federal Relations and the Federal Regional Council.
2. All agencies should be directed to give full and fair consideration to the national interest in their deliberations on coastal resources.
3. The NRC should monitor all federal actions that may affect the Texas coast to ensure their consistency with the state's program.
4. If disputes between federal and state agencies in coastal matters cannot be resolved by the parties, the governor should determine the state's position. After his decision, an interested federal agency could pursue the matter further according to applicable federal regulations.



Summary of Recommendations

To achieve an orderly process for managing coastal resources, the following changes are recommended:

1. Draw the boundaries of the coastal management area to
 - a. include all coastal waters to the three-league limit—nearshore Gulf areas, inlets and tidal deltas, bays, lagoons, oyster reefs, grassflats, spoil deposits, channels, coastal lakes, tidal streams, and river mouths up to the farthest point of seawater intrusion;
 - b. include all beaches, barrier islands, spoil islands, wind-tidal flats, tidal marshes, washover areas, and sand dune complexes on the Gulf shoreline; and
 - c. exclude lands held under the exclusive control of the federal government.
2. Convert the Interagency Council on Natural Resources and the Environment (ICNRE) into a Natural Resources Council (NRC) which would function as a policy-level council to review and propose policies, priorities, and activities for the state's coastal program. This requires the following steps:
 - a. Each agency presently represented on the ICNRE should be represented by a member of the agency's board or commission as the voting member. Executive directors would attend, but as nonvoting members.
 - b. Include one representative each from the Governor's Energy Advisory Council, the Attorney General's Office, and the Legislative Budget Board as nonvoting members of the NRC.
 - c. Create a 15-member, gubernatorially appointed citizens' advisory committee for the NRC, with a chairman who is a nonvoting member of the council.
3. Establish in the Governor's Office a practical process for systematic assessment of the environmental, social, and economic consequences of proposed coastal activities. A state data management system based on existing systems should be structured to focus research on priority state needs and to provide data for the assessment routine and thereby assist state decision-making. Results derived from application of the activity-assessment routine and any information housed in the state data management system should be made readily accessible both to governmental entities and to the general public.

4. Direct all state regulatory agencies to use either the activity-assessment process developed for the Governor's Office or a similar process to assess environmental, social, and economic effects in reviewing all permit applications for proposed activities within the management boundary.
5. A three-part response should be made to the problems posed by coastal hazards.
 - a. Direct the NRC to determine how best to give notice of coastal hazards to purchasers and owners of coastal property.
 - b. Direct the NRC to determine whether additional protection for coastal dune areas is needed, and, if so, how to accomplish it in a manner consistent with the protection of private property rights.
 - c. Direct the NRC to review the state's efforts toward solving the subsidence problem and determine whether further action is needed.
6. Coordinate and clarify state wetlands policy; and, if the wetlands regulation program of the Corps of Engineers can be delegated to the state, establish a state wetlands regulation program to cover all dredge and fill activities in coastal waters except large navigational projects, such as those conducted by the Corps. Avoid duplication of the Corps of Engineers permitting processes.
7. Direct the NRC to recommend to the governor, on the basis of existing information, the freshwater, sediment, and nutrient standards which should be assured for the state's bays and estuaries. In addition, direct the NRC to recommend to the governor methods to assure proper distribution of water for upland and coastal needs in times of drought.
8. Direct all agencies to consider the national interest in exercising their powers, and direct the NRC to monitor federal actions on the coast for consistency with the state's coastal program. If disputes between federal and state agencies in coastal matters cannot be resolved by the parties, the governor should determine the state's position. After his decision, an interested federal agency could pursue the matter further according to applicable federal regulations.

Overview

The proposed coastal management program discussed in detail in Chapter IV offers four principal benefits to all coastal residents:

1. the preservation of state responsibility over coastal policy against potential federal intrusion,
2. increased accountability of state agencies for their activities on the coast,
3. increased efficiency in state coastal programs, and
4. practicality.

The proposed program would focus the coastal management efforts of state agencies on problems of concern to the full range of coastal interest groups without increasing current regulatory authority. Where government can improve a situation, the proposed program supplies a mechanism for the agencies to use in analyzing and solving coastal problems.

The recommendations made in this document may, like any proposals for change, have potential drawbacks which should be carefully analyzed. However, preliminary analysis shows that the advantages of the proposed program far outweigh the disadvantages. The costs involved in restructuring the ICNRE to establish the NRC, implementing the activity-assessment routine, and assuming the Corps of Engineers' jurisdiction over saltwater wetlands would be mitigated by direct savings to the state and private sectors and by some federal funding. Costs would be further reduced by increased interagency cooperation.

Preservation of State Control of Coastal Policy

The federal government, through the Coastal Zone Management Act, offers the State of Texas the opportunity to

- regain some authority presently delegated to the federal government,
- require federal activities on the coast to conform to state coastal policy, and
- prevent imposition of any federal coastal plan.

An approved state coastal management program may preempt imposition of a federal program. Were Texas not to act, and the federal government to decide that it was necessary to manage the Texas coast, current federal thinking might well lead to the imposition of zoning procedures. The undesirability of such an approach for an area as large and diverse as the Texas coast is evident. Implementation of the recommendations made in Chapter IV would allow Texas to implement procedures and policies that best serve its coastal management needs.

The Coastal Zone Management Act allows a state to increase its influence over federal activities in its coastal zone. The



CHAPTER V

ADVANTAGES OF THE PROPOSED MANAGEMENT PROGRAM



Secretary of Commerce is empowered to require federal agencies, with the exception of the Environmental Protection Agency (EPA), to conform their coastal activities to the state's approved program to the maximum extent practicable. It should be the burden of the federal agency proposing an activity on the coast to prove that the activity does indeed conform to the state's program to the maximum extent practicable.

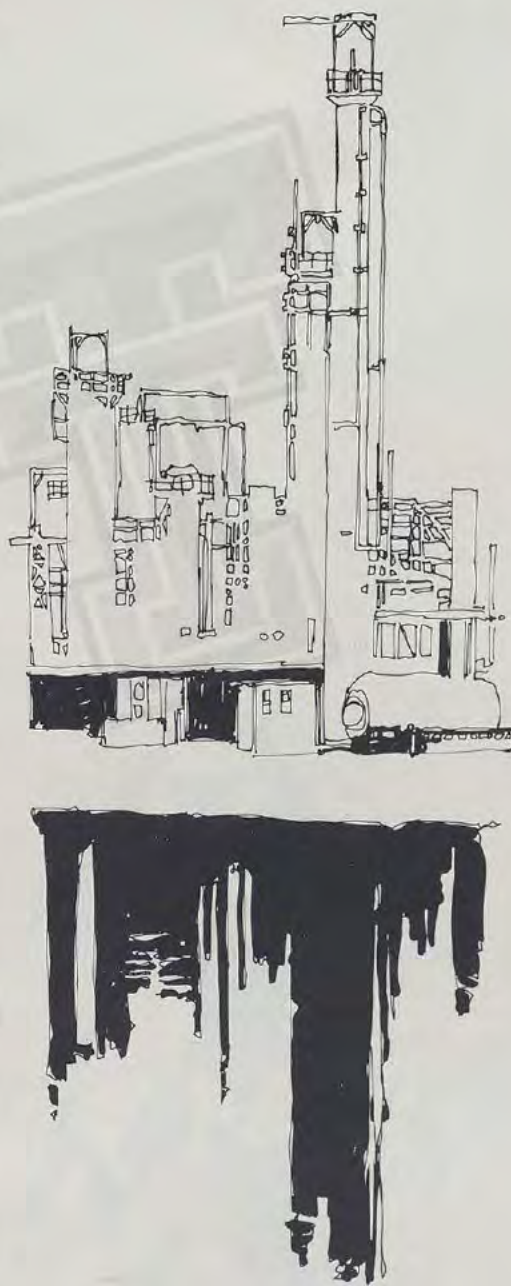


Perhaps most significantly, under the proposed recommendations, the state would assume permitting power over its wetlands. This power is presently exercised by the Corps of Engineers. The advantage of returning responsibility for this power to the state is seen in the difference between state regulatory proceedings and the proceedings conducted by the Corps. The state regulatory proceedings are quasi-judicial. Only evidence germane to the issues affecting the permit decision may be introduced. Corps proceedings allow any number of opinions to be presented and discussed at great length, whether they are relevant or not. Thus, permit decisions—approvals or rejections—are slowed, and both public and private costs are increased. The length of these hearings does not noticeably improve the quality of the decisions. By assuming permitting authority over the wetlands, the state would be in a position to efficiently make and implement policy in some of its most sensitive coastal areas.

Increased Accountability of State Agencies

This report has detailed the need for a systems approach to coastal policy formation in Texas. Basically, a systems approach to the coast and coastal policy is one which considers the coast to be a whole composed of interacting parts, each related to the other through one or more orderly processes. This view assumes that the alteration of any part of the coastal system is likely to produce changes in other parts and that policy made for any part of the coast must be reviewed for its consequences upon the rest of the coast. At present, no agency or elected official has the mandate or capability to make policy for the coast on a systems basis. Yet an overview of the coast as a system is essential if the state is to accommodate the maximum range of activities in coastal areas while conserving the underlying resource base at an acceptable level. Without a systems approach to the coast, state action can only blindly seek to foster the fullest possible yield of benefits from coastal resources.

The proposed coastal program creates an organization which can review and recommend coastal policy on a systems basis. The work of this group, based upon the state's best expertise and developed in cooperation with the citizens' advisory panel, would establish a persuasive standard for coastal program priorities and performance which would be highly visible to the public, the legislature, and the governor. The state's coastal agencies, if given the NRC's coastal recommendations prior to their own budget and program preparations, could act upon those recommendations or reject them in favor of other views or advice. In either case, the NRC's recommendations would form a solid basis for open discussion of the state's coastal needs and agency responses. This would result in greater visibility of agency policymaking procedures and greater governmental accountability to the people, the legislature, and the governor. Such discussion of coastal policy would also set the

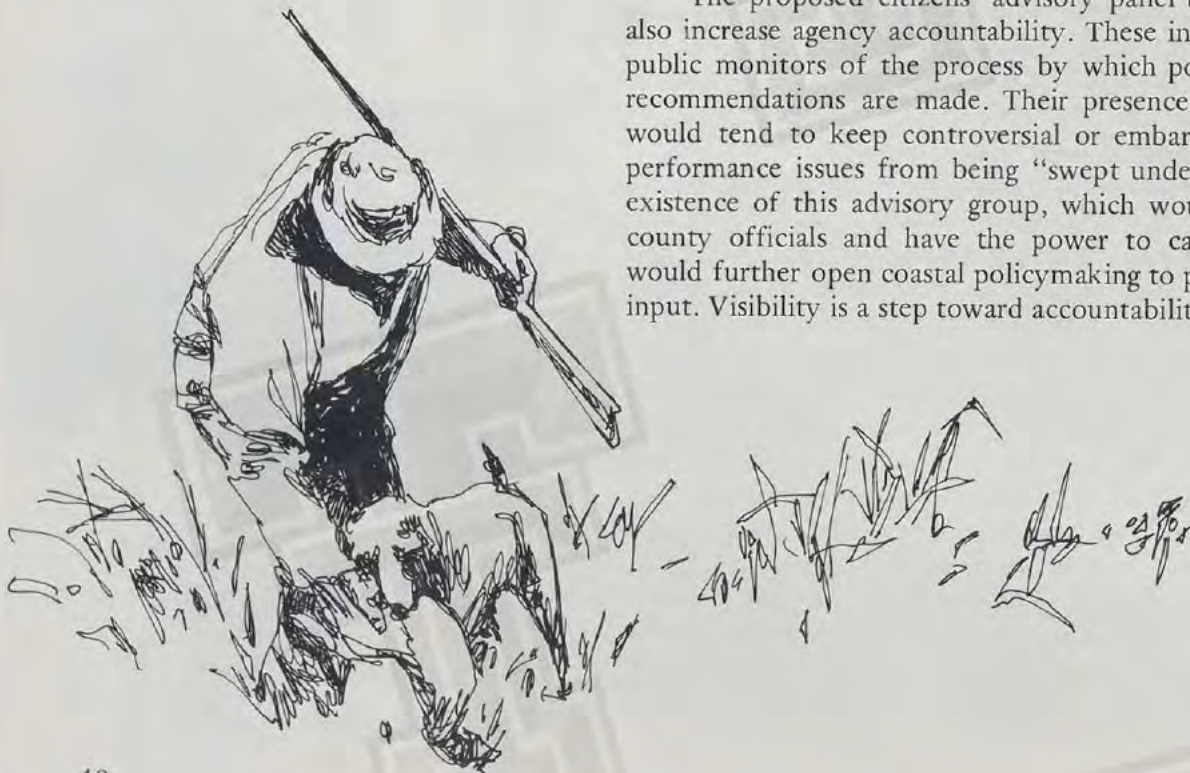


stage for later reviews of the coastal programs developed to meet the state's needs. Program performance could then be measured against the state's identified coastal needs. Because the essential problem of coastal management in Texas is not a lack of policies but a failure to support those policies with adequate funding, performance reviews, and coordinating efforts, the proposed NRC is the appropriate response to the Texas situation. Other states may lack information, policies, programs, or personnel, but in Texas the need is to assure the appropriate ties between budgeting and performance.

Unless the NRC is created as recommended, effective policy-level review and recommendation of state coastal policies and needs cannot occur. The present ICNRE consists of agency directors, none of whom is empowered by statute to make policy for his own agency, much less for the coast. Only elected officials and board or commission members have the mandate for policy-level decisions. Recomposition of the ICNRE to create an NRC consisting of board members and elected officials will establish it as a policy-level body. For the first time the governor, as chief planning officer of the state, will have a group experienced in all aspects of natural resources policy to advise him on state activities.

The use of an activity-assessment procedure to evaluate proposed activities in the coastal area would increase accountability. Systematic assessment of the effects of proposed coastal activities would provide a logical, scientific basis for permit and program decisions. The results of such analyses, available to all participants in permit hearings, would limit the ability of agency permit grantors, through intent or carelessness, to make arbitrary or capricious decisions.

The proposed citizens' advisory panel to the NRC would also increase agency accountability. These individuals would be public monitors of the process by which policies and priority recommendations are made. Their presence at NRC meetings would tend to keep controversial or embarrassing policy and performance issues from being "swept under the carpet." The existence of this advisory group, which would include coastal county officials and have the power to call public hearings, would further open coastal policymaking to public scrutiny and input. Visibility is a step toward accountability.



Increased Efficiency in State Coastal Programs

The NRC would review agency program proposals for conformance with the policies and priorities previously recommended in the NRC's biennial report. This review, conducted by those who proposed the programs and policies, would complement that performed by the Legislative Budget Board (LBB) and the Governor's Budget and Planning Office (GBPO). In fact, the greater familiarity of the NRC with the state's natural resource concerns would mean its assistance could substantially enhance the LBB's and the GBPO's abilities to perform their reviewing functions. Furthermore, because the NRC would be composed of citizen appointees whose jobs and salaries would not be affected by the outcomes of the issues before them, their work would be more readily received as impartial. No matter how dispassionate or objective an agency executive director might be, any recommendation he made which lauded his agency or called for its expansion would not be considered disinterested. Because the board or commission members' primary loyalties to the governor and the people are not thought to be clouded by immediate personal concerns for job and agency prerogatives, they could provide the necessary perspective on the state's coastal efforts.

No single program analyst for the LBB or GBPO now reviews the programs of all the natural resource agencies on the coast, and no analysis of the total natural resource budget for the coast is made. To achieve an effective review of state governmental activity on the coast, agency proposals for coastal programs would have to be identified as such in budget requests. The breaking out of natural resource agency program proposals along policy lines would also serve to point up any duplication in agency requests in a way the state budget process does not presently allow. Agencies would be forewarned that duplication will be noticed, that it is unacceptable, and that systems policy is the standard by which program proposals will be evaluated. The NRC's performance of these functions should substantially increase coordination among state agencies as programs are being planned.

The state's coastal permitting processes are another area in which the proposed recommendations can give greater efficiency. The cost of the permitting process is not simply the amount of funds state agencies devote to permit reviewing. The major cost of permitting is borne by the private individuals and corporations who must apply for permits. It is they who must collect substantial information, analyze it, assemble it, and present it in a form acceptable to state agencies. The proposed program will reduce the cost of obtaining permits in several ways. Analysis of all permit applications with direct and significant impacts on the coastal zone through the proposed activity-assessment procedure will reduce permitting costs by pinpointing the data needed to make sound decisions and indicating data requirements which could be eliminated without a



significant effect on permit decisions. By focusing on only those data relevant to a proposed project, state agencies could devote more time to analysis of the important questions and could request applicants to provide key data in more detail where appropriate.

Consistent analysis of all coastal permit applications can further reduce costs to the public and private sector by increasing the predictability of decisions. One of the most important elements of a good economic climate is the predictability of governmental action. Few development interests intentionally plan projects likely to draw substantial public opposition. Delays caused by lengthy administrative and judicial proceedings greatly reduce a project's profitability, even if necessary permits are finally granted. In addition, the prospect of such delays tends to prevent many projects from even being considered. Consistent analysis of applications will speed permit evaluation and make better decisions possible. This will save time and money for the public, for state agencies, and for developers. Predictability in permitting would maintain and enhance Texas' favorable economic climate for quality economic growth.

Use of the proposed activity-assessment process offers still another benefit. Through this process the agencies would be able to identify important data needs that are not being filled by state agency or university research efforts. These information needs could then be given proper consideration in

the allocation of state research funds and in applications for federal research grants. This would provide professionals with an incentive to focus their research efforts where the results would best improve the quality of state decision-making.

Research efforts are often duplicated. An NRC review process for research should also encourage researchers, state agencies, universities, and private research organizations to better coordinate their proposals.

Practicality

The program proposed is not the only one which might theoretically meet the problems of the Texas coast. However, it is superior in very important ways to the alternatives considered. First, this program is acceptable to a wide range of coastal interests. It has been refined and improved through a long series of public hearings and advisory committee meetings, in which industry, agriculture, environmentalists, and local government were represented. Second, this program can be effectively implemented by the governor. It is one thing to assemble a coalition to pass legislation; it is quite another to make the legislation work. Several states have assembled political coalitions which passed legislation, coastal and otherwise, only to find their ideas unworkable and themselves divided when the full implications of their plans became clear. The proposed Texas program, building as it does upon present authority and agency responsibilities, could avoid this problem. The NRC is not made a superagency, since it possesses only advisory authority. It imposes no new regulatory requirements on any permit applicant. It proposes no cumbersome new level of government on the taxpayers of the state. It shortens rather than lengthens the total permit process for development and conservation interests. The program is desirable and workable in the Texas political climate.

Potential Disadvantages and Costs

The Coastal Management Program's recommendations, if adopted, could potentially result in some new costs to the state. These costs would be associated with creating the NRC, implementing the activity-assessment routine, and transferring wetlands permitting authority to the state. Such costs, if any, would be slight, and they would be offset by savings in other areas and by federal funds available to the state for such costs.

In the discussion of the benefits of adopting the proposed program, it has been explained that the program could reduce public costs by decreasing duplication in natural resource activities and by fine-tuning current permit reviewing processes. Increased predictability and more precise data requirements in permitting processes should reduce private costs. A substantial saving in private costs should also result from returning the saltwater wetlands permitting function to the state.

Creation of the NRC and Establishment of the Activity-Assessment Routine

The steps necessary to establish the NRC as a policy-level body, to provide a small support staff, and to analyze A-95 and permit applications through the activity-assessment routine might require some additional expenditures by the state. However, any added costs would be minimal. The data management function required for the activity-assessment routine could be performed by the Texas Natural Resource Information System (TNRIS) using their existing staff and equipment. The procedures recommended would occupy only a very small percentage of their current capacity. TNRIS would be removed from the Texas Water Development Board to the Governor's Office. There would be no additional overhead costs since overhead functions could be transferred between the Texas Water Development Board and the Governor's Office.

The natural resources planning staff currently budgeted in the Governor's Office would be adequate to manage NRC staffing and the coastal management activity-assessment routine. It is possible that some redistribution of staff classifications and salaries would be necessary to ensure the proper mix of professional skills. Because many of these slots are currently vacant, such adjustments pose no real personnel problem. Taken together, the proposals concerning the creation of the NRC, its staffing, and implementation of the activity-assessment process should not result in any significant increase in total state government expenditures for natural resource management.

Costs for Transfer of Wetlands Permitting Procedures

It is estimated that the U.S. Army Corps of Engineers currently spends approximately \$600,000 annually in the exercise of its coastal wetlands permitting jurisdiction in Texas. Some of this cost will be transferred from federal to state government if the TCMP proposals are adopted. However, the cost of state government will not be increased by the full amount.



State agencies, particularly the Parks & Wildlife Department, currently devote substantial time to reviewing and commenting upon permit applications ultimately decided on by the Corps. The amount of review time required to actually reach a decision should not be significantly greater if a portion of this permitting authority is transferred to the state. The use of the activity-assessment routine in processing applications should result in savings as discussed above.

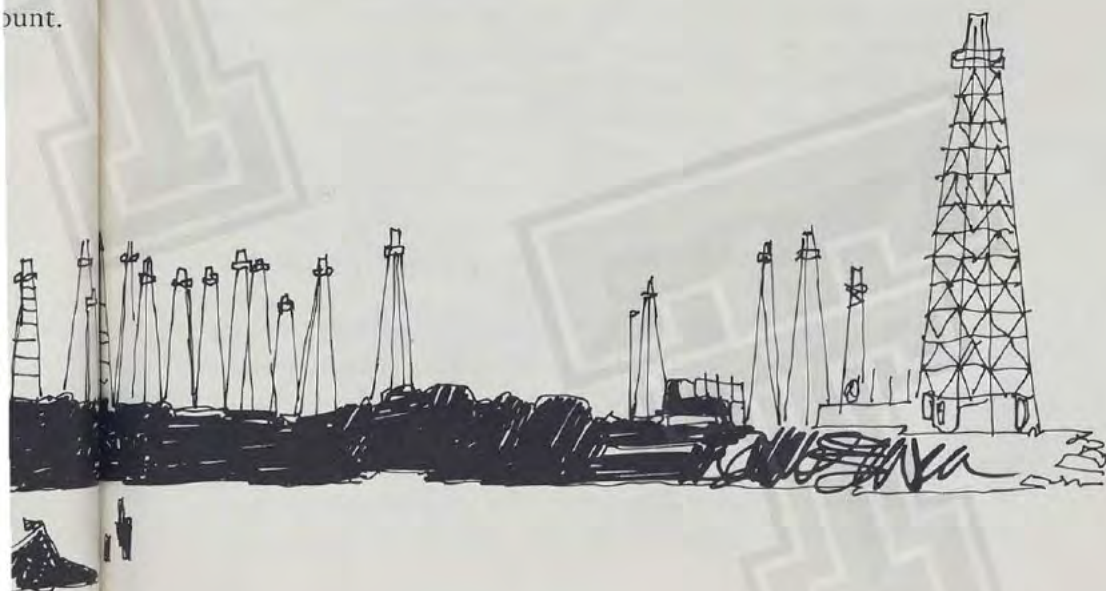
The real savings to the economy of Texas would occur in the private sector. Both environmentalists and industrialists have commented that they find Corps permitting procedures far too long for the purpose they serve. Participation is extremely costly, and the resulting delays in projects are more costly still. The private sector savings from state control of this permitting power should more than offset any increased state costs.

Possibilities of Federal Funding

As mentioned in the previous chapter, it is possible that all or part of the cost of the proposed coastal management program can be met through Coastal Management Act Section 306 funds and Section 701 Planning Grants from the Department of Housing and Urban Development. This would further reduce program implementation costs to the state so that the general revenue fund would not be burdened. In any event, a practical assessment of this program indicates that with or without federal funds, the cost to the state would not exceed the benefits to the public or private sectors.

Costs of Change

Any new program for management of the coast of Texas will require some changes by state agencies and by private interests. Adapting to a new system consumes time and financial resources, and the costs of such an adaptation, even if they



occur only once, must be considered in any calculation of net benefits. The recommendations of the Texas Coastal Management Program carry a very small cost of change because no new regulatory procedures have been introduced. The permit-granting agencies would be unchanged by implementation of the proposed program.

There would be no need for applicants to learn any new intricacies in the regulatory process. This absence of any need to learn new procedures may be even more important to environmental interests than it is to development interests. Industrial interests can pass the costs of a legal and technical learning period through to their customers as part of the cost of doing business. However, many nonprofit groups would find it difficult to bear this cost, and this would curb their participation until they became familiar with the new processes.

Every new program is launched with optimism that it will turn out to be the success its designers intended. But some fail, and a fair regard for experience makes it reasonable to examine the costs of failure. The success of the proposed program depends not only upon organizational structure but also upon the importance the governor gives to the NRC's recommendations and assessments. With poor personnel or lack of executive support, it is entirely possible that the NRC would never be more than a mediocre debating society.

The cost of failure would be very high if a reorganization of existing natural resource agencies into a superagency were proposed. If that superagency failed, state natural resource programs would grind to a halt; and it would be very costly, if not impossible, to reestablish the previously existing agencies. Furthermore, a superagency would, even if a failure, attract a substantial constituency, and the cost of failure could be quite high, since it would not be politically feasible to discontinue the program even after failure was apparent.

The proposed Texas coastal management program would result in neither of these problems. No disassembly of existing agencies is proposed, and no large staff or other well-organized constituency would be brought into existence. There would be no great political cost if the program were to fail.

In the recently proposed state constitution, one of the most popular items was an article which would have dissolved state agencies after a set number of years. Under the Coastal Management Program's proposed recommendations, the NRC would be dissolved and the ICNRE reinstated after four years if the anticipated benefits were not realized.

These features also make it reasonable to consider the use of federal funds to finance any new state costs. There has often been a reluctance to use federal funds because to do so was to restrict the state in its activities and to run the risk of developing a large program with a politically potent constituency only to see the federal funds disappear. The coastal management program would be approved by the federal government in

advance of its implementation. The state has full control over whether it produces a program certifiable by the Secretary of Commerce. If federal funds disappear, and the legislature and governor feel that the program is not worth its costs in state funds, it should be simple and politically feasible to disassemble the program. Analysis of the small costs of change and the costs of failure make the proposed program appear even more feasible.

Control of Cost by Existing Agencies

The ultimate costs of the Coastal Management Program's recommendations will be greatly affected by the degree of cooperation given by state natural resource agencies. The greater this cooperation, the less it will cost to implement the activity-assessment process and the better the NRC will function. The costs of implementing these recommendations will indicate to the governor and legislature how well state agencies are working together on coastal policy issues.

Summary

The benefits to be derived from adoption of the proposed Texas coastal management program should greatly outweigh any foreseeable disadvantages or costs. As the program's recommendations are further defined, more detailed calculations of advantages and disadvantages estimates will be possible. However, it appears at this time that further definition of the proposals is unlikely to alter the present very desirable balance of advantages over disadvantages for both the private and public sectors.

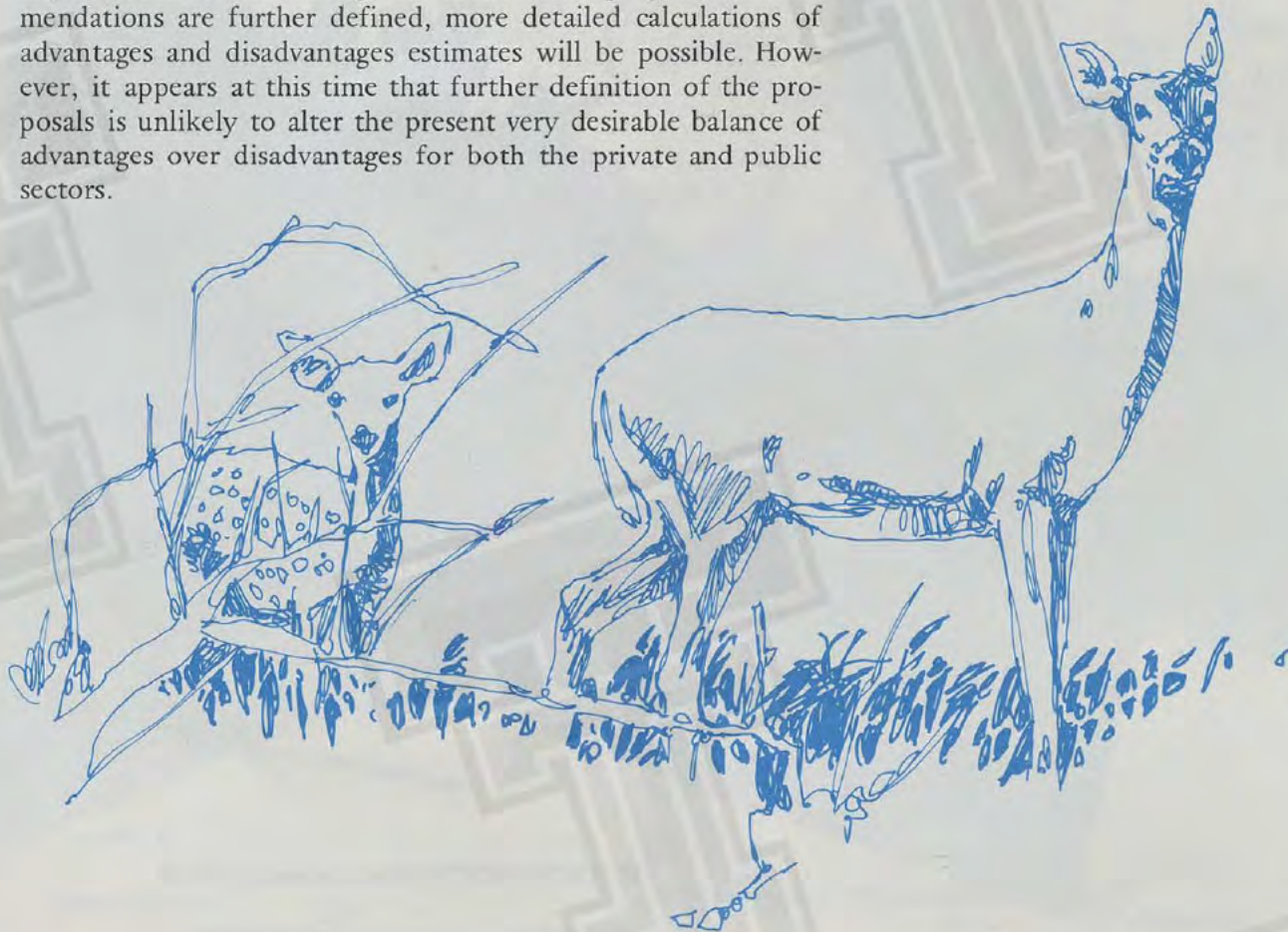


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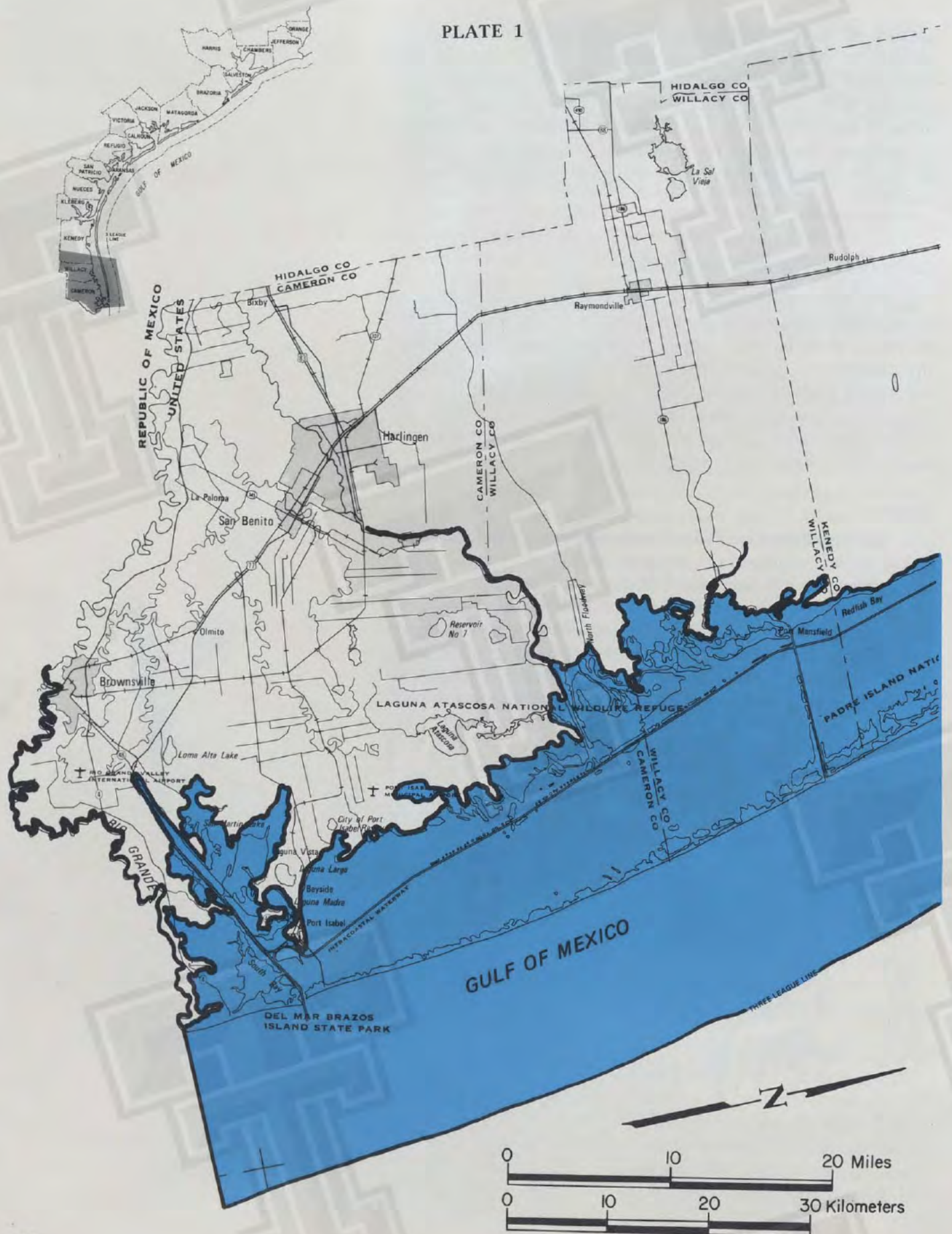
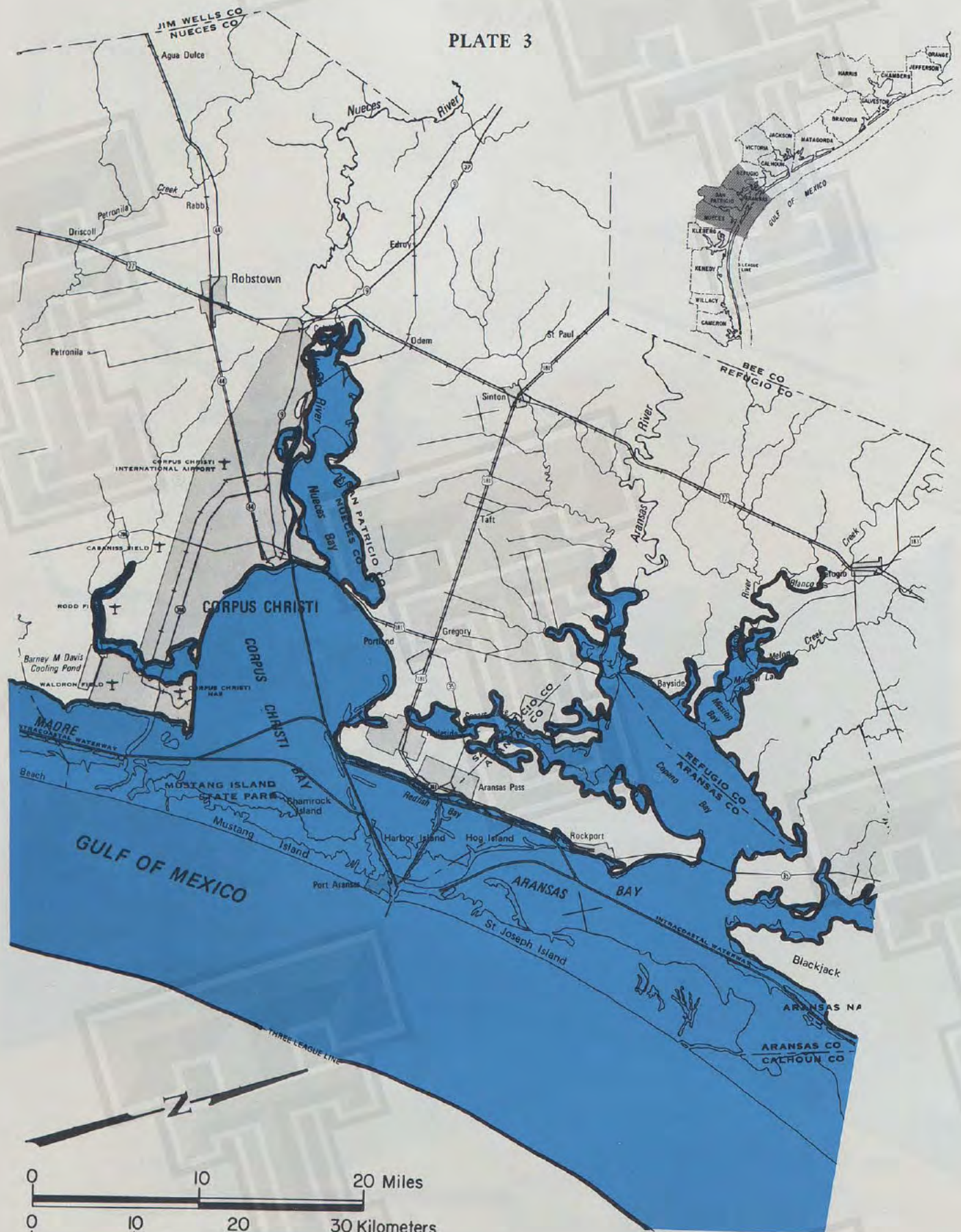


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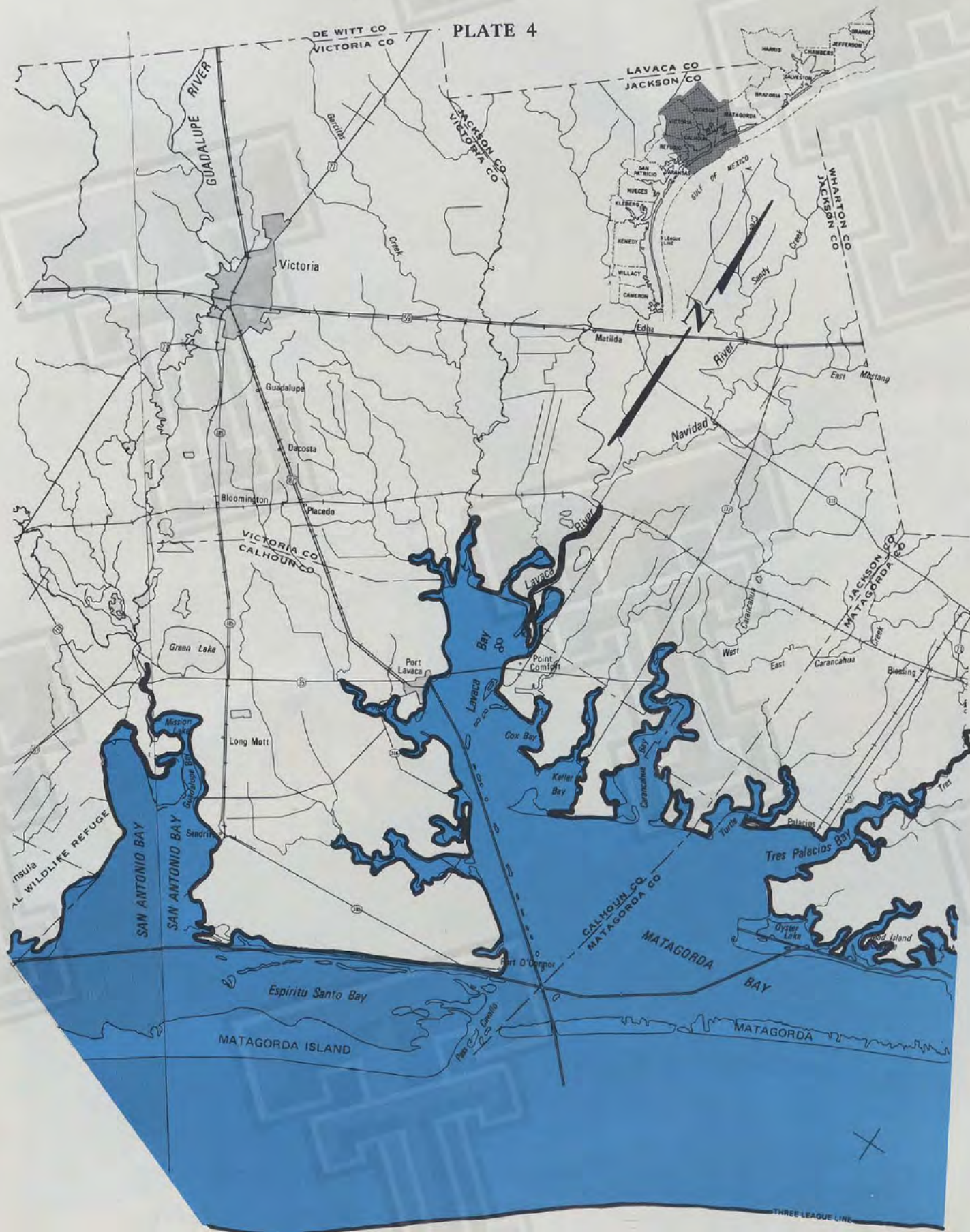
Baffin Bay-Laguna Madre Area

PLATE 3



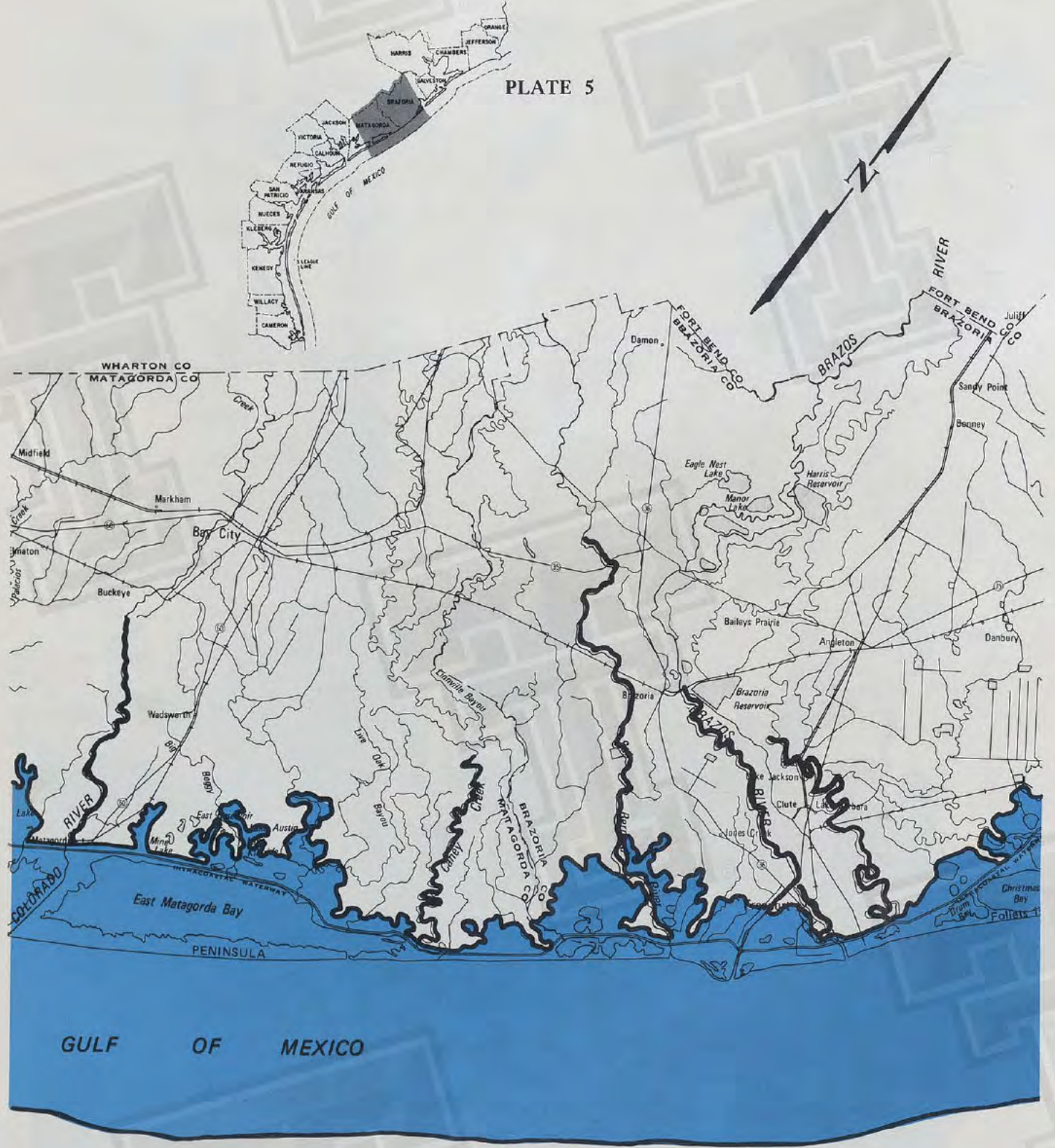
Corpus Christi-Aransas Bay Area

PLATE 4



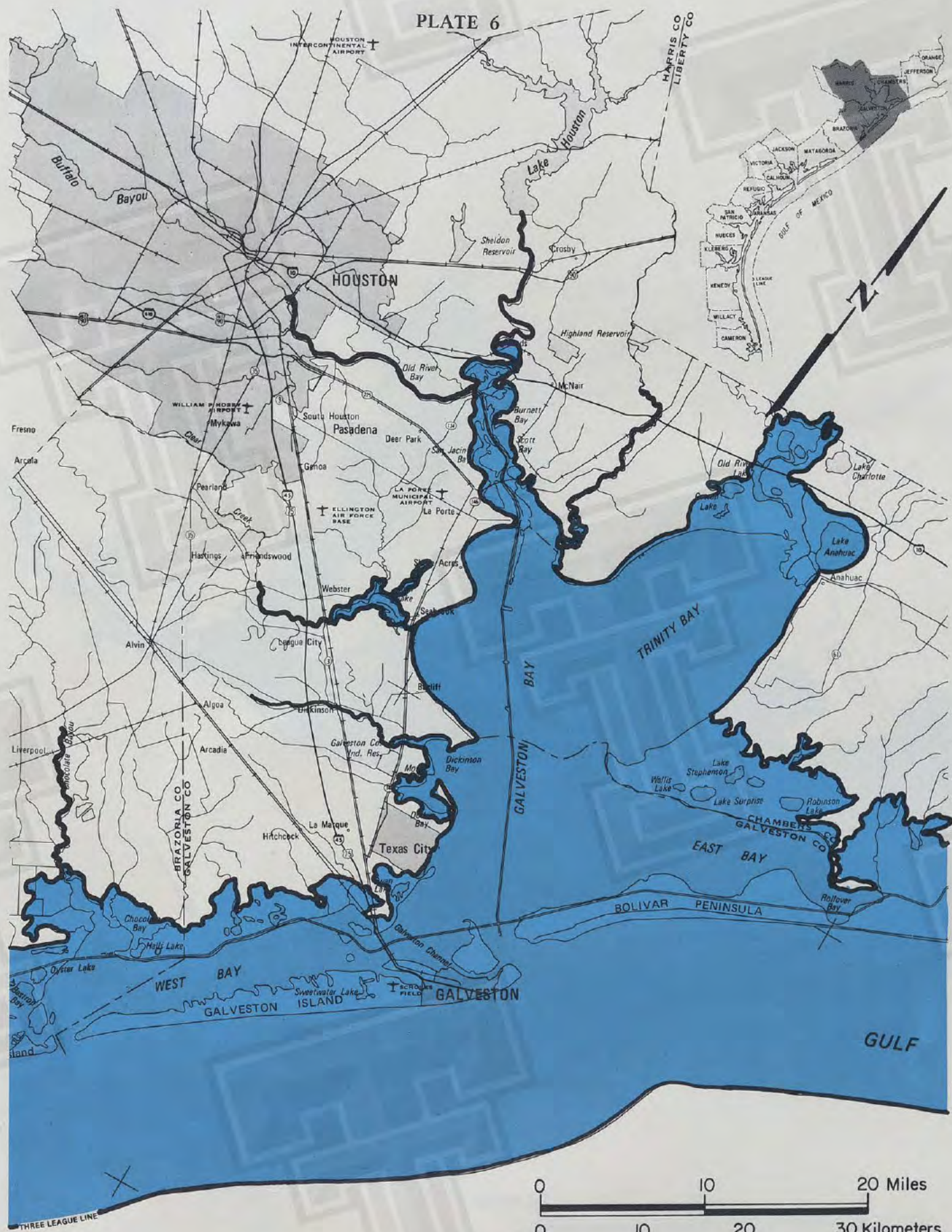
Matagorda-San Antonio Bay Area

PLATE 5

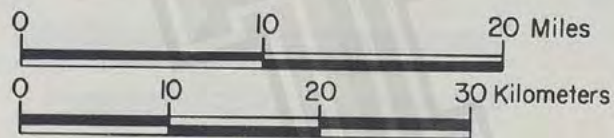


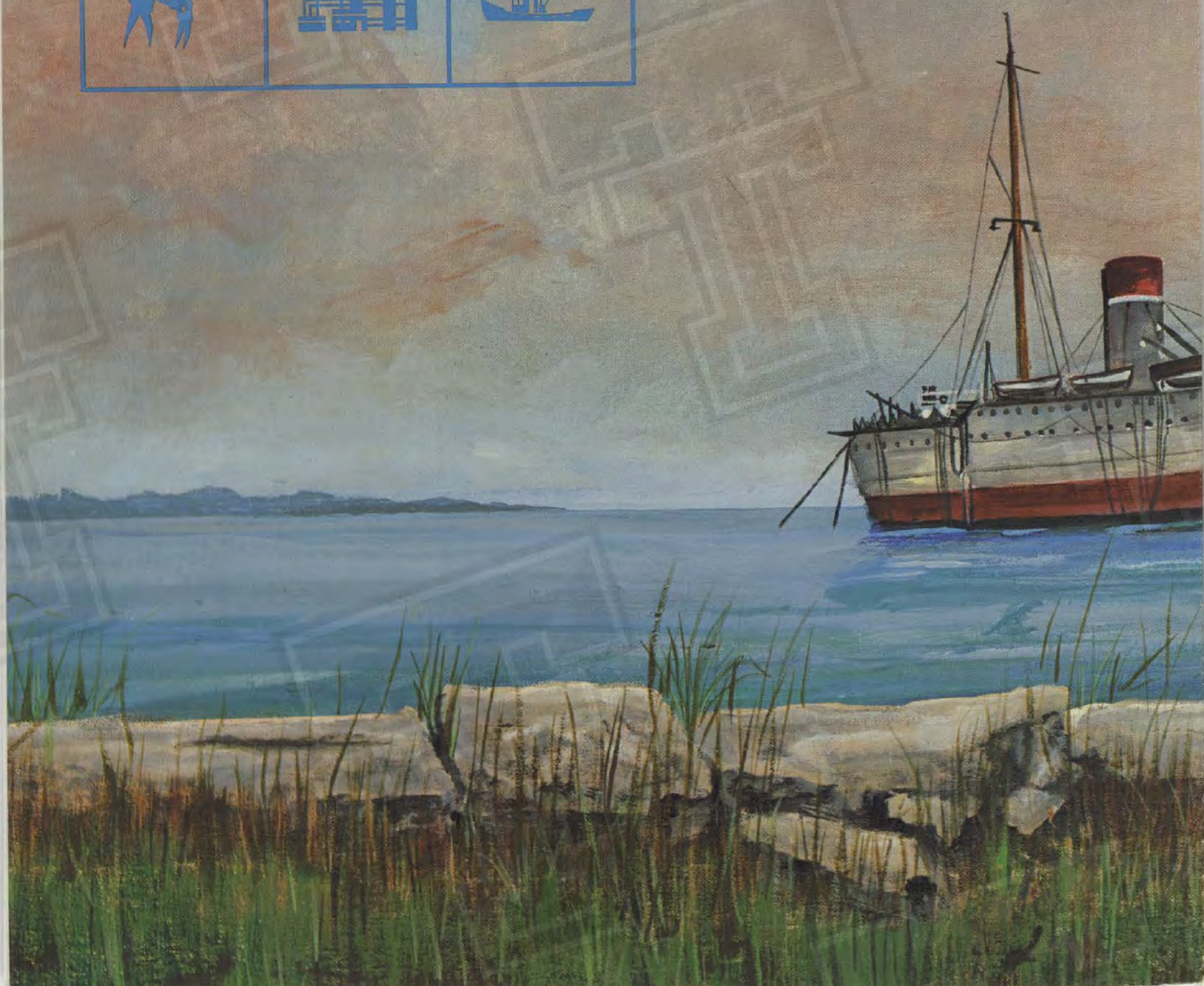
Brazos-Colorado Delta Area

PLATE 6



Galveston-Trinity Bay Area





LEAGUE OF WOMEN VOTERS OF DALLAS

Statement to the General Land Office hearing on the proposals for Coastal Management for the State of Texas:

August 25, 1976

To: General Land Office
State of Texas

The League of Women Voters of Dallas has high praise for the Coastal Management Program recently published by the General Land Office. As a member League of the League of Texas, we have participated in studies of the state's boards and commissions. The recommendations for strengthening the Interagency Council on Natural Resources and the Environment are good. We sincerely hope the changes can be effected in the manner outlined in the Hearing Draft.

The League has worked hard for citizen participation in government, and the importance of the recommendation to include the public--statewide--in the decision-making process cannot be overemphasized.

We hope that such coordination and planning as a newly strengthened I.C.N.R.E. would be able to provide would lessen the questionable reliance on the market system to serve the broad public interest.

In reviewing the Executive Summary, we in the Trinity River area are wondering whether the consideration of fresh water inflow will receive the kind of emphasis believed to be necessary in the overall management of the coast. The major impact of the state's river system management has been avoided. We hope that a state wetlands protection act, as proposed, will become a reality.

The proposal has many pluses for management of the coast. The increased accountability of those state agencies directly impacting on coastal management is clearly the direction to take. The present approach of having boards and commissions appointed to oversee a specific set of functions--air (TACB), water (TWQB, TWDB, & TWRC)--with further fragmentation into river basin authorities such as TRA--shows the great difficulty in coordination of plans and policies. The tendency to think in categories would tend to be greatly lessened.

A new I.C.N.R.E. should be that impossible dream: totally a-political, not afraid of looking at growth policies in the public interest.

Thank you,

Eleanor W. Sutherland, President
League of Women Voters of Dallas

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League of Women Voters of Dallas

December 14, 1976
LL Presidents Mailing (2 copies)
II. A. 1. d.
Program - Land Use

TO: LL Presidents & NR or Land Use Chairs
(please forward 2nd copy)
FROM: Bobette Higgins

BACKGROUNDER ON COASTAL ZONE MANAGEMENT

In response to intense pressures, conflicts, and recognition of the importance of the coastal zone of the United States, Congress passed (in 1972) the Coastal Zone Management Act (CZMA). The Act authorized a federal program to be administered by the Secretary of Commerce, who delegated this responsibility to the National Oceanic and Atmospheric Administration (NOAA). The CZMA Act was amended by Congress on July 26, 1976.

The composite of the two Acts affirms a national interest in the effective management, beneficial use, protection, and development of the coastal zone, and provides assistance and encouragement to the coastal states to develop and implement rational programs for managing their coastal zones. Six financial assistance grant and loan programs are authorized by the CZMA.

Section 305 authorizes annual grants to assist any United States coastal state or territory in the development of a management program for the land and water resources of its coastal zone (called program development grants). The important 1976 amendments to the Act make four changes to Section 305:

- New work elements have been added requiring planning processes related to beach and public coastal area access, energy facility siting and shoreline erosion;
- The number of 305 grants that a state may receive has been increased from three to four;
- Federal funding for a grant has been increased to 80%;
- Grants may be made to state programs to aid in the implementation of those elements of the program that are completed while the remaining aspects are being developed. Those remaining program elements must be clearly identified and a reasonable time schedule given for their completion.

After developing a management program, the state submits it to the Secretary of Commerce for approval. If approved, the state is then eligible for annual grants under Section 306 to administer its program (called program administration grants). Section 306 has also been amended to increase the federal funding level to 80%. In addition, the state coastal zone management agency is required to notify a local government of any decision in conflict with local zoning actions. The amendments also allow the local government a 30-day period in which to make comments, and require that no action be taken during this period which conflicts or interferes with a management program decision.

New sections--308, 309, and 310 were inserted as follows:

Section 308 establishes a coastal energy impact assistance program consisting of:

- Annual formula grants (with the federal government paying the entire amount) to coastal states, based upon specific outer continental shelf energy activity criteria. (The purpose is to encourage those states which have extensive oil resources in their OCS to develop these).
- Planning grants (80% federal funding) to study and plan for economic, social, and environmental consequences resulting from new or expanded energy facilities.

--Financial assistance to coastal states or local governments impacted by energy facility activity, consisting mainly of loans and grants to assist in providing new or expanded public facilities related to coastal energy activity, including grants if the states' coastal zone suffers any unavoidable loss of valuable environmental or recreational resources and if such loss results from coastal energy activity.

In order to be eligible for assistance under Section 308, states must be receiving 305 or 306 grants, or be developing a management program consistent with policies already established.

The new Section 309 allows grants (90% federal share) to states to coordinate, study, plan, and implement unified coastal zone management programs.

The new Section 310 allows the Secretary to conduct a program of research, study and training to support state management programs, and allows grants to states to carry out research and training required to support their programs.

In addition to the estuarine sanctuary program to preserve a representative series of undisturbed estuarine areas for long-term scientific and educational purposes, the new Section 315 provides grants (50% federal share) to states to acquire lands for protection of and access to beaches and other public coastal areas of environmental, recreational, historical, aesthetic, ecological, or cultural value and for the preservation of islands.

Most importantly, besides the financial assistance incentive for state participation, CZMA stipulates that federal activities affecting and development projects within the coastal zone shall be, to the maximum extent practicable, consistent with approved state management programs. (This "federal consistency" requirement has been extensively discussed in advisory committee meetings and is viewed as a way for states to recoup power "eroded" to the federal government in recent years). Also, the state must certify that all applications for licenses or permits affecting land or water uses within its coastal zone program management boundary are consistent with its management program.

The CZMA amendments of 1976 amend Section 307 to require that any OCS activity described in an exploration, development, or production plan be certified (by the person submitting the plan to the Secretary of the Interior) as being consistent with the approved state management program. The state must concur with such certification prior to any approval action by the Department of the Interior. Section 307 is further amended to provide for mediation when serious disagreement arises between a federal agency and a state with respect to the administration of a state's program, and to require local public hearings as part of the mediation.

Guidelines defining the procedures by which states can qualify to receive development grants under Section 305 of the CZMA, and the policies for development of a state management program, were published in the Federal Register on November 29, 1973. By the end of FY 1976, 33 out of 34 eligible states and territories had received program development grants and one state (Washington) had received program approval under Section 306. (Aside: Although the Washington program was approved, it is interesting to note that a speaker from NOAA during a recent land use conference in D.C., seemed to think that approval had been somewhat premature, and that they were scrutinizing state programs with considerably more care before granting approval).

The developing Texas coastal management program has reached the stage where it is ready to send to the legislature a package of bills implementing the proposed state program. If these are passed, the program then goes to the federal government for approval.

**TEXAS
COASTAL
MANAGEMENT
PROGRAM**

**PUBLIC
HEARING
TRANSCRIPTS**



Dallas

AUGUST 25, 1976

ADVISORY COMMITTEE

TEXAS COASTAL MANAGEMENT PROGRAM

PUBLIC HEARING TRANSCRIPTS

Dallas

AUGUST 25, 1976

General Land Office of Texas

Bob Armstrong, Commissioner



September 1976

This program is funded in part through financial assistance provided by the Coastal Zone Management Act of 1972, administered by the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration.

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Allen Cluck	Tenneco, Incorporated
Dr. James Coleman	City of Victoria
Steve Frishman	Coastal Bend Conservation Association
John Galley	The Nature Conservancy
Tom Garner	Golden Crescent Council of Governments
Ed Harte	Corpus Christi Caller-Times
Bobette Higgins	League of Women Voters of Texas
Ed Holder	Outdoor Writers Association
Bud Hopkins	Envirodynamics, Incorporated
Hon. Bert Huebner	Judge, Matagorda County
Pearce Johnson	Chairman, Parks and Wildlife Commission
Louis H. Jones	Brazosport Chamber of Commerce
Bill Kacy	Union Carbide Corporation
E. Ward McCown	Texas Farm Bureau
George McGonigle	Friendswood Development Corporation
John Mehos	Liberty Fish and Oyster Company
George Mitchell	Mitchell Energy and Development Corporation
Kenneth Montague	General Crude Oil Company
Bob Moore	Attorney, Houston
Jay Naman	Texas Farmers Union
Hon. O. F. Nelson, Jr.	Judge, Chambers County
Venable Proctor	Attorney, Victoria
Cecil Reid	Sportsmen's Clubs of Texas
John Rogers	Texas AFL-CIO
Royal Roussel	Retired
Leo Sanders	Port Isabel
Danny Sendejas	League of United Latin American Citizens
D. E. Simmons	Houston Lighting and Power Company
John Specht	Guadalupe-Blanco River Authority
Sharron Stewart	Texas Committee on Natural Resources
G. L. Suffredini	Reynolds Aluminum
Harvey Weil	Attorney, Corpus Christi
L. D. "Bubba" Whitehead	Rancher

The program recommendations have been reviewed by the Texas Coastal Management Program Advisory Committee, and the program staff has considered their comments. However, the recommendations do not necessarily reflect their views, and the staff of the Coastal Management Program assumes all responsibility for the recommendations.

PREFACE

The State of Texas has long been concerned with such coastal matters as storm protection, waterway development, recreational facilities, fisheries management, and beach protection. In 1969, the state began a four-year study of its coastal resources. As a result of this study, legislation affecting management of the coastal public lands and various other coastal topics was enacted. This study also led to the recommendation that the state seek funds under the federal Coastal Zone Management Act of 1972 to develop a coastal management process to coordinate the state's many coastal activities and policies.

Following this recommendation, the governor designated the commissioner of the General Land Office, Bob Armstrong, to lead the state's efforts in this task and to apply for partial federal funding of those efforts. Federal matching funds were received in June, 1974, and the Texas Coastal Management Program was initiated as a joint undertaking of the state's natural resource agencies.

The objectives of the Coastal Management Program are, through inter-agency cooperation and extensive public participation, to develop and recommend to the governor and legislature

1. an improved and flexible policymaking process which will ensure a continuing balance among future economic, environmental, and social needs along the coast, and
2. the steps for implementing such a process.

The program's recommendations are contained in the hearing draft and executive summary, copies of which are available without charge from the Texas Coastal Management Program at the address below.

This document is a verbatim transcript of one of 10 public hearings held as follows:

Brownsville	Monday, August 9
Corpus Christi	Wednesday, August 11
Victoria	Friday, August 13
Bay City	Monday, August 16
Houston	Wednesday, August 18
Galveston	Friday, August 20
Beaumont	Monday, August 23
Dallas	Wednesday, August 25
San Antonio	Monday, August 30
Austin	Wednesday, September 1

Copies of this and other public hearing transcripts have been placed in the State Library in Austin and in public libraries throughout the coast. While supplies last, this and other Coastal Management Program documents are available free of charge from:

Texas Coastal Management Program
General Land Office
1700 North Congress Avenue
Austin, Texas 78701
(512) 475-6902

ACKNOWLEDGMENTS

At the request of Governor Briscoe, the General Land Office of Texas has led the state's efforts to develop an improved coastal management process. Under contract to the General Land Office, RPC, Inc., of Austin, Texas has provided the following professional staff for the program:

Ron Jones, Director
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David E. Brown, Head, Institutional and Legal Division
Gary Catron, Head, Public Participation Division

William L. Longley, Andrew E. Reed, Stephen Minick, Charlie Nims, Christine Gever, Molly M. Moore, James C. Morriss III, Polly A. McGlew, Arthur L. Eatman, Sally A. Mitchell, Sharon Howard, and Pat Wiles.

Assisting in the program from the General Land Office staff were:

John D. Macklin, Jr., Acting Director, Planning Program
W. D. "Red" Oliver, Special Projects Assistant
Robert W. Waddell, Head, Staff Support Operations Division

Ruth Kent, Muriel Wright, Nick DeGeorges, Linda Hill, Lou Hill, Carolyn Brown, Eleanor Dailey, Gwen Craddock, Lyn Verdery, Mary Frances Moreno, and Michele Hester.

Public hearing transcripts were prepared independently for the Coastal Management Program by Hickman Reporting Service of Austin, Texas.

1
2 TRANSCRIPT OF PROCEEDINGS
3 BEFORE THE
4 TEXAS COASTAL MANAGEMENT PROGRAM
5 DALLAS, TEXAS

6 IN THE MATTER OF THE TEXAS COASTAL)
7 MANAGEMENT PROGRAM'S HEARING DRAFT,)
8 EXECUTIVE SUMMARY, PRESENTED TO)
9 THE PUBLIC AS INFORMATION AND FOR)
10 THEIR COMMENTS AND RECOMMENDATIONS)

11 PUBLIC HEARING

12 BE IT REMEMBERED that on the 25th day of August,
13 1976, beginning at 9:10 o'clock a.m., in the meeting
14 room of the Marriott Motor Hotel, Stemmons Freeway,
15 Dallas, Texas, before the HONORABLE BOB ARMSTRONG,
16 Commissioner of the General Land Office of Texas, the
17 above-entitled matter was presented and discussed in
18 a public hearing and the following proceedings were
19 reported by Hickman Reporting Service, Suite 504,
20 Travis Building, 205 West Ninth, Austin, Texas, 78701.
21
22
23
24
25

INDEX

page no.

Opening remarks by Commissioner Bob Armstrong,
General Land Office,
State of Texas..... 3-15

PARTICIPANTS

Commissioner Bob Armstrong,
General Land Office, State of Texas..... 18, 20-28

Ron Jones, Director,
Texas Coastal Management Program..... 17, 23, 28-29

Dan S. Petty, Assistant City Manager,
City of Dallas..... 15-17

Jill Smith, Texas Committee on
Natural Resources..... 17-18

Clint Booth, Rancher and Landowner,
Bosque County, Texas..... 18

Eleanor W. Sutherland, President,
League of Women Voters of Dallas..... 18-20

James D. Ragsdale, Department of
Transportation, Dallas, Texas..... 20

L.D. "Bubba" Whitehead, Rancher, Fort Davis,
Texas; Member of the Advisory Committee..... 22

Leta Alderson, Fort Worth, Texas..... 22-24

Lucinda Headrick..... 24-25

Bobette Higgins, League of Women Voters of
Texas; Member of the Advisory Committee..... 25-26

R. Carter Cline, Sabine Royalty Corporation;
Delco Oil Company..... 26-27

TEXAS COASTAL MANAGEMENT PROGRAM

PUBLIC HEARING
DALLAS, TEXAS

OPENING REMARKS BY
COMMISSIONER BOB ARMSTRONG
GENERAL LAND OFFICE, STATE OF TEXAS

I'm Bob Armstrong from Austin. I am here in a dual capacity as Commissioner of the General Land Office and as a liaison with the federal government under the Coastal Management Act of 1972. Governor Briscoe, and prior to that Governor Smith, appointed me to be the liaison. This gave me an opportunity to not only look at the General Land Office's Coastal Management Program, but also to work with all the various state agencies. The ultimate result is a Texas program, as opposed to a General Land Office program. I want to make that point clear.

We have had probably the most extensive public hearing procedure and process in the history of Texas government. I say "probably" because I'm not sure exactly how many the Constitution Convention had, but I think we have surpassed them in numbers, if not in man-hours, with our attempts to get to the public.

The federal government departed from its usual practice on this one. Instead of telling you what you were going to do they said, "We will fund you if you will tell us what you think your process should be, by which a coastal management plan could be developed."

So we started with a pretty clean blackboard. We began by going to the people on the coast. We asked them what they saw were their coastal resources; and we asked them what they thought the demands on those resources were going to be; and they responded.

We went into the various communities on the coast as many as three and four times. If people didn't come to the hearings, we invited them to the hearings. If they didn't come, we sought them out, because we did want this kind of input. We went up and down the coast, and as we began to meet with these people and they became interested, and we got their attention--some of them very negative attention in the beginning, which happily turned to posi-

1 tive before it was over, in most instances--we began to
2 ascertain what people conceived this coast as being.

3
4 One of the things that we find--and I think this is im-
5 portant to people in Dallas, just as it is to those people
6 who live on the coast itself--is that it is an extremely
7 valuable resource that belongs to the public. It is pro-
8 bably the most valuable resource that any citizen of any
9 state has in the United States, for this reason:

10
11 We are the only state that owns the submerged lands, that
12 owns the public lands. It is not only rich in the produc-
13 tion of oil and gas, which gets most of the attention;
14 but we learned that it was rich in other ways, such as:
15 The table shrimp that are caught off the coast of Texas make
16 up virtually 30% of the total table shrimp that are pro-
17 duced in the world. We find that the petrochemical in-
18 dustry is in close proximity to that same shrimpery; and
19 we also find that that same shrimpery is part of the life
20 cycle for trout and redfish, which then ties to the tour-
21 ism industry which produces, we think, on the coast some-
22 thing like \$2 billion every year, renewable resource.

23
24 So what we began to ascertain was that there were two
25 areas that we needed to work in:

- 26
27 (1) One was to grow, but at the same time protect
28 your renewable resource capability.

29
30 We know the growth is coming--economically, in terms of
31 population, industry--that growth is assured. The ques-
32 tion is, how do we manage that growth so that we can still
33 have the renewable resource capability--the shrimp, the
34 trout, the redfish, the tourism, the recreation?

- 35
36 (2) The other thing you want to do is avoid hazards.

37
38 We know, again, one of the problems of growth on a coastal
39 area or in a coastal zone is, that when you gang people up
40 on barrier islands, for example, and you don't build new
41 access routes--and we haven't built any new access routes
42 to the barrier islands in the last 20 years; some of them
43 have been widened--then you have a potential for problems.

44
45 We consider the hazards to be: (1) erosion, (2) subsi-
46 dence, (3) hurricanes, and (4) flooding. These are the
47 things we think you have to look out for in the coastal
48 area; so we have addressed those.

1 Then we looked at government to see what it was doing.
2 We were benefited by an advisory committee, which has done
3 a great deal of work, and has been very helpful. It is a
4 citizens' advisory committee. We selected them; asked
5 them to serve. We think that it is as representative of
6 the people which we call the "affected" people, as we
7 could get--people from the oil and gas industry, people
8 in the development business, people who are environmental-
9 lists, some people from county government, people from
10 the petrochemical industry. It was a balanced group.
11 Four of them, I think, are here.

12
13 Bill Clark is in the back of the room; he is an attorney
14 from Dallas. He is interested in what happens. Among
15 other things, one of his clients, I believe, is Braniff,
16 and they have development, as you know, on one of the bar-
17 rier islands.

18
19 We have Bubba Whitehead, who works at the present time
20 for--is "The King Ranch" the proper term? Prior to that
21 time he was a county commissioner and very active in plan-
22 ning in the Del Rio area, but also understands a lot
23 about the coastal area.

24
25 Then we have Bobette Higgins, who is here representing
26 the League of Women Voters. She has done a great deal of
27 work.

28
29 Sharron Stewart, who I suppose could be accurately clas-
30 sified as just an out-and-out environmentalist.

31
32 All of these people we put in a room--forty-one of them--
33 and turned them loose at some of these problems. A lot
34 of them came in very skeptical and didn't want to do any-
35 thing. But they have all left unanimous in the recommen-
36 dation that we will make to you in just a minute.

37
38 Allen Cluck is also here. I didn't see him; where is he?
39 There he is. (Tenneco, Inc.)

40
41 So what we have tried to do is to get a consensus feeling
42 about what we need to do, and we think we have done this.
43 We looked at government; and what we found was: that, if
44 anything, maybe there was too much in the area of the
45 coastal zone. We, unlike some states, weren't lacking in
46 authority; but we were lacking, perhaps, in efficiency or
47 in coordination or in really getting policy established.

1 The authority is there. So what we recommend is: That we
2 make this authority function; make it more responsible;
3 make it more efficient. Make government do what, I think,
4 the people of the state want it to do and are entitled to
5 have it do, and that is: Set its policies, carry them
6 out in an efficient and orderly manner; and you don't neces-
7 sarily need to form a new agency or have a new program to
8 do this.

9
10 So what we have attempted to do is to make some recommenda-
11 tions--and let me stress that these are recommendations
12 to the Legislature and to the Governor--as to what we
13 have found and what we think needs to be done. There has
14 been an awful lot of work that has gone into these recom-
15 mendations. I am going to summarize them very briefly
16 for you; but I would also like to call your attention to
17 some of the publications which we have come up with.

18
19 We have all of these publications here on the table. We
20 have looked at the existing data on the coast. We attempt-
21 ed to look at the economic side of coastal production.
22 We looked at the natural resource side of the coast it-
23 self. And we have synthesized an awful lot of information
24 that other people have gathered. I think the staff has
25 done an excellent job, because we felt like we had to
26 have this information before we could proceed.

27
28 I would hope that all of you have this publication (Hearing
29 Draft, Executive Summary) in front of you. Do you? Or
30 most of you? I would like to direct your attention first
31 to the first page, so you can take a look at the advisory
32 committee that has worked on this. That will give you,
33 I think, an idea about the breadth and scope of the people
34 who served on it. Then I would like to ask you to turn
35 to page 36. We will start with this "Summary of Recom-
36 mendations" and discuss them very briefly.

37
38 "To achieve an orderly process for managing coastal
39 resources, the following changes are recommended:

- 40
41 1. Convert the Interagency Council on Natural Re-
42 sources and the Environment (ICNRE) into a
43 policy-level council to review and propose
44 priorities, and activities for the state's
45 coastal program." To do that we would

46 "a. Replace each agency executive director
47 on the ICNRE with a member of the agency's
48 board or commission."
49
50

1 Now what we found was that as long as you had a more or
2 less second-level bureaucrat, and in some instances third
3 and fourth-level people were coming to the ICNRE meetings,
4 you really didn't have anybody who might really be inter-
5 ested in any policy. This is one of the things that we
6 found over and over and over again:
7

8 What is the State of Texas' basic idea about coastal
9 policy? Do we place an emphasis on the recreational acti-
10 vities? Are we going to place the emphasis on transporta-
11 tion? Are we going to place the emphasis on what? It
12 doesn't make any difference what it is, who is really
13 looking at it and who is really setting this policy?
14

15 We found that there wasn't very much. The Land Office has
16 some policies in this area. Parks and Wildlife has some
17 in their area. But I think it is important for you to
18 understand, too, that we use this term "ICNRE" all the
19 time. The ICNRE is the Interagency Council on Natural Re-
20 sources and the Environment, but it is those agencies
21 that have something to do with natural resources.
22

23 So you have the Agriculture Commission; you have the Rail-
24 road Commission; you have Water Quality, obviously; Water
25 Development, the Water Rights people, Air Control, and
26 the General Land Office. These are the people that make
27 this board up. But we feel like if it is going to be re-
28 sponsive and if it is going to be working at the policy
29 level then we ought to have people who are directly ap-
30 pointed by the Governor and answerable to him, and ans-
31 werable to you, in effect, on that policy-level body, as
32 opposed to the people who now are presently there who are
33 more likely to be at the bureaucratic level. We thought
34 we would recommend that we:
35

36 "b. Add one representative each from the Gov-
37 ernor's Energy Advisory Council, the At-
38 torney General's Office, and the Legisla-
39 tive Budget Board as nonvoting members of
40 the ICNRE."
41

42 More and more of our problems on the coast involve legal
43 questions--title, for example. The Attorney General, we
44 think, should be there; so we ask him to send somebody.
45 We think the Governor's Energy Advisory Council is a
46 natural addition, simply because most of our oil and gas
47 is produced within 50 miles of either side of the coast-
48 line itself. Plus there are all kinds of new proposals
49
50

1 for energy--wind energy, for example, or geothermal,
2 which we think will be involved in the coastal area. So
3 that we think should also be involved, by putting a mem-
4 ber of the Governor's Energy Advisory Council there.

5
6 And then finally, the most important addition we make is
7 the Legislative Budget Board; because one of the things
8 we discovered is that one way you can sure coordinate it
9 is by looking at the budget. You are not going to do
10 much in government if you don't have the dollars to do it
11 with. We found, actually, that one of the things that
12 one of the things that concerned a lot of people was that
13 we had a lot of waste, either because of people not really
14 coordinating or other people duplicating or not getting
15 things done.

16
17 So if you put somebody from that Legislative Budget Board
18 that understands the programs as they come out, then we
19 think you are probably doing most to get efficiency that
20 you could do.

21
22 We found, for example, that we have spent, in the last ten
23 years, \$120 million on coastal studies--some by the Water
24 Development Board, some by the universities, some by our
25 office, some by Parks and Wildlife. \$120 million dollars
26 has been spent studying the coast, and yet nobody really
27 knows where they were or what kind of program it was. We
28 think that if you put somebody from the Budget Board into
29 this program--and as far as that goes it may not be a bad
30 idea for all basic overall state programs--then we think
31 you are going to get somewhere in terms of some continuity,
32 and some savings as far as dollars are concerned, and much
33 more efficiency.

34
35 Then finally we create a 15-member advisory committee,
36 appointed by the governor, and put that committee's Chair-
37 man on the ICNRE. (see recommendation 1.c.) We found that
38 our advisory committee was an invaluable help to this pro-
39 gram, to get citizens participating in government. We
40 think that any program should be an on-going program; there-
41 fore, most of what we suggest in this particular set of
42 recommendations is an on-going and progressing sort of a
43 mandate to these people. We think it is very important
44 to have citizens members advising with the ICNRE, so that
45 you are not that divorced from the people that you are
46 going to be working with.

47
48 All right. We will go a little faster now.

1 "2. Establish in the Governor's Office a state
2 data management system based on existing
3 systems to assist state decision-making,
4 to focus research on priority state needs,
5 and to make information gathered with state
6 funds more available."
7

8 There is a lot of data there, but it is not very available.
9 We found all the time: there is N.A.S.A. (National Aero-
10 nautics and Space Administration) data; there is E.R.D.A.
11 (Energy Research and Development Administration) data;
12 data from the Soil Conservation Service; data in the Gen-
13 eral Land Office; massive data collection in the Water
14 Development Board and the Highway Department--and yet the
15 key word, I guess, in that sentence is "decision-making"
16 process. That is really what you are trying to get at;
17 to see how you make decisions that affect the coast based
18 on good data and good information, as opposed to based on
19 guess and based on politics.
20

21 We have to put it somewhere; and we think that it ought to
22 properly be in the Governor's Office so that it be avail-
23 able--that is the other important thing--to the local de-
24 cision makers, to industry that is trying to decide where
25 to locate. But get it out there where people can find it
26 and where it is in one spot, so that state government can
27 use it, local government can use it and the private sec-
28 tor can use it.
29

30 "3. Establish in the Governor's Office a practical
31 process for systematic assessment of the en-
32 vironmental, social, and economic consequences
33 of proposed coastal activities. Make this
34 process available to state agencies and to
35 the public."
36

37 Now what we are really getting at here--it is not neces-
38 sarily an up or down in decision-making--is a process by
39 which, as Ron says, "you can ask the right questions." So
40 that you know, if Seadock comes in, what questions you are
41 going to ask about where it ought to be, in terms not just
42 of the environmental consequences, but in terms of the
43 environmental, social and economic consequences. Is there
44 a right place to put it? What does it do to the economy?
45 What are the economical balances and trade-offs, as op-
46 posed to environmental damage? Or can you do it in a way
47 so there is no environmental damage? Is this better than
48 a deep-water port? Can you pump it ashore and refine it
49
50

1 easier than you can bring it ashore in barges to refine
2 it? These are the kind of questions that you are going
3 to ask if you use this process. Then we:

4
5 "4. Direct all state regulatory agencies that
6 issue coastal permits to use either the
7 activity-assessment process developed for
8 the Governor's Office or a similar process
9 that assess environmental, social, and eco-
10 nomic effects in reviewing all permit appli-
11 cations for proposed activities within the
12 management boundary."

13
14 All we are trying to do is get some continuity, so that
15 the agencies do the same thing that the Governor's Office
16 does. So that somebody, as one of our industry friends
17 said, will know where the goalposts are. Industry's big
18 complaint was that: "We don't mind what the regulations
19 are if they are sensible and we need them. That's fine.
20 But we want to be able to line up and kick at a goalpost
21 without having the goalpost move. So tell us what the
22 rules are and we will play."

23
24 We think that this kind of continuity, both at the state
25 level in the Governor's Office, as well as the kind of con-
26 tinuity that you would have within the agencies, using
27 this process, is desirable and necessary.

28
29 Then we draw the boundaries, probably one of our hardest
30 jobs. And without reading the boundary, let me just say
31 that we determined, first of all, that this was a coastal
32 program; and "coastal" means, generally, saltwater.

33
34 So we drew the boundary to include those areas which are
35 affected by the saltwater, and which affect the saltwater;
36 and we go up the rivers only so far as saltwater intru-
37 sion occurs. Now we do talk about the performance stan-
38 dards for the bays; because one of the things that we are
39 trying to do, in the renewable resource capability situa-
40 tion, is to see that the kinds of quantities and qualitys
41 of water that reach those bays allow them to continue to
42 be productive.

43
44 So, to that degree we do talk about performance standards.
45 But the boundary itself is drawn to talk about the sub-
46 merged lands--the saltwater--and those lands that are af-
47 fected by and affect the saltwater, and no more. So that
48 we think is a scientific definition, though it may shift
49
50

1 from time to time, that we can go with. We have maps, if
2 you will look in the back of this Hearing Draft, that show
3 you what that area is. It is the area that is in the blue;
4 and you have to look a little carefully, because there are
5 a lot of areas under the blue. But that generally out-
6 lines the boundary as we have seen it.

7
8 There is a prohibition in the federal act against regulat-
9 ing those areas that belong to, physically, the federal
10 government; and we exclude them--the Navy Base, for ex-
11 ample, at Corpus or a game refuge, like Aransas, where
12 they physically own it. We then:

13
14 "6. Direct the ICNRE to determine how best to
15 give notice of coastal hazards to purchasers
16 and owners of coastal property."

17
18 For a long time we let people take their chances. But we
19 feel that it is appropriate if you have an erosion charac-
20 teristic on a beach--in some instances as much as 60 feet
21 per year--that the people who are proposing to buy land
22 in that area at least have notice. We will let them de-
23 cide how they want to give notice or what: the frequency
24 of hurricanes, or here's what it did last time a hurri-
25 cane came through; you can't spot them; you don't know
26 where the next ones come in. But at least people should
27 have some notice of where the hazard areas are; and we
28 think that is an appropriate task for the ICNRE to perform.

29
30 "7. Direct the ICNRE to determine whether addi-
31 tional protection for coastal dune areas is
32 needed, and, if so, how to accomplish it in
33 a manner consistent with the protection of
34 private property rights."

35
36 The dunes serve a useful function. They have, in many
37 instances, a good effect as far as a barrier break-point
38 during hurricanes are concerned. They will break the
39 force of the waves. Many of them, of course, are being
40 destroyed by various means; frequently by dune buggies
41 and by taking the vegetation off that then lets the sand
42 blow away. Right now we have a basic county dune protec-
43 tion capability, but we just want to look at that and be
44 sure that it is enough or add whatever we need. We think
45 that is an appropriate area for them to look at.

46
47 "8. Direct the ICNRE to review the state's
48 efforts toward solving the subsidence problem
49
50

1 and determine whether further action is
2 needed."

3
4 I don't guess you have much subsidence in Dallas, but,
5 believe me, there are parts of this state where it is a
6 significant problem. You have, literally, neighborhoods
7 sinking into the bay, principally from the extraction of
8 ground water. There has been some legislative effort to
9 establish districts to provide surface water to replace
10 the ground water extraction. All we are interested in is
11 that enough or do we go further? But we look at that,
12 because it is one of the hazards that we worry about.
13

14 "9. If exercise of the jurisdiction of the
15 Corps of Engineers can be delegated to the
16 state, establish a state program to regulate
17 dredging and filling in coastal waters and
18 to regulate uses of saltwater wetlands.
19 Avoid duplication of the Corps of Engineers'
20 permitting processes."
21

22 As many of you know, there have been some new Corps of
23 Engineers' regulation which get, not only away from the
24 basic, traditional navigation tasks of the Corps--and I
25 don't think we are shooting at that; we still think they
26 should be in navigation and that kind of business--but
27 some of these new rules suggest that the Corps ought to
28 have authority all the way up all the rivers and streams.
29

30 Apparently there is a federal moratorium on this. There
31 was some language in their regulation that said that the
32 state could do it. But our basic feeling is, that if it
33 is an area where the state can operate or should operate,
34 then it is preferable to have the state attending to its
35 business, as opposed to the federal government. Outside
36 of the navigation tasks and that kind of operation on the
37 saltwater coast itself, we think that the state should
38 properly assume control, if any is needed, and that we
39 should be the ones that do it, as opposed to the Corps of
40 Engineers.
41

42 "10. Direct the ICNRE to recommend to the gov-
43 ernor, on the basis of existing information,
44 the freshwater, sediment, and nutrient
45 standards which should be assured for the
46 state's bays and estuaries."
47

48 Everywhere we went we heard testimony that the value of
49
50

1 of bays is determined, to a great degree, by the avail-
2 ability of freshwater inflow--not just the water, but the
3 nutrients and sediments. It is a very productive part of
4 our state. The traditional view that any water that ran
5 into the bay was wasted water, if it weren't damed or
6 trapped and used for some other purpose, has now changed.
7 People recognize that if you carry it out to its extreme,
8 and no water flows into the bays, you would lose the very
9 things that the bays are famous for and produce. So we
10 think it is appropriate for the Legislature and the Gover-
11 nor to have recommendations concerning what the fresh-
12 water inflow requirements are, in an effort to assure that
13 they continue to be available to the bays.

14
15 Then the second, and correlary, recommendation follows;
16 which is that we really look at what happens, in terms of
17 the need for water--both on the uplands and in the bays--
18 in times of drought. Among other things, we have learned
19 that when that water reaches the bay sometimes is more im-
20 portant than how much. It is all very fine and well as
21 long as it's raining; but when you have a bad drought,
22 then we think it is very important that we make some alloca-
23 tion so that we put the value and the importance of the
24 bays and shrimpery into the decision-making process as to
25 the allocation of that water.

26
27 "12. Direct all agencies to consider the national
28 interest in exercising their powers,..."
29

30 which is a requirement, that I don't think is oppressive,
31 of the Coastal Management Act--to look at the national in-
32 terest. Certainly the petrochemical industry is one of
33 national significance on our coast. We produce something
34 like 80% of the stock in most petrochemicals that then go
35 to the rest of the United States for further refining and
36 manufacture. We produce the shrimp, as I pointed out,
37 which certainly is a national value. We have some of the
38 finest game refuges in the world, along the coast of Texas,
39 and they are certainly in the national interest--the
40 whooping crane.

41
42 So we pay attention to the national interest at the time
43 that we make some of these decisions. Then we "direct
44 the ICNRE to monitor federal actions on the coast for con-
45 sistency with...our program."
46

47 Now one of the really good things about this program is
48 that if we get it into effect, then the federal govern-
49
50

1 ment's programs on the coast must be consistent with our
2 program. I think this is a healthy change from the tradi-
3 tional approach that the federal government has had, and
4 the Governor is the person who would resolve disagreements
5 between state and federal agencies as to this decision.
6

7 Finally,
8

9 "13. To assure fair and uniform fishery pro-
10 tection on the coast, make uniform salt-
11 water fishing regulations apply to all
12 coastal counties."
13

14 As you know, the counties have an opportunity to set game
15 laws. This may be all right in an upland county; but I
16 frankly think that we now know enough from the Parks and
17 Wildlife to know that what one county might do could be
18 detrimental to another county's total production; so we
19 think it is appropriate. That would not mean that the
20 rules would be the same in every county, but that you have
21 general regulatory authority invested in Parks and Wild-
22 life in all saltwater areas.
23

24 Well, that's the program. It doesn't take your hat off,
25 in terms of massive new changes; but we think that is a
26 plus. You know we have had pretty good luck, traditional-
27 ly, in Texas, with passing some progressive legislation,
28 simply because we had to. We own the bays, and there-
29 fore we gave the authority for that management to the Gen-
30 eral Land Office. We have a good Parks and Wildlife sys-
31 tem, and they have been progressive in their management of
32 the fish and wildfowl.
33

34 But we think that it has to be coordinated if it is going
35 to function. We have had production of oil and gas under
36 our bays with good rules and regulations and little or no
37 environmental damage for years. Now a lot of the states
38 are just coming to the recognition that they are going to
39 have to do something in this area, and they made need new
40 programs.
41

42 We feel that we have a pretty good set of laws to work
43 with going in; and if we can just make it work properly,
44 that we can accomplish the aims of this act in a way that
45 will do little violence or change to the system, but which
46 would make that system work more efficiently. That is the
47 basic sense of the program.
48
49
50

1 I would like to introduce Ed Coker, who is here. Ed has
2 been with the state from time to time and is now with the
3 Department of Commerce. It is good to have a good Texan
4 doing that kind of work and representing the federal govern-
5 ment. We enjoy working with him.

6
7 At this time I would like to ask if there are any general
8 questions about the program? If not, we will recognize
9 the people who will testify. Well, we will start with
10 Dan Petty.

11
12 DAN S. PETTY: Assistant City Manager, City of Dallas:
13 Commissioner, my name is Dan Petty. I am Assistant City
14 Manager for the City of Dallas; and on behalf of the
15 mayor and city council of the City of Dallas, and all of
16 the citizens of the central Texas area, we want to wel-
17 come you to Dallas. Although we are not, obviously, a
18 coastal city or a coastal area, we certainly have a great
19 deal of interest in the Texas Gulf coast, being citizens
20 of this great state. The Gulf coast is a resource which
21 we are all concerned about and interested in.

22
23 We also want to thank you and the Governor for keeping
24 this program before the people in these series of hearings
25 around the state, and in at least three non-coastal cities,
26 I believe. We appreciate including us in that effort.
27 Your leadership in the program is certainly something that
28 all of us appreciate.

29
30 To comment specifically on three or four points that you
31 brought out, and also on the Hearing Draft that was pro-
32 vided at the beginning of the meeting: First, as I men-
33 tioned earlier, the Texas Gulf coast is a natural resource
34 which is vital; and its ecological balance, its environ-
35 mental resources, and its potential is vital to all Texans.

36
37 Secondly, the Interagency Council on Natural Resources and
38 the Environment will, I believe, celebrate its tenth an-
39 niversary next year. The Interagency Council has been com-
40 posed of executive directors of the major state agencies
41 involved in natural resources and the environment. I be-
42 lieve that we have observed that this has worked well, but,
43 as you point out in your draft report, there certainly
44 needs to be the policy-level input from members of the
45 state boards and commissions into the natural resources and
46 environmental concern areas.

47
48 I think at the same time we must not dilute or forget the
49
50

1 importance of the executive directors and the staffs of
2 the various agencies. Even though we would probably con-
3 cur with your recommendations or the recommendations of
4 the program to involve the policy-makers of the state
5 boards and commissions--appointed boards and commissions
6 citizens-- we would also urge that there be strong input
7 and continuous input from the executive staffs of the
8 agencies responsible for the day-to-day administration of
9 the programs in the natural resources.

10
11 Also, I believe you alluded to, but wanted to make a
12 strong point, that a Natural Resources and Environment
13 Interagency Council cannot perform effectively without
14 adequate and effective staff support. The Council meeting
15 monthly or quarterly or however often that it might choose
16 to meet can only bridge certain gaps between the day-to-
17 day problems and decisions and efforts that must be car-
18 ried on on a day-to-day basis. Certainly an effective and
19 adequate staff support for the Council would be useful.

20
21 Of course the point on data collection is one which all of
22 us in government, in dealing with the problems and oppor-
23 tunities, feel the need for--better data, more current
24 data, data in a focal point or central source--so certainly
25 that particular recommendation is one that is obvious, I
26 guess, to all who try to work in the maze of government
27 and the private sector work. So we would certainly sup-
28 port that.

29
30 The point was made in the handout, and I believe you made
31 it, that the program is oriented toward coastal resources
32 management and not new and additional layers of govern-
33 ment, not new and additional regulations, not necessarily
34 new and additional laws. I think this is one of the most
35 significant points that we, in local government, would cer-
36 tainly feel comfortable with: That is that the tools of
37 coordinating and the tools of this committee are available
38 to the state and to the local governments. It is very
39 similar to the analogy of the tool box of tools sitting
40 out on a platform and a non-skilled craftsman taking ad-
41 vantage of those and creating a monster, and a skilled
42 craftsman taking advantage of the tools available and
43 creating a work of art.

44
45 We think the tools are there, both at the local and state
46 aspects, and that all they need is the proper craftsmen
47 to pull them together and create a work of art, which is
48 properly managing our resources of the Texas Gulf coast.
49
50

1 We do not think that the state should intercede in deci-
2 sions of purely local concern. The cities and counties
3 have authority under the constitution and laws of this
4 state, and those must be respected. There is some dis-
5 cussion at this point in time for counties to approach
6 the legislature, I believe, in the next session for ordin-
7 ance-making authority, which would put county government
8 in a similar role as the cities as far as passing ordin-
9 ances. I think this is a point that might be watched very
10 closely and might be closely integrated into this parti-
11 cular program, since the county, as a unit of government,
12 is a mechanism that I believe the coastal program would be
13 looking to for coordinating and assistance.
14

15 The development of the coastal program, as this one has
16 developed--and I think those of you who have been involved
17 in the planning efforts know--that this program appears,
18 at least from our vantage point, to be a realistic pro-
19 gram--one dedicated to getting the job done; one dedicat-
20 ed to not putting the plan on a shelf to be covered with
21 dust over the years; but one to relate to real problems
22 and real programs and real results; and we commend you
23 for it.
24

25 In closing, I would just like to say that we in Dallas
26 appreciate you coming to our city. We want to support you
27 in every way possible, from local government and a com-
28 munity standpoint, and we certainly appreciate the leader-
29 ship, Mr. Armstrong, you and you staff have provided on
30 the program. Thank you.
31

32 RON JONES: Director, Texas Coastal Management Program:
33 Jill Smith. The Commissioner normally points out, if
34 I might mention it: there is a purpose for those lights
35 over there, and that is that after 8-minutes the yellow
36 light will come on, and after 10-minutes the red light
37 will come on. That doesn't mean you have to stop, but
38 it is an indication, I guess, of how long you have been
39 speaking so that you can make those comments along those
40 lines. Thank you.
41

42 JILL SMITH: Texas Committee on Natural Resources: There
43 won't be any danger of that, I'm taking about 10-seconds.
44 I am here as a very novice representative of the Texas
45 Committee on Natural Resources, of which Ned Fritz is the
46 Chairman.
47

48 The Texas Committee on Natural Resources supports and
49
50

1 applauds the proposals and recommendations of the Texas
2 Coastal advisory committee. In particular, we hope to
3 see early release and utilization of those studies pertain-
4 ing to freshwater inflows to bays and estuaries. This ex-
5 tremely vital interface between land and water must be pro-
6 tected by the best scientific information at hand. Indus-
7 try, technology, government, in fact all sectors, have a
8 responsibility to protect and preserve these vulnerable
9 and irreplaceable natural resources. Thank you.

10
11 BOB ARMSTRONG: Thank you very much. We have two more:
12 Clint Booth and Mrs. Eleanor Sutherland. Clint, I believe
13 you are first.

14
15 CLINT BOOTH: Rancher and landowner, Bosque County, Texas:
16 My name is Clint Booth. I live in Dallas. I am a rancher
17 and a landowner in Bosque County, which is in north cen-
18 tral Texas. I am a geologist, and worked the Texas Gulf
19 coast area for many years, and have interests down there.

20
21 I would like to commend Commissioner Bob Armstrong, the
22 General Land Office, and the citizens' advisory committee
23 on the current draft of the Texas Coastal Management Pro-
24 gram. I believe that this is a well-balanced, practical
25 program that will make the most of the unique resources
26 of the Texas Gulf coast, without stifling economic growth
27 and development.

28
29 The guidelines that I think should be considered impor-
30 tant in a program such as this are: (1) Private property
31 rights protected and respected, (2) Desires of local citi-
32 zens respected at all times, (3) Decisions made at the
33 local level of government, whenever possible. Thank you.

34
35 BOB ARMSTRONG: Thank you, sir. Mrs. Sutherland.

36
37 ELEANOR W. SUTHERLAND: President, League of Women Voters
38 of Dallas: Thank you. Commissioner Armstrong, members
39 of the panel:

40
41 "The League of Women Voters of Dallas have high
42 praise for the Coastal Management Program recently
43 published by the General Land Office.

44
45 As a member League of the League of Texas, we
46 have participated in studies of the state's boards
47 and commissions. The recommendations for strength-
48 ening the Interagency Council on Natural Resources
49
50

1 and the Environment are good. We sincerely
2 hope the changes can be affected in the man-
3 ner outlined in the Hearing Draft.
4

5 The League has worked hard for citizen partici-
6 pation in government, and the importance of the
7 recommendation to include the public--statewide--
8 in the decision-making process cannot be over-
9 emphasized.
10

11 We hope that such coordination and planning as
12 a newly strengthened ICNRE would be able to
13 provide, would lessen the questionable reliance
14 on the market system to serve the broad public
15 interest.
16

17 In reviewing the Executive Summary, we in the
18 Trinity River area are wondering whether the
19 consideration of freshwater inflow will receive
20 the kind of emphasis believed to be necessary
21 in the overall management of the coast. The
22 major impact of the state's river system manage-
23 ment has been avoided. We hope that a state
24 wetlands protection act, as proposed, will be-
25 come a reality.
26

27 The proposal has many pluses for management of
28 the coast. The increased accountability of
29 those state agencies directly impacting on
30 coastal management is clearly the direction to
31 take.
32

33 The present approach of having boards and com-
34 missions appointed to oversee a specific set of
35 functions--air, under the Texas Air Control
36 Board, water under the Texas Water Quality Board,
37 Texas Water Development Board, and Texas Water
38 Rights Commission--with further fragmentation
39 into river basin authorities, such as the Trinity
40 River Authority, shows the great difficulty in
41 coordination of plans and policies. The tendency
42 to think in categories would thus be greatly
43 lessened.
44

45 A new ICNRE should be that "impossible dream":
46 totally apolitical, not afraid of looking at
47 growth policies in the public interest." Thank you.
48
49
50

1 Should I leave this with you?

2
3 BOB ARMSTRONG: If you would, please.

4
5 ELEANOR W. SUTHERLAND: Thank you, sir.

6
7 BOB ARMSTRONG: Thank you. Is there anyone else who would
8 like to testify? You don't have to be prepared. We don't
9 want to cut anybody off. Yes, sir?

10
11 (From audience): If I could, I would say a few words.

12
13 BOB ARMSTRONG: Would you come up here so they can get
14 the recording? I would appreciate it.

15
16 JAMES D. RAGSDALE: Department of Transportation, Dallas:
17 My name is Jim Ragsdale. I am a career fed, and my boss
18 is Ed Foreman, who is the Chairman of the Federal Regional
19 Council.

20
21 I think I should say a few words on behalf of what Bob
22 has done, and Ron and his staff, and how we work together
23 as a team in fostering cooperation. I think in addition
24 to being a tremendous program that we have going here,
25 that we also have an instrument developing between the
26 feds and the state that can go further in that area.

27
28 When we first heard of Coastal Zone Management Act, in
29 conversation with Ron, the Federal Regional Council es-
30 tablished a task force, at that time headed by the Depart-
31 ment of the Interior, and subsequently will be transferred
32 to the Department of Commerce, and Ed Coker will head
33 this up.

34
35 We don't tell the State of Texas what to do, or the State
36 of Louisiana, but our task force is on call, ready and
37 alert to respond to one of the requirements of the act:
38 that the state coordinate with all levels of federal go-
39 vernment, in order to achieve the end product. We stand
40 ready as a Council, and sit with Ron Jones and his group
41 whenever they want to discuss coordination, and with the
42 State of Louisiana, and from what I have seen so far, you
43 can be proud that Texas will have the best Coastal Zone
44 Management Act in the nation.

45
46 BOB ARMSTRONG: Thank you, sir. You know when I ran for
47 office I had a television spot that showed me and my son
48 on the beach. My advisors who were supposed to handle

49
50

1 media said, "You know, that's fine if you are going to
2 run on the coast, but you can't run that in Dallas, or
3 San Angelo, or Amarillo." And I said, "Well, we are going
4 to run it there, because we don't have any money for ano-
5 ther spot. We are going to have to run it everywhere."
6

7 The place where we turned out to be lucky or right or what-
8 ever, was that I think that the people in the uplands re-
9 member the beach as a place where they went when they were
10 kids, a place you go on vacation. People who live there
11 think it is a pretty hot, sultry place, and lust to get
12 up to Colorado or up to Austin to the freshwater lakes;
13 so it has kind of a reverse effect.
14

15 The upshot of it was, and what I guess is the point I am
16 trying to make is: The coast is important to Dallas, and
17 economically we can show that people in Des Moines, people
18 in Kansas City, that might want to fish off Matagorda Is-
19 land come through Dallas and spend money on their way to
20 get here. They stop at D-FW on their way, so the coast
21 is also important economically to every city in the state,
22 as well as just the asset that it is to the people who use
23 it themselves.
24

25 So we appreciate very much your coming out to a hearing
26 like this. Frankly, I didn't know who would come, or if
27 anybody would come. But we did think it was important to
28 have some "away from the coast" hearings. We will have
29 one here, one in San Antonio, and then a final hearing in
30 Austin. We have now completed our hearings on this draft
31 on the coast itself.
32

33 If you have any suggestions or any ideas, you can find
34 Bill Clark here, you can find Bobette; communicate with
35 us through the advisory committee. That is part of their
36 purpose. You can write us. If you think there is some-
37 thing that is important enough, and you want to, you can
38 come to the San Antonio hearing, which will be next Mon-
39 day, or to the Austin hearing the following Wednesday.
40 So those are available to you.
41

42 You can feel free to stay and have coffee. If you have
43 any further questions or if you would like to take a look
44 at these publications, please feel free to do that. We
45 do thank you very much for your interest and for coming
46 this morning.
47

48 Anybody on the advisory committee have anything they would
49
50

1 like to say? All right, Bubba. This is Bubba Whitehead.

2
3 L. D. "Bubba" WHITEHEAD: Rancher; member of the advisory
4 committee: My name is Bubba Whitehead. I live in Fort
5 Davis, Texas and, as I stand before you today over here, I
6 represent myself, as an individual and not as the King
7 Ranch.

8
9 You probably wonder why Bob picked on me from West Texas
10 to try and help or advise in whatever capacity I may on
11 the Coastal Management Program. I like shrimp. I'm con-
12 cerned about the little critters down there. I like to
13 visit the coast, the same way you like to visit our
14 part of the country. The people in West Texas are very
15 much concerned with the coast.

16
17 Bob, Ron, your group of people; the advisory council that
18 has served in the capacity that we have, has been a real
19 rewarding experience for me. It has been a real education,
20 because there is a lot about the coast that I did not know.
21 I thought an environmentalist was my enemy. In our part
22 of the country over there it is not the best neighbor, but
23 after visiting with Sharron and the people that are in-
24 volved in the environmental aspect of it, I have grown to
25 admire and respect these people and the stand that they
26 have taken.

27
28 The balance of the people who are the industrialists, and
29 we have very little to no industry in my part of the coun-
30 try over there, these people have a gripe and a grievance.
31 The makeup of the advisory committee has taken a real
32 forward step in communicating with each other, and coming
33 out with a positive report, which you have in the blue
34 folder that you are holding with you today. I think it is
35 a plus, and I think it is a great step for the State of
36 Texas. Thank you for letting me be here today.

37
38 BOB ARMSTRONG: Thank you, Bubba. Yes, maam?

39
40 (From audience): I have a few questions I'd like to ask.

41
42 BOB ARMSTRONG: Would you mind asking them from up here
43 so we could get them on the record? I hate to do that to
44 you, but we have tried it the other way and it doesn't
45 work. Do you want to ask them one at a time, or you can
46 ask them all or singly, or however?

47
48 LETA ALDERSON: I am Leta Alderson, and I would like to
49
50

1 know who is going to select the citizens' advisory com-
2 mittee?

3
4 BOB ARMSTRONG: The Governor.

5
6 LETA ALDERSON: I mean who is going to recommend these
7 people?

8
9 BOB ARMSTRONG: Well, I assume that anybody could recom-
10 mend, but we think that we have to put that appointive
11 power somewhere, and we selected the Governor as that per-
12 son. That's our recommendation.

13
14 LETA ALDERSON: All the data that you are going to
15 collect, is this going to be more available to the pri-
16 vate citizen? Or is it just going to be for the governing
17 agencies?

18
19 BOB ARMSTRONG: Our idea is that it will be available to
20 state agencies in their decision-making processes, to the
21 local governments in their decision-making processes, and
22 to the industries that are interested--for example, those
23 that would like port sites, or need natural resources.
24 We think it would be advantageous to them to have it
25 available to them. Basically all three.

26
27 RON JONES: Bob, it is available to anyone that wants the
28 information. Our thought is that only the sort of variable
29 costs of getting it off the computer or whatever would be
30 the charge that you would have for it.

31
32 LETA ALDERSON: How are you going to avoid abuses in
33 granting permits to, all the various kinds of permits to
34 particular favorite groups, for example.

35
36 BOB ARMSTRONG: If this system works as it is designed,
37 then the people who will be granted permits are going to
38 be the people who make applications; and after reviewing
39 that application, if the right questions are asked
40 in this assessment process, then the people who make the
41 decisions to grant that permit will have done so knowing
42 the effects or the consequences of granting the permit.

43
44 It is not going to be a matter of who. I presume that
45 anybody will get it if they ask properly and it is a pro-
46 per function and if it meets all the various tests that
47 you devise. But, hopefully, we will then get it out of
48 the political or the guessing stage and get into sound

1 assessment of the economic, social and environmental con-
2 sequences of whatever is. That is the way the system
3 works.

4
5 LETA ALDERSON: You mentioned uniform saltwater fishing
6 regulations: will there be a consideration of the dif-
7 ferences in areas, i.e., comparing Brownsville with Gal-
8 veston?

9
10 BOB ARMSTRONG: Let me point that out. It is not uniform
11 in the sense that the sense that the same regulations
12 would be applied; it is that you put it in a uniform au-
13 thority--Parks and Wildlife, for example--so that you get
14 away from what we now have which is fishing regulations
15 by county edict, which again goes back to politics, in
16 most instances. You have the netters vs. the game pole
17 fisherman, or you have the commercial fisherman vs. the
18 recreational fisherman; and we just feel like the coast
19 is an asset that belong to all the people of the state;
20 and if you manage the resources of that coast on a county
21 by county political basis, that is just not as satisfac-
22 tory as if you did it through Parks and Wildlife. But
23 that would not mean that they would not make different
24 rules, for example, between Brownsville and Galveston.

25
26 LETA ALDERSON: Thank you.

27
28 BOB ARMSTRONG: I think those were excellent questions.
29 Thank you. Anyone else?

30
31 LUCINDA HEADRICK: I'm Lucinda Headrick and I want to speak
32 as an individual and tell of a little tale this Spring
33 that happened to my family.

34
35 I have been interested in the coast off and on because
36 we used to live in Alvin, Texas. We used to go to Surf-
37 side all the time and hadn't been back for 10 years. So
38 this spring my family, my husband and two children, joined
39 another family, went to Surfside and we asked for a house
40 right on the beach. We really wanted to see the beach.

41
42 We arrived and we found, right in front of the house, a
43 concrete wall with the water lapping the wall. I scratched
44 my head and said to my husband and my friend, "That doesn't
45 look very good", and they laughed at me.

46
47 The next morning we got up and the wall was bent down.
48 Then finally, two days later in the middle of the night,
49
50

1 the wall went down. When we got up that morning, the sea
2 had eaten so close to the house that we decided not to
3 stay any longer; and we understand it was no longer in
4 service by the end of the afternoon.

5
6 So we say, "Right On" with your program, please.

7
8 BOB ARMSTRONG: Thank you very much. You know Senator
9 Schwartz has had a theory that the alert coastal purchaser
10 will buy the lot that is the second one back, because it
11 is even cheaper; and if you just wait, in some areas, it
12 will be on the beach soon enough.

13
14 We do think is a difficulty with the erosion, and that
15 notice should be given, particularly to prospective pur-
16 chasers and that sort of thing. We have been able, in
17 working with the Bureau of Economic Geology--an extremely
18 capable group in Austin, at the university--to ascertain
19 those areas of the coast where erosion is operating in
20 varying degrees. We can tell you where the 60-foot per
21 year is, where the 10-foot per year is, and, unfortunately,
22 the very few areas where it actually accretes; but there
23 are not many of them.

24
25 We think if you could ascribe a cause to it, probably
26 your beaches are eroding because of the diversion of the
27 Mississippi mouth eastward; that cuts us back from a mas-
28 sive inflow of sand in our direction. The other problem
29 is apparently that the Mississippi just dwarfs everybody
30 else's deposits, or every other river's deposit; but just
31 the plethora of tank dams and better soil practices, con-
32 servation practices, have also stopped the beaches from
33 being sustainable or capable--although we don't know,
34 maybe erosion has been with us forever and will stay with
35 us forever. At least we want to identify it and pinpoint
36 it and let people know about it. Bobette?

37
38 BOBETTE HIGGINS: League of Women Voters of Texas; Member
39 of the advisory committee: I would like to say something.

40
41 BOB ARMSTRONG: A lot of people come from the coast to
42 our meetings, because they are on the coast and it's easy.
43 Bobette is one that has to come all the way from here to
44 the coast, and we really want to thank you for that.

45
46 BOBETTE HIGGINS: It's more than all the way from here;
47 it's all the way from Denton.

1 BOB ARMSTRONG: That's right. That's true.

2
3 BOBETTE HIGGINS: I am the most upland member of the coastal
4 management committee. I had never thought of myself as an
5 upland person, but I tell you down there, that is my cate-
6 gory; I'm the uplands representative.

7
8 Bubba said something today that I wanted to second, and
9 that is what a privilege it has been to serve on this
10 committee. The League of Women Voters, which I represent,
11 hollers its collective head off all the time about public
12 representation, about citizen involvement. They ask all
13 citizens to be involved in governmental activities. They
14 ask governmental entities to include citizens in the de-
15 cision-making processes.

16
17 This is one governmental entity which has done exactly
18 that. I cannot describe to you the diverse views held by
19 those people on that committee, and the ease--I shouldn't
20 say "ease", it hasn't been easy all the time--but the way
21 we have been able to reach agreement, with full considera-
22 tion for each other's points of view, in our determination
23 to make this plan work.

24
25 I would urge those of you who live in the uplands to re-
26 member this day, and to remember this committee, and to
27 remember this plan; and to continue your interest in it
28 to see that it does work. If you want any help or informa-
29 tion, I'm in Denton. Give me a call or write me a letter
30 and; if I don't know the answer and I seldom do, I will
31 forward your question on to those people who do know the
32 answers. You'll get answers to those questions you have.
33 Thank you.

34
35 BOB ARMSTRONG: Thank you, Bobette. That is a good point.
36 You know it is only going to work if the Legislature and
37 the Governor are responsive; so if you have any knowledge
38 of those kinds of people, and what we have said today makes
39 sense, we would appreciate your help. Anyone else? Yes,
40 sir?

41
42 R. CARTER CLINE: Sabine Royalty Corporation, Dallas, Texas:
43 My name is Carter Cline and I am here representing the
44 Sabine Royalty Corporation here in Dallas, also Dalco Oil
45 Company.

46
47 I would just like to comment briefly on the recommendation
48 number 9., with regard to the Corps of Engineers being
49
50

1 able to get jurisdiction, as such, delegated to the state.
2 I would just like for you, if you would, to comment on
3 what inroads you have made in that regard. Do you actually
4 think that the federal government and the Corps of En-
5 gineers will delegate this to the state?
6

7 BOB ARMSTRONG: Let me say this, that our hearings were
8 permeated in this context: EPA filed a suit against the
9 Corps of Engineers, and, in effect, mandamoused them to
10 start regulating all dredging and filling and diking opera-
11 tions, not just in the coastal areas where they have been
12 operating, but all the way, I presume, to the mouth of
13 the streams.
14

15 This caused Corps, in turn, to issue some regulations which,
16 I think, attempted to make very clear and very strong in
17 an effort to get Congress or somebody to let them out of
18 this trap. They did not want to do it, so they came out
19 with some very strong recommendations.
20

21 All right. This was on everybody's mind when we were
22 down there. They were just saying: if we want to protect
23 the wetlands, if we want to regulate dredging and filling
24 and diking in those areas, and get, in effect, the Corps
25 of Engineers back into saltwater, which is what the term
26 they kept using was. Then there were some other people
27 who also said, "You know, the reason the Corps is doing
28 this, among other things, is the state is not tending to
29 its business. If we need the permits and things where
30 they need to be permitted, let's at least do it either
31 with local government or with state government, but not
32 with the Corps."
33

34 There is also some language in the Corps' regulations
35 which says: That where the state has a policy and a pro-
36 gram and is taking care of it, then they will not over-
37 turn it except in extreme cases, you know, where it is
38 just totally too lean or totally too strict; and, in effect,
39 let's the state tend to its business.
40

41 So, sort of in that context this is what we have been deal-
42 ing with and what we think we are going to deal with. I
43 don't think you are ever going to have the Corps of En-
44 gineers not telling somebody that is drilling in the bay
45 what they think the navigational hazards of drilling in
46 the bay might be, or giving a permit to people in the ship
47 channel, and that sort of thing.
48
49
50

1 RON JONES: Can I make one further comment?

2
3 BOB ARMSTRONG: Sure. Incidentally, this is Ron Jones,
4 who is Director of the program. I really didn't tell you,
5 basically, there are no state employees working on the pro-
6 gram. This is all by contract. We had a good grant, but
7 I didn't want anybody to think I was going to use it for
8 empire-building; so this staff self-destructs at the end
9 of the grant time. Again, I think that is worthwhile.
10 Then if we need people to do something else, that's one
11 thing, and we can make some legislative requests in the
12 budget for that, but we felt this was the best thing.

13
14 Ron has done an excellent job. He comes to us via Parks
15 and Wildlife, via A & M University, and with that I will
16 give you Ron Jones. That points out that I am fair; I take
17 both the good and the bad, as a University of Texas grad-
18 uate.

19
20 RON JONES: The point about the Corps is this: We have
21 been working with the Corps on that very question. The
22 act is very specific, I think; unless the Corps wants to
23 say that all their dredging and filling activities in the
24 wetlands are of overriding national interest, and they
25 have not been willing to say that yet, then their activi-
26 ties fall under the federal consistency provision of the
27 act.

28
29 Now, the Corps is not going to come out and volunteer im-
30 mediately to turn over that authority in the wetlands, I
31 don't think. However, the language in the act is the same
32 language that was used in the NEPA (National Environmental
33 Policy Act) legislation, which we found very strong.

34
35 So I think the only thing that we can say is this: Hav-
36 ing worked with all the states who are developing coastal
37 programs around the nation, that virtually every state is
38 going to test that in the courts. If the State does deve-
39 lop a program that is approved and the Corps does not
40 turn that responsibility over, I think that the state will
41 go to court and test it.

42
43 Jep, our attorney here, has just reminded me, of course,
44 of the Wright Amendment, which has now passed the House,
45 in terms of the 404 Corps regulations. It is now, of
46 course, on the Senate side. Basically what that says is
47 that the Corps does have the right and can go ahead--the
48 Court had said before that it couldn't delegate that
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authority to the state. The Wright Amendment does give them the opportunity to delegate that. The courts position right now, as I understand it, is that they would sort of let the state be a lead agency, but they would retain the authority.

We see that as nothing more than duplication of effort, and we don't want to get into that. We have got enough problems now, in terms of duplication.

All right. Any other questions? The Commissioner is in the back. If there are no other questions, I guess if he is not here I can shut it down. Thank you a bunch for coming.

C E R T I F I C A T E

STATE OF TEXAS)
)
COUNTY OF TRAVIS)

I, THE UNDERSIGNED COURT REPORTER in and for Travis County, Texas, do hereby certify that the above captioned matter occurred as hereinbefore set out.

I FURTHER CERTIFY THAT the proceedings of such were reported by me, later reduced to typewriting under my supervision and control and that the foregoing pages are a full, true and correct transcription of my original notes.

GIVEN UNDER MY HAND at Austin, Texas, this 1st day of September, 1976.

Diana Huntress Peling
Court Reporter in and for
Travis County, Texas

LEAGUE OF WOMEN VOTERS OF DALLAS

PRES. FILE

Statement to the General Land Office hearing on the proposals for Coastal Management for the State of Texas:

August 25, 1976

To: General Land Office
State of Texas

The League of Women Voters of Dallas has high praise for the Coastal Management Program recently published by the General Land Office. As a member League of the League of Texas, we have participated in studies of the state's boards and commissions. The recommendations for strengthening the Interagency Council on Natural Resources and the Environment are good. We sincerely hope the changes can be effected in the manner outlined in the Hearing Draft.

The League has worked hard for citizen participation in government, and the importance of the recommendation to include the public--statewide--in the decision-making process cannot be overemphasized.

We hope that such coordination and planning as a newly strengthened I.C.N.R.E. would be able to provide would lessen the questionable reliance on the market system to serve the broad public interest.

In reviewing the Executive Summary, we in the Trinity River area are wondering whether the consideration of fresh water inflow will receive the kind of emphasis believed to be necessary in the overall management of the coast. The major impact of the state's river system management has been avoided. We hope that a state wetlands protection act, as proposed, will become a reality.

The proposal has many pluses for management of the coast. The increased accountability of those state agencies directly impacting on coastal management is clearly the direction to take. The present approach of having boards and commissions appointed to oversee a specific set of functions--air (TACB), water (TWQB, TWDB, & TWRC)--with further fragmentation into river basin authorities such as TRA--shows the great difficulty in coordination of plans and policies. The tendency to think in categories would tend to be greatly lessened.

A new I.C.N.R.E. should be that impossible dream: totally a-political, not afraid of looking at growth policies in the public interest.

Thank you,

Eleanor W. Sutherland, President
League of Women Voters of Dallas

Statement by the League of Women Voters of Texas
to the
Railroad Commission of Texas
concerning
Proposed Rules and Regulations Governing Surface Mining in Texas
November 5, 1975, Driskill Hotel, Austin, Texas

LWV of Texas
November 1975
II.A.1.d.
Program-Vertical
EQ-Land Use

I am Bobette Higgins, Land Use Chair for the League of Women Voters of Texas, representing the 4000 League members in the state. We are most appreciative of this opportunity to comment on the proposed Rules and Regulations of the Surface Mining and Reclamation Division of the Railroad Commission of Texas, for Uranium and for Coal.

After examining these proposals, we are extremely pleased to be able to support the general scope and intent of the regulations. We were especially pleased to note the addition of Chapter IV, Section 400 on revocation of permits which was issued in the addendum. While our overall impression of the proposed rules and regulations is most favorable, we do have some suggestions for modification, which follow.

In Chapter II, Section 200, Rule 200.1 (k), we find the definition of reclamation vague and unsatisfactory when it refers to the alternative of "other substantially beneficial condition." We need answers to two questions: 1) Who is to determine this beneficial condition? and 2) What criteria are to be used in arriving at this determination?

Rule 300.3 (b) Bond Estimate. Under this rule, applicants for a permit MAY submit an estimate of the cost of reclamation of the lands to be mined. We believe this should be a requirement, not an option.

Rule 500.3 Additional Standards (a). We believe that granting the right to make a cut within 150 feet of the boundary of national parks etc. is apt to result in a visual pollutant of what must be a rare and ecologically sensitive area. We further believe that even if a greater distance is required, as we would urge, that the requirement of a natural vegetation screening device should be added to the reclamation process.

Rule 600.3 Notice of Intent to consider Petition. The League considers 30 day notice as proposed in this rule insufficient. We would greatly prefer 45 days, in order to allow adequate time to prepare a thoughtful statement.

We have a few general remarks to add concerning the quality of well water around uranium mining operations. Thus far, Texas has been doing a good job of keeping an eye on water quality in these areas, according to EPA Regional Administrator White as mentioned in Texas Pollution Report on September 17. We commend the Texas Department of Health Resources and the Water Quality Board for their vigilance in assuring that such water is not contaminating any of our six mining sites. As the demands for energy increase, we are concerned that this same vigilance be maintained, in order to avoid the incidences of intolerable levels of radioactive materials and poisonous chemicals which were recently found in the water near uranium mines in New Mexico.

Finally, while we approve the majority of the rules and regulations as set down on paper, we would like to remind you that these are, at this time, only words on paper. The ultimate test of the effectiveness of these regulations will come as the demands for energy cause intense pressure on you to relax these rules. Your ability to stand firm will be the deciding factor in determining the effectiveness of these rules.

All of these carefully thought out rules and regulations for the reclamation of strip mined land are based on the assumption that such land CAN be reclaimed, which is not an entirely accurate description. Reclaimed strip mined land can perhaps be likened to a muscle which has been ground into hamburger, and then patted back into its original shape. While it may resemble its original form, no one would expect it to function in the same way. Considering the vast expanse of land in Texas likely to be surface mined for lignite and uranium, we feel it is absolutely imperative that you keep abreast of all technology available to you, and to use it, in order to assure future Texans usable land.

This statement is based on the land use management position adopted by the League of Women Voters in January of 1974. We are wholehearted supporters of planning for and managing the use of land, despite the emotional opposition to this concept which exists. We suggest that this process of land use management is exactly your purpose, whether it is termed that or not.

We are aware that this is a time when it is found commendable to manage everything on God's green earth, except God's green earth. We suggest that you, through the conscientious enforcement of these rules and regulations, can serve as stewards of this green earth. We wish you well.

Thank you.

Bobette Higgins (Mrs. Wilfred)
Public Relations Vice-President, Land Use Chairperson

LWV of Texas
November 1975
State Board Report

Mostly About Coastal Zone Management

I fervently hope that all local League presidents have passed on to Land Use chairpersons the recent Action Alert from LWVUS concerning new land use action strategy. (If you're the land use chairperson, and have not received this, ask for it, or send 50¢ to LWVUS and they'll send you a copy.) This is EXTREMELY IMPORTANT INFORMATION, AND PARTICULARLY SO FOR TEXAS, since we have an assortment of state level action going on which parallels and complements national action remarkably.

Especially in two of the areas mentioned in this Action Alert, Texas has been in there pitching. "Our" question currently being examined in the Attorney General's office regarding the Texas Water Quality Board's authority in taking into account land use considerations in their actions is a direct outgrowth of testimony we gave on Section 208 of the Water Pollution Amendments. (Still no word on this--we'll keep you posted.)

Another issue of vital interest to Texas which LWVUS asks action on is the Coastal Zone Management Amendments Act--HR3981. Texas has a member on the House Merchant Marine and Fisheries Committee which is considering the bill. WRITE TO CONGRESSMAN ELIGIO DE LA GARZA AND LET HIM KNOW THAT YOU THINK THE EXTENSION OF THE 1972 CZM ACT IS URGENT--ESPECIALLY THE ADDED FUNDING AND EXTENDED APPLICATION TIME FOR SECTION 305 DEVELOPMENT AND SECTION 306 PROGRAM MANAGEMENT GRANTS. Ask that these sections include planning for any likely energy facility development in coastal zones. Let them know you approve the concept of federal grants and/or loans to help compensate coastal zone states for NET onshore adverse effects of energy facilities strictly related to OCS development. Impact aid must avoid any incentive that would skew general energy development toward the coastal zones. (Private sigh: Would we had this program in Texas 25 years ago.)

Since Texas is in the midst of developing a Coastal Management Program (we had to leave the word "zone" out of ours, because many irate and fearful citizens thought it meant the coast would be "zoned"), this action is vital to us. REMEMBER, WHILE WE DO NOT HAVE A STATE LAND USE POLICY, WE DO HAVE A POTENTIALLY EXCELLENT CZ LAND USE MANAGEMENT POLICY A-BORNING IN THIS NEW PROGRAM. AND IF IT IS CAREFULLY PLANNED AND IMPLEMENTED AND WELL-RECEIVED, IT COULD SET A PATTERN FOR ACCEPTABLE "COASTAL ZONE MANAGEMENT FOR INLAND AREAS," AS SENATOR BABE SCHWARTZ IS FOND OF SAYING.

Therefore, it is extremely important that Leagues ALL OVER THE STATE follow the progress of this developing program. Since I am on the citizen's advisory committee for this program, I will be able to keep you alerted as to opportunities for effective "citizen participation."

WITH THIS IN MIND, I AM ROLLING AROUND AN IDEA FOR A MEETING WITH REPRESENTATIVES FROM LEAGUES ON OR NEAR THE COAST (AND ANY OTHERS WHO CAN GET THERE) TO SET UP AN ORGANIZATIONAL STRUCTURE TO HELP INFORM THE PUBLIC ON THIS PROGRAM. PLEASE LET ME HEAR FROM YOU SOON IF YOU HAVE IDEAS FOR STRUCTURING SUCH A MEETING.

Under separate cover, you will be receiving a detailed report on some activity you might be interested in, and a complete report on the Texas Coastal Management Program thus far.

Bobette Higgins (Mrs. Wilfred)
Public Relations Vice-President

LWV of Texas
January 1976
State Board Report
II. A. 1.c.
Program-Vertical
Environmental Quality
Land Use

COASTAL MANAGEMENT REVISITED

You're apt to get sick to death of reading so much about the Coastal Management Program. But it is SO important, and it is equally important that local Leagues on the coast participate in the public hearings now going on. While you're about it, you might consider NOT taking notes--your attention should be directed toward listening (carefully!) to the comments of others, and speaking (also carefully) when you believe your views should be heard. The technique of participating effectively in a public hearing is an art learned mostly through trial and error--when to be quietly persuasive, when to be firm, when to inject a note of humor. And also how to decide WHO is your target--Others in the audience? (this will probably be the case in these hearings), the agency reps conducting the hearing? And always try to keep your cool! Please let me know how the hearings in your area progress.

I cannot praise too highly the film, Faces of the Coast, made under the auspices of the General Land Office, and distributed (free! with a speaker from the GLO, also free! to any group or organization for their programs. It is a beautiful film. You could do much to help spread awareness of the coastal situation by making every effort to insure that this film is seen by many people. By all means, show it to League members, but OH, PLEASE, DON'T STOP THERE. Contact service clubs, schools, and other organizations and tell them how to obtain the film. If you really want a gold star, offer to book the film for them, and also make arrangements for showing it on your local TV stations (it's 26 minutes long). Write Ron Jones, Director, Coastal Management Program 1700 North Congress, Austin 78701.

Straw in the Wind

At the recent State Land Use Policy Conference in Austin, I detected a faint stirring, a quiet rustle, a barely perceptible change in attitude on the part of many who had been adamantly opposed to ANY form of land use management. I've been noticing this for some months, and this conference confirmed that what we had long hoped WOULD happen IS happening: people, some people, are beginning to lean toward acceptance of some measure of land use management, because they see the need for it. And while they are reluctant, and fearful, and most of all sad at the prospect, they are beginning to rethink old values. I do not believe "the decision-makers" are aware of this trend, if such wispy signs can be called trend, Pity.

Leagues from Austin, Houston, San Antonio and Victoria were very much Among Those Present at the conference.

New Publication Available

There is an excellent new land use publication out, called Land: State Alternatives for Planning and Management. Get it by writing the Council of State Governments, Iron Works Pike, Lexington, Kentucky, 40511. Better send four bucks. But maybe if you say it's for the League, they'll send you a complimentary copy. So beg a little. Whine.

LWV of Texas
December 1974
Going on DPM

STATEMENT ON LAND USE IN TEXAS

Submitted to the Intergovernmental Affairs Committee
by the
League of Women Voters of Texas

The League of Women Voters of Texas appreciates the opportunity to submit this statement to the Committee on Intergovernmental Affairs for your consideration as you develop recommendations concerning land use in Texas. Since we have on several occasions sent or presented oral statements of our complete land use positions, this paper will not review those in detail, but will concentrate on certain aspects of our position which we believe need emphasizing. It might also be helpful to you to examine a paper on land use published by the League in 1973 when we were involved in our land use study; therefore a copy of this is also enclosed.

We believe it is essential to acknowledge at the beginning that land use management is a sensitive subject since it touches so closely the traditional rights of property. League members are not unmindful of the complexities of this issue. During our discussion sessions in which League members all over the state wrestled with this question, there was heated debate, and much thoughtful soul-searching as we attempted to reach common agreement on this difficult subject. In determining our position, we realized that rapid population growth which Texas is experiencing creates tremendous land use problems which did not exist when our state was less populous. We therefore determined that in order to live our lives with any measure of reasonable consideration for our fellow man, we must accept a measure of reasonable regulation of how land is used.

Most importantly, we also realized that while we all like to think we can use our land as we so please, this widely held belief is, in fact, a myth. The use of land is now and has been for many years subject to control. Planning and zoning boards and commissions exercise land use control. Deed restrictions are a land use control. Subdivision regulations control use of land. The governmental rights of eminent domain for the acquiring of land for parks and highways is a land use control. Pollution abatement agencies, through granting of permits and levying of penalties, in reality control land use. Property taxes, directly and indirectly, affect how private individuals use their land. This list could go on much longer, but there is no need to belabor the obvious: we now have land use management controls. We have a chaotic, somewhat wasteful welter of overlapping (and sometimes contradictory) responsibilities among existing governmental agencies affecting the use of land. But we do not have a coherent and organized system of land use management. Therefore, the League of Women Voters of Texas asks for a comprehensive state land use policy which would provide for the orderly development of the state, and a state land use management agency to carry out this policy.

The League of Women Voters believes that the main thrust of land use planning should remain at the local level, but we recognize that some land use decisions are of more than local concern, and that it is reasonable and fair to allow these decisions to be shared by the larger area involved, be it county, regional, or state. Since we anticipate that there will be conflicting needs, we ask that a method of appeal and arbitration be established, as well as an equitable system of enforcement.

The League does not regard land use management as a panacea for our land use ills. Our land use problems in Texas are, in some areas, critical. While a land use management policy and agency would, we think, be able to address these problems, it would be unrealistic to expect quick and easy solutions to complex problems of long standing. But we do believe that the establishment of such an agency and policy would begin to restore order, and would provide a planning process which in our opinion, is badly needed.

STATEMENT OF LAND USE POLICY

Lastly, the League urges the members of this committee to view land, not only as a commodity, but as a precious and limited resource, which must be used appropriately, according to its ability to accommodate various uses, in order to prevent sometimes irreversible damage.

We ask your careful consideration of these factors in your deliberations. And we offer our thanks to you for the intense effort and the hours of study you have expended in behalf of the people of Texas as you work to find solutions to this important problem.

Bobette Higgins
Chairman, Land Use & Solid Waste
League of Women Voters of Texas

We believe it is essential to acknowledge at the beginning that land use planning is a sensitive subject since it touches so closely the constitutional rights of property. League members are not unmindful of the responsibilities of this League. In fact, we have been for many years subject to control. Planning and zoning boards and commissions exercise land use control. Land restrictions are a land use control. Subdivision regulations control use of land. The governmental rights of eminent domain for the acquisition of land for parks and highways is a land use control. Political department agencies, through granting of permits and levying of penalties, in reality control land use. Property taxes, directly and indirectly, affect how private individuals use their land. This list could go on much longer, but there is no need to belabor the obvious. We now have land use management controls. We have a chaotic, somewhat wasteful welter of overlapping (and some contradictory) responsibilities among existing governmental agencies affecting the use of land. Not we do not have a coherent and organized system of land use management. Therefore, the League of Women Voters of Texas calls for a comprehensive state land use policy which would provide for the orderly development of the state and a state land use management agency to carry out this policy.

Most importantly, we also realized that while we all like to think we can use our land as we please, this widely held belief is, in fact, a myth. The use of land is now and has been for many years subject to control. Planning and zoning boards and commissions exercise land use control. Land restrictions are a land use control. Subdivision regulations control use of land. The governmental rights of eminent domain for the acquisition of land for parks and highways is a land use control. Political department agencies, through granting of permits and levying of penalties, in reality control land use. Property taxes, directly and indirectly, affect how private individuals use their land. This list could go on much longer, but there is no need to belabor the obvious. We now have land use management controls. We have a chaotic, somewhat wasteful welter of overlapping (and some contradictory) responsibilities among existing governmental agencies affecting the use of land. Not we do not have a coherent and organized system of land use management. Therefore, the League of Women Voters of Texas calls for a comprehensive state land use policy which would provide for the orderly development of the state and a state land use management agency to carry out this policy.

The League of Women Voters believes that the main thrust of land use planning should remain at the local level, but we recognize that some land use decisions are of more than local concern, and that it is reasonable and fair to allow these decisions to be shared by the larger area involved, be it county, regional, or state. Since we anticipate that there will be conflicting needs, we see that a method of apportioning and arbitration be established, as well as an equitable system of enforcement.

The League does not regard land use management as a panacea for all land use problems. Our land use problems in Texas are, in some ways, unique. While a land use management policy and agency would, we think, be able to address these problems, it would be unrealistic to expect such and also to expect to eliminate problems of long standing. But we do believe that the establishment of such an agency and policy would begin to restore order, and would provide a planning process which, in our opinion, is badly needed.

LWV of Texas
January 1974
Presidents Mailing
DPM
Standing Order

LAND USE CONSENSUS

The League of Women Voters of Texas supports a comprehensive state land use policy which would provide for the orderly development of the state in a manner which assures adequate protection of the environment, and improvement of the quality of life, and wise use of our natural resources. The League believes that land should be used according to its carrying capacity, based on a thorough inventory of our land and natural resources. In addition, the League maintains that the growth and development of an area should be compatible with the availability of the essential natural resources of that area. The League believes that care must be taken to protect the traditional rights of ownership of property, but where there are conflicts between private interests and public welfare, public interest should take precedence. The preservation of agricultural lands and desirable open space, with preferential tax treatment for both of these, should have priority consideration in a state land use policy. Preferential tax treatment for the maintenance of the built environment is also supported.

The League further believes that a state land use management agency should be established, providing guidelines and minimum standards, with provision for lower governmental levels to set higher standards. Regional advisory bodies should serve both state and local governments. When possible, the main thrust of land use planning should be carried out at the local level. The League favors an equitable system of enforcement, and a method of appeal and arbitration where conflicting needs exist.

The League urges the identification and protection of areas of particular significance in the following categories: (a) historical, (b) archeological, (c) aesthetic, (d) recreational, and (e) rare or fragile eco-systems.

At every level of government, the League strongly supports the opportunity for citizen participation in the land use planning process.

PRESIDENT'S FILE

LIV of Texas
April 1973
2 Copies Direct
to President

TO: Local League Presidents and E.Q.Chairmen
FROM: Mrs. Bobette Higgins
RE: Land Use Bibliography

Preparing a bibliography on a complex subject for local Leagues that vary in size from quite small to quite large is no easy task. Of course, it is necessary to cover the subject, but the real trick is to provide enough material to fill the needs of the large Leagues, without bringing despair to the heart of a tiny "committee" of one in a small League.

I realize this bibliography is long. But there is SO MUCH material being written on the subject of land use now (all of which is an indication that we're late in our study, but that's another story). I also made an effort to include a variety of styles (some easy reading, some quite technical, some very creative) to suit a variety of tastes. Pay close attention to the starred items. It is important that committee members at least skim all of these. Please read the whole bibliography before you go back to pick out the starred references.

However: If the baby gets sick, or if your husband is transferred; or if you're a new Leaguer and overwhelmed. . .BE OF GOOD CHEER! Nobody is going to frown if you don't get it all done. We know you're frantically busy--that's the age we live in.

I have enjoyed immensely the hours and hours of reading that went into the preparation of this bibliography, and the excitement of discovering intriguing new points of view. I'm sure there are many excellent materials not listed here. The new committee guide on land use from the LWVUS which just arrived has many new-for-me references. You probably have others. (Share them with us.) Since the state study on land use will parallel the national study, there are some duplications of reference materials which suggests to me interesting possibilities for program presentations, perhaps combining selected aspects of both studies.

The Leader's Guide and Facts and Issues on land use will be out in May. In the Leader's Guide, note carefully the regional reports prepared by members of the off-board EQ committee. We anticipate that consensus will be due about November 15, so that should help with your planning.

In the meantime, find your specs, take the phone off the hook, and

DIG IN!
(Joyfully)

LWV of Texas
April 1973

LAND USE BIBLIOGRAPHY

Part I. Diversified background material in history and philosophy of land use.
The starred items are very important.

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- Advisory Commission on Intergovernmental Relations. Urban and Rural America: Policies for Future Growth. April 1968. U. S. Government Printing Office.
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A STUDY OF LAND USE MANAGEMENT IN TEXAS

By The League of Women Voters of Texas

WHATEVER HAPPENED TO OUR HOME ON THE RANGE? (In Which Is Heard a Discouraging Word)

THEME AND VARIATIONS

In the piney woods of deep East Texas, many alarmed residents, concerned about their area's economy, join forces with lumber companies to do battle with environmentalists and conservationists over the fate of the Big Thicket. In San Antonio, the construction of a large expressway is halted as irate citizens protest vigorously the fact that, if completed according to plan, the highway will significantly intrude on a much-used park. In El Paso, some citizens form a Save Our Mountain committee and circulate petitions to prevent what they consider to be a ruinous development on a mountainside. And in cities and towns all up and down the Trinity River, debate continues over the merits and demerits of dredging the river to form a barge canal. These are only a few of the conflicting viewpoints that can arise over difficult land use decisions. Thoughtful citizens and governmental officials grow increasingly concerned as they attempt to find solutions to problems that are, literally, as big as all outdoors.

O, PIONEERS!

In the light of current land use controversies, it seems ironic that when the Republic of Texas came into being in 1836, one of the methods of attracting settlers was through the granting of rights to land. In 1845, when Texas joined the United States, it, unlike other states, retained title to its public domain, and continued the practice of granting acreage until the grand total of lands disposed of in this manner reached 154 million acres. These lands were used to encourage settlement, to reward veterans of the Texas Revolution and the Civil War, to pay public debts, to finance the construction of the Capitol building and other improvements such as canals and roads, to stimulate the building of railroads and manufacturing plants, and to finance eleemosynary institutions and public education. In the state's early days, according to *Texas Land Use*, "land was viewed, not as a resource to be developed or applied to desired ends, but as wealth—a substitute for money—to be bartered for things and services. Decisions as to how land resources of Texas should be used were to be left largely to private owners."

In the new and vigorous country that was the United States, Texas was not unusual among states in its land use practices. Today, though the frontier is gone, the "pioneer ethic" of those hardy, determined, forthright settlers of our land is still with us. This ethic has, in the eyes of some, made the United States, and Texas in particular, guilty of the "use-it-up-throw-it-away-and-move-on-to-Beulahland" syndrome, which many feel is a contributing factor in our current land use dilemmas. Because, whatever "it" is, it is in finite supply, and wherever we throw "it," it becomes somebody's

problem, and "moving on" becomes less of an acceptable alternative, since, in all likelihood, we will find the same problems in Beulahland.

Some people, noting the increasing concern over wise land use, wonder at the complexity of the problems. They voice some of their doubts in such questions as these:

Why, since Texas is so large, and apparently so abundantly endowed with natural resources, are we fighting over them?

Is it really a fact that some of our most necessary resources are not abundant after all? Are we "using them up"?

If this is true, what will be the resultant changes in our lifestyle? What will we have to do without?

Is it no longer true that "what's mine is mine, to do with as I choose," and that some form of control over private ownership of land will become essential? What kind of control? And how much?

Should we devise some land use management measures now, to forestall rigid control later?

While these questions are difficult, even painful to consider, facing them forthrightly, as our forefathers faced the unknown difficulties of settling the land, may make of us the pioneers of a new age. We may even find that the results of the "quiet revolution" are more beneficial than restrictive.

REGULATORY PRACTICES

*And so put off the weary day
When we would have to put our mind
On how to crowd but still be kind.
Robert Frost*

Putting off the weary day no longer, let us now put our minds to consideration of current land use practices in Texas.

Texas is as large as all of New England, New York, Pennsylvania, Ohio, and Illinois combined. This single state occupies about seven percent of the total water and land area of the United States. Second in size among the states, Texas has an area of 267,339 square miles. In elevation, the state varies from sea level along the Gulf Coast to 8,751 feet at the summit of Guadalupe Mountain in Culberson County. The widely varying water resources, soils, and temperatures give Texas an equally wide variety of vegetation. "From the forests of East Texas to the deserts of West Texas, from the grassy plains of North Texas to the semi-arid brushlands of South Texas, plant species change continuously" (*Texas Almanac*).

In managing this vast and varied land mass, the traditional ethic of individual rights has prevailed in statutory law and in judicial decisions, as well as in constitutional provisions. However, the need for some governmental restrictions has long been recognized. A selective list of land use regulations for local governmental agencies in *Vernon's Civil Statutes* shows 36 specific regulations dealing with such diverse subjects as extraterritorial authority, zoning, airport zoning, subdivisions, and eminent domain for flood control, setbacks, and parks.

Currently, land use planning and control are primarily in the hands of local governmental units. However, a bewildering array of governmental agencies, boards, and commissions exist at the state level to carry out state activities pertaining to land and natural resources. These various agencies have come under fire from environmental groups, because they feel that lack of coordination and cooperation among the agencies, and occasional seeming conflict of interest, preclude effective action by these regulatory bodies.

Public lands in Texas are supervised and administered by the General Land Office. Headed by an elected commissioner, the General Land Office was formerly concerned mainly with the management of public state lands (of which there are 22.5 million acres) for maximum economic benefit, but has in recent years taken an increased interest in environmental protection of public lands.

As is typical of most states, in Texas the main tools for the regulation of private land use are the zoning and subdivision control powers which the state has delegated to local governments.

Zoning. The Roaring Twenties are noted for producing flappers, jazz, and speakeasies. Less generally known is that this period also saw the birth of zoning. Zoning enabling legislation was passed in Texas in 1927.

According to *Land Use Management Issues in Texas*, the zoning enabling act gives Texas cities the authority to divide into districts to set "regulations for land use, and structural development in each type of district, according to a comprehensive plan. The city must provide for a zoning commissioner to lay out districts and recommend regulations for each, and it must provide for a board of adjustments to permit exceptions to the zoning regulations." There are methods for appealing the actions of the board of adjustment, and violations of the ordinance are misdemeanors.

Most Texas cities have enacted zoning ordinances as a means of land use control. A notable exception is the city of Houston. In *The Zoning Game*, Richard Babcock states that "Houston is the hair shirt of the city planners." He feels that lack of planning and zoning in Houston has led to chaotic blight, particularly in the poorer sections. Defenders of Houston's no-zoning policy point to urban decay in cities with zoning ordinances as indication that zoning helps little, if at all, in controlling the growth and development of cities.

The whole process of zoning has recently come under attack in the courts because of the exclusionary conditions it encourages. Many people agree that zoning, which was begun primarily for the purpose of protecting the single-family residential neighborhood, has become a method of preventing the social and economic upward mobility of minority groups and the disadvantaged.

Subdivision controls. Cities in Texas have the authority to regulate subdivisions of land. This authority is used for such requirements as appropriate street patterns, street construction standards, and adequate sewerage, water supply, and drainage facilities. Construction in floodplains may be prohibited or regulated. Some recent subdivision ordinances require dedication of open space for public use.

Texas counties have quite limited subdivision regulatory authority. In fact, it has been criticized for being so restricted in scope as to be virtually ineffective. Perhaps the biggest weakness is the lack of any means of enforcement. There is no penalty for the developer who refuses to file a map or plat. Chaotic land use practices in unincorporated areas remain one of the knotty problems requiring increased attention.

Property tax. The property tax system, which is currently under attack as being unfair and improperly used in most states, including Texas, can be regarded as a form of land use control. Texas has embarked on a gradual retreat from the property tax as a source of state revenue, but the property tax remains the principal source of funds for cities, school districts, and counties.

Problems with property taxation arise because, theoretically, the assessed value of the property is the same as the market value, but in actual practice, the percentage relationships of assessed value to market value vary enormously throughout the state. Some authorities are also suggesting that some land be taxed according to its actual use, rather than its true market value, in order to help preserve prime agricultural lands. Texas has adopted preferential assessment for agricultural lands, but some experts feel that the language of the constitutional amendment authorizing it was too restrictive for the preferential assessment to succeed in its purpose. Preferential treatment to encourage open space preservation is also recommended by some land use authorities.

AREAS WITH CRITICAL LAND USE PROBLEMS

If any region of Texas were to be designated as a critical zone in terms of land use problems, it would have to be the Gulf Coastal Zone. It is one of the most rapidly expanding areas in the state in both population and economic growth. The environmental problems related to urban sprawl, industrial expansion, and uncontrolled growth place an ever increasing burden on the area. One of the governmentally appointed bodies investigating land use problems in Texas was concerned solely with the coastal zone (Coastal Resources Management Program), and has submitted a lengthy report with many recommendations. Among these are the repeal of the section in the Water Code allowing the sale of state-owned submerged lands, and suggesting instead that these lands be leased; the establishment of a comprehensive coastal public lands management act; regulation of all dumping at sea; protection of fresh water inflows to estuaries; extensive flexible groundwater regulations to curtail subsidence; the use of performance standards in conjunction with resource capability units to determine what types of development are acceptable in various coastal areas; and the rejection of the establishment of conventional zoning except where essential for the protection of critical environmental areas.

Another region of increasing concern is that vast arid portion of West Texas in which irrigation of land and the resultant lowering of the water table have caused critical problems. The bond election for the Texas Water Plan, which was meant to correct this situation by the importation of water from the Mississippi River, was turned down by the state's voters in 1969. West Texans, however, have continued to press for the adoption of the Water Plan as their plight grows more alarming. They were recently discouraged by the declaration by U.S. Bureau of Reclamation authorities that the plan is not feasible because annual costs of the \$20.5 billion project would be four times as great as annual economic benefits (*Dallas Morning News*, May, 1973).

Many West Texans believe that the water importation issue is far from dead. In their view, while it is presently economically unjustified, changing technology and the expanding world market for their agricultural products may

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THE POSSIBLE RANGE OF CHOICE FOR A COASTAL RESOURCE MANAGEMENT ENTITY

POSSIBLE COURSES OF ACTION							
	A	B	C	D	E	F	G
IMPLICATIONS CONSIDERATIONS							
What action would be required by the Legislature?	None	Resolu- tion	Minor Statutory Enactment	Minor Statutory Enactment	Significant New Statutes	Significant New Statutes Plus Pro- bable Consti- tutional Amendment	Significant New Statutes Plus Constitution- al Amend- ment
Would this significantly affect existing agencies?	No	No	No	No	Some	Yes	Yes
Would this comply with the recent National Coastal Zone Management bill?							
Initial phases	No	Possible	Yes	Yes			
Completely	No	No	No	No	Maybe	Yes	Yes
Would this require increased controls over private property?	No	No	No	No	Very Limited	Yes	Yes

- A. Revert to the past – dis-continue present cooperative efforts.
- B. Continue Coastal Management efforts thru ICNRE, guided by Legislative resolution.
- C. Same as "B", except provide ICNRE with specific statutory directive.
- D. Special entity (existing or new) to carry out intensified coastal program development, planning, assessment.
- E. Create a coastal management authority with certain powers over a narrowly-defined coastal zone.
- F. Similar to "E" except over a broader geographical coastal area and more substantial powers.
- G. Establish a powerful state-wide land and water use regulatory commission.

Source: Coastal Resources Management Program Report

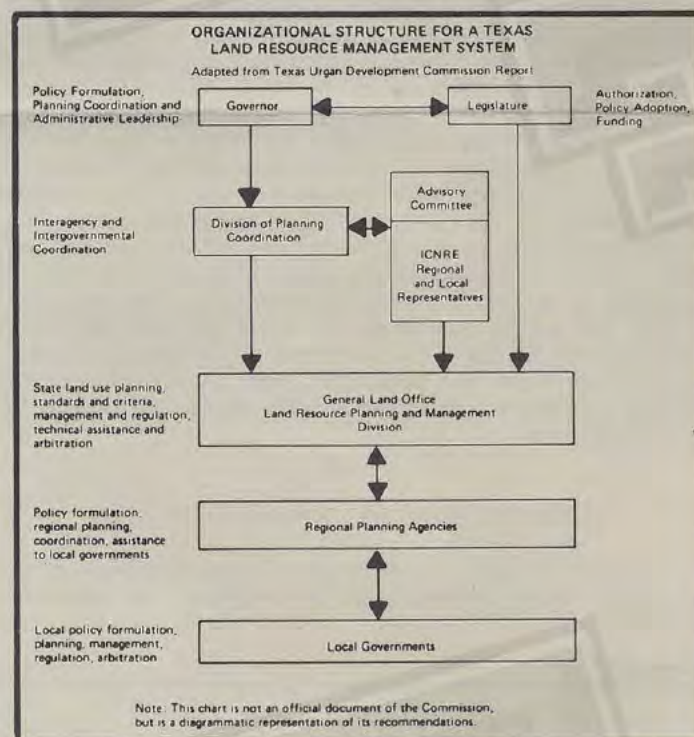
cause favorable reconsideration of the Water Plan in the future (Lubbock Avalanche-Journal, April, 1973).

Understandably, West Texans are reluctant to accept what other less personally involved citizens are declaring—that the agriculturally dependent region, having depleted its water supply and unable to find a realistic method of obtaining water, must regulate use of its remaining ground water, and search for other modes of sustaining its economic base. The resultant social and economic upheaval that such a switchover might produce would conceivably require financial and technological aid from both state and federal levels of government during the period of readjustment. The situation in West Texas leads to the question of how much development should take place in a region with insufficient resources to sustain that development.

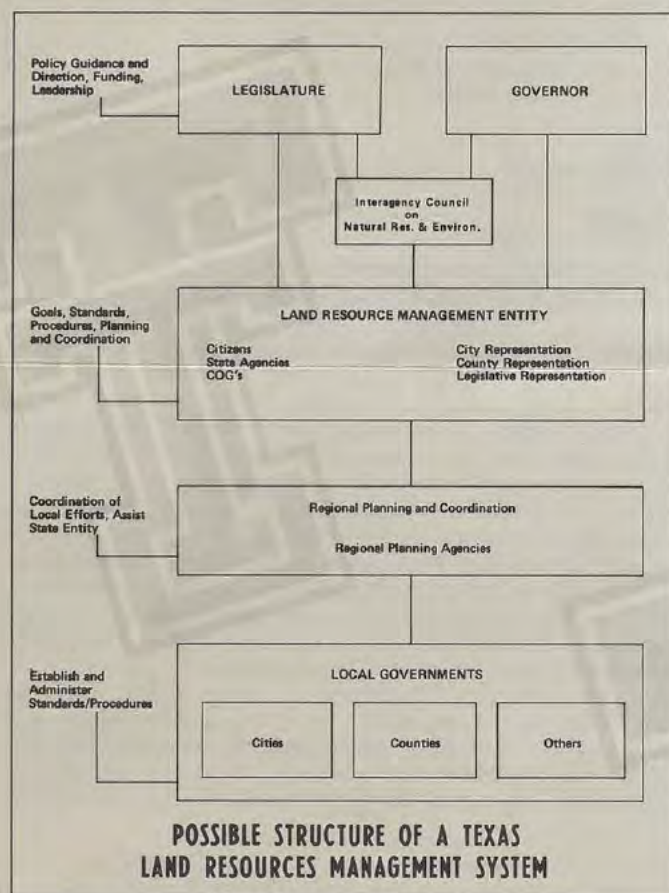
GOVERNMENTAL ATTEMPTS TOWARD MEETING LAND USE PROBLEMS

Land use studies. The recent proliferation of state governmental commissions, committees, and conferences studying aspects of land use in Texas attests not only to genuine concern with the problem, but also to awareness of the likelihood of federal legislation compelling states to institute land use management regulations. Among these state studies are *A Land Resource Management System for Texas*, produced by the Texas Urban Development Commission; *Land Use Management Issues in Texas*, developed by the Texas Research League; *Texas Land, Quality and Quantity*, a report on the Texas Conference on Land Resource Management; *Texas Land Use*, an extensive report from the Governor's Division of

Planning Coordination; *Land Use Standards in Unincorporated Areas*, from the Texas Advisory Commission on Intergovernmental Relations; and the previously mentioned *Coastal Resources Management Program Report*, from the Interagency Council on Natural Resources and the Environment (ICNRE). Some of these studies recommend some form of



statewide land use management program, generally allotting to the state the responsibility for setting standards, to the local governments the role of making and carrying out plans, and to the regional planning councils the job of advising local governments and helping to settle conflicting area needs. Most of these reports, though professionally sound, seem reluctant to deal realistically with the matter of enforcement, which is crucial to the success of any land use management plan.



Source: *Texas Land, Quality and Quantity*

State land use inventory. The Bureau of Economic Geology (University of Texas at Austin), under contract from the General Land Office, the Governor's office, and the Water Development Board, is currently conducting a land use inventory of Texas. The inventory is proceeding on two levels: (1) a comprehensive inventory of critical areas, such as the coastal zone, etc., and (2) a less detailed inventory of the whole state. While progress is being made, increased funding would enable work to proceed at a more rapid pace.

The need for the inventory is expressed in the following passage from a subcommittee report to the ICNRE from the Land Resource Management Advisory Committee. "There is a need to define in quantitative terms, the present use to which the land statewide, is being put, the capability of parcels of land to support and enhance man's activities; in essence, a statewide inventory of land couched in resource capability units. . . . The subcommittee recognizes that the Bureau of Economic Geology is working rapidly to accomplish this goal and to acquire the basic data upon which any land resource management program must be based. The subcommittee believes that this effort should be given the highest priority because without it the generation of sound policy and procedures is impossible."

Legislation in 1973. Although numerous bills to preserve Texas land resources and to regulate land use were introduced in the Sixty-Third Legislature, few were passed. Among these few were three protecting coastal lands:

- a Coastal Public Lands Management Act authorizing the School Land Board, headed by the Land Commissioner, to institute a management program for state-owned bays, estuaries, adjacent coastal lands, and islands. These comprise some 4.5 million acres of submerged land, and 8,180 acres of coastal land. Provisions are included for leasing these lands for park, wildlife, and recreational uses, and for restricting other uses.
- an act prohibiting sales of state land by navigation districts, and limiting leases of navigation district land to those approved by the School Land Board after study of their environmental impact.
- an act authorizing coastal counties to establish sand dune protection lines on barrier islands and peninsulas where vegetated stabilized dunes protect the shore lines. The act prohibits damage to dunes beyond the protection line and prohibits the use of recreational vehicles on these dunes.

The 1973 Legislature also passed an act permitting underground water districts to regulate the spacing and pumping rates of wells where subsidence is occurring, in response to a major problem in the Houston-Galveston area.

In the opinion of officials in the General Land Office, these acts go far in focusing on some of the most critical problems of the Gulf Coast. Much will depend on how successfully they are implemented.

Among land use bills which did *not* pass were:

- a land use management act authorizing the Land Commissioner to prepare a statewide land use plan and to regulate development in environmentally sensitive areas (streams, coastal zones, forests, aquifer-recharge zones, archaeological sites, etc.) and activities of critical concern (siting of airports, sewage treatment plants, power plants, etc.).
- a land resources act establishing a Texas Land Resources Commission which would prepare a state land inventory and land use management program.
- a Texas surface mining reclamation act authorizing the Land Commissioner to regulate surface mining and requiring prompt restoration of mined lands.
- a Texas environmental quality act creating a state Office of Environmental Quality and requiring environmental impact statements for all proposed actions significantly affecting the environment.
- various bills authorizing counties to regulate land use in unincorporated areas.

LAND USE MANAGEMENT ACTIVITY IN OTHER STATES

Land-locked states are not as troubled with land use problems as are coastal states. However, most states are experiencing some degree of land use conflict, and many have recently enacted land use laws.

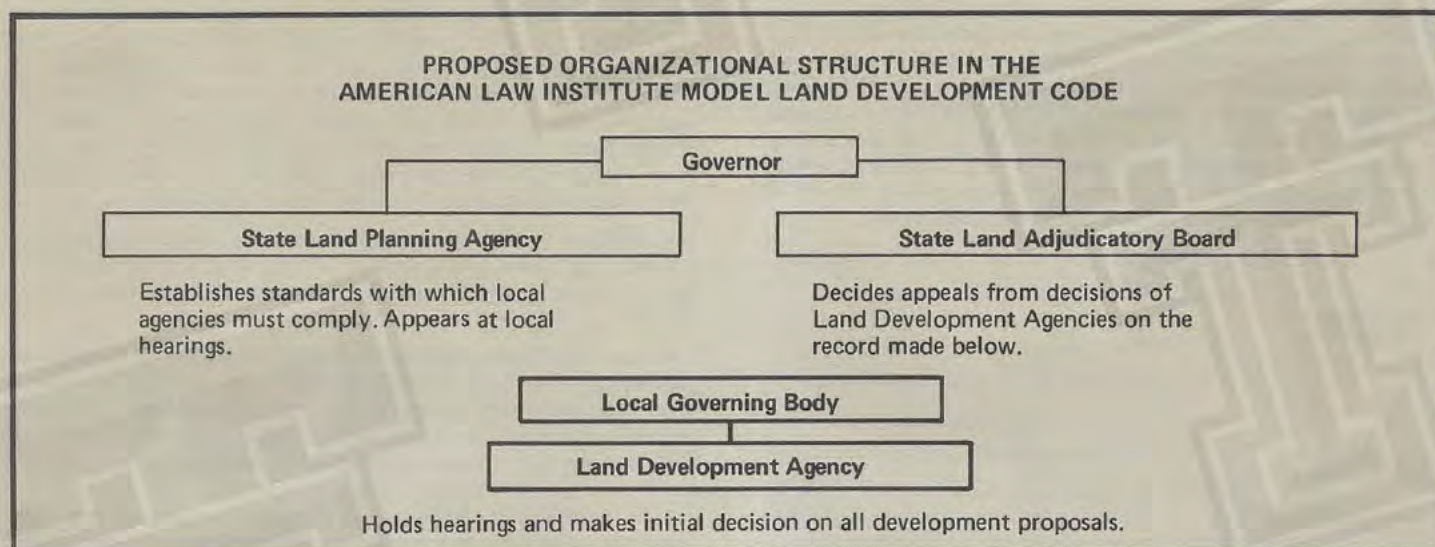
States which have enacted statewide land use management acts include Hawaii, Vermont, Colorado, and Florida.

Hawaii has divided all its land into four types of zones: urban, rural, agricultural, and conservation.

In 1970, Vermont enacted a comprehensive environmental control law. In that same year, Colorado established a land use commission with the responsibility of developing a planning program for the state.

Land use authorities find much to commend in the land and water management act passed by the state of Florida in 1972. This act, which focuses on environmentally critical areas and regionally significant development, is based on the American Law Institute Model Land Development Code, which has been in the making for over 10 years.

PROPOSED ORGANIZATIONAL STRUCTURE IN THE AMERICAN LAW INSTITUTE MODEL LAND DEVELOPMENT CODE



Source: *Land Use Management Issues in Texas*

Some states have adopted coastal zone restrictions. For example, Delaware has banned all heavy industry within two miles of its coast; California requires permits for any coastal development within a thousand yards of mean high tide. Other states have enacted legislation calling for state intervention when localities fail to act. New Jersey and Montana have adopted this principle in floodplain zoning.

REPORT OF THE TASK FORCE OF THE CITIZENS' ADVISORY COMMITTEE

A 12-member task force, established in September, 1972, by the White House-appointed Citizens' Advisory Committee on Environmental Quality, has recently issued a report containing many findings relevant to state land use management.

Primarily aimed at the control of urban growth and preservation of the environment, the report endorsed states and localities as appropriate final decision-makers in land use management. The group suggested local, state, and federal policies to ensure preservation of open space and historic sites; methods for orderly community and regional development; and regulation to ensure that rural subdivisions are designed for full and orderly development. The task force called on all levels of government to assert often neglected public rights to protect existing open areas. Members of the task force agreed with many other land use authorities that the "taking clause" of the U.S. Constitution ("...nor shall private property be taken for public use, without just compensation") is an obstacle that has impeded local and state regulation (*Land Use Planning Reports*).

SOCIAL IMPLICATIONS OF LAND USE LEGISLATION

If the states are to assume a larger role in land use decisions, there are those who fear that the environmental orientation of this legislation will obscure social goals, particularly in the areas of adequate housing, integration, and reduced poverty. According to *Land Use Planning Reports*, speakers at a recent conference on this subject expressed concern that the rigid application of land use controls can create serious social problems by diminishing the supply of low cost housing. Some authorities urged the development of unified and simplified metropolitan planning mechanisms to control suburban land use. It was generally agreed at the conference that suburban land use decisions are crucial; and that state governments, which dominate the planning processes envisioned in all proposed federal land use legislation, are inadequate to deal with suburban problems, due to rural-suburban control of most state legislatures.

LAND USE AND...

Strip-mining. Texas ranks sixth among the states in acreage given over to strip-mining. Uranium and lignite (coal) are mined by this method in Texas, but the most extensive strip-mining is of sand and gravel. Lignite is expected to become increasingly important as the need for fuel grows, and it is anticipated that East Texas, with its fairly large deposits of the mineral, will become the location for extensive strip-mining. Texas has no strip-mining regulations. Reclamation of land that is mined by this method, while extremely difficult, is recognized as necessary by most people knowledgeable in the field. Land restoration following strip-mining of lignite in East Texas has been outstandingly successful. In a recent land reform conference in San Francisco, participants recommended the total abolition of any form of strip-mining. At the other extreme are those who would oppose any form of governmental control over this industry.

Power plant siting. A recent study (*Electric Power in Texas*) indicates the growing concern for a continuing energy supply for Texas. Despite controversy over risks involved, more consideration is being given to the building of nuclear plants as future sources of energy. Planning is under way for nuclear power plants at several locations. The extensive land requirements of these plants is a deterrent (even for Texas!), and some thought has been given to off-shore installations.

Deep water terminals. Another off-shore project with potential environmental side effects is the proposed superport now being considered. While New Jersey and Delaware have forbidden construction of such a deep-water port for the accommodation of huge oil tankers, most Texas governmental and business leaders feel that the economic need (to maintain the enormous refining and petrochemical industries in the face of a dwindling supply of oil resources in this country) is such that not to allow, even welcome, such a facility would be unrealistic. There are obvious environmental risks involved (oil spills, etc.), but proponents of the plan feel that these can be minimized through adequate safeguards.

Transportation. The question of how much and what kind of land to entomb under concrete grows more important each day as fuel shortages bring increasing interest in mass transit. Because mass transit costs are prohibitive for city budgets, proposals have been made for tapping the highway funds at both state and federal levels to finance urban systems. Needless to say, these have elicited both great opposition and equally vociferous support.

Floodplain development. The floodplains of Texas rivers and their tributaries are areas of great concern. Through the years, the loss of hundreds of lives and of many millions of dollars in property damage has been sustained because of flood waters. Current thinking on floodplain management calls for land use controls instead of, or in conjunction with, such structural controls as dams and levees. Cities have, in some cases, acquired floodplains for park and greenbelt use, since these are often areas of scenic and ecological importance. Some municipalities have instituted floodplain zoning in accordance with National Flood Insurance requirements, but Texas has no statewide or county regulations to prohibit construction of homes and industries in areas subject to flooding.

Timberlands. Texas forestlands include some 23.4 million acres. The most important forest area of the state, producing nearly all of the commercial timber, is the East Texas pine-hardwood region, which extends over all or parts of 43 counties (*Texas Almanac*). In *Texas Land Use*, it is stated that "mixed forests, native to Texas, are unique and valuable natural areas of wildlife habitats. Used simply as timber sources, with soft-wood reforestation practices, these areas no longer can sustain such a varied flora or fauna." This publication suggests that legislation is needed to encourage balanced reforestation.

New towns. In order to serve the burgeoning needs of the expanding population in Texas cities, several "new towns" are being planned and developed. These include Flower Mound New Town in the Dallas-Fort Worth area, and Ranch Town in San Antonio. These might more properly be termed "new communities," since they are not wholly self-sustaining, but will be satellites of the larger cities, and economically dependent on them.

Flower Mound New Town has been planned with the aid of some of the foremost planning and consulting firms in the country, and according to David Dunnigan, Director of Communications, also incorporates the significant ideas and desires of "the man in the street." In spite of careful planning, there has been a series of litigations involving land owners in the area who are resisting the trend toward accelerated growth in the region. Such growth seems inevitable due to the close proximity of the enormous new Dallas-Fort Worth Regional Airport.

Ranch Town near San Antonio has also been the object of litigation initiated by several environmental groups and two governmental entities (Bexar County Commissioners and the Edwards Underground Water District) who oppose the location of the proposed new town over the ecologically sensitive recharge zone—where water enters the artesian zone of the Edwards aquifer. They fear that the intensive urbanization of Ranch Town will lead to the pollution of the aquifer, which is the water supply for the city of San Antonio and surrounding areas. According to Joe B. Harris, Coordinator of Natural Resources in the Division of Planning Coordination, the careful planning of the environmental aspects ensures that the water supply will not be harmed by the new town itself. Mr. Harris does question, though, the associated uncontrolled peripheral developments, and feels these might indeed pose a threat to the aquifer due to uncertain plans for the disposal of solid waste and waste water.

WHEN THE WORLD IS TOO MUCH WITH US

Martin Kreiger's prophecy that "a transformation of our attitudes toward preservation of the environment will take place

fairly soon," and that we will come to "recognize the symbolic and social meanings of environments, not just their economic utility" may indeed be a future reality. His more controversial suggestion, perhaps ages away, that "we shall want to apply our technology to the creation of artificial environments," with its connotation of plastic trees and plastic flowers, while horrifying many, may not be as unsatisfactory a solution as it seems to be at first glance. For some years, artists have been creating "environments" as an art form, and a vastly extended concept of this, on an equally vast scale, may, in the future, satisfy the aesthetic needs of a new generation of "environmentalists." While such crystal-gazing does not answer the present-day needs of Texans concerning the intangible values that contribute to the complexities of making land use decisions, it does serve as a reminder that values change, and that the land use decisions we make today can limit or enlarge the options future generations may have in establishing their value systems.

How do we set a price on the aesthetic pleasure and sense of historical significance that is derived from visiting the Alamo, or the ancient missions in San Antonio and El Paso, or even the old courthouses that glorify small Texas towns? What trade-offs are we willing to make in order to continue to enjoy our state parks, and to add to their number (since Texans flock to these in ever-growing hordes, seeking relief from noise and congestion, and "getting and spending")? As life in Texas, in keeping with the national trend, grows more and more urbanized, how can cities afford to provide those quiet oases of open space that seem more and more necessary, and increasingly rare? These and other similar considerations, such as upheaval of archaeological sites during construction of dams and equally massive rearrangements of the landscape, underscore the difficulty of the decisions Texans are being called on to make.

WATCHERS, SLEEPERS, AND DREAMERS

The Netherlands, that tiny European kingdom which is little more than half the size of the Texas Panhandle, has for centuries been practicing the most stringent land use controls, which are understood and accepted by all. With great determination, the citizens of this country have reclaimed from the sea thousands of acres of land, which they carefully tend and wisely use. This land is protected against the sea by a series of dikes. The dikes nearest the sea are called watchers. The next row of dikes, called sleepers, protects the land if the watchers are breached. And the third barrier, called dreamers, surrounds villages and farms and serves as a last-resort defense against the sea.

We Texans, of course, will not have to practice such severe restraints, since Texas land is in such vast supply. But even we must come to realize that land is a finite resource, and that ever-growing conflicting needs create a necessity for wise choices in the use of our land. Whether we can adapt our traditionally expansive, don't-fence-me-in lifestyle in time to prevent irreversible despoliation of the land remains to be seen. The need for drastic change in lifestyle is still debatable. But surely, if we are to be the watchers and sleepers and dreamers for the generations yet to come, the time to examine accepted land use practices has arrived, even in Texas.

A League of Women Voters of Texas Publication

Dickinson Plaza Center
Dickinson, Texas 77539

Statement before the Texas Water Quality Board on
Plans to Improve the Regulatory System for Industrial Solid Waste
by the League of Women Voters of Texas
July, 12, 1974 Dallas, Texas

I am Bobette Higgins, chairman of Land Use and Solid Waste for the League of Women Voters of Texas. We appreciate the opportunity of presenting today some suggestions concerning the Texas Water Quality Board's plans for improving the state regulatory system for industrial solid wastes.

The recent controversies over industrial waste disposal sites in Texas have focused attention on a problem which has been growing here, as it has over the rest of the country, for some years. The League of Women Voters realizes that this problem is complex, and not easily or quickly solved. It is compounded by the fact that while we all want safe and convenient disposal of waste material, none of us wants a disposal site located nearby. But the increase in population, plus a high standard of living and wasteful use of resources, coupled with lack of successful programs for recycling this waste, have resulted in increased mountains of waste that must be dealt with. The problem of managing industrial waste is particularly troublesome, due to the toxicity of much of this material, and the very real threat to our water supply which it poses.

After examination of the Texas Water Quality Act, the Disposal Well Act, and the Solid Waste Disposal Act, we are of the opinion that many of the changes needed are legislative in scope. We are, therefore, sending copies of this statement to the appropriate legislative committees.

Among our positions on the disposition of solid wastes, the League of Women Voters strongly supports the recycling of post-industrial wastes. It seems feasible to us that this is best accomplished at the source. Therefore, we urge the TWQB to encourage industries to re-use as much of their in-plant waste as possible. One handicap to reuse of industrial wastes is that some companies do not know how much or what kind of wastes they generate. We understand the Water Quality Board is attempting to gather data on how much industrial waste is generated, and where it is going. We wish to encourage this effort.

We would suggest that the Water Quality Board take this one step further by beginning an active educational program for industries and the general public to increase their awareness of the need for such resource recovery and of the possibility of increased financial gain to be made in the secondary materials market. We suggest emphasis on the following aspects:

- 1) Information concerning the likelihood that the federal government will greatly increase purchase of products made of reclaimed waste.
- 2) Information concerning the half dozen or so proposed bills at the federal level which would equalize taxes and freight rates for secondary materials.
- 3) Dissemination of information on technical advances in resource and energy recovery.

We feel this educational process would provide encouragement for industry to invest private capital in construction and operation of recycling facilities.

The League of Women Voters, with strong commitment in favor of a system of state land use management in Texas, directs the Water Quality Board's attention to the study which the Environmental Protection Agency has begun concerning the development of guidelines for improving waste disposal site acquisition through state land use planning activities, with the expectation that these guidelines will be worth careful examination by the Water Quality Board.

Further, we urge the careful and complete logging of industrial waste sites, and the continued care of disposal sites after they have been filled and covered. We favor the requirement of a processing facility at each site to detoxify hazardous wastes.

The League of Women Voters advocates a change in the public hearing policy of the TWQB by requiring public hearings on the siting of industrial waste disposal operations, rather than leaving these to the discretion of the Water Quality Board. We ask that these include specific measures to assure that public participation in such hearings is welcomed and considered. We further support inclusion of a method of appeal to a higher authority if citizens feel that the Water Quality Board fails to abide by the public hearing procedure.

We request that changes in the composition of the members of the Texas Water Quality Board be instituted, requiring that citizen members of the Board have recognized environmental concerns. We ask that the other state agency heads who also sit as members of the Water Quality Board be required to attend board meetings, rather than designating substitute representatives as is presently the practice.

We commend the TWQB for seeking new approaches to solving the problem of industrial waste management by commissioning the University of Texas study on chemical reaction in disposal pits. We also commend the Executive Director for his suggestion that perhaps it is time to make the management of industrial wastes a governmental responsibility, to be handled as a public utility. We think this proposal merits careful legislative consideration.

We would urge the WQB to reevaluate the criteria it uses in granting permits for industrial waste disposal operations, taking into greater consideration the health and welfare of the public. We have heard representatives from the TWQB declare repeatedly that the Board has a mandate from the legislature to balance economic factors with public good in making their decisions. In examining the Texas Water Quality Act, now-where does it state or imply that this is the intent of the act. While the economic development of the state is a factor to be considered, anywhere in this act, or in any of the others governing the WQB, is a BALANCE of this factor with public good stated or inferred. The act declares, specifically, that "It is the policy of this state and the purpose of this chapter to maintain the quality of water in the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, the operation of existing industries, and the economic development of the state; to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state; and to require the use of all reasonable methods to implement this policy." We think this clearly emphasizes that the protection of public health comes before any other consideration, and that the WQB need not feel obliged to grant permits in an attempt to balance public need with the economic goals of individuals. The over-riding responsibility of the WQB is the protection of the public.

Recognizing that plans on paper, no matter how grand, will not assure safe and sensible management of industrial waste, the League of Women Voters urges the diligent and conscientious enforcement of the new regulations which will presumably be developed following these hearings. We suggest that consideration be given to the inclusion of criminal penalties as well as civil penalties as an added enforcement tool, to be used in cases of serious and repeated violations.

The League of Women Voters realizes that accomplishing many of these goals will cost money--certainly more money than the state is now allocating for this purpose. To those who would protest such expenditures, we would point out that short-term economic savings are not always the benefits they seem to be. Postponement of sufficient funding to deal effectively with our industrial waste disposal problems could prove to be economically disastrous in the long run.

Thank you for your attention.

To: Local League Presidents & EQ Chairmen
From: Bobette Higgins, Land Use & Solid Waste Chm.
Re: TEXAS WATER QUALITY BOARD INDUSTRIAL WASTE
DISPOSAL HEARINGS

LWV of Texas
July 16, 1974
(copy direct to
LL pres.
1 copy direct EQ)

Enclosed you will find testimony presented at the TWQB hearing in Dallas. This memo will contain additional information, and a review of how it went.

The hearing in Dallas was attended by Meg (Air'n Water) Titus, Pearl Wincorn (Dallas EQ chairman, who also presented a statement), and Eleanor Sutherland also of the Dallas League. We all agreed this was the most productive TWQB hearing we had ever attended. The TWQB staff who were conducting the hearing made this an educational experience for participants by presenting a careful overview of the problem and the purpose of the hearings. They also had prepared a most interesting slide show.

Statements presented by other speakers (mostly from the business sector) were the most thoughtful I have ever heard, although they mainly dealt with practical suggestions for coping with the immediate problems, rather than the long-range changes (mainly legislative) we emphasized.

In developing this testimony, I interviewed Mr. Crowe at the EPA in Dallas (if you like, write to him--1600 Patterson Street), and several legislators who are knowledgeable about the TWQB and Texas' industrial waste problems (talk to your own legislators, if you have time). I also studied the Water Quality Act, the Disposal Well Act, and the Solid Waste Disposal Act (probably available in your library in Vernon's). League material most useful was the LWVUS publication Recycle.

But by far the most valuable material I used came from Pauline Clarke (EQ, Corpus Christi) who sent me about 50 newspaper clippings and statements concerning the disposal site fracas in that area.

(Aside: You cannot imagine how grateful both Meg and I are for clippings on EQ issues in your area. Texas is VAST, and a huge issue in one section is frequently not reported at all in another. The Corpus Christi clippings were particularly useful, because they were so voluminous, and told the whole story--thank you, Pauline.)

MORAL: Send clippings!

At the hearing, the TWQB distributed copies of the regulations for handling industrial waste. You may want to have this before you prepare your testimony. Write to TWQB, P.O. Box 13246, Capitol Station, Austin, 78711.

If you cannot present a statement, go to the hearings anyway and ask questions and let them know the League is THERE. (Hearing schedules were included in the Enviro-Notes.) But present a statement if you can, using the state statement as a guide. Remember you will be representing your local League, so your statement should reflect your local situation and concerns. Be careful not to expand this statement (notice, for instance, that we do not say the LEAGUE supports a public utility approach for industrial waste management--we ask that the legislature CONSIDER this).

This is a complex subject, and the statement is also complex. If you need some clarification, write or call me.

Please send me a copy of your statement, and let me know how it goes in your area. This is an extremely important series of hearings, and we'd like to have reports from all of the various locations. (Ft. Worth: I had planned to attend the hearing there on the 11th as an observer, but spent that day honing my remarks instead. I would very much appreciate a copy of any remarks you made, and a description of the proceedings.)

Wade in!

Pres. file

LWV of Texas
August 1973
(2 copies direct
to president)

DPM

To: Local League President and EQ Chairman (Land Use)
From: Bobette Higgins, State Land Use Chairman

Re: GUIDE TO CONSENSUS

By now, you are well into the state land use study. You should have received the bibliography, Leaders Guide, consensus questions, follow-up questionnaire, and "Whatever Happened to Our Home on the Range?" And also by now, you are realizing that we truly have a tiger by the tail this time, for the study of land use, although fascinating and varied and intensely interesting, is not simple.

The consensus questions reflect this variety and complexity, and they aren't simple, either! This information is to help you come to grips with them, and to offer direction, in case you're feeling a bit ulpish.

It seems to me that the most difficult questions are 1, 3, and 5. Plan to spend plenty of time in discussing these. Questions 2, 4, and 6, while important, will not require such specific answers and seem more self explanatory. Most of the material in this guide will deal with 1, 3, and 5, so if you get hung up on any of the others, drop me a line, and I will attempt to help.

1. What should be the goals of a comprehensive state land use policy? How would you establish priorities in these goals?

In considering this question, be sure to define in your discussions what is meant by a comprehensive state land use policy. An article by Richard Slavin "Toward a State Land Use Policy," says state land use policy might be defined in the following terms:

1. The social and economic well-being of the people of the state is closely related to the condition of the environment and to resource management. In the face of rapidly increasing demands on the environment, a state land use policy should protect and conserve resources and develop an urbanization policy related to the environmental considerations.
2. The people of the state have a fundamental interest in the orderly development of the entire state consistent with the protection and enhancement of its natural land, air and water resources.
3. Although state government has the constitutional authority and responsibility to manage its land resources, it should be its policy to depend upon local government and private landowners to exercise state objectives towards preservation and the state should assist local government and private landowners in the pursuit of these objectives.
4. Each level of government should be responsible for those areas under its jurisdiction which are primarily the concern of its own citizens. In order for there to be a consistent policy and direction the state should provide guidance, authority where needed and financial assistance to help overcome local deficiencies and disparities.

5. At the earliest possible moments, state, county and city governments should identify areas to be preserved and take positive actions toward preserving them in accordance with local objectives and state policy.

6. It should be the policy of state government to take direct remedial action when local government and private landowners are powerless or reluctant to act in behalf of objectives.

In answering question number one, be sure to go over the charts in "Home on the Range," and compare their recommendations to the above.

2. What advantages and disadvantages are inherent in a comprehensive land use policy for Texas?

This seems not too difficult to me. Be sure to consider the size and variety of the state, and determine whether the advantages outweigh the disadvantages or vice versa.

3. How would you define the parameters of municipal, county, regional, state, and national governments in establishing a. standards, b. guidelines, and c. responsibility for enforcement, of state land use controls?

It will help you to know that new national land use legislation is imminent. The Senate has passed a land use bill, and the House is now considering one which seems likely to pass this fall.

The following account is from Land Use Planning Reports:

"The Senate passed the Land Use Policy and Planning Assistance Act (S 268) June 21 by a vote of 64-21, after defeating an amendment to impose sanctions against non-complying states. Also defeated were several attempts to weaken requirements for state regulation of subdivisions and critical environmental areas.

"The measure would provide \$1 billion over eight years for grants to states and Indian tribes to develop land use plans and regulations. Eligible states would have to institute state control over areas of critical environmental concern, development of key facilities, and development of more than local significance.

"The House Environmental Subcommittee which is drafting a land use bill agreed to provide \$100 million a year for eight years to help states set up land use programs.

"Some of the major issues not yet confronted by the subcommittee are: (1) sanctions against states that don't comply with land use planning in three years; (2) interface between land use policy and the Coastal Zone Management Act; (3) exemption of public lands from land use policy; (4) creation of a land use office in the Interior Department.

"Amendments adopted by the subcommittee thus far will:

Impose stricter regulation of land sales and development.

Require states to adopt policies for "influencing" the location of new communities.

GUIDE TO LAND USE CONSENSUS (continued)

Place the burden of proof on the state in local appeals to show inconsistency with land use policy.

Require the Secretary of the Interior to impose strong requirements to obtain public opinion at the federal and state levels.

Establish a local intergovernmental advisory council with authority to participate in, and review, state land use policy planning."

4. Should the availability of natural resources and the traditional rights of ownership affect economic growth and population distribution? Explain.

This question will call up emotional responses in some cases, since it touches a sensitive nerve with many of us. Be objective and be kind. (I know you will!)

5. How could the tax system be revised to encourage sound land use decisions?

In addition to suggestions for tax reform to protect open space and agricultural land as mentioned in the Facts & Issues, the Texas Society of Architects suggests that the tax structure be reoriented "to encourage continued maintenance of the built environment," which might include tax incentives to owners of building so that these do not suffer decay from neglect and abandonment. Such action might also slow down the rate at which entirely serviceable and sometimes handsome buildings are torn down to erect new ones in the name of "progress." You might want to discuss this point in your meetings.

The following might also be of use:

"Establishing a rational and effective policy for valuing fringe-area property has been complicated by two deep-seated and powerful attitudes:

1. the esteem and sympathy a large part of the general public feels toward the farmer;
2. the growing public concern over preservation of open spaces.

The idea developed that urban sprawl could be averted, and open spaces preserved in their pristine state, by simply holding down assessed values, on the old theory that, if high taxes on undeveloped land speed the land into higher uses, lower taxes would retard this movement. . . . When the assessor is asked to ascertain which properties qualify for preferential tax treatment and which do not, he is made to function as a land use planner. . . . I would argue strongly that any tax relief not associated with restrictions on land use should take the form of a deferral rather than an outright reduction in assessment. The essential feature of a tax deferral is that it gives nothing away." (Frederick Stocker, The Property Tax and its Administration)

And from Richard Barlow: "Tax-deferral, differential-payment approach (yet untried) would require the continued taxation of agricultural land at its agricultural value but would apply a land value increment tax at the time the land shifts to a higher use. This tax could be graduated according to the years of preferential treatment to a maximum of, say, 50% of the difference between the assessed value of the land for agriculture and its actual sale or market value for the higher use. This approach would have the value of eliminating need for annual dual assessments and, at the same time, of allowing the governmental unit to share in appreciations in property value. . . . Many lands now in agricultural use around

cities should be developed for higher uses. Good planning in these cases may be hindered rather than helped by preferential tax treatment. An arrangement, recently approved in California, permits local governments to make inducement payments roughly equal to the higher taxes paid to those owners who agree to keep their lands in agricultural or open-space uses." (Property Taxation U.S.A.)

6. What are the intangible values (aesthetic, historic, archeological, other) what should be preserved? What is their relative importance to material value?

A general statement here would be in order. We want to get your feeling on the necessity of considering values other than monetary ones in making decisions on use of land. Perhaps you should also consider recreational needs, and the setting aside of land for future park sites.

That's about it!

During discussions, get the general feeling of the group as to what aspect of land use they might like to pursue in depth, and be sure to indicate this on the questionnaire.

I just love reading your VOTERS and seeing all your great ideas for this study. There are some very exciting programs under way, and I wish I could be there for ALL of them! Let us know how it goes. And if you need help, don't hesitate to ask.

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LWV of Texas
January 1974
Presidents Mailing
DPM
Standing Order

LAND USE CONSENSUS

The League of Women Voters of Texas supports a comprehensive state land use policy which would provide for the orderly development of the state in a manner which assures adequate protection of the environment, and improvement of the quality of life, and wise use of our natural resources. The League believes that land should be used according to its carrying capacity, based on a thorough inventory of our land and natural resources. In addition, the League maintains that the growth and development of an area should be compatible with the availability of the essential natural resources of that area. The League believes that care must be taken to protect the traditional rights of ownership of property, but where there are conflicts between private interests and public welfare, public interest should take precedence. The preservation of agricultural lands and desirable open space, with preferential tax treatment for both of these, should have priority consideration in a state land use policy. Preferential tax treatment for the maintenance of the built environment is also supported.

The League further believes that a state land use management agency should be established, providing guidelines and minimum standards, with provision for lower governmental levels to set higher standards. Regional advisory bodies should serve both state and local governments. When possible, the main thrust of land use planning should be carried out at the local level. The League favors an equitable system of enforcement, and a method of appeal and arbitration where conflicting needs exist.

The League urges the identification and protection of areas of particular significance in the following categories: (a) historical, (b) archeological, (c) aesthetic, (d) recreational, and (e) rare or fragile eco-systems.

At every level of government, the League strongly supports the opportunity for citizen participation in the land use planning process.