



WATER LOG

A Newsletter for the Mississippi-Alabama Sea Grant Consortium

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THE MARINE SANCTUARIES PROGRAM

Introduction

The Marine Sanctuaries Program was created by Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA), as amended, [16 U.S.C. §§1431-1434 (1972 and Supp. 1975-1981)], Titles I and II [33 U.S.C. §§1401-1445 (Supp. 1972 and 1982)] comprise the better-known portion of this law, "The Ocean Dumping Act." This article will analyze the policies and mechanisms of the Marine Sanctuaries Program in relation to the criticism which its broad grant of authority to the Secretary of Commerce inspires.

According to Title III, the Secretary of Commerce may, with approval of the President, designate ocean and coastal waters as marine sanctuaries for the purpose of preserving or restoring them for their conservation, recreational, ecological or esthetic values for the long-term benefit and enjoyment of the public. Following a 1980 amendment to the Act, Congress has the power to vote in disapproval of such a designation. As to waters lying within the territorial limits of a particular state, the Secretary must consult with, and give due consideration to, the views of the responsible officials of the state involved. If the Governor of such a state does not declare the designation unacceptable, the marine sanctuary becomes effective sixty days after publication in the Federal Register. Sanctuaries may be designated outside United States territorial waters as well. In this event, the Secretary of State must undertake the appropriate negotiations with other governments to protect the sanctuary and preserve its purposes. However, these areas must be regulated consistently with the recognized principles of international law. Such regulations are not applicable against non-citizens outside the territorial jurisdiction of the United States.

Probably the most controversial section of the Act provides that after the designation of a marine sanctuary, "the Secretary, after consultation with other interested federal agencies, shall issue necessary and reasonable regulations to control any activities permitted within the marine sanctuary." A 1980 amendment adds that "all permits, licenses, and other authorizations issued pursuant to any other authority shall be valid unless such regulations provide otherwise." This change was intended as a limitation on the scope of the

Secretary's authority. The original certification clause implied to many that Congress had authorized the comprehensive management of all marine activities within the area. The amendment clarifies Congress' intent to include only those activities which would threaten the features of the area for which it was designated a sanctuary. Another 1980 amendment provides that "the terms of the designation may be modified only by the same procedures through which an original designation is made." This, too, limited the Secretary's authority by ensuring that additional regulations promulgated by him would follow a democratic procedure.

Administration of the Program

The Marine Sanctuaries Program is administered through the Office of Coastal Resource Management (formerly the Office of Coastal Zone Management) under the auspices of the National Oceanic and Atmospheric Administration (NOAA). Their regulations expressly define four goals for the Program:

(1) To enhance resource protection through the implementation of a comprehensive, long-term management plan tailored to the specific resources;

(2) To promote and coordinate research that will expand scientific knowledge of significant marine resources and improve management decision-making;

(3) To enhance public awareness, understanding, and wise use of the marine environment through public interpretative and recreational programs; and

(4) To provide for optimum compatible public and private use of special marine areas.

It is upon these goals that the designation and management processes are based.

(1) Designation

The first stage of designation under the proposed regulations is the establishment of a Site Evaluation List (SEL) by the Assistant Administrator (AA) of NOAA. NOAA has contracted with Chelsea International Corporation to provide eight regional teams of local scientists to identify potential marine sanctuary sites that, from a scientific standpoint, represent coastal and offshore areas of high resource value of national significance. Public comments are solicited regarding the initial sites. A written analysis of each site in relation to the

Program's selection criteria is prepared before the site is placed on the SEL for further consideration. These criteria are grouped into four categories: (1) natural resources values; (2) human-use values; (3) potential activity impacts; and (4) management concerns. The original procedure, whereby any person could recommend a site for placement on the List of Recommended Areas, has been abolished.

The next stage of designation is selection for Active Candidacy. Once a site is on the SEL, the AA must seek comment from relevant federal and international agencies, state and local officials, and appropriate regional fishery management councils, and the general public. Based on these comments, on the written analysis prepared earlier by NOAA, and on a balancing of relevant considerations (including ecological conditions, immediacy of need, timing and practicality, and public comment), he makes a selection. The AA must publish notice of its decision to select the site as an Active Candidate in the Federal Register within 90 days of initiating preliminary consideration. If the site is not selected, a short statement of the reasons for the determination shall be specified in the notice.

Once the site is given Active Candidate status, the AA prepares an environmental impact statement (EIS), a draft designation document, and a draft management plan. A management plan should include goals and objectives, management responsibilities, resource studies, interpretive and educational programs, and applicable regulations. The terms of designation should include the geographic area within the sanctuary, the characteristics of the area that give it conservation, recreational, ecological, or esthetic values, and the types of activities that will be subject to regulation in order to protect those characteristics. Any necessary regulations must be consistent with and implement the terms of designation. To prevent immediate, serious, and irreversible damage to the resources of a sanctuary, activities other than those listed in the designation document may be regulated within the limits of the Act on an emergency basis for an interim period not to exceed 120 days. At least one public hearing must be held in the areas most affected to consider the draft document. The AA's decision must take into consideration the relationship of a

proposed designation to state waters and the consistency of the proposed designation with an approved state coastal zone management program.

The final designation and implementing management plan are filed with the Environmental Protection Agency along with an EIS which considers any comments received at the hearings. The document is then submitted to the President for approval. Such designation becomes effective unless both Houses of Congress disapprove through a Concurrent Resolution adopted within the first 60 calendar days of continuous session after publication of the designation or unless, within 60 days of publication of such designation in the *Federal Register*, the Governor of any state with territorial waters within the sanctuary certifies that the designation is unacceptable.

Even though there are to be approximately 40 sanctuaries finally designated, neither Alabama nor Mississippi made the first round of cuts and thus have no candidates from which Chelsea will ultimately recommend areas to be placed on NOAA's Site Evaluation List. More on the in's and out's of Chelsea's methods and the whole redefined nomination process will be forthcoming. The House Committee on Merchant Marine and Fisheries' Subcommittees on Oceanography and on Fisheries, Wildlife Conservation and the Environment will hold joint hearings on reauthorization of the program in late February-early March 1983.

(2) Enforcement

The primary enforcement agency in NOAA for the National Marine Sanctuary Program is the U.S. Coast Guard. However, in sanctuaries involving state waters, state enforcement agencies may assume this responsibility. Any person subject to U.S. jurisdiction who has violated any part of the Act may be liable for a civil penalty of up to \$50,000. Such person has the right to demand a hearing. Upon failure of the violator to pay an assessed penalty, the Attorney General, at the request of the AA, may commence an action in the appropriate U.S. district court to collect the penalty and seek other relief as may be necessary. Any vessel used in the violation of the Act will also be liable in rem.

(3) Regulation

Under a sanctuary's management plan, new regulations are to be developed as necessary based upon a thorough evaluation of the resources, activity levels, the adequacy of the long-term protection provided by the existing regulatory system, and the economic impacts of new regulations. The scope of regulation will vary within each sanctuary.

Current Sanctuaries

Although there have been many sites under consideration as potential sanctuaries, as of November 1982 only six have been designated:

(1) **The Monitor Marine Sanctuary** (1975) was designated to protect the wreck of the U.S.S. Monitor, off the coast of North Carolina;

(2) **The Key Largo Coral Reef Marine Sanctuary** (1975), to provide protective, comprehensive management of a large coral reef area south of Miami;

(3) **The Channel Islands Marine Sanctuary** (1980), "to protect and preserve the extraordinary ecosystem including marine birds and mammals and other natural resources of the waters surrounding the northern Channel Islands and Santa Barbara Island and ensure the continued availability of the area as a research and recreational resource;"

(4) **The Point Reyes - Farallon Islands National Marine Sanctuary** (1981), to protect and preserve a rich and diverse marine ecosystem off the coast of California;

(5) **Gray's Reef National Marine Sanctuary** (1981), off the coast of Georgia, "to protect and preserve the live bottom ecosystem and other natural resources of the waters of Gray's Reef and to ensure the continued availability of the area as an ecological, research, and recreational resource;"

(6) **The Looe Key National Marine Sanctuary** (1981), off the coast of Florida, "to protect and preserve the coral reef ecosystem and other natural resources of the waters at Looe Key and to ensure the continued availability of the area for public educational purposes and as a commercial, ecological, research, and recreational resource."

The existing sanctuaries, then, protect five separate ecosystems and a Civil War wreck. The regulations of activity within the sanctuaries vary in subject matter and scope, according to the resources being safeguarded and the purpose for which the sanctuary was designated. Three other sites, La Parguera in Puerto Rico, the Humpback Whale Wintering Grounds in Hawaii and Fagatele Bay in American Samoa are presently on the list of Active Candidates.

Analysis of the Program

The Marine Sanctuaries Program represents a positive national philosophy regarding the balanced use of ocean resources, in departure from the past long-continued negative policy of prohibitive regulation. It is understandable that such an all-encompassing, experimental program has been the subject of criticism, especially in light of the great number of proposed sanctuaries which could envelop our coastline.

(1) Multiple Use and Marine Sanctuaries

One of the major criticisms is that the entire program is violative of the multiple use theory that large areas of public domain should not be withdrawn for limited usage. While it is true that sanctuaries are designated for limited purposes, it does not follow that limited purpose precludes multiple use. As stated earlier, the intent of the Program is to protect and manage unique marine areas for the long-term benefit and enjoyment of the public. Sites selected for sanctuary status are evaluated on the merits of both their resource and human use values. A Program Management Plan will include, to the maximum extent feasible, multiple uses of the site by public and private interests. This allows for commercial and recreational uses so long as neither type activity threatens the basic integrity of the site's resource values. Thus, once a sanctuary has been designated, the resulting management of the area is not meant to reach

beyond controlling those activities which would interfere with the sanctuary's primary purpose. The Marine Sanctuaries Program expressly states that "balance between uses" in a fragile environment is the objective of the Program, rather than the prohibition of any particular activity in a given area.

(2) The Question of Repetitive Function

A second criticism is that the Marine Sanctuary Program is repetitive of the functions of several other agencies, adding an unnecessary and expensive layer of Federal bureaucracy. In response to this, the Gray's Reef Designation document explains the benefits of the Program unavailable under other management systems:

The many Federal agencies which exercise authority in the proposed area provide a considerable degree of regulatory protection for the resources of the area. However, the extraordinary diversity of natural resources concentrated in the proposed sanctuary deserves additional attention beyond that provided by the present institutional structure.

The marine sanctuary program, unlike other programs which have jurisdiction in the area... includes a mechanism to focus on this particular geographically defined marine area and to provide comprehensive research and monitoring of the condition of the resources to assure long-term protection and maximum safe use and enjoyment...

Although certain uses of the area do not now seriously threaten resource quality, they could have more significant impact when activities increase. The current multitude of regulatory authorities, many of which have different objectives and jurisdictions, may not be able to respond to future activities on the basis of ecosystem issues. [15 C.F.R. § 936 (1982)]

Hence, it is site-specific ecosystem management which distinguishes the Program from other agencies' management systems.

(3) The Multi-dimensional Nature of Sanctuaries

There enters the question of how site-specific a sanctuary management system can be, given that any particular area of ocean is continually subject to the intrusion of neighboring matter. Sanctuary sizes vary, but generally are the smallest area possible in which to achieve the management objective. The regulations of each sanctuary require that recommendations of a sanctuary describe a boundary appropriate to protect the resource, including "an area sufficient to provide reasonable assurance that the resource value of the area can be protected against degradation or destruction."

This stipulation encourages a boundary description which includes a "buffer zone" surrounding the sanctuary, to protect the area from neighboring oil spills, pollutants, hazardous waste discharges, etc. Ultimately, however, this spatial problem is in the hands of the agencies which control neighboring areas. Thus, it is

essential that they, in practice, recognize and cooperate with the purposes of the sanctuaries in the area.

(4) Interagency Conflict

A fourth problem that has arisen over the Marine Sanctuary Program is interagency conflict over resources. This has occurred at two stages in the Sanctuary process: site selection and regulation following the granting of sanctuary status. The Georges Bank case is an example of interagency conflict during the original selection process. Georges Bank has been an important fishing area to the New England coastal fisheries for centuries. When the Department of Interior exercised its statutory authority to lease certain tracts of the bank for oil production in 1978, a conflict arose over the compatibility of the concurrent development of energy and fishery resources in the Georges Bank area.

A conservationist group from Massachusetts filed suit to temporarily enjoin the lease sale, and was successful, on the grounds that Interior did not meet "the affirmative duty of taking all steps reasonably possible to preserve the fishery resources of Georges Bank" (*Massachusetts v. Andrus*, 11 E.R.C. 1138 (D. Mass. 1978)). The district court found that the Secretary of the Interior had violated this duty by proceeding with a Georges Bank sale prior to the adoption of the OCS Lands Act Amendments, which would provide for an oil spill liability fund, a fishermen's gear compensation fund, and a mechanism for compensating lessees whose drilling operations were suspended because of unforeseen environmental hazards. The district court also found that the EIS prepared by the Secretary was inadequate in several respects.

After hearing the merits of the preliminary injunction, the First Circuit Court of Appeals vacated the injunction and remanded the case for further proceedings. The court also suggested that Interior consider the possibility of designating Georges Bank as a marine sanctuary, to be managed by the Secretary of Commerce, stating that Interior had "a legal duty to avoid unreasonable risks to fisheries."

Following this opinion, Interior drew up another EIS including a discussion of the alternative of designating Georges Bank a marine sanctuary. Meanwhile, the plaintiff conservationist group itself petitioned the Secretary of Commerce to designate the sanctuary for the fisheries. Commerce acted immediately to give the area Active Candidate status, and public workshops were begun. When the plaintiff renewed its request in 1979, the district court denied the injunction. While the First Circuit Court of Appeals again considered the matter, NOAA suddenly removed Georges Bank from Active Candidacy and announced that an interagency task force had been formed with Interior, to reach a compromise agreement for the management of the area. Interior, who claimed prior statutory authority to regulate Georges Bank, was the ultimate victor from this arrangement, since hydrocarbon operations were very loosely regulated by the terms of the agreement, and items which NOAA had previously insisted were imperative for the protection of the fisheries were abandoned.

Before the Court of Appeals, the plaintiff questioned NOAA's legal obligation to continue with the designation process which it had begun, but the court responded that the new agreement was not inconsistent with NOAA's earlier position and there was no obligation for it to continue with the designation. On December 17, 1979, the court again rejected the plaintiff's plea for an injunction, and the lease sale was conducted on December 18.

Clearly, this was an inadequate method of coming to terms with the Georges Bank resource conflict. Lack of policy direction at the time seems to have led NOAA to make a spontaneous, reactionary move to designate and then withdraw the site from consideration with minimum public scrutiny. Hopefully, the new designation procedures will prevent such an extreme situation as the Georges Bank case from arising in the future.

Interagency conflict over the regulation of the Point Reyes-Farallon Islands National Marine Sanctuary illustrates conflicts that can occur once a sanctuary has been designated. As part of Commerce's regulatory scheme for the Point Reyes Sanctuary, oil and gas development was prohibited, except under leases existing at the time sanctuary status was granted. However, the Bureau of Land Management and the Department of the Interior contend that oil and gas development on the Outer Continental Shelf should be exempt from sanctuary regulation. When the Reagan Administration froze all federal regulations in 1980, the Point Reyes regulations were suspended for thirty days ostensibly to see if they should be reviewed as a major rule under Executive Order 12291. If found to be major rules, a Regulatory Impact Analysis would have to be done. During this suspension period, which was extended twice, once for thirty days and then for six months, the debate centered mainly over the validity of Commerce's decision to prohibit oil and gas exploration. Curiously, no

official finding as to whether the regulations were "major" was ever made during the suspension period. When the last suspension was lifted, the regulations remained intact.

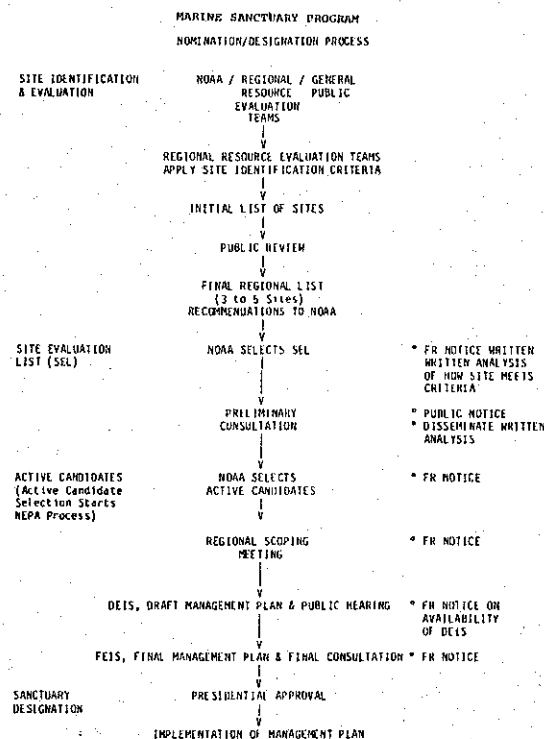
In keeping with the letter and the spirit of the MRPFA, this type of interagency conflict should not occur. Federal and state agencies and other interested parties are given sufficient opportunity to comment on both the designation process and final designation and management plan before it becomes final. Once the designation and management plan has been approved by the President and not disapproved by Congress, it is the duty of all involved to make a good faith effort to implement the terms of the plan.

CONCLUSION

The function of the Marine Sanctuaries Program, then, is to ensure a balance between uses in a limited marine area for the long-term enjoyment and benefit of the public. Its function is *not* to restrict any particular resource development, although certain activities will naturally be regulated to ensure the long term protection of the ecosystem. Because there is so little knowledge, and often only speculation, as to the impact of resource development on certain ecosystems, only a day-to-day site-specific management system as provided by the marine sanctuary program can shield the more vulnerable resources. Despite the defects of the system, the Marine Sanctuaries Program can and does function effectively. While institutional deficiencies are reversible, damage to valuable resources is not.

Catherine Mills

(This article is an edited version of a paper written for the "Law of the Coastal Zone" course taught at the University of Mississippi Law School. A complete text including footnotes and references is available upon request.)



OPINION: THE HUCHEM INCIDENT

In recent months, the Commission on Natural Resources exercised the full extent of its enforcement powers for the first time since its inception. At the request of the Bureau of Pollution Control, the Commission issued a "cease discharge" order against HuChem, a Gulfport plant, for its failure to comply with the Mississippi Air and Water Pollution Control Laws (MAWPCL). The Commission's action caused a wave of concern among the state's industries, who read this order as a new "hard line" approach toward pollution control. However, in this case, a page of history will show how groundless their fears are.

The Bureau of Pollution Control first learned of HuChem's illegal operations in 1976. In that year, one of HuChem's holding tanks exploded causing a major fish kill in Bayou Bernard. In its investigation of the incident, the Bureau learned that HuChem was discharging the most toxic waste it had ever tested into the stream at a rate of 30,000 gallons per day.

HuChem was prosecuted before the Commission and fined for the damage caused by the explosion. However, nothing was done to stop the plant from discharging its wastes into the bayou. While filter systems that would remedy the problem were available for lease, they apparently cost more than HuChem was willing to pay. HuChem asked and received permission to continue to pollute the bayou while they looked for a cheaper way to comply with the law. HuChem could not and did not get the requisite permit to continue to discharge. Rather, the Bureau simply allowed them to operate without a permit as they had done before.

In its efforts to accommodate HuChem, the Bureau set up one appointment after another so that it could review HuChem's proposals for cheaper compliance. For six years the Bureau waited patiently as appointments were made and cancelled and deadlines broken. For six years the company continued to discharge its toxic wastes into Bayou Bernard at a rate of 30,000 gallons per day. Yet, HuChem's proposals to find a cheaper way never materialized.

Finally, in the summer of 1982, the Bureau asked the Commission for an order establishing a final deadline for HuChem. The Commission entered the order, but HuChem missed this deadline, just as it had missed the others. When HuChem appeared before the Commission again, the Bureau asked for a "cease discharge" order. After a hearing, the Commission entered the order and this time HuChem complied. Initially, HuChem appealed the order to the Chancery Court of Harrison County. However, when the Chancellor indicated that he would not let HuChem continue operations during the appeal, it was dropped. Instead, HuChem leased an activated carbon filtration system and installed it at the plant. Not surprisingly the system brought HuChem's discharges into compliance, just as everyone had known that it would in 1976. Currently, HuChem is operating under another order by the Commission which allows it to use and evaluate the system until

early January. Now everyone realizes that it was cheaper for HuChem to install this equipment than to close its doors. There is no bankruptcy or shutdown pending.

In retrospect, one can only ask why this equipment was not installed in 1976, or 1978, or even 1980. Assuming that HuChem was in operation on an average of 182 days a year, it was pumping approximately 6 million gallons of its toxic waste into the bayou each year.

As it turned out, the discharge of these wastes saved HuChem a considerable sum. While the Commission could have levied fines against the plant if those not to do this. The fines, it seems, are levied only when there are direct injuries, such as a fish kill, or when the wastes can be cleaned up. HuChem's discharges cannot be cleaned up because of their composition.

When fines are not levied, the longer a company like HuChem delays compliance with the law, the more money it will save. But, as in all things, someone paid for that savings. This time it was the fishermen, the boaters, the swimmers and the skiers who enjoy the coastal waters or earn their living there. They paid while HuChem enjoyed its private exemption from state and federal laws.

The inevitable question that is brought to mind by this incident is whether the long delay was necessary. Courts have, in the past, been reluctant to uphold orders which require a company to comply with the law or shut down with little notice. Courts have also given industries several years to comply with the law after overturning such orders. However, these decisions hardly justify the long delay by the DNR in enforcing the laws against HuChem, because the means of compliance were readily available. While some grace period was needed to give HuChem time to adjust to the additional financial burdens, six years was hardly necessary. It appears that the length of the delay was due primarily to the fact that HuChem was able to take advantage of an unofficial open ended promise to give them time to do more research.

Undoubtedly, the Bureau's delay in pressing this matter was influenced by the Commission's attitude toward using its enforcement powers. In this case, the Bureau spent six years building its case against HuChem before asking the Commission to do anything. The burden of proof that the Bureau felt obligated to bear was overwhelming. In 1976, the Bureau had all of the evidence it needed to show that HuChem was violating the law. Feeling, perhaps, that this was not enough, the Bureau waited until it could prove that HuChem had no intention of complying with the law before it brought HuChem before the Commission. One wonders if the passage of six years, standing alone, would have proven as much. While enforcement of the laws against HuChem was somewhat complicated by the reorganization of the agencies having jurisdiction over the MAWPCL, hopefully, the new Commission will learn from its past.

Those who violate the state's pollution control

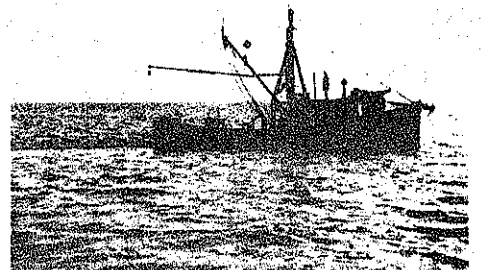
laws can and should be brought before the Commission immediately. The Commission, not the Bureau, is the only agency whose orders are official. If the Bureau feels that a company needs time to comply, it could ask the Commission for an order which establishes an official deadline for the submission of proposals that an industry wants to develop. This way, the industry's progress would be scheduled for an automatic review by the Commission after a reasonable time. This would keep the Bureau out of the embarrassing position of having its unofficial appointments or deadlines ignored at the public's expense, and at virtually no cost to the violator. Without an order from the Commission, the Bureau simply does not have the power to make industries take its recommendations seriously. The Commission has an affirmative duty to enforce the MAWPCL. It is exclusively theirs.

For this reason, participation by the Commission is imperative from the time that a violation is discovered. The Commission's statutory purpose, or one of them, is to protect our resources for the benefit of this and succeeding generations. It has the power to issue whatever orders are necessary to enforce the laws that provide this protection. From the HuChem incident, it is clear that the Commission cannot fulfill its purpose by simply ignoring a problem until it becomes clear that drastic steps need to be taken.

While the development of our resources is of overwhelming importance to Mississippi's economy, we do not have to make this kind of sacrifice to achieve it. Pollution control laws are nationwide. HuChem would be subject to them no matter where they went. For this reason the state's interest in development is not going to be compromised if the Commission takes its enforcement role somewhat seriously.

Cathy Jacobs

[The views expressed in OPINION are solely those of the author and do not necessarily reflect those of any of the sponsors of the WATERLOG, including the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Mississippi-Alabama Sea Grant Consortium, or the Mississippi Sea Grant Legal Program.]



COASTAL BARRIER RESOURCES ACT

A landmark step toward the protection of our environment occurred this past October when the Coastal Barrier Resources Act became law. The purpose of the Act is to minimize the loss of human life, wasteful expenditure of federal revenues, and damage to fish, wildlife and other natural resources that accompany unwise development of coastal barriers along the Atlantic and Gulf Coasts. This will be accomplished by eliminating future federal expenditures for activities inconsistent with the Act on the 188 barriers which compose the Coastal Barrier Resources System (CBRS). These include federally supported loans, grants, flood insurance (after October 1, 1983), stabilization projects, and construction or purchase of any structure or infrastructure, such as roads, bridges and sewers.

The Act also enumerates certain exceptions to the prohibition of federal subsidies such as support for energy development, general revenue sharing grants, preparation of environmental impact statements, activities relating to national defense, construction and maintenance of Coast Guard facilities and shoreline stabilization activities in certain areas. In addition, certain federal expenditures such as projects for acquisition and stabilization of wildlife habitat, projects under the Land and Water Conservation Fund and Coastal Zone Management Act and scientific research are permissible if consistent with the Act.

Before October 1985, the Department of the Interior must prepare a report for Congress containing recommendations for conserving the CBRS and for additions or deletions to the System. Mississippi barrier formations which are included are Round Island, Belle Fontaine Point, Deer Island and Cat Island. In Alabama, Mobile Point, Pelican Island and Dauphin Island are within the system.

With proper administration and enforcement, the Coastal Barrier Resources Act should help ensure the preservation of barrier islands for the enjoyment of our future generations.

DEPARTMENT OF NATURAL RESOURCES

In order to more efficiently conserve, manage, develop and protect Mississippi's natural resources the Mississippi legislature in 1978 passed several bills which reorganized the state's administration of laws affecting our natural resources. One of these bills [Miss. Code. Ann. §§49-2-1 through 25 (Supp. 12 1982)] created the Department of Natural Resources (DNR) and charged it with responsibilities that had been assigned previously to eight different state commissions. These duties, which ranged from pollution control to park management, are now delegated to four Bureaus within DNR. They are (1) the Bureau of Geology and Energy Resources (2) the Bureau of Land and Water Resources, (3) the Bureau of Recreation and Parks, and (4) the Bureau of Pollution Control.

(Department of Natural Resources Continued)

Collectively, DNR Bureaus manage many of the state's most valuable natural resources. The duties of the Bureau of Geology and Energy Resources include the administration of the Surface Coal Mining and Reclamation Act [Miss. Code Ann. §§53-9-1 through 91 (Supp. 1982)] and the leasing of minerals on state lands and in Mississippi's territorial waters [Miss. Code Ann. §§29-7-1 through 17 (1972 and Supp. 1982)]. It also provides assistance to other agencies which regulate nuclear waste. The Bureau of Land and Water Resources is responsible primarily for the administration of the state's surface and ground water laws. [Miss. Code Ann. §§51-3-1 through 53; §§51-4-1 through 19 (1972 and Supp. 1982)]. The Bureau of Recreation and Parks administers the state's parks. And, finally, the Bureau of Pollution Control is responsible for the enforcement of several major pollution control laws. These include the Solid Waste Disposal Act [Miss. Code Ann. §§17-17-1 through 135 (Supp. 1982)] and the Mississippi Air and Water Pollution Control Law [Miss. Code Ann. §§49-17-1 through 353 (1972 and Supp. 1982)]. A four member Permit Board has sole responsibility for approving all state air and water quality permits.

The Mississippi Commission on Natural Resources formulates policy for DNR and is ultimately responsible for promulgating and enforcing rules and regulations as they deem necessary to manage the resources within DNR's jurisdiction. It also serves in a judicial capacity, both as an appeals board and as a "court" of original jurisdiction. Besides having the power to initiate its own enforcement proceedings, the Commission presides at

hearings for violations of laws administered by the DNR. Although most of its decisions may be appealed by Chancery Court, its control of the resources under its jurisdiction is extensive.

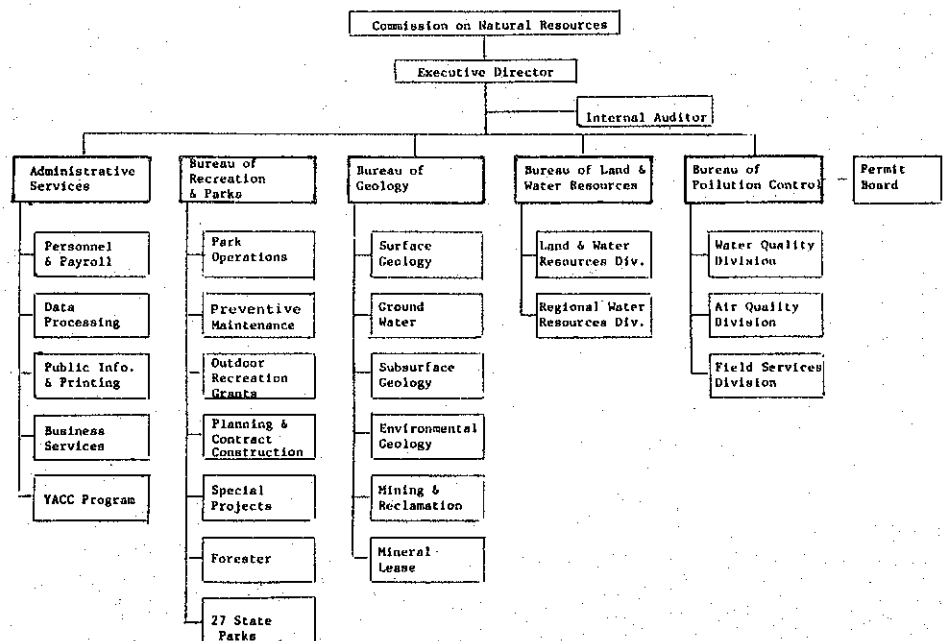
The Commission is composed of seven people who are chosen from each of the five congressional districts and the state at large. Its members are appointed by the Governor to serve for a term of seven years. The present Commission members and their terms of office are:

1. Jolly P. McCarty, Chairman, 5th Cong. Dist.
July 1, 1983
2. James W. (Jim) Carraway, Vice-Chairman, 3rd Cong. Dist.
July 1, 1988
3. Robert Anderson, State-at-large
June 30, 1984
4. Mrs. Gladys Slayden, 1st Cong. Dist.
July 1, 1984
5. Charlie Huffstatter, State-at-large
July 1, 1985
6. Alva Temple, 2nd Cong. Dist.
June 30, 1987
7. Robert C. (Bob) Travis, 4th Cong. Dist.
July 1, 1989

Anyone wishing further information about DNR may call their main office in Jackson at 981-5000.

*This article is the first in a series of articles that will appear in the *Water Log* describing federal, regional, state and local entities that exercise jurisdiction over coastal resources in Alabama and Mississippi.

MISSISSIPPI DEPARTMENT OF NATURAL RESOURCES



WATER LOG

This newsletter is a quarterly publication reporting on legal issues affecting the Mississippi-Alabama coastal area. The purpose of the newsletter is to increase public awareness of coastal problems and issues.

If you would like to receive future issues of the WATER LOG free of charge, please send your name and address to: Sea Grant Legal Program, University of Mississippi Law Center, University, Mississippi 38677. We welcome suggestions for topics you would like to see covered in the WATER LOG.

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NOTES

SEA GRANT TODAY, the national Sea Grant bimonthly magazine, describes Sea Grant research, advisory and educational projects being carried out in the coastal and Great Lakes states as national projects. Written in a non-technical style, the feature articles and news items contain interesting and valuable information for varied audiences, including academicians, resource managers, marine industry, ocean and coastal users, public officials, regulatory agencies, public and private schools, and the general public. Subscriptions cost \$6/year and are available by writing to: SEA GRANT TODAY, Food Science and Technology Bld., Virginia Tech., Blacksburg, VA 24061.

As a cost-saving measure, the Coast Guard has established 18 Regional examination Centers for licensing seamen and motorboat operators. The Mobile licensing office has been closed and all such business must now be done at the New Orleans office. Plans are being drawn up which would allow applications for regional, upgraded, and renewal of licenses to be largely or entirely handled by mail. (reprinted from THE BILOXI SCHOONER, 5(1), Aug. 1982).

On September 28, 1982, the Western Oil and Gas Association filed suit against NOAA challenging the designation of the Channel Islands National Marine Scantuary and the issuance of regulations prohibiting new oil and gas development within the Sanctuary boundaries. Thirteen environmental groups have petitioned to intervene on NOAA's behalf in the suit.

The University complies with all applicable laws regarding affirmative action and equal opportunity in all its activities and programs and does not discriminate against anyone protected by law because of age, creed, color, national origin, race, religion, sex, handicap, veteran or other status.

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