



Protecting The Coastal Zone Through Growth Management

The Experience Of Five Coastal States



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PROTECTING THE COASTAL ZONE THROUGH GROWTH MANAGEMENT:

THE EXPERIENCE OF FIVE COASTAL STATES

Kari Dolan
and
Heidi Bly Hendrickson

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* We would like to note that the contents of this document do not necessarily reflect the official position of the United States Environmental Protection Agency.

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EXECUTIVE SUMMARY

Coastal and growth management programs of five states -- California, Florida, New Jersey, Oregon, and Wisconsin -- were analyzed to determine effective ways of mitigating environmental consequences. Growth related problems include sewer and highway capacity problems, water quality degradation, reduction of physical and visual access, and loss of habitat.

Successful programs commonly share the following characteristics:

- 1) Strong political leadership,
- 2) Public support and participation,
- 3) Coordination between local, state and federal governmental entities, and
- 4) Policies or legislation to assure consistent enforcement,
- 5) Attention to housing needs, and
- 4) Financial support.

INTRODUCTION

In recent years, growth has become a major policy issue throughout the nation, particularly in coastal states. It is estimated that before the year 2000, 75% of the nation's population will live within 50 miles of the coast.¹ Florida and California already have reached this percentage. In fact, Florida's population is increasing by about 80,000 every three months!²

Noticeable consequences of growth include sewer capacity problems, traffic congestion, longer commute times and higher noise levels. Public services, like water, sewer, police, fire and highway facilities, must be expanded to meet increasing demands. This expansion can be costly and inefficient, especially if infrastructure is extended to urban sprawl areas beyond city limits.

As development along the coast proliferates, greater demands are placed on the natural resources. Some of the environmental impacts include water quality degradation; loss of open space, natural habitats, and wetlands; and decrease of physical and visual access to the coast.

Point-source and non-point source discharge can affect the natural aquatic and marine habitats. Run-off with high concentrations of phosphate and nitrate compounds act as fertilizers and cause algal blooms, altering the ecosystems' community structure. Discharge can also release toxic and pathogenic contaminants, leading to habitat degradation and loss.

Typically, a single catastrophic event causes public response and results in a strategy to address the problem. What triggers communities and states to take action? Is it possible to plan ahead to avoid environmental degradation? What are some successful strategies for redirecting development away from near-coastal waters? The purpose of this study is to answer these questions by analyzing selected coastal states' growth management programs.

Five states have been chosen for this analysis: California, Florida, Oregon, New Jersey, and Wisconsin. They were chosen on the basis of the following criteria:

- 1) Degree of growth pressures. These states have experienced a number of growth-related problems like loss of beach access and uncontrolled urban sprawl;
- 2) Having in place growth and coastal zone management programs. The chosen states have implemented programs to deal with growth problems; and
- 3) Geographical representation. States were selected from the eastern, western, Gulf, and Great Lakes coastal regions.

The criteria for assessing states' programs are threefold: 1) statutory justification, 2) political environment and 3) availability of funding. Statutory justification provides the legal muscle for the endorsement of a growth management policy. The political arena consists of the combined efforts of elected officials, public and private interest groups and citizens. Finally, the availability of funding is often a deciding factor in ensuring the success of a coastal land-use policy.

Using a case study approach, the analysis illustrates successful ways of minimizing the environmental impact of growth and redirecting development away from open spaces, towards areas with existing infrastructure. Such techniques are important in protecting water quality of the near coastal waters.

CALIFORNIA

ISSUES

California has experienced tremendous growth along the coast. Presently, it is estimated that 75% of the State's 28 million people are located along the coastal zone. With the population expected to grow to 32 million by 1995, greater pressure to develop the coast is anticipated.³

Prior to 1972, the high demand for coastal resources resulted in the loss of open space and agricultural lands, filling of wetlands, blocking of visual and physical access, and degradation in quality of the near coastal waters. For example, the coast once provided 300,000 acres of wetlands. Presently, there are only 79,000 acres left.⁴ In fact, 90% of southern California's wetlands alone had been filled by 1972, and many of the remaining areas are significantly degraded.

The construction of the 10-mile long Sea Ranch residential colony in Sonoma County, which obstructed the physical and visual access of the coast, finally triggered public action. A public initiative was passed which led to the California Coastal Act of 1976.

This section introduces the California Coastal Plan, the tool for managing its 1,100 mile shoreline. It discusses some of the difficulties with which administrations are faced with, and provides case studies that demonstrate the benefits of having a coastal management plan in place.

IMPLEMENTING AGENCIES AND THEIR STATUTORY BACKING

California's federally approved Coastal Plan is based on a "superagency" approach. Authority to plan and regulate development in 67 coastal city and county governments is mandated primarily to a single state agency -- the California Coastal Commission (the Commission). Two other organizations, the Bay Conservation and Development Commission (BCDC) and the State Coastal Conservancy (the Conservancy), also participate to a limited extent in regulating development, thus, creating a cooperative approach to coastal land-use planning.

California Coastal Act of 1976

In 1972, amidst public outcry to preserve the coast, Proposition 20, the California Coastal Zone Conservation Act, passed.⁵ This "Save the Coast" Initiative led to the passage of the California Coastal Act four years later.

The Coastal Act of 1976 requires that every city and county within the State prepare a Local Coastal Plan (LCP) for the portion of its jurisdiction that is located within the coastal zone. The LCP describes the County's specific policies for protecting coastal resources and managing future development.

The LCP is the link between the local and state governments. Once the LCP has been approved by the Commission, permit authority is restored to local jurisdiction.⁶ The Coastal Commission's role then becomes advisory and acts as an appeals board for local decisions.

Each local government can divide its land within the coastal zone into separate geographical segments and prepare a LCP for each segment. Segmentation helps to quicken the LCP's approval time and focus resources in areas that are having difficulty in preparing their plans.

California Coastal Commission

The Coastal Act established the Coastal Commission as the regulatory agency to protect the State's coastline.⁷

The Commission consists of 15 part-time members, four appointed by the Governor and eight by the Legislature and three from other state agencies (ex-officio representatives who cannot vote).⁸ In addition, there are six regional offices with a total of 110 full-time staff members. The Coastal Commission's responsibilities are quite extensive, addressing nearly every land-use issue of the State. Specific responsibilities include: ensuring that new development along the coast adheres to zone regulations, protecting marine and land resources and scenic views along the coastal zone, ensuring maximum public access to the coast, maintaining productive coastal agricultural lands, and locating any industrial facilities that would have a minimum environmental impact on the coast.

Funding

California's Coastal Plan is federally approved, qualifying the State for federal funds. Between 1977 and 1988, California

received approximately \$24 million for its federal coastal programs, of which about 10 percent went to the Bay Conservation and Development Commission.⁹

It is the policy of Governor Deukmejian's administration that local governments should be the primary managers of the coast. Thus, upon the assumption that the cities and counties would have completed their LCP's by early 1980's which would transfer permitting responsibility to the local governments, the Commission's budget has continually been reduced. In 1985, the Governor cut the Commission's budget by 20%, forcing the reduction in the number of staff from 210 to 110, the closing of a regional office, the elimination of a public awareness program, and the reduction of Commission meetings from twenty-four to twelve per year.¹⁰

Final LCP approval, however, has not kept pace with the budget reductions. These reductions have significantly affected the Commission's efforts in monitoring and enforcement.¹¹

San Francisco Bay Conservation and Development Commission

The San Francisco Bay Conservation and Development Commission (BCDC) can be considered the nation's first coastal management agency. The 1965 McAtteer-Petris Act (MPA) established an interim organization to prepare a land-use plan for the nine counties that border the Bay/Delta region. The San Francisco Bay Plan passed four years later, empowering BCDC as the agency to regulate and control development.

BCDC consists of 27 members, Five are appointed by the Governor (including the chair and vice-chair), two by the Legislature, two from federal agencies, five from other state agencies and 13 from local governments. Each commissioner may appoint an alternate.

BCDC issues permits for development 100 feet inland from San Francisco Bay and the adjoining San Pablo and Suisun Bays. It primarily focuses on providing for public coastal access and control the use of fills along the Bay's shoreline and within its wetlands and saltponds.

State Coastal Conservancy

The State Coastal Conservancy, a five-member board, was established with the Coastal Commission. Its responsibilities include acquisition, acceptance of public access and open space easements, wetland and urban waterfront restoration, agricultural land preservation, management of transfer of development right programs (TDRs) and consolidation of subdivisions in environmentally sensitive areas.¹² These functions were not incorporated within the Commission's jurisdiction. Combining the mechanism to finance growth management projects that involves redevelopment with the regulatory function could create a conflict of interest.

POLITICAL ENVIRONMENT

"In some way, the Coastal Plan steps on the toes of nearly every powerful interest represented in Sacramento."¹³

Politics and Personalities -- The Coastal Commission

Strong and diverse political pressures are to be expected when trying to manage such an extensive coastline consisting of a number of cultural, political and geographic regions.

The Coastal Commission is quite vulnerable to political pressures. Its a relatively small commission and a broad legislative foundation makes it a target for lobbyists. Moreover, the different land-use issues between the northern and southern regions foster a political environment that influences Commissioners to act as advocates for their local constituents.

Tension began to build between the state and local governments over issues of coastal development at the very outset of implementing the Coastal Act. Local planners and elected officials were outraged when they discovered that the Commission required detailed plans and zoning ordinances in the LCPs, including specifications on the location of view corridors, building height, the number of hotel units and their relative rates, and bluff setbacks.¹⁴

The Commission's stringent policies are justified because it lacks recertification authority during their five-year LCP evaluations. The Commission cannot require alterations once the LCP has been approved regardless of how ineffective the LCP is in managing growth.

Requesting detailed plans has delayed the approval of the local coastal program segments. Even though the time in completing the LCP is up to the local governments, some say that the delay is the Commission's way of postponing the shift of the permitting authority to the local level.¹⁵ Presently, 71 out of 126 LCPs (in the 15 coastal counties) have been approved.¹⁶

Although the Coastal Commission has survived several legislative attempts to weaken its regulatory powers, the 1981 Legislature was successful in enacting some changes.¹⁷ The most significant change was the removal of the affordable housing policy. The Commission required a minimum of low and moderate income housing as a permit condition for development in the coastal zone. This removal was initiated by strong lobbying efforts of the California State Board of Realtors, the League of California Cities and factions of the State Homebuilders Association.¹⁸

Subsequently, informal coalitions are forming between housing consortiums and developers or home builder associations. Foregoing coastal protection in order to secure affordable housing is becoming an acceptable trade-off.¹⁹

BCDC -- A Regional Cooperative Effort

Nearly half of BCDC's members are local government officials which practically assures a regional rather than local perspective.²⁰ In addition, BCDC is larger than the Coastal Commission. Its size makes it difficult for special interest

groups to lobby or develop coalitions to oppose it.

BCDC's representation, coupled with legislation that explicitly identifies goals of the organization, has allowed for cooperation between groups of opposing interests. To find solutions of polarizing issues, emphasis is placed on flexibility, negotiation and innovation, rather than regulation.²¹

SUMMARY/RECOMMENDATIONS

There are four characteristics that have been vital to California's coastal program's success.²² First, citizen support for a coastal management program was the key factor in the evolution of a state coastal plan. In fact, the creation of the California Coastal Act emerged from a public initiative. Second, the Coastal Act clearly spells out the goals and structure of the implementing administrative agencies. Third, the Local Coastal Plans encourage the formulation of new relationships between state and local governments. Finally, the establishment of an independent coastal conservancy avoids a potential conflict of interest.

BCDC has been very successful. Prior to the establishment of BCDC, only four miles of the San Francisco Bay shoreline were open to the public. There are over 100 miles today.²³ BCDC's decision-making approach has been based on rigidly defined guidelines of the McAteer-Petris Act and the San Francisco Bay Plan. With its limited agenda, it has been able to focus its

resources to yield effective and consistent results. Moreover, it is involved in the controversial issue of coastal growth management, only as it relates to its functions of regulating fill or granting coastal access.

A number of problems, however, have emerged under the State's coastal plan. Proposition 20, like other initiatives, did not undergo a kind of legislative "evolution", surviving stages of negotiation and compromise. It emerged as a reaction to the high growth rate along the coast. As a result, the Commission's mandate is vast, covering numerous problems within a huge territory. It is understandable that most of the Commission's decisions are controversial. If the legislature had been willing to embrace a statewide coastal zone management plan, a state organization similar to BCDC might have emerged, with a well-defined mandate and a supportive statewide constituency.

Problems arise when transferring responsibility of implementing the LCP's to the local governments.²⁴ Local officials, sensitive to the needs of their constituents, might not consistently support the Commission's coastal policies. Moreover, transferring responsibility to the local governments without empowering the Commission with reauthorization responsibility forces the Commission to be quite uncompromising in their review of proposed LCPs.

The Coastal Commission has been accused of being inconsistent in its permitting procedures.²⁵ Its performance is influenced by a number of factors: budget cutbacks and resulting

reduction of personnel, increased volume of building permit applications, and responsibility for a wide range of issues under flexible legislation. However, the primary basis for this accusation is the Commission's decision-making policy. Decisions are based solely on facts of each case without establishing legal precedents. The concern is how to insure against subjectivity as each case is reviewed. Incorporating growth control evaluation criteria in decision-making could help to minimize this subjectivity while allowing for flexibility.

CONCLUSION

Local governments generally are ineffective in managing growth because the resources necessary to resolve growth problems typically exceed local governments' financial capabilities. In addition, growth problems often transcend political boundaries. Development tends to occur beyond existing infrastructure, which can cause traffic congestion and sewer capacity problems in suburban and rural areas.

Local officials cannot remove themselves from addressing the needs of their constituents. Considering that approximately 80% of campaign contributions in Los Angeles County's local elections come from sources involved in real estate, it is surprising that there is emphasis at all on protecting coastal resources.²⁶

The objectives of the California Coastal Act focus on long-range preservation of coastal land. However, the regulatory decision-making approach in implementing the Act, based on a

case-by-case permitting process, is often affected by changes in political leadership and financial resources. In fact, the present Governor's lack of support for the Coastal Commission has resulted in extensive budget cuts and political appointments of developers and campaign contributors to the Commission.²⁷ State funding for coastal zone programs could also be the necessary incentive to help local governments produce more regional plans.²⁸

CALIFORNIA CASE STUDIES**Arcata, California (Humbolt County) -- Wetlands Restoration**

In 1976, the U.S. EPA directed the city of Arcata to terminate its practice of discharging effluent into Humbolt Bay and to participate in a regional sewage treatment program. Since merging with such a system would induce growth and cause an "unacceptable environmental impact", Arcata implemented a second alternative.²⁹

The city converted nearly 200 acres of bay-front, degraded wetlands, once used as a dump for logging wastes, into a freshwater and brackish marsh and pond system.

The project secured funding from two primary sources: the State Coastal Conservancy and EPA. Between 1978 and 1979, the State Coastal Conservancy provided \$858,000 for the preparation of the plan, land acquisition and construction of the site. EPA provided funds and used the project as a pilot marsh wastewater treatment facility. In 1982, the State Conservancy authorized a third grant of \$44,000 to increase tidal flushing of a nearby degraded saltmarsh.

The restored wetlands now serves as a tertiary sewage treatment facility (in operation since 1986), salmon hatchery, and bird sanctuary and offers recreational benefits like fishing, hiking and model boating.³⁰

Local university students conducted over 50 analyses and discovered a diverse healthy habitat of waterfowl, shoreline

birds, fish and invertebrates.³¹ The 1982 project to increase the tidal flushing of a nearby wetland resulted in an increase in wading birds and the reappearance of oyster beds.

In addition to providing a living resource habitat, the treatment facility currently demonstrates a 100% compliance to state and federal water quality standards . Table 1 illustrates improved water quality in Humbolt Bay due to the installation of a tertiary treatment facility.³²

TABLE 1

IMPROVEMENT OF HUMBOLT BAY'S WATER QUALITY
DUE TO THE TERTIARY TREATMENT FACILITY

<u>Parameter</u>	<u>Results -- Reduction by:</u>
BOD (biological oxygen demand)	40-50%
Fecal and total coliform	80-90%
Nonfilterable residues	80-90%
Ammonia	10-20%

Los Angeles, California -- Habitat Management at Ballona Wetlands

Restoring Ballona Wetlands is the price that a local real estate firm must pay in order to develop "Playa Vista", a 957 acre lot planned for commercial, retail, residential, and hotel use.³³

545 acres on the western half of the property lies within the coastal zone and therefore, falling under the jurisdiction of the California Coastal Commission. The requirements for wetland protection and restoration, addressed in Section 404 of the Clean Water Act and in the Statewide Interpretive Guidelines of the 1976 California Coastal Act, resulted in an agreement between the National Audubon Society and the original developer, Howard Hughes Properties (HHP) in March, 1985.³⁴

The agreement, referred to as the Ballona Wetland Habitat Management Plan, calls for the establishment of a 216 acre Audubon wildlife sanctuary located within the city limits of Los Angeles and estimated to have a value of \$1 million per acre.³⁵ The National Audubon Society is preparing the Plan which will be incorporated into Los Angeles's Local Coastal Plan.

The Ballona Wetland Habitat Management Plan embodies two components: the wetland restoration and an interpretive center. The former calls for the restoration of 150 and 25.4 acres of saline and freshwater wetlands, respectively. It will include 6.2 acres of dune (a remnant of a once extensive coastal dune system), 2.4 acres of coastal strand, 18.5 acres of the rare coastal sage scrub and 2.5 acres of grassland savannah.³⁶

The interpretive center will offer a unique environmental educational program for the 10 million Los Angeles residents. It will consist of an "Audubon Living Museum" with exhibits and nature trails.

McGuire Thomas, who recently acquired 60% of the general partnership, retains primary ownership of the Wetlands and has pledged up to \$10 million for its restoration and management. Nearly all of the endowment will be used to finance this project. Other sources are needed to cover construction costs of the Living Museum which requires an additional \$6 to \$10 million.³⁷

This is an opportunity to preserve coastal open space in the highly developed southern California. Moreover, the project offers better protection for two endangered bird species: the Belding's savannah sparrow and the California least tern, and a natural resource for migratory waterbirds.³⁸ It is also an example of how a non-profit organization like the National Audubon Society can work with private enterprise for the preservation of a natural resource.

The primary concern is that some of Ballona Wetland's acreage will not be preserved. Thus, this project cannot be endorsed by the National No Net Loss Wetlands Policy Forum. With 90% of the state's coastal wetlands filled, it is unfortunate that the city of Los Angeles cannot compromise its drive for economic growth with a need to preserve one of southern California's few remaining wetland habitats.

Laguna Niguel, California (Orange County) -- Coastal Access

Although 58% of the California coastline is closed to the public, access to the ocean is guaranteed by the California Constitution.³⁹ The public has the right to use the beach up to the mean high tide line. However, this right does not mean anything unless access to the coast is provided. Therefore, all three of the State agencies -- the Coastal Commission, BCDC and State Conservancy -- place priority on providing for maximum public access.

In 1973, Avco Community Developers planned to construct over 8,000 residential units on approximately 582 acres of coastal hillsides in Laguna Niguel. The Coastal Commission halted the construction on the basis that the development would obstruct visual and physical access to the shoreline. After three years of futile litigation that was taken all the way to the Supreme Court, Avco lost the battle and relented to the Commission's requirements.

Plans were changed to allow for physical and visual access. Two public parks were developed: a 7.5-acre coastal park (valued at about \$16 million) and a 25.6-acre inland park. The number of residential units was reduced, 3000 to be sold at the market rate and an additional 900 set aside as low and moderate housing. No high rises were built in order to preserve the view of the coast.⁴⁰

Los Angeles, California -- Sewer Moratorium

Growth in Los Angeles has brought its current sewer treatment facility near capacity. The facility services 8 cities and 29 independent districts. Each year since 1983, the load on the system has increased by about 10 million gallons per day. If the trend was allowed to continue, capacity would have been reached by 1992.⁴¹

In May of 1988, the City Council passed an emergency sewer moratorium. It was originally designed as a nine-month ordinance that could be renewed up to an additional six months. The seriousness of the problem, however, has caused its life to be extended indefinitely.

The Council's decision was triggered by a major sewage spill in 1987. Heavy rains caused the city's sewage treatment facility to spill 38 million gallons of untreated sewage into Santa Monica Bay. In addition, EPA fined the city \$625,000 for delaying the construction of a new treatment facility.

Although the moratorium was aimed at decreasing the number of new building permits by about 35%, it has not significantly slowed growth or even redirected it to areas beyond the service district. Fear of losing building opportunities actually increased the number of building permit applications.

Building applications are being filed early in each month. In this way, builders have a greater chance of gaining approval before the city's monthly quota is met. There was an initial four to six-month delay in processing the permits which has since

settled to a two-month delay. However, this cost apparently has not been significant enough to dissuade development within the city boundaries.

Thus, the sewer moratorium has not dramatically changed the pace of development in Los Angeles. The actual number of building requests has not diminished. Ideally, a plan to deter the number of permit requests is needed.

A sewer moratorium, like other moratoriums, is usually a "band-aid" solution for a serious problem. This tool is appropriate and can be successful if: 1) it is implemented for a limited amount of time, 2) it is necessary for reasons of public health, 3) the current system has proven to be technically limited, 4) a more long-term solution is being planned and 5) the moratorium's administrative and transaction costs are significant enough to reduce the demand that is causing the problem.

FLORIDAISSUES

Florida's environmental and growth concerns focus on issues of decreased public access to beaches, loss of wildlife habitat, and contamination of coastal and fresh water. Tourism and recreation, central to Florida's economy, give this state incentive to maintain public access to the beach and keep its image attractive. Encroachment of development threatens the habitat of several native and endangered species, namely the manatee, bald eagle, and Key deer. Coastal and fresh water supplies are subjected to varying levels of pollution, resulting in the degradation of aquifer recharge and near coastal water areas.

Environmental stress is a direct result of a rapidly increasing population from seasonal tourists, new residents, and immigrants. Tourists arrive at the rate of 40 million per year. New residents continue to flock to the coastal areas. In fact, 80% of Florida's population lives within 50 miles of the coast.⁴² In addition, Florida attracts an increasing number of retired persons and immigrants, a trend that is expected to continue in future years. This section introduces the Growth Management Act of 1985, discusses Florida's experience in adopting growth management legislation, and offers case studies as examples of its response to growth.

IMPLEMENTING AGENCIES AND THEIR STATUTORY BACKING

Florida manages growth in coastal areas primarily through land-use legislation. Such legislation provides for state, regional, and local comprehensive planning -- a three-tiered planning framework. Regional and Local Government Comprehensive Plans must contain a coastal element that is consistent with the State Goals as addressed in the Growth Management Act of 1985. These Goals focus on priority state issues such as coastal protection, fair housing, energy, and transportation needs.

Florida's Coastal Management Plan, as mandated under the Coastal Zone Management Act of 1972 and federally approved in 1981, designates the entire state as a coastal zone. It sets policy goals and outlines existing legislation aimed at coastal protection. Unlike California, the Plan does not serve a regulatory function. Rather, it acts primarily as a guide to coastal protection.

Growth Management Act of 1985 and the Department of Community Affairs

The Growth Management Act (GMA) requires that local and regional plans be consistent with each other and with State Goals. It also requires that service infrastructure like transportation, water, and sewer, be in place while development is occurring, not afterwards. This "pay as we go" policy is an option for financing public facilities which typically require large initial capital outlays.⁴³

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Department of Community Affairs (DCA), the state land planning agency, is empowered with overseeing the state's growth management policies as outlined in GMA. After DCA reviews and approves initial local and regional plans, it delegates planning to local and regional governments. It subsequently becomes the land-use appeals board.

Local Government Comprehensive Planning Act of 1975

Local Government Comprehensive Planning Act of 1975 (LGCPA) requires that all of Florida's 461 local governments submit comprehensive plans for state review by the end of 1991.

Currently, only 2 out of 67 counties and 25 out of 391 cities are fully approved. Local governments are slow in getting plans completed because the LGCPA provided no incentives to complete plans nor penalties for noncompliance. The 1985 GMA, however, amended this Act and did provide incentives and penalties.⁴⁴

Local plans vary greatly in quality because of different levels of resources and commitment. Many of the smaller local governments do not have the staffing or financial resources to complete plans. The wealthier and larger counties have more resources and are committed to developing thorough land-use plans. The different abilities and interests of local governments can be a major obstacle to an integrated, statewide growth management system.

Environmental Land and Water Management Act of 1972

Two provisions of the Environmental Land and Water Management Act (1972) control development in environmentally sensitive areas: the Developments of Regional Impact (DRIs) and Areas of Critical State Concern (ACSC).

The DRI provision requires that large scale developments go through a review process involving DCA and regional planning agencies. A DRI review is required for large development projects that are presumed to cause regional impacts, like shopping centers, airports, and hospitals. Developments of this size tend to be the major contributors to point and non-point source pollution.

Under the ACSC provision, areas which have environmental, natural, historical, or archaeological significance may be considered for special designation. Any person, agency, or organization can nominate an area for designation, but the nomination must be approved by the Governor. Once designated, stringent land-use regulations act as an effective tool for protecting near coastal water quality.

Currently, there are four designated Areas of Critical State Concern: Big Cypress, Green Swamp, the Keys, and Appalachicola Bay. The ACSC legislation has made some substantial differences in minimizing and redirecting growth, especially where the Keys are concerned.

**Department of Environmental Regulation, Office of Coastal
Zone Management (OCZM) and its Coastal Management Program**

Florida's Coastal Management Program, under the Department of Environmental Regulation, was created in response to monetary incentives of the federal Coastal Zone Management Act of 1972, but has remained limited in scope and power. It does not participate in the state's land-use planning efforts. However, attempts are being made through the Legislature to link the Program to state planning. This will concentrate resources and land-use planning efforts toward coastal protection.

**Department of Natural Resources's Acquisition Programs: The
Conservation and Recreational Lands and Save Our Coast Programs**

One of Florida's most effective tools for managing coastal growth and protecting critical near coastal areas in Florida is land acquisition. DNR acquires land for buffers between development and near coastal waters. These buffers are natural vegetative areas like wetlands and grasses. They filter pollutants and run-off before they reach the water. The CARL and SOC programs are both state acquisition programs.

Coastal Zone Protection Act of 1985

The Act established a coastal construction control line 50 feet above the shoreline and a stringent coastal building zone.⁴⁵ The Act's intent is to prevent erosion, but limiting construction in the coastal zone also acts to indirectly protect near coastal

water quality.

POLITICAL ENVIRONMENT

State Leadership

Senator Bob Graham has been an avid supporter of growth management legislation. During his eight-year term of office as Governor (1978-1986), he succeeded in passing the Growth Management Act of 1985.

The continuity of support was interrupted by the change of administration in 1986. The present governor, Bob Martinez, has not shown the same dedication to environmental and growth management issues. The change in administration left some policies pending strong enforcement. The State Department of Community Affairs' enforcement of growth management policy has become less stringent.⁴⁶ In addition, changes in governor-appointed officials at all levels of government resulted in some resistance to implementing GMA.

The DCA, under the leadership of Tom Pelham, to date, has proven to be tough in reviewing local plans.⁴⁷ The Agency recognizes that, without financial backing, local governments are not able to implement growth management policies.

Regional Leadership

Florida's eleven Regional Planning Councils (RPCs) are primarily responsible for review and approval of proposed developments that will have impacts outside of county boundaries.

RPCs also give technical guidance to local jurisdictions and act as mediators between counties. The Growth Management Act of 1985 requires that if local governments do not come up with a local plan, as required in the LGCPA, RPCs must do so.

Until 1980, RPCs consisted entirely of city and county elected officials. The 1980 Florida Regional Planning Council Act, however, required that all RPCs be reorganized to include more state and regional representation. This law was an important step in strengthening the role of regional planning councils.⁴⁸

Florida also has special districts with regional powers and taxing authority. The most powerful of these in the area of growth management are the Water Management Districts (WMDs). Five WMDs were established in 1972, and each are governed by a nine member board. Political influence, coupled with the control of all water in the state, have made these districts very powerful entities. They receive federal, state, and local funding, and have the authority to levy taxes on property in their districts.

Public and Private Interest Group Support

1000 Friends of Florida monitors ongoing local, regional and state growth management activities. It is Florida's foremost growth management interest group and acts to educate the public on current growth management issues. This group also encourages citizens to get involved in public reviews of local plans.

FUNDING

Funding for growth management programs was fairly adequate under the Graham administration. Resources, however, have been somewhat limited since the passage of the Environmental Land and Water Management Act of 1972. In the early stages of ACSC designation (1973), there was very limited staffing for the state land planning agency, the DCA. This made it unrealistic for the Agency to assume all of the complex tasks required for a designation.⁴⁹

Growth management received a setback, however, in 1987 when Governor Martinez repealed the new state tax on services.⁵⁰ The tax was supposed to raise \$1.5 billion a year to implement the Growth Management Act.

Acquisition programs have been well funded, but have rapidly been depleted. The SOC program was authorized in 1981 and funded with \$275 million in bonds. The SOC program has purchased over 73,000 acres of coastal land, but there is currently only \$8 million left for the program.

SUMMARY AND RECOMMENDATIONS

Florida has achieved national recognition for its successful attempts to manage growth. Its experience, however, has not been without "lessons learned."

The Growth Management Act of 1985, the primary piece of legislation integrating state, regional, and local land-use planning, has successfully required that local governments

address State Goals. Consistency between levels of government, however, is a major challenge. The hierarchy operates from the top down, and the state is often out of touch with the real problems local governments face in implementing state policies.

The omnibus legislation could not have come about without Florida's political and interest group support. Governor Graham introduced the legislation and strongly supported the ACSC and land acquisition programs. Subsequent monitoring by the interest group, 1000 Friends of Florida, has ensured integrity of implementation of the Growth Management Act.

Florida's buffer, special area designation, and acquisition programs have also proven effective in redirecting development to urban areas. The ACSC, CCCL setback regulation, and the CARL and SOC acquisition programs allow the State more control over where development occurs and better protection of environmentally sensitive areas.

The "pay as we go" policy, to pay for infrastructure as development occurs, has been one of the State's best controls on urban sprawl. The DRI review requirement has forced local governments to assess regional impacts of large-scale local developments.

The state has learned, however, that a lack of financial resources at any level of government can hinder efforts to enforce policy. The absence of monetary incentives for local governments to complete comprehensive plans caused a long delay in completion of plans. Limited financial and staffing resources

at the State level has also resulted in less effective policy enforcement.

Florida could greatly benefit by linking its federally funded Coastal Management Program to its land-use planning. There is tremendous potential for its CZM program to take on a greater role in environmental protection by addressing growth issues.

CONCLUSION

Florida's experience in managing growth has shown that several factors are important to successful growth management. Legislation that directly addresses the problem and establishes clear policies and goals is critical.

Florida has been successful in delegating responsibility to local and regional governments, simultaneously providing them with technical and financial support. Regional Planning Councils play an important role as liaisons between local and state governments. Such integrated programs streamline resources to help to achieve growth management goals.

FLORIDA CASE STUDIES**Hollywood, Florida -- Transfer of Development Rights and Zoning**

A Transfer of Development Rights, or "TDR", is a method of allowing or mandating a developer to transfer development rights from an environmentally sensitive areas, designated as "sending zones" to "safer" areas, designated as "receiving zones." TDR programs can be either voluntary or involuntary. Under a voluntary program, a landowner has the option of either developing at full density as permitted under the local zoning ordinance, or developing at a lower density (or not at all) and transferring unused density to other community sites. Mandatory TDR programs, in contrast, are those which restrict the level of or prohibit development on a sending zone parcel and essentially allow the transfer as the only alternative.

An advantage of a TDR is that it can provide developers and landowners a great deal of flexibility. A major disadvantage, however, is that it often requires a very strong development market, typically near an expanding metropolitan area, to ensure a good market for the transferred development rights.⁵¹

In 1982, the City of Hollywood (Broward County) issued a mandatory TDR at North Beach Park, a 1400 acre area originally owned by the development company Hollywood, Inc. Hollywood, Inc. owned coastal land that the city wanted to preserve. The land was considered valuable to the city because it was the last substantial strip of undisturbed dune-shoreline left in the

entire county. Consequently, the city refused development in the area.

The developer took the city to court and the case went to the State Superior Court. The lower courts had ruled that there was a "taking" by the city. The Superior Court, however, ruled in favor of the city, upholding the TDR as constitutional. The Superior Court stated that, under police power, the city can have certain natural resource preserve areas. In addition, the case was not a "taking" because no development had taken place: Moreover, the city gained additional leverage because the property was a priority on the Save Our Coasts list, a State Department of Natural Resources acquisition program.

A TDR was subsequently negotiated for the property. It allowed extra density development on the landward side of highway A1A in order to prevent development on the coastal side. The developer was allowed a permit for one structure and settled with a substantial monetary compensation.

The city-owned coastal area is now used as open and recreational space. Several dune walkovers were constructed to preserve the dunes and a parking lot was created in an area where the dunes had already been disturbed.

Several years later, the City of Hollywood decided to negotiate another TDR with its zoning ordinance, again involving the developer Hollywood, Inc. The property under negotiation, moreover, was adjacent to the North Beach property in the above case.

The property comprised about 1400 acres, 1200 of which were mangroves and wetlands that the County eventually acquired. Approximately 1100 acres have been set aside as a preserve, with the 100 currently being used for recreation and parking. The developer was allowed to build 1400 units on the remaining 100 acres of upland property, a development currently called Westlake.

State of Florida --Special Area Designation

The Areas of Critical State Concern (ACSC) provision of the Environmental Land and Water Management Act of 1972 protects large, often regional, areas by requiring very stringent development restrictions. Once an area is designated as an ACSC by the Governor and is approved by the Legislature, planning in the area must comply with special land-use and development regulations. Designation as an ACSC acts as an effective tool in protecting near coastal waters.

Areas which have environmental, natural, historical, or archaeological significance may be considered for ACSC designation. Currently, there are four designated Areas of Critical State Concern: Big Cypress, Green Swamp, the Keys, and Appalachicola.

Big Cypress ACSC, the first to be designated in 1973, includes an area of over 800,000 acres. It comprises estuaries of South Florida, a freshwater aquifer, and is ecologically linked to Everglades National Park.⁵² Development restrictions have even been placed on the urbanizing areas.

Although the Green Swamp ACSC was designated in 1974, it took the State's intervention to develop required regulations. The area comprises about 323,000 acres, including important wetlands, and is a critical water recharge area vital to the Floridian Aquifer. It is located north and west of Orlando and, before designation, was threatened by encroaching development from Disney World located just south of the Green Swamp boundary.

The Keys make up a chain of 97 islands that trail off of the lower tip of Florida. The fragile coastal environment of the Keys was the main issue behind its designation in 1974. The Keys were different from the other designations, however, in that they were already highly developed.

Development and population growth has certainly taken its toll on the Keys, and especially Key West. Over 50% of the Keys' population lives on Key West.⁵³ The islands have had a history of extensive illegal dredge and fill operations that has destroyed thousands of acres of mangroves and other wetlands.⁵⁴ Inadequate sewer and water facilities have also been very visible growth problems.

The Keys designation as an ACSC was in the face of strong opposition at the local level. The citizens in the lower Keys were generally opposed to designation (as they had more vested interest in development) but the middle and upper Keys strongly supported designation. In fact, development pressures have been so strong in Key West that it was actually taken off of the ACSC list from 1981 to 1984!

Appalachicola Bay area, designated as an ACSC in 1985, has adopted controls on development along the Franklin County Shoreline. Protection of Appalachicola's near-coastal waters resides mainly in septic system mandates. In Franklin County, neither septic tanks nor alternative wastewater treatment systems are allowed within 75 feet of wetlands.⁵⁵

This area was specifically designated to prevent degradation

of the Bay, its watershed, and economic resources. The Bay supports between four and six million pounds of oyster meat annually. This is 90% of Florida's total annual harvest and 10% of the nation's annual harvest.⁵⁶ The Bay also carries other special state and national designation titles, including a listing as a federal National Estuarine Research Reserve.

Boca Raton, Florida -- Growth Cap

In the early 1970s, the coastal city of Boca Raton attempted to establish a growth cap, limiting development to a maximum of 40,000 new dwelling units.

This amendment was citizen-initiated for several reasons. Boca Raton's residents are of upper median age and income and, thus, had economic and personal interest in preserving the exclusive community image. Citizen concern brought about the formation of the Citizens for Reasonable Growth (CRG) and the Royal Palm Audubon Society, which was concerned for protecting the environment.⁵⁷

The cap stimulated a legal battle, during which down-zoning occurred at rate of 50%, and a temporary moratorium was put on development.⁵⁸ The final court decision ruled against the growth cap, pronouncing it unconstitutional.

Prior to the actual cap, the mere threat of such restrictive zoning prompted a flood of development permit applications and resulted in development occurring at a very accelerated rate. Boca Raton has continued to experience tremendous growth. The population has increased from a few thousand permanent residents in the early 1970s to nearly 70,000 today.

The benefits of the temporary growth cap did not necessarily outweigh the costs. The cap did buy some time for the city while it drew up a city plan and put planning tools into place. However, it caused the land values to rise sharply, resulting in problems of exclusionary zoning. In addition, growth

restrictions meant that tax increases for current homeowners were the most likely solution to pay for new services.⁵⁹

NEW JERSEYISSUES

New Jersey, a commuter state for nearby metropolitan areas, is the nation's most densely populated and fastest growing industrial state.⁶⁰ Problems are inherent with such a growth rate. The state is experiencing an explosion of office construction and urban sprawl. Suburbs are booming, open space is disappearing, and traffic congestion is getting worse. Wetlands are disappearing as coastal high-rise structures are proliferating. All of these factors have contributed significantly to the degradation of near-coastal waters.

This section assesses New Jersey's means of managing coastal growth and discusses its most recent attempt at regulating land-use.

IMPLEMENTING BODIES AND THEIR STATUTORY BACKING

In response to growth problems, the state is in the process of implementing new coastal land-use legislation. In the past, New Jersey has relied on three state agencies to protect the coast: the Department of Environmental Protection, Hackensack Meadowlands Development Commission and the Pinelands Commission. Their enforcement of permitting and zoning regulations, however, have not provided sufficient protection, and the creation of a coastal commission has been proposed.

Department of Environmental Protection

Since 1979, the Department of Environmental Protection's Division of Coastal Resources has administered New Jersey's most comprehensive coastal management laws: the Wetlands Act of 1970 and the 1973 Coastal Area Facility Review Act (CAFRA).

As mandated by the Wetlands Act of 1970, permits are required from DEP to drain, dredge, dump, and erect structures in wetland areas. Before passage of the Act, tidal wetlands were disappearing at an alarming rate of 1,500 acres per year. Since its implementation, an average of only 55 acres are lost each year (and only for water-dependent uses).⁶¹ Although this is a significant improvement, a net loss of valuable wetland habitat still persists.

Under CAFRA, DEP is responsible for issuing permits for regulating the design, location and construction of major facilities along the coast. Permits are required for most industrial development and housing developments of 25 units or more.

Funding

Lack of state financial support for coastal protection reflects the limited state commitment. The DEP's 1990 budget was cut by \$2.6 million at a time when the Department's responsibilities were expanding.⁶² In addition, the State recently was unable to match a \$14.5 million federal grant for the acquisition of 34,000 acres in the Pine Barrens.⁶³ Although

the State's fiscal condition must be considered as the justification for forgoing the purchase, it does reflect the limited degree of importance placed upon preservation.

Hackensack Meadowlands Development Commission and the Pinelands Commission

The Hackensack Meadowlands Development Commission (HMDC) and the Pinelands Commission (Pinelands) are special regional land-use planning bodies created by the state.⁶⁴ The Pinelands Commission oversees a much larger area than the HMDC, as it is charged with protecting one million-acres in the Pine Barrens region.

The State Planning Act of 1986, aimed at controlling urban sprawl by stabilizing suburban growth and redeveloping older cities, has exempted the Pinelands, Hackensack Meadowlands, and the coastal zone from its legislation.⁶⁵ These areas were excluded because the State considered the existing planning mechanisms sufficient. However, due to development induced by local economic interests, more stringent, comprehensive regulations are needed to preserve the areas' environmentally sensitive lands.

Municipalities and Local Governments

Local governments continue to have the greatest power in making land-use decisions. New Jersey has had a 300-year tradition of "home rule"--a concept whereby municipalities plan

independently of neighboring towns. In fact, the Municipal Law of 1975 gives cities the power to regulate land-use without legally requiring the decisions to be consistent with State or regional coastal policies.

The policy of "cross-acceptance" requires that locally-initiated development proposals receive approval from the State and likewise, State proposals be endorsed by the particular local government. Although this policy ensures cooperation between the municipality and state, it does not encourage regional planning.⁶⁶

Coastal Commission

Since 1987, Governor Kean has supported a bill that would create the New Jersey Coastal Commission. It would offer a regional approach to land-use planning. The Commission would be responsible for designing a coastal development master plan for the area regulated under CAFRA.

Reaction to the bill has been mixed. As expected, the effort has been opposed by the New Jersey Builders Association. Environmental groups, such as the Sierra Club, American Littoral Society and the Audubon Society, believe that the only chance for the bill's passage is during Governor Kean's term in office. There is a concern that political support for the Coastal Commission bill will fade when he leaves office in January 1990.

POLITICAL ENVIRONMENT

State Leadership

Governor Kean has been instrumental in the development and implementation of the State's coastal land-use legislation. Many are uncertain that support will continue when the next administration takes office in January, 1990.

Legislation for additional protection of coastal resources is controversial. Although some State Legislators are supportive of coastal protection and land-use legislation (namely, Senators Bennett, A'amico, and Gornley), the Legislature, in general, has been sympathetic to the demands of the builder/developer associations.

Local Participation

Some local officials have criticized the shift of land-use regulation to the State agencies (DEP, Pinelands Commission, and Hackensack Commission). Historically, all land-use decisions resided with the municipalities. The State, however, is concerned that local governments tend to encourage development, as they look to increase their property tax revenue base. Thus, sole responsibility of land-use decisions at the local level poses a threat to the environmentally sensitive areas.

Local governments are also facing financial hardships. Revenues from property taxes act as an incentive for the kind of sprawl the State would like to limit.

SUMMARY AND RECOMMENDATIONS

Probably the most important factor contributing to the success of New Jersey's growth management plan is the gubernatorial leadership. Prompted by the 1988 occurrences of medical waste along the shore, which closed beaches and devastated the local coastal economy, Governor Kean has demonstrated dedication and support for increased coastal protection and land-use regulation.

Slow progress towards a comprehensive coastal land-use management policy is due to a number of factors. Enactment of a Coastal Commission has been held up by strong opposition from developers. In addition, State financial resources are limited.

New Jersey's tradition of "home rule" has impeded cooperative planning efforts between state, regional and local governments. The local governments are resistant to State authority through the DEP and regional planning agencies, thus the State has not been able to effectively implement its policies. A local role in regional and state planning and implementation could dissipate local resistance to the change in authority.

CONCLUSION

Implementing land-use policy to preserve coastal resources often requires a regional rather than local platform. Local governments' land-use decisions are influenced by revenue-generating policies, typically encouraging development and

threatening environmentally sensitive coastal areas. Therefore, involvement of state and regional government in local land-use decisions is a key to greater environmental protection.

Gubernatorial support is important in the initiation and support of legislation that requires a regional perspective for coastal protection and land-use management.

NEW JERSEY CASE STUDIES**Hackensack Meadowlands, New Jersey -- Wetlands Restoration at Eastern Brackish Marsh**

In February, 1988, the Hackensack Meadowlands Development Commission (HMDC) required Hartz Mountain Industries, a local development company, to restore approximately 63 acres of brackish wetlands. HMDC acted to mitigate development at Mill Creek, south of Eastern Brackish Marsh, and wetland fill activities across the Eastern Spur of the New Jersey Turnpike.

The project involved the creation of 45 acres of Spartina marsh and preservation of 10 acres of open water and 5 acres of upland reserves. Spartina alterniflora offers a habitat that can sustain a greater abundance and diversity of wildlife.

This example illustrates the effectiveness of the "No Net Loss" Policy, promoted by the National Wetlands Policy Forum. The Forum, first convening in the summer of 1987, focuses on developing a national policy for increasing the acreage and condition of the remaining wetlands base.⁶⁷

Thompson Beach, Maurice River Township (Cumberland County), New Jersey -- Exercising Permitting Authority

Maurice River Township was denied a shoreline protection and enhancement permit. The Township's intent was to deposit concrete rubble at Thompson Beach to protect against erosion and to expand the road that accesses a residential development. The road's expansion would have required filling adjacent wetlands.⁶⁸

The permit was denied based on the following conclusions:

- 1) Thompson Beach is an environmentally sensitive area, subject to serious shoreline erosion due to wave action of the Delaware Bay.
- 2) Bay Avenue, the road under surveyance, is suspected to be on private land without the owner's consent. Expansion of the road constitutes a "taking" of private property and thus, compensation is required.
- 3) Encroaching on the wetland requires mitigation. No wetlands restoration project was suggested.⁶⁹
- 4) A beach wall will actually cause greater erosion on the beach due to wave action reflecting off the wall.⁷⁰ Beaches are vital to New Jersey's tourist economy as well as an important natural habitat.
- 5) The environmental value of wetlands includes dissipating wave energy, store flood waters, allowing the settling of pollutants and providing a habitat for diverse and abundant marine and avian wildlife.
- 6) The proposed road only provides benefits to a few private residents. Alternatives do exist, like transportation on foot or boat.

The environmental consequences of granting this permit outweigh the public benefit. The ecological integrity of the wetlands and shoreline was not sacrificed for the benefit of a few.

Madison, New Jersey -- Fund-Raising by the New Jersey Shore Foundation

The washing ashore of medical waste, which closed beaches and tainted the public image of the New Jersey Shore, resulted in two years of coastal economic decline. In 1988, merchants and tourism officials reported a shortfall of 1.9 million visitors, which translated into 20% to 60% decrease in business returns, or an estimated loss of \$745 million when compared to the previous year.⁷¹ The State's Fisheries Development Council indicated a decrease of approximately 40% in fish sales because of public concerns of contamination.⁷²

The New Jersey Shore Foundation, established in 1988 by Schering-Plough (makers of Coppertone sun care products), is the first organization of its kind to address pollution problems in beach resort areas. It was formed as a partnership between businesses, foundations, governmental agencies and interested citizens. Its goals include raising funds to assist efforts to clean up and preserve shore communities' beaches, and restore New Jersey's image as an attractive place to visit. To date, the Foundation has received over \$700,000 in financial support from over 50 corporations.

The New Jersey Shore Foundation is an example of an innovative way to involve the business community in mitigating local pollution problems, like ocean dumping. Table 2 summarizes some of projects the Foundation has supported.

TABLE 2

NEW JERSEY SHORE FOUNDATION'S ACTIVITIES⁷³

<u>SOME SOURCES OF FUNDING</u>	<u>AMOUNT (\$)</u>
Caesars Atlantic City	250,000
Midatlantic National Bank	25,000
Wesray Capital Corporation	100,000
Brielle Pontiac	3,000*
AT&T	10,000
Atlantic Electric	25,000
Merrill Lynch Foundation	25,000
Total (as of Sept., 1988)	710,000

<u>RECIPIENTS</u>	<u>PROJECT</u>	
Borough of Belmar	Beach Clean-Up and awareness program	15,000
Town of Sea Girt	Create a beach trust composed of contributions from private businesses. Funds will be for beach Protection projects	5,000
Shore Communities	Public Awareness Seminars for instructing beach employees on public concerns	
Ocean County Boy Scouts	Support efforts to plant dune grass on Long Beach Island and Seaside Beach	5,000
Stone Harbor	To create a "wetlands institute", a hands-on facility to educate the public about the local wetlands	25,000

*Brielle Pontiac donated a percentage of its proceedings from a week-end sale.

OREGON

ISSUES

Oregon is noted for its beautiful and rugged coast. It offers 400 miles of shoreline, all open to the public. Unlike most states which provide beach access to the mean high tide line, Oregon's Beach Bill assures access beyond the high tide mark to the line of vegetation.⁷⁴

Although each of Oregon's 241 cities has defined a zoning ordinance designed to limit development to urban areas, growth is encroaching in the rural and environmentally sensitive areas. 43% of the tidal marshes in the lower Columbia River and over 1/3 of Coos Bay's marshes have been filled or drained.⁷⁵

The State Legislature, non-profit organizations and the general public have taken responsibility in addressing the problems that accompany extensive development. This section discusses the roles of these participants and the resulting successful statewide growth management program.

IMPLEMENTING AGENCIES AND THEIR STATUTORY BACKING

Senate Bill 100 Becomes Oregon's Land-Use Act

Senate Bill 100, passed by the Oregon Legislature in 1973 defined the State's land-use management policy. Although the bill was initiated in the Senate, it was actually created by an ad hoc committee with the help of representatives from city and county levels, businesses, and environmentally concerned citizens. This strategy proved to be very successful. It brought

together potentially opposing forces to address a highly political and controversial issue. This coordination helped to ensure its legitimacy and, subsequently, its effectiveness.

Land Conservation and Development Commission (LCDC)

Senate Bill 100 mandated statewide land-use planning and authorized the establishment of the Land Conservation and Development Commission (LCDC) and its staff, the Department of Land Conservation and Development (DLCD). LCDC became the regulatory agency for developing and implementing statewide land-use policies. Such policies have been formulated into 19 statewide goals with accompanying permitting and administrative procedures. Refer to Appendix E2 for a list of these planning goals and associated requirements.⁷⁶

Oregon's federally approved Coastal Management Program is based on implementing the last four Statewide Goals. Such goals pertain to the protection and development of the coastal and ocean resources including beaches, dunes, estuaries and wetlands.⁷⁷

Organizational Structure

The LCDC is made up of seven, non-paid members. They are appointed by the Governor for a four year term and confirmed by the Senate. There is at least one representative from each of the five congressional districts.

DLCD, the agency that administers the planning program, is

staffed by 40 professionals. Five field offices coordinate the state programs with the local plans and provide technical assistance to local governments.

LCDC's responsibilities include:

- 1) Developing and assuring local governments' compliance to the Statewide Goals and planning guidelines for land-use planning and resource management. This includes DLCD's periodic reviews of the city and county comprehensive plans;
- 2) Providing technical assistance and grants to local governments for the preparation of their comprehensive plans;
- 3) Recommending areas of critical state concern; and
- 4) Coordinating federal, state and local planning programs so as to insure consistency between the comprehensive plans.

LCDC relinquishes regulatory power to local governments as soon as it approves the local government's comprehensive plan. However, it retains authority over statewide activities like the siting of public services like transportation, sewage treatment and water supply facilities, and public schools.

As mandated by Senate Bill 100, every local government has a state-approved comprehensive land-use plan in place. This plan describes the long-range policies of how the city or county's future development should occur.⁷⁸ LCDC holds periodic reviews every four to seven years in order to ensure that the plans are held in compliance with the 19 Statewide Goals. Moreover, these reviews are a means of transmitting changes in state policies to the local level.

LCDC also conducts plan amendment reviews for any modifications to a comprehensive plan. If a city or county

amends its comprehensive plan against the agency's recommendation, however, the case can be appealed to the Land-Use Board of Appeals (LUBA).

A bipartisan Joint Legislative Committee on Land-Use was created in order to monitor activities between local and the state governments and facilitate communication between the State Economic Development Department and the Legislature.

Funding

Oregon's statewide planning program offers financial incentives in support of the local governments as they strive to adhere to LCDC's goals and guidelines. Between 1983 and 1985, a total of \$2.4 million had been expended. Three types of incentive grants are offered:

- 1) Plan maintenance grants -- these offer funds to maintain the approved plans. The amount awarded is based on city or county's population size;
- 2) Post-acknowledgement grants -- such grants assist local governments as they revise their plans to meet state goals and requirements;
- 3) Implementation grants -- these are offered specifically to coastal jurisdictions in order to help them adhere to LCDC's coastal management program.

NOAA's approval of Oregon's coastal management program in 1977 qualified Oregon for federal funds.⁷⁹ Between 1977 and 1985, Oregon received more than \$11 million in grants primarily for aid to local governments.⁸⁰

Community Involvement/Public Awareness

Citizen involvement in the early stages of the statewide planning process is one of the primary reasons that Oregon's land-use policy has survived. Each city and county has a citizen involvement program to encourage citizen participation in the land-use planning process.

Although services like public information offices are necessary to sustain citizen involvement, they are often the first to be eliminated in tough fiscal times. DLCDC has managed to maintain one full-time public affairs staff member. In addition, citizens are kept informed by a quarterly newsletter, the "Oregon Planning News," press releases, brochures and flyers.

The public affairs personnel also appoints the eight members of the Citizen Involvement Advisory Committee (CIAC), a standing committee called for in the Land-Use Act of 1973 (and identified in the list of statewide planning goals). CIAC advises LCDC on issues regarding the status of citizen awareness and participation.

POLITICAL ENVIRONMENT

The comprehensive plans call for zoning in all lands, including the rural areas. These have generated much controversy. Local government officials are concerned that this policy is particularly detrimental in the rural areas, claiming that it inhibits economic growth.

LCDC continues to emphasize its position that economic

development and conservation can be complementary strategies. It is within Oregon's interest to preserve the rural lands for its three primary industries -- forestry, farming and tourism. As stated in a biennial report to the State Legislature,

Developing houses on farm or forest land far from the public services frequently is not a boon to the economy of the community or the State. Therefore, losing or no controls of rural land would not enhance the State's economic development.⁸¹

SUMMARY AND RECOMMENDATIONS

The success of Oregon's land-use policies can be contributed to six factors. First, gubernatorial support has proved important. Former Governor McCall supported Senate Bill 100 in 1973 and was instrumental in its passage.

Second, the State has defined 19 planning goals and guidelines which set the standards for land-use decisions. Such standards, coupled with the third factor, citizen involvement, has yielded economically sound development practices.

Fourth, having each local government create a comprehensive land-use plan has been successful in bringing together different governmental agencies and interest groups. Comprehensive planning allows the State to play a greater role in determining the appropriate use of Oregon's 1.7 million acres of coastal land (1/3 of which lies within the coastal zone).⁸²

Fifth, land-use decisions can be appealed to the Land-use Board of Appeals. Having a organization that listens only to such cases assures faster conflict resolution.

Finally, participation of 1000 Friends of Oregon must be

recognized as one of the most important successful factors. This watchdog organization has supplemented DLCD's limited staff by overseeing implementation of Statewide Goals.

DLCD's small staff is a problem, however. DLCD is given a 45-day turn-around time to review comprehensive plan amendment requests. Due to the small number of staff reviewing the requests and an unexpectedly large number of requests, DLCD is forced to make decisions without adequate time to consider other options. It is difficult to keep the plans consistent with state goals or current with new or revised state policies. LCDC has indicated that the solution to this problem is not to enlarge the review time but to have adequate staffing.⁸³

CONCLUSION

Oregon has a successful coastal management program. Although each local government has a comprehensive land-use plan, the solution to good land-use planning is not solely dependent upon the creation of local plans or even a single State plan. Good land-use planning results from strong governmental leadership, a partnership between governmental entities (on a federal, state and local level) and support from concerned citizens and interest groups. A successful program requires recognition of and commitment by these participating groups to the objectives of effective resource conservation and sound economic practices. With this commitment from all interested parties, Oregon has been able to resolve local land-use issues

early in the planning process.

OREGON CASE STUDIES**Curry County, Oregon -- Quasi-Urban Development Near Urban Growth Boundaries**

Each of Oregon's 241 cities has defined an Urban Growth Boundary (UGB), a zoning ordinance that separates urban from rural lands. Limiting development to an UGB is meant to urban sprawl prevent. UGBs also minimize the public and private costs of providing services like sewer, water, roads, fire and police protection, and school systems.

Presently the largest remaining land-use issue in Oregon concerns the development of rural "exception areas." Statewide Planning Goals 3 and 4 are designed to protect the rural agricultural and forest land respectively. However, there are three ways to qualify for an "exception":

- 1) If the land already has residential development;
- 2) If the land is committed to non-resource use. One example is a lot that is surrounded by subdivisions, thus, making it impractical to farm; or
- 3) If there is a critical need for commercial or residential land. (This exception rarely occurs.)

In August of 1986, the Oregon Supreme Court ruled that taking exception to Goals 3 and 4 and providing for urban levels of development demands adherence to Goal 14, which requires the establishment of urban growth boundaries.⁸⁴ The Court recommended three alternatives:

- 1) Define the kind of development allowed in rural and urban areas;
- 2) Urban growth boundaries should be created or the present ones expanded to include these exception areas;
- 3) Authorize a Goal 14 exception.

15,800 acres in Curry County (most of which are within the coastal zone) are exception areas and zoned for rural/residential use at one-acre lots.⁸⁵ The problem is that there are not sufficient services to support dense development. In fact, cases of environmental impact have been documented.⁸⁶ For example, the city of Brookings has experienced sewage and fecal coliform bacteria contamination of the surface water and overloading of its sewage treatment facility.⁸⁷

LCDC needs to determine if development should be allowed in these areas. If development is permitted, the trend towards residential sprawl in these rural areas makes it probable that the area will reach a critical density level and cause problems like water quality degradation and traffic congestion. Health hazards from poor water quality and political pressure may force a costly and inefficient extension of the urban services to these areas.⁸⁸ With approximately 750,000 acres of exception areas in Oregon, taxpayers should be quite concerned.⁸⁹ They will be covering the cost of the inefficiency.

Oregon (and California) -- Addressing Affordable Housing Needs

Oregon is experiencing significant demand for low-cost housing which can be attributed to the increasing cost of housing and changes in the states' demography. Efforts have been made to meet this demand. Statewide Goal 10, adopted in 1974, requires that each local government prepares: 1) a "buildable lands inventory," and 2) include within its Comprehensive Plan a residential zoning ordinances for persons of all incomes. Applications for development are reviewed on the basis of a fair allocation of needed housing. (See Appendix E2 for list of Statewide Goals.)⁹⁰

If a development has included certain provisions like energy conservation or low cost housing, density bonuses are awarded. These bonuses can be applied for additional housing units.

Following the implementation of Statewide Goal 10, the amount of land available for multi-family housing in the Portland metropolitan area improved from 7.6% (2,219 acres) of residentially zoned land to 27.3% (8,795 acres). Zoning for single-family housing dropped from 92% (26,946 acres) to 72.7% (23,412 acres).⁹¹ (Refer to Table 3 which summarizes these changes.)

Affordable housing does not necessarily mean higher density housing. Smaller lot size is another way of providing affordable single-family housing. Therefore, a housing policy can offer the consumer greater flexibility.

Oregon's success in implementing a statewide housing policy

is largely due to the efforts of 1000 Friends of Oregon, a non-profit public service organization that focuses on land-use issues. Public interest group participation is probably the most important factor in maintaining the effectiveness of the State's planning program.⁹² From the policy's outset, 1000 Friends was instrumental in preventing local governments from establishing discretionary housing standards that discourage affordable housing.

In Comparison with California

California did have an affordable housing policy included within its Coastal Act. However, it was repealed in 1981. The California Coastal Commission originally had required a minimum of low and moderate income housing as a permit condition for development in the coastal zone. Organizations like the California State Board of Realtors, the League of California Cities and factions of the State Homebuilders Association were effective in lobbying the legislature for the change. Moreover, an organization similar to 1000 Friends of Oregon did not exist to counterbalance opposition.

Subsequently, informal coalitions are forming between housing consortiums and developers/home builder associations. The need for low income housing is great, yet developers are claiming that the restriction on growth within the coastal zone is the primary cause for the reduced availability in affordable housing.⁹³

In conclusion, controlling development in any area is likely to cause a rise in property values, squeezing out lower income residents. Thus, it is critical that growth policies contain provisions for affordable housing.

Table 3
POTENTIAL RESIDENTIAL UNITS PER NET BUILDABLE ACRE

	1978		1982	
	<u>NET</u>	<u>PERCENT</u>	<u>NET</u>	<u>PERCENT</u>
ACRES FOR SINGLE FAMILY	26,946	92.4	23,412	72.7
UNITS "	90,651	70.1	123,145	40.8
ACRES FOR MULTI FAMILY	2,219	7.6	8,795	27.3
UNITS "	38,670	29.9	178,337	59.2
ACRES TOTAL	29,165	100.0	32,207	100.0
UNITS "	129,321	100.0	301,482	
100.0				

Oregon -- Education and Public Awareness Programs

The following examples reflect Oregon's strong commitment to citizen involvement in coastal zone management. Public awareness is a key factor of a successful land-use planning program.

An Educational and Research Center at South Slough National Estuarine Reserve

In 1974, South Slough was recognized as the first of 18 national estuarine reserves. The purpose of such a designation was to preserve the unique natural resources and enhance the public understanding of the estuarine environment. The reserve includes 3,800 acres of upland forest and 600 acres of tidal land.

South Slough has been set aside for research, educational and low-intensity recreational use. Federal funding has been apportioned in order to stimulate research in nationally designated reserves.⁹⁴ Scientists and college students from the University of Oregon Marine Science Center and Southwestern Oregon Community College conduct field studies at the site.

A series of classes, guided nature walks, workshops and interpretive facilities are offered to visitors including students from kindergarten through college. There are recreational opportunities that are designed with an educational purpose, like hiking, canoeing and fishing.

A Community Monitoring Program at Trails End Coastal Resort

Trails End, a coastal resort, created 15 acres of freshwater wetlands as a mitigation for filling a natural site. Citizen volunteers are working with scientists from EPA's Wetlands Research Program in Corvallis to monitor the newly created wetlands. The volunteers are assessing the water level, water quality, aquatic wildlife and vegetation, hydrology and soil.

The benefits of utilizing citizens are twofold. First, using volunteers instead of inhouse staff drastically reduces the cost of gathering the information. Second, this is a good opportunity to transfer skills to professionals that are removed from educational resources.

A Student-Run Public Awareness Program at Cannon Beach

Haystack Rock Public Awareness Program is an example of a community taking a responsible role in educating the public on coastal resources. 30 to 40 volunteers, mostly students, discuss the natural habitat of the intertidal zone with visitors of Haystack Rock. The on-site program is not advertised. Rather, it is "treasure of knowledge" only to be stumbled upon when walking along the beach.

An Innovative Educational Program Sponsored by the NW Association of Marine Educators

"Integrated education" is an innovative way of articulating to high school and junior high students the social, political,

economic and scientific values of a natural resource. A theme is chosen, like land-use planning and coastal management. Oregon's 19 Statewide Land-Use Goals are then incorporated into the curriculum. Each subject area examines the topic: the social science class looks at the permitting process, the English class conducts investigative reporting, while the science class explores the natural habitat. Students learn the importance of science in making a policy decision.

Oregon State University's Program in Marine Resource Management

Oregon State University offers a graduate degree in marine resource management to train students for careers in sound development and management of marine and coastal resources. The program offers opportunities for field experience that benefits the State as well as the students. Examples of projects include organizing a conference on coastal water quality issues and developing a waterfront revitalization plan. It is a model program that integrates practical experience with educational objectives.

WISCONSINISSUES

Wisconsin's coastal economy historically has centered around shipping, fishing, agriculture, and industrial activities. The decline of the industrial economy has left ports and waterfronts in need of redevelopment and has elevated public concerns for the coastal image and water quality.

Recently, however, the State has undergone a transformation along its Great Lakes waterfronts. Tourism and recreation have subsequently become major contributors to Wisconsin's coastal economy. Land-use decisions have become important due to increasing development pressures. Septic systems are being rapidly replaced by new wastewater treatment plants, allowing for sprawling development.

Wisconsin's coastal management focuses on projects related to shoreline erosion, non-point source pollution, fisheries, urban waterfront revitalization, and wetland protection. Shoreline erosion problems resulted from a rising lake level in 1986, emphasizing the importance of intelligent near-coastal development. Non-point source pollution caused by poorly planned development and agricultural runoff has severely degraded Great Lakes' water quality and threatened the fishing industry.

This section discusses Wisconsin's approach in addressing the above problems by managing growth along its Great Lakes shores.

IMPLEMENTING AGENCIES AND THEIR STATUTORY BACKING

Wisconsin integrates growth management with environmental protection through implementation of thirty-three statutes! These laws address a wide range of environmental issues. Wisconsin's statutes have been characterized as voluminous, somewhat scattered, ambiguous and partially out-dated.⁹⁵

Because Wisconsin's land-use legislation is piecemeal, responsibilities for regulating land-use are fragmented within State agencies. The Department of Natural Resources is the primary implementing agency of coastal/land-use legislation. The Wisconsin Coastal Management Program, however, is under the jurisdiction of the Department of Administration and was federally approved in 1978.

Water Resources Act of 1965

The Water Resources Act of 1965 requires communities to adopt shoreland and floodplain zoning. Development is regulated by setbacks of 1000 feet from all lakes (including Lakes Michigan and Superior) and 300 feet from any stream. The ordinance includes all wetlands in the local jurisdiction which are at least five acres in size. Minimum lot sizes and waste disposal standards are also required.

Department of Natural Resources

The DNR carries most regulatory responsibilities for the shoreland-floodplain zoning mandates of the Water Resources Act

of 1965. DNR oversees zoning ordinance adoption by local governments and provides mapping and technical training. If a local government fails to adopt shoreland and floodplain ordinances, DNR must create them.

Non-Point Source Water Pollution Abatement Program

Work has been underway since 1979 to reduce the Great Lakes' pollution threat through the Wisconsin Nonpoint Source Water Pollution Abatement Program. Administered by DNR's Bureau of Water Resources Management, the program selects critical drainage areas, called priority watersheds, for intensive evaluation.

Non-point source pollution impacts are most visible in Lake Michigan, where as in Lake Superior the impacts are minimal. Toxic source material, sedimentation and manure runoff are the main non-point threats. The primary victims of the pollutants tend to be the fishery economy and human health hazards have resulted from contaminated fish.

Department of Administration

Wisconsin's Coastal Management Program (WCMP), the federally approved coastal management agency, is under the Department of Administration (DOA). WCMP is primarily involved in supporting port revitalization and waterfront redevelopment projects.

The WCMP has a 14 member Coastal Management Council that is appointed by the Governor. It is comprised of leadership from state agencies, local governments, tribal governments, and the

University of Wisconsin. The WCMP's responsibilities include assisting local and regional governments in valuable mapping, transferring technical knowledge, and providing funding for economic development projects.

Regional Planning Commissions

Organizational Structure

The State's nine Regional Planning Commissions (RPC) function as advisors to local governments. They assist municipalities and counties in the development and preparation of ordinances and land-use plans.

RPCs have been instrumental in initiating and implementing the Environmental Corridor system. Environmental Corridors are areas designated as environmentally sensitive areas. Development is therefore restricted in these areas. Corridors typically border streams and lakes. In some cases, where encroaching development is not a major threat, the Corridor system acts more as a preventative means of protecting near-coastal water quality.

Funding

RPCs receive their funding from counties within the regions. The RPCs can levy taxes that are collected by the counties and fund the RPCs. RPCs are also funded by state and federal grants.

Federal grants to RPCs are received from the Wisconsin Coastal Management Program and are a valuable resource. WCMP grants have provided funding for coastline mapping, the

development of comprehensive shoreline/floodplain management plans, and other technical assistance.

POLITICAL ENVIRONMENT

Wisconsin's citizens seem to have a common pride in the state's natural resources and a strong desire to preserve them. This state-wide concern appears to permeate all levels of government.

State and Local Relations

Wisconsin does not have a key actor advocating growth management at the state level, as do Florida and New Jersey. Although Governor Thompson has been described as "pro-development," he is recognized as one who "understands that the appearance of the coast is directly related to the economic development of the state," referring to tourism.⁹⁶

Lack of gubernatorial support in Wisconsin is not an influencing factor in state success at managing growth, however, because land-use policies are locally administered. Wisconsin provides state oversight for zoning and setback regulations, allowing local governments to administer and enforce those regulations. The State intervenes only if the local government does not zone or enforce to state standards.

International Leadership

Wisconsin also participates in land-use management at the international level. The International Joint Commission (IJC) combines the efforts of the Great Lakes' states and Canada in dealing with complex and politically sensitive environmental problems. The IJC, formed by a treaty between the US and Canada, has provided the framework for Remedial Action Plans (RAPs). RAPs are intended to focus on the heavily polluted areas along the Great Lakes shoreline.

SUMMARY AND RECOMMENDATIONS

Wisconsin is known as a progressive state in addressing growth management and land-use issues for several reasons. It establishes stringent zoning and setback requirements for all coastal and inland waters. These regulations are locally implemented with strong citizen support and action taken to protect natural resources. Wisconsin's regional governments play an integral role in assisting local governments in mapping and technical work. This assistance is supplemented by federal funds from the Wisconsin Coastal Management Program.

Wisconsin's piecemeal legislation could be a focus for more comprehensive land-use legislation. Integration of the voluminous legislation might result in more effective regulation of state-wide development.

CONCLUSION

Stringent zoning directly affects where development occurs. Local action, combined with effective state agency regulation, ensures that natural resource areas are protected by zoning and setback regulations. Strong gubernatorial support, however, is not necessarily a key to success if all land-use decisions occur at the local level and citizens are supportive of natural resource protection.

WISCONSIN CASE STUDIES**Door County, Wisconsin -- Locally Initiated Zoning**

Door County is the pristine peninsula that separates Green Bay from Lake Michigan. This county, often referred to as "Chicago's playground," is under much development pressure from tourism. The county population of 26,000 nearly doubles to about 41,000 in the peak tourist months of July and August.⁹⁷ The growth problem became apparent with summer traffic jams and overburdened septic systems. In response to growth pressures, the County is in the process of revising its County Plan to include a locally initiated zoning ordinance.

There appears to be a general consensus for the need to update the 20-year old plan. Environmentalists are concerned that the old plan does not give enough protection and that allowed zoning densities are too high. Property owners are concerned that the existing quality of life is threatened by growth. The developer/builder community is even supportive of more stringent standards, arguing that with clearer guidelines they can more readily predict county approval of development projects.

The Door County Ordinance was initiated in 1985, has taken several years to carefully develop, and is scheduled to be presented before the County Board of Commissioners for approval in May, 1990.⁹⁸ The anticipated ordinance outlines two methods of protecting near-coastal waters: 1) allowing no or little development on environmentally sensitive lands and 2) preserving

open landscapes with rigid landscaping and buffering requirements.⁹⁹

The County planning staff put the initiative into action by beginning a series of public perception workshops. The workshops were conducted to learn what issues were foremost on citizens' minds. The planning department realized that focusing on the most pertinent issues would make the Ordinance more effective. The workshops were conducted in five different regions of the county on five separate occasions. The main issues that arose from the workshops were about land-use and land management issues.

Funding has certainly been a factor in the success of this locally-initiated ordinance. A total of \$180,000 has been appropriated. Of this total, donations of \$30,000 from a private source helped convince the Board to support the ordinance. DNR also contributed \$39,000.¹⁰⁰ The remainder of the money came from local tax appropriations.

Success of the locally-initiated zoning ordinance can be attributed to several factors. The Director of County Planning has been a key figure in bringing about a high level of public involvement. His professional and personal commitment, combined with citizen support, financial backing, and the unanimous support from various interest groups has brought about a viable solution to a local growth problem.

Sheboygan, Wisconsin -- Pigeon River Environmental Corridor

The Pigeon River Environmental Corridor is a city-regulated area which provides a buffer between development and near-coastal waters. The concept of environmental corridors came about in the early 1960s as an acquisition tool to protect environmentally sensitive areas.¹⁰¹

Growing concerns of the loss of open spaces and recreational resources, flooding, and water quality concerns triggered action in the city of Sheboygan. The city responded by integrating the Pigeon River Environmental Corridor into their land-use plan. Gradually over the past 25 years, the city has acquired property along the Pigeon River, assembling a publicly owned river corridor of several hundred acres.

Land has been acquired in a number of ways. The city purchases or receives dedicated land from private land owners and developers.¹⁰² 135 acres was willed to the city and subsequently has become an "environmental park."

The success of the Corridor concept at Pigeon River is due to several factors:

- 1) The natural environment of the Pigeon River area is highly visible to the residents of Sheboygan;
- 2) Wisconsin's Water Resources Act of 1965 mandates zoning requirements 300 feet landward of navigable streams (Pigeon River) and 1000 feet of navigable waters (Great Lakes);
- 3) Acquisition and zoning allows for control over development;¹⁰³
- 4) Federal and state funds helped supplement the local funds;¹⁰⁴
and
- 5) Perseverance on the part of city officials and public interest groups has produced strong community interest and support.

The entire state of Wisconsin is using the Environmental Corridor concept as a means of protecting natural areas.¹⁰⁵ The concept has successfully made Wisconsin residents and others aware of the need to preserve near-coastal areas. Robert Fisher of the Bay-Lake Regional Planning Commission remarked, "coastal rivers are now becoming Wisconsin's front door resources, and are no longer a place to throw your refrigerators and washing machines."¹⁰⁶

CONCLUSION

Unplanned growth along the coastal United States has caused severe consequences. The five states within this analysis -- California, Florida, New Jersey, Oregon and Wisconsin -- have experienced repercussions like sewer and highway capacity problems, water quality degradation, decrease of physical and visual coastal access, and loss of wetlands and natural habitats.

It usually takes a major environmental incident to trigger public criticism and subsequent political action. In California, the loss of coastal access from the construction of a ten-mile exclusive residential community resulted in the creation of the Coastal Act and Commission. Florida's population increase due to tourism, new residents and immigrants, causing urban sprawl. This sprawl led to the passage of the Growth Management Act and the development of acquisition programs in order to protect some of the remaining coastal open spaces. The economic decline of the New Jersey shore communities because of the occurrences of medical waste roused legislative action. Oregon's statewide land-use planning program was a response to the need to maintain the State's three primary industries -- forestry, agriculture and tourism. Finally, in Wisconsin, the economic benefits, accrued from the tourist industry, encouraged growth management policies like locally-initiated zoning ordinances.

Each of these five states approached coastal growth and land-use management with different strategies. Appendix A summarizes each state approach. Regardless of the method,

however, the solution to good land-use planning results from: 1) having strong political leadership, 2) citizen and interest group support and participation, 3) coordination between local, state and federal governmental entities, 4) policies or legislation to assure consistent enforcement, 5) attention to housing needs, and 6) appropriation of adequate funding.

POLITICAL LEADERSHIP

The gubernatorial leadership, particularly from the states of Oregon, Florida and New Jersey, have been instrumental in influencing growth management policies. Oregon's former Governor McCall helped to insure the passage of the Senate Bill 100 (the Land Use Act of 1973). Florida's former Governor Graham and New Jersey's Governor Kean have successfully promoted land-use policies, as well.

CITIZEN AND INTEREST GROUP SUPPORT AND PARTICIPATION

Growth is a local issue, affecting the character of a particular community. Therefore, citizens should be involved in land-use management decisions. Oregon's Department of Land Conservation and Development maintains a full-time public affairs personnel in order to keep the public informed and involved. 1000 Friends of Florida and Oregon monitor ongoing local and state growth management activities and educate the public on current growth management issues. The New Jersey Shore Foundation has successfully involved the business community in

participating in environmental restoration and preservation projects.

COORDINATION BETWEEN GOVERNMENTAL ENTITIES

Resources and technological information need to be exchanged between all levels of government. In this way, consistency and efficiency in implementing policy is established. Florida has land-use legislation in place which provides for state, regional and local comprehensive planning -- a three-tiered management framework.

POLICIES AND LEGISLATION

Typically, growth control measures only work in a strong economy. When local governments are confronted with fiscal constraints, revenue from property taxes acts as an incentive for increased development. Legislation can help to manage growth so as to avoid unnecessary urban sprawl.

Wisconsin's dependency on tourism has encouraged legislation requiring rural zoning and setbacks in order to protect the natural resources and aesthetic features of the environment. California's legislation is very specific, granting authority to manage most of the coastal zone to a single agency. Oregon amended existing land-use policies to include coastal management considerations.

ADDRESSING HOUSING NEEDS

Development cannot be controlled without addressing the need for affordable housing. Otherwise, property values become elevated, squeezing out lower income citizens. Some criticize growth control policies by claiming that such policies are a white, middle-class movement, responding to increased traffic, noise, air pollution, and an influx of minority groups.¹⁰⁷

Oregon's success in implementing a statewide housing policy can be partly attributed to 1000 Friends of Oregon. This public interest organization was able to prevent the establishment of discretionary housing standards.

FINANCIAL SUPPORT

Enforcement policies are costly in time, staffing and dollars. Therefore, the availability of funding often determines a coastal land-use policy's effectiveness. Funding was primary a factor in the success of Wisconsin's locally-initiated requirement for rural zoning ordinances.

Sound regional land-use planning requires a commitment by all participants -- governmental agencies, private and public sector organizations and citizens -- to the objectives of effective land-use management and resource conservation. This coordinated effort will help to mitigate the environmental consequences of uncontrolled development along the coastal States.

APPENDIX A1

SUMMARY OF COASTAL LAND-USE MANAGEMENT STRATEGIES

<u>STATE</u>	<u>APPROACH</u>
California	"Super Agency"; A single agency in charge of managing growth along most of the coastal zone. Addresses nearly every land use issue of the State.
Florida	Used general land-use legislation. Coastal management plan as mandated under the Coastal Zone Management Act of 1972 acts as a guide for coastal protection.
New Jersey	Exists some state coastal management laws, yet most land-use decisions are handled on the local level.
Oregon	General land-use agency that implements four Statewide Land-use Goals that are specific to coastal and ocean resource management.
Wisconsin	33 state laws dealing with growth management and land-use policies.

APPENDIX A2

SUMMARY OF IMPLEMENTING AGENCIES AND THEIR STATUTES

<u>STATE</u>	<u>AGENCY</u>	<u>PERTINENT STATUTES</u>
California	Coastal Commission BCDC State Coastal Conservancy	Cal. Coastal Act McAteer-Petris Act
Florida	Dept. of Community Affairs Dept. of Env.Regulation Dept. of Natural Resources	Growth Management Act Environmental Land and Water Act Coastal Zone Protection Act Local Government Comprehensive Act
New Jersey	Dept. of Env. Protection Hackensack Meadowlands Development Commission Pinelands Commission	Wetlands Act Coastal Area Facility Review Act State Planning Act
Oregon	Land Conservation and Development Commission Dept. of Land Conservation and Development	Land Use Act (SB100)
Wisconsin	Dept. of Natural Resources Dept. of Administration Regional Planning Councils	Water Resources Act

APPENDIX B1 -- CALIFORNIA

STATUTORY TIMELINE

- 1965 Passage of the McAteer-Petris Act, establishing an Interim Bay Conservation Development Commission. It's mission was to prepare a Bay-use plan for San Francisco Bay.
- 1969 The San Francisco Bay plan passes the State Legislature. BCDC becomes the agency to regulate development in the Bay Area.
- 1972 Federal Coastal Zone Management Act passes.
- 1972 Passage of Proposition 20, the California Coastal Zone Conservation Act or the "Save the Coast" Initiative. The interim California Coastal Zone Conservation Commission was formed.
- 1976 Passage of the California Coastal Act, which established the California Coastal Commission and the State Coastal Conservancy
- 1979 Commission adopted Statewide Interpretive Guidelines, which contain a section on the standards for providing coastal access.
- 1979 Passage of Assembly Bill 989. The State Legislature established a statewide coastal access program which transferred responsibility for a comprehensive access program from the Department of Parks and Recreation to the Coastal Commission and Conservancy. These agencies coordinate all local, state and federal efforts to purchase, develop and maintain accessways.
- 1984 Passage of the California Park and Recreational Facilities Act (Proposition 18), which provided funds (\$370 million) for development and restoration of the State park system's coastal resources. Passage of the Fish and Wildlife Habitat Preservation Act (Proposition 19), providing \$40 million for coastal fish and wildlife habitat acquisition and enhancement.

APPENDIX B2 -- CALIFORNIA

RESULTS OF CALIFORNIA'S EFFORTS IN COASTAL MANAGEMENT

<u>COASTAL COMMISSION</u>	<u>BY 1982</u>	<u>SINCE 1973 (TO 1987)</u>
Acquisition:	477	
Wetlands Protection (381,000 acres before 1900):	120,000 sq miles	
New Power Plants on shore:	None built	
Agricultural land classification:		1/3 of Coastal Zone
Scenic Views:		End of High Rises
Approval of local LCP's:		109/124
Requirement of coastal access:		in >2000 permits
Number of Permits:		50,000

RESULTS (Continued)COASTAL CONSERVANCYBY 1982

Completed projects:	243
Provided protection for	
Wetlands (acres):	7,615
Agricultural Lands:	1,810
Lands under negotiation:	14,000
Retired inappropriately planned subdivisions:	639
Construction of accessways:	156
Involved in urban waterfront restoration Projects:	71

STATE PARKS AND RECREATION

Under the Bond Acts:	
of coastal zone:	28,500 acres
of ocean frontage:	29 miles
Under Federal funds Since 1982:	Redwood National Park King Range National Conservation Area Point Reyes National Seashore Golden Gate National Recreational Center Channel Islands National Monument Santa Monica Mountain National Recreation Area

LOCAL OR REGIONAL GOVERNMENTS OR NON-PROFIT AGENCIES

Funded by the Coastal Conservancy: Arcata Marsh; 150 acres

Funded by the Nature Conservancy: Santa Cruz Island

APPENDIX C -- FLORIDA

STATUTORY TIMELINE

- 1970: Beach and Shore Preservation Act
This Act is divided into two parts--Part I regulates coastal construction and provides for beach renourishment and restoration programs; Part II provides for the establishment of beach and shore preservation districts.
- 1972: Environmental Land and Water Management Act
This Act contains the DRI and ACSC provisions.
- 1975: Local Government Comprehensive Planning Act (amended in 1985 as the Local Government Comprehensive Planning and Land Development Regulation Act)
- 1978: Florida Coastal Management Act
This Act enabled the Department of Environmental Regulation to create a Coastal Management Program in order to receive administrative funds under the federal Coastal Zone Management Act of 1972.
The Florida Coastal Management Program provides a framework and funding source for managing coastal resources, but commands no legal authority over coastal management policies.¹⁰⁸
- 1980: Florida Regional Planning Council Act
- 1984: State and Regional Planning Act
- 1985: Coastal Zone Protection Act
This Act regulates coastal construction.
- 1985: Growth Management Act (State Comprehensive Plan)
This Act integrates state, regional, and local planning by requiring consistency at all three levels

APPENDIX D -- NEW JERSEY

STATUTORY TIMELINE

- 1914 Passage of the Waterfront Development Act
This Act, as enforced by the Department of Environmental Protection, regulates construction or alteration of docks, wharves, piers, bulkheads, bridges, pipelines, cables, and other waterfront uses adjacent to navigable water.
- 1970 Passage of the Wetlands Act
This Act regulates the use of coastal wetlands. Permits are required from the Department of Environmental Protection for draining, dredging, dumping, and erection of any structure.
- 1973 The Coastal Area Facility Review Act
This Act regulates the design, location, and construction of major facilities, including most marine and public investment activity as well as well as housing developments of 25 or more units.
- 1987 Freshwater Protection Act
This Act protects non-tidal wetlands by establishing setback requirements.

APPENDIX E1 -- OREGON

STATUTORY TIMELINE

- 1967 Passage of the Oregon Beach Bill which reaffirmed that the public has the right to access beaches not just to the high water line, but to the line of vegetation. Or. Rev. Stat. 390.605, et seq. (1967)
- 1969 Passage of ORS 215 (Senate Bill 10). Every county and city of the State must produce comprehensive land-use plans and zoning ordinances. 10 Statewide Goals were incorporated into state land-use policy.
- 1969 Failure to pass an estuarine protection bill in Legislature.
- 1970 A construction moratorium was established, protecting the estuaries from filling.
- 1971 Creation of the Oregon Coastal Conservation and Development Commission (OCC&DC) by the Legislature. This provided a link to the coastal protection elements that developed under the senate bill 100.
- 1971 Passage of a scenic waterways bill via the citizen initiative process. This was the indication to politicians that unless attention was to be paid to environmental and land-use planning, the people would use the initiative process. (Or. Rev. Stat. 390.605, et seq., 1971).
- 1973 Senate Bill 100 became law (the Land-Use Act) as Oregon's land-use initiative. It established the Land conservation and Development Commission, the implementing body for Bill 100.
- 1974 Designation of Coos Bay's South Slough, the nation's first Estuarine Sanctuary.
- 1975 LCDC adopts the first 14 statewide planning goals.
- 1976 LCDC adopted four new coastal goals and guidelines that pertain to coastal management.
- 1979 The Legislature creates of the Land-Use Board of Appeals (LUBA).
- 1986 LCDC approved the last of the 241 and 36 comprehensive city and county plans respectively, for a total of 277 local plans. This makes every acre in Oregon subject to planning and zoning.

APPENDIX E2 -- OREGON

STATEWIDE PLANNING GOALS

GOAL	1	Citizen Involvement
	2	Land-Use Planning
	3	Agricultural Lands
	4	Forest Lands
	5	Open Spaces, Scenic, Historic and Natural Resources
	6	Air, Water and Land Resources Quality
	7	Areas subject to Natural Disasters and Hazards
	8	Recreational Needs
	9	Economic Development
	10	Housing
	11	Public Facilities and Services
	12	Transportation
	13	Energy Conservation
	14	Urbanization
	15	Willamette River Greenway
	16	Estuarine Resources
	17	Coastal Shorelines
	18	Beaches and Dunes
	19	Ocean Resources

APPENDIX F -- WISCONSIN

STATUTORY TIMELINE

- 1978 Wisconsin's Coastal Management Program federally approved
- 1979 Wisconsin's Non-Point Source Water Pollution Abatement Program began. It is administered by the Department of Natural Resources, Bureau of Water Resources Management.
- 1965 Water Resources Act
This Act authorizes shoreland and floodplain zoning requirements and is administered by the Department of Natural Resources.

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25. Petrillo, Joseph E. "Changes in development design along California's coast as a result of California's Coastal Program, 1973-1987," Coastal Zone '87, Vol. 4, p.3953.

26. Kaplan, Sam Hall. "Pro-Democracy Move in L.A. Planning," Los Angeles Times, July 9, 1989 (Real Estate Section).

27. Faber, Phyllis, et al. "California's Fourteen Years of Coastal Zone Management," Coastal Zone '87, p.2961.

28. Scott, Stanley, Ed. "Coastal Conservation: Essays on experiments in Governance," Institute of Governmental Studies, University of California, Berkeley 1981; Gote, Lenard, "Coastal Conservation and Development: Balancing Local and Statewide Interests," p.20.

29. Petrillo, Joseph. "The Conservancy Concept," Coastal Management, Vol. 16, No. 1, 1988, p. 4.

30. Primary treatment allows for the settling of suspended solids within the wastewater. Secondary treatment involves aeration to encourage aerobic bacteria which is helpful in breaking down the organic effluent. Tertiary treatment offers a more advanced filtering process. All three types of treatment chlorinate in the final step.

31. Zentner, John. "Wetland Projects of the California State Coastal Conservancy: An Assessment," Coastal Management, Vol. 16, No. 1, 1988, p. 48.

32. Ibid., p. 48.

33. The acreage will be converted into 4.9 million square feet of commercial space, 680,000 square feet of retail space, 11,100 residential units, 2,400 hotel rooms and a 40-acre marina with up to 900 boat slips. "Playa Vista Plan Calls for a Mix," Los Angeles Times, June 25, 1989.

34. Statewide Interpretive Guidelines, 1981, p. 28-88.

35. Metz, Eric. "Guidelines for planning and designing a major wetland restoration project: Ballona Wetland case study," National Audubon Society, p. 7.; McGuire Thomas, the present owner, included additional acreage to the project as a means of resolving the legal dispute with the non-profit environmental group, the Friends of Ballona Wetlands. This organization contends that there are about 350 acres of wetland on the site, rather than the initial estimation of 175.

36. Metz, Eric D. "Habitat Management Plan for the Ballona Wetland, Los Angeles, California," in Mitigation of Impacts and Losses National Wetland Symposium Proceedings, October 8, 1986, No. 3, p. 374.
37. Interview. Eric Metz, National Audubon Society, July 6, 1989.
38. Metz, Eric D. "Habitat Management Plan for the Ballona Wetland, Los Angeles, California," in Mitigation of Impacts and Losses National Wetland Symposium Proceedings, October 8, 1986, p. 374.
39. "California's Coastal Commission: 10 Years of Triumphs," in Planning, Journal of the American Planning Association, January 1982, p. 14.
40. O'Reilly, Richard. "Coast Panel's OK a Matter of Public, Private Benefit," Los Angeles Times, May 11, 1981, p. 9-10.
41. Salvesen, David, et al. "Los Angeles' sewer moratorium curbs growth," in Urban Land, August 1988, Vol. 47, No. 8.
42. Florida and the Other 49 States: Florida's Business and Demographic Climate, National and State Comparisons. Compiled by the Bureau of Economic Analysis, Division of Economic Development. Tallahassee, Florida: Florida Department of Commerce, 1988.
43. DeGrove, John M. "Florida's Growth Management System: A Blueprint for the Future." Florida Environmental and Urban Issues, v.14 (October 1986): p.3.
44. State funding was offered as an incentive. Withholding of general revenue sharing and retracting commercial zoning allowances acted as penalties for local governments that did not create plans. Carroll, Jane. "Florida Reins in Runaway Growth." State Legislatures, v.11 (November/December 1985), p.22.
45. The 50 foot designation is for all construction and is greater for sensitive areas like mangroves and dunes.
46. Czech, Eleanor, Regional planner with the West Florida Regional Planning Council, Pensacola, Florida. Per interview on September 23, 1988.
47. Westi Jo DeHaven-Smith, Research Coordinator, College of Engineering, Florida Atlantic University, Boca Raton, Florida. Per telephone interview on June 30, 1989.
48. DeGrove, John M. Land, Growth, and Politics. Washington, D.C.: Planners Press, 1984, p.129.

49. DeGrove, John M. Land, Growth, and Politics. Washington, D.C.: Planners Press, 1984, p.123.
50. Guskind, Robert. "New Jersey Says, 'Enough'," in Planning, vol. 54, (June 1988) p.29.
51. "Shoreline Management Options for Virginia Coastal Localities," in Virginia Council on the Environment. Published by the Institute for Environmental Negotiations at the University of Virginia. (August 1988): p.52.
52. DeGrove, John M. Land, Growth, and Politics. Washington, D.C.: Planners Press, 1984, p.129.
53. Smith, Robert, Biologist and Habitat Reviewer with Monroe County Planning Department, Key Largo, Florida. Per telephone interview on July 19, 1989.
54. DeGrove, John M. Land, Growth, and Politics. Washington, D.C.: Planners Press, 1984, p.129.
55. "Shoreline Management Options for Virginia Localities," in Virginia Council on the Environment. Published by the Institute for Environmental Negotiations at the University of Virginia, (August 1988) p.52.
56. Miley, Woodard W., Manager of Appalachian National Estuarine Research Reserve, Appalachicola, Florida. Per telephone interview on July 12, 1989.
57. Picerno, James. "Controlling Growth: The Debate Rages," in Business Facilities, (February 1989): p.26.
58. Growth Management: Keeping on Target by Douglas Porter, Urban Land Institute Library, Washington, DC.
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60. Picerno, James. "Controlling Growth: The Debate Rages," in Business Facilities (February 1989): p.26.
61. Mullica River Estuarine Sanctuary Final Environmental Impact Statement, U.S. OCZM/NOAA, 1981, p.47.
62. "Insufficient Funds: New Jersey Failing to Safeguard Resources," in the Asbury Park Press, April 9, 1989.
63. Ibid.
64. The Hackensack Commission was created in 1969 and the Pinelands Commission in 1979.

65. Guskind, Robert. "New Jersey Says, 'Enough'," in Planning, vol. 54, (June 1988): p.29.
66. "Shaping Our Future," A Report on the New Jersey Growth Management Conference. Woodrow Wilson School, Princeton, New Jersey, February 28, 1986: p.4.
67. The Conservation Foundation, "Protecting America's Wetlands: An Action Agenda," 67.22 The Final Report of the National Wetlands Policy Forum, p.3.
68. Maurice River Township actually had created a violation by placing the rubble at the Beach without a permit. Memorandum from Department of Environmental Protection to Ezra Cox, Committeeman of Maurice River Township Re: Waterfront Development Permit Application #88-0236-1, November 30, 1988.
69. Ibid., p.2.
70. Ibid., p.4.
71. Reilly, Matthew. "Shore Tourism Report," Star-Ledger, November 5, 1988; Carney, Leo H., "Raising dollars on clean-up of shore," New York Times, September 1988, 25, XII, 4: 5.
72. Ibid., 25, XII, 4: 5.
73. Ibid., 25, XII, 4: 5.
74. 1967 Oregon Beach Bill.
75. McLennan, Janet. "A Decade of Growth," in Landmark, A Quarterly Journal of 1000 Friends of Oregon, 1985.
76. The Oregon Coastal Conservation and Development Commission (OCC&DC) was created by the State Legislature in 1971 and empowered to create a management plan for the coast. It was not given implementation authority, however. LCDC, created two years later, took OCC&DC's plan and converted it into the final four Statewide Planning Goals which involve the coast.
77. "Federally approved" refers to NOAA's Office of Coastal Resource Management's acknowledgement that the Program is in compliance with the federal Coastal Zone Management Act of 1976. DLCD administers the Program; DeGrove, John M. Land, Growth, and Politics, Washington, D.C.: Planners Press, American Planning Association, 1984, p.280.
78. "Oregon's Coastal Management Program; a Citizen's Guide," Oregon Department of Land Conservation and Development, Salem, Oregon, p.5.

79. NOAA's Office of Coastal Resource Management (OCRM) approved Oregon's program in 1977. LCDC has been responsible for administering the program since 1975.
80. "1983-1985 and 1985-1987 Biennial Reports to the Oregon State Legislature," Land Conservation and Development Commission, 1985.
81. Ibid.
82. "Oregon's Coastal Management Program, A Citizen's Guide," Oregon Department of Land Conservation and Development, Salem, Oregon, p.28.
83. "Oregon Land Conservation and Development Commission 1985-1987 Biennial Report to the Legislative Assembly of the State of Oregon," Salem, Oregon, January, 1987.
84. The Curry County Decision; Ross, James, Director of DLCD. "Report of the Urban/Rural Committee to Oregon Land Conservation and Development Commission," September 12, 1988.; 1000 Friends of Oregon v. LCDC (Lane County, March 1988).
85. Paul Fetchman, 1000 Friends of Oregon, per interview on June 20, 1989.
86. Ibid.
87. Liberty, Robert of 1000 Friends of Oregon. "Observations and recommendations concerning the development of policy limiting additional residential, commercial and industrial development in built and committed exceptions and nonresource areas," Testimony to the Joint Interim Committee on Land-Use, September 8, 1988.
88. "1983-85 Biennial Report to the Legislative Assembly of the State of Oregon," Land Conservation and Development Commission, January 1985.
89. Ibid., January 1985.
90. Greenfield, Mark, et. al. of 1000 Friends of Oregon. "Responding to the Marketplace," 1982, p.11.
91. "Responding to the Marketplace: How Oregon's Land-Use Planning Program Has Benefitted Housing Consumers in the Portland Metropolitan Region," 1000 Friends of Oregon, October 25, 1982, p.4, 6-7.
92. Landmark, A Quarterly Journal of 1000 Friends of Oregon, 1985.
93. Staff of the California Coastal Commission. Per telephone interview on May 5, 1989.

94. Funds are provided for research/reserves as stated under Section 315 of the Federal Coastal Zone Management Act. The funds are managed under Marine and Estuary Management Division of National Oceanic and Atmospheric Administration's Office of Coastal Resource Management.

95. "Wisconsin State Land-Use Policies and Programs," Office of State Planning and Energy, Department of Administration: State of Wisconsin, April 1978, p.26.

96. Brah, William, Executive Director of the Center for the Great Lakes, Chicago, Illinois. Per telephone interview on August 1, 1989.

97. Florence, Robert, Director of Planning, Door County, Wisconsin. Per telephone interview on July 13, 1989.

98. Door County's first comprehensive plan was created in 1964 and was enacted as the county's first zoning ordinance in 1968. Since 1968, however, only 8 of the 14 towns are mandated under the ordinance. All towns are not included because Wisconsin law does not require that individual towns be subject to county zoning ordinances unless the town Board officials accept the ordinance.

99. Florence, Robert. Director of Planning, Door County, Wisconsin. Per telephone interview, July 13, 1989.

100. DNR was interested because, through growth management and planning, DNR is better able to predict what its future expenditures on wastewater treatment plants will be.

101. The concept originated in the early 1960s and was later recommended to the Southeast Wisconsin Regional Planning Commission to be included in their land-use planning. Pigeon River Environmental Corridor was later identified by the city of Sheboygan and the Bay Lakes Regional Planning Commission as a key resource to be preserved. In 1965, the two city planners recommended that certain environmental corridors be included in the city's plan and be adopted by the planning commission.

102. Grotbeck, Arnold, Executive Director of Planning, Sheboygan, Wisconsin. Per telephone interview on July 14, 1989.

103. Local zoning prohibits sewer systems from being extended into the environmentally sensitive corridors, thus providing another limitation to growth.

104. Federal funds from the Land and Water Conservation Funds and the Outdoor Recreation Action Program acquisition funds contributed to this effort.

105. The Environmental Corridor system in southeast Wisconsin, where the idea was first developed and applied, currently designates 17% of the region's 2700 square miles as environmental corridors.

106. Fisher, Robert, Executive Director of the Bay-Lake Regional Planning Commission. Per telephone interview on July 14, 1989.

107. Picerno, James. "Not in My Backyard," Business Facilities, February 1989, p. 26.

108. Pelham, Thomas G., William L. Hyde, and Robert P. Banks. "Managing Florida's Growth: Toward an Integrated State, Regional, and Local Comprehensive Planning Process." Florida State University Law Review, v.13 (1985): p.582.

