The Alabama Coastal Area Management Program and Final Environmental Impact Statement

U.S. Department of Commerce
National Oceanic and Atmospheric Administration
Office of Coastal Zone Management

and

Alabama Coastal Area Board
August 1979

STATE OF ALABAMA

GOVERNOR'S OFFICE

MONTGOMERY 36130

FOB JAMES
GOVERNOR

August 14, 1979

Mr. Robert W. Knecht
Assistant Administrator for Coastal
Zone Management
U.S. Department of Commerce
National Oceanic and Atmospheric Administration
Rockville, Maryland 20852

Dear Mr. Knecht:

I hereby transmit to you the Alabama Coastal Area Management Program. I believe that this management program fully complies with the requirements of subsection 306(c) of the Coastal Zone Management Act of 1972, as amended. The State of Alabama has the authorities and organization necessary to implement the management program.

I have reviewed the Alabama Coastal Area Management Program, and I have approved it under Section 10 of Act 534 of the 1976 Legislature. The Alabama Coastal Area Board is hereby designated as the agency responsible for the coordination of the coastal area management program. It is the designated agency to receive and administer grants for implementing the coastal area management program.

I expect the program to provide for the wise and balanced use of Alabama's coastal resources for this and succeeding generations.

The assistance of the federal government in preparing this management program is appreciated.

Sincerely,

Fob James
Governor

FJ:sac
Enclosure: FEIS
cc: Mr. Gary A. Greenough
Dr. E. Bruce Trickey

COASTAL AREA BOARD

POST OFFICE BOX 755
DAPHNE, ALABAMA 36526
205--626-1880

EXECUTIVE DIRECTOR
E. BRUCE TRICKEY

PLEASE ADDRESS REPLY TO: P.O. Box 755

July 19, 1979

Honorable Fob James
Governor of Alabama
State Capitol
Montgomery, Alabama 36130

Governor James:

On behalf of the Alabama Coastal Area Board, it is my pleasure to submit for your approval the Final Draft of the Alabama Coastal Area Management Program.

With the passage of Act 534 by the Alabama Legislature, the Coastal Area Board was mandated to prepare the Coastal Area Management Program to "promote, improve, and safeguard the lands and waters located in the coastal areas of this state through a comprehensive and cooperative program designed to preserve, enhance and develop such valuable resources for the present and future well being and general welfare of the citizens of this state."

The Alabama Coastal Area Board has been working for four years under state law (Act 534) and federal law (the Federal Coastal Zone Management Act) to prepare a balanced management program which will foster economic development in the Coastal Area while preserving the natural resources of the Coastal Area.

Three previous drafts of the management program have been prepared and submitted to your office for review and to the public for intensive scrutiny and comment; numerous changes have been made in the management program as a result of the comments we have received.

We feel that we have developed an excellent management program which fully satisfies both the spirit and requirements set forth by the Alabama Legislature in Act 534. At its July 20, 1979 meeting, the Alabama Coastal Area Board has officially adopted the Alabama Coastal Area Management Program (resolution attached), and we submit this management program for your review and approval.

Sincerely,

Gary A. Greenough
Chairman

GAG:sac
Enclosure: FEIS
cc: Coastal Area Board Members

COASTAL AREA BOARD MEMBERS

MR. GARY GREENOUGH MR. BILL STARNES MR. HUGH SWINGLE Mr. Jerry Boyington MR. STEVE McMILLAN
DR. GEORGE F. CROZIER MR. THOMAS J. JOINER MR. BAY HAAS HONORABLE JAMES P. NIX

UNITED STATES DEPARTMENT OF COMMERCE

FINAL ENVIRONMENTAL IMPACT STATEMENT

and the

ALABAMA COASTAL AREA MANAGEMENT PROGRAM

Prepared by:

Office of Coastal Zone Management
National Oceanic and Atmospheric
Administration
Department of Commerce
3300 Whitehaven Street, NW
Washington, D.C. 20235

and

Alabama Coastal Area Board
P. O. Box 755
Daphne, Alabama 36526

CONTENTS

	Page
Summary	1
Summary of the Alabama coastal area management program	1
What the program will achieve	2
Major issues and resolutions	3
Part I. Purposes and need	5
Part II. The Alabama Coastal Area Management Program	11
Chapter One. Executive Summary	13
I. Importance of the coastal area	13
II. Legal Basis for plan development	14
A. Alabama law	14
B. Federal law	18
III. Program completion process	19
IV. Guide to the Final Environmental Impact Statement	20
Chapter Two. Coastal Issues	23
I. Coastal resource use issues	23
A. Port development	23
B. Industrial development	23
C. Urban development	25
D. Energy development	26
E. Mining and mineral resources	26
F. Water quality	27
G. Air quality	34
H. Solid waste	35
I. Recreation	35
J. Shoreline erosion	36
K. Hazard management	39
L. Commercial fishing	39
II. Natural resource issues	41
A. Beaches	41
B. Dunes	42
C. Wetlands and submersed grassbeds	42

Page

D. Oyster reefs 43
E. Wildlife 44
F. Water Resources 53
G. Cultural resources 54

Chapter Three. Policies, operational rules and regulations, and action items of the Alabama Coastal Area Board 55

Chapter Four. Elements of the coastal area management program 63

I. Boundary 67

II. Management authority of the Board 71

III. Uses subject to management 71
A. Uses with a direct and significant impact on the coastal area 71
B. Uses of regional benefit 72
C. Uses not subject to the management program 75

IV. Special management areas 77
A. Geographic areas of particular concern 77
B. Areas for preservation or restoration 82

V. Review procedure 85
A. Introduction 85
B. Review of state agency permits 87
C. Federal consistency 89
1. Review of federal projects and activities 89
2. Review of federal permits 92
3. Review of activities described in Outer Continental Shelf plans 96
4. Review of federal assistance to local governments 99
D. Non regulated uses 101
E. Non regulated uses -- local licenses and permits 101

VI. Monitoring and enforcement 107

VII. Operational rules and regulations 111
A. Existing laws, rules and regulations 111
B. General rules and regulations 112
C. Coastal Area Board coastal resource use rules and regulations 114
1. Regulations for siting, construction and operation of energy facilities 114
2. Regulations for dredging and filling 114
3. Regulations for shoreline erosion 115
4. Regulations for public access 115
5. Regulations for natural hazards 115
6. Regulations for solid waste disposal 116

Page

D. Coastal Area Board natural resource rules and regulations 116
1. Regulations for water quality 116
2. Regulations for wetlands and submersed grassbeds 119
3. Regulations for air quality 119
4. Regulations for oyster reefs 119
5. Regulations for beaches and dunes 119
6. Regulations for water resources 120
7. Regulations for protection of cultural resources 121
8. Regulations for fisheries management 121
9. Regulations for wildlife and wildlife habitat 121

VIII. Administrative rules and regulations 123
A. Application 123
B. Board chairman 123
C. Board meeting 123
D. Quorum 123
E. Public notice 123
F. Records 123
G. Appeals hearing 123
H. Amendment of the management program 124
I. Designation of geographic areas of particular concern and areas for preservation and restoration 124
J. Yearly report on the status of the coastal area 125

Part III. Alternatives 127

Part IV. Affected environment 133
A. Biophysical setting 135
B. Socioeconomic setting 135
C. Coastal resource uses 135
D. Natural resources of coastal Alabama 137

Part V. Environmental consequences 141
A. Direct effects of federal approval 143
B. Indirect effects of federal approval 146
C. Possible conflicts between proposed actions and the objectives of federal, regional, state and local land use plans, policies, and controls for the area concerned 153
D. Environmental effects of alternatives 154
E. Means to mitigate adverse environmental impacts 155

List of preparers 156

Part VI. Appendices 157

Appendix A. Alabama Coastal Area Act: Act 534 159

Appendix B. Existing legal authorities exercised by state agencies 171

Appendix C. Members of the Coastal Area Board and the Coastal Area Advisory Committee 191

		Page
Appendix D.	Special planning elements	193
I.	Shorefront access and protection planning	193
II.	Shoreline erosion/mitigation planning	208
III.	Energy facility siting	221
Appendix E.	Program elements	235
I.	National interest in the siting of facilities	235
II.	Full participation	244
III.	Continuing consultation	249
Appendix F.	Bibliography	251
Appendix G.	Definitions	257
Appendix H.	Comments and Responses (Document attached)	Bound Separately

TABLES

		Page
I-1	Tentative dates for program completion process	19
II-1	Existing municipal wastewater treatment plants	28
II-2	Existing industrial wastewater treatment plants	29
II-3	Largest semi-public and private dischargers	31
II-4	Outdoor recreational land and facility needs by kind, district 8	38
II-5	Endangered and threatened species in coastal Alabama as designated by the State of Alabama	47
II-6	Endangered species in coastal Alabama as designated by the U.S. Department of Interior or U.S. Department of Commerce	51
IV-1	Identified federally-owned lands within Alabama's coastal area	66
IV-2	Agencies, corporations, persons, or units of government which might be used to assure that sites will be available for uses of regional benefit	74
IV-3	Federal activities or development projects subject to consistency certification	91
IV-4	Examples of federal licenses and permits subject to consistency certification	94
D-1	Comparative costs of structural erosion control methods	213
D-2	Petroleum	223
D-3	Natural Gas	225
D-4	The estimated consumption of petroleum products and natural gas in 1977	226
D-5	Electricity	229
D-6	Coal	230

FIGURES

		Page
I-1	Coastal area boundary	17
II-1	Major navigation channels in coastal Alabama	24
II-2	Waste dischargers in Mobile and Baldwin Counties	32
II-3	Fishing camps and marinas in coastal Alabama	37
II-4	Flood-prone areas in coastal Alabama	40
II-5	Generalized estuarine food web with some typical examples of each trophic level	52
IV-1	Coastal area boundary	64
IV-2	Port of Mobile designated as a geographic area of particular concern	79
IV-3	Mobile-Tensaw Delta designated as a geographic area of particular concern	81
IV-4	Point Aux Pins wetland system and National Audubon Society wildlife sanctuary designated as an area of preservation and restoration	83
IV-5	Applicability of coastal area management program	86
IV-6	Review of state agency permits	88
IV-7	Review of federal activities and development projects for consistency	90
IV-8	Review of federal licenses and permits for consistency	93
IV-9	Review of OCS plans for consistency	98
IV-10	Review of federal assistance for consistency	100
IV-11	Review of uses that require no state or federal permit	102
IV-12	Optional review process for uses that require a local permit	104
IV-13	Monitoring and enforcement of uses authorized by the Coastal Area Board	108
IV-14	Monitoring and enforcement of uses not submitted to the Coastal Area Board for review	109
D-1	Publicly owned or maintained recreation areas	194
D-2	Fishing camps and marinas in the Coastal Area	197
D-3	Historic trends of shoreline changes	209
D-4	Location of major petroleum and natural gas facilities	222
D-5	Location of electric generating facilities and transmission lines and coal handling facilities	228

DESIGNATION: Final Environmental Impact Statement

TITLE: Proposed Federal Approval of the Alabama Coastal Area Management Program

ABSTRACT: The State of Alabama has submitted its Coastal Area Management Program to the Office of Coastal Zone Management for approval. Approval would permit implementation of the proposed program, allow program administration grants to be awarded to the state, and require that Federal actions be consistent with the Program. This impact statement includes a copy of the Program (Part II) which is a comprehensive management program for land and water use activities. It consists of numerous policies and regulations on diverse management issues which are enforced by various state laws, discusses areas of special interest to the state, and is the culmination of several years of program development.

Approval and implementation of the program will enhance governance of the state's coastal land and water areas and uses according to the regulations. The effect of these regulations is to condition, restrict or prohibit some uses in parts of the coastal zone, while encouraging development and other uses in other parts. This Program will improve decision-making processes for determining appropriate coastal land and water uses in light of resource considerations and increase public awareness in coastal resources. The Program will lead to increased long-term protection of the state's coastal resources.

Alternatives include delaying or denying approval if certain requirements of the Coastal Zone Management Act have not been met, or the state could modify parts of the Program or withdraw their application for Federal approval.

APPLICANT: Alabama Coastal Area Board

LEAD AGENCY: U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office of Coastal Zone Management

CONTACT: Mr. James F. Murley
Gulf/Islands Regional Manager
Office of Coastal Zone Management
3300 Whitehaven St., N.W.
Washington, D.C. 20235 (tele. 202/254-7546)

LIST OF AGENCIES, ORGANIZATIONS, AND PERSONS RECEIVING COPIES

Federal Agencies

Advisory Council on Historic Preservation
Department of Agriculture
Department of Commerce
Department of Defense
Department of Energy
Department of Health, Education, & Welfare
Department of Housing & Urban Development
Department of the Interior
Department of Justice
Department of Labor
Department of Transportation
U.S. Coast Guard
Environmental Protection Agency
Federal Energy Regulatory Commission
General Services Administration
Marine Mammal Commission
Nuclear Regulatory Commission

National Interest Groups

A.M.E.R.I.C.A.N.
AFL-CIO
American Association of Port Authorities
American Bar Association
American Bureau of Shipping
American Farm Bureau Federation
American Fisheries Society
American Forest Institute
American Gas Association
American Hotel and Motel Association
American Industrial Development Council
American Institute of Architects
American Institute of Merchant Shipping
American Institute of Planners
American Littoral Society
American Mining Congress
American Oceanic Organization
American Petroleum Institute
American Shore and Beach Preservation Association
American Society of Civil Engineers
American Society of Landscape Architects, Inc.
American Society of Planning Officials
American Water Resources Association
American Waterways Operators
Amoco Production Company
Ashland Oil, Inc.
Associated General Contractors of America
Association of Oil Pipe Lines
Atlantic Richfield Company
Atlantic States Marine Fisheries Commission
Atomic Industrial Forum
Barrier Islands Coalition
Boating Industry Association
Center for Law and Social Policy
Center for Natural Areas
Center for Urban Affairs
Center for Urban & Regional Resources
Chamber of Commerce of the United States
Chevron, U.S.A., Inc.
Cities Service Company
City Service Oil Company
Coastal States Organization
Conservation Foundation
Continental Oil Company
Council of State Governments
Council of State Planning Agencies
The Cousteau Society
Earth Metabolic Design Laboratories, Inc.
Edison Electric Institute
El Paso Natural Gas Co.
Environmental Policy Center
Environmental Defense Fund, Inc.
Environmental Law Institute
EXXON Company, U.S.A.
Friends of the Earth
Getty Oil Company
Great Lakes Basin Commission
Gulf Energy and Minerals, U.S.
Gulf Oil Company
Gulf Refining Company
Gulf South Atlantic Fisheries Development Foundation
Independent Petroleum Association of America
Industrial Union of Marine & Shipbuilding Workers of America

Institute for the Human Environment
Institute for Marine Studies
Interstate Natural Gas Association of America
Izaak Walton League
Lake Michigan Federation
League of Conservation Voters
League of Women Voters Education Fund
Marathon Oil Company
Marine Technology Society
Mobil Oil Corporation
Mobil Exploration & Producing, Inc.
Murphy Oil Company
National Academy of Engineering
National Association of Conservation Districts
National Association of Counties
National Association of Dredging Contractors
National Association of Electric Companies
National Association of Engine & Boat Manufacturers
National Association of Home Builders
National Association of Realtors
National Association of Regional Councils
National Association of State Boating Law Administrators
National Association of State Park Directors
National Audubon Society
National Boating Federation
National Canners Association
National Coalition for Marine Conservation, Inc.
National Commission on Marine Policy
National Conference of State Legislatures
National Environmental Development Association
National Farmers Union
National Federation of Fishermen
National Fisheries Institute
National Forest Products Association
National Governors Association
National League of Cities
National Ocean Industries Association
National Parks and Conservation Association
National Petroleum Council
National Refiners Association
National Realty Committee
National Recreation and Park Association
National Research Council
National Science Foundation
National Science Teachers Association
National Shrimp Congress
National Society of Professional Engineers
National Wildlife Federation
National Waterways Conference
Natural Gas Pipeline Company of America
The Nature Conservancy
Nautilus Press
New England River Basin Commission
North Atlantic Ports Association
Outboard Marine Corporation
Resources for the Future
Rice University Center for Community Design and Development
Shell Oil Company
Shellfish Institute of North America
Shipbuilders Council of America
Sierra Club
Skelly Oil Company
Society of Industrial Realtors
Society of Real Estate Appraisers
Soil Conservation Society of America
Southern California Gas Company
Sport Fishing Institute
Standard Oil Company of Ohio
Sun Company, Inc.
Tenneco Oil Company
Texaco, Inc.
Texas A & M University
United Brotherhood of Carpenters & Joiners of America
Union Oil Company of California
Urban Research and Development Association, Inc.
U.S. Conference of Mayors
U.S. Power Squadrons
Virginia Marine Resources Commission
Water Pollution Control Federation
Water Transport Association
Western Oil and Gas Association
Wildlife Management Institute
The Wildlife Society
World Dredging Association

State and Local Agencies

Air Pollution Control Commission
Alabama Cooperative Extension Service
Alabama Department of Aeronautics
Alabama Development Office
Alabama Forestry Commission
Alabama Highway Department
Alabama Historical Commission
Alabama Law Institute
Alabama Public Service Commission
Alabama Secretary of State
Alabama State Docks Department
Alabama Surface Mining Reclamation Commission
Alabama Water Improvement Commission
Alabama Water Well Standards Board
Baldwin County Commission
Baldwin County Health Department
Baldwin County Planning Commission
Baldwin County Soil and Water Conservation District
Bay Minette Planning Commission
Bay Minette Public Library
Bayou La Batre City Library
Bayou La Batre Planning Commission
Chickasaw Planning Commission
City of Bay Minette
City of Bayou La Batre
City of Chickasaw
City of Daphne
City of Fairhope
City of Foley
City of Gulf Shores
City of Mobile
City of Prichard
City of Robertsdale
City of Saraland
City of Satsuma
Coastal Area Advisory Committee
Daphne Planning Commission
Dauphin Island Sea Lab
Department of Agriculture and Industries
Department of Conservation and Natural Resources
Department of Industrial Relations
Environmental Health Administration
Fairhope Planning Commission
Farmers Home Administration
Foley Planning Commission
Foley Public Library
Geological Survey of Alabama
Gulf Shores Planning Commission
Gulf Shores Public Library
Gulf State Park
Liquefied Petroleum Gas Board
Mariculture Center
Mobile County Board of Health
Mobile County Commission
Mobile County Health Department
Mobile County Planning Commission
Mobile County Public Schools
Mobile County Soil and Water Conservation District
Mobile Planning Commission
Mobile Public Library -- all branches
Mobile Water Service System
Prichard Chamber of Commerce
Prichard Planning Commission
Saraland Planning Commission
Soil Conservation Service
South Alabama Regional Planning Commission
State Department of Civil Defense
State Department of Education
State Department of Public Health
State Oil and Gas Board
State Soil and Water Conservation Commission
Town of Mount Vernon

State and Local Interest Groups

Alabama Chamber of Commerce
Alabama Conservancy
Alabama Farm Bureau
Alabama Petroleum Council
Alabama Power Company
Alabama Wildlife Federation
Archaeological Consortium
Auburn University
Baldwin County Board of Realtors
Baldwin County Homebuilders Association
Baldwin County League of Women Voters
Baldwin County Mayors Association
Baldwin County Wildlife Federation
Bay La Launch Association
Bay Minette Chamber of Commerce
Belcher Oil Company
Birmingham Southern College
S.D. Bishop State Junior College
Brown and Root, Inc.
Chevron

Chickasaw Chamber of Commerce
CIBA-GEIGY Corporation
Citizen's Coastal Zone Alliance
Civic Roundtable
Colonial Development Corporation
J.B. Converse & Company
Degussa Corporation
Ducks Unlimited
Eastern Shore Chamber of Commerce
Eastern Shore Junior Woman's Club
Ergon, Inc.
Exchange Club of Mobile
Fairhope Yacht Club
Faulkner State Junior College
Foley Women's Club
Gulf Lumber Company
Gulf Shores Tourist Association
Gulf Fisheries Management Council
Gulf States Marine Fisheries Commission
Harrison Brothers Drydock
Herzog-Hart Corporation
Historic Blakeley Foundation
Home Builders Association of Metropolitan Mobile
International Paper Company
Joint Legislative Council
Junior League of Mobile
Lake Forest, Inc.
Louisiana Land and Exploration Co.
Magnolia Springs Garden Club
Marion Corporation
McDonald Petroleum, Inc.
Mid Gulf Business Roundtable
Mitchell Corporation
Mobile Area Chamber of Commerce
Mobile Bassmaster's Club
Mobile Bay Audubon Society
Mobile County Board of Realtors
Mobile County Wildlife and Conservation Service
Mobile League of Women Voters
Mobile United
National Campers and Hikers Association
OKC Dreding, Inc.
Orange Beach Community Association
Orange Beach Hiking Association
Planning Resources Company
Radcliff Materials
Riviera Utilities
St. Regis Paper Company
Sankey 2, Inc.
Save Our Bay Club
Scott Paper Co.
Shell Chemical
Sierra Club
South Baldwin Chamber of Commerce
Southern Industries
Spanish Cove Corp.
Spanish Fort Garden Club
Spring Hill College
Tensaw Tributaries Association
Triangle Refineries
Union Carbide Corp.
The University of Alabama
University of South Alabama
Barry A. Vittor and Associates

Others Receiving Copies

All other agencies, groups and persons expressing an interest in receiving a copy of the document.

SUMMARY

Summary of Alabama Coastal Area Management Program

The Alabama Coastal Area Management Program is a program developed by the State to manage the significant land and water activities between the limit of the State coastal waters at three miles and a land area up to the 10-foot contour. The Alabama Coastal Area Board (CAB) which was reconstituted by the Alabama Coastal Area Act in 1976 is the principal agency responsible for the management of the Alabama Coastal Area. The CAB is an autonomous state agency and is located in the Coastal Area. Its membership consists of: four state officials - representing the Alabama Development Office, the Department of Conservation and Natural Resources, the State Geologist, and the Marine Environmental Sciences Consortium; four local officials - representing the Mobile City Commission, Mobile County Commission, the Baldwin County Commission and the Baldwin County Mayor's Association; and one citizen who is chairman of the Coastal Area Advisory Committee.

The Alabama Coastal Area Act of 1976 (Act No. 534) provides the statutory authority to the CAB to develop and implement a management program for the Alabama Coastal Area. The legislation provides the CAB with the authority to review all uses which have a direct and significant impact on the Coastal Area and either do or do not require a state permit. Specifically, the CAB must find that those uses which do require a state permit are consistent with the policies, rules and regulations which it has promulgated as part of the Alabama Coastal Area Management Program. Furthermore, CAB must make a permit review of uses that are not otherwise regulated at the state level.

As mentioned above, the basis for the review of uses for consistency or for a permit are the rules and regulations found in Part II, Chapter 4 of this document. Aside from a reliance on several existing statutes and standards,the CAB's rules and regulations are divided into 3 categories: 1) general rules and regulations; 2) resource use rules and regulations,including regulations for:

- o siting, construction and operation of energy facilities
- o dredge and filling
- o shoreline erosion
- o public access
- o natural hazards, and
- o solid waste disposal

3) Natural resources rules and regulations, including regulations for:

- o water quality
- o wetlands and submerged grassbeds
- o air quality
- o beaches and dunes

- o water resources
- o protection of cultural resources
- o fisheries management
- o wildlife and wildlife habitats

Within the Coastal Area, specific areas have been designated which require attention beyond the general provisions of the management program. These two areas, the Port of Mobile and the Mobile - Tensaw River Delta have been designated as geographic areas of particular concern (GAPC). Use priorities as well as a description in each GAPC have been provided in Part II, Chapter Four.

Specific provisions and procedures have been established for the consideration of the national interest in the siting of facilities as well as the determination of Federal consistency.

What the Program Will Achieve

In furtherance of the national goals of the Federal Coastal Zone Management Act (CZMA) and the goals and policies of the State of Alabama, the Alabama Coastal Area Management Program will accomplish the following objectives through the receipt of implementation funds:

- o Increase the CAB staff in size and expertise in order to allow for more thorough reviews of projects and activities which take place in or affect the coastal area.

- o Add specificity and predictability to the review for compliance and CAB permitting with adoption of this program by the Governor.

- o Increase the ability of the staff to develop methods to solve problems within the Coastal Area.

- o Increase the staff's ability to carry on enforcement of compliance with rules and regulations.

- o Provide for simplification of the permitting process for all uses within the Coastal Area by establishing a permit information center.

- o Provide the necessary scientific data to determine "present levels" which is the basis for a number of the CAB's regulations

- o Provide for adequate consideration of the national interest

- o Assure consistency with the Program of all Federal and State actions in the coastal zone through a review of Federal and State actions that affect the coastal area.

Major Issues and Resolutions

A number of issues were raised by reviewers of the Alabama Coastal Area Management Program during its initial review prior to its submission to the Office of Coastal Zone Management. Two issues have received attention by previous reviewers of this document and the following discussion indicates how they were addressed.

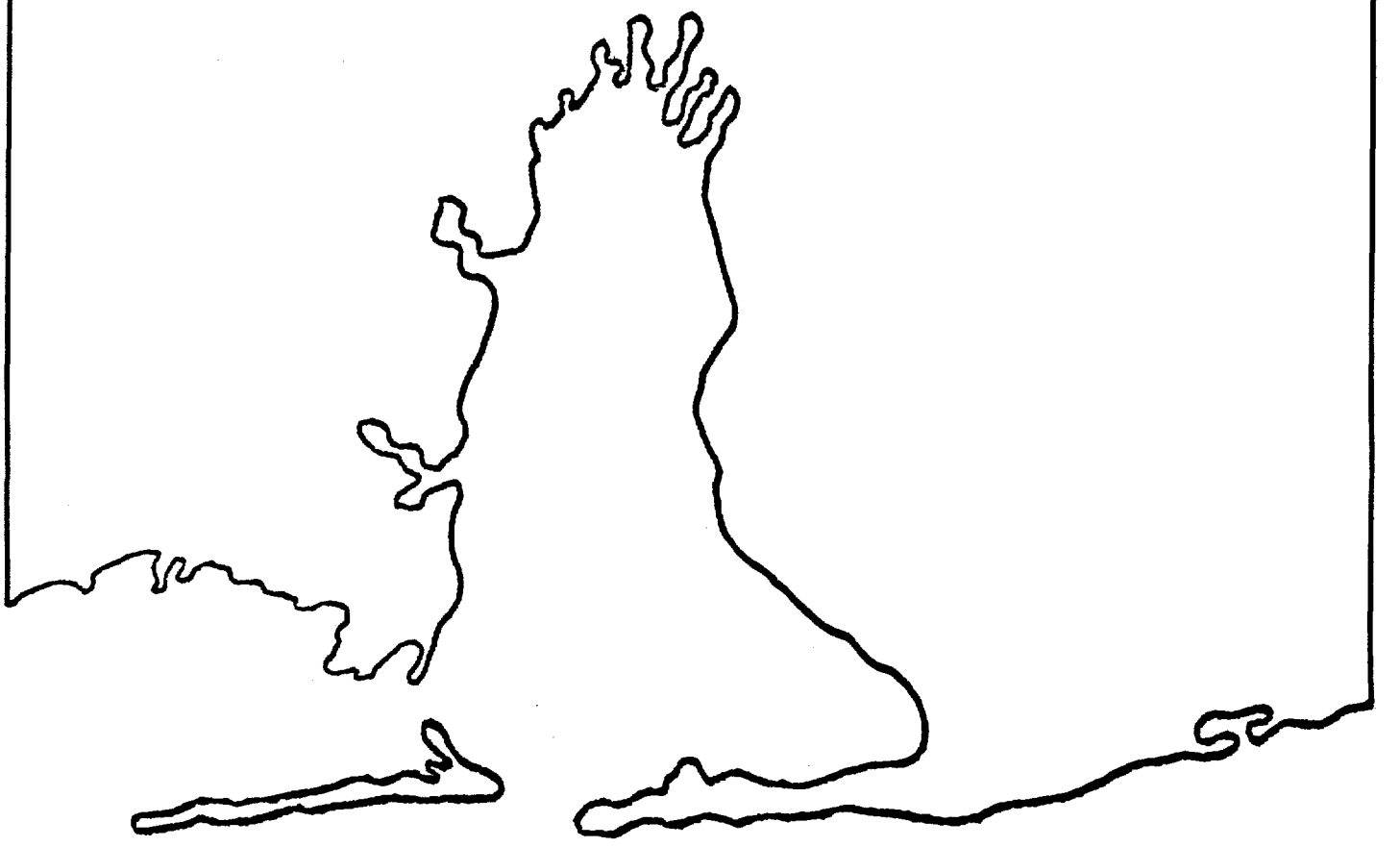
(1) Since the preliminary draft, reviewers have had questions about the enforcement capability and standards available to the CAB's staff, these questions have been more fully addressed in this document. Enforcement regulations have been promulgated and are presented in Chapter 4, Section VI. Provisions are made which enable the CAB to make certain that all uses subject to the management program, whether or not reviewed by the Board, are consistent with the management program.

Standards to be used in the review of uses subject to the managment program and by which the CAB's policies will be implemented have been promulgated and are presented in Chapter 4, Section VII. These consist of 1) general rules and regulations, 2) resource use rules and regulations and 3) natural resource rules and regulations. Their application to the review of coastal uses will ensure that the state policies set forth in Alabama Act 534 will be attained.

(2) Reviewers have had questions regarding whether Act 534 provides an adequate basis for an approvable program under 306 of the CZMA. The Office of Coastal Zone Management believes that Act No. 534 provides the necessary organization and authority to implement the program according to "direct state control" and establishes a boundary. It also provides:

- The management program shall determine permissible land and water uses which have a direct and significant impact within the boundaries of the Coastal Area and must give due consideration to requirements for agriculture, industry, commerce, resource conservation, residential development, recreation, extraction of mineral resources and fossil fuels, harvesting of timber and pulpwood, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources.

PURPOSE AND NEED



Part I

PART I

PURPOSE AND NEED

In response to intense pressure, and because of the importance of coastal areas of the United States, Congress passed the Coastal Zone Management Act (P.L. 92-583) (CZMA) which was signed into law on October 27, 1972. The Act authorized a Federal grant-in-aid program to be administered by the Secretary of Commerce, who in turn delegated this responsibility to the National Oceanic and Atmospheric Administration's (NOAA) Office of Coastal Zone Management (OCZM). The Coastal Zone Management Act of 1972 was substantially amended on July 26, 1976 (P.L. 94-370). The Act and the 1976 amendments affirm a national interest in the effective protection and development of the coastal zone by providing assistance and encouragement to coastal states to develop and implement rational programs for managing the coastal areas.

Broad guidelines and the basic requirements of the CZMA provide the necessary direction to states for developing coastal management programs. These guidelines and requirements for program development and approval are contained in 15 CFR Part 923, as revised and published March 28, 1979, in the Federal Register. In summary, the requirements for program approval are that a state develop a management program that:

(1) Identifies and evaluates those coastal resources recognized in the Act that require management or protection by the state;

(2) Re-examines existing policies or develops new policies to manage these resources. These policies must be specific, comprehensive and enforceable, and must provide an adequate degree of predictability as to how coastal resources will be managed.

(3) Determines specific uses and special geographic areas that are to be subject to the management program, based on the nature of identified coastal concerns. Uses and areas to be subject to management should be based on resource capability and suitability analyses, socio-economic considerations and public preferences;

(4) Identified the inland and seaward areas subject to the management program;

(5) Provides for the consideration of the national interest in the planning for and siting of facilities that meet more than local requirements; and

(6) Includes sufficient legal authorities and organizational arrangements to implement the program and to insure conformance to it.

In arriving at these substantive aspects of the management program, states are obliged to follow an open process which involves providing information to and considering the interests of the general public, special interest groups, local governments, and regional, state, interstate and Federal agencies.

Section 305 of the CZMA authorizes a maximum of four annual grants to develop a coastal management program. So far, Alabama has received nearly $681,000 in program development funds. After developing a management program, the state may submit it to the Secretary of Commerce for approval pursuant to Section 306 of the CZMA. If approved, the state is then eligible for annual grants under Section 306 to implement its management program. If a program has deficiencies which need to be remedied or has not received approval by the time Section 305 program development grants have expired, a state may be eligible for preliminary approval and additional funding under Section 305(d).

Section 307 of the Act stipulates that Federal agency actions shall be consistent, to the maximum extent practicable, with approved State management programs. Section 307 further provides for mediation by the Secretary of Commerce when a serious disagreement arises between a Federal agency and a coastal state with respect to a Federal consistency issue.

Section 308 of the CZMA contains several provisions for grants and loans to coastal states to enable them to plan for and to respond to on-shore impacts resulting from coastal energy activities. To be eligible for assistance under Section 308, coastal states must be receiving Section 305 or 306 grants, or, in the Secretary's view, be developing a management program consistent with the policies and objectives contained in Section 303 of the CZMA. Section 308 has been important to Alabama. During the 1977 and 1978 fiscal years, the State has been allotted $58,834 in planning funds, $43,098 in grants and $5,501,037 in loans for financing new or improved public facilities and public services, and $76,287 in funds to help prevent, reduce or ameliorate unavoidable losses to valuable coastal environmental and recreational resources.

The National Environmental Policy Act of 1969 (NEPA) requires that an environmental impact statement be prepared as part of the review and approval process of major actions by Federal agencies which significantly affect the quality of the human environment. The action contemplated here is approval of the Alabama Coastal Area Management Program under Section 306 of the Federal Coastal Zone Management Act of 1972, as amended.

Approval qualifies Alabama for Federal matching funds for use in implementing and administering the coastal management program. In addition, the Coastal Zone Management Act stipulates that Federal activities affecting the coastal zone shall be consistent, to the maximum extent practicable, with the approved coastal management program.

It is the general policy of the Office of Coastal Zone Management (OCZM) to issue a combined final environmental impact statement (FEIS) prepared by OCZM and includes a summary of Alabama's coastal management program. Part II of the FEIS is a detailed description of the state's program and was prepared by the Alabama Coastal Area Board (ACAB) as were the appendices and attachments. Part II also fulfills, in part, the NEPA requirement for a description of the proposed action. Parts III through V address the remainder of the NEPA requirements for a FEIS and were prepared jointly by OCZM and ACAB.

For purposes of reviewing the proposed action, the important Federal concerns are:

- whether the Alabama program is consistent with the objectives and policies of the national legislation,

- whether the award of Federal funds under Section 306 of the CZMA will help Alabama meet those objectives,

- whether the state's management authorities are adequate to implement the program, and

- whether there will be a net environmental benefit as a result of program approval and implementation.

OCZM has made a preliminary assessment that the answers to these questions are affirmative. OCZM wants the widest possible circulation of this document to all interested agencies and parties in order to receive the fullest expression of opinion on these questions, and wishes to thank those participating in the review of the Alabama program and this final environmental impact statement.

Requirements	Sections of Approval Regulations	Page Numbers
Sec. 306(a), which includes the requirements of Sec. 305:		
305(b)(1): Boundaries	923.31, 923.32 923.33, 923.34	63
305(b)(2): Uses subject to management	923.11, 923.12	71
305(b)(3): Areas of particular concern.	923.21, 923.23	77
305(b)(4): Means of control	923.41	111, 131
305(b)(5): Guidelines on priorities of uses	923.22	80,82
305(b)(6): Organizational structure	923.45	67,85
305(b)(7): Shorefront planning process.	923.25	193
305(b)(8): Energy facility planning process	923.14	221
305(b)(9): Erosion planning process	923.26	208
Sec. 306(c), which includes:		
306(c)(1): Notice; full participation; consistent with Sec. 303.	923.58, 923.51 923.55, 923.3	123,244
306(c)(2)(A): Plan coordination	923.56	247
306(c)(2)(B): Continuing consultation mechanisms. .	923.57	249
306(c)(3): Public hearings	923.58	123,244
306(c)(4): Gubernatorial review and approval. . . .	923.47	Cover Letter
306(c)(5): Designation of recipient agency.	923.46, 923.47	67
306(c)(6): Organization	923.45, 923.47	67,85
306(c)(7): Authorities.	923.41, 923.47	67
306(c)(8): Adequate consideration of national interests.	923.52	235
306(c)(9): Areas for preservation/restoration . . .	923.24	82
Sec. 306(d), which includes:		
306(d)(1): Administer regulations, control development; resolve conflicts	923.41	67
306(d)(2): Powers of acquisition, if necessary. . .	923.41	67
Sec. 306(e), which includes:		
306(e)(1): Technique of control	923.41, 923.42	111,113
306(e)(2): Uses of regional benefit	923.13, 923.41 923.43	72
Sec. 307, which includes:		
307(b): Adequate consideration of Federal agency views	923.51	235
307(f): Incorporation of air and water quality requirements.	923.44	240

ALABAMA COASTAL AREA MANAGEMENT PROGRAM

Part II

CHAPTER ONE

EXECUTIVE SUMMARY

SECTION I. IMPORTANCE OF THE COASTAL AREA

After careful deliberation and study, the Alabama Legislature, in adopting the Alabama Coastal Area Act in 1976, found that:

a. The coastal area is rich in a variety of natural, commercial, recreational, industrial, and aesthetic resources of immediate and potential value to the present and future well-being of the state.
b. There are increasing and competing demands upon the lands and waters of the coastal area occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources.
c. The coastal area and the fish, shellfish, other living marine resources, and wildlife therein are ecologically fragile and consequently vulnerable to destruction by man's alteration.
d. Important ecological, cultural, historic, and aesthetic values to the coastal area are essential to the well-being of all citizens.
e. Special natural and scenic characteristics may be damaged by ill-planned development.
f. There is a state interest in the effective administration, beneficial use, protection, and development of the coastal area.
g. In light of competing demands and the urgent need to balance development for the preservation of the natural systems in the coastal area, the key to more effective protection and use of land and water resources of the coastal area is to encourage the state to exercise its authority for improved and better methods of utilizing the lands and waters in the coastal area by developing, in cooperation with counties and municipalities and other vitally affected interests, land and water use programs for the coastal area, including unified policies, criteria, standards, methods, and processes for dealing with land and water use.

The coastal area with some 400,000 acres of bays and estuarine waters, 121,000 acres of wetlands, 130 identified species of birds, a commercial fishing catch with a final value estimated at $148 million, and a registration of over 23,300 recreational boats, also has major industrial and municipal sources discharging 170 million gallons each day of various waste products into coastal waters, a booming second home construction business throughout the area's waterfront, a maintenance dredging requirement producing 7 million cubic yards of spoil material annually, the prospects of increased energy-related development (coal and oil), and the possibilities of additional growth related to the Tennessee-Tombigbee Waterway. As competition for resources becomes more intense, special efforts must be made to provide methods to resolve potential conflicts in order to allow an opportunity for fishermen to harvest

the rich coastal fishery yields while industries use the water resources for process water, transportation and some waste assimilation to provide employment opportunities for local residents. A balance must be achieved which sustains economic development on one hand and which protects natural resources on the other.

The Coastal management program in Alabama provides a general management framework to address the many concerns within the coastal area. A program of this type is beneficial to all coastal interests -- environmental, industrial, conservational, preservational, commercial, and governmental.

In response to State legislation, the Coastal Area Board has developed a coastal management program for Alabama. The first draft, the Workshop Draft, was made available for public review and comment. Based on all comments received plus the addition of new planning elements, the second draft, the Hearing Draft, was prepared. The Hearing Draft explained in more detail the framework for achieving the wisest use of our finite coastal resources in Alabama. Based on your comments received, the third draft, the Draft Environmental Impact Statement, was prepared. Again, based on all comments received, the Final Environmental Impact Statement has been prepared.

SECTION II. LEGAL BASIS FOR PROGRAM DEVELOPMENT

A. Alabama Law

The State of Alabama has recognized the intense stress on coastal resources. To deal effectively with these burgeoning pressures, the 1976 Regular Session of the Alabama Legislature passed Act Number 534. The purpose of this act is:

> ... To promote, improve and safeguard the lands and waters located in the coastal areas of this state through a comprehensive and cooperative program designed to preserve, enhance, and develop such valuable resources for the present and future well-being and general welfare of the citizens of this state.

In order to accomplish the above purpose, the Legislature set forth the following State policies to guide the efforts of the Coastal Area Board:

a. To preserve, protect, develop, and where possible, to restore or enhance, the resources of the State's coastal area for this and succeeding generations.

b. To encourage and assist counties and municipalities wherever applicable to exercise effectively their responsibilities in the coastal area through the development and implementation of administration programs to achieve wise use of the land and water resources of the coastal area giving full consideration

to needs for economic development, as well as to ecological, cultural, historic, and aesthetic values.

c. To assure that in development of the state's coastal area adequate consideration is given to such uses of the coastal area as the establishment of harbor facilities for the receiving of oil, gas and other commodities from ships and tankers; pipelines from such ports; and utility plant sites, utility generation, transmission, distribution, and transportation facilities.

d. To urge that all state agencies engaged in programs affecting the coastal area cooperate and participate with local governments and regional agencies in effectuating the purposes of this Act; and

e. To encourage the participation of the public, of federal, state, and local governments and of regional agencies in the development of coastal area management programs. With respect to implementation of such management programs, it is the state policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures and joint action particularly regarding environmental problems.

To carry out the purpose and policies of the legislation, the act establishes the Alabama Coastal Area Board as an autonomous state agency and specified that its offices be located in the Coastal Area. Board membership consists of:

a. Director, Office of State Planning, Alabama Development Office - Mr. Bill Starnes;
b. Director, Marine Resources Division, Department of Conservation and Natural Resources - Mr. Hugh Swingle;
c. Member, Mobile City Commission - Commissioner Gary Greenough (Commissioner Greenough serves as the Chairman at the pleasure of the Coastal Area Board);
d. Member, Mobile County Commission - Commissioner Bay Haas;
e. Member, Baldwin County Commission - Commissioner James Boyington;
f. State Geologist - Mr. Tom Joiner;
g. Director, Marine Environmental Sciences Consortium - Dr. George Crozier;
h. Official of a municipality in Baldwin County, who is a member of and is selected by the Baldwin County Mayor's Association - Mayor James Nix; and
i. Chairman, Coastal Area Advisory Committee - Mr. Steve McMillan.

Further, the act establishes the Coastal Area Advisory Committee whose purpose is to consult with the Board on matters concerning the coastal area.

This committee is composed of 14 members, 7 from each coastal county. A list of the current members is presented in Appendix C.

Based upon public comment at a series of public meetings held in the coastal area, the Alabama Legislature established the boundary of the coastal area at the 10-foot contour (Figure I-1).

The Legislature also described particular elements that must be contained in Alabama's program. These elements include:

a. Identification of all the state's coastal resources;

b. Evaluation of these resources in terms of the quality, quantity, and capability for use both now and in the future;

c. Determination of the present and potential uses and the present and potential conflicts in the uses of each coastal resource;

d. Inventory and designation of areas of particular concern within the coastal area;

e. Broad guidelines on priority of uses in particular areas;

f. Provision for adequate consideration of the local, regional state and national interests involved in the siting of facilities for the development, generation, transmission and distribution of energy, adequate transportation facilities and other public services necessary to meet requirements which are other than local in nature.

g. Provision for consideration of whether a proposed activity of an applicant for a federal license or permit complies with the state's coastal program and for the issuance of notice to any concerned federal agency as to whether the state concurs with or objects to the proposed activity.

h. Adequate provision for public notice, public hearings, and the judicial review as provided for under Alabama law.

i. The management program shall determine permissible land and water uses which have a direct and significant impact within the boundaries of the coastal area and must give due consideration to requirements for agriculture, industry, commerce, resource conservation, residential development, recreation, extraction of mineral resources and fossil fuels, harvesting of timber and pulpwood, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources.

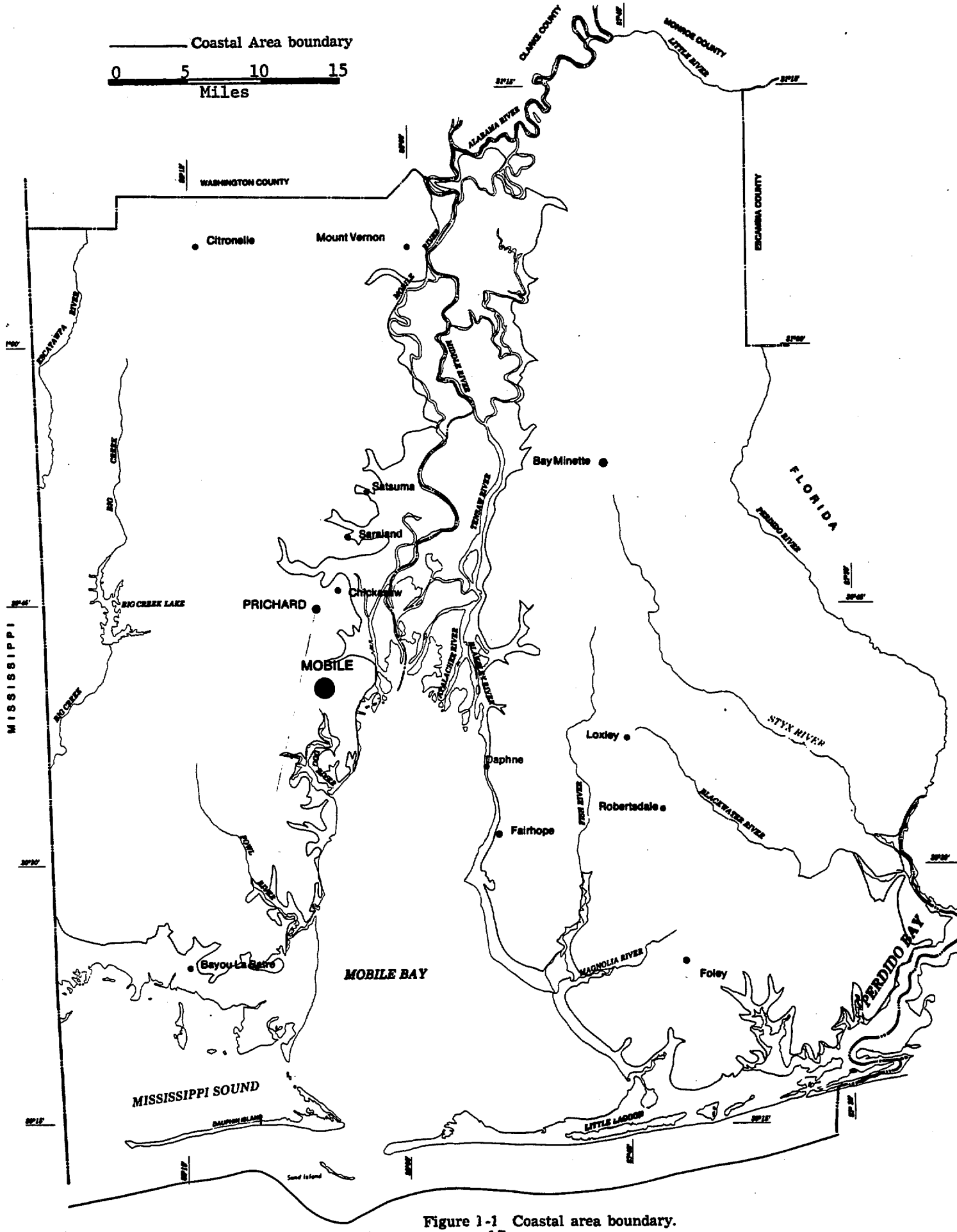


Figure 1-1 Coastal area boundary.

SECTION III. PROGRAM COMPLETION PROCESS

As the Coastal Area Board moves toward completion of a coastal management program for Alabama, an intensive review process is planned (Table I-1). Such a review process will make certain that the final program reflects the feelings and concerns of the people of Alabama and provides for a balanced approach to economic development and coastal resource protection.

Table I-1. Tentative dates for program completion process

		Completion Date	Hearing Date
I.	Workshop Draft	August 15, 1978	September 14, 21, and 27, 1978
II.	Hearing Draft	February 7, 1979	March 14, 1979
III.	Draft Environmental Impact Statement	April 26, 1979	June 6, 1979
IV.	Coastal Area Board adoption of Final Environmental Impact Statement	July 20, 1979	
V.	Governor Approval of Final Environmental Impact Statement	July 30, 1979	
VI.	Final Program Approval	September 25, 1979	

The first step of this review process, the Workshop Draft, has already been completed. This draft was distributed in August 1978,and a series of public hearings was held in September. The Workshop Draft presented a discussion of the issues of the Alabama Coastal Area, a statement of proposed Coastal Area Board policies, a description of the uses subject to the management program,a description of the special management areas, and a discussion of the legal authorities.

Based on all written comments received and testimony presented at the hearings, appropriate changes were made in the Workshop Draft, and additional work elements were completed -- management authority of the Board; review procedure for state permits, federal consistency, and uses that presently require no state or federal permit, operational rules and regulations; administrative rules and regulations; national interest, full participation, and continuing consultation.

The Hearing Draft was prepared based upon revisions of the Workshop Draft and the additional elements outlined above. This document, the second step in the review process, represented the first complete draft describing the proposed management program. Copies of this document were distributed in February 1979 for review by governmental agencies, organizations, and interested citizens, and a public hearing on the Hearing Draft was held in March.

The third step in the process was the presentation of the Draft Environmental Impact Statement (DEIS). The DEIS included the management program which had been revised based on public comment on the Hearing Draft, the environmental impact assessment of the management program, and OCZM's findings about whether the Alabama management program meets the requirements for federal approval. The DEIS was distributed in late April and a public hearing was held in June to receive comments from persons interested in the Alabama Coastal Area Management Program.

After careful analysis of all comments, the Draft Environmental Impact Statement was revised to become the Final Environmental Impact Statement, the last step in the review process. Upon adoption by the Coastal Area Board and approval by the Governor, the Final Environmental Impact Statement will be submitted to the Office of Coastal Zone Management for final approval in August 1979.

SECTION IV. GUIDE TO THE FINAL ENVIRONMENTAL IMPACT STATEMENT

As described in the preceding section, this Final Environmental Impact Statement is composed of appropriate revisions to the Alabama Coastal Area Management Program and Draft Environmental Impact Statement. This document is divided into four parts.

Part I has been prepared by the Office of Coastal Zone Management. Included here is a discussion of the Federal Coastal Zone Management Act, a summary of the Alabama Coastal Area Management Program, and a description of how this program meets the requirements of the Federal Coastal Zone Management Act.

Part II describes the what, why, and how of the Alabama Coastal Area Management Program. Chapter Two presents a summary of the major coastal development and natural resource issues which have been identified through technical studies, surveys of coastal residents, and comments on the information included in the Workshop Draft, Hearing Draft, and the Alabama Coastal Area Management Program and Draft Environmental Impact Statement. Chapter Three presents the general policies of the Coastal Area Board. Once the final policies have been adopted by the Coastal Area Board and approved by the Governor, it is anticipated that these general policies will guide the future decision-making process of the Coastal Area Board.

Chapter Four presents a comprehensive description of the major elements of the Coastal Area Management Program based on all comments received concerning each draft of the program. This chapter includes a discussion of the Boundary of the Coastal Area, Management Authority of the Board, Uses Subject to Management, Special Management Areas, Review Procedure, Monitoring and Enforcement, Operational Rules and Regulations, and Administrative Rules and Regulations.

Parts III, IV, and V of the Final Environmental Impact Statement present an explanation of certain Alternatives to the Management Program, a description of the Affected Environment, and a discussion of Environmental Consequences. This information has been included to meet the requirements of the National Environmental Policy Act.

Part VI includes the appendices to this document. Appendix A is a copy of the act that establishes the Coastal Area Board. A concise discussion of the legal authorities presently exercised in the Coastal Area by state agencies is presented in Appendix B. A listing of the current members of the Coastal Area Board and the Coastal Area Advisory Committee is presented in Appendix C.

Appendix D contains special planning elements of the management program related to energy facility siting, public access, and shoreline erosion. A discussion of national interest, continuing consultation, and full participation appears in Appendix E. Appendix F includes a selected bibliography and Appendix G includes definitions of the terms used in this document. Appendix H, which is attached and bound separately, contains comments received regarding the Draft Environmental Impact Statement as well as appropriate responses prepared by the Office of Coastal Zone Management.

CHAPTER TWO

COASTAL ISSUES

Coastal Alabama has plentiful natural and manmade resources. Because of these resources, the Coastal Area has experienced a high growth rate in recent years, which is expected to continue or perhaps increase in the years to come. Increasing competition for these finite resources by economics, social, recreational, and natural uses is evident.

A summary of some of the major coastal issues is presented below. No attempt has been made to describe all coastal issues; rather, the following narrative is a brief overview of the wide array of concerns which may face coastal residents.

SECTION I. COASTAL RESOURCE USE ISSUES

A. Port Development

The Port of Mobile plays a vital role in the health of the coastal economy. Besides employing approximately 800 individuals with an annual payroll in excess of $11 million and operating with revenues exceeding $27 million and a net profit of $4.5 million in 1977, Mobile's port facilities offer an impetus to industrial development by increasing access to national and international markets. The continuous upgrading and development of the port facilities will allow the port to continue to benefit the local and state economic system in the future.

In order to function properly, the port must maintain surface water transportation arteries in prime condition (Figure II-1). Existing maintenance dredging operations carried out by the Corps of Engineers produce large volumes (7 million cubic yard annual average, 1960-1970) of dredge spoil materials which must be disposed of in an environmentally suitable and cost-effective manner. This task has become increasingly difficult in recent years as existing spoil-disposal sites are reaching their capacity. In order to meet the needs for spoil disposal from maintenance dredging and ship channel expansion, it is imperative that a long-range plan of spoil disposal, based upon sound environmental and economic considerations, be developed and implemented.

B. Industrial Development

Industrial development provides many benefits to the community in terms of employment and support for the local economy. Manufacturing activities employed 25,700 in 1975, 19 per cent of the total work force. In addition to providing direct employment, manufacturing enterprises or basic industries

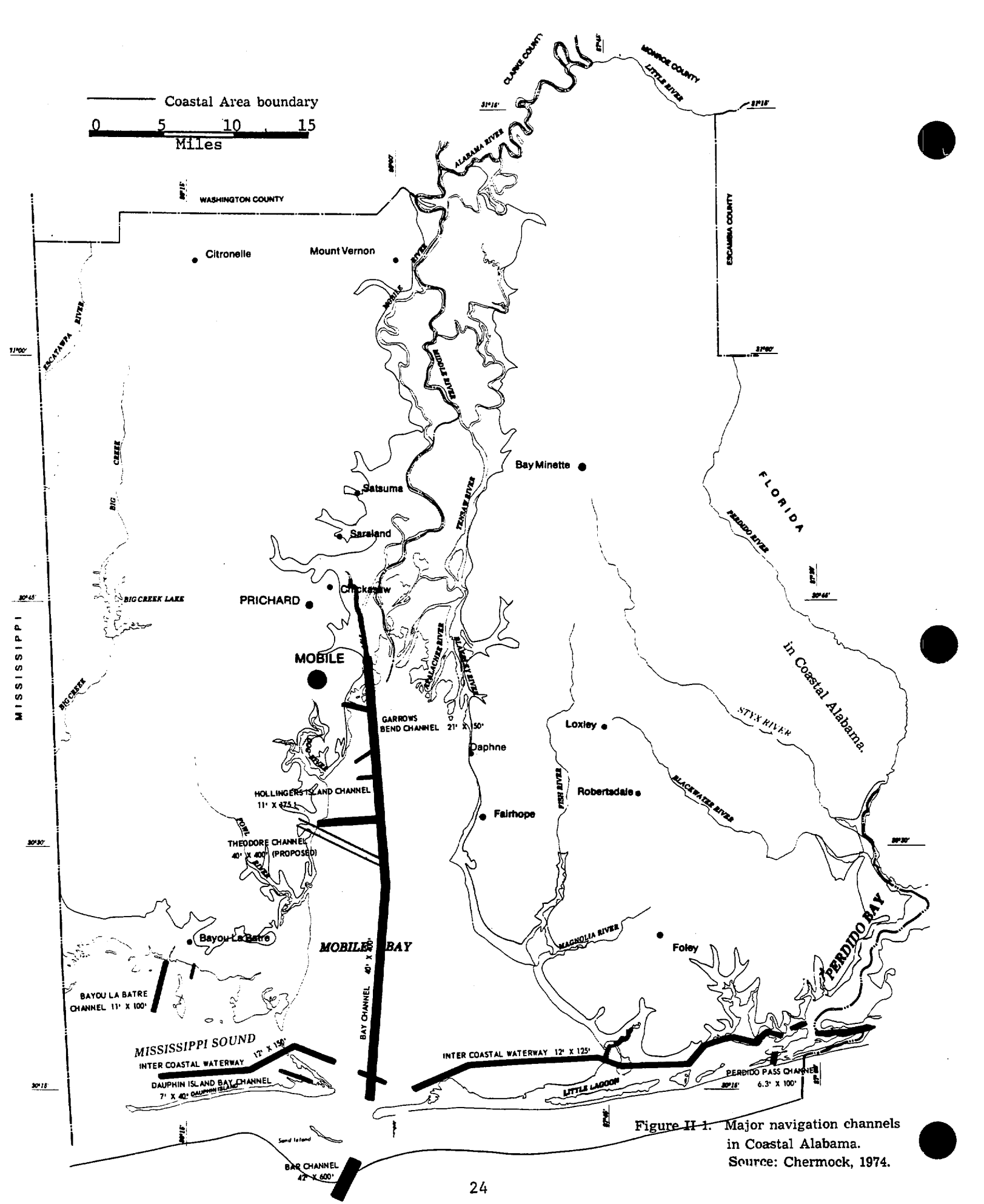


Figure II-1. Major navigation channels in Coastal Alabama. Source: Chermock, 1974.

support employment in other segments of the coastal economy. Several events are anticipated or have occurred which could provide for increased economic growth within the area: 1) expanding chemical industrial base, 2) increased production of oil and natural gas, and 3) the development of the Tennessee-Tombigbee Waterway. A conservative estimate is that in the year 2000, 37,100 people will be employed in manufacturing, 20 per cent of the total work force.

Studies prepared by the South Alabama Regional Planning Commission in 1975 indicate that approximately 4,000 additional acres of industrial land will be required to satisfy the anticipated industrial requirements for the year 2000. A challenge faces the area in developing the region's industrial base in a manner which will not destroy the resources that are so vital to the overall character of the Coastal Area. Industry can lower the utility of adjacent properties for certain uses, produce toxic substances which damage wildlife and human health, and alter an area's aesthetic appeal. These unpleasant and periodically dangerous side effects deserve recognition and consideration in a management decision-making process.

Since heavy industrial activity can lower property values for residential and recreational uses, industrial activities should be located in designated industrial sites which can provide the necessary water, sewer and transportation access to support the industry. These sites should be chosen with due consideration to their impact on natural resources, water quality and other land uses. Industrial activities of a hazardous nature should be located away from population centers to avoid the possibility of a disaster.

Several types of industry such as port and coal-handling facilities require access to navigable water. Water-dependent industries of this nature should have priority over other industrial activities for waterfront industrial sites.

One of the major problems facing future industrial development in the Coastal Area is waste discharge. Several segments of coastal waters, notably Lower Mobile River, Chickasaw Creek, Three Mile Creek and portions of Mobile Bay, are and have been stressed by waste discharges. Since these water bodies have a finite assimilative capacity, new and existing industry will need to use improved treatment processes in existing industrial areas.

C. Urban Development

Both Mobile and Baldwin counties are experiencing rapid population and consequently, urban growth. Baldwin County's overall population increased 17% during the period 1970-1976; Mobile County's growth was 9.4 per cent. A significant portion of this growth is occurring within the Coastal Area.

The scheduled completion of Interstate 65 across the northern tier of the two counties in combination with the already completed Interstate 10 has the potential of opening up large tracts of land for residential and industrial development, some within the Coastal Area.

Water and sewer service and transportation access are important determinants of the spatial distribution and intensity of development. The Mobile Area Land Use Model (MALUM) identified a strong correlation between residential development and sewer service in Mobile County (R-.931) and water service in Baldwin County (R-.872). The extension of infrastructure to locations adjacent to wetlands or a flood prone area can provide an impetus to development which could alter or destroy these natural areas. Corridor selection and water and sewer extension decisions should consider environmental and land use ramifications which will result from extensions of the infrastructure.

D. Energy Development

Energy in the Mobile-Baldwin County area is primarily derived from petroleum products, natural gas and electricity. Petroleum refineries, natural gas processing, treatment and liquid extraction plants, storage tanks, electric generating plants, coal handling facilities, major transmission lines and pipelines and other energy-related facilities are located almost exclusively in Mobile County. The development and processing of energy resources and the siting of new and existing energy-related facilities is of importance to the coastal economy. Energy development can have some influence on the national interest.

Due to their heavy industrial nature, energy facilities such as electric generating plants, refineries, and oil/gas processing, treatment and storage facilities, can have serious ramifications for environmental processes and associated land uses if they are developed without extensive care and forethought. Construction of such facilities can have some impact on the environment, varying with the choice of site and the size of the area disturbed.

Impacts relative to construction and operation of coal handling facilities may include alterations to aquatic life from dredging ship channels and potential disturbances caused by coal runoff and spillage into nearby waters.

In view of the expanding oil exploration efforts in Mobile Bay and other portions of the Coastal Area, the impacts of oil recovery activities become increasingly important. Oil spills resulting from pipeline breaks and blowouts from exploration activities are potential environmental hazards. The U.S. Coast Guard has developed a National Oil and Hazardous Substances Contingency Plan to cope with oil spills. However, proper planning to minimize potential hazards is desirable.

E. Mining and Mineral Resources

Limited quantities of clay, sand, and gravel are mined from Alabama's coastal river-bottoms and streamcuts. Other than oyster shell mining, the sole permitted mining operation of this type in the coastal area is a sand and clay operation located on the western edge of the Mobile-Tensaw River Delta. Although heavy mineral sands are known to lie offshore Dauphin Island, the resource is not being exploited at this time.

Over 46 million cubic yards of oyster shell are available for mining from coastal water bottoms. The removal and washing of mined oyster shell disturbs bottom sediments and habitat.

F. Water Quality

The water quality management process in Alabama has been studied for a number of years under federal and state programs. Completed in May 1978, the Mobile 208 Areawide Waste Treatment Management Plan is the most recent and intensive analysis. This study analyzed point and nonpoint sources of pollution as well as various waste treatment management alternatives. The maintenance of water quality is one of the more complex and demanding tasks in the coastal area.

A primary focus of water quality management programs has been to devise ways to provide for swimmable and fishable waters. Although significant efforts have been undertaken to analyze the chemical and hydrological characteristics of water, a method of evaluating the long-term impacts of our waters has not been developed. Without a biological baseline analysis to show what is presently normal in the coastal system, it is difficult to evaluate progress in achieving the goal of maintaining water quality that will support existing biological processes.

Thousands of chemical substances have been developed by man, but knowledge of the toxicity of these substances to plants and animals is limited. As the Environmental Protection Agency completes its research program and evaluates toxic substances, standards are expected to be adopted which can be applied to the discharge of these substances to coastal waters with more certainty that toxic substances are being properly regulated.

The Mobile 208 Study found several water segments that are currently under stress including portions of the Lower Mobile River, Chickasaw Creek, Three Mile Creek and Mobile Bay.

Within the two coastal counties of Alabama there are 19 municipal waste water dischargers that discharge more than 32 million gallons per day (mgd) (Table II-1), 39 industrial dischargers with National Pollution Discharge Elimination System permits that discharge about 130 mgd (Table II-2), 49 semi-public and private dischargers that discharge more than 3 mgd and other miscellaneous dischargers of sanitary wastes, cooling waters, boiler blowdown, rain and runoff (Table II-3). These point source dischargers are indicated in Figure II-2.

With the increase in activity from petroleum exploration by Mobil Oil Company off the coast of Dauphin Island, oil pollution is a significant concern. Because of the sensitive ecologic systems in the area, extreme care must be taken to make sure no harmful environmental impacts result from oil exploration, transmission or facility development.

Disposal of dredge spoils is another aspect of water quality to be considered. For example, constructing and maintaining the Mobile Ship Channel and Theodore Complex Channel can result in modification of the bays and estuaries, thereby affecting natural circulation and salinity patterns within the Mobile Bay system

Violations of water quality standards for total coliforms have been found in many coastal water segments, resulting in the closing to

Table II-1 Existing municipal wastewater treatment plants

Plant	Treatment Description	Average Flow (MGD)	Receiving Water
Mobile County			
McDuffie Island/Mobile	High rate activated sludge	15.0	Mobile Bay
Halls Mill Creek/Mobile	High rate trickling filter	1.6	Halls Mill Creek
Three Mile Creek/Mobile	High rate trickling filter	7.8	Spring Branch
Hog Bayou/Mobile	Package plant	0.1	Hog Bayou
Bill Zeibach/Mobile	High rate trickling filter	1.1	Mobile Bay
Grover Street/Prichard	2 stage trickling filter	1.5	Three Mile Creek
Eight Mile/Prichard	High rate trickling filter	1.7	Eight Mile Creek
Chickasaw Lagoon	2 single stage lagoons	.96	Chickasaw Creek
Saraland	Conventional activated sludge	.25	Norton Creek
Dauphin Island	Standard rate trickling filter	.141	Aloe Bay
Bayou La Batre	Conventional activated sludge	.905	Portersville Bay
Citronelle	Not available-no monitoring program	NA	
Baldwin County			
Gulf Shores	3 stage lagoon	.059	Intracoastal Waterway
Robertsdale	Extended aeration-activated sludge	.20*	Rock Creek
Bay Minette	Primary clarification	.5*	Hollingers Creek
Westside Lagoon	2 stage lagoon	NA	Martin Branch
Loxley Lagoon	3 stage lagoon	.16	Corn Branch
Foley Lagoon	Single stage lagoon	NA	Wolf Creek
Fairhope	Step aeration activated sludge	.8	Mobile Bay
	TOTAL	32.775	

NA - Not Available, Municipalities have not determined these parameters
*Dry weather average flows
Source: South Alabama Regional Planning Commission, 1978 (modified).

harvest of over 72,000 acres of water-bottoms. Since these areas were closed during the early 1950's, no current studies have been carried out to determine if these areas should still be closed to harvesting. The most significant contributor of pathogenic pollution in the coastal area is the Mobile metropolitan area which significantly impacts upper Mobile Bay. Periodic closings of other oyster reefs occur, and they are governed by the National Shellfish Sanitation Program, Manual of Operations, Part I.

Based on the results of the Mobile 208 Areawide Waste Treatment Management Plan, the principal water quality problems occur in the western portion of the Mobile Bay water frontage and all of the Mobile River system. The most frequent occurring violations are for dissolved oxygen and fecal coliform. Sampling results show that Three Mile Creek, Chickasaw Creek, Hollinger Creek, and Mobile River experience the most frequent dissolved oxygen violations.

Table II-2 Existing industrial wastewater treatment plants

Company	Present Treatment Process	Reported Process Wastewater Discharge (GPD)
Barber Pure Milk	Discharge to STP*	
SARS	Grease separator, aeration basin, polishing pond	20,000
Aquila Seafood - Bon Secour	Screening	1,000
Plash's Seafood - Bon Secour	Screening	3,000
Grass Seafood - Bon Secour	Screening	1,000
Gulf Shrimp (Wallace) - Bon Secour	Screening, aeration	10,000
Mallon Seafood - Dauphin Island	Screening	500
Oyster Bay Seafood - Bon Secour	Screening	1,000
Star Fish and Oyster - Mobile	Screening	288,000
Patronas Seafood - Dauphin Island	Screening	1,000
Causeway Seafood - Causeway	Screening	1,000
Gulf Coast Knight Seafood - Gulf Shores	Screening	13,000
Bon Secour Fisheries - Bon Secour	Screening	14,000
Gulf Lumber	Complete recycle	0
Crown Zellerbach	Separation, flocculation, aeration, spray pond	10,000
Alabama Wood Treating	Separation, flocculation, evaporation	0
International Paper	In-plant water reduction and reuse, cooling towers, separate primary clarification of inorganic and organic settleable solids, sludge dewatering of organic settleable solids and burning as fuel in boilers for steam and electrical power regeneration, emergency clarifier, pumping to NMIWTP, secondary waste treatment measurement sampling and release	33,200,000
Scott Paper	Primary and final clafirication, aeration tanks, aeration basin, sludge dewatering	42,430,000
Stone Container	Screening, clarification, settling basins, spray irrigation	20,000
Stauffer Chemical - LeMoyne	Local neutralization, settling, oil separation, Hg. removal; central aeration	1,100,000
Diamond Shamrock	Clarification, pressure filter, holding basin	57,600
Halby	Chemical oxidation, neutralization, pressure filter	2,500

Table II-2 (continued)

Union Carbide	Recycle, neutralization settling, NH_3 recovery	918,000
Bon Secour Seafood - Bon Secour	Screening	NA
American Cyanamid	Measurement and sampling, piped to NMIWTP, secondary waste treatment measurement, sampling and release	60,000
ALCOA	Oil separation, filtration, clarification, settling basin water recycle from settling basin	0
Virginia Chemical	Grit chamber, equalization nutrient addition, aeration, final clarification, polishing pond, sludge digestion	200,000
Eagle Chemical	Neutralization, holding pond	225,000
Courtaulds	Zn and H_2SO_4 recovery, screening, equilization, aeration, clarification, sludge thickening and digestion	8,800,000
Reichhold	Oil separation, equalization, flotation, neutralization aerated lagoon	190,000
Degussa	Neutralization	371,000
Shell Chemical		
Pesticides	Oil separation, hydrolysis neutralization, equalization, lagoon; incineration	
Herbicides (proposed)		
Stauffer Chemical - Cold Creek	Deep well injection; neutralization, aeration basin	400,000
Marion	Oil separation, flotation	45,300
Louisiana Land & Exploration	Oil separation, aerated stabilization basin	110,000
Chevron Asphalt	Oil separation	350,000
GAF	Discharges to WWTP	
Airco Alloys	Thickener, settling ponds	354,000
Kaiser Aluminum - Bay Minette	(No process discharge)	0
Kaiser Aluminum - Pinto Island	(Non-contaminated discharge)	
Teledyne	Discharges to WWTP	
Alabama Dry Docks	(No process discharge)	0
Frisco R.R.	Oil separation	325
I.C.G. Railroad	Oil separation, local sand trap (some flows go to WWTP)	11,500
Miller Transporters	Closed	
Alabama Power - Chickasaw	Stream segregation and individual treatment, settling pond, and pond evaporation	
- Barry	Stream segregation and individual treatment, ash pond	40,000,000
Thompson-Hayward		4,100
	RAINFALL RUNOFF ONLY	
Triangle Refineries - Choctaw Point	Oil separation	
- Blakeley Island	Oil separation	
Hess Oil and Chemical		

Table II-2 (continued)

Shell Oil	
Texaco	
American	
Gulf Oil	Oil separation
AMSCO	
LaGloria Oil and Gas	
Murphy Oil	

* Secondary Treatment Plant

N/A Not Available

Source: South Alabama Regional Planning Commission, 1978.

---

results showed that Three Mile Creek, Hollinger Creek and Mobile River experience the most frequent dissolved oxygen violations.

Table II-3 Largest semi-public and private dischargers

Facility	Discharge (MGD)
Lake Forest Development	1.25
Searcy Hospital	.36
Grand Hotel	.10
Lake Forest Subdivision	.10
Spanish Fort Estates	.10
Mobile College	.06

Source: South Alabama Regional Planning Commission, 1977.

Little data is available concerning the impact of existing thermal discharge. The Barry Steam Plant discharges 1,170 million gallons of cooling waters each day. The body temperature of most aquatic organisms is regulated by water temperature. If the temperature of the receiving waters is raised too high, aquatic organisms can be killed. Further, the passage of cooling waters through a plant entrains millions of planktonic eggs and larvae of fishes and invertebrates.

Pesticides which are washed into streams from agricultural operations and trace metals are of particular concern. They can be absorbed by living things and accumulate in the bodies of estuarine animals, affecting their health and reproduction capacity. They may be harmful to man if ingested.

Figure II-2 Waste dischargers in Mobile and Baldwin Counties

Municipal		Industrial	
2.	Citronelle Lagoon	1.	Mt. Vernon Sawmill-Scott Paper Co.
3.	Searcy Hospital	4.	Barry Steam Plant-Alabama Power
10.	Robert E. Lee Elementary School	5.	Virginia Chemicals, Inc.
11.	Suburban Hospital	6.	Stauffer Chemical Co.
12.	Saraland Wastewater Treatment Plant	7.	Argus Chemical Co.
		8.	Courtalds
14.	Chickasaw Lagoon	9.	Shell Chemical Co.
15.	Eight-Mile Wastewater Treatment Plant	13.	Jacintoport Lagoon
		16.	Diamond Shamrock Chemical Co.
20.	Hog Bayou Wastewater Treatment Plant	17.	Chickasaw Steam Plant-Alabama Power Co.
26.	Grover Street Wastewater Treatment Plant	18.	Eagle Chemical Co.
		19.	International Paper Co.
28.	Three-Mile Creek Wastewater Treatment Plant	21.	Union Carbide Corp.
		22.	Scott Paper Co.
36.	McDuffie Island Wastewater Treatment Plant	23.	Thompson-Hayward Chemical Co.
		24.	Crown Zellerbach
38.	Halls Mill Creek Wastewater Treatment Plant	25.	Alabama State Docks
		27.	Star Fish & Oyster Co.
39.	Bill Ziebach Wastewater Treatment Plant	29.	Mobil Rosin Oil Co.
		30.	St. Louis-San Francisco RR Co.
43.	Bayou La Batre Wastewater Treatment Plant	31.	Illinois Central-Gulf RR Co.
		32.	Gulf Lumber Co.
44.	Dauphin Island Wastewater Treatment Plant	33.	Stone Container Corp.
		34.	Chevron Asphalt Co.
48.	Bay Minette Wastewater Treatment Plant	35.	Kaiser Aluminum & Chemical Co.
		37.	Teledyne
52.	Spanish Fort Estates Lagoon	40.	Marion Corp.
54.	Lake Forest Subdivision Wastewater Treatment Plant	41.	Airco, Inc.
		42.	Degussa Alabama, Inc.
55.	Lake Forest Development Wastewater Treatment Plant	45.	Patronas Seafood Co.
		46.	Mallon Seafood Co.
57.	Loxley Lagoon	47.	Westside Lagoon
58.	Robertsdale Wastewater Treatment Plant	49.	Reichhold Chemicals, Inc.
		50.	Alpine Laboratories
59.	Fairhope Wastewater Treatment Plant	51.	Tensaw Fertilizer Co.
		53.	Causeway Seafood
61.	Foley Lagoon	56.	SARS, Inc.
68.	Gulf Shores Lagoon	60.	Grand Hotel
		62.	Bon Secour Fisheries
		63.	Wallace Seafood
		64.	Aquilla Seafood
		65.	Grass Seafood
		66.	Plash's Seafood
		67.	Oyster Bay Seafood
		69.	Gulf Coast White Knight Seafood
		70.	Bon Secour Seafood

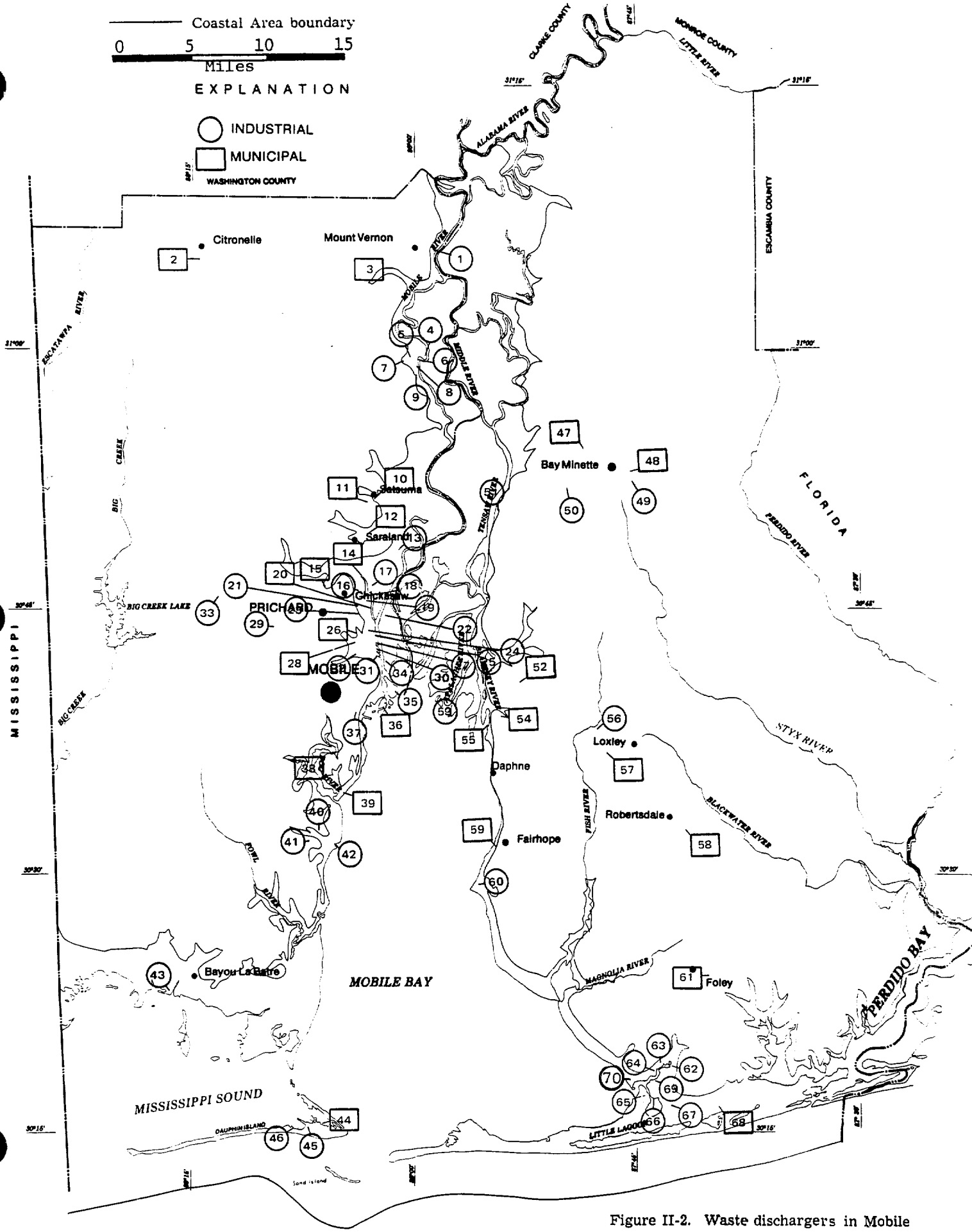


Figure II-2. Waste dischargers in Mobile and Baldwin Counties.

The use of septic tanks in many areas of coastal Alabama has resulted in water quality degradation. At Dauphin Island and Gulf Shores, Salmonella organisms, fecal coliform bacteria and high nutrient levels from septic tank systems have been isolated in waters used for swimming.

The 208 study determined that nonpoint source (NPS) pollution loadings can have a significant impact upon water quality. Because of their variable nature, the control of NPS is difficult. On the national and local levels, emphasis has been placed on the use of nonstructural control techniques such as street sweeping and improved erosion control practices at construction sites to address urban NPS. The Alabama Water Improvement Commission is currently engaged in a program to evaluate and control NPS from forestry and agricultural operations.

There is no deliberate dumping of toxic or dangerous materials into Alabama's coastal waters, but the various chemical industries handle a variety of noxious and potentially hazardous substances. They are a very real problem when accidentally introduced into the marine environment.

G. Air Quality

Although coastal Alabama's land-sea breeze pattern readily diffuses pollutants, repeated violations of both primary and secondary ambient air quality standards for total suspended particulates have occurred in Mobile County. Poor air quality may cause human illness, damage wildlife and vegetation and contribute to water pollution.

Industrial and commercial stack emissions in Mobile County contributed 70,122 tons of particulates and 96,594 tons of sulfur oxides during 1976. Three air quality monitoring stations in Mobile County recorded total suspended particulates in excess of 75 micrograms per cubic meter, the primary ambient air quality standard. The most frequent violations occurred at the station at the Alabama State Docks. Among cities in the Southeast, only Birmingham has recorded higher levels.

Automobiles comprise the largest source of hydrocarbon particulate emissions, accounting for 10.2 tons per day. However, compared to most regions with a city as large as Mobile, these levels are relatively low.

For the most part, air quality is usually good in western Mobile County and in all of Baldwin County. But if certain weather conditions prevail, odor problems from the industrial sections of eastern Mobile County do affect these other areas.

Based on National Ambient Air Quality Standards, portions of eastern Mobile County have been identified as being Areas of Primary Nonattainment and Secondary Nonattainment for Particulates. The entire county has been designated as a Primary Nonattainment Area for Photochemical Oxidants. Even though air pollution limits in portions of the two county area are now being exceeded, new industries and residents are continuously moving into coastal Alabama. Efforts are being made continuously to improve air quality.

H. Solid Waste

The rapid expansion of industry and population which Mobile and Baldwin Counties presently enjoy is expected to increase in the years to come. Unprecedented needs for solid-waste disposal sites are expected to arise as volumes of solid waste are projected to increase 65 per cent by 1990. To preserve water, air, and visual quality and property value, solid-waste disposal should be accomplished in an environmentally acceptable manner.

Seventy known solid-waste disposal sites have been operating without authorization in the two-county area. These unauthorized sites, though seemingly of minor importance, have a significant cumulative impact on the coastal lands and waters. Disposal is usually not covered by soil, is in a flood-prone area or one with no stream runoff control, usually has no pest control, and is often accompanied by open burning (South Alabama Regional Planning Commission, 1977).

A number of sites within Mobile and Baldwin Counties are authorized and/or operating as municipal and county solid waste disposal sites -- Mobile County Citronelle-Mt. Vernon Landfill; City of Citronelle Disposal Site, City of Mobile Landfill (Chastang); City of Saraland Landfill, Mobile County Kusha Landfill, City of Chickasaw Dump; Mobile County Dawes Landfill; Mobile County Irvington Landfill; Baldwin County Bay Minette Landfill (Red Hills); Fairhope Landfill; Baldwin County Magnolia Landfill; Mobile Hickory Street Landfill; City of Prichard; and Mobile County Chunchula Landfill. Because water quality can be easily impaired, site selection and construction should be dependent on factors such as soil properties and their ability to assimilate wastes or prevent migration of toxic wastes into ground water, depth to water table, surface drainage, susceptibility to flooding, and concentration of other wastes being assimilated in the adjacent soil column. Open burning, malodors, and visual quality are a problem near open dumps.

I. Recreation

The Coastal Area of Alabama offers a wide variety of recreational opportunities to residents and tourists. Most recreational opportunities are centered around the area's water resources and, therefore, can be affected seriously by water pollution. Thousands are attracted to Alabama's beaches each year. As recreational opportunities increase, pressures also increase on the natural resources that originally attracted the activity. Too much foot traffic in natural areas (wetlands, dunes, bogs) can destroy the integrity of the area. Incompatible uses located next to a recreational area may make the area unfit for recreation.

Because more people are purchasing boats, there is an increasing demand for docks, harbors, and marinas. More than 23,300 boats were registered in Alabama's coastal waters during 1975. There appear to be several areas with inadequate boat storage facilities and launching areas, particularly between Dog River and Dauphin Island. One study of recreational fishing in the Coastal Area found that sport fishermen spent $5 million to catch 8 million pounds of fish in 1975 (Swingle, 1977).

Commercial recreational facilities are concentrated at Gulf Shores, on Dauphin Island, and along the margins of the Mobile-Tensaw River Delta (Figure II-3). In some cases, these facilities have harmed the coastal resources by improper waste disposal, construction methods that destroy the beach and dune systems, and overuse of the resources.

Although difficult to project, the actual demand for specific types of recreational facilities in the Coastal Area will surely increase. For the Statewide Comprehensive Outdoor Recreation Plan (SCORP), Alabama was divided into several planning districts. The entire Coastal Area is contained within District 8 which includes three counties in the southwest corner of the State--Mobile, Baldwin, and Escambia. Although the projections presented in Table II-4 are applicable to the entire planning district, this information has been provided to give the reader a general understanding of the projected trend for outdoor recreational needs for the Coastal Area as well.

A total of 10,963 acres of shorefront publicly owned or maintained recreation areas are available for access in the two counties. Public access in Baldwin County is provided by 9248 acres of state, county, and municipal parks, boat ramps, and other properties. About 1715 acres of publicly owned or maintained land provide access in Mobile County.

Access to coastal recreational opportunities is further provided by numerous fish camps, privately operated boat ramps and marinas. These privately owned operations supplement the available public facilities and often provide access to areas were no public facilities are available.

Efforts have been made to increase access to South Mobile County, where there presently exists an unfulfilled demand for beach access, boat launching, dockage and storage. There have been efforts in the State Legislature to appropriate funds to purchase a large, uninhabited portion of western Dauphin Island, although these efforts have failed thus far. This area had been leased by Mobile County from a private concern for the past decade. However, the lease has now expired, and the owners wish to sell the land. If purchased by the State, approximately eight additional miles of shoreline would be available for public use. In addition, a number of boat ramps are planned for construction on the eastern end of Dauphin Island. These additional boat ramps will help to fulfill the demand for access to coastal waters.

Future efforts should be aimed at providing adequate recreational opportunities and beach access, while protecting the integrity of the coastal resources and rights of private property owners.

J. Shoreline Erosion

Recent studies have shown that portions of Alabama's coastal shoreline are eroding. Of 503.9 miles of estuarine and Gulf shoreline, 220.9 miles are eroding. Natural erosion is caused by waves, currents and wind, and there is often little that can be done to offset its effects.

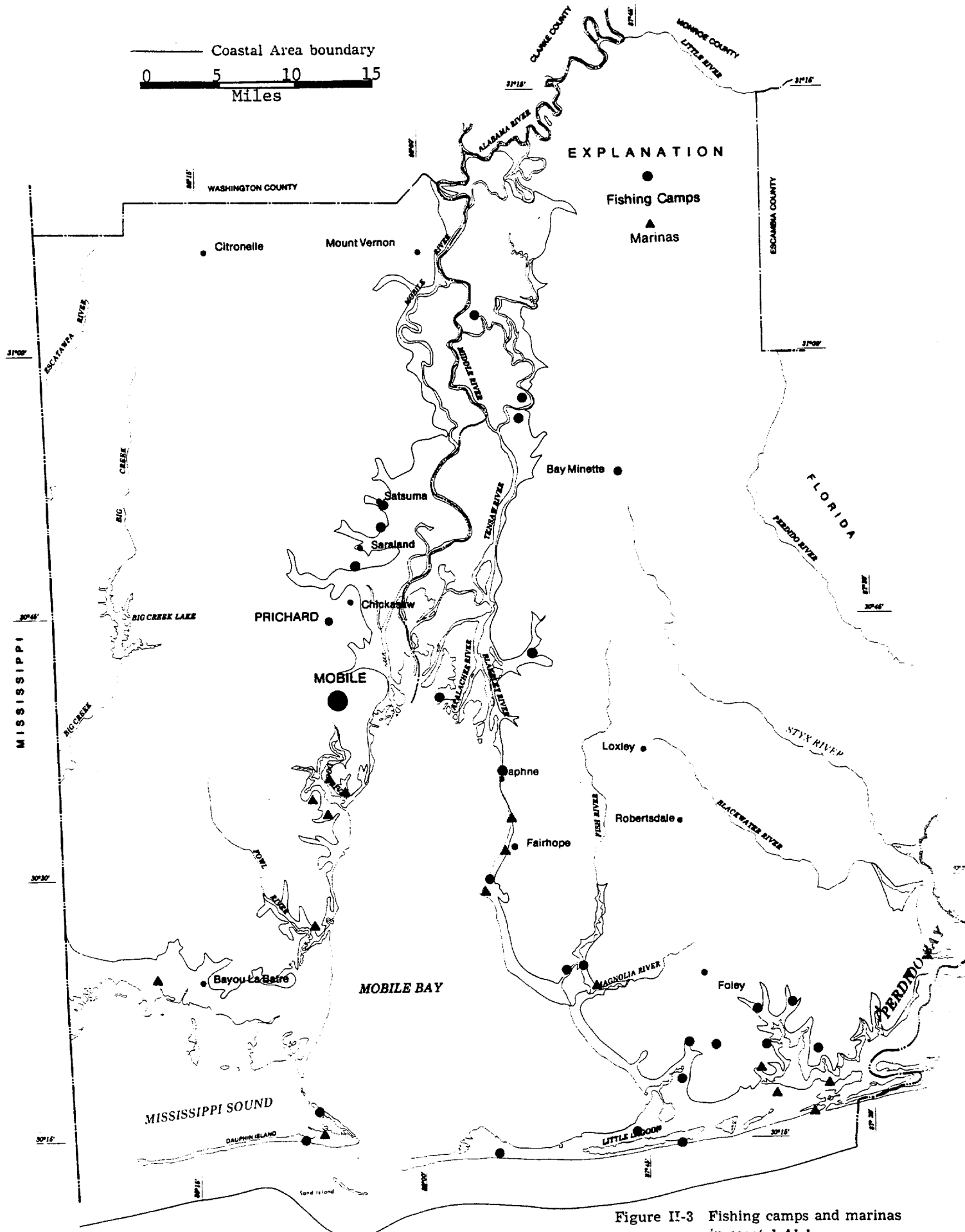


Figure II-3 Fishing camps and marinas in coastal Alabama.
Source: Chermock, 1974.

Table II-4 Outdoor recreational land and facility needs by kind, district 8, 1973-74, 1980, 2000

Activities	Units	Needs by years		
		1973-74	1980	2000
		Number		
Land, local governments	Acres	3,115	4,027	5,661
Land, State Parks	Acres	+1,473	+789	436
Land, other agencies	Acres	8,836	11,344	15,837
Playgrounds	Acres	22	79	1,081
Archery	Positions	+31	+24	127
Tennis	Courts	70	125	332
Baseball (90' & 75' bases)	Diamonds	40	65	105
Softball	Diamonds	+106	+89	+24
Basketball	Courts	49	123	295
Volleyball	Courts	22	40	73
Track & field	Fields	+9	+4	8
Picnicking	Tables	2,450	2,441	3,022
Roads for driving	Miles	134	158	221
Walking, pleasure	Miles	51	67	96
Pool swimming	Sq. Ft.	44,505	78,105	128,505
Pond or lake swimming	Acres	83	93	110
Vacation camping	Campsites	483	863	1,852
Group camping	Beds	510	788	1,121
Hunting land	Acres	+34,982	224,518	485,518
Fishing waters	Acres	+465,256	+425,952	+206,086
Bicycling (n/o trails)	Miles	494	559	661
Horseback riding trails	Miles	+18	+3	59
Natural and scenic	Sites	13	27	55
Golf, 18-hole	Courses	--	3	20
Golf, 9-hole	Courses	--	1	11
Firearm shooting	Ranges	+22	+20	+10
Transient camping	Sites	+505	+254	359
Boat launching	Ranges	53	84	239
Access parking	Spaces	5,532	7,082	14,832

Source: Auburn Agricultural Experiment Station, 1975.

More than 90 per cent of Alabama's Gulf shoreline is eroding, and 33 per cent of the bay-estuary shoreline is eroding. The western half of Dauphin Island experiences the most erosion each year. A very large portion of this area is presently undeveloped, and there have been recent efforts to purchase this portion of the island for use as a public beach. Other affected areas are Perdido Pass, Little Point Clear, the shoreline of St. Andrews Bay, the southeastern limits of the Mobile-Tensaw River Delta, and the islands and northern shore of Mississippi Sound.

Protection and compatible uses of the shoreline continue to be a priority project in Alabama. Continued development of extensive condominiums, summer homes, resorts and highways along the shoreline will undoubtedly lead to further modification of the shoreline and increase the rate of erosion. Sand extraction from dunes contributes to the depletion of the dune system. Construction in wetland areas aggravates erosion by destroying their natural water-storage capacity and storm buffer functions.

K. Hazard Management

As development in the Alabama Coastal Area continues, the potential loss from natural disasters from this area's two most significant natural hazards, hurricanes and flooding, grows correspondingly.

The destructive force of hurricane wind is generally accompanied by heavy rainfall, storm surge and wave attack. The combination of these forces can devastate a Coastal Area. Nineteen hurricanes have affected Alabama since 1900 with six of these inflicting serious damage to the Coastal Area. However, there have been no hurricane landfalls in Alabama since 1950.

Flooding is a result of storm surges and heavy rainfalls associated with hurricanes and other tropical storms, convective thunderstorm activity, and frontal passages. Most of the Alabama Coastal Area is subject to flooding, with base elevation of the 100 year flood (the common name for a flood which has a one per cent chance of occurring annually) range from 7 feet above mean sea level at upper Perdido Bay to 13 feet above mean sea level at Mississippi Sound, with base elevation at Mobile Bay of 11 feet above mean sea level (Figure II-4).

The site selection process for new development in hurricane-prone areas should consider the potential for damage from storm surge, flooding, wave attack, and winds. Building design should incorporate methods to minimize damage. Building location and design in flood-prone areas should reflect the potential for damage by flood waters and include plans for flood-proofing and other means to reduce flood damage.

Public awareness of building design and location alternatives to mitigate damage from natural hazards needs to be strengthened. Preservation and restoration of natural protective barriers and natural walkways, the elimination of unnecessary alteration, and wise location and design could reduce the potential for property damage and loss of life in the Coastal Area.

L. Commercial Fishing

Alabama's fishing industry, one of the most important natural assets of the State, is the major economic factor in several Mobile and Baldwin County communities.

From 1950 to 1977, the dollar amount of Alabama's commercial marine fishery increased from $2.1 million to $37 million at the dock. The final

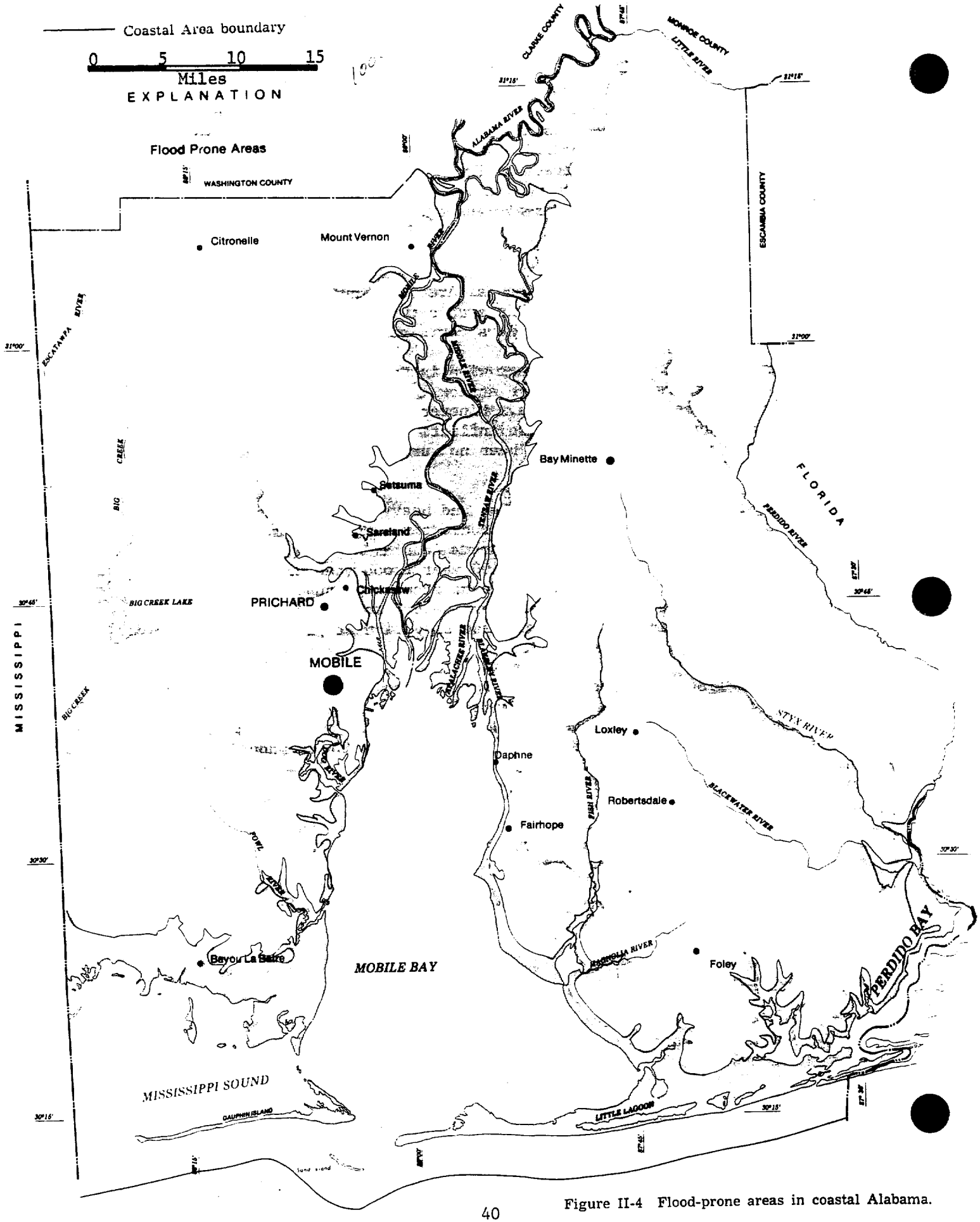


Figure II-4 Flood-prone areas in coastal Alabama.

economic value of the marine fishery was estimated at $148 million in 1977. Poundage landed more than tripled over this same period. In addition, over 7,000 persons in coastal Alabama depend on the State's commercial fisheries for all or part of their personal income.

Shrimping is by far the major commercial fishery, accounting for almost 91 per cent of the retail value of all commercial fishing in the State. The abundance of shrimp is dependent upon many factors, but one of the most significant is the presence of extensive wetland areas for nursery grounds and food. It is estimated that 95 per cent of all commercial species in the Gulf of Mexico spend at least a portion of their life cycle in the estuaries. Any development that leads to the destruction of the wetlands is in direct conflict with the potential yield of the seafood harvest.

Physical alteration of the estuarine environment, as well as river discharge, can affect certain species of marine organisms. Dredge spoil disposal from channel construction and maintenance influences the circulation pattern of Mobile Bay. Circulation patterns, in turn, can alter the salinity patterns within the bay, which are particularly important to oyster growth.

The quality of coastal waters has a great impact on commercial fishing species. Bacterial pollution may cause several species, particularly oysters, to be unsafe for human consumption. Heavy metals and toxic chemicals discharged by industries may be concentrated in fish tissue. In the past, there have been bans on fishing in the Mobile Delta area due to high levels of mercury found in samples of fish tissue.

There are certain cultural aspects of commercial fishing which must be considered beyond the obvious dollar value and employment factors. Commercial fishing has traditional, social and aesthetic qualities that cannot be ignored. This is genuinely a way of life for many in the Coastal Area who wish no other form of employment.

SECTION II. NATURAL RESOURCE ISSUES

A. Beaches

Beaches are those shoreline areas characterized by low-relief, generally of gentle slope, sand and some vegetation. Gulf beaches are those sand beaches of the mainland and islands in Alabama which are subjected to the direct wave action of the Gulf of Mexico waters. Estuarine beaches are narrow, low energy beaches occurring along the protected margins of Mobile Bay, Perdido Bay, Mississippi Sound, and their various tributaries. The entire beach community covers approximately 14,000 acres in the two counties.

By their nature, beaches are a major attraction for tourism and recreation in all Coastal Areas. In Alabama, natural beaches are limited, and increased private acquisition of access routes has further reduced publicly available beach areas. Dauphin Island, for example, presently has only one-half mile of beach available for the estimated thousands of beachgoers visiting the island during the peak season. The closing of the island's west end to public use has made public access to beaches an issue

in Mobile County. As population grows, the problem of beach access grows correspondingly unless additional beaches become accessible to the public.

The loss of beach reduces the amount of buffer protecting inland areas from the forces of storms. The dynamic status of beaches requires that development plans consider the erosion potential of a specific location. Development should not significantly alter the sediment supply process. Alterations could include interruptions in longshore currents, removal of sediments, isolating the beach from the dunes by bulkheading or other structures, and removal or destruction of stabilizing vegetation. Proper placement of permanent structures can reduce the problems resulting from beach erosion.

Beaches provide permanent habitat to several species, some endangered, including several terns, raccoons, and beach mice. Beaches are principal nesting sites for numerous birds, such as the least tern, osprey, and snowy plover, and some turtles. Intensive use by man eliminates beach areas from continued utilization by these wildlife species and hence reduces their survival potential.

B. Dunes

Dunes are ridges of unconsolidated and usually mobile sands lying landward of the upper limit of Gulf beaches and serve a protective function against the damaging forces of coastal storms and hurricanes.

The interaction between dunes and beaches deserves recognition and preservation. Coastal dunes are inhabited by many of the same species of wildlife which inhabit beaches and serve as a protective function against the damaging force of coastal storms and hurricanes.

Typically, dune formation is a result of the accumulation of wind and water transported sediments carried across the beach. During periods of normal Gulf wind and wave conditions, sand is blown from the beach, accumulates, and is stabilized by vegetation in the form of dunes. Storms, however, will attack beaches and dunes cutting into both severely. It is in this role that dunes protect the coastal environment. Dunes provide a natural barrier to wave attack and also supply sediments to restore the beach. Dunes need to be preserved to maintain their protective function. Stabilizing dune vegetation requires protection from construction pressures and heavy traffic to prevent blowouts, migration, or destruction. Barriers to sand movement between beaches and dunes such as bulkheads should be excluded. Loss of dunes, regardless of cause, leaves a site and any structures upon it open to eventual destruction.

C. Wetlands and Submersed Grassbeds

Wetlands are those areas saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Approximately 121,600 acres of wetlands exist in Alabama's Coastal Area today.

Historically, wetland areas have been regarded as land of low economic value. This attitude has fostered the destruction of undetermined acres of wetlands by draining, filling, and impounding. Many piecemeal dredge, fill and impoundment projects are occurring today in the Coastal Area. The total number of wetland acres in coastal Alabama is low, the value of each acre is high, and total acreage is being reduced annually, whether by a few large projects or a number of small operations.

This destruction of wetlands has many impacts. Total habitat for the many plant, animal, and fish species who live in the wetlands is reduced. Available nutrient supplies for many estuarine and coastal species is reduced, and since wetland species are important components of the food web, a breakdown in the natural food web can be expected.

In addition to biologic effects of wetland dredge, fill, and impoundment, these former wetland areas are usually unsuitable for developement use. Surface subsidence, foundation settling, and susceptibility to flooding are problems affecting the developer and occupant.

Wetlands also serve a role in shoreline protection. The root mass holds sediments together, and the vegetation itself absorbs wave energy and traps sediment. Destruction of this erosion retarding surface exposes the nearby land surface to higher erosion potential.

Submersed grassbeds are those areas within the Coastal Area which support rooted vegetation that are not normally emergent even at low tide but remain covered within coastal waters. Baldwin (1957) estimated that approximately 5,000 acres of submersed plants existed in Mobile Bay at that time. Today, the extent of submersed grassbeds is not known. Evidence of submersed grassbeds in the northern portion of Mississippi Sound have been found. The extent of submersed grassbeds in Perdido Bay and Little Lagoon is not known.

It is believed that submersed grassbeds play a valuable role in the coastal ecosystem, especially to fisheries productivity; more work is necessary to determine this role and their extent. Planning efforts should recognize the value of submersed grassbeds and account for their presence.

Concern has been expressed about the abundance and rapid growth of certain aquatic weeds in Alabama's coastal waters. Portions of the Upper Mobile Bay and Lower Mobile-Tensaw Delta have been choked by heavy aquatic vegetative growth, identified as Eurasian Water Milfoil. Hydrilla, which has caused serious problems in many water bodies in the southeastern United States, has been found and treated by the Corps of Engineers in Coffeeville Reservoir on the Tombigbee River northwest of Jackson. If this Hydrilla reaches the Coastal Area, serious problems can be expected. Further study of these problems will be necessary to determine the possible adverse impacts of these aquatic weeds on the Coastal Area.

D. Oyster Reefs

Natural public oyster reefs in Mobile Bay and Mississippi Sound cover about 3,064 acres. Varying in size, these reefs are concentrated mostly in the southern half of Mobile Bay. Approximately 924 acres of state-owned bottoms were leased to oystermen, and about 1,050 acres of riparian bottoms are being used to grow oysters by private individuals. Most of those remaining public oyster reefs have a density of harvestable oysters which is too low to allow economical recovery.

The commercial oyster fishery in 1976 contributed $1.5 million dockside and $6 million at the retail level to the Alabama economy. At least 200 coastal residents depended upon the oyster fishery for a portion of their livelihood.

Optimum populations of oysters are difficult to maintain even under natural conditions. Because they are attached, oysters cannot move to new areas to escape harmful impacts. Therefore, they are affected by all conditions that alter their environment.

The salinity of the waters surrounding oyster reefs has a great effect on their mortality. If the salinity is too low, usually caused by excessive rainfall and flood waters, the result is high oyster mortality. Yet, if not enough fresh water is introduced into the estuaries and the salinity increases too much, there is an abundance of oyster drills. The oyster drill is by far the most serious oyster predator in the State's waters. At various times, live oyster reefs have been almost totally wiped out because of extreme variations in salinity.

Dredging in areas near natural oyster reefs can cause serious problems. Disposal of dredge spoils from channel construction or maintenance atop live oyster reefs can completely destroy the reef. Because of their location near natural oyster reefs, extreme care should be exercised when conducting maintenance dredging in the Mobile Ship Channel or the Intracoastal Waterway.

The water quality of bays and estuaries can affect oysters. Coliform bacteria from improperly treated municipal and industrial discharges does not affect the growth and development of oysters. However, these bacteria are indicators that pathogens may be present. The pathogens are concentrated in oysters, creating a human health problem. Hepatitis and typhoid could result from eating contaminated, uncooked oysters.

Following a survey of wastewater dischargers, at least 72,000 acres of water bottoms in northern Mobile Bay were closed to harvesting due to coliform bacteria levels higher than 70 most probable number per 100 milliliters. Since this closure in the 1950's, no further studies have been conducted to determine if this area should remain closed to shellfish harvesting. With the many recent improvements that have been made to municipal and industrial waste treatment facilities, it is possible that this area may no longer need to be closed to shellfish harvesting. There is a need for current data regarding closure of this area.

Periodically, oyster reefs in the southern portion of Mobile Bay near Dauphin Island have been closed temporarily to shellfish harvesting because of high coliform counts.

E. Wildlife

Due to the diversity of habitat available, the Coastal Area of Alabama supports one of the largest varieties of wildlife of any region of the State. Types of habitat available in the Coastal Area include beaches,

salt marsh, brackish-freshwater marsh, swamps, mudflats, estuarine waters, open waters, and open ocean waters.

Studies of coastal fishes in Alabama indicate that about 293 species occur in coastal waters. Many of these species are valuable commercially while many other species are vital links in the food chain. Most species are dependent upon the coastal marshes, submerged grassbeds and estuarine waters for nursery areas before moving into deeper water at maturity.

Only a small number of species of mammals, mostly dolphins and whales, are associated with marine or brackish environments in Alabama. Terrestrial to semiaquatic species include rabbits, squirrels, raccoons, otters, minks, nutria, and muskrats.

There are about 132 avian species associated with Alabama's saline and brackish areas. Of the 33 species having breeding populations in the Coastal Area, a breeding habitat ranging from bare sand beaches to dead tree trunks is a crucial and limited resource without which populations of these species may decline to the point of extinction. Undisturbed resting and feeding space is necessary to support the remainder of the species as wintering or migrant populations.

Turtles, snakes and alligators are the predominant reptiles of the Coastal Area. Five species of sea turtles probably occur in Alabama waters. Although frequently reported in the past, turtle nesting on Alabama beaches is now a rare occurrence due to the greatly increased human activity in these areas.

Many species of invertebrates occur in the Alabama Coastal Area. Other than the species of commercial importance such as the shrimp and oyster, knowledge of the vast assemblage of invertebrate species associated with Alabama's coastal waters and wetlands is limited. At least 15 species of foraminifera have been identified. These animals play an important role in the food chain.

Only 15 species of copepods have been identified from Mississippi Sound and 6 from Mobile Bay and the adjacent Gulf of Mexico. Important as early consumers in the food chain, additional data on copepods and other microcrustaceans and their role is needed.

Probably the most common decapods are shrimp and blue crabs. However, many other species are vital because of their role as food sources for fishes, birds, and mammals.

At least 78 species of mollusks are common in the Alabama Coastal Area including oysters, squids, clams, and conchs.

Limited extent and uniqueness of some habitats, coupled with destructive activities, has resulted in a number of rare and endangered species of plants and animals occurring in this area. Many of these species are designated under the Federal Endangered Species Act of 1973. According to the Steering Committee on Endangered and Threatened Species in Alabama, an approximate inventory of species designated by the State of Alabama as

Endangered, Threatened, or Species of Special Concern includes 30 species of plants, 9 fish, 21 species of reptiles and amphibians, 22 species of birds, and 9 species of mammals. Included are species which may not be permanent residents but are dependent in part upon coastal habitats. Table II-5 summarizes the current status of these species. Table II-6 includes a listing of endangered or threatened species which may be found in coastal Alabama that are under federal jurisdiction.

Perhaps, the most important issue concerning endangered species is their critical habitat requirement. Plants and animals are influenced to a great extent by the condition of their habitat. If their habitat is diminished or degraded, these animals may not be able to adapt, and they may become extinct. However, it must be recognized that certain actions which are not detrimental to critical habitat still may reduce the number or distribution of the species in question. Development pressure and the lack of site specific knowledge concerning the endangered species in the Coastal Area can threaten the delicate position of some of the endangered species.

The myriad communities of living organisms in estuarine and coastal systems are interrelated through a series of dependencies. The term "food web" best describes the complexity of systems where producers (plants) and lower organisms are usually fed upon by several animals.

If energy was passed along a single pathway from one trophic (energy) level to the next higher, cause and effect relationships and thus management of the living resources would be a simple matter. Primary production by wetland and submersed vegetation could be related directly to the production of commercial species. However, no animals of significant food or commercial value to man, except muskrats, nutrias, and some waterfowl, feed directly upon the vegetation within the system.

Plants occurring throughout the estuarine system comprise the base of the food web, converting energy from the sun into tissue available as an energy source to the other components of the food web. Plant productivity is available from marshes, swamps, submersed vegetation, algae, and phytoplankton in the water.

Only 10 percent or less of plant tissue produced is consumed by herbivorous animals, usually small insects, muskrats, nutrias, and ducks. The remainder is available through death, fragmentation, and decay as detritus. The creatures involved in the detritus-based food web are greater in numbers and vastly greater in biomass than those involved in direct consumption of the vegetation. Figure II-5 is a diagrammatic presentation of a generalized estuarine or coastal food web.

The structure of the food web varies greatly from season to season. In winter, most reproduction ceases and only a few aquatic invertebrates continue to breed. Many cold-blooded animals such as blue crabs cease feeding. Plant productivity is reduced during the colder months. However, warmer temperatures are accompanied by increased plant growth and animal activity, migration of birds and aquatic species into the Coastal Areas, and increased food demands of, and subsequent predation on, larval and juvenile forms.

Table II-5 Endangered and threatened species in coastal Alabama as designated by the State of Alabama

Common Name	Scientific Name	Status	Habitat
Fish:			
Alabama shad	Alosa alabama	Undetermined	B,C,D, (R)*
Blue sucker	Cycleptus elongatus	Threatened	D (R) *
Pygmy killifish	Leptolucania ommata	Special Concern	E (R) *
Least killifish	Heterandia formosa	Undetermined	E (R) *
Bluespotted sunfish	Enneacanthus gloriosus	Undetermined	D*
Atlantic sturgeon	Acipenser oxyrhynchus	Threatened	C,D*
Shovelnose sturgeon	Scaphirhynchus platorynchus	Endangered	D,E*
Crystal darter	Ammocrypta asprella	Threatened	D,E*
Freckled darter	Percina lenticula	Threatened	D, E*
Amphibians & Reptiles:			
Gulf saltmarsh water snake	Natrix fasciata clarkii	Undetermined	C,D*
American alligator	Alligator mississippiensis	Threatened	C,D*
Flatwoods salamander	Ambystoma cingulatum	Endangered	D *
Dusky gopher frog	Rana areolata sevosa	Threatened	D,E*
River frog	Rana hecksheri	Special Concern	C,D *
Florida softshell turtle	Trionyx ferox	Special Concern	D, E *
Florida green water snake	Natrix cyclopion floridana	Special Concern	C,D*
Pinewood snake	Rhadinaea lavilata	Special Concern	B,E *
Gopher tortoise	Gopherus polyphemus	Threatened	E *
Rainbow snake	Farancia erytrograma	Undetermined	C, D, E*
Black pine snake	Pituophis melanoleucus lodingi	Endangered	C,D, E *
Alabama red-bellied turtle	Pseudemys alabamensis	Threatened	D*
Mississippi diamondback terrapin	Malaclemys terrapin pileata	Undetermined	B, C, D*
Three-toes amphiuma	Amphiuma tridactylum	Undetermined	C, D, E *
Eastern Indigo Snake	Drymarchon corais couperi	Endangered	E*
Atlantic loggerhead turtle	Caretta caretta caretta	Endangered	A(R),B(R)(B)*
Green sea turtle	Chelonia mydas	Endangered	A, C(R) *
Atlantic hawskbill turtle	Eretmochelys imbricata imbricata	Endangered	A(R)*
Atlantic ridley	Lepidochelys kempi	Endangered	A, C(R)*
Leatherback sea turtle	Dermochelys coriacea	Threatened	A(R) *
Greater siren	Siren lacertina	Special Concern	D, E *

Table II-5 (continued)

Common Name	Scientific Name	Status	Habitat
Birds:			
Brown pelican	Pelecanus occidentalis	Endangered	A(C),B(C),C(U)*
Great white heron	Ardea occidentalis	Undetermined	B(R),C(R)*
Reddish egret	Dichromanassa refescens	Threatened	A(M), B(C)*
Mottled duck	Anas fulvigula	Threatened	B(R,B),C(R),D(R)*
Swallow-tailed kite	Elanoides forficatus	Special Concern	B(R),C(R),D(R)*
Sharp-shinned hawk	Accipiter striatus velox	Special Concern	B(U),C(R),D(R),E(R)*
Cooper's hawk	Accipiter cooperii	Special Concern	B(R),C(R),D(R),E(R)*
Golden eagle	Aquila chrysaetus canadensis	Endangered	E(R)*
Bald eagle	Haliaeetus leucocephalus	Endangered	A(M),B(R),C(R),D(R)*
Osprey	Pandion haliaeetus	Endangered	A(M),B(B,U),C(B,U)* D(U,B),E(U)*
American peregrine falcon	Falco peregrinus anatum	Endangered	A(M),B(R)*
Sandhill crane	Grus Canadensis	Special Concern	B(R)*
American oyster catcher	Haematopus palliatus	Special Concern	B(R,P,B),C(R,P,B)*
Snowy plover	Charadrius alexandrinus tenuirostris	Endangered	A(M),B(R,P,B)*
Red-cockaded woodpecker	Dendrocopos borealis tenuirostris	Endangered	B(R,P,B),E(R,P,B)*
Gray kingbird	Tyrannus dominicensis	Undetermined	B(U,B),C(U)*
Bewick's wren	Tyromanes bewickii	Special Concern	B(R),D(R),E(R)*
Little blue heron	Florida caerulea	Special Concern	C,D, *
Black crowned nite heron	Nycticorax nycticorax	Special Concern	B,C(B) *
Wood stork	Mycteria americana	Special Concern	D,E(M) *
Merlin	Falco columbarius	Special Concern	B(M) *
Black Rail	Laterallus jamaicensis	Special Concern	C(M) *
	Falco peregrinus tundris		
Mammals:			
Southeastern myotis	Myotis a. austroriparius	Special Concern	D,E *
Florida yellow bat	Lasiurus floridanus	Special Concern	D,E *
Marsh rabbit	Sylvilagus p. palustries	Special Concern	C,D *
White-fronted beach mouse (endemic)	Peromyscus polionotus ammobates	Endangered	B,E *
Perdido Bay beach mouse	Peromyscus polionotus trissyllepsis	Endangered	B,E *

Table II-5 (continued)

Common Name	Scientific Name	Status	Habitat
Mammals: Continued			
Hoary bat	Lasiurus c. cinearous	Undetermined	C,D,E *
Florida black bear	Ursus americana floridanus	Endangered	C,D,E *
Bayou gray squirrel	Sciurus carolinesis fuliginosus	Special Concern	C,D,E *
Florida Panther	Felis concolor coryi	Endangered	D(R)(B)*
Plants:	Rhynchospora crinipes	Endangered	D
	Lilium iridollae	Endangered	F
	Epidendrum conopseum	Endangered	D
	Ilex amelanchier	Endangered	F
	Psoralea simplex	Endangered	D
	Oenothera grandiflora	Endangered	D
	Canna flaccida	Threatened	D
	Cleistes divaricata	Threatened	F
	Xyris drummondii	Threatened	F
	Coreopsis gladiata	Threatened	F
	Hypericum nitidum	Threatened	F
	Ludwigia arcuata	Threatened	D
	Sageretia minutifolia	Threatened	B
	Sarracenia psittacina	Threatened	F
	Gordonia lasianthus	Threatened	D
	Momisia iguanea	Threatened	B
	Lycopodium cernuum	Special Concern	F
	Chamaecyparis thyoides	Special Concern	D
	Chamaecyparis thyoides var. henryae	Special Concern	D
	Erioculon lineare	Special Concern	D
	Eriocaulon texense	Special Concern	F
	Habenaria integra	Special Concern	D
	Clethra alnifolia var. alnifolia	Special Concern	D

Table II-5 (continued)

Common Name	Scientific Name	Status	Habitat
Plants - Continued			
	Kalmia hirsuta	Special Concern	F
	Eustoma exaltatum	Special Concern	C
	Sabatia foliosa	Special Concern	D
	Hypericum reductum	Special Concern	F
	Pinguicula plainfolia	Special Concern	F
	Agalinus pseudophylla	Special Concern	F

[1]
A-Marine
B-Barrier Island, Beach & Dunes
C-Estuarine & Marshland
D- Delta, River Swampland
E- Upland
F- Acid bags
(C)-Common
(U)- Uncommon
(R) - Rare
(M) - Migrant
(P) - Permanent Resident
(B) - Breeds in habitat

Source: Keeler, 1972; Boschung, 1976.

Table II-6 Endangered species in coastal Alabama as designated by the U.S. Department of the Interior or U.S. Department of Commerce

Common Name	Scientific Name	Status
Fish:		
Bluestripe shiner	Notropis callitaenia	Reviewing to determine status
Crystal darter	Ammocrypta asprella	Reviewing to determine status
Amphibians & Reptiles:		
Hawksbill turtle	Eretmochelys imbricata	Endangered
Leatherback turtle	Dermochelys coriacea	Endangered
American alligator	Alligator mississippiensis	Endangered
Brown pelican	Pelecanus occidentalis	Endangered
Red hills salamander	Phaeognathus hubrichti	Threatened
Green sea turtle	Chelonia mydas	Proposed as endangered
Loggerhead sea turtle	Caretta caretta	Proposed as endangered
Birds:		
Southern bald eagle	Haliaeetus leucocephalus leucocephalus	Endangered
American peregrine falcon	Falco peregrinus anatum	Endangered
Artic peregrine falcon	Falco peregrinus tundrius	Endangered
Eskimo curlew	Numenius borealis	Endangered
Ivory-billed woodpecker	Campephilus principalis	Endangered
Red-cockaded woodpecker	Dendrocopos borealis	Endangered
Bachman's warbler	Vermivora bachmanii	Endangered
Mammals:		
Florida panther	Felis concdorcoryi	Endangered
West India (Florida) manatee	Trichechus manatus	Endangered
Blue whale	Balaenoptera musculus	Endangered
Finbach whale	Balaenoptera physalus	Endangered
Sei whale	Balaenoptera borealis	Endangered
Humpback whale	Megaptera novaeangliae	Endangered
Right whale	Eubalaena ssp. (all species)	Endangered
Sperm whale	Physeter catodon	Endangered

Plants:
Presently, approximately 31 species of plants are listed as endangered and 47 additional plants are being reviewed for status determination.

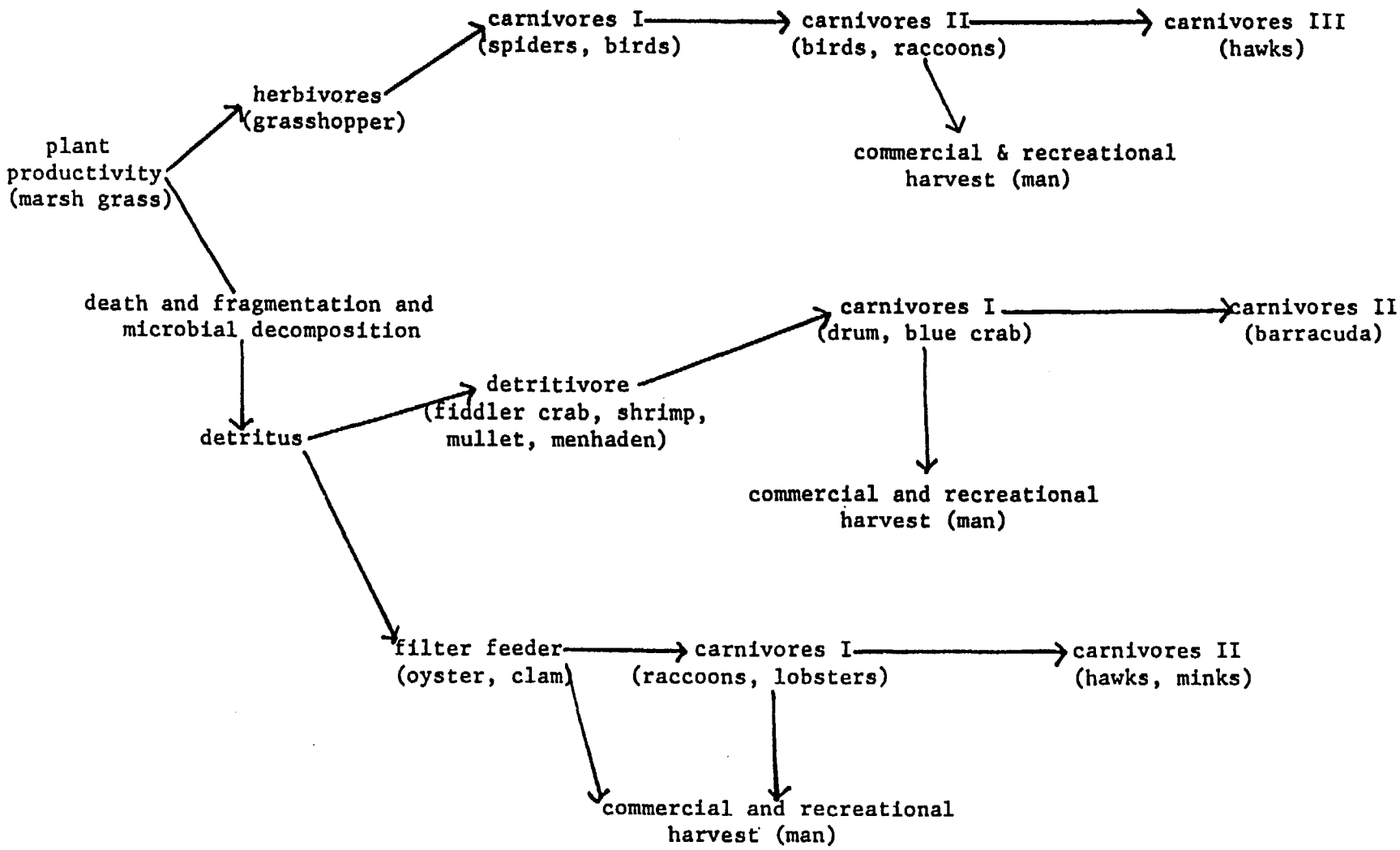


Figure II-5 **Generalized estuarine food web (with some typical examples at each trophic level)**

It is apparent that events which may disturb the energy flow at any point in the web may have far-reaching effects, not just at the specific level disturbed, but multiplying throughout the web. One must consider the entire biological spectrum in management planning and not only those species noteworthy because of their commercial, recreational or nuisance values.

F. Water Resources

The continued economic growth of the Alabama Coastal Area is dependent to a great extent on the availability of adequate supplies of fresh water for private, public and industrial consumers. Population in the Coastal Area is growing and is augmented by increasing numbers of tourists and retired persons. Fortunately, large quantities of surface and ground waters are presently available to meet those needs.

1. Ground and Surface Water Supplies

Surface water in the Mobile and Baldwin Counties area flows from three major drainage basins: Mobile River basin, Escatawpa River basin, and Perdido River basin. The surface water resources of the Coastal Area include streams, natural lakes, ponds, and reservoirs. On the average, over 43 billion gallons of surface water pass through the Coastal Area each day.

The principal sources of ground water in Mobile and Baldwin Counties are the Miocene-Pliocene and alluvial aquifers. An estimated 61,000 billion gallons of fresh water are stored in the Miocene-Pliocene aquifer. However, because of salt water intrusion, the volume of ground water stored above sea level represents the maximum exploitable supply, amounting to about 16,026 billion gallons. Coastal Alabama's alluvial aquifers store an additional 37 billion gallons.

The total sum of all exploitable surface and ground water is generally sufficient to meet the needs of coastal Alabama today. This supply, however, should be protected from activities which could pollute surface and ground waters.

2. Salt Water Intrusion

Salt water intrusion was experienced in Mobile during World War II as a result of excessive ground water withdrawals. Indications of salt water intrusion are presently seen in some wells on Dauphin Island and Gulf Shores, and in wells tapping the Miocene-Pliocene aquifer near the Mobile River upstream from Mobile (U.S. Army Corps of Engineers, 1955). Since further pumping of ground water for domestic and irrigation use is expected in the coastal zone, salt water intrusion could become a problem in some portions of the Alabama Coastal Area if overpumping occurs.

3. Deep Well Disposal

The disposal of liquid wastes in deep wells has been a method used for many years in Alabama and the nation. Presently, there are about 40 wells in Alabama used to dispose of brines produced as a result of oil production. Two of these wells are located in Baldwin County and eleven are in Mobile County.

In Baldwin and Mobile Counties, there are zones in the subsurface that are suitable for deep well disposal. It is essential that the zone into which the wastes are to be injected contains poor quality waters which cannot be used for any purpose. In addition, the disposal zone should be selected so that the waste is confined and cannot pollute fresh water supplies or other natural resources. Careful analysis of the geologic and hydrologic conditions of a proposed disposal zone must be made prior to the approval of a site. The careful selection or rejection of such sites fits into the overall water resource management needs of the Alabama Coastal Area.

G. Cultural Resources

The Alabama Coastal Area is rich in a variety of cultural resources, that is, those buildings, sites, objects, or other material significant in history, architecture, science, archaeology, or culture that may be of national, state, or local significance. It is estimated that at least 2,000 significant archaeological sites can be found in the Alabama Coastal Area, and many have been destroyed or allowed to deteriorate. At least 156 additional significant historic landmarks or sites have been identified in Mobile and Baldwin Counties. Seventeen sites located within the Coastal Area are included in the National Register of Historic Places. Fort Morgan and Mobile City Hall-City Market have been certified by the Secretary of the Interior to be of national importance and designated as National Historic Landmarks.

Mobile and Baldwin Counties' rich and varied past has certainly led to this myriad of cultural resources. These sites, which can easily fall to development pressures, are a valuable, non-renewable, and delicate resource.

CHAPTER THREE

POLICIES, OPERATIONAL RULES AND REGULATIONS, AND ACTION ITEMS OF THE ALABAMA COASTAL AREA BOARD

Coastal Alabama is an area of opportunity and high growth potential. Its plentiful natural and man-made resources offer an attraction for a variety of economic, social, recreational, and natural uses. The attractiveness of the Mobile SMSA as an industrial, tourist, and recreational area has brought with it competition for the finite coastal resources which are located in the area.

The coastal area with some 400,000 acres of bays and estuarine waters, 121,000 acres of wetlands, 130 identified species of birds, a commercial fishing catch with a final value estimated at $148 million, and a registration of over 23,300 recreational boats also has major industrial and municipal sources discharging over 170 million gallons per day of various waste products into coastal waters, a booming second-home construction business throughout the area's waterfront, a maintenance dredging requirement producing 7 million cubic yards of spoil material annually, the prospects of increased energy development (gas and oil), and the possibilities of additional growth related to the Tennessee-Tombigbee Waterway. As competition for resources becomes more intense, special efforts must be developed to resolve potential conflicts in order to allow an opportunity for fishermen to harvest the rich coastal fishery yields while industries use the water resources for process water, transportation and some waste assimilation and providing employment opportunities for local residents. A balance must be achieved which sustains economic development on the one hand and which protects natural resources on the other.

The coastal resource use and natural resource protection policies listed below are presented to form the basis for the decision-making process in the Coastal Area Management Program. Future activity in the Coastal Area will be evaluated by the Coastal Area Board for consistency with these policies. Certainly the Coastal Area Board encourages the enhancement of coastal resources, but feels that the best approach to coastal issues is to take the major step of maintaining present levels of coastal resources. Once this is accomplished, the Board can focus more attention on enhancing the Coastal Area.

After careful review of all coastal issues and development of its basic policies, the Coastal Area Board proposes to adopt the operational rules and regulations in Chapter Four, Section VII to implement the program and to undertake certain action items to address specific coastal issues that are inherent in the Coastal Area. The action items listed below are examples of activities that the Board proposes to consider during implementation of the Coastal Area Management Program. These and other action items will be undertaken within the technical and financial resources of the Coastal Area Board.

SECTION I. COASTAL RESOURCE USE POLICIES, OPERATIONAL RULES AND REGULATIONS AND ACTION ITEMS

A. Coastal Resource Use Policies

1. Coastal Development

The Alabama Coastal Area Board will encourage and support to the maximum extent practicable the continued development of the economic resources of the Coastal Area, including the port, industrial, energy and recreational resources, so that they may continue their full contribution to the economic well-being of all citizens, and development within coastal Alabama will be carried out in a manner which is consistent with the Board's policies for natural resources.

2. Mineral Resource Exploration and Extraction

It is the policy of the Alabama Coastal Area Board to encourage the extraction of mineral resources in coastal Alabama consistent with the water quality policies and natural resource policies of the Board.

3. Commercial Fishing

To encourage and promote the commercial fishing industry in coastal Alabama, it is the policy of the Coastal Area Board to maintain conditions that support present populations , and where feasible, to enhance marine species and to encourage conservation practices favoring increases of marine and estuarine species which will increase the potential yield of Alabama's coastal fisheries.

4. Hazard Management

Human activities within hazard management areas including flood and hurricane prone areas will be carried out in a manner which sustains the area's natural capability of absorbing the effects of flood and hurricane events, and development within these areas shall be designed, located, and constructed in a way that minimizes the possibility of property damage and human suffering resulting from hazard events.

5. Shoreline Erosion

It is the policy of the Coastal Area Board that the existing natural or man-made character of coastal shorelines shall be maintained in a manner to prevent the erosion of the Alabama coastline with primary emphasis on non-structural forms of erosion control, and where feasible, enhancement of the natural protective functions of the shoreline shall be encouraged.

6. Recreation

Public access to and use of existing recreational lands and waters, such as beaches, marinas, and fishing grounds, will be safeguarded, and the Coastal Area Board encourages the development of additional recreational opportunities to enhance the well-being of Alabama citizens as well as residents of other states.

7. Transportation

Recognizing the need for safe, convenient, rapid and economic access to, through and from Alabama's coastal lands and waters, the Coastal Area Board shall encourage and support the orderly growth of the area's transportation network provided this growth is consistent with the Board's policies regarding natural resources.

B. Coastal Resource Use Operational Rules and Regulations

Specific rules and regulations have been drafted by the Coastal Area Board to implement the coastal resources use policies above. The following coastal resource rules and regulations may be found in Section VII(C) of Chapter Four:

1. regulations for the siting, construction and operation of energy facilities;
2. regulations for dredge and filling;
3. regulations for shoreline erosion
4. regulations for public access;
5. regulations for natural hazards; and
6. regulations for solid waste disposal.

C. Coastal Resource Use Action Items

1. Economic Development

(a) The Coastal Area Board will, within its resources, provide technical and financial assistance to port development agencies to plan harbor facilities to meet future demand, to determine appropriate areas for disposal of dredged materials, and to promote the development of port facilities.

(b) The Coastal Area Board, within its means, will provide technical assistance and funding for special studies to meet Alabama's energy needs through the development of the energy resources of the Coastal Area consistent with the management program; by assisting appropriate agencies to devise an environmentally acceptable statewide energy plan; and by assessing site suitability as well as anticipating and managing impacts for planned energy facilities.

(c) The Coastal Area Board will coordinate with the Coastal Energy Impact Program to provide financial assistance so that local communities may accommodate energy-related development in a planned and environmentally responsible manner.

(d) The Coastal Area Board will work with all other involved agencies to make every attempt to coordinate and simplify the permitting process in the Coastal Area.

(e) The Coastal Area Board will work toward the establishment of a central location at the Coastal Area Board for obtaining information about permitting within the Coastal Area.

(f) The Coastal Area Board will coordinate with other involved agencies to assist in determining the environmental and social impacts that may result from the development of the Tennessee-Tombigbee Waterway.

(g) The Coastal Area Board will coordinate closely with other involved agencies in developing a coastal fisheries management program for coastal Alabama.

2. Shoreline Erosion

The Coastal Area Board will provide technical and financial assistance for special studies to assess the suitability of certain types of erosion control measures in specific areas; to educate the public regarding erosion-related matters; and to investigate methods to acquire specific areas within the Coastal Area that are subject to significant erosion.

3. Public Access

To meet anticipated demands for public access to valuable waterfront recreational areas the Coastal Area Board will identify methods and sources of funds to acquire and develop additional areas for public access; use appropriate programs and funds to acquire additional areas for public access; and investigate techniques for acquiring additional areas for public access.

4. Hazard Management

Where possible, the Coastal Area Board will provide technical assistance related to protection from floods, erosion and hurricanes and investigate the feasibility of acquiring title to lands within the Coastal Area that are prone to severe hurricane or flood damage.

SECTION II. NATURAL RESOURCE PROTECTION POLICIES, OPERATIONAL RULES AND REGULATIONS AND ACTION ITEMS

A. Natural Resource Protection Policies

1. Biological Productivity

It is the policy of the Coastal Area Board to maintain present levels of plants and animals within coastal Alabama; to enhance, where feasible, biological productivity; and to monitor directly these levels through regular sampling.

2. Water Quality

It is the general policy of the Coastal Area Board to maintain the coastal waters of the State at a quality which will support present levels of estuarine organisms, plants and animals and, where feasible, to enhance and restore water quality to support optimum levels of estuarine organisms, plants and animals.

3. Water Resources

Recognizing that the water resources of the Coastal Area are held in trust by the State of Alabama for the population of the State, it is the policy of the Alabama Coastal Area Board that these resources shall be managed to insure that sufficient quantities of clean water are available to meet present and future demands.

4. Air Quality

It is the policy of the Alabama Coastal Area Board to maintain air quality in coastal Alabama at a level which supports the health and well-being of Alabama's citizens and, where feasible, to enhance air quality.

5. Wetlands and Submersed Grassbeds

The quality and quantity of coastal wetlands and submersed grassbeds shall be maintained at the level necessary to provide for present levels of habitat for both terrestrial and aquatic life to play their pivotal role in the aquatic food web and to provide natural control for shoreline erosion and, where practicable, to enhance the quality and quantity of these wetlands and submersed grassbeds.

6. Beach and Dune Protection

Recognizing the natural value of beaches and dunes for erosion control, wildlife habitat, and recreational opportunities, it is the policy of the Alabama Coastal Area Board to maintain the natural integrity of the beach and dune systems and to restore and enhance these valuable resources where feasible.

7. Wildlife Habitat Protection

It is the policy of the Alabama Coastal Area Board to maintain areas of wildlife habitat sufficient to support present levels of terrestrial and aquatic life, including fish and shellfish, and to preserve endangered species of plants and animals and, where feasible, to provide for optimum levels of terrestrial and aquatic life.

8. Endangered Species

It is the policy of the Coastal Area Board to promote and encourage the preservation of the critical habitat of recognized endangered species.

9. Cultural Resource Protection

Because of the wealth of unique and representative archaeological and historic sites in coastal Alabama and their educational and cultural values, it is the policy of the Alabama Coastal Area Board to support preservation and protection of Alabama's cultural resources.

B. Natural Resource Protection Operational Rules and Regulations

Specific rules and regulations have been drafted by the Coastal Area Board to implement the natural resource protection policies above. The following natural resource rules and regulations may be found in Section VII (D) of Chapter Four:

1. regulations for water quality
2. regulations for wetlands and submersed grassbeds;
3. regulations for air quality;
4. regulations for beaches and dunes;
5. regulations for water resources;
6. regulations for protection of cultural resources;
7. regulations for fisheries management and;
8. regulations for wildlife and wildlife habitat.

C. Natural Resource Protection Action Items

1. Water Quality

(a) The Coastal Area Board will support all ongoing efforts of the Alabama Water Improvement Commission and the Environmental Protection Agency to monitor and control water quality problems throughout the Coastal Area especially in areas of conflicting use where the problem may be more severe.

(b) To develop the management information necessary to assess reasonably the impacts of coastal development on coastal waters, the Coastal Area Board will conduct special studies to establish a biological baseline of the Coastal Area including bottom characterization, determining present levels of animal species, and comprehensive inventories of wetlands and submersed grassbeds, as well as the chemical characterization of water quality.

2. Wetlands and Submersed Grassbeds

(a) Because of their important natural functions, the Coastal Area Board will provide financial and technical assistance within its means to study the vulnerability of and stresses placed upon these valuable areas. Based upon this information, the Coastal Area Board can propose reasonable safeguards for the preservation of these natural resources.

(b) As part of the biological baseline analysis of the Alabama Coastal Area, the Coastal Area Board will conduct special studies to determine the quality, quantity, and location of all wetlands and submersed grassbeds.

3. Beaches and Dunes

Because of their important role in erosion control and as a habitat for certain plant and animal species, the Coastal Area Board will conduct special studies to determine the extent and location of the beaches and their associated dune systems within the Coastal Area.

4. Cultural Resources

The Coastal Area Board will explore funding sources and assist in obtaining funds to acquire appropriate open space areas and investigate funding sources to identify, restore, preserve, and enhance valuable historic areas.

CHAPTER FOUR

ELEMENTS OF THE
COASTAL AREA MANAGEMENT PROGRAM

SECTION I. BOUNDARY

In the Regular 1976 Session, the Alabama Legislature passed Act 534 establishing the boundary of the Coastal Area subject to the Coastal Area Management Program in Alabama.

Section 3(a) defines Coastal Area as "the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder) strongly influenced by each and in proximity to the shorelines of Alabama, and includes transitional and intertidal areas, salt marshes, wetlands and beaches. The area extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters."

Section 6 of the Alabama Act fixes the inland boundary of the Coastal Area more specifically as the continuous 10-foot contour where the land surface elevation reaches 10 feet above mean sea level (Figure IV-1). The Coastal Area encompasses all land seaward of the 10-foot contour including the coastal islands.

Within this boundary, the Alabama Coastal Area Board is authorized to develop a coastal area management program setting forth objectives, policies and standards to guide public and private users of land and water. Although the management program will not directly regulate activities outside the Coastal Area, the authority of the Board within the Coastal Area is such that it may preclude from the Coastal Area those uses and effects of uses which have a direct and significant impact within the Coastal Area and which are inconsistent with the management program.

Inland Boundary

Following several public hearings in the Coastal Area at which various alternative inland boundaries of the Coastal Area were considered, ranging from mean sea level to the entireties of Mobile and Baldwin Counties, the Alabama Legislature adopted an inland boundary which permits the Board to manage those uses that may have a direct and significant impact upon coastal waters and which includes all geographic areas of particular concern (GAPC's). The specific limits of the inland boundary are as follows:

> "The inland boundaries of the Coastal Area subject to the management program are described as follows: Begin at the southernmost point on the Mississippi-Alabama State line where the land surface elevation reaches 10 feet above

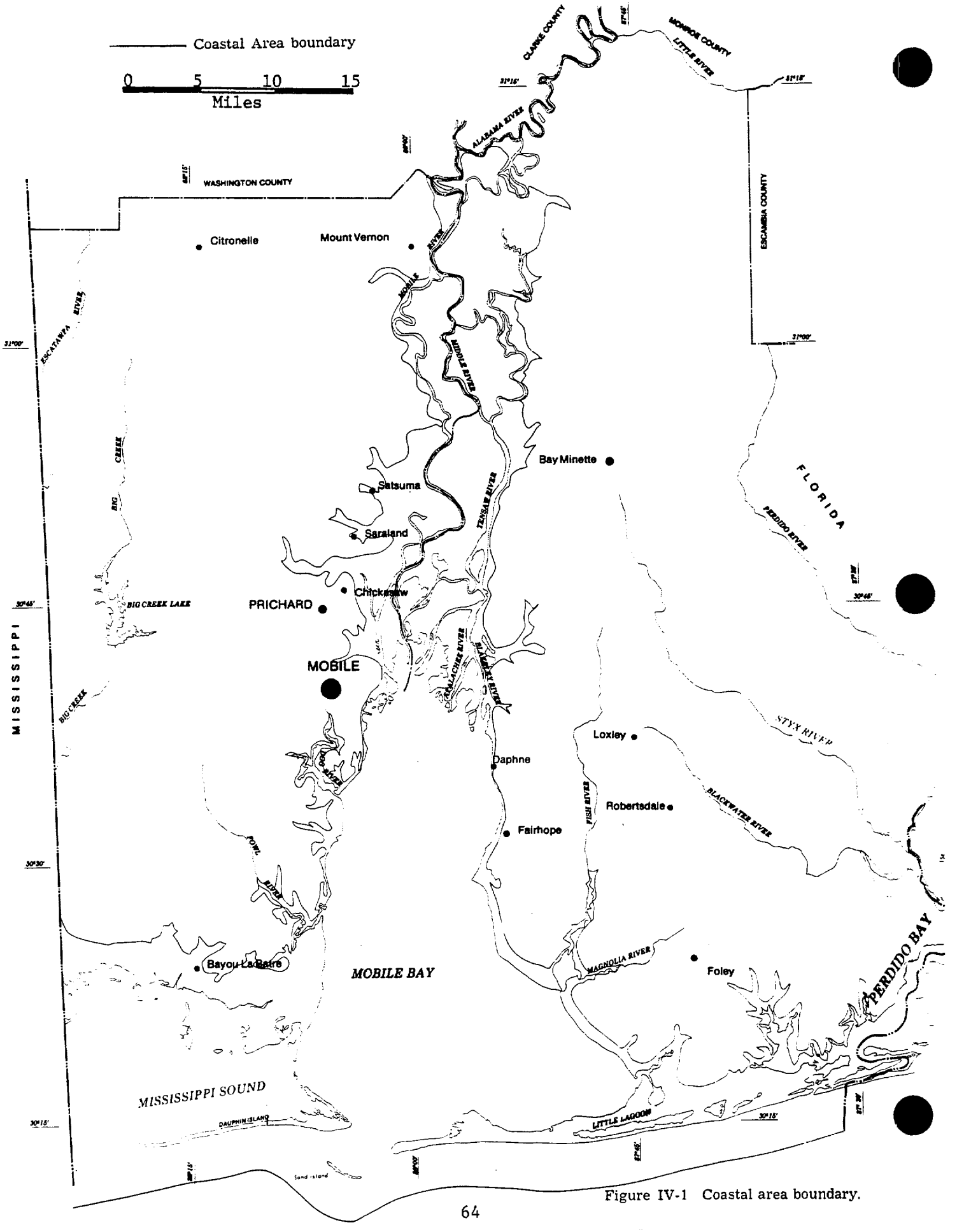


Figure IV-1 Coastal area boundary.

mean sea level and continue in a general easterly direction along the 10-foot contour to the proximity of Mobile Bay; continue in a northerly direction on the 10-foot contour along the western shore of Mobile Bay and the Mobile River delta to the north line of Mobile County; thence southeastward along the north line of Mobile County to the intersection with the Baldwin County lines in the Mobile River; thence along the west and north lines of Baldwin County in the Mobile and Alabama Rivers to the intersection of the southwest corner of Monroe County; thence eastward along the Baldwin County line to the intersection of the westernmost point of Baldwin County where the land surface altitude reaches 10 feet above mean sea level; thence along the 10-foot contour in a southwesterly and southern direction along the Alabama River, the Mobile River delta and the east shore of Mobile Bay to the proximity of Bon Secour; thence continue along the 10-foot contour in an easterly and northeasterly direction to the Alabama-Florida State line."

Lateral Boundaries

The eastern boundary of the Coastal Area is the Alabama-Florida state line. This lateral boundary continues due south to the outer limit of the United States territorial sea.

The western boundary of the Coastal Area is the Alabama-Mississippi state line. This lateral boundary extends due south from the point where the Mississippi-Alabama state line passes the barrier islands to the outer limit of the United States territorial sea.

Seaward Boundary

The seaward boundary, which is the outer limit of the territorial sea, runs parallel to the Alabama coast three miles southward from the land-sea interface of Mobile and Baldwin Counties.

Interstate Boundary

Legislation in Mississippi has been passed stating that the Coastal Area includes all of the three Coastal counties. However, this legislation must be ratified by the Boards of Supervisors in each county before it becomes law. As of this time, none of these Boards have ratified this legislation.

Florida's coastal boundary at the Alabama state line included the lands and waters seaward of Interstate 10 with the option for local governments to review and adjust the boundaries in their jurisdiction. Although coastal management legislation was introduced in the Florida Legislature, it failed to pass. At this time, the final determination of Florida's coastal management boundary is uncertain.

Excluded Federal Lands

In accordance with section 304(a) of the Coastal Zone Management Act of 1972,federal lands (all lands and types of land owned, leased, held in trust or otherwise solely used by federal agencies) within Alabama's Coastal Area are excluded from the Coastal Area boundary (Table IV-1). However,

any activities or projects which are conducted within these excluded lands that have a significant impact on the lands or water of Alabama's Coastal Area, are subject to the consistency provisions of Alabama's Coastal Area Management Program.

TABLE IV-1. Identified federally-owned lands within Alabama's coastal area

General Services Administration Old Federal Building	.8 acres
General Services Administration New Federal Building	.8 acres
Theodore Army Terminal (partially in coastal area)	43.3 acres
Department of Transportation Coast Guard-Dauphin Island Station	3.8 acres
Department of Transportation Coast Guard-Dauphin Island Housing	16.0 acres
Department of Health, Education, and Welfare Food and Drug Administration-Dauphin Island	4.0 acres
Department of Transportation Coast Guard-Sand Island Lighthouse	.2 acres
Department of Transportation Mobile Industrial Base	51.1 acres
Department of Transportation Mobile Point Rear Range Light	23.9 acres
Corps of Engineers Port Facility, Mobile District	.5 acres
Corps of Engineers Intracoastal Waterway - Mobile-Pensacola	22.4 acres
Department of the Interior	
Bureau of Land Management	
Baldwin T8S, R3E, Sec. 5, Fractional	13.96 acres
T9S, R1E, Sec. 25, Lot 24	.84 acres
T9S, R1E, Sec. 26, Lots 13 and 14	5.32 acres
T9S, R2E, Sec. 25, Lots 73 and 74	11.94 acres
T9S, R2E, Sec. 27, Lots 54 and 55	10.6 acres
Mobile T7S, R2W, Sec. 25, Lots 2, 3, 4, and 5	41.91 acres
TOTAL FEDERAL LAND	251.37 acres

SECTION II. MANAGEMENT AUTHORITY OF THE BOARD

The legislature of Alabama through the passage of Act 534 established the Alabama Coastal Area Board as an independent state agency with the charter to preserve, protect, develop, and where possible, to restore and enhance the natural, cultural, historic, aesthetic, commercial, industrial and recreational resources of the State's Coastal Area for this and succeeding generations.

A. Alabama Act

In order to carry out this broad charter, the legislature provided the Coastal Area Board with several powers.

1. Management Program

In section 6 of the Act, the Coastal Area Board is mandated to develop a comprehensive Coastal Area management program. In section 3(a) of the Act, the management program is defined to include, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the State in accordance with the provisions of the Act, setting forth objectives, policies and standards to guide public and private users of lands and waters in the Coastal Area.

Additional authority given to the Board in establishing the management program is the ability to determine "permissible land and water uses which have a direct and significant impact within the boundaries of the Coastal Area", Section 6(i), and to establish priorities of uses within the Coastal Area, Section 6(e). Particular areas in this context have the same meaning as Geographic Areas of Particular Concern.

2. Rules and Regulations

The Coastal Area Board under Section 7 of the Act is mandated to develop and promulgate, after notice and opportunity for full participation by relevant federal agencies, state agencies, local governments, regional organizations, port authorities and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the management program provided for in the Act.

3. Permits

The Board is given authority under Section 8 of the Act to review all uses which require a permit by state agencies for actions or activities which have a direct and significant impact on the Coastal Area for compliance with the management program. The Board will examine each proposed use in terms of the policies and standards of the management program and will work with the applicant and the state agency to secure compliance. Nevertheless, this section stipulates that no state agency shall "issue a permit for any activity or action within the boundaries of the Coastal Area until there has been a determination

by the Board that any permit issued by the above agencies will be in compliance with the management program of the Board."

Section 8(a) of the Act states that the Board will not issue duplicate permits for uses regulated by state agencies. However, the Board may issue permits for uses subject to management which are not regulated by state agencies. Section 11(a) of the Act states that the denial, suspension, revocation or issuance of a Board permit will be subject to appeal, along with other Board actions enumerated therein.

4. Acquisition of Real Property

The Coastal Area Board is authorized by Section 5(i) of the Act "to acquire fee simple and less than fee simple interest in land, water, and other property..." when necessary to achieve conformance with the management program.

This section gives the Board the authority to acquire property by the eminent domain procedure (providing that no property or interest therein may be taken without payment or full compensation and that no property which is already devoted to public use may be obtained by such power) and by other means such as purchase, gift, etc.

B. Coastal Zone Management Act of 1972

1. Federal Consistency

The Coastal Zone Management Act of 1972 (Title 16 U.S.C. Section 1456) conveys to the State of Alabama the authority to review federal projects, federal licenses and permits, OCS plans, and federal assistance for consistency with the approved management program under the provisions specified in Section 307 of the Act.

Sections 307 (c), (1), (2), (3) and (d) of the Coastal Zone Management Act state:

> (c) (1) Each federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.
>
> (2) Any federal agency which shall undertake any development project in the coastal zone of a state shall ensure that the project is, to the maximum extent practicable, consistent with the approved management programs.
>
> (3) ...any applicant for a required federal license or permit to conduct an activity affecting land or water uses in the coastal zone of the state shall provide in the

application... that the proposed activity complies with the state program and that such activity will be conducted in a manner consistent with the program.

(d) Federal agencies shall not approve proposed (financial assistance) projects that are inconsistent with a coastal state's management program.

The Coastal Area Board, as designated under Act 534, will determine whether the above federal activities, projects, permits, and assistance are consistent with the management program as provided by Section 307 of the Coastal Zone Management Act. The Board will take measures available under Section 307 of the federal act to insure that the actions of federal agencies are consistent with the Coastal Area Management Program.

SECTION III. USES SUBJECT TO MANAGEMENT

A. Uses with a Direct and Significant Impact on the Coastal Area

The Coastal Zone Management Act of 1972 and its 1976 amendments require that the Coastal Area Board set forth in general terms the uses that will be subject to the provisions of the coastal management program. As a general guide, Act 534 specifies that the management program manage those lands and water uses which are determined to have a direct and significant impact upon coastal waters. These land and water uses which are subject to management under the program will be reviewed by the Coastal Area Board either through an existing permitting program, or, in some limited cases, through a new permitting program. See Section V of this chapter for a detailed description of the review procedure to which these uses will be subject.

The definition of Direct and Significant Impact provides an operational framework within which to evaluate the inclusion or exclusion of particular uses within the management program.

Direct is defined herein as a causal relationship in which the consequence of an action or use exerts an impact upon the Coastal Area through an identifiable link or process.

Significant Impact is defined herein as the result of any activity which is likely to have a more than negligible effect on the Coastal Area or on coastal resources.

The following broad categories of uses are determined to have a direct and significant impact upon the Coastal Area:

- Uses which contribute to a waste discharge from point and nonpoint sources to the surface and ground waters of the Coastal Area (nonpoint sources in this context include leachate from solid waste disposal sites and septic tank fields as well as runoff from various types of land uses).

- Uses which contribute to the siltation and sedimentation of coastal waters.

- Uses which lead to the loss of significant quantities of usable water resources.

- Uses which alter water circulation patterns.

- Uses which significantly increase vulnerability to natural hazards.

- Uses which lead to shoreline erosion.

- Uses which alter or destroy wetlands, beaches and dunes, or plants and animals.

- Uses which cause the loss of or adversely affect archaeological or historical sites.

- Uses which affect air quality.

In order to provide additional guidance to persons undertaking uses within the Coastal Area, the following list of uses should be considered subject to the management program.

a. Port and harbor development, including facility construction, channel maintenance, and transportation facilities;

b. Industrial development, including siting, construction, operation, and transportation;

c. Dredging or filling;

d. Urban development, including the siting, construction and operation of residential, industrial, and government structures, and transportation facilities;

e. Energy development, including siting, construction, and operation of generating, processing and transmission facilities, pipeline facilities, and exploration for and production of oil and natural gas;

f. Mining activities, including surface, subsurface, and underground mining, geothermal energy, and mining oyster shells and sand;

g. Wastewater discharge, including point and non-point sources;

h. Solid waste disposal, and storage of raw materials;

i. Recreation developments, including construction and operation of public and private facilities and marinas;

j. Commercial fishing;

k. Air emissions; and

l. Any other uses which may have a direct and significant impact on the Coastal Area.

B. Uses of Regional Benefit

In Section 6(f) of the Act, it is directed that the management program give adequate consideration to the local, regional, state and national interest involved in the siting of facilities for the development, generation, transmission and distribution of energy, adequate transportation facilities and other public services necessary to meet requirements which are "other than local in nature."

This feature of the management program and the acompanying state policy are partially a response to requirements in the Federal Coastal Zone Management Act and its regulatory framework that this management program must identify what constitutes uses of regional benefit and what methods and authorities will assure that local land and water use regulations do not unreasonably restrict or exclude uses of regional benefit, 15 CFR Sections 923.13, 923.43.

Uses of a regional benefit and uses which are other than local in nature have the same meaning,i.e. uses which produce some benefit by providing services or other benefits to citizens of more than one unit of local government.

1. Uses of Regional Benefit:

(1) Regional or statewide recreational facilities;

(2) Major transportation facilities such as highways, ports, airports;

(3) Major energy transmission and generating facilities;

(4) Regional water and waste treatment facilities; and

(5) Regional solid waste disposal sites.

2. Authority to Prevent Unreasonable Restrictions

The Board has the authority, and the management program has developed the means to exercise the authority, to assure that local governments do not unreasonably restrict or exclude land and water uses of a regional benefit through their regulations. As explained in Section II, Management Authorities, the Board has the authority to determine permissible land and water uses which have a direct and significant impact within the boundaries of the Coastal Area.

Through the power of the Coastal Area Board to acquire land, the Board can assure that sites will be available for uses of regional benefit (Section 5(i) of Act 534), and a number of other public and semi-public agencies have the power under Alabama law to condemn or purchase land which could be used for uses of a regional benefit (Table IV-2).

In addition, the management program gives local government the option to have the codes, regulations, plans, or rules, under which local licenses or permits are issued, reviewed in advance by the Board for consistency with the management program. As a part of this review, the Board will require that the code, rule, regulation or plan not unreasonably restrict uses of a regional benefit. If the local mechanism is consistent and is enforced in that manner, the Board defers its review function to the local government. Nevertheless, ultimate authority to review these uses rests with the Board. If the local mechanism on its face or in its application unreasonably restricts or excludes uses of a regional benefit, the Board would work with the local government to assure that this feature was eliminated.

Table IV-2 - Agencies, corporations, persons, or units of government which have power of eminent domain which might be used to assure that sites will be available for uses of regional benefit.

	Alabama Code
(1) Regional or statewide recreational facilities	
State of Alabama, any county, any municipality	Section 18-1-1
Environmental improvement authorities	Section 9-6-8
County housing authorities	Section 24-1-67
Municipal housing authorities	Section 24-1-28
(2) Major transportation facilities	
State of Alabama, any county, any municipality	Section 18-1-1
Municipal airports	Section 4-4-6
State airports	Section 4-2-93
Dauphin Island Bridge Authority	Section 23-2-87
State Toll Bridge Authority	Section 23-2-47
Harbor and port authorities	Section 33-1-22
Highways	Section 23-1-45
Alabama Turnpike Authority	Section 23-2-9
Those corporations formed for the purpose of constructing, operating, or maintaining railroads, water companies, power companies terminals, bridges, viaducts, piers, telephone or telegraph lines, pipelines, or any other work of internal improvements or a public utility	Section 10-5-4
(3) Major energy transmission and generating facilities	
State of Alabama, any county, any municipality	Section 18-1-1
Those corporations formed for the purpose of constructing, operating, or maintaining railroads, water companies, power companies, terminals, bridges, viaducts, piers, telephone or telegraph lines, pipelines, or any other work of internal improvements or a public utility	Section 10-5-4
Erection of dams, mills, factories, etc. for the public use	Section 18-2-1--21
Mining, manufacturing,power,and quarrying corporations	Section 10-5-3
(4) Regional water and waste treatment facilities	
State of Alabama, any county, any municipality	Section 18-1-1
Watershed conservancy districts	Section 9-8-61
Water conservation and irrigation agencies	Section 9-10-34
Water management and drainage districts	Section 9-9-21
(5) Regional solid waste disposal sites	
State of Alabama, any county, any municipality	Section 18-1-1

C. Uses Not Subject to the Management Program

The following uses, which take place within the Coastal Area or which have an impact on it, will not be subject to the management program to the extent that they do not involve dredging, filling, new or additional discharge into coastal waters, or draining of wetlands:

1. All uses which do not have a direct and significant impact within the Coastal Area.

2. The accomplishment of emergency decrees of any duly appointed health officer of any county or municipality or the state acting to protect the public health and safety.

3. The conservation, repletion and research activities of the Marine Environmental Sciences Consortium, the Marine Resources Division of the Department of Conservation and Natural Resources, and the Mississippi-Alabama Sea Grant Consortium.

4. Activities of any mosquito control commission which is a political subdivision or agency of the State of Alabama.

5. Completion of any development not otherwise in violation of law for which a valid building permit based on appropriate zoning was issued prior to final approval of the rules and regulations pursuant to this act and which development was initiated prior to such approval.

6. The exercise of riparian rights by the owner of the riparian rights, provided that the construction and maintenance of piers, boathouses and similar structures are constructed on pilings that permit a reasonably unobstructed ebb and flow of the tide.

7. The normal maintenance and repair of bulkheads, piers, roads, and highways existing on the date of final approval of the management program pursuant to the Act.

8. The use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling.

9. Normal maintenance and repair activities of railroads and of utilities or other persons engaged in transportation, or in telephone communication service, or in the distribution or transmission of gas, electricity,or water, or the collection

of sewage including inspecting, maintaining, repairing, or renewing on private or public rights of way any sewers, mains, conduits, pipes, cables, utility tunnels, power lines, towers, poles, tracks, bridges, trestles, and drainage facilities or the like, or making service connections thereto, or inspecting, maintaining, repairing, or renewing any substation, pumping or lifting facility.

10. The use of any land for the purpose of planting, growing, or harvesting plants, crops, trees, or other agricultural or forestry products, including normal private road construction, raising livestock or poultry, or for other agricultural purposes.

The listing included above of uses which are not subject to the coverage of the management program are obtained from the list of Permissible Uses in Section 4 of the Act, where the Legislature indicates its intent that those uses be permitted within the management area. Despite their inclusion in the list of excluded uses, they are brought under the jurisdiction of the management program if they involve dredging, filling, new or additional discharge into coastal waters, or draining of wetlands.

SECTION IV. SPECIAL MANAGEMENT AREAS

Within the Coastal Area of Alabama, there are specific areas which might require attention beyond the general provisions of the Coastal Area Management Program--special management areas. There are two types of special management areas: geographic areas of particular concern (GAPC) and areas for preservation and restoration (APR).

A. Geographic Areas of Particular Concern (GAPC)

Within coastal Alabama certain areas have been determined to be of particular concern because of their coastal-related values or characteristics or because they may face special pressures. These areas deserve special attention because of their uniqueness and importance to the Coastal Area. They require additional analysis and evaluation because of the complex issues related to these areas. By designating these areas as GAPC's, the Coastal Area Board can work with other agencies as well as within its own resources to make these areas a focus for planning and studies to help ease the stress which might be placed on these areas by the expected growth in coastal Alabama.

1. Criteria for GAPC Designation

Based on guidelines established by the National Oceanic and Atmospheric Administration, the Coastal Area Board has developed the following categories to be used as a basis for GAPC nominations:

a. Important Natural Areas - These are areas of unique, fragile, scarce, or vulnerable natural habitat; areas of high natural productivity or essential habitat for living resources, including fish and wildlife, as well as the various trophic levels in the food web critical to the well-being of fish and wildlife.

b. Culturally Valuable Areas - These are Coastal Areas of cultural value, historical significance, and scenic importance.

c. Recreation Areas - These are areas of urban concentration where shoreline and water uses are highly competitive.

d. High Density Areas - These are areas of urban concentration where shoreline and water uses are highly competitive.

e. Significant Commercial and Industrial Areas - These are areas of unique or topographic significance to industrial or commercial development.

f. Natural Hazard Areas - These are Coastal Areas that are vulnerable to hazards such as storms, hurricanes, floods, erosion or land settlement.

g. Natural Protection Areas - These are areas needed to protect, maintain or replenish coastal lands or resources.

After consultation with various agencies and individuals, extensive review of the entire Coastal Area, careful consideration of all coastal resources, and analysis of many alternatives for GAPC designation, the Port of Mobile and the Mobile-Tensaw River Delta have been identified as geographic areas of particular concern.

For each GAPC presented, there appears a description of the area, generalized map of the area, summary of the concern or significance of the area, and a listing of use priorities. Priorities of use have been established to provide general guidance in determining the uses in each separate GAPC. Categories of uses which are not mentioned on each list of priority uses are not necessarily excluded from the GAPC; rather, they will be considered to have a lower priority to be conducted in that particular GAPC. Those categories of uses which are specifically prohibited are intended to be excluded from the GAPC. Although a priority of use may be listed under a particular GAPC, there may be special instances where the Board may not authorize such a use to occur. Upon request, the Board will advise interested persons, based on information available to the Board, whether a parcel is located within a designated GAPC. This decision will be based on the location of the parcel and the category of coastal resources it contains.

2. Designated GAPC's

a. Port of Mobile

(1) Description - The Port of Mobile includes the urban waterfront of the Theodore Industrial complex and the urban waterfront of the City of Mobile from Brookley Industrial Area to the confluence of the Mobile River and Three-Mile Creek including Pinto Island, McDuffie Island, and Blakeley Island (Figure IV-2). Within these north and south boundaries, the Port of Mobile extends inland to include all local operational facilities relevant to the operation of the port. The port, which is the third largest on the Gulf Coast, is served by an excellent network of transportation facilities. Interstate 10 and three railroads provide direct access throughout the Southeast. A 40-foot deep navigation channel provides water access from the port, through Mobile Bay, to the Gulf of Mexico.

The Alabama State Docks System, which is the largest component of the port, includes about 2,500 acres in five separate locations. More than 35 million tons of carge passed through the entire port in 1976. More than half of this total was handled by the State Docks.

(2) Concern or Significance - The Port of Mobile is very important to the economic stability of coastal Alabama and the entire state. In 1977 the State Docks generated operating revenues in excess of $27 million with a net profit of $4.5 million, almost double the net profit of the previous year.

A tremendous increase in port activity is expected in the near future because of industrial and energy development and especially the completion of the Tennessee-Tombigbee Waterway. The Port of Mobile will be the opening to the open sea for a large portion of cargo transported along this waterway.

A challenge certainly faces the port in order for it to reach its economic potential and still not destroy the coastal resources that are so vital to the character of the area. The port is directly dependent upon adequate facilities and navigation channels, necessitating channel construction and maintenance and disposal of dredge spoils. It is an area of urban concentration where shoreline and water uses are highly competitive.

The designation of the Port of Mobile as a GAPC highlights the importance of the Port of Mobile to the economic stability of the Coastal Area and

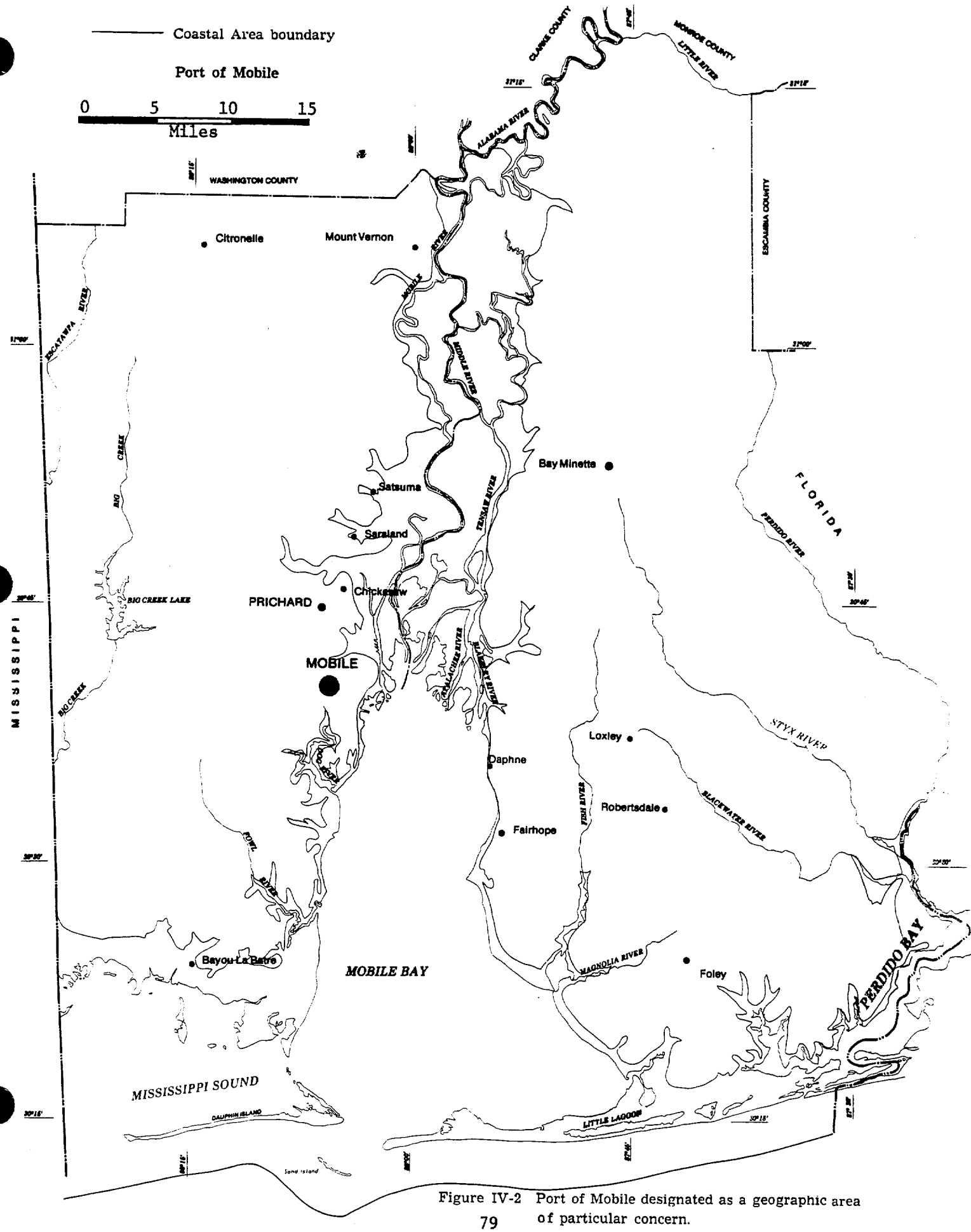


Figure IV-2 Port of Mobile designated as a geographic area of particular concern.

the State. The Coastal Area Board will work within its own means to provide financial and technical assistance in developing programs to meet the demands on the Port of Mobile in coming years.

(3) Use Priorities - The following priorities of uses established for the Port of Mobile are listed from highest priority to lowest priority. Notwithstanding the use priorities described below, the Operational Rules and Regulations of the Coastal Area Board will apply to all uses undertaken within each GAPC.

(a) Uses that are water-dependent and improve or promote port operations and development.

(b) Uses that are water-related and improve or promote port activities.

(c) Uses that are not water-dependent nor water-related but improve and promote port activities.

Discouraged: Uses that significantly degrade or interfere with port operations.

b. Mobile-Tensaw River Delta

(1) Description - The Mobile-Tensaw River Delta extends from the confluence of the Tombigbee and Alabama Rivers to the delta-front deposits near the U.S. Highway 90 Causeway and the Interstate 10 Bayway. The delta opens into the northern end of Mobile Bay through the Mobile, Tensaw, Apalachee, and Blakeley Rivers (Figure IV-3).

Although figures vary according to different sources, the 289 square miles within the delta are estimated to be composed of 20,323 acres of open water; 10,450 acres, fresh-mixed marsh; 69,348 acres, swamp; and 84,839 acres, mixed bottomland forest. The shoreline of the delta from the mouth of the Mobile River upstream to the Mobile-Washington County line is the location of many industries. A portion of this length, from the mouth of the Mobile River to Chickasaw Creek, is heavily industrialized. The causeway is lined with numerous small commercial businesses, but the remainder of the delta remains essentially undeveloped. The delta provides recreational opportunities for many citizens, mainly hunting and fishing. Some lumbering activities also occur in this area.

(2) Concern or Significance - The delta is a very complex ecosystem which encompasses a rich, productive natural area as well as extensive and diverse wildlife and fishing habitats. The delta represents one of Alabama's most naturally preserved areas and has been placed on the National Register of Natural Landmarks.

The delta is not completely understood in terms of its vulnerability to urban stress. During the coming years it is anticipated that these stresses will become more intense with the expected growth of the area.

The major concern regarding the delta is the potential preemption of wildlife habitat and destruction of wetlands by various types of development. In view of the potential for increased activity in the delta associated with the completion of the Tennessee-Tombigbee Waterway, the need for properly managing this area through reasonable safeguards will become more acute.

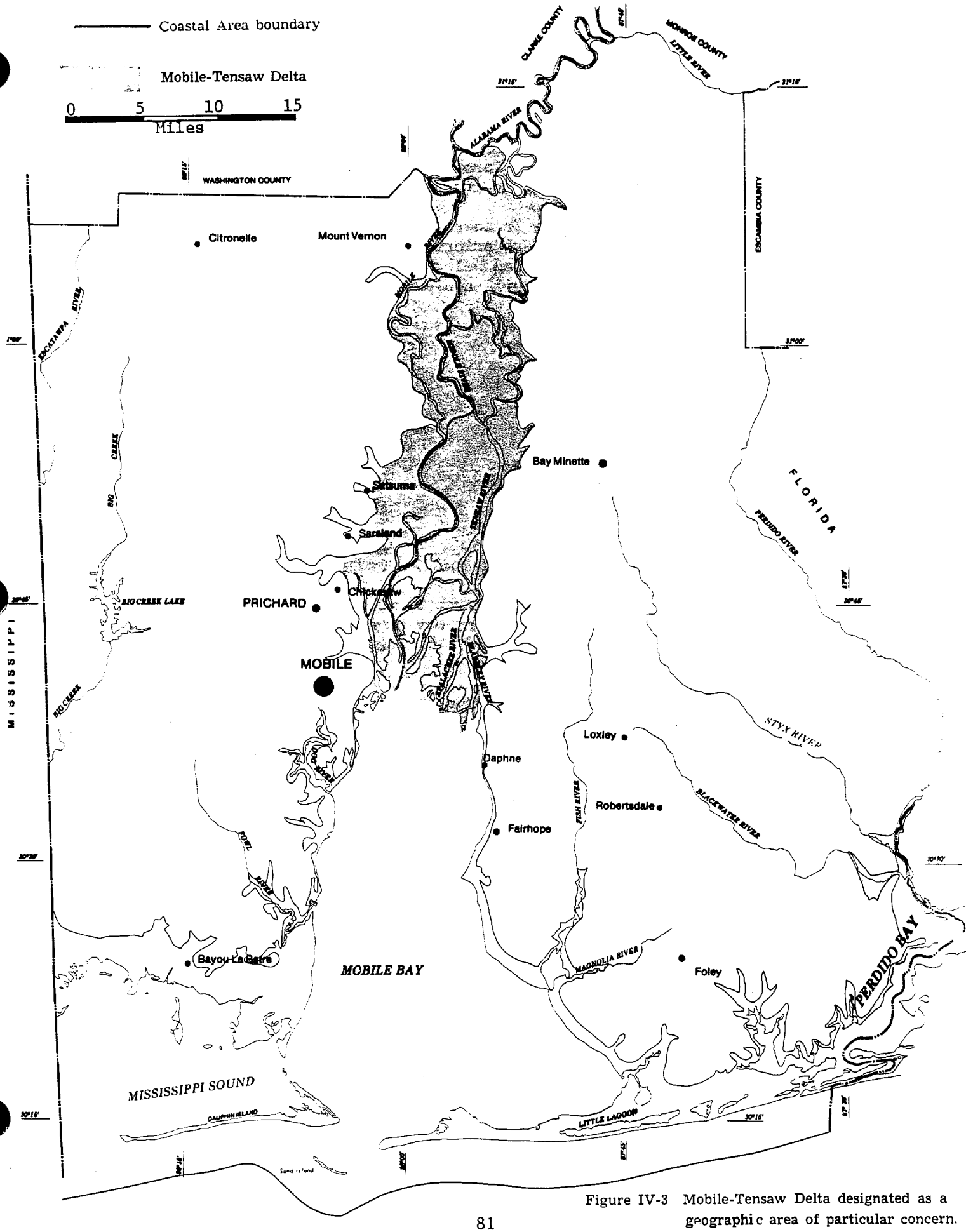


Figure IV-3 Mobile-Tensaw Delta designated as a geographic area of particular concern.

Designation of the Mobile-Tensaw River Delta as a GAPC accentuates its importance to the Coastal Area. The Coastal Area Board will cooperate with other agencies and groups to provide special assistance, both technical and financial, to cope with the stress on this area. Through these special studies a method can be developed to protect these wetlands and wildlife habitats and yet provide for economic growth of the Coastal Area.

(3) Use Priorities - The following use priorities for the Mobile-Tensaw Delta are listed from highest priority to lowest priority. Notwithstanding the use priorities described below, the Operational Rules and Regulations of the Coastal Area Board will apply to all uses undertaken within each GAPC.

(a) Uses that preserve, enhance, or protect the natural function of tidal and freshwater wetlands located in the delta.

(b) Uses that are water-dependent and maintain the wetlands in the delta at a level necessary to provide present natural functions.

(c) Uses of public or private need that maintain the deltaic wetlands at a level necessary to provide natural functions.

Discouraged: Uses that degrade the integrity and natural functions of the wetlands in the delta beyond present levels.

3. Procedure for Designating GAPC's

Alabama Act 534 gives the Coastal Area Board the authority to designate an area as a GAPC. The GAPC designations may be generic or site specific, and the procedure of designation of GAPC's is set forth in Section VIII, Administrative Rules and Regulations.

B. Areas for Preservation and Restoration (APR)

The second type of special management area, areas for preservation and restoration, have been singled out based on criteria that they have very special conservational, recreational or ecological values. An APR designation indicates an area that deserves special regulatory emphasis in order to preserve the area in its natural state. As such, all uses that degrade an APR shall be discouraged.

As the Coastal Area becomes more urbanized, the need for preserving certain natural areas becomes increasingly important. Through APR designation, the Coastal Area Board will help to preserve these areas for future generations of Alabamians by providing financial assistance to maintain these areas in their natural state and technical assistance to cope with the many factors which could threaten these areas.

Two natural areas in coastal Alabama are presented for APR designation: Point aux Pins wetland system and the National Audubon Society Wildlife Sanctuary (Figure IV-4).

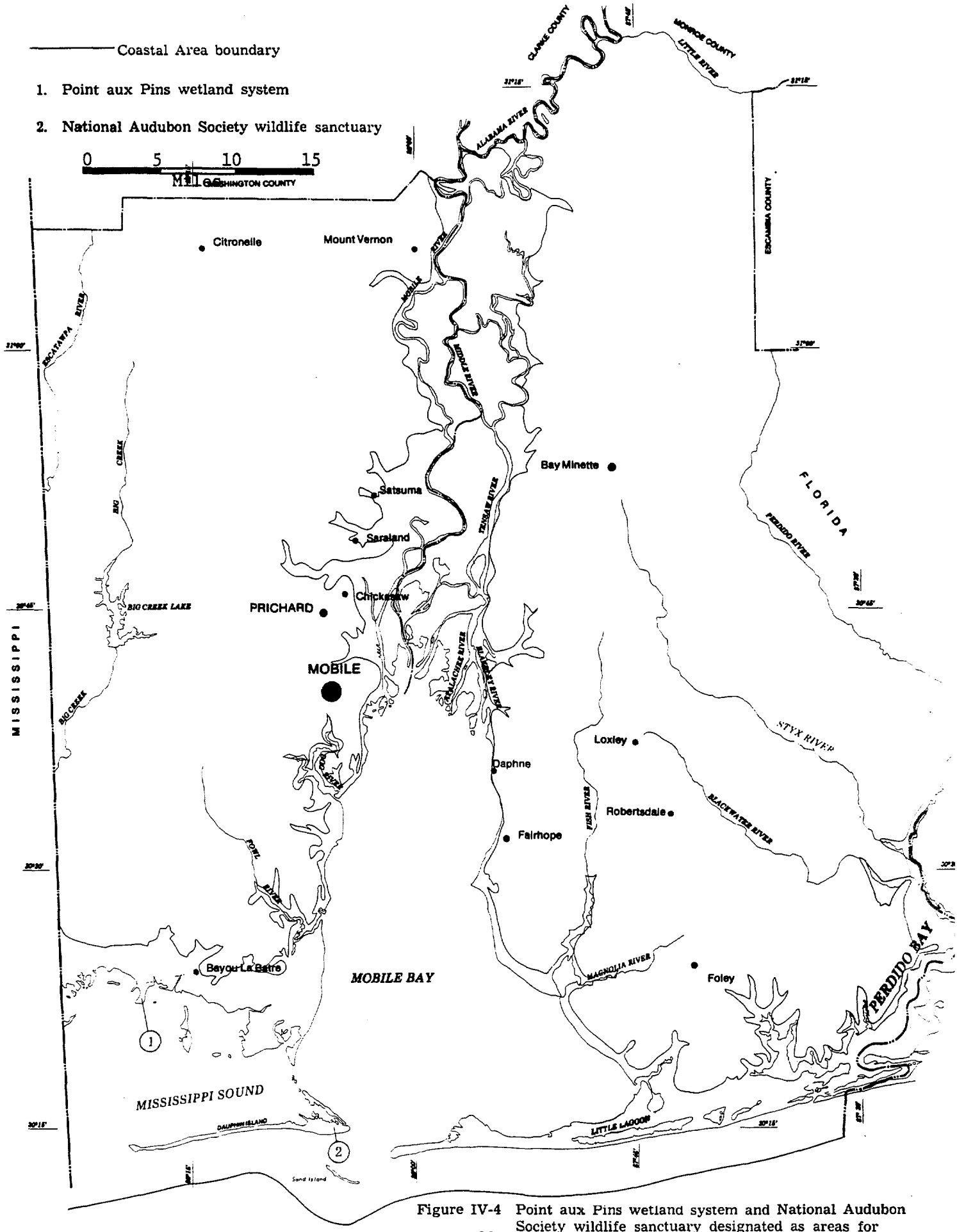


Figure IV-4 Point aux Pins wetland system and National Audubon Society wildlife sanctuary designated as areas for preservation and restoration.

1. Designated APR's

a. Point aux Pins wetland system - Probably the most pristine marsh/ estuary remaining in the Alabama Coastal Area, the Point aux Pins area is an ideal location for coastal research. This area, located between Grand Bay and Portersville Bay, owned by the Board of Trustees of the University of Alabama, a corporation, for its divisions the University of Alabama in Birmingham and the University of Alabama, University, is operated by those two divisions as a research station and wildlife refuge. To establish baseline conditions for undisturbed Alabama marshland, this area is continually studied by researchers of the Marine Environmental Sciences Consortium and other institutions. Adding to its educational value, this area serves as a habitat for many diverse plant and animal species. Because of its natural significance, the Point aux Pins area shall be preserved in its natural state. All activities which would degrade the natural state of this area shall be prohibited.

b. National Audubon Society Wildlife Sanctuary - Located on the eastern portion of Dauphin Island, this 159 acres has been preserved in its natural state. This area is owned by Mobile County and leased to the National Audubon Society for $500 per year. The costs for any improvements to the sanctuary are provided by private contributions. With the current inflation spiral, it becomes increasingly costly to maintain the area as a sanctuary.

Besides providing a resting place for many species of migratory birds, the area serves as a habitat for many terrestrial and semi-aquatic species. Many individuals visit this sanctuary for varying reasons. It is a place to observe nature in its natural state, thereby contributing to the quality of life and general well-being of all citizens.

By designation of this area as an APR, all activities which alter the natural state of this area shall be prohibited. The Coastal Area Board will work within its own means with other agencies and groups to preserve this area in its natural state.

2. Procedures for Designating APR's

The procedure for designating an area as an APR is identical to the procedure for designating an area as a GAPC as set forth in Section VIII of Chapter Four, Administrative Rules and Regulations.

V. REVIEW PROCEDURE

A. Introduction

This section describes the procedure which the Board will follow when reviewing uses that are subject to the management program. The review process presented here may be modified based on memoranda of agreement which are agreed to by the Coastal Area Board and another agency whose permits are subject to Board review. It is the intention of the Coastal Area Board to avoid the duplication of permitting efforts by the state and federal agencies in the Coastal Area. With a small staff, the CAB does not intend to duplicate the technical efforts of the existing permitting agencies. The Board will review uses that are subject to the management program concurrently with the permitting agency's review in order to expedite the approval process.

The Board fully supports the "one-stop" permit concept and will continue to work for such a procedure. The first step toward the establishment of a permit clearinghouse for the Coastal Area has been taken by the CAB. A contract has been signed with the Mississippi/Alabama Sea Grant Consortium to develop the information necessary to establish a permit information center at the CAB office. Persons wishing to develop property in the Coastal Area will be able to come to the Coastal Area Board office, obtain copies of permit applications, and obtain assistance in properly filling out the forms required by other agencies. This service will be available to anyone who wishes to conduct an activity within the Coastal Area. Uses subject to the management program are divided into two categories for purposes of the Board review process (Figure IV-5):

1. Regulated Uses -- those uses which have a direct and significant impact on the coastal area and which require a state permit or which are required by federal law to be consistent with the management program.

   Regulated uses in turn are subdivided into two categories for the review procedure:
   a. State - All uses which have a direct and significant impact within the Coastal Area and which are required by law to obtain a permit from a state agency.
   b. Federal - All uses which have a direct and significant impact on the Coastal Area and which are required by federal law to be consistent with the management program.

2. Non-Regulated Uses -- those uses which have a direct and significant impact on the Coastal Area and which do not require a state permit or which are not required by federal law to be consistent with the management program.

In addition to review of applications submitted to the Board, the Board may, on its own initiative or in response to information given to it, investigate an ongoing or proposed use within the Coastal Area in order to determine whether such use is subject to the Management Program. If it is determined that the use is subject to the Management Program, the person conducting or proposing the use shall be requested to submit the use for Board review and to cease or postpone the use pending this review. If the Board is unsuccessful in getting voluntary cooperation from the person involved, the Board shall seek remedies as described in Section VI, Monitoring and Enforcement.

With reference to all uses subject to management the purpose of the procedure which is set out below is for the Board to make a compliance, consistency, or permit decision. A compliance, consistency, or permit decision is a determination by the Board of whether a use is consistent with the overall policies and purposes of the Management Program and whether it complies with all relevant rules and regulations.

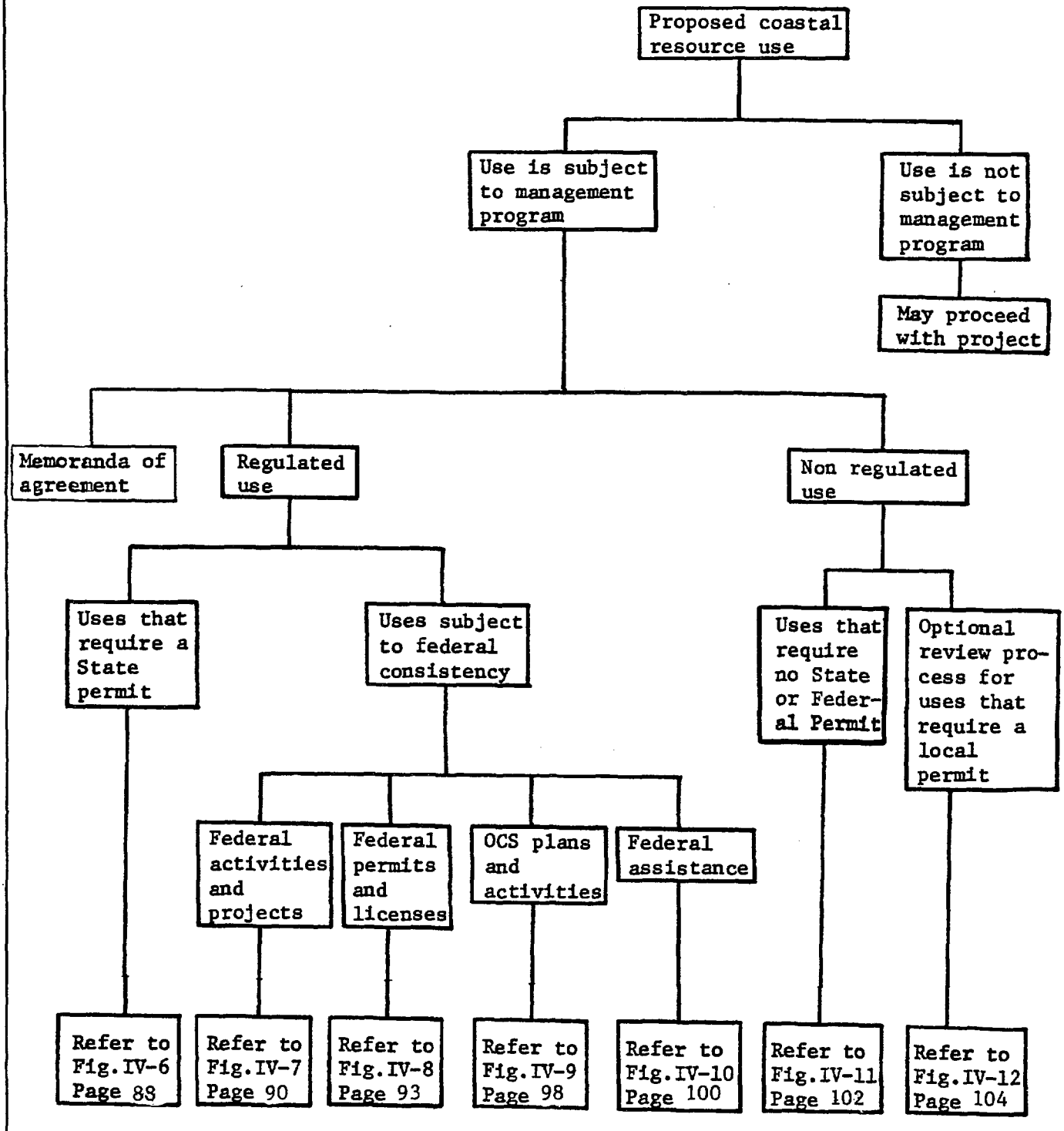


Figure IV-5 Applicability of coastal area management program

A Board decision may take any of the following forms:

1. Review of state agency permits -- issuance or denial of a Certificate of Compliance;

2. Review of federal projects and activities -- concurrence with or objection to agency's Determination of Consistency;

3. Review of federal permits -- concurrence with or objection to applicant's Certificate of Consistency;

4. Outer Continental Shelf Lands Plans -- concurrence with or objection to person's Certificate of Consistency;

5. Federal assistance to local government -- issuance or denial of Certificate of Consistency;

6. Non regulated uses -- issuance or denial of permit;

7. Local permitting programs -- approval or disapproval of local permitting program.

B. Review of State Agency Permits

1. General

No State agency shall issue a permit for a use having a direct and significant impact within the Coastal Area unless, in accordance with the procedure set out in this chapter (Figure IV-6);

a. The Board issues Certificate of Compliance, or
b. The Board determines that the use is not subject to the management program.

2. Procedure for Board Review

Within ten days of receipt of a permit application for a use subject to management, the state agency shall send to the Board an informational copy of the application along with any supporting documents submitted by the applicant. Upon receipt of the application copy, the Board shall begin its review process and shall initiate interagency coordination.

If at any time during the review process the Board determines that the use is not subject to the management program, the applicant and the State agency will be so notified as soon as practicable, and the Board will no longer review the application.

As early as possible in the review process, the Board will attempt to make known to the permitting agency the information needed to complete the review. The agency should facilitate this process by making known to the Board as early as possible the results of its own investigations of the potential or actual impact of the use on the Coastal Area.

After completion of its analysis, the state agency will notify the Coastal Area Board that the permit applicant has completed the steps necessary for permit issuance and that the agency is prepared to issue the permit upon Board concurrence, and that the agency will condition permit issuance upon compliance with the management program and any special limitations placed upon the permit by the Board.

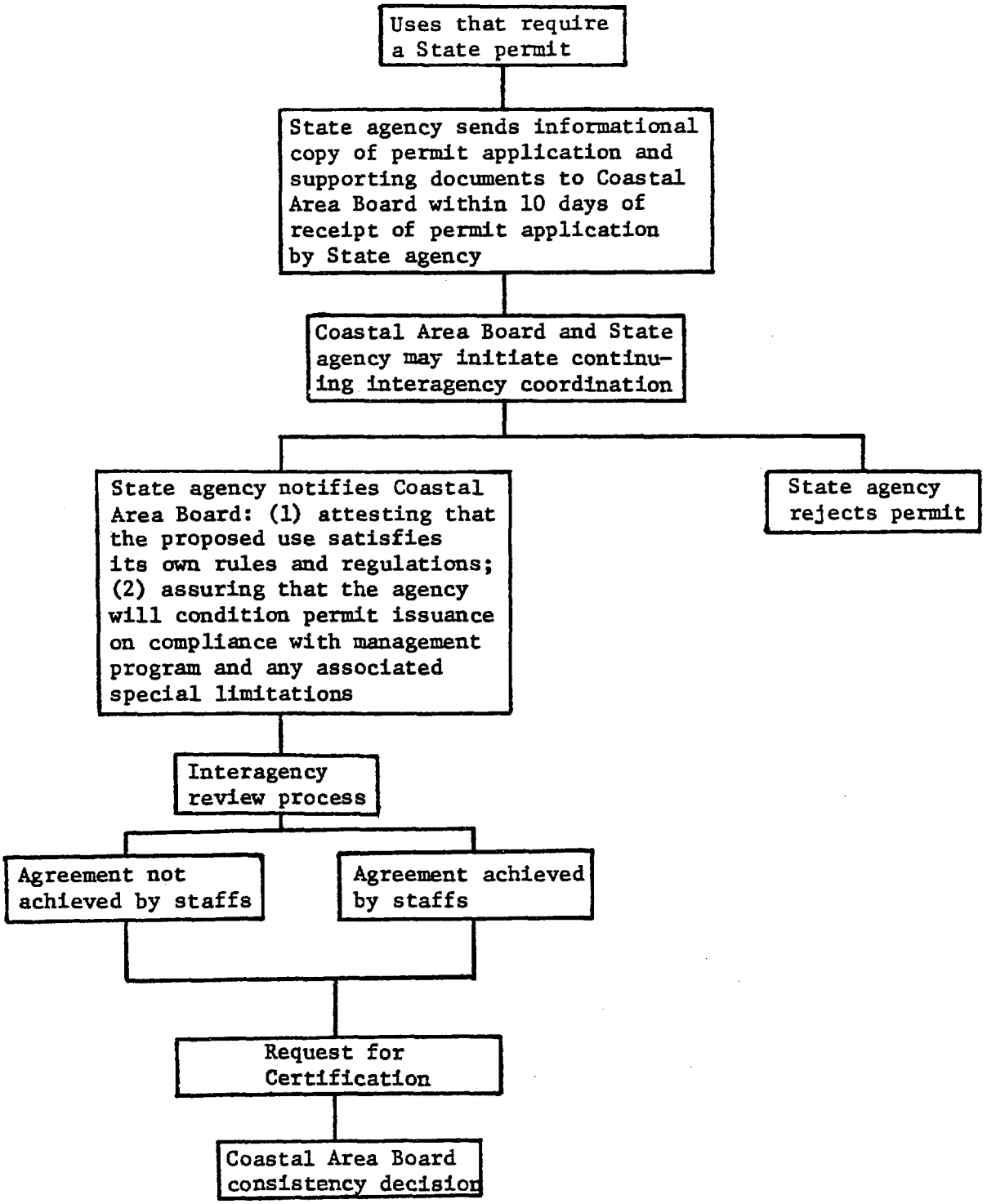


Figure IV-6 Review of State agency permits

Following receipt of this notification, the Interagency Review Process will be initiated. The staffs of the agency and the Board will meet, where necessary, to discuss and review the proposed project. Following this meeting or series of meetings, the agency may send a written Request for a Certification from the Coastal Area Board.

Within 45 days of receipt of the request for a certification, the Board will do one of the following:

a. Issue Certificate of Compliance
b. Deny Certificate of Compliance

If the Board denies a Certificate of Compliance the reasons and supporting details for the denial will be provided to the applicant and to the State agency, along with any alternative means to conduct the use in compliance with the management program. The Board may deny certification on the grounds that the agency has not furnished the Board with sufficient information to make an adequately informed decision, in which case the agency will be notified of the specific information needed. But in no event shall lack of information be a ground for denial unless the Board requested the information prior to the Request for Certification.

The Board will work with state agencies to develop memoranda of agreement where appropriate to facilitate the permitting of regulated uses within the Coastal Area.

C. Federal Consistency

The following discussions of federal consistency are intended to provide guidance to interested parties concerning the process that will be followed in implementing the federal consistency regulations,15 CFR Part 930, adopted by OCZM pursuant to the Coastal Zone Management Act of 1972. In no case will the following descriptions relieve any person of the obligation of meeting the requirements of the federal consistency regulations.

1. Review of Federal Projects and Activities

Pursuant to 15 CFR 930, Part 930, Subpart C, federal agencies conducting or supporting uses directly affecting the Coastal Area are required to conduct or support those uses in a manner which is, to the maximum extent practicable, consistent with the Management Program. In order to exercise its authority under these sections, the Board shall review for consistency all federal activities and development projects (Table IV-3) which have a direct impact within the Coastal Area (Figure IV-7) pursuant to provisions of Section 307 of the federal act.

As early as practicable, the federal agency should notify the Board of a proposed or ongoing federal project or activity which is subject to

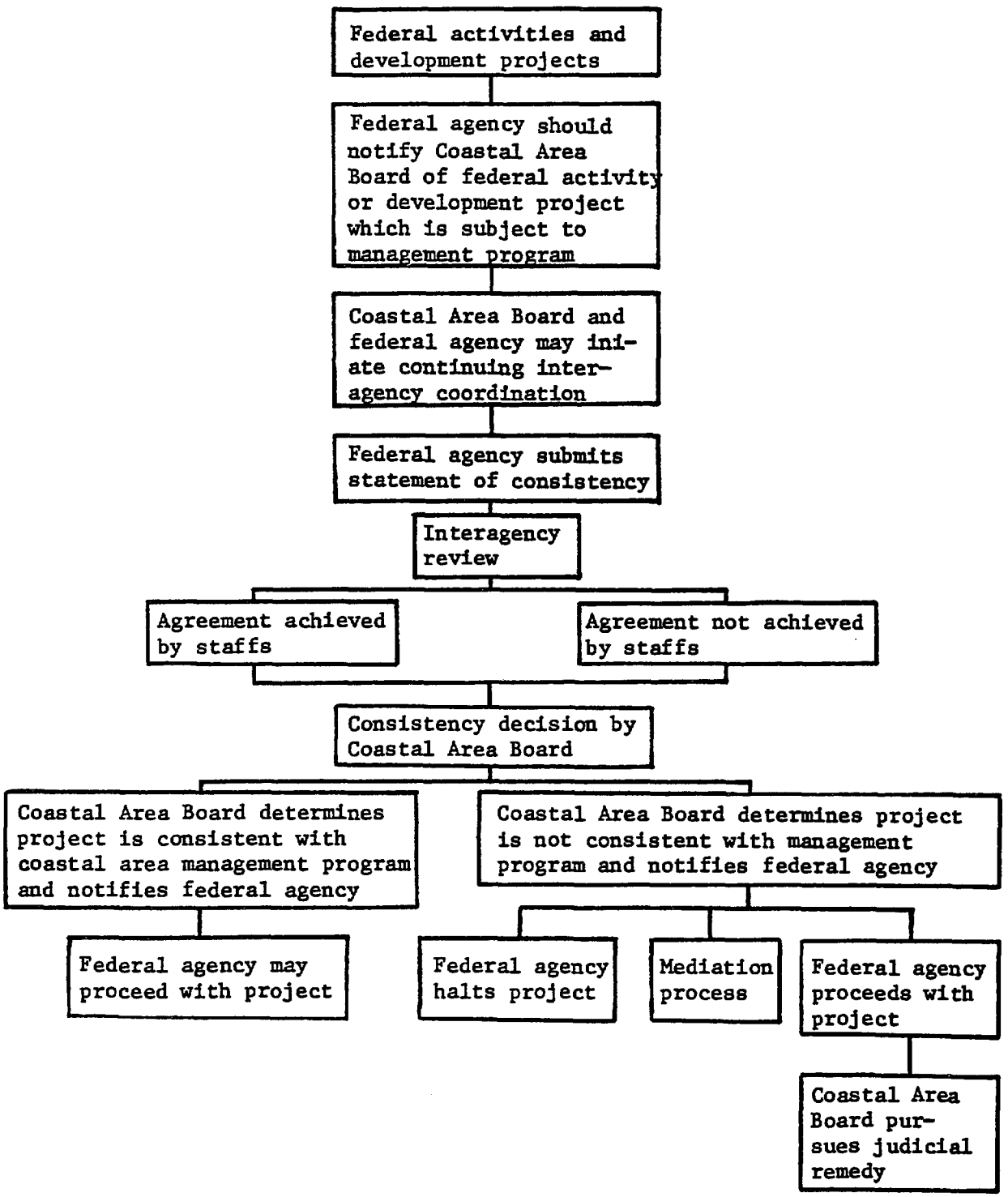


Figure IV-7 Review of federal activities and development projects for consistency

Table IV-3. Federal activities or development projects subject to consistency certification

(1) Property acquisition or disposal within the Coastal Area;
(2) Discharge of wastes into the air or water of the Coastal Area;
(3) Road construction within the Coastal Area;
(4) Disposition, design, construction, alteration or maintenance of any facilities on lands located within the Coastal Area;
(5) Programs related to management of coastal resources;
(6) Activities affecting water quality or quantity;
(7) Other activities that could directly affect coastal resources due to their size, location, or manner of construction;
(8) Transport of hazardous substances.

the management program. Upon receipt of this notice, the Board will initiate interagency cooperation and attempt to identify particular information needs of the Board.

Upon completion of its own investigation to determine if the use is consistent with the management program, and in no case later than 90 days before final approval of the use by the agency, the federal agency shall submit a Determination of Consistency to the Coastal Area Board. This Determination shall contain a description of the use and a statement that the use is consistent to the maximum extent practicable with the Management Program and will be conducted to the maximum extent practicable in a manner consistent with the management program. The Determination of Consistency shall not be considered complete until the Board has received the information reasonably necessary to support a consistency decision.

After receiving the agency's Determination of Consistency, unless the Coastal Area Board requests and receives an extension of time, the Board shall, within 45 days, do one of the following:

a. Concur with the federal agency's Determination of Consistency, or
b. Object to the Determination of Consistency.

In the event the Coastal Area Board objects to the federal activity, it will enter into negotiations with the federal agency with the purpose of identifying alternative courses of action which would be consistent with the management program and which would satisfy the needs of the federal agency. If negotiations should break down, either party may request the mediation services of the Secretary of Commerce pursuant to 15 CFR Part 930, Subpart G. If mediation is refused or unsuccessful, the Board may pursue resolution through the courts.

If the Board becomes aware of a proposed or ongoing federal use which appears likely to have a direct impact within the management area and for which the federal agency has not submitted a Determination of Consistency, the Board shall notify the agency that it is in violation of the management program and the consistency regulations. If such use is a federal activity that has not been listed in table IV-3 as directly having an impact on the Coastal Area, the Board will notify the relevant federal agency that the use is subject to the management program within 45 days of being notified of the use, except in cases in which the Board does not regularly receive notice of the activity in question.

2. Review of Federal Permits

Pursuant to 15 CFR Part 930, Subpart D, uses which are federally licensed or permitted and which may have a significant impact upon the Coastal Area must be conducted in a manner consistent with the management program. Table IV-4 provides an exemplary list of permitted uses which will be reviewed by the Board. The Board may delineate, at a later date, other federally permitted uses that require Board review in accordance with 15 CFR Part 930.54, Unlisted Federal License and Permit Activities. In order to exercise its authority under these regulations, the Board shall review for consistency all federally licensed or permitted activities which may have a significant impact on the Coastal Area (Figure IV-8).

Within ten days of filing a permit application for a use subject to management, the applicant shall send an informational copy of the application to the Board along with any supporting documents submitted by the applicant. Upon receipt of the application copy, the Board shall initiate coordination with the federal agency (optional) and the applicant.

If at any time during the review process the Board determines that the use is not subject to the management program, the applicant will be so notified as soon as practicable, and the Board will no longer review the application.

As early as possible in the review process, the Board will attempt to make known to the applicant the information needed in completing the review. The applicant shall facilitate this process by making known to the Board as early as possible the results of its own investigation of the potential or actual impact of the use on the Coastal Area. The Board may object on the ground that the applicant has not provided sufficient information to make an adequately informed response in which case the Board

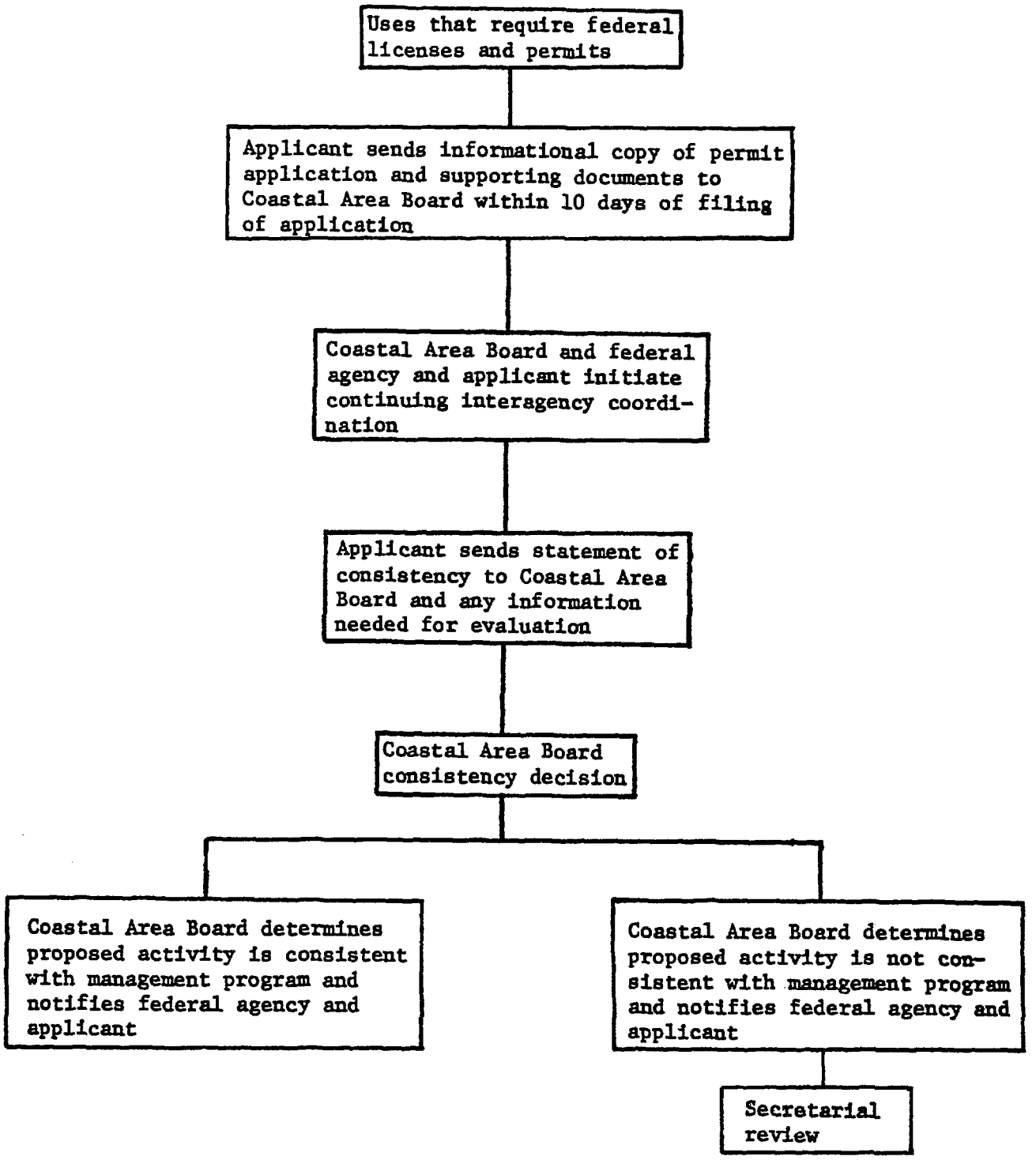


Figure IV-8 Review of federal licenses and permits for consistency

Table IV-4. Examples of federal licenses and permits subject to consistency certification

Agency	Licenses and permits	Citation
Department of Defense	Permits required under section 10 and 11 of the River and Harbor Act of 1899.	33 U.S.C. 403-413
	Permits required under Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972.	33 U.S.C. 1401-1444
	Permits required under Section 404 of the Federal Water Pollution Control Act of 1972, as amended	33 U.S.C. 1344
Environmental Protection Agency	Permits and licenses required under Sections 401,402, 403, 404, and 405 of the Federal Water Pollution Control Act of 1972, as amended	33 U.S.C. 1342-1345
	Permits and applications for reclassification of land areas under regulations for the prevention of significant deterioration of air quality	42 U.S.C. 1857
	Permits required under the Ocean Dumping Act	33 U.S.C. 1412
	All other permits for water pollution control	
	All other permits for air pollution control.	
	All permits for solid waste control.	
Department of Transportation	Permits for construction and modification of bridges and causeways in navigable waters	33 U.S.C. 401
	Permits for transporting hazardous substances and materials	

Table IV-4 (Continued)

Agency	Licenses and permits	Citation
Department of Transportation (continued)	Licenses for deep-water ports	15 C.F.R. 158 et. seq.
U.S. Nuclear Regulatory Commission	Permits and licenses required for siting and construction of nuclear power plants	
Federal Energy Regulatory Commission	Licenses required for non-federal hydroelectric projects and associated transmission lines under Sections 4(e) and 15 of the Federal Power Act	16 U.S.C. 797 (e) and 808
	Orders interconnection of electric transmission facilities under Section 202(b) of the Federal Power Act	16 U.S.C. 824a(b)
	Certificates required for the construction and operation of natural gas pipeline facilities, defined to include both interstate pipeline and terminal facilities under Section 7(c) of the Natural Gas Act	15 U.S.C. 717f(c)
	Permission and approval required for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act	15 U.S.C. 717f(b)
Department of the Interior	Permits and licenses required for all onshore activities related to mining and oil and gas operations.	30 U.S.C. 181 et. seq. 30 U.S.C. 351-359
	Permits and licenses required for geothermal operations	Geothermal Steam Act of 1970
Department of Agriculture	Permits for water easements and timbering activities on National U.S. Forest Service land.	43 U.S.C. 1716
	Permits and licenses for use and occupancy of land for hotels, resorts, summer homes, stores and facilities for industrial, commercial, educational or public use.	16 U.S.C. 497

Table IV- 4 (continued)

Agency	Licenses and permits	Citation
Department of Energy	Permits for the construction, operation, siting of energy facilities.	
Department of Commerce	Permits for research involving taking endangered species or marine mammals or for taking of marine mammals for public display or incidental to commercial fishing.	Endangered Species Act of 1972 Marine Mammal Act of 1972

shall describe in detail the information needed to make a response.

After completing all technical studies required by the federal agency, the applicant will provide the Coastal Area Board with a Certification of Consistency containing the statement that the proposed use complies with and will be conducted consistently with the management program. The Certification of Consistency shall not be considered complete until the Board has received the information reasonably necessary to support a Board decision.

Except as provided hereinabove, within six months of receipt of the Certification of Consistency, the Board shall do one of the following:

a. Concur with the Certification of Consistency, with or without special limitations, or
b. Object to the Certification of Consistency.

In the event that the Board objects to the Certification of Consistency, the reasons and supporting details for the objection will be provided to the agency and the applicant, along with any alternative means to conduct the use consistently with the management program. The applicant may appeal the objection to the Secretary of Commerce. Following the Board objection to the Certification of Consistency, the federal permit may not be issued unless the Secretary of Commerce overturns the Board decision.

The Board will work with federal agencies to develop memoranda of agreement where appropriate to facilitate and simplify the permitting of regulated uses within the Coastal Area.

3. Review of Activities Described in Outer Continental Shelf Lands Plans

Pursuant to 15 CFR Part 930, Subpart E, any person who submits to the United States Secretary of the Interior any plan for the exploration of, or development of, or production from any area leased under the Outer Continental Shelf (OCS) Lands Act shall certify that activities described in the plan which affect the Coastal Area will comply with and will be conducted consistently with the management program (Figure IV-9). The Board is given authority to concur with or object to the plan.

Prior to submission of an OCS plan to the Secretary of the Interior, any person submitting a plan must: (1) identify all activities which are subject to Coastal Area Board review and (2) determine that the proposed activities are consistent with the management program. When submitting the plan, the person must provide the Secretary of the Interior, with a Certification of Consistency. Within five days of such submission, the person shall provide the Coastal Area Board with a copy of the OCS plan and a copy of the Certification of Consistency.

Following receipt of all necessary information as provided by 15 CFR 930.77, the Coastal Area Board shall review the plan for consistency. This review shall be based on all information received pursuant to the Department of the Interior's operating regulations governing exploration, development and production operations on the Outer Continental Shelf, (30 CFR 250.34) and to regulations governing the Outer Continental Shelf information program, as well as any information requested by the Coastal Area Board to be submitted by the applicant.

If at any time during its review the Board determines that the plan is not subject to the management program, the person submitting the plan will be notified as soon as practicable, and the Board will no longer review the plan.

Except as provided hereinafter, the Board within the six months, shall do one of the following:

a. Concur with the Certification of Consistency, with or without special limitations, or
b. Object to the Certification of Consistency.

If the Board fails to concur with or object to the Certification of Consistency within three months after receiving the Certification of Consistency and all supporting information, the Board shall provide the Secretary, appropriate federal agency, and person submitting the OCS plan with a written statement describing the status of the Board's review and the basis for further delay in issuing a final decision. If such statement is not provided, concurrence by the Board with the Certification of Consistency shall be conclusively presumed. If it becomes apparent to the Board that it will not be able to complete its review within six months from the date of receipt of all necessary information, the Board will attempt to obtain an extension of the review period beyond six months.

In the event that the Board objects to the Certification of Consistency, the reasons and supporting details for the objection to each activity shall be provided to the US Geological Survey and applicant. The Department shall not issue any of such licenses or permits except as provided in 15 CFR 930, Subpart H, Secretarial Review Related to the Objectives and Purposes of the Act and National Security Interests.

In the event that the Board objects to a Certification of Consistency, the Board shall continue its coordination with the Department of the Interior to attempt to identify a means of conducting the use consistently with the management program. If a serious disagreement develops, either the Board or the Department may seek review by the U.S. Secretary of Commerce as provided in 15 CFR 930, Subpart H. If appropriate, a new or

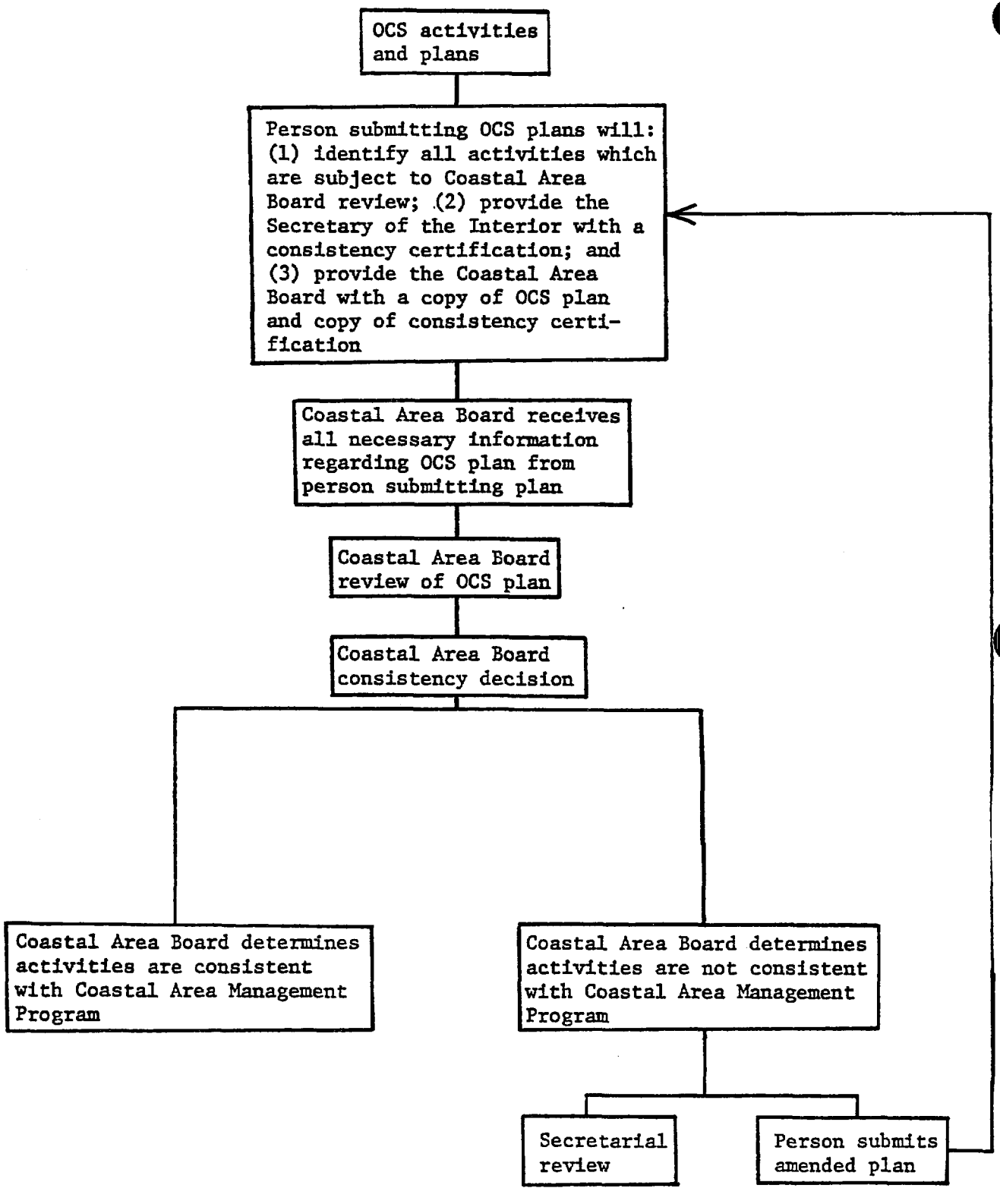


Figure IV-9 Review of OCS plans for consistency

amended OCS plan along with a consistency certification may be submitted as well as data and information necessary to support this new consistency determination. As described above, new or amended OCS plans shall be reviewed by the Board.

4. Review of Federal Assistance to Local Governments

Pursuant to 15 CFR 930, Subpart F, federal assistance to state and local governments must be consistent with the management program to the extent that it significantly affects the Coastal Area. The Board is given authority to review such assistance for consistency with the program (Figure IV-10).

Grant and loan applications to federal agencies completed after approval of Alabama's management program by the Secretary of Commerce are subject to federal consistency requirements. To avoid unnecessary duplication of effort for reviewing federal programs providing grants and financial assistance that affect Alabama's Coastal Area, the existing A-95 State Clearinghouse will be used in the process of determining federal consistency.

Within 30 days of receipt of a copy of the loan or grant application from the State Clearinghouse along with necessary data, the Coastal Area Board staff will review the application and do one of the following:

a. Issue a Certificate of Consistency
b. Deny a Certificate of Consistency

If the Board determines that the project for which assistance is proposed is not consistent with the Management Program, the assistance itself will be determined inconsistent. If the Coastal Area Board determines the assistance is consistent with the management program, it will so notify the State Clearinghouse.

If the Coastal Area Board determines the assistance is not consistent, negotiations between the Board, applicant, and involved agency will follow in an attempt to satisfy any disagreements. If, through negotiations, the disagreement is settled to the satisfaction of the Board, it will so notify the State Clearinghouse that the assistance is consistent with the Management Program.

If, however, any serious disagreements cannot be settled to the satisfaction of the Board, the Board shall notify the applicant agency, the Federal agency, and the Assistant Administrator. This notification shall describe how the proposed project is inconsistent with the management program and alternative measures which might permit the proposed project to be conducted consistently with the management program.

Based on this information, the application shall be either modified to be consistent or funding shall be denied by the Federal agency unless review by the Secretary of the Department of Commerce, under 15 CFR 930, Subpart H, dictates otherwise.

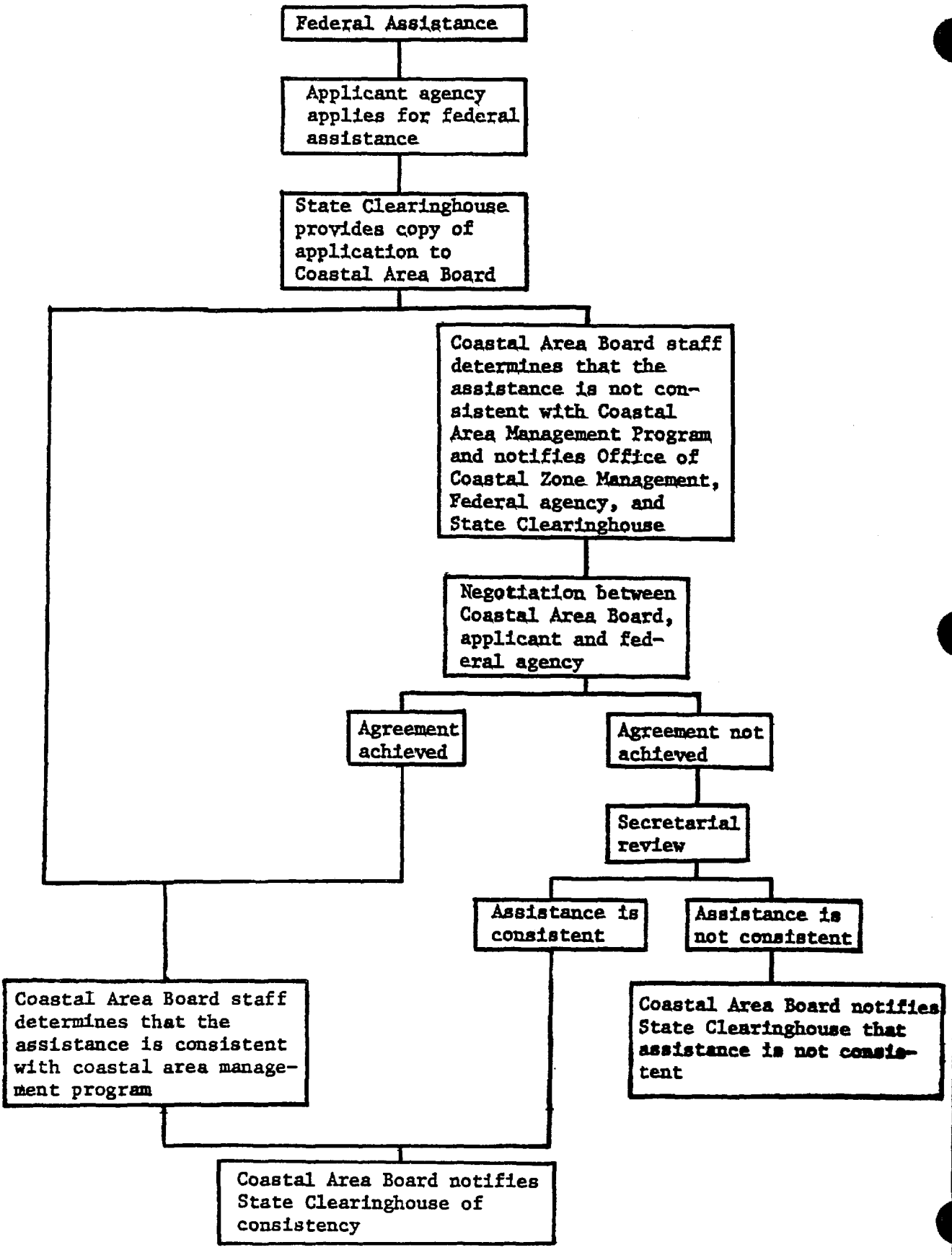


Figure IV-10 Review of federal assistance for consistency

D. Non Regulated Uses

Any person wishing to conduct a non-regulated use in the Coastal Area must make an application to the Board for a Board permit. Non-regulated uses include: (1) construction on beaches and dunes and in the 100-year flood plain (2) septic tank construction and operation (3) extraction of groundwater resources, and (4) any other uses which may have a direct and significant impact on the Coastal Area and which do not require a state permit or which are not required by federal law to be consistent with the management program. The review procedure is initiated by submission to the Board of a completed application form supplied by the Board (Figure IV-11).

Upon receipt of the application, the Board shall begin its review process, shall inform the permit applicant of the information and studies which will be required, and shall give notice to the applicant of receipt of the application and of the availability of a public hearing upon request.

If the Board finds during the course of its review that the use will not have a direct and significant impact within the management area, it will so notify the applicant, and the application will no longer be reviewed by the Board.

Except as hereinafter set out, within 60 days from the date of receipt of the application for a permit, the Board shall do one of the following:

a. Issue a permit for the use with or without conditions, or,
b. Deny the permit

If the magnitude of the use or the complexity of information gathering makes it impossible for the Board to make an adequately informed determination within 60 days, the review period may be extended for no more than 60 days upon notice to the applicant prior to the expiration of the 60 day period. If the Board does not make its determination to issue or deny the permit within 60 days, or within 120 days if the review period has been extended, the applicant may seek remedy through the courts.

A permit may be issued subject to any or all of the following limitations:

a. Continued monitoring by the applicant and/or the Coastal Area Board or its agent.
b. Continued compliance with the Management Program.
c. Specific changes in the means of conducting the use as set out in the application.
d. Other limitations specified by the Board.

E. Non Regulated Uses - Local Permitting Programs (Optional)

Act 534 encourages counties and municipalities to exercise effectively their responsibilities in the Coastal Area through the development and implementation of administration programs to achieve wise use of the land and water resources of the Coastal Area. The following permit review process is offered as an option to local governments to avoid duplication

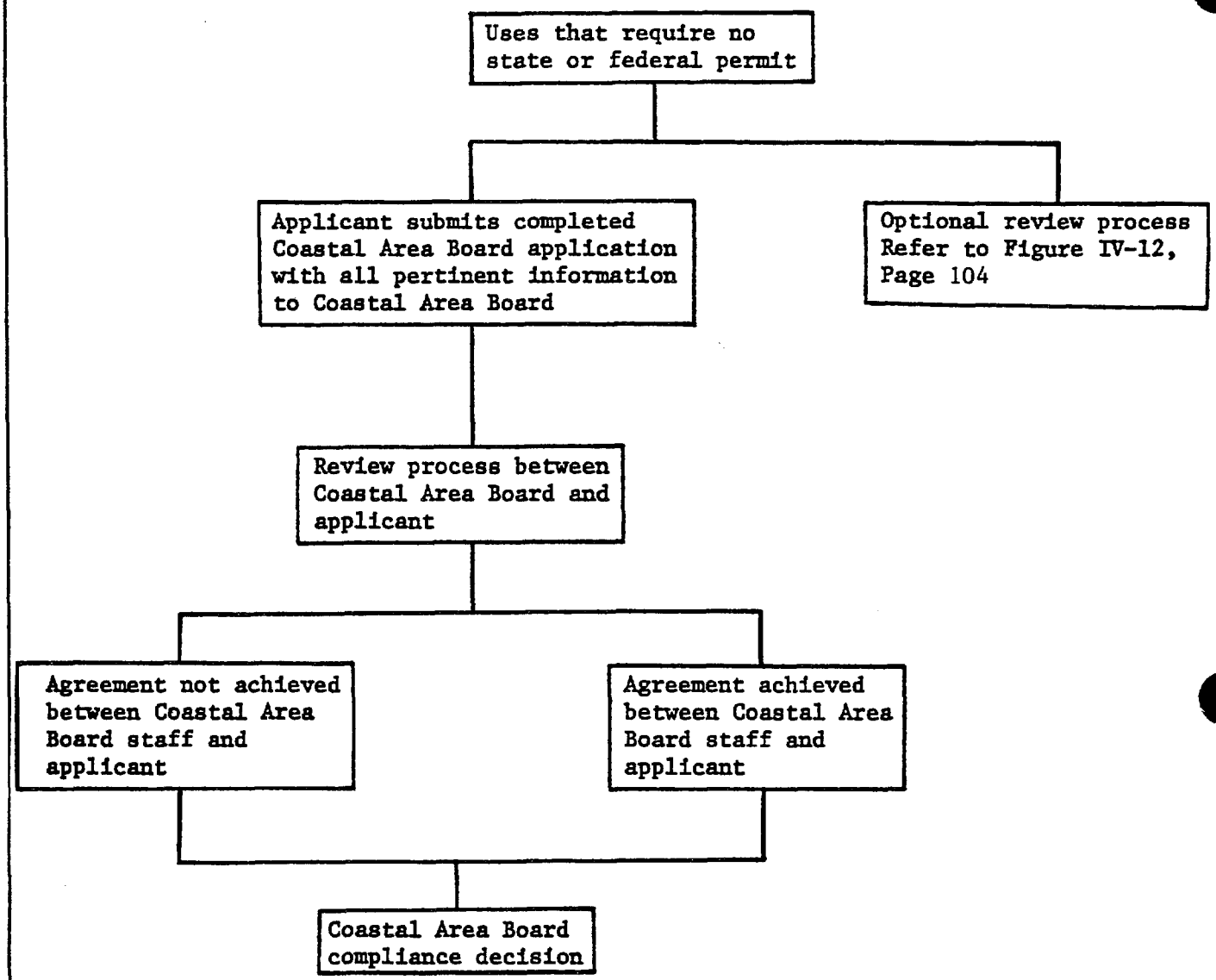


Figure IV-11 Review of uses that require no state or federal permit

in permitting and to allow local governments to play a meaningful role in the Coastal Area Management Program. By taking advantage of this option, local governments could exercise more direct control over permitting within their jurisdiction and become eligible for available 306 funds to enforce aspects of their codes that pertain to Coastal Area Management.

Any local government issuing permits for uses which may have a direct and significant impact on the Coastal Area may submit a rule, regulations, ordinance, plan, map, code, or any other device (hereinafter referred to as a local code) it uses to issue licenses and permits to the Board to obtain a Board approval. The Board may approve the local code with or without modification whereupon the local government may administer the local code in a manner consistent with the management program.

To apply for Board approval, the chief executive officer of the local government shall make a written application, on forms supplied by the Board, and attach a copy of the existing code or a copy of a completed draft of a proposed local code (Figure IV-12). Upon receipt of the application, the Board shall give public notice, including notice to the local government, of the receipt of the application and of the opportunity for a hearing. The Board shall also begin its review process, initiate interagency coordination with the local government, and shall inform the local government of the type of information needed to make an informed Board decision.

As expeditiously as possible, and in no event later than six months from receipt of the application, except as hereinafter set out, the Board shall do one of the following:

a. Approve the local code with or without conditions, or
b. Disapprove the local code.

If the local government has not supplied adequate information for the Board to make an adequately informed determination, or if the complexity of the uses licensed or permitted pursuant to the local code makes it impossible for the Board to make an adequately informed determination, the period of review may be extended for a period of no more than three months upon notification to the chief executive officer of the local government.

In order to be approved, it must be demonstrated that the local code shall be enforced in such a way that uses undertaken pursuant to licenses and permits issued pursuant to it will be in compliance with the management program. If a determination is made not to approve a local code, the reasons and supporting details for the disapproval of the local code shall be given to the chief executive officer of the local government along with alternative means to comply with the Management Program.

Board approval remains valid until one of the following occurs:

a. The Board, on its own initiative, determines that the local code is not enforced as approved.

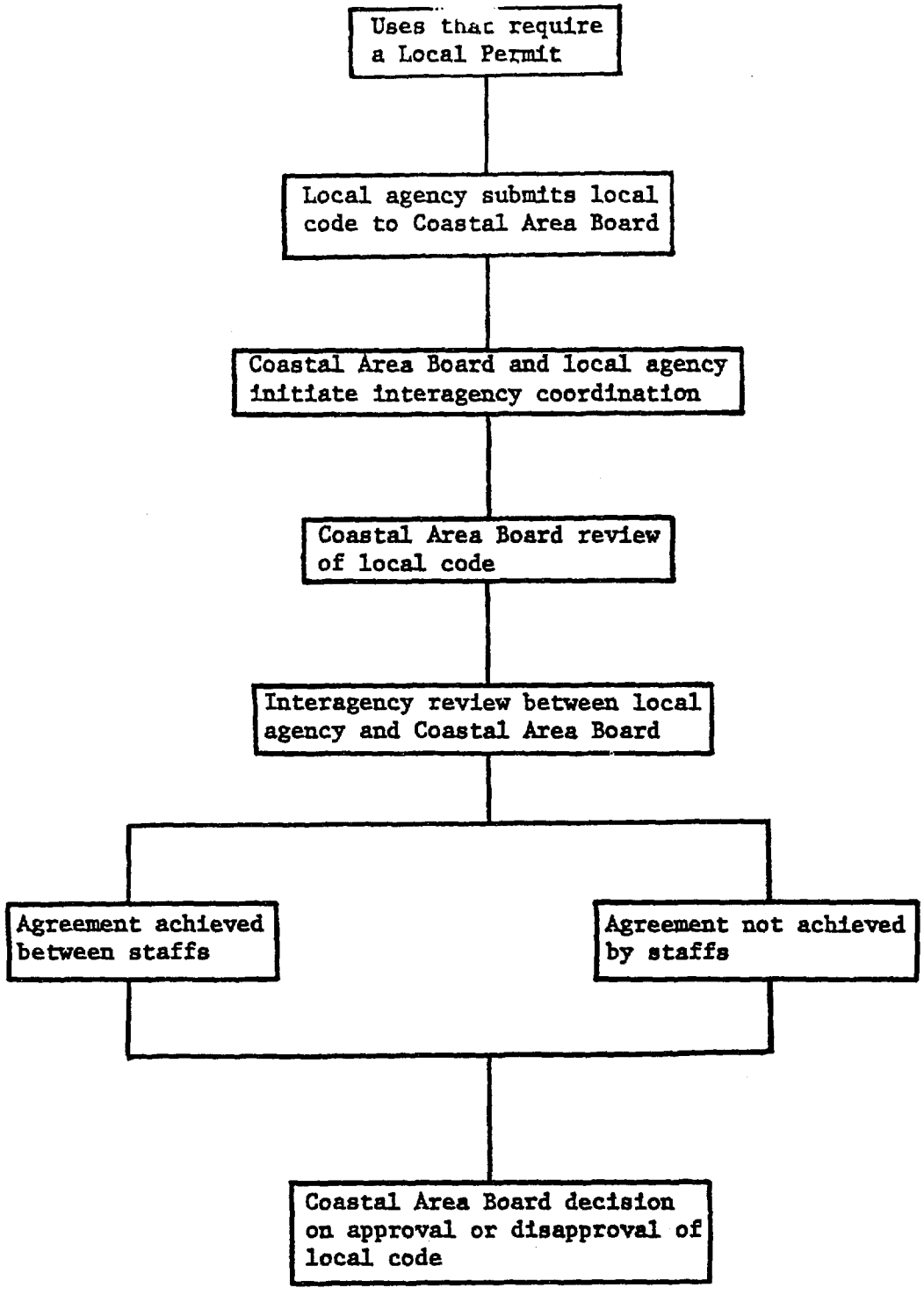


Figure IV-12 Optional review process for uses that require a local permit

b. The local government fails to resubmit the local code after three years from the last date of approval.
c. The Board determines, after resubmission of a local code for approval, that it is no longer in compliance with the Management Program, and determines not to approve the local code as described in the application.

Once a local code has received Board approval, an application for a license or permit to conduct a use pursuant to that local code is not subject to the management program, except as set out in this subsection. A local code may be resubmitted for Board approval three years after the last date of approval. Review of a local code for re-approval shall follow the same procedure set out above. Once a local code has been submitted for reapproval within the prescribed time frame, permits and licenses may continue to be issued pursuant to the local code pending Board review.

Under the local code review option, the chief executive officer of the local government shall forward the Board any amendment made to an approved local code within two weeks after adoption, or a proposed amendment may be submitted to the Board prior to adoption. The Board shall then determine whether the amendment is in compliance with the Management Program as expeditiously as possible. Such determination shall be made within six months of notification by the executive officer, unless the local government fails to provide adequate information, or the complexity of information needed makes it impossible for the Board to make an adequately informed determination within six months, in which event the Board review period may be extended for a period of no more than three months upon notice to the executive officer prior to the expiration of the six months period.

SECTION IV. MONITORING AND ENFORCEMENT

The Coastal Area Board recognizes the importance of continued monitoring of uses in the Coastal Area and the enforcement of the Coastal Area Board management program for the successful achievement of the policies and purpose set forth by the Alabama legislature in Act 434. This section describes the various monitoring and enforcement alternatives that are available to the Board in implementing the management program.

A. MONITORING.

The Coastal Area Board will monitor the conduct of uses which have been previously reviewed by the Board to insure that they are carried out in a manner which is consistent with the management program (Figure IV-13).

The Board has several approaches that it can use in monitoring these uses:

1. Periodic surveys or inspections. The Board or permitting agencies will inspect uses periodically through site visits, biological sampling, or other appropriate techniques.

2. Memoranda of Agreement. The Board will enter into memoranda of agreement with other agencies to monitor uses which are subject to the management program.

3. Aerial survey. The Board may conduct aerial surveys where appropriate to verify the manner in which a use is being conducted.

4. Compliance Monitoring. The Board will review data submitted to it or the permit agency by persons conducting uses in the Coastal Area to determine if the use is in compliance with the management program as a result of conditions placed upon the use during permit review.

5. Biological Baseline Analyses. The Board will develop a biological baseline to determine present levels of plants and animals and will conduct biological monitoring to detect changes in the levels of plants and animals of the Coastal Area. This monitoring activity will be in addition to other monitoring required by the management program as a result of a Board review. This activity will be coordinated with other state and local agencies so that duplication can be kept to a minimum.

The Board will also carry out a monitoring program to identify those uses subject to the management program which have not been submitted to the Board for review. Along with the monitoring activities described above, the Board will review all available sources of information to identify such activities, e.g. newspaper articles, agency reports, and information from private citizens (Figure IV-14).

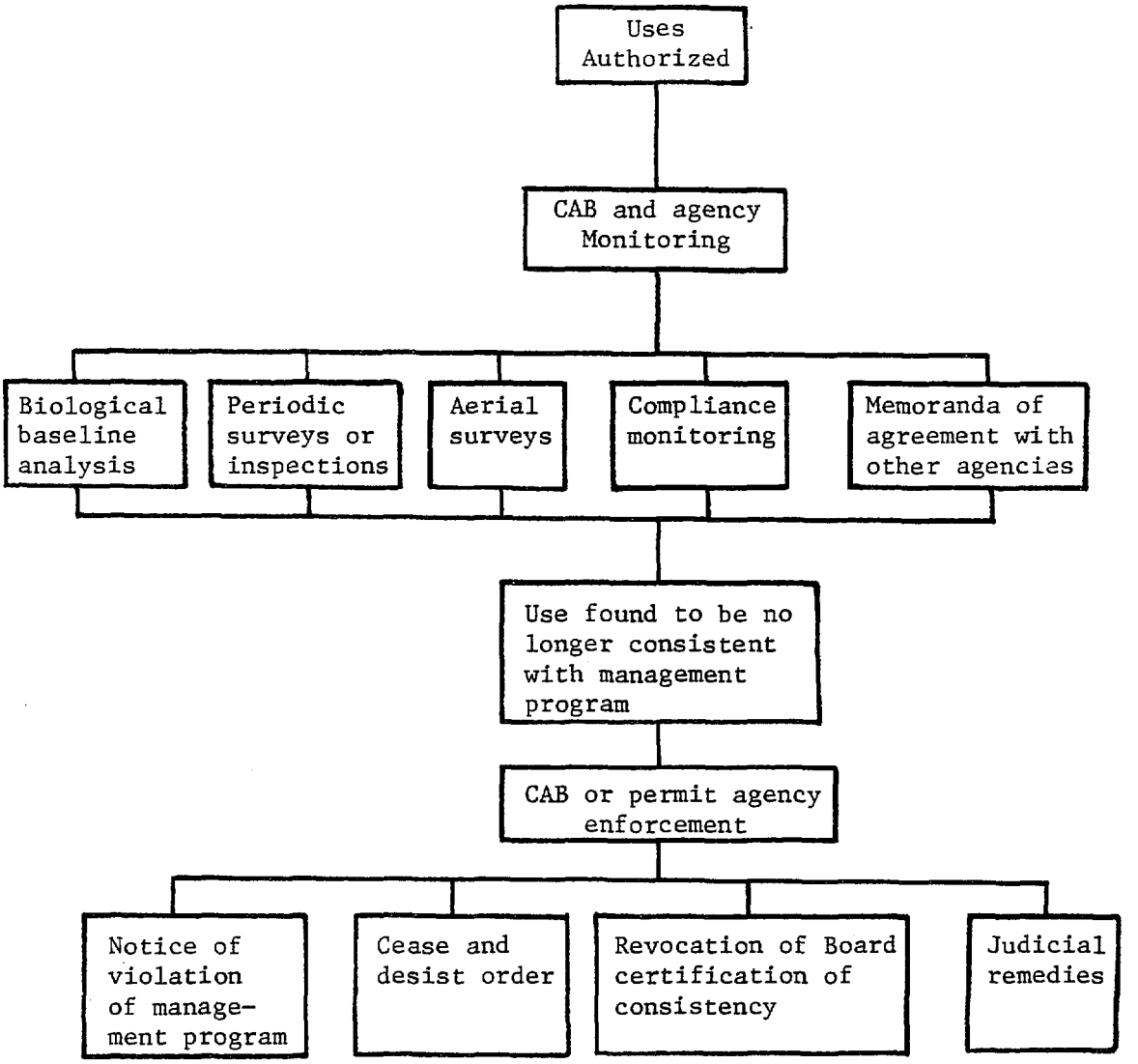


Figure IV-13 Monitoring and enforcement of uses.

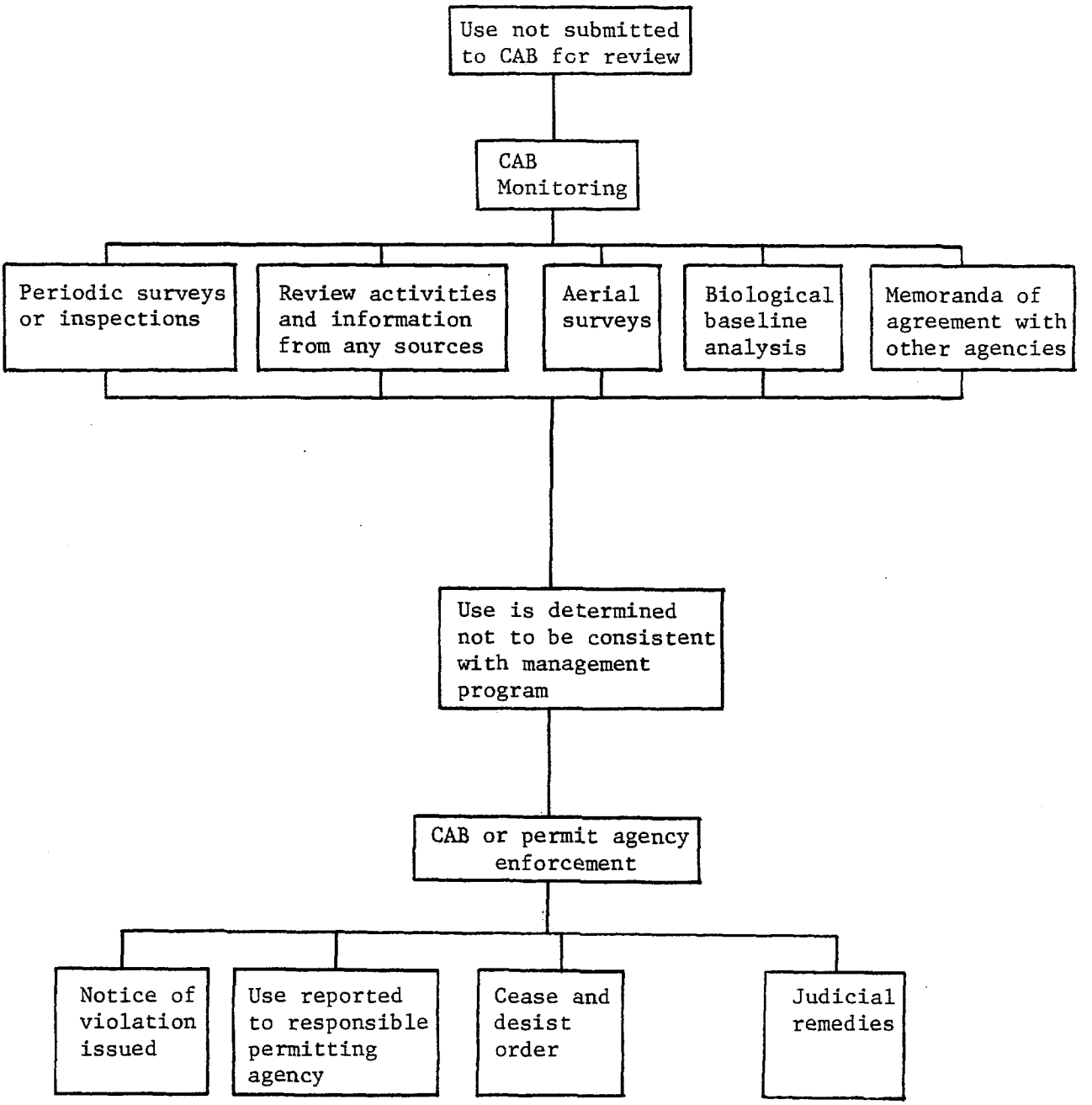


Figure IV-14 Monitoring and enforcement of uses not submitted to Coastal Area Board for review

B. Enforcement

If uses which are not in compliance with the management program are identified through the Board's monitoring activities, the Board will pursue remedies available to it under Act 534. The following paragraphs describe the various remedies which have been identified as enforcement mechanisms.

1. Notice of violation of the management program - The Board's initial step in enforcement will be to inform the permitting agency that the user's action are not in compliance with the management program. The Board will then work with the permitting agency with the user to determine what corrections can be made in his operation that will bring the use into compliance with the management program.

2. Cease and desist order - If the Board determines that the use is causing degradation of the Coastal Area, the Board and permit agency will require the operation to be brought into compliance within a specified period of time, and if this requirement is not met the permit agency or the Board may issue a cease and desist order until the use can be brought into compliance with the management program.

3. Revocation of Board Certification of Consistency. If the use cannot be brought into compliance with the management program or if the user refuses to modify the use in a manner which will be in compliance with the management program, the Board may revoke its certification of consistency (Figure IV-13).

4. Judicial remedies - The Board and/or the permitting agency may pursue the judicial remedies set forth in Act 534 and other applicable state codes to obtain compliance with the management program.

SECTION VII. OPERATIONAL RULES AND REGULATIONS

Coastal Alabama is an area of opportunity and high growth potential, and the attractiveness of the Coastal Area for tourism, recreational development, and industrial development has brought with it competition for the finite and sometimes fragile coastal resources which are located in the area. The legislature in Act 534 recognized the rich variety of natural, commercial, recreational, industrial, and aesthetic resources and the need for the State of Alabama to effectively manage the allocation of these finite resources so that they best serve the present and future interest of the citizens of the State. The legislature specifically recognized the need to protect fragile natural resources on one hand and to provide for efficient development of the Coastal Area on the other.

The achievement of balance which provides economic development and the protection of natural resources has been the expressed goal of the Coastal Area Board, and the Board will pursue this balance with vigor in the implementation of the management program.

The Board will work for permit simplification to ensure predictability in permit issuance and to provide technical information in support of economic development. Although the impetus for economic development is in the hands of the private sector and the Board recognizes and supports the rights of private property owners, the Coastal Area Board shall assist, encourage, and foster the economic development which is necessary for the well-being of the citizens of Alabama.

The rules and regulations presented in this section have been prepared to address issues which have been identified in technical studies by the Coastal Area Board and other state and federal agencies. These rules and regulations are proposed as a part of the Coastal Area Management Program, and once adopted, these rules and regulations will be used by the Coastal Area Board in implementing the Coastal Area Management Program.

A. Existing Laws, Rules and Regulations

A number of statutes and regulations, both state and federal, relate to the development and preservation of resources within the Coastal Area. The enforcement of these statutes and regulations constitute an integral part of the operation of the management program. To be consistent with the management program, the use must comply with all the relevant substantive requirements of any of the following state or federal statutes and any regulations adopted pursuant to these statutes to the extent applicable under the terms of those statutes or regulations:

a. The Rivers and Harbors Act of 1899, as amended (33 U.S.C. §§ 401 et seq.);
b. The Federal Water Pollution Control Act, as amended (33 U.S.C. §§ 1251-1376);
c. The National Flood Insurance Program Act, as amended (42 U.S.C. §§ 4001 et seq.);
d. The Clean Air Act, as amended (42 U.S.C. §§ 7401-7626);
e. Marine Mammals Protection Act of 1972;
f. Endangered Species Act of 1972;

g. National Historic Preservation Act of 1966 (16. U.S.C. §§ 270);
h. National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321);
i. Outer Continental Shelf Lands Act of 1966, as amended;
j. Archeological and Historic Preservation Act of 1974, as amended;
k. Alabama Code Sections 9-15-1--53, (1975);
l. The Baldwin County Wild Sea Oats Act (Alabama Regular Session 1973, Act 971);
m. The Baldwin County Sand Dunes Protection Act (Alabama Acts 1973, Act 775);
n. Mobile County Island Beaches and Dunes Preservation Act (Alabama Regular Session 1975, Act 1096);
o. Alabama Code Sections 9-14-1--29 (1975) (state parks);
p. Alabama Code Sections 23-1-1--228 (1975) (public access provisions of highway code);
q. Alabama Code Sections 11-19-1--24 (1975) (flood prone areas);
r. Alabama Code Sections 22-27-2--7 (1975) (solid waste disposal);
s. Alabama Code Sections 22-22-1--14 (1975) (water improvement)
t. Alabama Code Sections 22-28-1--23 (1975) (air pollution control);
u. Alabama Code Sections 9-11-1--398 (1975) (fish, game and wildlife);
v. Alabama Code Sections 9-12-1--184 (1975) (marine resources);
w. Alabama Code Sections 41-9-240--259(1975) (historical preservation); and
x. Alabama Code Sections 41-3-1--6 (1975) (antiquities);
y. Hazardous Waste Disposal Act (1978) (State and federal);
z. Alabama Code Sections 2-27-1--16 (1975) (registration, sale, and use of pesticides);
aa. Alabama Code Sections 2-27-50--65 (1975) (application of pesticides);
bb. Alabama Code Sections 9-2-2 (1975) (state-owned lands, and submerged lands);
cc. Alabama Code Sections 9-2-120 (1975) (state-owned islands);
dd. Alabama Code Sections 9-3-4 (1975) (forest resources);
ee. Alabama Code Sections 22-23-1--54 (1975) (Water supplies);
ff. Alabama Code Sections 22-26-1--6 (1975) (sewage);
gg. Alabama Code Sections 9-8-25--30 (1975) (erosion control).

B. General Rules and Regulations

1. The approval by the Board of any regulated or non-regulated use or the issuance of any Board permit is conditional upon continued compliance with the management program. In addition, the Board may impose such relevant conditions upon the Board Approval as it deems appropriate to assure compliance with the management program.

2. Uses that are determined by the Board to degrade the Coastal Area shall not be permitted nor certified to be in compliance or consistent with the management program unless the Board determines that there is a compelling public interest. If uses of a compelling public interest are permitted by the Board, these uses shall be undertaken in a manner that, to the maximum extent practicable, minimizes degradation of the Coastal Area.

Degrade means to affect the Coastal Area in a manner that produces a continuing reduction or destruction of present levels of coastal resources

A compelling public interest is something more than mere convenience. It is a right recognized at law, or an economic, environmental health, or social interest shared by most persons in the Coastal Area, which if not recognized and protected, would jeopardize the public well-being. The burden of proof that a particular use is of compelling public interest shall be upon the applicant. The Board shall consider: (a) significant national interest such as energy facilities or uses which improve water quality, air quality or wetlands; (b) enhancement or protection of geographic areas of particular concern and areas of preservation and restoration, such as construction or improvement of facilities in the Port of Mobile; (c) significant economic benefit for the Coastal Area; (d) water dependency; and (e) other similar factors in any determination of compelling public interest and balance its significance in each case in relation to the ability of the use to meet the Board's rules and regulations. In each review the Board will make a determination of whether the use is, on balance, consistent with the management program.

3. Applicants seeking Board approval of major projects which may have a direct and significant impact shall show, to the satisfaction of the Board, the impacts of the proposed use on the following coastal resources:

1. Water Quality
2. Air Quality
3. Wetlands and Submersed Grassbeds
4. Beaches and Dunes
5. Wildlife Habitat
6. Biological Resources
7. Cultural Resources
8. Public Access
9. Shoreline
10. Flood and Hurricane Mitigation Areas
11. Water Resources
12. Associated Land Uses
13. Other coastal resources

This information shall be provided as soon as possible after the initial permit application, but in any event, the information shall be provided prior to any request for Board approval. Documentation of impacts developed pursuant to the National Environmental Policy Act (NEPA) or pursuant to the requirements of any other state or federal agency shall be accepted by the Board under this requirement. However, such acceptance shall not relieve the applicant of the responsibility for providing the Board with the documentation of additional impacts not covered in the original documentation, as specified by the Board.

4. The procedures presented in Section V, Review Process, and Section VI, Monitoring and Enforcement, shall be followed by the Board in reviewing uses subject to management and monitoring and enforcing the Board's rules and regulations.

5. If the Board finds that an imminent peril to the public health, safety or welfare requires immediate action without adherence to the procedures set out in the management program, the Board may proceed to approve such proposed emergency actions without prior notice or hearing. Such emergency approvals shall be effective without the approval of the Governor and shall be effective for a period of no longer than 120 days.

6. The General Rules and Regulations of the Coastal Area Board shall determine the scope and applicability of the Coastal Resource Use Rules and Regulations and Natural Resource Rules and Regulations of the management program.

C. Coastal Resource Use Rules and Regulations

1. Coastal Area Board Regulations for Siting, Construction, and Operation of Energy Facilities

The Coastal Area Board presents the following process which will allow the orderly growth of energy development within the coastal area.

a. Persons wishing to construct energy facilities which may have a direct and significant impact on the Coastal Area must submit an "Energy Facility Construction and Operation Plan" to the Coastal Area Board which shall identify the impacts of the proposed energy facility on the following coastal resources:

1. Water Quality
2. Air Quality
3. Wetlands and Submersed Grassbeds
4. Beaches and Dunes
5. Wildlife Habitat
6. Biological Resources
7. Cultural Resources
8. Public Access
9. Shoreline
10. Flood and hurricane mitigation areas
11. Water Resources
12. Associated Land Uses
13. Other coastal resources

b. The Coastal Area Board will use the Energy Facility Construction and Operation Plan as a basis for the certification decisions on proposed projects.

c. Siting, construction, and operation of energy facilities that degrade the Coastal Area shall not be permissible.

d. All energy facility siting, construction, and operation must meet the requirements established in other sections of the Coastal Area Board Rules and Regulations.

2. Coastal Area Board Regulations for Dredging and Filling

a. Dredging and filling operations shall not be permissible if such activity is determined by the Board to degrade the Coastal Area.

b. Because of their detrimental effect on coastal water quality, new dead end canals shall not be permissible in the Coastal Area unless it is determined by the Board that such activity will not degrade the Coastal Area.

c. Proposed channel construction or channel maintenance providing access to existing or approved docks, marinas, yacht basins or other water dependent facilities shall be permissible only if there are no other reasonable means of access to such facilities.

d. Dredge spoil materials shall be deposited in upland areas or in offshore Gulf of Mexico areas unless it is determined by the Coastal Area Board that the dredge spoil material may be used in another manner that will not degrade the Coastal Area.

e. No dredge spoil, fill, or other foreign solid materials shall be deposited in waters of the Coastal Area unless it is determined by the Coastal Area Board that such deposition will not degrade the Coastal Area.

f. Normal maintenance dredging of existing channels shall be permissible if the dredging operation maintains the channel within the original design specifications. The disposal of dredge spoil materials from such operations shall be in conformance with section 2(d) and 2(e) above.

3. Coastal Area Board Regulations for Shoreline Erosion

a. Any use intended to mitigate a shoreline erosion problem in the Coastal Area shall use non-structural erosion control methods to the maximum extent practicable, including but not limited to preservation and restoration of dunes, beaches, wetlands and submersed grassbeds, and shoreline restoration and nourishment.

b. The emplacement of groins, jetties, and breakwaters as erosion control devices shall be permissible only when no other technically feasible alternative means of control is available and it is determined by the Board that there would be no substantial harm.

4. Coastal Area Board Regulations for Public Access

a. All public projects proposed for location within the Coastal Area shall to the maximum extent practicable provide visual and physical public access to Alabama's coastal waters, and all non-public activities are encouraged to provide for visual and physical access as well.

5. Coastal Area Board Regulations for Natural Hazard

a. All development shall be designed, located, constructed, and operated in a manner that avoids:
   (1) Significantly increasing the potential for flood, hurricane, or other storm damage or increasing the likelihood that damage will occur from floods, hurricanes, or storms.
   (2) Significantly reducing floodwater storage capacity.

b. Public works projects should not facilitate or encourage development in the 100-year flood plain as mapped under the Flood Insurance Program.

c. The use of the 100-year flood plain for conservation or basic recreational use is strongly encouraged.

d. All development proposed for a coastal location which is vulnerable to hurricane surge and wave attack shall be designed, located, constructed and operated in a manner which will not significantly increase the potential damage resulting from a hurricane.

6. Coastal Area Board Regulations for Solid Waste Disposal

a. Solid waste disposal sites shall not be permissible in wetlands, beaches or dunes.

b. Solid waste disposal sites shall not be permissible in any location where the disposal of solid wastes would degrade wetlands, beaches, dunes or coastal waters.

c. Solid waste disposal sites shall be located outside the boundaries of the Coastal Area, unless no other reasonable alternative is available. If a site within the Coastal Area is proposed for development as a solid waste disposal site, it shall be demonstrated to the satisfaction of the Coastal Area Board that siting, design, construction, and operation will ensure that present levels of coastal plants and animals will be maintained.

D. Natural Resource Rules and Regulations

1. Coastal Area Board Regulations for Water Quality

a. New Point Source Discharges

The following requirements will be imposed upon new point source discharges into the coastal waters of Alabama in addition to existing state and federal water quality regulations.

(1) Before a project begins, the permit applicant wishing to discharge into coastal waters will test the toxicity of its effluent on various plants and animals to determine the impact of its discharge upon the plants and animals of the Coastal Area. The plants and animals to be considered and the type of toxicity tests to be required will be determined by the Coastal Area Board in light of the quantity and nature of the effluent.

(2) The permit applicant will determine the present levels of plants and animals at the point of discharge within a Discharge Information Zone (DIZ). The Discharge Information Zone will be a circle with a radius of 400 ft. The center of the DIZ will be the discharge point. The Coastal Area Board may modify the application of the DIZ concept based upon technological advances if it determines that these changes will enhance the Coastal Area program. This testing program will consist of the following:

(a) Characterization of the bottom sediments of the DIZ.

(b) Biological characterization within and around the Discharge Information Zone (DIZ) through the collection and analysis of biological species as specified by the Coastal Area Board.

(3) Once the applicant for a regulated use has determined present levels of plants and animals, these present levels will form the basis for measuring adherence of the use with the water quality standards of the management program. The use will not be in compliance with the management program if it results in degradation at the perimeter or outside of the DIZ.

b. Monitoring New Point Source Dischargers

If the Board approves a regulated use and the regulating agency issues a permit or otherwise approves the discharge into coastal waters, the following procedure shall be followed to assure compliance.

(1) The discharger shall continue to take samples as specified by the Coastal Area Board to determine the impacts of the discharge on the biology of the DIZ.

(2) Monitoring reports shall be furnished by the discharger to the Coastal Area Board on a monthly basis or as otherwise agreed to by the Coastal Area Board.

(3) The discharger shall not allow the biological damage to occur at the perimeter of or outside the DIZ.

(4) If the biological monitoring shows evidence of biological damage at the perimeter or outside of the DIZ, the Coastal Area Board shall notify the discharger that he is in violation of the Coastal Area Management Program.

(5) Upon receipt of the violation notification from the Board, the discharger shall provide the Coastal Area Board with a plan to correct and eliminate the biological damage caused by the discharge.

c. Existing Point Source Dischargers

(1) The results of the biological sampling program for existing dischargers shall be provided to the Coastal Area Board at the time that the waste discharger's NPDES permit comes due for renewal.

(2) Every existing discharger with a discharge over 1 MGD shall be required to determine the extent of the impact of the discharge on the biology of the coastal waters by conducting biological sampling, as specified by the Coastal Area Board, from the outfall point to a sufficient distance up and downstream from the outfall to indicate where their discharge ceases to have an impact upon the plant and animal life of the receiving waters.

(3) The results of the biological sampling will determine "present levels" of biological activity. Present levels will be the standard which existing dischargers must meet.

(4) Existing dischargers are not required by the regulations of the management program to reduce their present area of degradation. Existing industries which degrade a smaller area than the DIZ will be able to expand their area of degradation to the edge of the DIZ. Dischargers which presently degrade an area larger than the DIZ will be required to control their effluent so that it does not destroy plants and animals outside the present area of degradation.

d. New Non Point Sources

(1) Construction Activities

(a) Developments greater than 25 acres in size will obtain a permit from the Coastal Area Board before starting construction.

(b) The developer shall submit an erosion control plan to the Coastal Area Board as part of its permit application. The erosion control plan must show the Best Management Practices (BMP's) which will be used to control erosion before, during, and after construction.

(c) The following BMP's are recommended for controlling runoff from construction and new developments. Permit applicants shall implement these BMP's to control erosion to the maximum extent practicable.

a. Mulching
b. Sodding
c. Diversion berms
d. Sedimentation catch basins
e. Clean up practices
f. Recreational area storage
g. Diversion structures
h. Aeration of soils
i. Ponds

j. Detention basins
k. Porous pavements
l. Holding tanks
m. Infiltration systems
n. Channel storage
o. Minimize disturbed land area
p. Minimize the duration of exposure to natural elements
q. Retain natural vegetation

(2) Stockpile Materials

(a) Runoff from raw materials stockpiles or a series of stockpiles of a size of five acres and above shall be controlled to ensure that it does not degrade the Coastal Area.

(b) Owners of new materials stockpiles shall submit to the Coastal Area Board a "Raw Materials Stockpile Plan" which demonstrates that runoff from the stockpile will not degrade the Coastal Area.

2. Coastal Area Board Regulations for Wetlands and Submersed Grassbeds

a. Before undertaking any project in wetlands or submersed grassbed areas, the applicant must demonstrate to the satisfaction of the Coastal Area Board that the proposed activity will not degrade the natural function of the wetlands or submersed grassbeds to support present levels of plants and animals, act as a buffer against storm surges, or any other natural functions.

b. The Board may accept the replacement or creation of an amount of wetlands equivalent to that necessary to support present levels of plants and animals as compensation for the loss of wetlands resulting from an approved project.

3. Coastal Area Board Regulations for Air Quality

Air emissions from an identifiable source that degrade plant or animal life in the Coastal Area shall not be permissible.

4. Coastal Area Board Regulations for Oyster Reefs

Uses within the Coastal Area that degrade oyster reefs shall not be permissible.

5. Coastal Area Board Regulations for Beaches and Dunes

a. All individuals, corporations or other entities who wish to construct buildings, houses or other structures on the dunes or beaches must obtain a permit from the Coastal Area Board or approved local code pursuant to Section V-D, Non-Regulated Uses.

b. As part of the application, the individual must provide a survey of his property which has been completed by a duly licensed surveyor of the State of Alabama no more than 90 days before the permit application is filed with the Coastal Area Board. The survey shall show the "crestline" of the primary dune system. The "crestline" is a line running more or less parallel with the shoreline interconnecting the peaks of the primary dune system.

c. Construction shall not be permissible seaward of the "construction setback" line. The "construction setback" line is a line running parallel to the crestline at a point 40 linear feet inland of the most inland point of the crestline .

d. Variance

Existing lots that do not contain a buildable area as a result of the application of the construction setback line may apply to the Board for a variance. The Board may permit the construction of a structure on such a lot if the applicant demonstrates to the satisfaction of the Board that his construction plan will minimize the alteration of the existing dune structure. Structures that provide access to the beaches of the Coastal Area (walkways, etc.) may be permitted by the Coastal Area Board, if:

(1) it is determined by the Board that the construction of these access structures will result in less damage to the dune system than the existing or anticipated pedestrian traffic to the beach and
(2) the applicant shall demonstrate to the satisfaction of the Board that the structure will be built in a way that minimizes the impact of the construction on the dune system.

e. It shall be in violation of the Coastal Area Management Program to alter the primary dune system through the removal of dune or beach sands and grasses, through the operation of vehicles on the dune system, or any other activity that could result in the destruction of the dune.

6. Coastal Area Board Regulations for Water Resources

a. Any person who proposes to construct a new well or significantly alter an existing well in order to pump more than 50 gallons of water per minute shall obtain a permit for construction of the well from the Coastal Area Board.

b. Applications for construction permits shall be submitted to the Coastal Area Board on forms requiring such information as described by the Board. The application shall include:
(1) size, depth, and location of proposed well(s);
(2) construction diagram of the well (including intervals to be screened);

(3) estimated range of daily pumping capability and anticipated withdrawal rates; and
(4) other information determined necessary by the Coastal Area Board.

c. Construction permits may be issued after the consideration of pertinent factors, including:
1. existing use of groundwater resources
2. immediately prospective use of groundwater resources
3. recharge capacity of affected aquifer(s)
In no event will permits be issued if it appears that normal pumping activities of the well will result in salt water intrusion into any coastal, fresh, groundwater resource.

d. After issuance of a construction permit for construction of a well, the applicant will submit such test data as is required by the Board. Testing of the well may be required to be performed in cooperation with the Geological Survey of Alabama. Prescribed test results will be used to establish the effect of the well on groundwater resources. Based upon all available information, a permit to operate the well will be issued if normal operation of the well does not adversely impact the existing ground water or result in salt water intrusion into any coastal area fresh groundwater resource.

7. Coastal Area Board Regulations for Protection of Cultural Resources

a. All development in the Coastal Area shall to the maximum extent practicable avoid adversely affecting historic, cultural, or archaeological resources of the Coastal Area.

b. Any person shall notify the Coastal Area Board of any historical, cultural, or archaeological resources that are discovered in the course of conducting a permissible use in the Coastal Area.

c. The Coastal Area Board may issue an emergency cease and desist order, effective for a period of 30 days, if an ongoing project threatens an historical, cultural, or archaeological resource.

d. All uses subject to management shall to the maximum extent practicable, be undertaken in such a way as to minimize damage to historic and archaeological sites in the coastal area.

8. Coastal Area Board Regulations for Fisheries Management

To the maximum extent practicable, all uses within the Coastal Area shall be undertaken in such a way as to not degrade fishery habitats.

9. Coastal Area Board Rules and Regulations for Wildlife and Wildlife Habitat

To the maximum extent practicable, all uses within the Coastal Area

shall be undertaken in such a way as to preserve and protect existing wildlife and wildlife habitats. In particular, endangered species and their habitat, as designated by appropriate federal and state agencies, shall be protected to the maximum extent practicable.

SECTION VIII. ADMINISTRATIVE RULES AND REGULATIONS

A. APPLICATION. These rules shall govern Board procedures. They are adopted pursuant to Section VII of the Act. From time to time as needed, the Board may adopt new rules or change the rules included herein by following the procedure set out in subpart E below.

B. BOARD CHAIRMAN. The chairman of the Coastal Area Board shall be elected by the members of the Board. In the absence of the chairman, the Board shall designate from time to time any other member as acting chairman.

C. BOARD MEETINGS. The Board shall meet quarterly to conduct business and as occasion demands upon the call of the chairman. All Board meetings shall be open to the public, and an accurate record of all proceedings shall be kept and made available for public inspection. The Board meetings will be conducted by the chairman or, in his absence, the Acting Chairman, in such a way as to provide an opportunity to the public to be heard. The Chairman may, however, set reasonable limitations on presentations to ensure that there is no unnecessary delay and that order is maintained.

D. QUORUMS. A quorum for the transaction of the Coastal Area Board business shall consist of at least five members. A majority of those members voting shall be required to pass any motion before the Board. However, in changing the management program, including adopting new rules and regulations, a minimum of 2/3 of the Board membership must vote in the affirmative.

E. PUBLIC NOTICE. Thirty days Public Notice of the time and place of Board meetings, including notice to all persons having scheduled business at the meeting, shall be given prior to the Board meeting. Public notice shall be given of all final Board actions.

F. RECORDS. Evidence of a non-proprietary nature submitted to the Board in connection with Board actions for which a hearing has been announced will be available for public inspection at the offices of the Coastal Area Board. All such evidence submitted in connection with Board actions shall be retained and made available to the public after final Board action. Copies or transcripts of such materials may be obtained at the expense of the requestor.

G. APPEALS HEARING

1. Any person or persons, partnership, corporation, state or local government entity aggrieved by any final Board action or by issuance of an order to cease and desist may appeal the action or order to the Board and request an appeals hearing, pursuant to this section.

2. Before an appeal can be taken the applicant must submit a written protest setting forth the basis of the appeal with the Board within 30 days of the Board action from which he is appealing.

3. Upon filing of an appeal, the Board shall schedule an appeals hearing if one is requested, as soon as practicable. Thirty days notice will be given to the parties involved.

4. Rules for conducting an appeals hearing shall be the same as those for any Board meeting except that the following additional procedures shall apply and shall take precedence in the event of conflict.

   a. The Chairman of the Board shall determine the manner of conducting the appeal.

   b. Each party shall have the right to present arguments, introduce evidence, call and examine witnesses, and to be represented by an attorney at his own expense. Witness fees and expenses shall be paid by the party calling the witness.

   c. Irrelevant, immaterial, and unduly repetitious evidence shall be excluded by the chairman, but all other relevant evidence shall be admissible, regardless of whether the evidence would be admissable under the rules of evidence in trial courts of this state. The testimony of all witnesses shall be made under oath.

H. AMENDMENT OF THE MANAGEMENT PROGRAM

1. Amendments to the Management Program including any changes of the operational rules and regulations and any other changes in the substance and intent of the program shall be made according to the procedure set forth below.

2. A proposal to amend the Management Program may be made by a member of the Board. If the Board votes to proceed with consideration of the proposed amendment, public notice of the proposal shall be given along with opportunity for comment.

3. Administrative procedures not requiring a change of substance in the policy or program of the Board shall not require the approval of the Governor.

4. All amendments which, under applicable federal law, would be amendments to the federally approved program shall require the Governor's approval as well as any appropriate adherence to federal requirements to become effective.

I. DESIGNATION OF GEOGRAPHIC AREAS OF PARTICULAR CONCERN AND AREAS FOR PRESERVATION AND RESTORATION

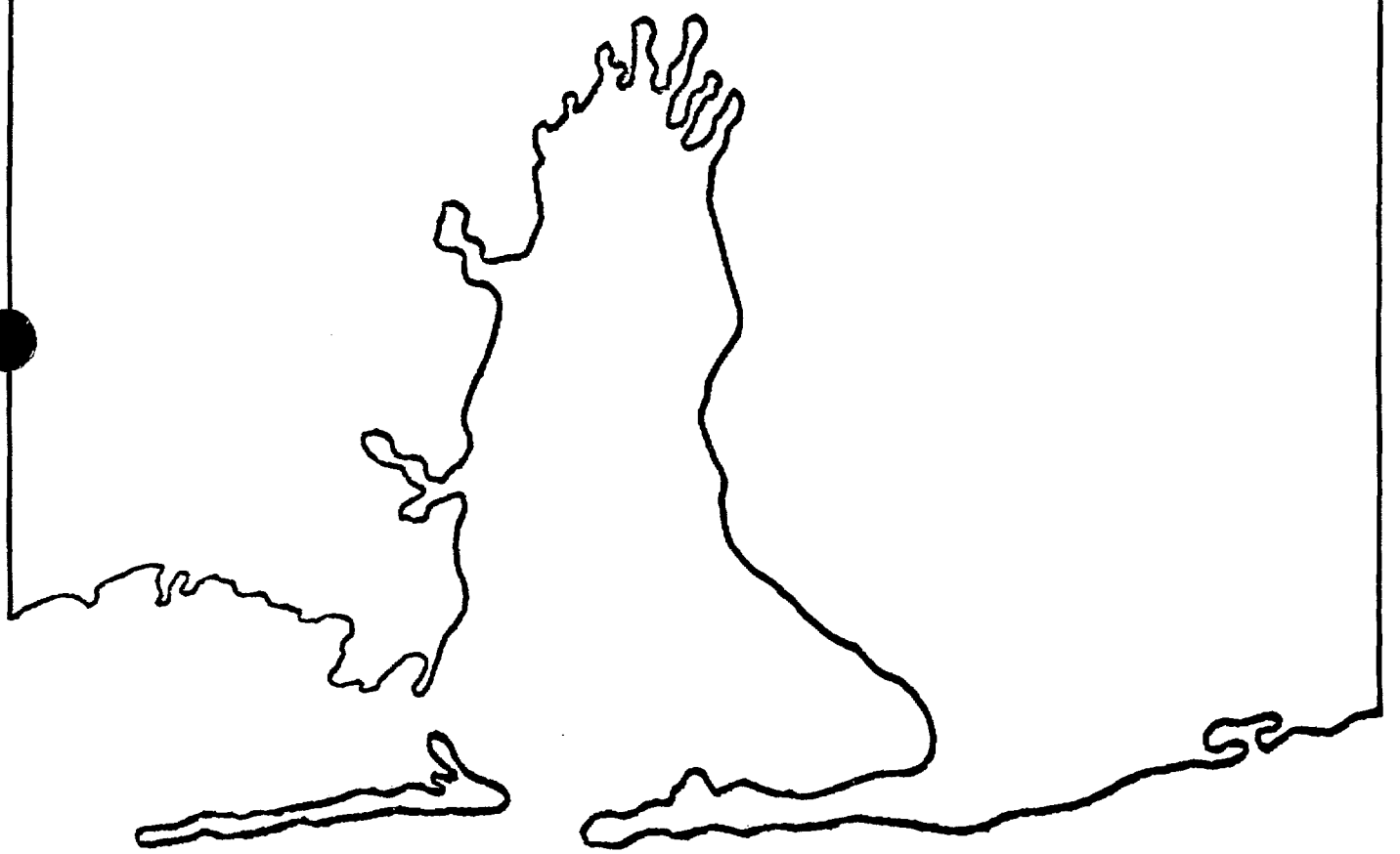
1. A proposal to designate a GAPC or APR may be made by a member of the Board. If the Board votes to proceed with the proposed designation, public notice of the proposed designation shall be given along with opportunity for comment.

2. All GAPC or APR-designations by the Board shall become effective upon the approval by the Governor.

J. YEARLY REPORT ON THE STATUS OF THE COASTAL AREA

The Coastal Area Board shall produce a yearly report on the state of the Coastal Area. This report will describe the status of coastal resources, quantifying the biological and other resources of the Coastal Area on an accounting basis. The information necessary for this report will be accumulated at a rate commensurate with program funding.

ALTERNATIVES



Part III

PART III

ALTERNATIVES TO THE ALABAMA COASTAL AREA MANAGEMENT PROGRAM

Introduction

Given the nature of the proposed action of approving the Alabama Coastal Area Management Program, all alternatives would involve a decision to delay or deny approval. Delay or denial of approval could be based on the failure of the Program to meet any one of the requirements of the CZMA. In approving a CZM program, affirmative findings must be made by the Assistant Administrator for Coastal Zone Management on over twenty such requirements.

During early development of the Program,several areas of potential deficiencies were identified. However, those deficiencies have now been addressed by Alabama and the Assistant Administrator has made a preliminary determination that Alabama has met the requirements for approval under Section 306 of the Coastal Zone Management Act. In order to elicit public and agency comment and assure that the Assistant Administrator's preliminary assessment is correct, this part identifies areas where there are possible deficiencies and considers alternatives of delay or denial based upon each.

The generalized impacts of delay or denial of approval of the Alabama Program, regardless of delay or denial are as follows:

1. Loss of Federal monies to administer the program

Under Section 306, Alabama would receive approximately $700k per year to administer its coastal management program. Most basic to a loss of Federal funds will be the inability of the State to provide adequate staffing and administrative support to its review for consistency and permitting activities. None of the baseline data for the "present levels" concept could be gathered thereby eliminating the basis for implementing some of the Program's regulations effectively. Efforts to provide information on state permits and assistance for obtaining them would be eliminated.

2. Loss of consistency of Federal actions with the Alabama Program

Program approval would mean that Federal actions in or affecting Alabama's Coastal Area would have to be consistent with the States Program under Section 307(c) of the CZMA. Loss of consistency would be of particular concern as the Coastal Area is influenced by Federal activities (i.e., Corps, Park Service, FWS, etc.).

3. Loss of adequate consideration of the national interest which are other than local in nature as required by Section 306(c)(8) of the CZMA

By delaying or denying program approval, the State would be under no obligation to give adequate consideration to coastal resources or facilities that the use of such resources may provide. The national interest also encompasses a concern for the protection of resources such as water, air, wetlands, and wildlife. Consideration of the need for the national interest in facilities must take into account the impacts of facilities on these key resources.

Alternative 1: The Assistant Administrator could deny or delay program approval if the Alabama Coastal Area Act of 1976 did not provide an adequate basis for a coastal management program

At issue here is whether the CAB, through the Alabama Coastal Area Act of 1976, has an adequate organizational structure and the sufficient authority to develop and implement a management program for the Coastal Area. Specifically, 1) does the legislatively set landward boundary of the Coastal Area meet the CZMA requirements and 2) does the Board's ability to control activities that have a direct and significant impact on the Coastal Area which are and are not currently permitted by state agencies meet the requirements of the Federal Act?

Specifically, the ten-foot contour boundary meets the 923.31 program approval requirements of Section 9 by including the following specific areas:

1. The designated special management areas, e.g. Port of Mobile and Mobile-Tensaw River Delta;
2. All waters under saline influence;
3. All salt marshes and wetlands that are subject to inundation of tidal salt waters;
4. All beaches and shores;
5. The transitional and intertidal areas subject to coastal storm surge and areas containing vegetation that is saltwater tolerant;
6. and all coastal islands.

The inland boundary must also include those areas the management of which is necessary to control uses which have a direct and significant impact on Coastal Waters. The Alabama Coastal Area Management Program defines uses which have a direct and significant impact in Chapter Four, Section III of this document. The uses described are those which have a direct and significant impact on the Coastal Area which includes all coastal waters and lands within the 10-foot contour.

There may be uses which occur beyond the 10-foot contour which have significant impacts on coastal waters. However, in order for these uses to have direct impacts, the uses must exert an impact upon the coastal waters through an identifiable link or process, e.g. effluent, outfall or septic tank runoff. In this manner the 10-foot contour includes

sufficient areas to provide for the management of direct and significant impacts on coastal waters. In conclusion, the inland boundary is presented in a manner that is clear and exact enough to permit determination of whether property or an activity is located within the management area and to allow the state to inform interested parties whether they are subject to the terms of the management program.

The CAB's authority to control land and water uses which have a direct and significant impact on coastal waters is achieved through two mechanisms, compliance review of state permits and CAB permits, both of which fall under Technique B, Direct State Control (Section 306(c)(1)(B), CZMA Section 923.43, Federal Register, March 28, 1979). The CAB's authority to review other state permits provides grounds to take action to ensure compliance of state agencies with the management authority. Permitting by the CAB is directly tied into compliance with the management program.

In conclusion Act 534 provides an adequate boundary and mechanism for controlling other State agency decisions in the Coastal Area.

Alternative 2: The Assistant Administrator could deny or delay program approval if it lacks the mechanism to implement the management program.

The question is not whether the CAB has the authority to implement the program, but whether the CAB has the capability to implement the program effectively. Chapter Four gives a full description of the procedure that will be employed by the CAB in reviewing activities which may affect the Coastal Area and which are undertaken by State agencies or private parties subject to State permitting programs, including the permitting program of the CAB. Section VI of Chapter Four has been added since the Hearing Draft to respond to comments regarding whether the CAB was organized to monitor activities that may affect the Coastal Area which are being undertaken subject to state review or are being undertaken without necessary authorization. The CAB will monitor the conduct of uses/activities to insure that they are carried out consistent with the management program. The CAB will use several means to monitor these uses:

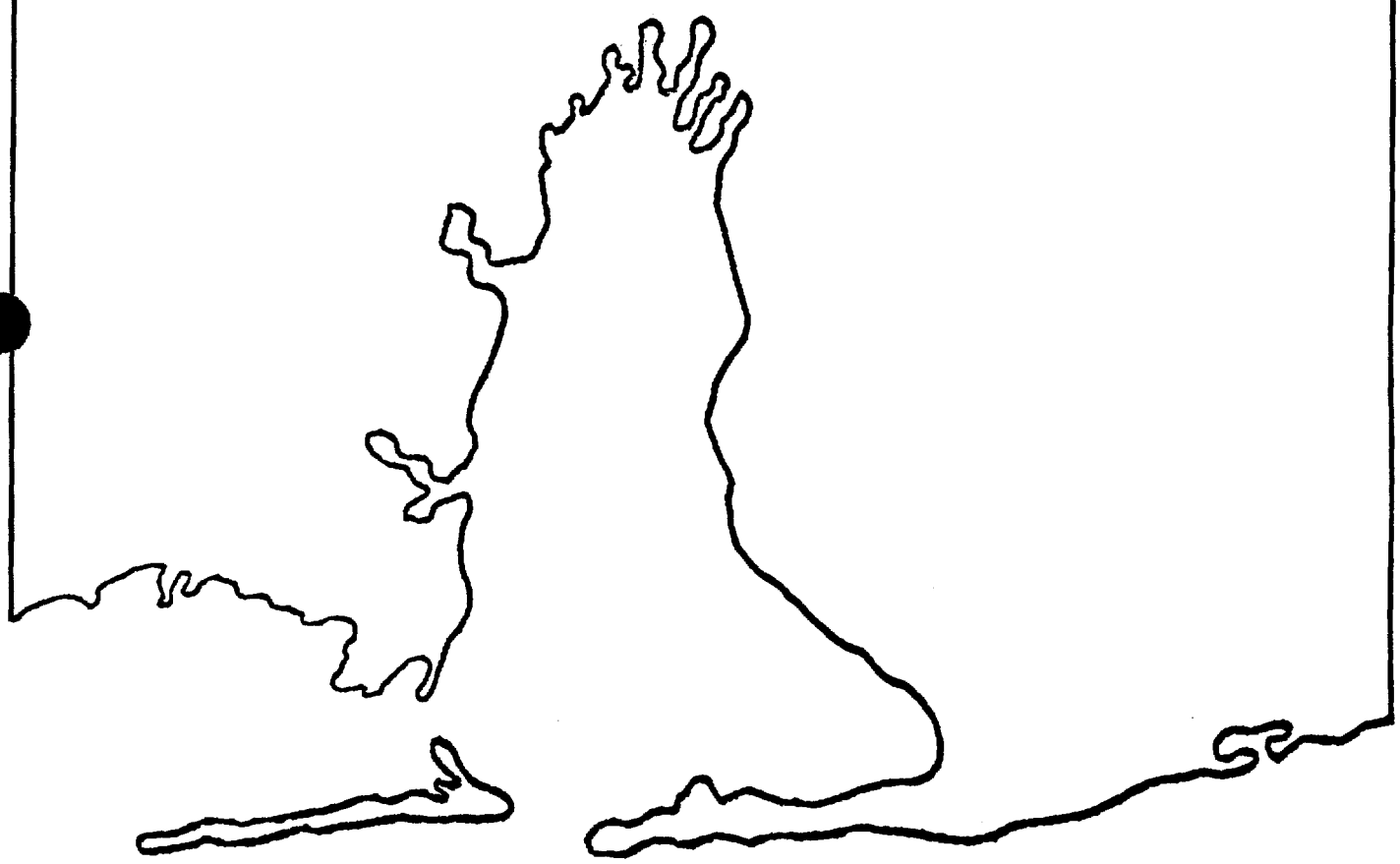
- o periodic surveys or inspections
- o memoranda of agreement;
- o compliance monitoring; and
- o biological baseline analyses.

In terms of enforcement, the program document has identified several methods:

- o notification of violations of the management program to the user and the responsible permitting agency;
- o cease and desist orders;
- o revocation of Board Certification of Consistency; and
- o Judicial remedies

In conclusion, the CAB has the capability to implement the program effectively through the mechanisms for monitoring and enforcement identified above.

AFFECTED ENVIRONMENT



Part IV

PART IV

AFFECTED ENVIRONMENT

A. Biophysical Setting

The Alabama Coastal Area is defined as the lands and waters of Alabama seaward of the 10-foot contour and extending to the limit of the territorial sea. The coastal area exists wholly within Mobile and Baldwin Counties and includes 394,000 acres of estuarine waters, 121,600 acres of wetlands, 9,218 acres of beaches and large areas of bottomland and upland forest, agricultural and developed land. Subareas of Alabama's coastal area include Dauphin Island and the waters, bottoms, and surrounding lands of Mississippi Sound, the marginal lands, waters, and bottoms of Mobile Bay including the extensive Mobile-Tensaw River Delta, the Gulf Shores-Fort Morgan Peninsula including Little Lagoon, other beach areas in southern Baldwin County east to the Alabama/Florida state line, the surrounding lands, waters and bottoms of Perdido Bay and a portion of the Mississippi-Alabama continental shelf. A number of specific features have been very significant in determining the character of southwest Alabama's development. These features include the Mobile-Tensaw River Delta, the coastal islands, beaches and dunes, the oyster reefs in Mobile Bay, the marshes and submerged grassbeds, and the estuarine systems. The area within the Alabama coastal boundary and subject to the policies of the Alabama Coastal Management Program is described in Chapter Four, Section I.

B. Socioeconomic Setting

The 1976 estimated population of Mobile and Baldwin Counties is 416,000 persons. Both counties have experienced considerable growth since 1960, Baldwin County population increasing by 47% and Mobile County population growing by 10%.

A reason for this overall population growth is the economic growth that has occurred within the Mobile/Baldwin Counties area. In the period 1971-1977, over $41 million of capital investment was announced in Baldwin County and $990 million announced in Mobile County. Total employment increased substantially, by 20,769 jobs in the two counties combined (1971-1975). Largest employment increases occurred in the farm sector, contract construction, and wholesale and retail trades.

C. Coastal Resource Uses

The well-being of Mobile and Baldwin counties is strongly influenced by their coastal resources and orientation. As in the past the Port of Mobile has played a large role in the economic well-being of the region. Today, it is the third largest port on the Gulf Coast. In 1977, 35 million tons of cargo passed through the Mobile Port system. The Alabama State Docks handled 60% of this cargo and generated a net profit of $4.5 million.

The industrial profile of the planning area is currently dominated by six industries: 1) paper and allied products, 2) shipbuilding and repair, 3) chemical and allied products, 4) lumber and wood products, 5) textile and apparel products, and 6) food and kindred products. Many of these industries are closely related to the natural resources of the Coastal Area.

Three events are anticipated or have occurred which could provide for increased economic growth within the area: 1) expanding chemical industrial base, 2) increased production of oil and natural gas, and 3) the development of the Tennessee-Tombigbee Waterway.

Urban growth and residential development patterns have become well established in the Mobile/Baldwin Counties area. Mobile County's growth is oriented towards its populated urban center, Mobile. Construction of new transportation arteries and expanded sewer and water service has allowed higher densities of land use to arise in a semi-circular fashion around Mobile.

Baldwin County's urban growth has centered on the eastern shore of Mobile Bay from Spanish Fort to Fairhope, and is more and more serving as a bedroom community for Mobile's commuters. In addition, the boom in tourist activity experienced of late has resulted in a developing resort and second home center in South Baldwin County.

Usable energy in the Mobile-Baldwin County area is primarily derived from petroleum products, natural gas and electricity. Petroleum refineries, natural gas processing, treatment and liquid extraction plants, storage tanks, electric generating plants, coal handling facilities, major transmission lines and pipelines and other energy-related facilities are located almost exclusively in Mobile County, many lying in or crossing the Coastal Area. In addition, oil and gas is produced within the two county area. At this time all production occurs outside of the coastal boundary, however, permits have recently been approved for drilling near Dauphin Island. Outer Continental Shelf Sale Number 65, occurring in October, 1978, leased tracts south of Gulf Shores.

Aside from oil and gas extraction, other mining activities include sand and gravel, clay, soil and subsoil, and oyster shell. One sand and clay extraction operation has been permitted in the coastal area. Shell dredging is an extensive and active industry. Over 46 million cubic yards of oyster shell is available for mining.

Within the two coastal counties there are 19 municipal waste water dischargers that discharge more than 32 million gallons per day (mgd), 39 industrial dischargers with National Pollution Discharge Elimination System permits that discharge about 130 mgd, 49 semi-public and private dischargers of sanitary wastes, cooling waters, boiler blowdown, rain and runoff. At least 72,000 acres of water bottoms have been closed since the early 1950's to harvest because of high coliform counts. Due to lack of recent study, there is question concerning their need to remain closed. Fish kills are not uncommon.

Most emission sources of air pollutants are located in the eastern half of Mobile County between Bayou La Batre and Mt. Vernon. There are no major groupings of emission sources in western Mobile County or in Baldwin County. Portions of eastern Mobile County have been identified as being Areas of Primary Nonattainment and Secondary Nonattainment for Particulates. The entire county has been designated as a Primary Non-attainment Area for Photochemical Oxidants.

Solid waste disposal is an ever increasing problem in the coastal area. By 1990, annual disposal is expected to increase by 66% to 500,000 tons of solid waste. A number of sites are presently authorized as solid waste disposal locations, in addition over seventy unauthorized sites have been utilized, many of which lie within or ultimately impact the coastal lands and waters.

The Coastal Area of Alabama offers a wide variety of recreational opportunities to residents and tourists. Recreation opportunities in south Alabama are most often outdoor activities, specifically fishing, boating, swimming, hiking, hunting and camping. Also, interesting historical sites, public parks and excellent beaches are located along the shores.

Coastal Alabama's estuarine and Gulf-fronting shoreline is developed for a wide variety of uses. Generally, Dauphin Island, the Gulf Shores area, Perdido Bay, and lower Mobile Bay are developed as tourist and second home centers. Most shoreline on Mississippi Sound is unaltered marsh, with urban development in Bayou La Batre and Coden. Upper Mobile Bay is extensively developed, with residential development in Baldwin County and heavy industry in Mobile County, the greatest intensity of water-front development occurring in and around the Port of Mobile. The Mobile-Tensaw River Delta is extensively undeveloped.

The coastal shoreline in many places is eroding. Of 504 miles of shoreline, 221 miles show a net erosional trend. Areas experiencing the severest erosion include Perdido Pass, Little Point Clear, the southeastern limits of the Mobile-Tensaw River Delta, the islands and northern shore of Mississippi Sound and western Dauphin Island.

Alabama's fishing industry, one of the important natural assets of the State, constitutes a major land and water use. Commercial fishing is a major economic factor in several Mobile and Baldwin County communities. Bayou La Batre ranks tenth in the nation in value of seafood landed annually.

A more extensive discussion of these coastal land and water uses is presented in Chapter Two.

D. Natural Resources of Coastal Alabama

Abundant and varied natural resources have been the stimulus for habitation and development within the coastal areas of Alabama throughout the past. Plentiful water, much of it naturally deep enough for navigation, brought the earliest settlers to the area and continues to be a critical

factor in support of the biological resources, transportation, industrial processing and recreational activities. Highly productive and diverse coastal habitats provide rich wildlife and fishery resources for local consumption, sport and recreation and commercial seafood industry.

Coastal wetlands in Alabama are of three types: marshes, swamps and bogs. 121,603 acres of wetlands are present. Wetlands functions include 1) critical habitat, 2) the primary nutrient source providing the base for aquatic and estuarine food chains, 3) storm force buffers, 4) flood water storage areas, and 5) erosion deterent and sediment trap. The varied, important functions of marshlands are imperiled by persistent pressures to alter or destroy them for development purposes.

The extent of submersed grassbeds in the estuarine waters of Alabama is not well known. It is believed, however, that their extent has been reduced substantially. Submerged grassbeds may play a valuable role in the coastal ecosystem, especially to fisheries; more work is needed to determine this role and their extent.

Beaches and dunes are historically dynamic features whose temporary stability is extremely sensitive to disturbance. Alabama's more than 14,000 acres of beaches and dunes constitute a valuable habitat for a variety of flora and fauna and are environmentally sensitive areas of local importance. Barrier islands, beaches and dunes provide a natural defense against the potentially destructive and erosive forces of the Gulf of Mexico.

Natural public oyster reefs in Mobile Bay and Mississippi Sound cover about 3,064 acres. Only 882 acres is reef with highly concentrated oysters (more than 7000 oysters larger than 3 inches per acre). Aside from this live oyster fishery is 46 million cubic yards of oyster shell available for mining.

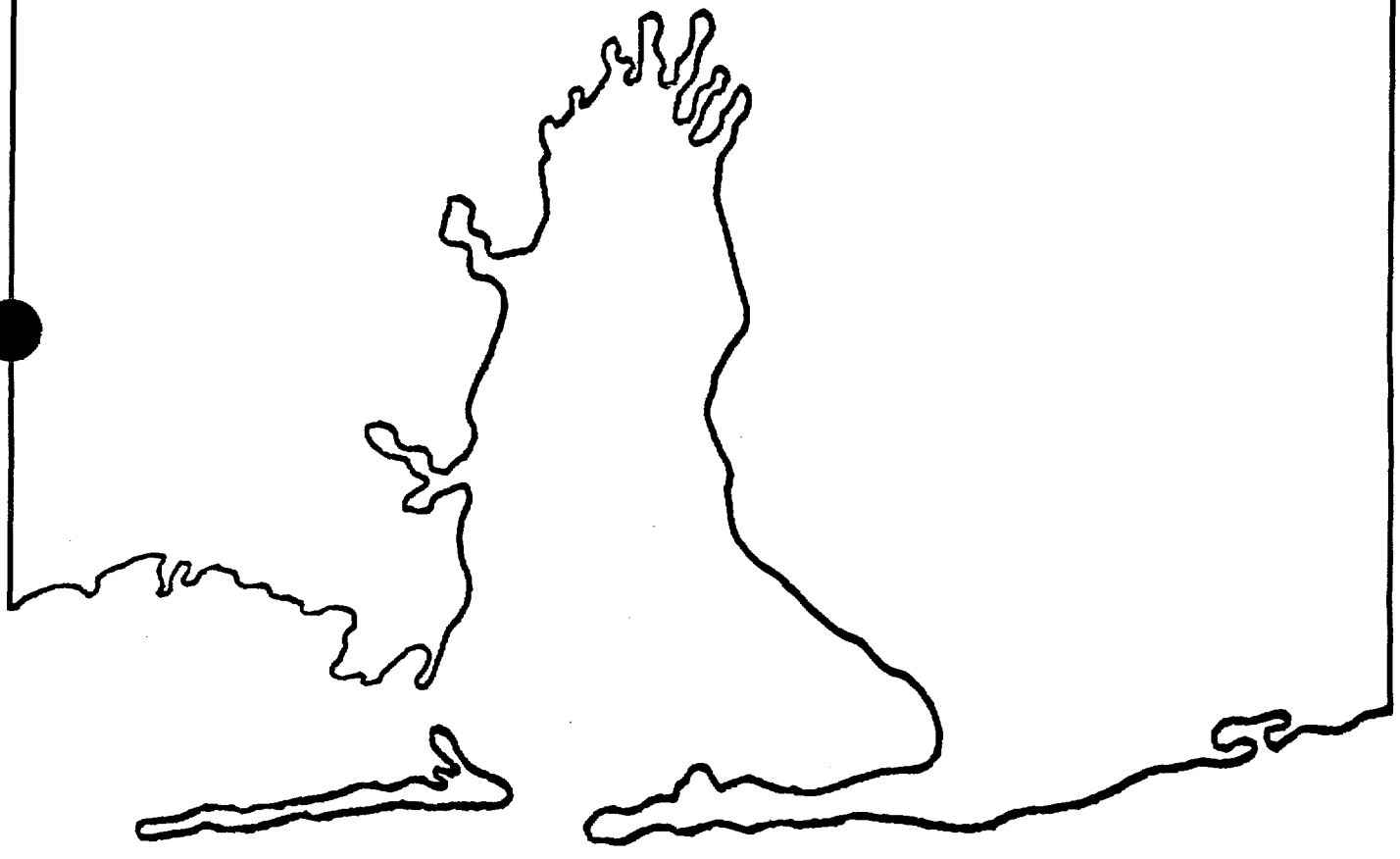
The varied habitats of coastal Alabama support a wide range of animals including aquatic, semi-aquatic and terrestrial forms. Many are permanent coastal residents, while others either over-winter or are present in the area only during the breeding season. Limited extent and uniqueness of some habitats, coupled with destructive activities, has resulted in a number of rare and endangered species of plants and animals occurring in this area. An approximate inventory includes 30 species of plants, 9 fish, 21 species of reptiles and amphibians, 22 species of birds, and 9 species of mammals. Table II-5 summarizes the current status and habitat of these species.

It is estimated that at least 2,000 significant archaeological sites can be found in the Alabama Coastal Area. Earliest Indian activity probably dates from 10,500 years before present. Earliest dated artifacts found are more than 4000 years old. Known European influence dates as early as 1516. This marks the beginning of the nearly continuous occupation of South Alabama. Of course, settlement was primarily a result of the abundant resources available to the colonist along Alabama's coast. Each era of colonization has left its record in the numerous buildings, forts and ruins to be found in the coastal area today.

Surface waters in the Mobile-Baldwin Counties area flow from three major drainage basins: the Mobile River basin, the Escatawpa River basin, and the Perdido River basin. On the average, over 43 billion gallons of surface water pass through the coastal area each day. The principal sources of Mobile and Baldwin Counties abundant ground water resources are the Miocene-Pliocene and alluvial aquifers. About 16,026 billion gallons of water are exploitable from the Miocene-Pliocene aquifer and approximately 37 billion gallons is available from the alluvial aquifers. Other ground water sources are minor and include small sand and gravel terrace deposits and barrier island and other coastal sand deposits.

A further discussion of coastal Alabama's natural resources is presented in Chapter Two.

ENVIRONMENTAL CONSEQUENCES



Part V

PART V

ENVIRONMENTAL CONSEQUENCES

The Federal action is the proposed approval of the Alabama Coastal Area Management Program and after approval, the awarding of Federal grants-in-aid to assist Alabama in implementing and administering their program. This Part addresses the impacts associated with the above action as well as the secondary impacts of implementing the program.

A. Direct Effects of Federal Approval

The intent of the CZMA is to promote the wise use of the Nation's coasts. The CZMA encourages states to achieve this goal through better coordination of governmental actions, explicit recognition of long-term consequences of development decisions, and the institution of a more rational decision-making process. This process, which could affect much of the future activity in the coastal zone, will have a substantial environmental impact.

Both beneficial and adverse environmental and socioeconomic effects may result from Federal approval and state implementation of the Alabama Coastal Area Management Program. The fundamental criterion for assessing these impacts should be the CZMA's declaration of policy: "to achieve wise use of land and water resources of the coastal zone giving full consideration to ecological, cultural, historic and aesthetic values as well as the need for economic development." The Alabama Coastal Area Management Program provides this balanced approach to economic development and natural resource protection.

The Alabama Coastal Area Management Program is a comprehensive program which will be implemented over a period of many years. It is impossible to assess discrete impacts that will occur over this time, but a few points can be made. There are strong safeguards built into the coastal management program system because the CZMA requires that the intent of the National Environmental Policy Act (NEPA) be met. Coastal resource use and natural resource use inventories, boundary designation, management authorities, uses subject to management, special management areas, review procedure, operational and administrative rules and regulations, monitoring and enforcement, existing legal authorities exercised by state agencies, national interest in the siting of facilities, continuing consultation and full participation are all a part of the overall process associated with managing coastal resources in Alabama. The overall purpose of this EIS is to determine if implementation of the Alabama Coastal Area Management Program can reasonably meet the objectives which the state has set and meet the broader national CZMA and NEPA goals. Although Alabama Act 534 could be implemented as the state coastal management program without participation under the Coastal Zone Management Act, Federal approval offers several advantages to the state and allows a more comprehensive and effective program.

1. Program Funding

Federal approval will permit the Office of Coastal Zone Management to award program administrative grants (Section 306) to the Alabama Coastal Area Board. This increased funding will 1) improve resource management decision-making in the Coastal Area, 2) allow efficient review of coastal activities, 3) allow further contracting of technical studies related to human and natural resources, coastal environments, and the management process, and will upgrade the information base on which resource management decisions will be made, 4) allow Section 306 grants to be used to help administer, implement, and improve Alabama's management program, and 5) allow increased use of resource management specialists at the state level. Objectives of studies planned include 1) A Biological Baseline Analysis which will provide a baseline on which to measure the impacts of land and water uses upon the flora and fauna of the coastal area, 2) a permit simplification process and permit information center, 3) a determination of the extent and location of coastal Alabama's beaches and dune systems, 4) a comprehensive inventory of wetlands and submerged grassbeds, 5) port and energy planning, and 6) an assessment of certain erosion control measures in specific areas and public education of erosion-related matters.

While Section 306 program approval is not a prerequisite for Section 308 Coastal Energy Impact Funds and Formula Grants eligibility, active program participation is a prerequisite. This Section 308 assistance could aid substantially in ameliorating the impacts of offshore oil and gas production. Additional funding for interstate coordination, beach and island preservation and access, research, and training also may become available as funding for these sections is appropriated.

2. Federal Consistency

Federal approval and state implementation of Alabama's Coastal Management Program will have implications for Federal agency actions. Approval of the state's program will lead to the implementation of the Federal consistency provisions of the CZMA (Section 307 (c) and (d)). These provisions, and the manner in which Alabama intends to implement them, are described in Chapter Four.

The purpose of the Federal consistency provisions is to allow closer cooperation and coordination among Federal, State, and local government agencies involved in coastal related activities and management. This desirable impact is one of the principal objectives of the CZMA.

The Alabama Coastal Management Program has evolved with considerable assistance from the numerous Federal agencies with responsibility for activities in the coastal zone. No Federal agency activities are specifically excluded from the coastal zone, although these activities may have to meet environmental standards to obtain coastal sites or be located outside the coastal zone if adverse environmental effects cannot be sufficiently mitigated.

When Federal agencies undertake activities, including development projects, directly affecting the state's coastal zone, they will have to

notify the state of the proposed action. Steps will then be taken to insure that the proposed action not only meets Federal requirements but is also consistent with the state's management program. In the event of a serious disagreement between the state and Federal agency, either party may seek mediation by the Secretary of Commerce which will provide increased opportunity for resolving conflicts. These procedures will provide all parties with an opportunity to balance environmental concerns with other national, state, and local interests.

In cases where the state judges that a proposed Federal license, permit or assistance activity is inconsistent with the state's coastal program, the Federal agency will be required to deny approval for the activities. State objections must be based upon the substantive requirements of the management program. State objections may require Federally regulated and assisted projects to consider and locate in alternative site(s) thereby causing adverse impacts in non-coastal marine or distant coastal areas. State objections may otherwise suggest ways projects could be modified to achieve compliance with the management program.

In certain instances, upon appeal, a state objection to a proposed Federally licensed or assisted activity may be set aside by the Secretary of Commerce if the proposed activity is consistent with the objective of the CZMA or is in the interest of national security. In the former case, the Secretary must find that (1) the activity will not cause an adverse impact on the coastal zone sufficient to outweigh its contribution to the national interest; (2) there is no reasonable alternative available which would permit the activity to be conducted in a manner consistent with the management program; and (3) that the proposed activity will not violate requirements of the Federal Water Pollution Control Act or the Clean Air Act. Even if state objectives are set aside by the Secretary, the override will be dependent upon consideration of environmental protection needs. This procedure conforms with NEPA's objective for incorporating environmental values in Federal agency decision-making.

Where the state determines that a proposed Federally regulated or assisted project is consistent with the requirements of the management program, the Federal agency may approve the project which will then be in conformance with the state's management program requirements, including those related to environmental protection. Notwithstanding state approval for the project, the Federal agency is not required to approve the license, permit or assistance application. The proposed project may still require the Federal Government denial based upon NEPA, Endangered Species Act, Fish and Wildlife Coordination Act, or other overriding national interest grounds where Federal criteria are more stringent than the state's management program requirements. Between Federal and state environmental requirements for the coastal zone, the more stringent apply, thereby fulfilling NEPA's objectives to administer Federal programs in a manner which maintains the quality of the environment.

3. National Interest

Federal approval of Alabama's program will certify that the state has an acceptable procedure to insure the adequate consideration of the national interest involved in the siting of facilities and management of areas that

are more than local in interest. These facilities involve recreation, energy, transportation, ports and navigation, national defense, air and water quality, and endangered flora and fauna, to the extent they are dependent on or relate to the coastal zone. National interest is discussed in Appendix E.

This policy requirement of the Coastal Zone Management Act is intended to assure that national concerns related to facility siting are expressed and dealt with in the development and implementation of a state's coastal management program. The requirement should not be construed as compelling Alabama to propose a program which accommodates certain types of facilities, but to assure that such national concerns are not arbitrarily excluded or unreasonably restricted in the management program.

This provision might have two impacts. First, it insures that a state has a process and program that does not prohibit or exclude any use or activity dependent on the coastal zone. In the absence of a comprehensive program, such considerations might simply be ignored by oversight or default. This requirement will insure they are specifically considered. On the other hand, the existence of a consultative procedure should lead to more deliberate and less fragmented decision-making concerning the siting of facilities in the coastal zone.

B. Indirect Effects of Federal Approval

1. General Socioeconomic Impacts of the Proposed Action

a. Introduction

The Alabama Coastal Area Management Program seeks to manage the state's Coastal Area through a balanced approach to the development of Alabama's resources. The program's policies and rules and regulations seek to provide the maximum benefits to the general public by encouraging the development of recreational, economic, and cultural resources while protecting the natural coastal resources.

Benefits will accrue to people throughout Alabama and the nation whose economic productivity, market attractiveness or opportunities for employment would be enhanced by the program's guidelines and standards. For example, persons with recreation and tourism interests will benefit from standards that protect beaches and encourage provision for public access. Marine fisheries interests will benefit from regulations that protect natural habitats, such as wetlands.

Potential significant social benefits can include the fact that planning stabilizes erratic "swings" in expectations because it results in less uncertainty in future prospects of land investment and a heightened satisfaction with one's physical environment.

b. Land Values

Land values in Alabama continue to rise as increased pressure for development is constrained by the supply of readily usable land. These pressures are magnified in portions of the Coastal Area with water access and

in the Mobile urban area. The Coastal Area Management Program is not expected to have a significant impact on property values, since the program does not significantly reduce the supply of land with water access or the supply of land in the Mobile urban area.

c. Costs of Development

The Alabama Coastal Area Board is placing a high priority on simplifying the permitting process within the Coastal Area. Recognizing that delays in permitting may frustrate development and add unnecessary costs to the economy, the CAB is taking the first step toward the long-range goal of permit simplification by undertaking a study that will lead to the establishment of a permit information center for the Coastal Area. While in the short-term some delay may result in certain instances from permit review by the CAB, in the long-term the permitting process in the Coastal Area is expected to be smoother and quicker through the efforts of the CAB and other regulatory agencies with authority in the Coastal Area.

In a few instances, coastal development may be more costly as a result of certain CAB regulations. For example, large-scale development projects that contribute significant quantities of non-point pollutants will be required to conduct Best Management Practices (BMP) to control erosion. The implementation of these BMP's could create additional costs.

d. Employment

The Alabama Coastal Area Management Program's impact on employment and other business investment may vary by industrial sector. Investment and employment potential in fisheries, tourism, and commercial recreation facilities may be enhanced through Alabama's policies.

The Coastal Area Board will attempt to find solutions to environmental problems which would allow expanded port operations, expanded industrial development, and increased coastal development. If reasonable solutions are reached as expected, increased economic development would be expected to result in more employment opportunities within the Coastal Area.

e. Development Pattern

The Alabama Coastal Area Management Program may have an effect on development patterns in some areas of the coast. Development may be directed away from wetlands, submersed grassbeds, and dunes. In addition, the nature of private planning and design may be altered in natural resource areas such as beaches, dunes, wetlands and the 100-year flood plain.

2. Institutional Impacts of the Proposed Action

The Alabama Coastal Area Management Program may affect the relationships, responsibilities and obligations of Federal, state and local governments. These, in turn, may affect private sector operations. The following discusses the institutional impacts of the program.

a. Coastal Area Board and State Government Relationships

According to provisions of Alabama Act 534, the participation of state agencies in the development of the Alabama Coastal Area Management Program is encouraged. Existing state legal authorities have been identified, and a detailed review procedure of uses requiring state permits has been presented in Chapter Four, Section V. In addition, four members of the Coastal Area Board are representatives of state agencies or institutions.

b. Coastal Area Board and Local Government Relationship

According to provisions of Alabama Act 534, all state agencies engaged in programs affecting the Coastal Area are urged to cooperate and participate with local governments in effectuating the purposes of this Act and further, that the participation of local governments in the development of the Coastal Area Management program is encouraged. Four representatives of local governments are members of the Coastal Area Board, providing for an opportunity for close cooperation and coordination between local governments and the CAB. In addition, major efforts have been aimed at securing input during program development from all local units of government. Chapter Four presents the CAB's procedure for reviewing uses that require a local permit.

c. Cost of Government

A general increase in the public costs for managing coastal lands and waters may be anticipated in the first years of implementation. These increased costs may be due to (1) the Coastal Area Board's responsibility to review uses subject to management for consistency with the program, planning activities to be accomplished in effectively implementing the management program, and program administration and (2) the additional work effort required of other governmental agencies to assure their decision-making and planning efforts are consistent with the Coastal Area Board's program.

While there may be a net increase in the cost of government for a few years, this increase is expected to be far less than the expenditures that would be required to remedy the problems that would result from the lack of adequate review and management of coastal activities.

d. Predictable Decision-Making

Since uncertainty is costly to all parties, developers and conservationists have been calling for more certainty in determining whether a use is subject to review as well as the standards by which the proposed use may be reviewed. The Alabama Coastal Area Management Program provides guidance in determining if a use is subject to management and presents standards by which a proposed use subject to management will be reviewed for program compliance, thereby eliminating much uncertainty about the permissibility of a proposed use.

e. Citizen Participation

The extensive public involvement in the development of the Alabama Coastal Area Management Program is described in Appendix E. The program

calls for continued citizen involvement and allows for input through citizen participation in Coastal Area Board meetings and public hearings. Alabama Act 534 establishes a Citizens Advisory Committee whose chairman is a member of the Coastal Area Board. The purpose of the Committee is to provide input to the Coastal Area Board on matters relating to the Coastal Area.

f. Recognition of the National Interest

Implementation of the Alabama Coastal Area Management Program may improve state recognition of the national interest. Further, through the Federal consistency provisions of the National Coastal Zone Management Act, federal agencies have a continuing opportunity to make certain that the national interest is properly considered. Appendix E describes the national interest that has been considered in the development of the Coastal Area Board's policies and regulations.

3. Impacts of the Program's Operational Rules and Regulations

The Alabama Coastal Area Management Program has developed operational rules and regulations to be used as standards for the review of all uses subject to the management program. The anticipated impacts resulting from the implementation of these operational rules and regulations is discussed.

a. Existing Laws, Rules, and Regulations

A number of statutes and regulations, both state and Federal, have been adopted as minimum standards for they will constitute an integral part of the operation of the management program. The adoption of these existing laws, rules, and regulations will eliminate duplication of effort in the review and permitting of these regulated activities.

b. General Rules and Regulations

General rule and regulation 1 makes the approval of any regulated or non-regulated use or the issuance of any Board permit conditional upon continued compliance with the management program and any relevant conditions deemed appropriate to assure consistency. This rule will assure consistency of an approved use with the management program at all times.

General rule and regulation 2 requires that uses that degrade the Coastal Area shall not be permitted nor certified to be consistent with the management program unless the Board determines there is a compelling public interest. If the Board determines there is a compelling public interest, the use shall be undertaken in a manner that minimizes degradation. This rule is aimed at eliminating degradation of the Coastal Area, except in cases of compelling public interest where degradation is minimized.

General rule and regulation 3 requires that applicants seeking Board approval of major projects show the impacts of the proposed use on specified coastal resources to enable the CAB to consider all impacts in its review of major projects.

General rule and regulation 4 assures that the review procedure and monitoring and enforcement provisions as presented in the management program will be adhered to.

General rule and regulation 5 enables the Coastal Area Board to take necessary emergency action when it finds that an imminent peril to the public health, safety, or welfare requires immediate action without adherence to the procedures set out in the management program.

General Rule and Regulation 6 provides for resolution for any conflicts which may occur between the General Rules and Regulations and the Coastal Resource Use and Natural Resource Rules and Regulations.

c. Coastal Resource Use Rules and Regulations

1) Siting, construction and Operation of Energy Facilities

Possible Impacts

a) Allows energy development with minimal environmental impact.
b) Allows presentation and consideration of all impacts before CAB grants approval or disapproval.
c) Assures compatibility of uses.
d) Preparation of Energy Facility Construction and Operation Plan showing impacts may require additional output of human and financial resources.

2) Dredging and Filling

Possible Impacts

a) Allows dredging and filling with minimal environmental impact.
b) Prevents unnecessary channel construction or maintenance
c) Prevents problems associated with dead-end canals.
d) Allows maintenance of existing channels to original design specifications.
e) By transferring spoil disposal from coastal inshore water bottoms to inland areas or offshore Gulf of Mexico waters, some additional expenses may result.

3) Shoreline Erosion

Possible Impacts

a) Prevents increased on-site shoreline erosion resulting from the emplacement of structural erosion control measures.
b) Prevents erosion problems in downdrift areas resulting from the emplacement of structural erosion control measures.
c) Provides for preservation and restoration of dunes, beaches, wetlands and submersed grassbeds and shoreline restoration and nourishment so that these areas can carry out their natural erosion control functions.

4) Public Access

Possible Impacts

a) Greater opportunities for public access to coastal waters may become available.

5) Natural Hazard

Possible Impacts

a) Loss of life and property resulting from inappropriate design, location, construction or operation of new facilities in hazard areas may be avoided or minimized.
b) If public expenditure for public works projects do not promote development in the 100-year flood plain, the requirement for public services commonly needed to mitigate hazard potential or loss such as providing rescue and relief, loans for rebuilding, or flood insurance coverage will not increase as rapidly as they would without the management program.

6) Solid Waste Disposal

Possible Impacts

a) Solid waste disposal sites will not adversely impact wetlands, beaches, dunes, or coastal waters.

d. Natural Resource Rules and Regulations

1) Water Quality

Possible Impacts

a) The monitoring of biological activity for existing point source discharges and establishment of a Discharge Information Zone for new point source discharges will help to limit the influence of point sources of pollution and maintain present levels of plants and animals in the Coastal Area
b) The Coastal Area will be protected from non-point pollution of developments greater than 25 acres in size or raw materials stockpiles of five or more acres.

2) Wetlands and Submersed Grassbeds

Possible Impacts

a) The ability of wetlands to carry out their natural functions will be maintained.
b) The quantity of existing wetlands will be substantially maintained, and an amount of wetlands equivalent to that necessary to support present levels of plants and animals may be accepted to replace those lost as a result of an approved project.

3) Air Quality

Possible Impacts

a) Plant or animal life in the Coastal Area shall be protected from air emissions.

4) Beaches and Dunes

Possible Impacts

a) Allows beachfront construction without altering the primary dune system.
b) Allows the beaches and dunes to perform their role in shoreline erosion and storm protection.

5) Oyster Reefs

Possible Impacts

a) Oyster reefs shall not be degraded by uses taking place in the Coastal Area.

6) Water Resources

Possible Impacts

a) Coastal fresh or groundwater resources will be protected from saltwater intrusion.

7) Cultural Resources

Possible Impacts

a) Damage to historic,cultural or archaeological sites is minimized.
b) Opportunity for study of cultural resources discovered during development is provided.
c) To avoid adversely affecting historic, cultural, or archaeological resources, developers may find their choice of site or development may be restricted.
d) In the event that a 30-day emergency cease and desist order is issued by the CAB, the developer may incur some delays.

8) Fisheries Management

Possible Impacts

a) Fisheries productivity may be sustained or increased through the protection of fishery habitats from degradation.

9) Wildlife and Wildlife Habitat

Possible Impacts

a) Wildlife and wildlife habitats, in particular endangered species and their habitats, shall be preserved and protected.
b) Certain types of development may be restricted from certain land or water areas.

4. Impacts of the Coastal Area Management Program Boundary

Section 6 of Alabama Act 534 fixes the inland boundary of the Coastal Area as the continuous 10-foot contour where the land surface elevation reaches 10 feet above mean sea level. Within this boundary, the Alabama Coastal Area Board has been authorized to develop a Coastal Area Management Program setting forth objectives, policies, and standards to guide public and private users of land and water. The management program will not directly regulate activities outside the Coastal Area. However, the authority of the

Board within the Coastal Area is such that it may preclude from the Coastal Area those uses and effects of uses which have a direct and significant impact within the Coastal Area and which are inconsistent with the management program.

5. Impacts of Uses Not Subject to the Management Program

A number of coastal uses will not be subject to the management program to the extent that they do not involve dredging, filling, new or additional discharges into coastal waters, or draining of wetlands. These include uses which do not have a direct and significant impact within the Coastal Area and a number of uses in which the Alabama legislature in Act 534 indicated its intent that they be permitted within the management area. No major negative impacts will result from activities not subject to the management program.

C. Possible Conflicts Between the Proposed Action and the Objectives of Federal, Regional, State, and Local Land Use Plans, Policies, and Controls for the Area Concerned

Prior to granting approval to a management program submitted by a coastal state, the Secretary of Commerce shall find that the State has coordinated the contents of its management program with local, areawide or interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the state's management program is submitted to the Assistant Administrator for approval (Coastal Zone Management Act, subsection 306 (c)(2)(A)).

The Coastal Area Board, as set forth in Act 534, Section 5(h), shall coordinate activities and plans of all existing interests, other state governments, local governments, regional planning agencies, interstate compacts and commissions, and federal agencies which have programs relevant to the Coastal Area.

The Alabama Coastal Management Program has accomplished these requirements of both Federal and State Acts. The program is a comprehensive management program which will provide effective management of the State's coastal resource uses and natural resources. Efforts are continuing to (1) consider the interests of local, state, regional, and federal authorities and affected bodies, (2) consider the programs of the many affected agencies and bodies to create a comprehensive management program, and (3) create a program which embodies the interests and established plans pertaining to coastal land and water uses and resources.

During program development, many local and regional plans were consulted. These include:

(1) Water Quality Management Plan for Mobile and Baldwin Counties, Alabama. Prepared by the South Alabama Regional Planning Commission in compliance with Section 208 of PL 92-500. 1978.

(2) Land Development and Policies Plan for Mobile, Baldwin and Escambia Counties, Alabama. Prepared by the South Alabama Regional Planning Commission in accordance with Department of Housing and Urban Development federal regulations regarding lands use. 1977.

(3) Alabama Statewide Comprehensive Outdoor Recreation Plan prepared by Agricultural Experiment Station at Auburn University, under terms of a contract research project with the Alabama Department of Conservation and Natural Resources. The development and printing were financed in part through a planning grant from the (then) Bureau of Outdoor Recreation, Department of the Interior, under provisions of the Land and Water Conservation Fund Act of 1965 (Public Law 88-578). 1975.

(4) Long Range Development Plan for Facilities at the Port of Mobile, prepared for the Alabama State Docks Department, 1977.

(5) Alabama State Implementation Plan prepared in accordance with the Clean Air Act of 1970 by the Alabama Air Pollution Control Commission, a division of the Department of Health. 1972.

(6) Mobile Area Transportation Study prepared by South Alabama Regional Planning Commission. 1970.

In addition, the Coastal Area Board has identified existing legal authorities exercised by state and federal agencies that relate to the development and preservation of coastal resources (Chapter 4, Section VI). The enforcement of these statutes and regulations constitute an integral part of the operation of the management program.

Further, a detailed and comprehensive review procedure (Chapter 4, Section V) to be used by the Coastal Area Board in reviewing Regulated Uses and Non Regulated Uses has been established. This procedure provides for and ensures that review will entail coordination between the Coastal Area Board and other Federal, State, or local agencies.

D. Environmental Effects of the Proposed Action

A review of the Alabama Coastal Management Program policies which would be used as a basis for decision-making indicates that the probable effects of program implementation would be environmentally beneficial. However, there will probably be some adverse impacts to both the natural and socioeconomic environments.

Some impacts may be associated with the siting of major facilities for purposes of defense, transportation, energy requirements, and others in which both the State and Federal governments have interest. The location of these facilities may be less desirable due to their environmental impact. The program makes provisions for consideration of the siting of facilities which are in the national interest.

In order to protect certain environmentally critical areas, it may be necessary to direct these activities to less environmentally critical areas. For example, by directing dredge spoil disposal to upland areas or to offshore Gulf of Mexico areas, additional environmental stress may be placed on certain locations and/or resources.

Coastal Alabama must continue to rely on the contributions the tourist industry makes to the local economy. Continued development of tourism and recreation facilities appears necessary. This may result in increasing congestion of visitor destinations and their accessways.

The management program will provide long-term assurance that coastal resources and opportunities will be available for future use and enjoyment. To accomplish this end, the program's balanced approach may alter some local, short-term use of the environment as it manages coastal growth based on policies that provide for coastal resource use and natural resource protection.

These same policies provide for the maintenance of present levels of plants and animals. As each activity is reviewed by the Coastal Area Board, the rules and regulations, based on the Board's policies, will be applied as the standards for review. On a long-term basis, the level of coastal productivity will be assuredly higher than if no program had been instituted.

Approval of Alabama's Coastal Area Management Program will require commitment of fiscal as well as human resources. Fiscal resources committed are Federal 306 grants and State matching funds as well as other monies needed to implement the program. Approval of Alabama's management program is not an irretrievable commitment of Federal monies. A decision to approve is a Federal action subject to modification or termination based upon review or performance under Subsection 312 (b) of the Coastal Zone Management Act.

Irretrievable or irreversible commitments of human resources include those man hours required of Federal, State, and local governments for program implementation.

E. Means to Mitigate Adverse Environmental Impacts

In a very real sense the Alabama Coastal Area Management Program can be viewed as providing a set of mitigation measures which are to accompany coastal development; the program is not intended to preclude development in the Coastal Area. Mitigation measures may be attached to the approval of any regulated or non-regulated use in the form of "conditions". Compliance with the management program must be continuous.

The program's management philosophy is to encourage economic growth while maintaining environmental quality. The Alabama Coastal Area Management Program will manage short-term uses in a balanced manner by taking into account both economic and environmental concerns. It recognizes that some energy facilities and coastal dependent developments and activities have adverse environmental consequences, but they may still be located in the coastal zone to help provide orderly economic development, to consider national interest, and to protect the inland environment.

List of Preparers

Mr. James F. Murley, Gulf/Islands Regional Manager, Office of Coastal Zone Management
Degrees: B.A. History, Dennison University, 1968.
J.D. Law, George Washington University, 1974.
Experience: 5 years coastal zone management and related areas.

Ms. Ann H. Berger-Blundon, Gulf/Islands Assistant Regional Manager, Office of Coastal Zone Management
Degrees: A.B. Political Science, Vassar College, 1971.
M.U.R.P. Urban and Regional Planning, George Washington University, 1975.
Experience: 4 years coastal zone management experience.

Mr. Daniel Finn, General Counsel, Office of Coastal Zone Management
Degrees: B.A. Philosophy, Fordham University, 1970.
M.A. Philosophy, University of Toronto, 1973.
J.D. Law, University of Hawaii, 1977.
Experience: 1 year experience coastal zone management.

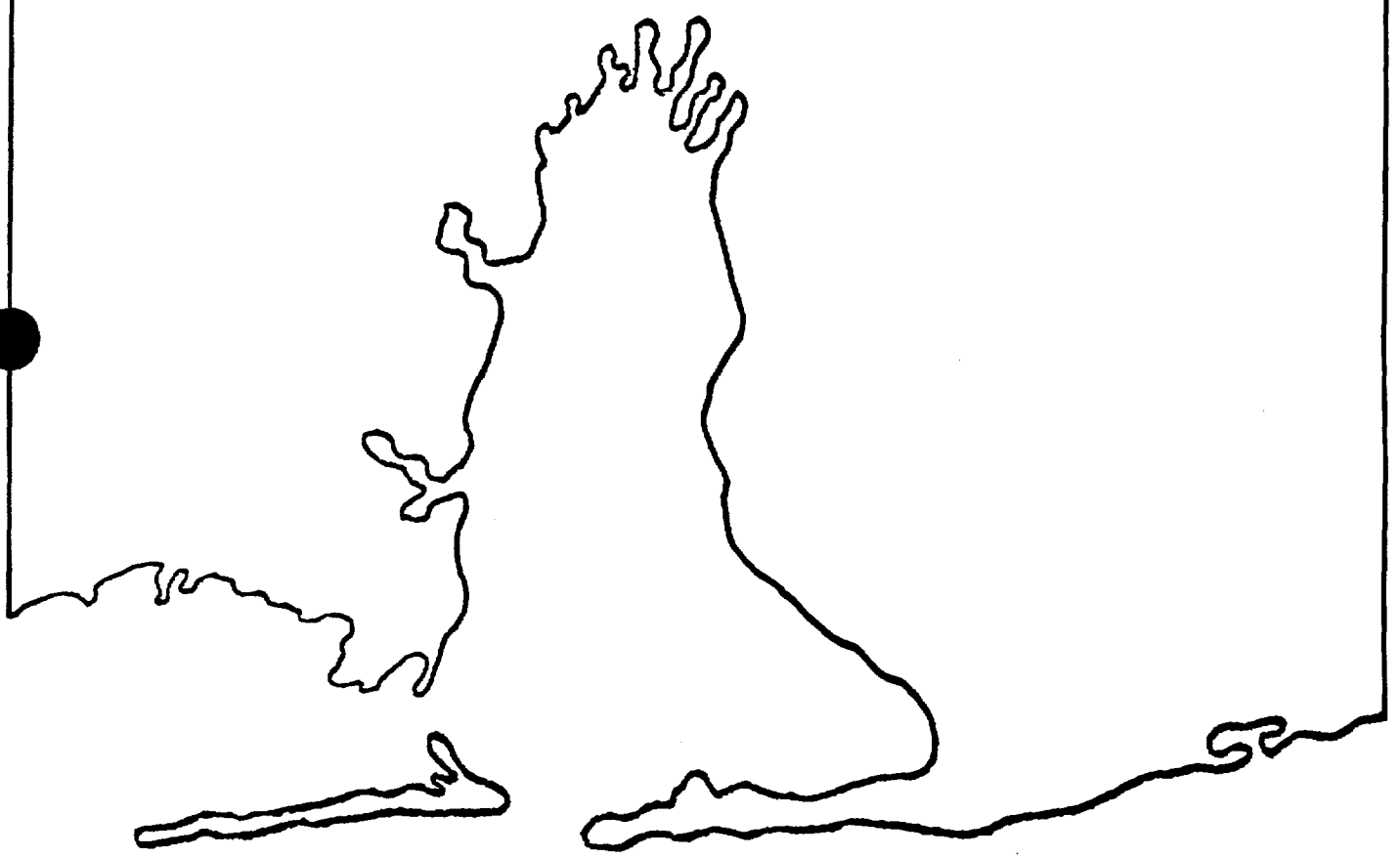
Dr. E. Bruce Trickey, Executive Director, Alabama Coastal Area Board
Degrees: B.S. Chemical Engineering, University of Toronto, 1940.
M.S. Chemical Engineering, University of Toronto, 1942.
Ph.D. Chemical Engineering, University of Toronto, 1945.
Experience: 32 years experience in chemical plant operations.

Mr. Tim Savage, Senior Planner, Alabama Coastal Area Board
Degrees: B.A. International Affairs, University of Colorado, 1969.
M.S. Environmental Planning, Rensselear Polytechnic Institute, 1973.
M.S. Urban and Regional Planning (economic development specialty), Florida State University, 1976.
Experience: 6 years experience in water quality, socioeconomic, transportation and land use planning.

Mr. Barry McIlwain, Technical Projects Coordinator, Alabama Coastal Area Board
Degree: B.S. Biology, University of Southern Mississippi, 1968.
Experience: 6 years experience in coastal and biological research, public participation, marine education and project coordination.

Mr. Brad Gane, Coastal Planner, Alabama Coastal Area Board
Degree: B.S. Physical Geography, Louisiana State University, 1973.
Experience: 5 years experience in coastal research and planning.

APPENDICES



Part VI

APPENDIX A

Each Probate Judge, Sheriff, and the Clerk and Register of the Circuit Court is required by law to preserve this slip or pamphlet in a book kept in his office until the Act is published in permanent form.

ALABAMA LAW

(Regular Session, 1976)

Act No. 534 S. 501—Noonan, Owen

AN ACT

To create a reconstituted coastal area board with responsibility and authority for developing, coordinating and maintaining a coastal area program for the area in direct proximity to the coasts of Alabama to insure the enhancement of tourism and orderly economic development along coasts; and to provide for the promulgation of regulations and provisions for the enforcement of this act; and

To repeal Act No. 1274, S. 311, 1973 Regular Session (Acts of 1973, p. 2164), entitled, "An Act To provide for the preservation, enhancement and development of the coastal areas of Alabama; to establish a board with responsibility and authority for developing, coordinating and maintaining a coastal area program; and to provide for the promulgation of regulations and provisions for the enforcement of this act."

Be It Enacted by the Legislature of Alabama:

Section 1. Purpose. The purpose of this Act is to promote, improve and safeguard the lands and waters located in the coastal areas of this state through a comprehensive and cooperative program designed to preserve, enhance and develop such valuable resources for the present and future well-being and general welfare of the citizens of this state. In promulgating such a program, the Legislature of Alabama recognizes and declares that:

a. The coastal area is rich in a variety of natural, commercial, recreation, industrial, and aesthetic resources of immediate and potential value to the present and future well-being of the state.

b. There are increasing and competing demands upon the lands and waters of the coastal area occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources.

c. The coastal area, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently vulnerable to destruction by man's alterations.

d. Important ecological, cultural, historic and aesthetic values to the coastal area are essential to the well-being of all citizens.

e. Special natural and scenic characteristics may be damaged by ill-planned development.

f. There is a state interest in the effective administration, beneficial use, protection, and development of the coastal area.

g. In light of competing demands and the urgent need to balance development for the preservation of the natural systems in the coastal area, the key to more effective protection and use of land and water resources of the coastal area is to encourage the state to exercise its authority for improved and better methods of utilizing the lands and waters in the coastal area by developing, in cooperation with counties and municipalities and other vitally affected interests, land and water use programs for the coastal area, including unified policies, criteria, standards, methods, and processes for dealing with land and water use.

Section 2. State Policy. The Legislature finds and declares that it is State policy:

a. To preserve, protect, develop, and where possible, to restore or enhance, the resources of the state's coastal area for this and succeeding generations;

b. To encourage and assist counties and municipalities wherever applicable to exercise effectively their responsibilities in the coastal area through the development and implementation of administration programs to achieve wise use of the land and water resources of the coastal area giving full consideration to needs for economic development, as well as to ecological, cultural, historic, and aesthetic values.

c. To assure that in development of the state's coastal area adequate consideration is given to such uses of the coastal area adequate consideration is given to such uses of the coastal area as the establishment of harbor facilities for the receiving of oil, gas and other commodities from ships and tankers; pipelines from such ports; and utility plant sites, utility generation, transmission, distribution, and transportation facilities;

d. To urge that all state agencies engaged in programs affecting the coastal area cooperate and participate with local governments and regional agencies in effectuating the purposes of this Act; and

e. To encourage the participating of the public, of federal, state, and local governments and of regional agencies in the development of coastal area management programs. With respect to implementation of such management programs, it is the state policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures and joint action particularly regarding environmental problems.

Section 3. Definitions. The following terms, whenever used in this Act, shall have the following respective meanings unless the context thereof clearly indicates otherwise:

a. "Coastal area" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder) strongly influenced by each and in proximity to the shorelines of Alabama, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches. The area extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters.

b. "Coastal waters" means those waters, adjacent to the shoreline, which contain a measurable quantity or percentage of sea water, including but limited to, sounds, bays, lagoons, bayous, ponds and estuaries.

c. "Estuary" means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage.

d. "Estuarine sanctuary" means a research area which may include any part or all of an estuary, adjoining transitional areas, and adjacent uplands, constituting to the extent feasible, a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

e. "Management Program" includes, but is not limited to, a comprehenisve statement in words, maps, illustrations, or other media of communication, prepared and adopted by the state in accordance with the provisions of this Act, setting forth objectives, policies and standards to guide public and private users of lands and waters in the coastal area.

f. "Water use" means activities which are conducted in or on the water, but does not mean or include the establish-

ment of any water quality standard or criteria or the regulation of the discharge or runoff of water pollutants except the standards, criteria, or regulations which are incorporated in any program as required by the provisions of this Act.

g. "Board" means the Board established under this Act.

Section 4. Permissible Uses. The legislature of Alabama finds that the following activities shall constitute permissible uses within the Coastal Area upon the approval of this Act by the Governor. The Board shall determine by rule and regulation from time to time additional permissible uses within the Coastal Area.

a. The accomplishment of emergency decrees of any duly appointed health officer of a county or municipality or of the state, acting to protect the public health and safety;

b. The conservation, repletion and research activities of the Marine Environmental Sciences Consortium, the Marine Resources Division of the Department of Conservation and Natural Resources and the Mississippi-Alabama Sea Grant Consortium;

c. The exercise of riparian rights by the owner of the riparian rights, provided that the construction and maintenance of piers, boathouses and similar structures are constructed on pilings, that permit a reasonably unobstructed ebb and flow of the tide;

d. The normal maintenance and repair of bulkheads, piers, roads and highways existing on the date of final approval of the rules and regulations pursuant to this Act;

e. The use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling;

f. Normal maintenance and repair activities of railroads and of utilities or other persons engaged in transportation or in telephone communication service or in the distribution or transmission of gas, electricity or water or the collection of sewage, including inspecting, maintaining, repairing, or renewing on private or public rights of way any sewers, mains, conduits, pipes, cables, utility tunnels, power lines, towers, poles, tracks, bridges, trestles and drainage facilities or the like, or making service connections thereto, or inspecting, maintaining, repairing, or renewing any substation, pumping or lifting facility;

g. Activities of any mosquito control commission which is a political subdivision or agency of the State of Alabama;

h. The use of any land for the purpose of planting, growing, or harvesting plants, crops, trees, or other agricultural or forestry products, including normal private road constuction, raising livestock or poultry, or for other agricultural purposes;

i. Completion of any development, not otherwise in violation of law, for which a valid building or zoning permit was issued prior to final approval of the rules and regulations pursuant to this Act and which development was initiated prior to such approval.

Section 5. Composition, Appointments, Meetings and Functions of Board. There is hereby created the Alabama Coastal Area Board as set forth as follows:

a. Members of the Board shall consist of: Director, Office of State Planning, Alabama Development Office; Director, Marine Resources Division, Department of Conservation and Natural Resources; member, Mobile City Commission; member, Mobile County Commission; member, Baldwin County Commission; the State Geologist; Director Marine Environment Sciences Consortium; one official of a municipality in Baldwin County, who is a member of and selected by the Baldwin County Mayor's Association, the Chairman of the Coastal Area Advisory Committee provided for in Sec. 9 of this Act.

b. The term of office of each Board member shall be consistent with his elective or appointed office. The member from the Mobile City Commission and the Baldwin and Mobile County Commissions shall be elected by the membership of their respective commissions.

c. The Chairman of the Board shall be elected by the members of the Board and shall serve as chairman at the pleasure of the Board. The Board shall designate from time to time any other member as acting Chairman who shall serve in the absence of the Chairman.

d. A quorum for the transaction of business shall consist of at least five (5) members. A majority of those members voting shall be required to pass any motion before the Board. However, in adopting its rules and regulations a minimum of two-thirds of the Board's membership must vote in the affirmative. The Board shall have an official seal which shall be judicially noticed.

e. Members shall receive no additional compensation for serving on the Board, but shall be reimbursed for expenses of

travel and subsistence in the discharge of their official duties at the rate provided by law.

f. The Board shall meet quarterly, and shall meet in special sessions as occasion demands upon the call of the Chairman. All meetings shall be open to the public and an accurate record of all proceedings shall be kept and made available for public inspection. All members shall be voting members.

g. The Board shall have authority to solicit, accept and expend funds from the State, the United States, and from any other source, to carry out the provisions, purposes and policies of this Act.

h. The Board shall coordinate activities and plans of all existing interests, other State governments, local governments, regional planning agencies, interstate compacts and commissions, and federal agencies which have programs relevant to the coastal area.

i. When necessary to achieve conformance with the management program provided for in Section 6 of this Act, the Board shall have the power to acquire fee simple and less than fee simple interest in land, water and other property under the procedures of Title 19, Code of Alabama, or other means, however such power shall not apply to property and interest therein which is devoted to public use. In the implementation of this Act no governmental agency shall adopt a rule or regulation that is unduly restrictive, or constitutes a taking of property without payment or full compensation in accordance with the Constitution of the State of Alabama or of the United States.

j. The Board is authorized to employ an executive director to serve at the will of the Board. The executive director, under policies adopted by the Board, shall manage the executive and administrative functions of the Board and the Board's general operations and shall serve as chief administrative officer of the Board. The executive director, in addition to his usual functions, shall be secretary to the Coastal Area Board. The Board shall fix the compensation of the executive director. The executive director, subject to Board approval, shall employ necessary engineers, attorneys, accountants, technical personnel and other employees necessary to carry out the provisions of this Act. Employees of the Board are entitled to compensation as provided by the Board. The executive director shall keep complete and accurate minutes of all transactions and proceedings of the Board. The executive director shall be custodian of all files and records of the Board.

k. The Board is authorized to call upon and/or contract with such other state agencies including universities to provide such technical assistance as might be needed from time to time to develop and carry out the management program. The cost of such technical assistance shall be reimbursable to the agency furnishing such assistance on an actual cost basis.

l. Subject to Section 14, after 120 days from the approval of this Act by the Governor the Board shall provide for the orderly transfer by the State Planning Office of all of the State Planning Office functions under Act 1274, Regular Session 1973 to the office and staff directed and hired by the Coastal Area Board, and accordingly there shall be established in the Gulf Coast area an office to carry out the functions, responsibilities and duties herein presently delegated to the office of State Planning and otherwise to effectuate the provisions of this Act.

Pursuant to the above provisions of this subsection L, the Board is authorized to accept and use such funds, facilities, or personnel as may be or may become available for the purposes of this Act. There is hereby created a fund which shall be known as the Alabama Coastal Area Board Fund. This shall consist of: (a) all money appropriated to the Board by the Legislature of the State of Alabama; (b) all money received by the Board by appropriation from county or municipal governments; (c) all gifts, grants, bequests or donations from individuals, associations, corporations, or industries; (d) all money derived through any source of federal aid; (e) all other moneys accruing to the Board in accordance with the terms of the gift, grant, bequest, appropriation, or donation from which said money is derived. The funds shall be expended by the Board in furtherance of any of the provisions of this Act. All necessary expenses of the Board shall likewise be paid out of said fund.

Section 6. Development of Program by Board. The Board shall provide for the development of a comprehensive coastal area management program. The program shall be prepared in cooperation with local, regional, state and federal interests. The inland boundaries of the Coastal Area subject to the management program are described as follows: Begin at the southernmost point on the Mississippi-Alabama State line where the land surface elevation reaches 10 feet aboev mean sea level and continue in a general easterly direction along the 10-foot contour to the proximity of Mobile Bay; continue in a northerly direction on the 10-foot contour along the western shore of Mobile Bay and the Mobile River delta to the north line of Mo-

bile County; thence southeastward along the north line of Mobile County to the intersection with the Baldwin County lines in the Mobile River; thence along the west and north lines of Baldwin County in the Mobile and Alabama Rivers to the intersection of the southwest corner of Monroe County; thence eastward along the Baldwin County line to the intersection of the westernmost point of Baldwin County where the land surface altitude reaches 10 feet above mean sea level; thence along the 10-foot contour in a southwesterly and southern direction along the Alabama River, the Mobile River delta and the east shore of Mobile Bay to the proximity of Bon Secour; thence continue along the 10-foot contour in an easterly and northeasterly direction to the Alabama-Florida State line. The program shall include at least the following:

a. Identification of all of the state's coastal resources;

b. Evaluation of these resources in terms of their quality, quantity, and capability for the use both now and in the future;

c. Determination of the present and potential uses and the present and potential conflicts in the uses of each coastal resource;

d. An inventory and designation of areas of particular concern within the coastal area;

e. Broad guidelines on priority of uses in particular areas;

f. Provision for adequate consideration of the local, regional, state and national interest involved in the siting of facilities for the development, generation, transmission and distribution of energy, adequate transportation facilities and other public services necessary to meet requirements which are other than local in nature.

g. Provision for consideration of whether a proposed activity of an applicant for a federal license or permit complies with the state's coastal area program and for the issuance of notice to any concerned federal agency as to whether the state concurs with or objects to the proposed activity.

h. Adequate provision for public notice, public hearings, and the judicial review as provided for under Alabama law.

i. The management program shall determine permissible land and water uses which have a direct and significant impact within the boundaries of the Coastal Area and must give due consideration to requirements for agriculture, industry, commerce, resource conservation, residential development, recreation, extraction of mineral resources and fossil fuels, harvesting of timber and pulpwood, transportation and navigation,

waste disposal, and harvesting of fish, shellfish, and other living marine resoucres.

Section 7. Rules and Regulations. The Board shall develop and promulgate, after notice and opportunity for full participation by relevant Federal Agencies, State Agencies, local governments, regional organizations, port authorities and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the management program provided for in this Act.

Section 8. Permits. It is the intent and purpose of this section to avoid duplicity whenever possible to managing activities within the coastal area and yet assure compliance with the management program established by the Board.

a. No additional permit shall be required from the Board where the proposed action requires a permit from; Alabama Water Improvement Commission, Alabama Air Pollution Commission, Alabama Oil and Gas Board, Alabama Department of Conservation and Natural Resources, or any other agency having jurisdiction of an action within the coastal area. However, the above mentioned agencies shall not issue a permit for any activity or action within the boundaries of the coastal area until there has been a determination by the Board that any permit issued by the above agencies will be in compliance with the management program of the Board. The Board shall act on any such request for determination of compliance within forty-five (45) calendar days of receipt of such request. Failure of the Board to act within said time limit shall be a ground upon which the party seeking the permit may apply to any court of competent jurisdiction for a writ of mandamus compelling the Board to act within 10 days after the date of such court order; and the court must grant such order upon the ex parte showing that the Board has failed to act within said 45-day limit.

b. There may well be uses of certain lands included within the boundaries of the Coastal Area which will not have a "direct and significant" impact on coastal waters. Such uses may be subject to regulation by local units of government, i.e. city or county, within the framework of the management program adopted by the Board.

c. Any person, corporation or partnership filing an application for a Federal permit for an activity to be conducted within the boundaries of the Coastal Area shall deliver to the Board an informational copy of such application.

Section 9. Advisory Committee.

There is hereby established the Coastal Area Advisory Committee whose purpose shall be to advise and consult with the Board and make recommendations to the Board on matters concerning the Coastal Area. The committee membership shall be composed of fourteen (14) persons having a broad range of experience and knowledge relating to problems involving management, use, conservation protection and development of coastal area resources. Members selected shall represent a broad segment of industry and commerce, conservation and protection groups within the coastal area, farming and forestry within the coastal area, fishing and marine transport within the coastal area, building and land development within the coastal area, and planning and engineering within the coastal area.

The County Commissions of Mobile and Baldwin Counties shall solicit nominations from various public, private, civic and professional groups representing the above interests for membership on the Coastal Area Advisory Committee and each County Commission shall select seven (7) for membership assuring that at least one-half of the committee membership shall be residents of Baldwin County and at least one-half of the committee membership shall be residents of Mobile County. In addition, a majority of those members selected from each county shall either reside and or own property within the management program of the coastal area. The members so selected shall serve for a period of one (1) year from the date of their appointment and shall be eligible for reappointment. The total committee membership of fourteen (14) so selected by their respective County Commissions shall elect a Chairman who shall serve at the pleasure of the Coastal Area Advisory Committee and who by virtue of such office shall serve as a voting member of the Coastal Area Board.

Section 10. Approval by Governor.

a. The management program provided for in Section 6 of this Act shall not become effective until approved by the Governor.

b. Any rule or regulation proposed by the Board shall not become effective until approved by the Governor.

Section 11. Appeals and Judicial Review.

a. An appeal may be taken by any person or persons, partnership, corporation, state or local government entity aggrieved by an order of the Board, which has resulted in the denial, suspension, or revocation of a permit or the issuance of a permit or a conditional permit within the coastal area. Before such appeal will lie, written protest setting forth the

basis of the appeal must be filed with the Board within thirty (30) days of final Board action.

b. After an appeal has been filed as provided for above, the Board may conduct such further inquiry into the matter as might be appropriated.

The appellant shall be given an opportunity to introduce testimony, both written and oral, to support the appeal to the Board. The Chairman of the Board shall have wide discretion in the manner of conducting the appeal.

c. If the Board denies an appeal as provided for above, the aggrieved party may appeal the order of the Board denying such appeal to the Circuit Court of the county in which the property affected by the order of the Board is located. If the court finds that the order appealed from is supported by substantial evidence, consistent with the public policy set forth in this Act, is not arbitrary or capricious and does not violate constitutional rights, it shall affirm the Board's order.

Section 12. Initiation of Actions. The State of Alabama at the request of the Board, a district attorney having jurisdiction, or a county attorney having jurisdiction may initiate an action against any person or persons, partnership, corporation, state or local government entity if in the judgment of the Board such party is determined to be in violation of the management program of the Board.

a. Jurisdiction and venue for judicial actions brought pursuant to this Act shall lie in any county or counties in which the alleged violation occurs or in which property affected by such violation is located.

b. Threatened or actual violations of this Act may be restrained by order of the Circuit Court of the county in which any affected area of the coastal area or any part thereof lies. Such suits shall be initiated as provided for above.

c. Nothing in this Act shall preclude other statutory or common law remedies by public or private parties against violators or non-violators of this Act.

Section 13. Severability. The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 14. Authority of Board to Implement Coastal Area Office. The Board shall take the steps to implement Section 5-1 of this Act only after there has been appropriated by

the Legislature of Alabama the sum of Forty Thousand Dollars ($40,000.00) for the purpose of implementing the provisions of the Act, or in the alternative, the Board has acquired by gift, donation, grant or bequest, or appropriation from federal, county or municipal government or services in kind by another state agency or agencies, a sum equal to Forty Thousand Dollars ($40,000.00), or in the event the Board in its judgment and the exercise of prudence feels that it may assume the functions, responsibilities and duties set out in Section 5-1 without the receipt of such monies, the Board is hereby authorized to notify the Governor and the State Planning Office of its readiness to assume the State Planning Office functions under Act 1274 of the Regular Session 1973.

Section 15. Repeal Section. All laws in conflict or inconsistent with the provisions of the Act are hereby repealed; and Act No. 1274, S. 311, 1973 Regular Session (Acts of 1973, p. 2164) is hereby specifically repealed.

Section 16. Effective Date. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 23, 1976.

Time: 3:00 P.M.

I hereby certify that the foregoing copy of an Act of the Legislature of Alabama has been compared with the enrolled Act and it is a true and correct copy thereof.

Given under my hand this 30th day of August, 1976.

Secretary of the Senate
McDOWELL LEE

APPENDIX B

EXISTING LEGAL AUTHORITIES EXERCISED BY STATE AGENCIES

Since the Coastal Area Board will carry out its program in coordination with other state agencies, a brief description of the authorities and programs carried out by other state agencies, which affect the coastal area, is presented below.

A. ALABAMA WATER IMPROVEMENT COMMISSION

The Alabama Water Improvement Commission is constituted by authority appearing in Code of Alabama 1975, Sections 22-22-1 through 22-22-14. The Commission, having statewide geographical jurisdiction, exercises substantial regulatory authority within the coastal area. By specific provision in the CAB Act, the Commission is precluded from issuing a permit for activities over which it has jurisdiction until the Coastal Area Board has made a determination that the permit will be in compliance with the coastal area management program.

The Commission is broadly charged with the responsibility for conservation of the ground and surface waters within the coastal area and water supplies; propagation of wildlife, fish and aquatic life; and domestic, agricultural, industrial, recreational and other legitimate beneficial uses. Specifically, the Commission has the authority to provide for the prevention, abatement and control of new or existing water pollution. In execution of these responsibilities, it supervises the enforcement of all laws relating to water pollution in the state and establishes criteria for acceptable limits of pollution.

The agency issues permits for the discharge of sewage, industrial waste entering directly or through a municipal or private treatment facility and other waste into the waters of the state. The Commission is given wide latitude through its rule-making authority which is reflected by the fact that each permit stipulates the conditions under which waste discharge may be permitted. In addition to having responsibility for certification of permits issued by the Environmental Protection Agency, Corps of Engineers and the Nuclear Regulatory Commission, the Alabama Water Improvement Commission is designated the State Water Pollution Control Agency for all purposes of the Federal Water Pollution Control Act. It issues joint public notices with the U.S. Corps of Engineers.

B. ALABAMA AIR POLLUTION CONTROL COMMISSION

The Alabama Air Pollution Control Act of 1971 (Code of Alabama, 1975, Sections 22-28-1 through 22-28-23) established a commission having state-wide authority to examine problems of air pollution and develop means of controlling and preventing air pollution in the state. The Commission considers and adopts rules and regulations controlling and preventing air pollution, investigates conditions which it believes to be in violation of its rules and regulations, and refers matters constituting violations to the State Attorney General or appropriate district attorneys.

The Commission, whose responsibilities are executed through the Division of Air Pollution Control in the State Department of Health regulates, through a permit system, the construction, installation, modification, or use of any device which it finds may cause or contribute to air pollution or which is intended primarily to prevent or control the emission of air pollutants. In addition to its broad powers, the Commission has the authority to adopt regulations specifically relating to ambient air quality standards, emission standards, standards and conditions regarding fuel sales; pollution episode, alert and abatement standards; inspection procedures and requirements for equipment, facilities, vehicles, vessels or aircraft which may cause or contribute to air pollution; reporting requirements; and effective dates for its standards.

C. STATE OIL AND GAS BOARD

In addition to its responsibilites for the prevention of waste of oil and gas and the protection of correlative rights, the State Oil and Gas Board, by the provisions of the Code of Alabama, 1975, Sections 9-17-1 through 9-17-32, is charged with the responsibility of requiring that oil and gas well drilling operations be conducted in such a manner as to prevent escape of oil or gas out of one stratum to another; to prevent the intrusion of water from one stratum into a separate oil or gas stratum; to prevent the pollution of fresh water supplies by oil, gas or saltwater; to prevent wells from being drilled, operated or produced in a manner which would cause injury to neighboring property; to prevent the drowning by water of any stratum capable of producing oil or gas; and to prevent "blowout," "caving" and "seepage."

The jurisdiction of the Board extends throughout the coastal area, including activities on coastal waters to the extent of state-ownership thereof. The Board, through its rule-making authority, has developed comprehensive onshore and offshore regulations preventing pollution and governing disposal of waste generated incident to oil and gas exploration and development.

The Board issues drilling permits and other orders upon the finding that proposed activities comply with both stated conservation measures and the stringent pollution control requirements provided by statute and regulation.

D. ALABAMA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

The Department of Conservation and Natural Resources is given broad authority within the coastal area by provisions of Code of Alabama, 1975, Sections 9-2-1 through 9-2-130. The Department, which is composed of the Game and Fish Division, State Lands Division, State Parks Division, Marine Police, and Marine Resources Division, is charged with the statewide responsibility of promotion and protection of wildlife; supervision and protection of state forest, parks, and monuments, the control of public lands which are not administered by other agencies, administration of the game and fish laws, boat registration, and the management and protection of marine resources.

The Department exercises complete authority over all seafoods in the Alabama waters including all public and natural oyster reefs and oyster bottoms. Its rules and regulations prescribe the times and manner by which all classes of seafoods may be taken.

Through the State Lands Division, the Department manages and controls submarginal lands and river and bay bottoms. It establishes wildlife management areas, supervises public lands not under the control of other agencies, and may lease certain state lands for exploration, development and production of oil, gas and other minerals.

The State Parks Division has the responsibility of managing and operating state parks, historical sites and recreation areas.

The agency regulates, through the issuance of permits, the following activities on State-owned lands and submerged lands; seismic exploration, aerial power lines over navigable streams, pipelines across navigable streams, buried or submerged cable, and dredging of water bottoms under navigable streams. Additional responsibilities include the administration of the Gulf States Marine Fisheries Compact and review of coastal area development projects covered under the U.S. Army Corps of Engineers permit system.

1. DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES - FISH, GAME, AND WILDLIFE

The responsibilities and authority of the Department of Conservation and Natural Resources with respect to the management of fish, game and wildlife within the state, hence within the coastal area, are expanded by the legislative provisions appearing in Code of Alabama, 1975, Sections 9-11-1 through 9-11-374. The statutes specifically allow the Department to acquire lands within the state which are suitable for protection and propagation of game and fish. Such lands, along with the other held in fee or trust or under lease by the state, may be used to establish and maintain state game refuges or sanctuaries for the protection, preservation or propogation of game birds, animals or fish. While interference with wildlife in these areas is strictly prohibited, detailed provision is made for the issuance of permits for hunting, fishing and trapping on other lands within the state.

2. DEPARTMENT OF CONSERVATION - MARINE RESOURCES

Detailed authority for the Conservation of Alabama's Marine Resources appears in Code of Alabama, 1975, Sections 9-12-1 through 9-12-162. Responsibility for the management of this resource throughout the state rests with the Department of Conservation and Natural Resources. This legislation provides plenary authority to the Department for regulating the cultivation and removal of oysters, and the taking, processing and distribution of turtles, shrimp, crabs, fish and other marine resources.

The Department also assumes responsibility for the establishment of artificial fishing reefs in offshore waters. The chief executive of the Department is authorized to enter into reciprocal agreements with other states whereby Alabama citizens may be permitted to utilize marine resources for commercial purposes from the waters under the jurisdiction of cooperating states.

The Director of the Department of Conservation and Natural Resources along with two other Alabama representatives are members of the Gulf States Marine Fisheries Commission. This Commission coordinates with its counterparts in Florida, Mississippi, Louisiana and Texas under the Gulf States Marine Fisheries Compact to promote the better utilization of the fisheries, marine, shell and anadramous, of the Gulf of Mexico by the development of a joint program for the promotion and protection of fisheries and the prevention of the physical waste of fisheries from any cause.

3. DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES - STATE PARKS

Under the provisions of Code of Alabama, 1975, Sections 9-14-1 through 9-14-29, the State Parks System is defined to be comprised of existing and after-acquired parks, monuments and historical sites, and parkways. The statute defines park as "any area of land primarily valuable for recreational purposes because of its scenic, historic, prehistoric, archaeologic, scientific or other distinctive characteristics or natural features." Monument or historic site is defined as "any area of land, with or without buildings, structures or other objects thereon, wholly or primarily of historic, prehistoric, archaeologic, scientific or commemorative interest or value." A parkway is defined as "any elongated strip of land suitable for recreation and pleasure vehicle road to which the owners or lessees of abutting property shall have no right of direct access." The Department of Conseration and Natural Resources is charged with the responsibilities of preservation and upkeep of the State Park System. The State Highway Department is authorized to construct and maintain necessary roads leading from a state highway to any land included within the State Park System.

This statute provides a means by which sites designated by the Coastal Area Board to have particular scenic, historic, archaeologic, scientific or aesthetic value may be preserved and maintained. The Department of Conservation and Natural Resources is specifically authorized to accept lands for inclusion within the State Park System.

4. DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES - PUBLIC LANDS

By the authority reflected in Code of Alabama, 1975, Sections 9-15-1 through 9-15-53, the Department of Conservation and Natural Resources - State Lands Division is given jurisdiction over and control of all lands owned by the state which are not utilized for the immediate purposes of any institution or department, and are not being cultivated, leased or mined (unused lands). In the exercise of this jurisdiction, the Department is required to protect such lands and make recommendations for use which will be most conducive to the interests of the state. Detailed provision is made in the statute for the management of these unused lands.

The Department maintains lists of used and unused lands to which the state holds legal title. Additionally, the Department is charged with the responsibility of ascertaining whether all lands allocated to the state have been received, and if not, to take immediate and appropriate action to acquire such lands for the state.

The Department is vested with the title to all lands of the swamp and overflowed indemnity lands which were patented to the State of Alabama by the federal government subsequent to September 5, 1951. The Commissioner of the Department is responsible for utilizing these lands for the purposes which are most expedient and beneficial to the state; the lands being supervised and managed in the same manner as other lands under Department supervision. Likewise the Department is authorized to exercise complete management and supervision over "school lands", which are sections numbered 16 in every township granted by the United States for the use of schools in the township, together with other lands which may have been granted to any township or district for the use of schools.

The authority of the Department of Conservation and Natural Resources over public lands will support the implementation of a number of objectives of the Alabama Coastal Management Program. In addition to providing for the utilization and management of state-owned lands within the coastal area in accordance with the Management Program, control over the coastal lands and beaches from coastal waters up to the mean high tide boundary is assured if effectively implemented.

5. DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES - LANDS DIVISION

By the authority appearing in Code of Alabama, 1975, Sections 9-17-60 through 9-17-69, the Lands Division of the Department of Conservation and Natural Resources is authorized to lease any interests in state lands under the jurisdiction of the Department for the exploration, development and pro-

duction of oil, gas or any other mineral associated with such lands. The Department is also the authorized leasing authority for interests in lands underlying navigable streams, navigable waters, bays, estuaries, lagoons, bayous, or lakes and the shores along any navigable waters to high-tide mark as well as submerged lands in the Gulf of Mexico within the seaward boundary of the state for exploration, development and production of oil, gas or any other mineral.

Leasing of such state interests in lands for mineral development neither constitutes a permit to conduct mining activities on the land or implies that such a permit will be issued by the appropriate state regulatory authority.

6. DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES - REGISTRATION AND OPERATION OF VESSELS

The provisions of Code of Alabama, 1975, Sections 35-5-1 through 35-5-36, require the registration of all vessels in Alabama. The Department, through its Division of Marine Police, promulgates and enforces water safety regulations.

E. STATE FORESTRY COMMISSION

The State Forestry Commission functions under the provisions of Code of Alabama, 1975, Sections 9-3-1 through 9-3-10. It is responsible for the protection, conservation and development of timber and forest resources throughout the state, as well as the maintenance, supervision, operation and control of all state forests. The Commission cooperates with the U.S. Department of Agriculture and other federal agencies in the protection of timberlands from fire, insects and disease, and the acquisition of forest lands to be developed as state forests.

Management and enforcement authority of the Commission includes taking any action deemed necessary to prevent and extinguish forest fires; enforcement of all laws pertaining to the protection of forests and woodlands; prosecution of related violations; control of forest pests; and the management of state forests.

1. STATE FORESTRY COMMISSION - FORESTS AND FOREST PRODUCTS

The detailed management authority of the State Forestry Commission is derived from the provisions of Code of Alabama, 1975, Sections 9-13-1 through 9-13-201 and Section 9-3-1 through 9-3-4. In addition to provisions for acquisition of lands to be administered as state forests or for other purposes incident to the operation of the agency, the Commission has general authority to take reasonable and practical measures to prevent and suppress forest fires and other harmful influences on forest growth. In addition to enforcing laws which prevent willful woods' arson which includes brush, grass,

or other inflammable vegetation, the Commission is given statutory authority to prevent the willful destruction or injury of any plant by any method without consent of the owner. This provision serves as a primary authority for the preservation of vegetation in the coastal area. Moreover, it provides an indispensable tool for dunes preservation by methods utilizing vegetation.

Commission authority includes sanctions for the unauthorized cutting, removal and transportation of forest products. A privilege tax on the severance of forest products is levied by the authority.

Part of the responsibilities of the State Forestry Commission is to afford protection of forest trees from insect infestation or tree disease infections. Initially, the protection procedure is dependent upon the voluntary cooperation between private landowners and the State Forester. However, on the determination that the infestation or infection is of such nature as to be a menace to forest lands of adjacent owners, the State Forester may declare the existence of a control zone and ultimately is empowered to suppress or eradicate the infestation or infection in any reasonable manner without the consent of the landowner.

When appropriate conditions exist within the state which produce extraordinary danger from fire, the State Forestry Commission may by regulation declare a drought emergency condition within the affected area. Under such circumstances it becomes unlawful for any person within the area to set any fire which may cause a forest, grass or woods fire.

The State Forester serves as Compact Administrator in Alabama for the Southeastern Interstate Forest Fire Protection Compact, the purpose of which is to promote effective prevention and control of forest fires in the southeastern United States.

F. STATE AERONAUTICS DEPARTMENT

The Alabama Aeronautics Department Act of 1945 which appears in Code of Alabama, 1975, Sections 4-2-1 through 4-2-95, establishes the Alabama Department of Aeronautics and gives it the broad responsibility of supervising all phases of civil aeronautics in Alabama including the development of a statewide system of airports. The governing body of the Department is the Alabama Aeronautics Commission. It encourages aeronautic safety and cooperates with national and other authorities to eliminate duplication of functions. A number of the enforcement and regulatory functions of the Department relate specifically to the coastal area. The Department may acquire by purchase, condemnation proceedings, or otherwise, property for the purpose of establishing airports. Likewise, it may acquire unobstructed air space easements necessary to airport functions. Through the Department and upon the request of the United States, any city in Alabama may provide up to 50 acres of land to the federal government

for use as an aircraft control and warning station.

By authority of the Airport Zoning Act, Code of Alabama, 1975, Sections 4-6-1 through 4-6-15, counties and municipalities are authorized to promulgate airport zoning regulations through an airport zoning commission. These regulations may require a permit prior to construction of a new structure or alteration of an existing one within the jurisdiction of the commission.

G. ALABAMA STATE HIGHWAY DEPARTMENT

The State Highway Department, which is organized and functions under the authority apearing in Code of Alabama, 1975, Sections 23-1-1 through 23-1-228, is responsible for the construction, repair and maintenance of public roads and related facilities. The Department is authorized to acquire appropriate interests in land necessary to the execution of its responsibilities. Specifically, on the authority of the "Highway Beautification Act" the State Highway Director is "authorized to acquire land necessary for the restoration, preservation and enhancement of scenic beauty and the establishment of rest areas (associated with state highway)." By this authority, coastal areas having special aesthetic and scenic qualities may be preserved in accordance with coastal management program objectives.

In exercise of its rule-making authority, the Department issues permits for outdoor advertising, directional signs, median crossovers, turnouts for driveways, oversize and overweight vehicles, utility company facility locations, the establishment of junkyards, and the placement of county solid waste containers.

H. ALABAMA PUBLIC SERVICE COMMISSION

The Public Service Commission supervises and regulates public utilities and carriers by the authority appearing in Code of Alabama, 1975, Sections 37-1 through 37-1-137. Duties of the Commission include: supervision and regulation of public utilities, common and contract carriers, and brokers as to charges and services; regulation of bridges, toll roads, and ferries including the grant and revocation of certificates of convenience and necessity; and, regulation of gas pipelines, radio utility and intrastate air carriers.

I. ALABAMA STATE DOCKS DEPARTMENT

The State Docks Department was created by the authority appearing in Code of Alabama, 1975, Sections 33-1-1 through 33-1-36. The purpose of the agency is to promote, supervise, control, manage and direct the state docks and associated state lands. The Department shares nonexclusive jurisdiction over the waters and shores of all rivers and streams within the state which are navigable, or which may be made navigable, for commercial traffic. The Docks Department is authorized to acquire lands necessary to the execution of its responsibilities. It may sell, lease or exchange property over which it has control, subject to approval by the Governor.

On the authority of a series of periodic legislative provisions, the Department has established a system of inland docks facilities on Alabama's inland rivers. In addition to the enforcement of regulations relating to these and other docks, harbors and ports, the Department fixes charges for its services and grants and revokes terminal licenses.

The Department requires construction permits for structures in water on navigable streams. Such structures include piers, boat basins, overhead power lines, and underwater pipelines. In lieu of using prescribed forms, applications are submitted to the Department in a letter of intent.

J. OBSTRUCTIONS TO NAVIGATIONS ACT

This Act, Code of Alabama, 1975, Sections 33-7-1 through 33-7-53, consists of several diverse provisions aimed at maintaining the navigability of waters in the state, which are declared to be public throughfares. County commissions are authorized to contract for opening, cleaning out or keeping free from obstructions any navigable stream within the county. Fines are imposed for the intentional or willful obstruction of a navigable watercourse by any means including floating timber to market. Any person who diverts a stream, whether navigable or not, from its natural channel is held liable for sustained damages.

Specific provisions are made for operations within Mobile Harbor. Fastening a vessel of any description "to any beacon or light stake or piling which may be of any use or benefit in making use of the dredged channel in the Bay of Mobile" constitutes a crime. Intentional injury to any part of the dredged channel in Mobile Bay between the Port of Mobile and the lower part of the Bay, or to any navigational aid, constitutes a crime punishable by a fine of up to $10,000 and imprisonment for a period not to exceed 20 years. Also, any master or person in charge of a vessel drawing more than 12 feet of water must have a permit from the harbor master prior to entry into the dredged channel. Failure to secure this permit constitutes a criminal offense punishable by fine of up to $10,000 and imprisonment for not more than 10 years.

Other provisions of the act specify the conditions upon which one may gain an easement and right to construct dams across navigable rivers. Generally, the construction of such a dam must be predicated upon the improvement of navigation of the river and development of the resulting water power. Eminent domain procedures may be exercised for acquisition of lands to be flooded by the slack water pool.

The act also provides that owners of riparian lands upon navigable waters may install facilities in front of their lands to accommodate the activities associated with river commerce. Riparian owners may use their lands in connection with such facilities and dredge out and deepen the approaches to the facilities. It is provided however, that no structures shall be built or maintained upon state lands which in any manner unreasonably obstruct navigation. All state lands used in this manner by riparian

owners are subject to be vacated by the state as necessary in aid of navigability and safety of the watercourse; to protect abutting property; or to insure public safety.

An additional important provision of the act (Section 33-7-53) relates to acquisition of tidelands by riparian owners. This section specifically states that "the owner of any lands in the State of Alabama abutting on tidelands (controlled or owned by the state), which shall not have been approved by or under valid public authority and shall not be otherwise devoted to public use, shall be authorized to acquire such tidelands and to fill, reclaim or otherwise improve same and to fill in, reclaim or otherwise improve the abutting submerged land and to own, use, mortgage and convey the lands so reclaimed, filled, or improved, any improvements thereon" subject to the following conditions and approval: (1) conformance to any stipulated or established harbor line, (2) if the land is to be used for a bridge, road or causeway over navigable waters; for a bridge-head or approach; or for terminal facilities abutting on the bridge, road or causeway, plans for the bridge, road or causeway must be approved by appropriate federal authorities, the Director of the State Docks Department, and the Governor. When appropriate approvals are obtained and construction of the improvement pursuant to the plans is completed, title to the subject lands and the entire improvement thereon vests in the riparian owner, (3) if the proposed or constructed improvement on the land is different from those enumerated above, the riparian owner may gain title to the land only by obtaining county commission approval of the county in which the land is situated, and approval of both the Director of the State Docks Department and the Governor, provided that notice of application for the required approvals is given by publication in the county newspaper at least 10 days before the request. Following the required approvals, title passes to the riparian owner upon filing, for record, a certificate of the appropriate approvals.

The provisions of this act promote the utility of and encourage development along Alabama's navigable waterways. Each of the development activities which it authorizes and encourages, however, requires approval by appropriate state and federal regulatory authorities.

K. AMERAPORT OFFSHORE HARBOR AND TERMINAL COMMISSION

The Ameraport Commission is organized under the provisions of Code of Alabama, 1975, Sections 33-10-1 through 33-10-26, to promote, plan, construct, maintain and manage a deep draft harbor and terminal. Among other broad powers, the Commisssion is authorized to dredge and maintain shipways, channels, slips, basins, and turning basins. It is given the right to acquire water bottoms inside and outside the territorial limits of the state and specifically the state is directed to grant to the Commission a lease on any state-owned water bottoms which are selected by it as sites for the harbor and terminal. The Commission is also charged with asserting

and protecting Alabama's economic, social, and environmental interests in the development of any deep draft harbor and terminal outside the State of Alabama where such development may have an impact upon the state.

L. ALABAMA DEPARTMENT OF CIVIL DEFENSE

The Alabama Civil Defense Act of 1955, appearing in Code of Alabama, 1975, Sections 31-9-1 through 31-9-24, provides for the establishment of the Department of Civil Defense. Among its other responsibilities the Agency is responsible for "the preparation for and carrying out of all emergency functions...to prevent, minimize and repair injury and damage resulting from disasters caused...by fire, flood, earthquake or other natural cause."

Under the terms of the Act, the Governor is specifically authorized to promulgate orders, rules and regulations necessary to the execution of civil defense responsibilities. Additionally he is encouraged to prepare a comprehensive civil defense plan in coordination with plans of the federal government. The plan may include mutual or reciprocal aid agreements between states or political subdivisions within the state.

Local civil defense organizations are authorized to develop mutual aid agreements with other public and private agencies within the state. The detailed specific authority of these organizations is also enumerated.

The state is granted immunity from liability for torts resulting from civil defense activities. Individuals who grant licenses or privileges per use of real estate for shelters are afforded the same protection.

M. ALABAMA HISTORICAL COMMISSION

The Alabama Historical Commission (Code of Alabama, 1975, Sections 41-9-240 through 41-9-259), was formed to promote and increase interest, knowledge and understanding of the history of Alabama. It is vested with the power of eminent domain for the purpose of acquiring historical structures or sites of exceptional importance, including buildings, sites, objects or monuments of special significance to our...heritage, including post roads, traces, ruins, ...places of treaties, cemeteries, fortifications, and ...archaeological sites for excavational, salvage, protective and interpretive purposes."

Having status as a state agency, the Commission establishes criteria for certification, selection, and acquisition of properties for state ownership and maintenance.

N. ABORIGINAL MOUNDS, EARTHWORKS AND OTHER ANTIQUITIES

By the provisions of Code of Alabama, 1975, Sections 41-3-1 through 41-3-6, the State of Alabama reserves the exclusive right and privilege of "exploring, excavating or surveying, ... all aboriginal mounds and other antiquities, earthworks, ancient or historical forts and burial sites within the state." State ownership is expressly declared in all objects found or located within the antiquities.

O. DEPARTMENT OF INDUSTRIAL RELATIONS - "ALABAMA SURFACE MINING ACT OF 1969"

Code of Alabama, 1975, Sections 9-16-1 through 9-16-15, provides legal authority to the State Department of Industrial Relations to regulate the surface mining of clay, sand, gravel, and other minerals except limestone, marble, dolomite and coal. The Act provides that prior to engaging in the surface mining of any of these minerals, a permit shall be obtained from the Department of Industrial Relations. The requirements for issuance of the permit are specifically noted along with the objectives of the regulatory authority. The purpose in regulating this activity is to provide for the reclamation of the lands which have been mined by surface methods so as to protect property values, preserve natural resources, and protect and promote health and safety considerations.

1. DEPARTMENT OF INDUSTRIAL RELATIONS - MINING SAFETY

In addition to its responsibilities for the regulation of surface mining activities under the Alabama Surface Mining Act of 1969, the Department is responsible for underground mining safety by the provisions of Code of Alabama, 1975, Sections 25-9-1 through 25-9-370. Surface operations associated with underground mining activities also specifically fall within the regulatory provisions of the Act.

P. ALABAMA SURFACE MINING RECLAMATION COMMISSION

The Alabama Surface Mining Reclamation Act of 1975 which appears in Code of Alabama, 1975, Sections 9-16-30 through 9-16-53, places statewide jurisdiction over the surface mining of coal in the Surface Mining Reclamation Commission. The primary responsibility of the Commission is to provide for the safe, responsible and reasonable reclamation of lands upon which coal surface mining activities are conducted. The Commission, which has rule-making authority, issues permits to conduct surface coal mining operations or explorations to persons satisfying the requirements of a detailed licensing procedure. Strict performance and reporting requirements are enforced by the Commission whose authority complements that of the Alabama Water Improvement Commission for responsibilities under the Federal Water Pollution Control Act relating to the investigation and regulation of effects of surface mining upon waters of the state.

Q. ALABAMA LIQUEFIED PETROLEUM GAS BOARD

The Alabama Liquefied Petroleum Gas Board, established under the authority appearing in Code of Alabama, 1975, Sections 9-17-100 through 9-17-110, regulates through its rule-making power, "the design, construction, location, installation and operation of containers, tanks, systems and equipment for storing, utilizing, handling and transporting liquefied petroleum gases."

The statute requires that "before any person shall engage in or continue in the business of selling, distributing, storing or transporting liquefied petroleum gases; ... or in the business of selling, installing, servicing, repairing or adjusting liquefied petroleum gas containers, tanks or systems" a permit must be first obtained from the Board. Liquefied petroleum gas distributions owned and operated by any municipality of the state are exempt from the provisions of the statute.

R. ALABAMA WATER WELL STANDARDS BOARD

Through provisions appearing in Code of Alabama, 1975, Sections 22-24-1 through 22-24-12, provide authority for the establishment and operation of the Alabama Water Well Standards Board. However, Baldwin County is exempted from the provisions of this chapter of the Alabama Code. The legislation applies solely to wells drilled for the production of water. Through its rule making authority the Water Well Standards Board determines the licensing standards of water well drillers in the state. In addition to the possession of a license issued on the basis of his demonstrated competence, a driller is required to file an application of intent to drill a water well prior to commencement of the drilling operation. Additionally, following completion of the water well, the driller is required to submit a report of the well drilled, and from wells specifically designated by the Board or the State Geologist, the driller must furnish a log and set of samples to the State Geological Survey.

S. STATE BOARD OF HEALTH

By the provisions of Code of Alabama, 1975, Sections 22-2-1 through 22-2-14, the State Board of Health is generally given authority and jurisdiction to exercise general control over the enforcement of the laws relating to public health, investigate causes and prevention of diseases, investigate the influence of localities and employment on the health of the people, and to exercise supervision and control over county boards of health and county health officers in the enforcement of the public health laws of the state.

1. STATE BOARD OF HEALTH - WATER WORKS AND WATER SUPPLIES

By the provisions of Code of Alabama, 1975, Sections 22-23-1 through 22-23-54, the State Board of Health is given "general supervision and control over all the water supplies and water works in the state, insofar as purity, potability, wholesomeness and physical quality of waters furnished may affect the public health." A permit must first be obtained from the State Board of Health before the construction of any water works or water works system for supplying water for domestic purposes to the public. Neither shall a municipality be authorized to incur any debt or issue bonds in aid of such water until a permit approving the source of supply has been obtained. Additionally, a permit is required of any person or organization which supplies water for human consumption or domestic uses or installs additions or modifications to any existing plant, works, systems or sources of water supply. Detailed permit application requirements are prescribed both by the Statute and State Board of Health regulations.

2. STATE BOARD OF HEALTH - DISCHARGE OF LITTER AND SEWAGE FROM WATERCRAFT

Alabama law (Code of Alabama, 1975, Sections 33-6-1 through 33-6-12)

strictly prohibits the discharge of litter, sewage, and other materials from watercraft. By the provisions of this Act, the State Board of Health is authorized to adopt regulations or promulgate orders designed to control the discharge of waste from watercraft into state waters. Authority is given to impose marine toilet specifications upon vessel manufacturers. By the terms of the act it is made unlawful for any manufacturer to deliver a marine toilet or other sewage disposal device within the state without having received certification and approval by the Board of Health.

Owners of marinas or other waterside facilities are required to maintain onshore trash receptacles for the convenience of watercraft occupants. Trash and refuse collected in these receptacles is required to be disposed of in accordance with Board of Health regulations.

3. STATE BOARD OF HEALTH - WASTE WATER SYSTEMS OPERATOR CERTIFICATION

The State Health Officer by the authority reflected in Code of Alabama, 1975, Sections 22-25-1 through 22-25-15, is required to "classify all water treatment plants, water distribution systems and waste water treatment plants affecting the public welfare with regard to the size, type, character of water and waste water to be treated and other physical conditions affecting such treatment plants and distribution systems and according to the skill, knowledge and experience that an operator must have to supervise the operation of said facilities to protect the public health and prevent pollution." In addition he is authorized to appoint a board of certification for the examination of candidates for the purpose of certification of competency to operate and supervise specific classes of waste water systems.

4. STATE BOARD OF HEALTH - SEWAGE COLLECTION, TREATMENT AND DISPOSAL

The State Board of Health and/or county Boards of Health, on the authority of the provisions of Code of Alabama, 1975, Sections 22-26-1 through 22-26-6, requires individuals and organizations to install plumbing and sewage collection, treatment and disposal facilities as specified by the rules and regulations of the State Board of Health and county Boards of Health. All plans relating to these facilities shall be submitted for approval by the Board before construction.

5. STATE BOARD OF HEALTH - SOLID WASTE

The Alabama Solid Wastes Disposal Act, Code of Alabama, 1975, Sections 22-27-1 through 22-27-7, provides the authority of local governing bodies to make solid waste collection and disposal facilities available to the general public. The act provides that garbage disposal shall be by sanitary landfill, approved incineration, composting or other means currently available and approved by the Health Department. Trucks which collect garbage are required to be covered, secured or sealed to prevent loss during haulage.

Hazardous wastes are required to be disposed of by special incinerators, separate landfills or other means dictated by the nature of the waste.

State and county Boards of Health are vested with rule-making authority necessary to the specification of procedures to meet the requirements of the act.

T. ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES

By the provisions of the Code of Alabama, 1975, Sections 2-1-1 through 2-30-62, the Alabama Department of Agriculture and Industries promotes agriculture and industries within the State and is required by law to administer and enforce several regulatory laws, rules and regulations. These duties involve the inspection of numerous commodities for the protection of consumers.

The Commissioner of Agriculture and Industries is a constitutional officer of the State. Of applicability to coastal management is the Commissioner's duty to investigate and seek to secure the development of the industrial possibilities of the State. The Commissioner also serves as head of the Department of Agriculture and Industries. The Department is responsible for registration, sale, and use of pesticides as well as for regulating the custom application of pesticides.

The Department and the State Board of Agriculture and Industries are statutory. The State Board of Agriculture and Industries considers the agricultural and industrial needs of the State.

U. ALABAMA SOIL AND WATER CONSERVATION DISTRICTS

The State Soil and Water Conservation Committee by authority appearing in Code of Alabama, 1975, Sections 9-8-20 through 9-8-32 is authorized to coordinate the formation and define the boundaries of soil and water conservation districts which may be organized within the State upon petition of 25 or more landowners. When duly organized, the district, through its supervisors, is empowered to implement mandatory erosion preventive and control measures on state lands included within the district and to extend the benefits of erosion control to private landowners within the district on a voluntary basis.

V. WATERSHED CONSERVANCY DISTRICTS

Watershed Conservancy Districts or Watershed Districts, which are to function as sub-districts of a Soil and Water Conservation District, are authorized by provisions appearing in Code of Alabama, 1975, Sections 9-8-50 through 9-8-67. These sub-districts of a Soil and Water Conservation District may be formed in any included watershed area for the purpose of executing programs relating to conservation of water, water usage, flood prevention, flood control, erosion prevention and control of erosion, floodwater and sediment changes. Established in a similar manner as the Soil and Water Conservation District, the objectives of the Watershed Conservancy Districts shall be accomplished through a Board of Directors having responsibilities similar to those of the Supervisors of a Soil and Water Conservation District.

W. WATER MANAGEMENT DISTRICTS

The Alabama Water Management Act which appears in Code of Alabama, 1975, Sections 9-9-1 through 9-9-80, provides for the establishment of Water Management Districts and drainage sub-districts. Upon the organization of the district, the Probate Court of the county in which the petition to form the district is filed, appoints a board of three water management commissioners who have the responsibility of developing and implementing a water management plan within the district. The Board of Commissioners is vested with broad powers including that of eminent domain and taxation.

Water Management Districts may be established for the purpose of locating and establishing levees, drains or canals and the construction, maintenance or alteration of ditches, drains, water courses, embankments, floodwater retarding structures, water storage structures, outlets and tide gates, flood gates and pumping plants for preventing floods, providing drainage, reducing sediment and reclaiming wet, swamp, or overflowed lands.

X. WATER CONSERVATION AND IRRIGATION AGENCY

Provision is made in the Code of Alabama, 1975, Sections 9-10-1 through 9-10-47, for the voluntary incorporation by a County Commission of a Water Conservation and Irrigation Agency having legal status as an instrumentality of the State of Alabama. The corporation shall have the authority to provide water supplies necessary to its purposes by impounding streams or development and use of wells; to develop and operate irrigation projects including necessary facilities; to provide for the control of floods by impounding surplus water or by other means; to provide for a multiple purpose development including those for water power and water for municipal and industrial uses; to utilize necessary means in the control of soil erosion and silt where project facilities or construction cost repayments are endangered; and to exercise the right of eminent domain. As a condition precedent to the construction of any project of the Water Conservation and Irrigation Agency, the corporation must apply to the Department of Conservation and Natural Resources for a permit authorizing the proposed development.

Y. COMPREHENSIVE LAND - USE MANAGEMENT IN FLOOD-PRONE AREAS

By the provisions appearing in Code of Alabama, 1975, Sections 11-19-1 through 11-19-24, the county commission of each Alabama county is authorized to adopt a comprehensive land-use management program for flood-prone areas which lie outside the corporate limits of any municipality in the county. The statutory provisions are directed toward the provisions of flood insurance coverage in flood-prone areas of the state through compliance with the federal requirements of the National Flood Insurance Act of 1968.

Within the unincorporated areas of the county, the Commission is given broad authority to establish comprehensive land-use control measures, specifically including the control and development of subdivisions in flood-prone areas; establish building codes and health regulations which incorporate

the minimum standards necessary to reduce flood damage in flood prone areas; provide occupancy standards for the prudent use of flood-prone areas; provide maps for public inspection which clearly delineate flood-prone areas and floodways in the county; conduct necessary related studies; employ technical or advisory personnel, including the establishment of a county planning commission; and adopt county ordinances necessary to the enforcement of regulations.

Among the land-use and control measures specified in the Act is a requirement that for coastal flood-prone areas, the plan must prescribe land uses and minimum elevations of the first floors of buildings, including consideration of the need for bulkheads, seawalls and pilings, Specifically, the flood-prone management program must be consistent with "appropriate state standards."

In addition to authorizing the formulation of subdivision and building and health code regulations, the act provides for the establishment of a county planning commission which serves in an advisory function.

Prior to construction and development within an unincorporated area of the county, it is required that plans and specifications be submitted which clearly demonstrate substantial compliance with the specifications, rules and regulations adopted by the Commission. Upon the determination of compliance by the county commission, a permit is issued for the proposed construction. Activities related to utility facilities are expressly exempt from the permitting requirements of the plan.

Z. WILD SEA OATS ACT - BALDWIN COUNTY

The provisions of the Wild Sea Oats Act, Acts of Alabama, 1973, Act No. 971, make it a misdemeanor to pick wild sea oats on the beaches of Baldwin County. The Department of Conservation and Natural Resources is made responsible for posting signs to that effect near the beaches.

The term "beaches" is not defined within the Act and therefore the extent of the prohibition is unclear. Historically, the term is taken to mean the land area lying between mean low tide and mean high tide, but it may also include the sandy shore above mean high water which is washed by storms and exceptional tides. The term is also commonly understood to mean the zone between mean high tide and the vegetation line. Whatever the contemplation of the term by the legislature, the Act would serve to preserve the wild sea oats occurring between mean low tide and mean high tide - an area in which sea oats are least-frequently encountered.

Because this land area is owned by the State of Alabama, all vegetation associated with it would be protected not only in Baldwin County but also in Mobile County by provisions of the State Forestry Commission which have previously been discussed.

Considering the shoreline area in which sea oats predominantly grow and previous legislation which would also serve to protect these plants, it is least arguable that the legislature for the purposes of this Act

intended the term "beach" to include the land area lying between the mean low watermark and established inland vegetation lines or other natural boundaries.

Whatever the extent of its operation, this statute will provide assistance in dune preservation and mitigation of shoreline erosion within the portion of the coastal area lying within Baldwin County.

AA. SAND DUNE PROTECTION ACT - BALDWIN COUNTY

In 1973, the legislature enacted a measure aimed at the preservation of coastal sand within Baldwin County, Acts of Alabama, 1973, Act No. 775. The statute prohibits the operation of any motor vehicle upon coastal sand dunes located 50 feet or further from the waterline without the express written permission of the landowner. The Department of Conservation and Natural Resources is given the responsibility of posting notices to this effect at reasonable intervals along the applicable beaches.

If effectively implemented, this statute represents a dune preservation measure within the Baldwin County portion of the coastal area. The broad management authority of the Department of Conservation with respect to public lands, including those lands lying within 50 feet of the waterline, complements the Dunes Act.

BB. ISLAND BEACHES AND DUNES PRESERVATION ACT - MOBILE COUNTY

In 1975, the Alabama Legislature responded to the need for beach and dune preservation within the Mobile County portion of the coastal area by approval of Acts of Alabama, 1975, Act No. 1096. This legislation prohibits the operation of any motor vehicle upon the coastal beaches and/or sand dunes "located on any island within...(Mobile County) upon any...(recorded) subdivided portion thereof without the express written permission of the landowner and all adjacent landowners." Proper notice of the prohibition is required to be posted by the Department of Conservation and Natural Resources.

Considering the geography of the coastal area lying within Mobile County, this authority, coupled with the Department of Conservation's broad public land management authority, will protect coastal beaches and dunes from the impacts of motorized vehicle operation if effectively implemented.

CC. MOTORIZED VEHICLE ON BEACHES AND DUNES REGULATION ACT

In 1977, the Alabama Legislature passed Act No. 728, Acts of Alabama, 1977, which authorized the county governing bodies having a population according to the 1970 census of 57,000 to 61,000 to formulate, issue, promulgate and enforce any reasonable rules, regulations, and directives to regulate the operation of any motorized vehicle upon coastal beaches or sand dunes located within the county. Because of the population stipulations of this act, it applies to Baldwin County. If enacted, this act could help to provide some protection of the dunes by regulating motorized vehicles on the beaches and sand dunes.

DD. MOBILE AND BADLWIN COUNTY COMMISSIONS

Mobile and Baldwin County governments provide enforcement, administrative and service functions to citizens in unincorporated areas. Counties are in fact political subdivisions organized to assist in the local administration of state functions. Many of the important county functions within the coastal area have been previously discussed within the context of specific state authorities.

Counties regulate through the issuance of permits or licenses such activities as construction in unincorporated flood-prone areas, plumbing and sewage disposal facilities and other activities affecting the public health and welfare. In addition to its other responsibilities, the County Board of Health serves as a field office for Air Pollution Control Commission permitting.

EE. MUNICIPAL GOVERNMENTS

In addition to the specific statewide authorities exercised by local governmental units which have been previously discussed, municipal governments operating within the coastal area, exercise a broad spectrum of authority in the exercise of its governmental function and development and operation of its public service responsibilities. Municipal ordinances and regulations will provide a broad authority which will assure local compliance with the management program. Municipalities within the coastal area regulate, through the issuance of zoning permits and building licenses, such activities as construction; electrical, plumbing, sewage and air conditioning and heating installation; parking lot construction; location and construction of signs and billboards; and the location of cemeteries and interments therein.

The City of Mobile utilizes a single application to cover the various permitted elements of a single project. Permitting requirements in smaller cities and towns within the coastal area vary from none up to several in such activities as construction, electrical installation, plumbing, and sewage systems.

FF. CONSTITUTION OF ALABAMA OF 1901

Amendment No. 15 to the Alabama Constitution provides that the "Legislature may form or provide for the formation of districts for establishing and maintaining a drainage system;... and for building and maintaining a seawall or other protection against waves, storm or flood therein."

Amendment No. 22 provides "for the formation of drainage districts for establishing and maintaining drainage systems ... (to provide) for the drainage of farm, wet, swamp and overflow lands in the State of Alabama."

Amendment No. 257 provides for the "formation of water management districts for the establishments of works of improvement for the drainage of wet, swamp, and overflowed lands of the state, and for flood prevention or the conservation, development, utilization, and disposal of water within the state."

APPENDIX C

COASTAL AREA BOARD

I. Members of the Alabama Coastal Area Board

James Boyington
Commissioner, Baldwin County

Gary Greenough, Chairman
Commissioner, City of Mobile

Thomas Joiner
State Geologist

James Nix
Member, Baldwin County Mayor's Association

Hugh Swingle
Director, Marine Resources Division, Department of Conservation and Natural Resources

George Crozier
Director, Marine Environmental Sciences Consortium

Bay Haas
Commissioner, Mobile County

Steve McMillan
Chairman, Coastal Area Advisory Committee

Bill Starnes
Director, Office of State Planning, Alabama Development Office

II. Members of the Coastal Area Advisory Committee

Boyd Adams
Daphne, Alabama

Andrew Cooper
Gulf Shores, Alabama

C. LeNoir Thompson
Bay Minette, Alabama

Perry Hand
Gulf Shores, Alabama

William A. Callaway
Gulf Shores, Alabama

Floyd Childress
Fairhope, Alabama

Steve McMillan
Bay Minette, Alabama

Lester Zirlott
Irvington, Alabama

Thomas S. Talbert
Mobile, Alabama

James H. Coil
Mobile, Alabama

Ben O. Stimpson
Mobile, Alabama

Russell Lacy
Mobile, Alabama

Larry Menefee
Mobile, Alabama

Al Pennington
Mobile, Alabama

APPENDIX D

SPECIAL PLANNING ELEMENTS

I. SHOREFRONT ACCESS AND PROTECTION PLANNING

A. A Procedure for Assessing Public Areas Requiring Access or Protection

1. Public Access Inventory

A total of 10,963 acres of shorefront publicly owned or maintained recreation areas are available for access in the two counties (Figure D-1). Public access in Baldwin County is provided by 9248 acres of public owned recreation areas. About 1715 acres of publicly owned land provide access in Mobile County (modified from Trussell, in press).

a. Dauphin Island

At this time only one-half mile of Gulf shoreline on Dauphin Island is open to the public. These areas are the Casino (528 acres) and Fort Gaines (10 acres). Shell Mound Park (3 acres) provides visual access to Dauphin Island Bay. The uninhabited portion of western Dauphin Island had been leased by Mobile County from a private concern for the past decade. However, the lease has expired, and the owners wish to sell the land. If purchased by the state, approximately eight additional miles of shoreline would be available for public access. Access to the waters surrounding Dauphin Island is provided at a county facility with twelve boat ramps on the island's eastern end.

b. South Mobile County

Very little public access to coastal lands and waters is provided in south Mobile County. One publicly owned boat ramp in Bayou La Batre is the only public access point along Mobile Bay and Mississippi Sound south of the Mobile city limits.

c. City of Mobile

Four access points to coastal waters are provided by the City of Mobile. At the foot of Government Street in downtown Mobile, the Anchor Bed and Waterfront Park (less than ½ acre combined) provide visual access. Luscher Park (23.0 acres) provides boat and visual access to upper Dog River. McNally Park (50.0 acres) provides visual, boat, and beach access. Bayfront Park (18.9 acres) in the Brookley Complex is now in the planning stages.

d. Mobile-Tensaw River Delta

Several public and private facilities provide access to the Mobile-Tensaw River Delta. Chickasabogue Creek Park (1050 acres), the U.S.S. Alabama Recreation Area (32 acres), and Meaher State Park (1327 acres) provide recreational facilities, and boat ramps are available at Chickasabogue Creek as well as at Meaher State Park, Chacaloochie Bay, and Appalachee River in the lower delta.

Figure D-1 Publicly owned or maintained recreation areas

Name		Acres
1)	Casino, Dauphin Island	528
2)	Fort Gaines	10
3)	Shell Mound Park	3
4)	Anchor Bed and Waterfront Park	0.5
5)	Lucsher Park	23
6)	McNally Park	50
7)	Bay Front Park (under development)	19
8)	Chickasabogue Creek Park	1050
9)	U.S.S. Alabama Recreation Area	32
10)	Meaher State Park	1327
11)	Daphne Park	0.5
12)	Fairhope beach/park	38
13)	Mullett Point Park	10
14)	Fort Morgan	410
15)	Perdue Property	1297
16)	Gulf Shores public beach	5.5
17)	Gulf State Park (main section)	5687
18)	Gulf State Park (undeveloped western section)	160
19)	Gulf State Park (undeveloped eastern section)	283
20)	Romar Beach State Park	5
21)	Alabama Point Wayside Park	25
	TOTAL	10,963.5

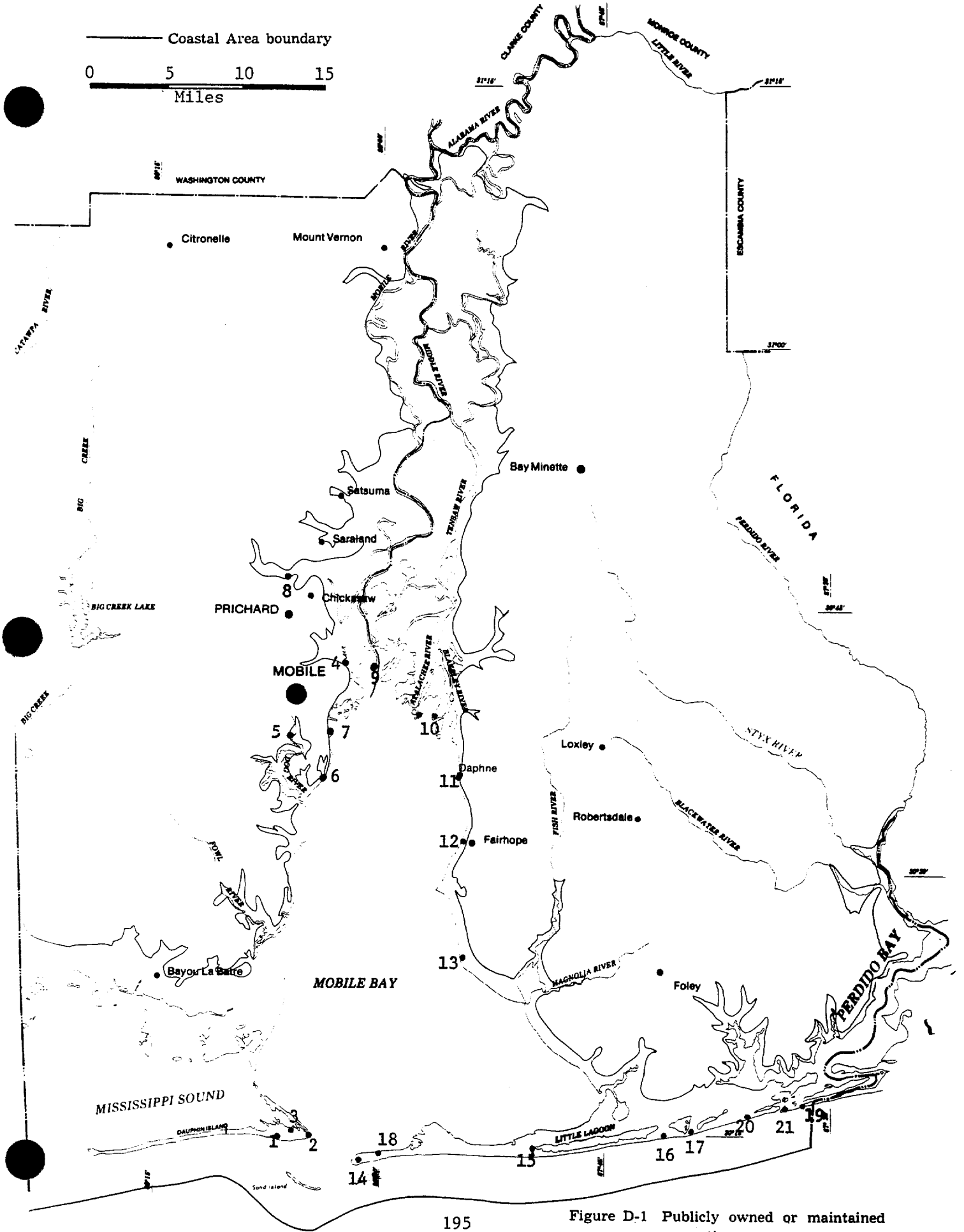


Figure D-1 Publicly owned or maintained recreation areas.

e. South Baldwin County

Public access to the Gulf of Mexico, Mobile Bay and other estuarine waters is adequately provided for in south Baldwin County. Along Mobile Bay, access is provided from a small park with boat ramp in Daphne, from two boat ramps and 38 acres of beach and park in Fairhope, from one boat ramp and 10 acres of bayside park near Mullett Point, and from two boat ramps at Weeks Bay. Two other ramps along the northern shore of the Fort Morgan peninsula provide access for boats to lower Mobile Bay and the Gulf of Mexico. 410 acres of state park at Fort Morgan on the peninsula's western tip also provide access, as well as an opportunity to explore a piece of south Alabama's colorful history.

Access to coastal waters is also available from approximately 5.5 acres of public beach provided by the town of Gulf Shores and Gulf State Park with 6160 acres in 5 units. These areas adequately provide the beach access desired by both local residents and regional or national tourists alike. Boat access is provided from publicly maintained ramps at Cotton Bayou and Boggy Point. Other ramps in southeastern Baldwin County are planned for Lillian and Old River.

f. Other Access to Coastal Waters

Access to coastal recreational opportunities is further provided by numerous fish camps, privately operated boat ramps, and marinas. These privately owned operations, which usually charge a fee for the access opportunity they provide, supplement the public areas previously discussed and often provide access to areas where no public facilities are available. This is especially true in the upper reaches of the Mobile-Tensaw River Delta (see Figure D-2).

3. Coastal Area Board Public Access Priorities

The Coastal Area Board recognizes the need for more public access opportunity in both counties, most especially Mobile County. To help alleviate this growing public access problem the five following priorities have been identified for action by the Coastal Area Board.

a. Acquisition of Dauphin Island's West End

Acquisition of public access rights to the west end of Dauphin Island will easily provide the opportunity for public access that Mobile County needs. Efforts are being made to alleviate a worsening public access problem by acquiring this property. Until the spring of 1978, this area (including its nearly 8 miles of Gulf shoreline) had been leased by Mobile County for public use. The property is now for sale by its owners, no access is provided as the lease has not been renewed, and neither Mobile County nor the State of Alabama has been able to appropriate the necessary funds for acquisition.

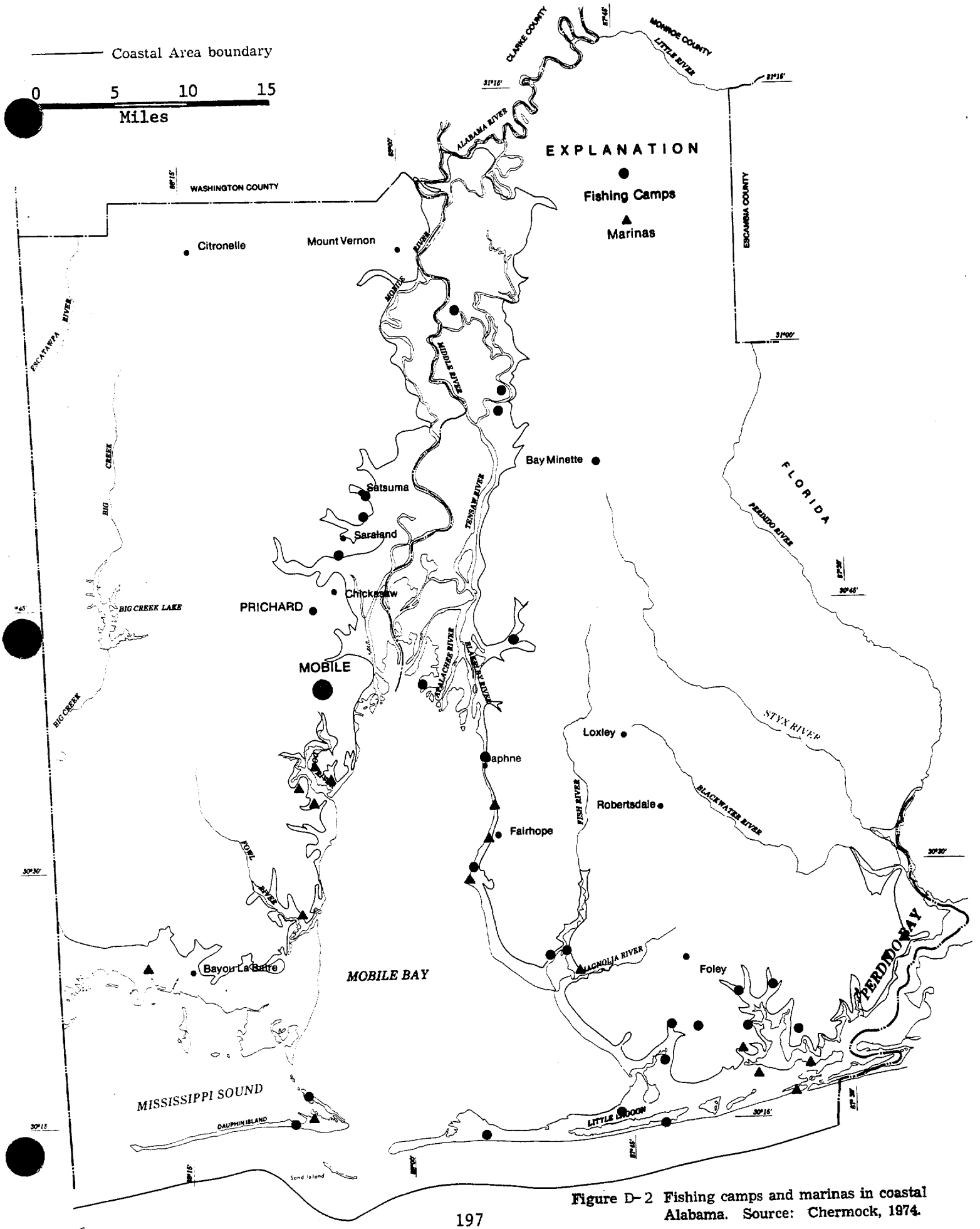


Figure D-2 Fishing camps and marinas in coastal Alabama. Source: Chermock, 1974.

b. Develop Access Opportunities within the Urban Waterfront

The provision of public access to coastal Alabama's urban waterfronts is another of the CAB's priorities. Though urban waterfronts are usually of high density land use, opportunities for public access do exist. It is exactly this high density of land use and high level of waterfront activity which creates public access demand. Waterfront urban parks have been very successful in other parts of the country. In coastal Alabama, these parks could provide access convenient to a large population, and could assist in the revitalization of our urban centers.

c. Provide More Boat Access to Coastal Waters

Presently, many opportunities for boat launching into coastal waters do exist. Nearly every publicly owned piece of waterfront property provides this type of facility. Also, many boat ramps are provided by the Alabama Department of Conservation and National Resources from properties purchased or leased over a long period (usually not less than 20 years) for this purpose. In addition, many privately operated launches are available for public use, usually at a reasonable cost.

The Coastal Area Board recognizes the value of these facilities and strongly supports the provision of public boat launching opportunities. The CAB also recognizes the need for additional launching sites, particularly from the shores of South Mobile County. Not only can more launches be provided where demand is highest, but they can also be provided in close proximity to existing sites such as that on the eastern end of Dauphin Island. This will reduce waterway, traffic, and parking congestion at pre-existing sites.

d. Development of Facilities Supporting Commercial Fisheries and Recreational Boating

The Coastal Area Board recognizes an existing need for facilities which provide commercial fisheries support and marina facilities for recreational boating. A facility providing commercial fisheries support could include inexpensive dockage and layover space, fuel, unloading facilities, ice house, minor refitting services and supply houses. These same facilities could provide services to recreational boaters. One further value of this type of facility would be its value as a tourist attraction, for facilities of this type could easily be operated and maintained in an attractive condition.

e. Guarantee of Public Access Rights to Tidelands, Submerged Lands, and Navigable Waters

In Alabama, a problem arises concerning ownership and access to tidelands, submerged lands, and navigable waters. Much of the law concerning ownership of these three areas is rooted in early English common law. The Crown held these areas in trust for the people, and after the American Revolution, the states continued to hold these properties in trust for the people. Title to tidelands, submerged lands, and navigable waters is in the state.

The tidelands, however, are sometimes occupied, possessed, and claimed by private individuals. Steps taken to enforce this claim include the erection of fences or other forms which imply restricted access. Questions arise concerning the limits of these tidelands, especially where accretion, erosion, reliction and filling has occurred.

Submerged lands also are often falsely claimed and/or restricted. Though owned and controlled by the state, private persons can lease these lands for specific purposes. In the case of oyster growing on state owned bottom within 600 yards of a riparian owners shore, there is belief that some riparian owners actually "own" this submerged land. This is not the case, however, and without enforcement of the public's rights to these areas, public recreational use of these lands is limited.

The title to navigable waters lies with the State. The Federal Government does have interest in these waters regarding interstate commerce and navigation, pollution control, and water resources.

"The absence of suits to quiet title and other forms of litigation, and the absence of a strong State policy concerning the tidelands causes the law in this area to be tentative, ill-defined, and vague" (SCORP Vol. 13, 1971). The Coastal Area Board seeks to clear the ownership of these lands, to establish a clear control by the State, and to open their use to unrestricted public access.

B. A Definition of the Term "Beach" and an Identification of Public Areas Meeting that Definition

Beaches are sandy shoreline areas characterized by low relief, generally of gentle slope, and some vegetation. The beach extends from the waterline to 1) a change in physiographic form such as a dune or bluff, 2) a change in sediment type, such as clay from sand, and/or 3) a change in vegetation type.

Gulf beaches are those sand beaches of the mainland and islands in Alabama which are subjected to the direct wave action of the Gulf of Mexico. The upper limit of Gulf beaches is usually a transition from halophytic, succulent, prostrate plant forms such as Hydrocotyl bonariensis (pennywort) Cakile epentula (sea rocket), Iva imbricata (no common name), and Ipomoea stolonifera (seaside morning glory) to a zone occupied by grasses, shrubs, and the same prostrate forms mentioned above. Some grasses indicative of this transition are Uniola paniculata (sea oats), Spartina patens (saltmeadow cordgrass), Panicum amarulum (dune panicgrass), and Distichlis spicata (saltgrass). Shrubs found at this transition are Solidago pauciflosculosa (seaside goldenrod), Ceratiola ericoides (seaside rosemary), Ilex vomitaria (yaupon), Quercus virginica var. maritima (live oak), and Myrica cerifera (waxmyrtle).

Estuarine beaches are narrow, low energy beaches occurring along the protected margins of Mobile Bay, Perdido Bay, Mississippi Sound, and their various tributaries. The upper limit of estuarine beaches in Alabama can

be distinguished easily by any or all of the three boundaries mentioned previously, that is:

1) a change in physiographic form,
2) a change in sediment type, or
3) a change in vegetation type.

C. Articulation of Enforceable State Policies Pertaining to Shorefront Access and Protection

The Coastal Area Board has long recognized the importance of public access to Alabama's beaches for all citizens. Thus, the following policies pertaining to shorefront access have been formulated. The Coastal Area Board's operational rules and regulations by which the policies will be implemented are presented in parentheses.

1. Coastal Development

The Alabama Coastal Area Board will encourage and support to the maximum extent practicable the continued development of the economic resources of the Coastal Area, including the port, industrial, energy and recreational resources, so that they may continue their full contribution to the economic well-being of all citizens, and development within coastal Alabama will be carried out in a manner which is consistent with the Board's policies for natural resources. (Chapter 4, Section VI, Operational Rules and Regulations for public access).

2. Recreation

Public access to and use of existing recreational lands and waters such as beaches, marinas, and fishing grounds, will be safeguarded, and the Coastal Area Board encourages the development of additional recreational opportunites to enhance the well-being of Alabama citizens as well as residents of other states. (Chapter 4, Section VI, Operational Rules and Regulations for public access).

3. Beach and Dune Protection

Recognizing the natural value of beaches and dunes for erosion control, wildlife habitat, and recreational opportunities, it is the policy of the Alabama Coastal Area Board to maintain the natural integrity of the beach and dune systems and to restore and enhance these valuable resources where feasible. (Chapter 4, Section VI, Operational Rules and Regulations for beaches and dunes).

D. A Method for Designating Shorefront Areas as Areas of Particular Concern or Areas for Preservation and Restoration

One approach to preserving public access to Alabama's coastal area is the nomination and designation of shorefront areas as Geographic Areas of Particular Concern (GAPC) or Areas for Preservation and Restoration (APR). None of the GAPC's or APR's presently designated has been established for their public access value. However, a process for designating additional areas as GAPC's and APR's has been established and is described in Chapter 4, Section IV. One criteria for both GAPC and APR designation is recreational value or opportunity.

E. An Identification of Legal Authorities, Funding Programs and other Techniques that can be used to Meet Management Needs

Aside from the policies set by the Coastal Area Board and opportunities for provision of public access through designation of GAPC's and APR's, various existing legal authorities and funding programs are available to meet the Coastal Area Board's management needs with respect to public access.

1. State Statutes

Statutes within the Code of Alabama, 1975 which directly contribute to the provisions of visual and physical public access include:

a) Section 9-7-1 through 9-7-22 . Alabama Coastal Area Board.
This Act creates a reconstituted Coastal Area Board with responsibility and authority for developing, coordinating and maintaining a coastal area program for the area in direct proximity to the coasts of Alabama to insure the enhancement of tourism and orderly economic development along coasts; and to provide for the promulgation of regulations and provisions for the enforcement of this act.

One provision of this act states that when necessary to achieve conformance with the management program provided for in the Act, the Board shall have the power to acquire fee simple and less than fee simple interest in land, water and other property under the procedures of Title 19, Code of Alabama, or other means, so long that such power shall not apply to property and interest therein which is devoted to public use. This power vested in the Board will enable the acquisition or interest in lands for public access purposes, provided this conforms with the Board's management program.

b) Section 9-14-1 through 9-14-29. Department of Conservation and Natural Resources - State Park System
The State Park System is defined to be comprised of existing and after-acquired parks, monuments and historical sites, and parkways.

The statute provides the authority by which sites designated by the Coastal Area Board to have particular scenic, historic, archaeological, scientific or aesthetic value may be preserved and maintained. The Department of Conservation and Natural Resources is specifically authorized to accept lands for inclusion within the State Park System (see Appendix B, Section D-3).

c) Section 9-15-1 through 9-15-53. Department of Conservation and Natural Resources - State Lands Division.
Authority over state owned lands for their utilization and management in accordance with the Management Program is provided. Control is assured over the coastal lands and beaches from coastal waters up to the mean high tide boundary, if effectively implemented. The legal authority to manage and preserve this "unused" land will provide public access if effectively implemented (See Appendix B, Section D-4).

d) Sections 23-1-1 through 23-1-228. State Highway Department
On the authority of the "Highway Beautification Act" the State Highway Director is "authorized to acquire land necessary for the restoration, preservation and enhancement of scenic beauty and the establishment of rest areas (associated with state highway)." By this authority, coastal areas having special aesthetic and scenic qualities may be preserved in accordance with coastal management program objectives (see Appendix B, Section G).

2. Federal Programs

Federal programs useful to the provision of visual and physical public access in Alabama include:

a) Coastal Zone Management Program Administration

- Authorization: Coastal Zone Management Act of 1972, Section 306, Public Law 92-583; Coastal Zone Management Act Amendments of 1976, Section 306, Public Law 94-370.

- Administration: National Oceanic and Atmospheric Administration, Department of Commerce. Funds are channeled through the Alabama Coastal Area Board upon approval of the state's Coastal Zone Management Program.

- Eligibility: Any coastal state whose Coastal Zone Management Program has been approved by the Secretary of Commerce.

- Types of Assistance: Project grants are available. At least 33 1/3 percent of the total project cost must be provided by the applicant. Federal funds from other sources cannot be used to match.

- Uses and Use Restrictions Applicable to Public Access: Grants may be used only to administer the State's approved Coastal Zone Management Program. States are encouraged to apply implementation funding for these purposes in which there are national interests including the provision of access to and use of the shorefront and urban waterfronts. Other purposes include the management of designated areas of particular concern.

b) Outdoor Recreation - Acquisition, Development, and Planning

- Authorization: 16 U.S.C. 1-4 et seq. Land and Water Conservation Fund Act of 1965; Public Law 88-578; 78 Stat. 897; as amended by Public Law 90-401 (82 Stat. 354); Public Law 91-485 (84 Stat. 1084); Public Law 91-308 (84 Stat. 410); Public Law 92-347 (86 Stat. 460); Public Law 93-81 (87 Stat. 178); Public Law 94-422 (90 Stat. 1313); and Public Law 95-42 (91 Stat. 210).

- Administration: Heritage Conservation and Recreation Service, Department of Interior. Funds are channeled through the Alabama Department of Conservation and Natural Resources, Outdoor Recreation Section.

- Eligibility: For acquisition and development grants, the DCNR Outdoor Recreation Service, may apply for assistance for itself, or on behalf of other state agencies or political subdivisions, such as cities, counties, or park districts. Individuals and private organizations are not eligible.

- Types of Assistance: Project grants available to 50 per cent of cost. Under certain conditions, all or part of the project sponsor's share may be from certain other Federal assistance programs, such as Title I Community Development. Funds are available for obligation during the fiscal year in which appropriated and for the following fiscal years.

- Uses and Use Restrictions Applicable to Public Access: Acquisition and development grants may be used for a wide range of outdoor recreation projects and support facilities for these same projects. Facilities must be open to the general public. Development of basic rather than elaborate facilities is favored. Priority consideration generally is given to projects serving urban populations.

c) Economic Development - Grants and Loans for Public Works and Development Facilities

- Authorization: Public Works and Economic Development Act of 1965; Public Law 89-136, as amended; 42 U.S.C. 3131, 3132, 3135, 3141, 3171.

- Administration: Economic Development Administration, Department of Commerce.

- Eligibility: States, local subdivisions thereof, and private or public nonprofit organizations or associations representing a redevelopment area are eligible to receive grants and loans. Corporations and associations organized for profit are not eligible.

- Types of Assistance: Project Grants and Direct Loans. The basic grant rate may be up to 50 per cent of the project cost. Severely depressed areas that cannot match Federal funds may receive supplementary grants to bring the Federal contribution up to 80 per cent of the project cost. Additionally, redevelopment areas located within designated economic development districts may, subject to the 80 per cent maximum Federal grant limit, be eligible for a 10 per cent bonus on grants for public works projects. Long-term (up to 40 years) low interest loans may be made to the applicant when financial assistance is not otherwise available from private lenders or Federal agencies on terms which would permit accomplishment of the project.

- Uses and Use Restrictions Applicable to Public Access: Grants for public tourism facilities are available. To qualify, these projects must fulfill a pressing need of the area and must: 1) tend to

improve the opportunities for the successful establishment or expansion of industrial or commercial plants or facilities, 2) assist in the creation of additional long-term employment opportunities, or 3) benefit the long-term unemployed and members of low-income familites or otherwise substantially further the objectives of the Economic Opportunity Act of 1964. In addition, proposed projects must be consistent with the currently approved overall economic development program for the area in which it is located.

d) Public Land for Recreation, Public Purposes and Historic Monuments

- Authorization: Recreation and Public Purposes Act of June 14, 1926, as amended; 43 U.S.C. 869; 869-4, as amended by 90 Stat. 2759-60.

- Administration: Bureau of Land Management, Department of the Interior.

- Eligibility: States, Federal and State instrumentalities and political subdivisions, including counties and municipalities, and nonprofit corporations. Individuals do not qualify.

- Types of Assistance: The sale, exchange, or donation of property and goods is available. For public recreation purposes, a price of $2.50 per acre with a minimum of $50 per transaction, lease at $0.25 per acre per year with minimum payment of $10 per lease.

- Uses and Use Restrictions Applicable to Public Access: Available public lands may be leased or purchased for public recreation and other recreational and public purposes. The applicant cannot secure lands under this act for any use authorized under any other public land law. If applicant attempts to change use of land to other than that for which land is conveyed, or transfer title without consent of the Secretary of the Interior, title of land will revert to the United States.

e) Disposal of Federal Surplus Real Property

- Authorization: Section 203 of the Federal Property and Administrative Services Act of 1949, 63 Stat. 385, as amended, 40 U.S.C. 484; Section 13 (g) of the Surplus Property Act of 1944, as amended 50 U.S.C. App. 1622 (g); Public Law 80-537, 62 Stat. 240, as amended, 16 U.S.C. 667 b-d; Section 414 of Public Law 91-152, 83 Stat. 400, as amended, 40 U.S.C. 484b; and Section 218 of Public Law 91-646, 84 Stat. 1902, 42 U.S.C. 4638.

- Administration: General Services Administration; applications are made to the Heritage Conservation and Recreation Service, Department of the Interior.

- Eligibility: States and local government agencies are eligible to apply for surplus real property for park, recreational, ..., and general public purposes.

- Types of Assistance: The sale, exchange, or donation of property and goods is available.

- Uses and Use Restrictions Applicable to Public Access: Surplus real property may be conveyed for public park or recreation use at discounts up to 100 per cent. Surplus property conveyed for public park or recreation use must be used for the purposes so conveyed in perpetuity. Surplus real property which is not deeded to public bodies is generally offered for sale to the public on a competitive bid basis.

3. Other Means to Provide Access

Other states and political subdivisions have used various means to provide access to beaches. These means include a) the acquisition of fee simple and less than fee simple interest in land, water and other property, b) the acquisition in fee by gift, c) the legal determination of public rights of access, d) police power, e) preferential taxation, and f) passage of legislation providing access. The Coastal Area Board may find some of these means useful in providing more public access, especially with respect to their five established priorities discussed earlier.

a) Land for public access purposes can be obtained through the acquisition of fee simple or less than fee simple interest. The Coastal Area Board is given the power to acquire fee simple and less than fee simple interest in land, water and other property under the procedures of Title 19, Code of Alabama, or other means. This power is provided in Act 534 Section 5i.

Purchase of fee simple title involves the purchase of property by the state. This is the most direct means of acquiring access, however, because the state competes with other buyers for properties on the open market, this option can be the most expensive acquisition tool Purchase of fee simple title is efficient only where intensive use is anticipated and ownership would serve some useful public purpose.

Less than fee simple interest involves the granting by the property owner of a limited right or set of rights to a second party. Easements, one form of less than fee simple interest, are generally purchased in circumstances in which it is unnecessary and unfeasible to purchase the land itself. Affirmative easements are rights to use land, negative easements preclude a use of land.

A conservation easement is a method by which a landowner can secure both present enjoyment of his land and future limitations on the land's use. The owner retains title; the easement precludes certain uses of the land. Future owners must take title subject to the terms of the easement.

Leasehold agreements, a common form of less than fee simple ownership, a lesser (owner of land) grants a lessee (interested party) the right to use the land in a specified manner for a limited period of time. At the time of lease expiration, the restricted rights revert to the lesser.

b) Acquisition in fee by gift of land for public purposes is a highly desirable method of conveying property. Donation holds advantages for the donor especially with regard to tax savings, and is a relatively simple process which gives the state a measure of freedom to vary the uses of the property as it sees fit. The landowner can include use restrictions in the deed of transfer to ensure the land will be used according to the donor's wishes, however, the receiving government must accept the conditions attached to the grant.

c) There are many theories supporting the creation of public access rights over private land of non-consenting landowners.

Prescriptive easements refer to a process by which one person obtains the right to use another's land in a specified manner because of continued adverse and notorious use of this land for a considerable number of years. The original landholder maintains title, however, law now recognizes a new party's right to continue that use.

Adverse prescription and possession are legal doctrines which recognize that rights to land may be obtained through use and may be applied to maintain public access. For these rights to apply, use of property in question must be actual, adverse, continuous and uninterrupted, and either be so open, notorious, and visible, that knowledge of the use is implied to the owner.

In adverse possession, the claimant must be in possession of land, while under prescription, the claimant may have the use or privilege without possession.

Implied dedication is a common law doctrine in which the landowner by his conduct has indicated his intent to dedicate his land for public use, and that public use itself is evidence of the public's intention to accept the dedication offered. The public acquires the right to continue the use of such property, regardless of the landowner's later intent or actions.

The customary use doctrine establishes that customary use of land peaceably engaged, with or without landowner consent, for a long period of time without a claim of superior right interrupting such use, establishes public rights to that land irregardless of title. Securing beach access through the customary use doctrine, while requiring no capital outlay, would require lengthy court procedures and a documented history of public use.

d) A fourth means of acquiring public access is through police power. The two most useful police power techniques are the application of emminent domain and the imposition of land use controls and regulations.

Emminent domain is a process by which governmental entities can acquire proprietary interests in privately held land in exchange for compensation, regardless of the owner's willingness to sell. Compensation is usually fixed at market price. Land acquired through this process must be used for public use or benefit.

In acquiring shorelands and waters access with emminent domain, property can be condemned in fee, thereby acquiring land such as parking lots and parks. A second and less expensive application of emminent domain is to condemn easements for public rights-of-way.

A variety of land use and regulatory controls may be applied to secure and protect public access. Of course, for these regulations to be implemented, enabling legislation must be in place.

Zoning is a widely applied regulatory mechanism to manage development activities. Aside from preventing non-conforming uses, zoning has now become a means of creating recreation and open space zones.

Subdivision developers have been subject to a number of conditions for approval. These conditions might include the dedication of land for streets and utilities, and even the dedication of land for parks. Further, water access lots might be required as a condition for approval.

Other examples of land use control and its application to public access include the provision of pedestrian accessways through or between privately owned land and the dedication of roads to the public and their extension to the beach.

e) Preferential taxation is a process which can be applied to public access acquisition. A shoreland owner can be encouraged to maintain his property in low density development. Taxation is based on current use rather than assessment of potential. Postponement of taxes or deferral is another technique which can aid in providing public access, as can tax breaks as an incentive for land donation, discussed previously.

f) A sixth approach to providing public access involves the statutory establishment of public rights to beach utilization and access. The Texas Open Beaches Act (Tex. Stat. Ann. Sec. 5415 (d) (Vernon Supp. 1972)) in effect since 1959, is a model for future legislation regarding public access. Two presumptions are made in the Act which provide the public access: 1) "the State (of Texas) never divested itself of its protection of the people's right to use the beach by the grant in the beginning, and 2) that even if it did, in certain instances, and it can be shown, there is a presumption that the people have obtained a prescriptive right in the use of the beach by long usage." (Eckhardt, 1974)

The designation of a public zone and recognition of public rights is the necessary basis for a legislatively initiated access development program.

II. SHORELINE EROSION/MITIGATION PLANNING

A. A Method for Assessing the Effects of Shoreline Erosion

Recent studies have shown that portions of Alabama's coastal shoreline are eroding. Of 503.9 miles of estuarine and Gulf shoreline, 220.9 miles are eroding. These eroding areas and rates of erosion are identified and mapped by the Geological Survey of Alabama in a report prepared for the Alabama Coastal Area Board (1976), and by the U.S. Army Corps of Engineers in their National Shoreline Inventory (1971).

Ninety-four per cent of the State's Gulf shoreline is eroding (see Figure D-3). Though erosion rates along the Gulf are generally less than 5 feet per year, erosion greater than 10 feet per year takes place at Perdido Pass. Western Dauphin Island's shoreline has receded due to heavy erosion.

About thirty-three per cent of Alabama's estuarine shoreline is also eroding. Most affected areas are the Little Point Clear and St. Andrews Bay shoreline, the southeastern limits of the Mobile-Tensaw River Delta, and the islands and northern shore of Mississippi Sound (see Figure D-3).

These comprehensive inventories have aided the Coastal Area Board in identifying shoreline segments most erosion prone. As the need arises, inventores can be updated. Also, erosion prone areas will be identified and/or verified by visual inspection.

1. Inventory of Alabama's Coastal Erosion Problem

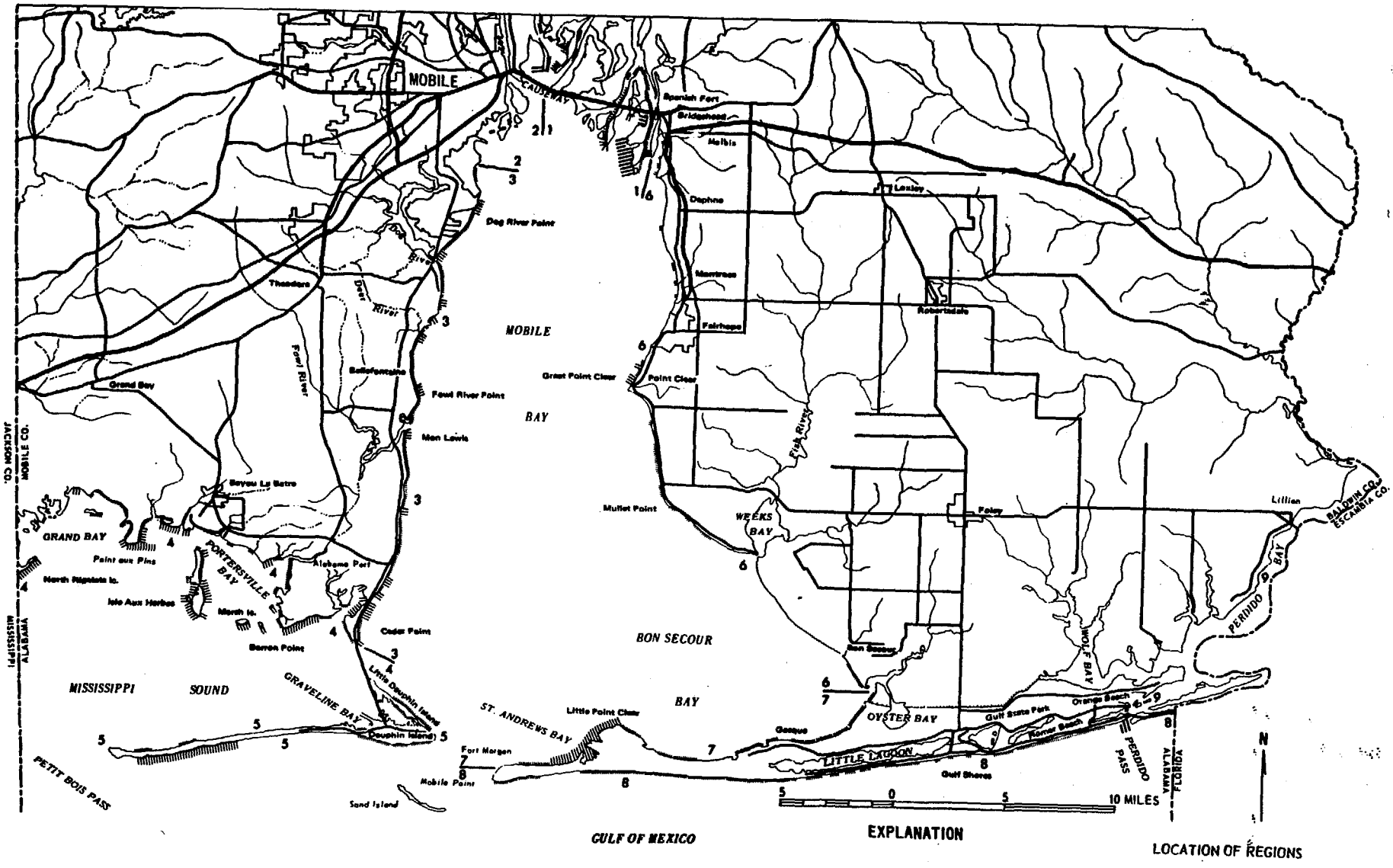
a. Dauphin Island

Dauphin Island's Gulf shoreline has experienced considerable erosion. In the period 1942 to 1974, shoreline erosion of the entire Gulf coast of the island averaged 6.34 feet per year. Erosion at the western end of the island has averaged 10.13 feet per year in the period 1917 to 1974 and erosion occurring along the eastern shoreline is less than 5 feet annually. The eastern tip of the island has been protected from erosion by small jetties and a rock seawall. The western end of the island, has extended itself westward approximately 1.8 miles. The island has been breached by coastal stormwaters twice since 1900, but coastal development is occurring near these formerly breached areas today (from Geological Survey of Alabama, 1976).

The Corps of Engineers is considering a beach renourishment program for the island. Maintenance dredge spoil from the outer Mobile Ship Channel can be pumped into the littoral drift circulation pattern which sweeps past the island, supplying sediments to build the beaches.

b. Mississippi Sound

The northern shore of Mississippi Sound is comprised mostly of marsh with extensive residential, commercial, and industrial development centered in the major tidal bayous, Coden, Bayou La Batre and West Fowl River.



EXPLANATION

SHORELINE EROSION

- 0-5 feet per year
- 5-10 feet per year
- More than 10 feet per year

Base periods vary with location

GEOLOGICAL SURVEY OF ALABAMA
REMOTE SENSING/TOPOGRAPHY DIVISION

LOCATION OF REGIONS

1 Mobile delta
2 Mobile harbor
3 Western shore
4 Mississippi Sound, north shore
5 Dauphin Island
6 Eastern shore
7 Morgan Peninsula, bay shore
8 Gulf shore
9 Perdido Bay

Figure D-3 - Historic trends of shoreline changes, Alabama Coastal Area, 1971 - 1974.
Ssource: Hardin, et al., 1976.

Between 1917 and 1958, most of the shoreline length of Mississippi Sound has experienced erosion. The areas most prone to erosion are the exposed marshy headlands and island shorelines. It is estimated that shoreline erosion at these locations averages 3 to 7 feet per year (from Geological Survey of Alabama, 1976).

c. Mobile Bay - western shore

The western shore of Mobile Bay consists of a narrow sandy or marshy shoreline, backed mostly by low eroding seacliffs above Alabama Port. Erosion is a persistent problem, as is evidenced by numerous toppled trees, threatened structures, and privately constructed erosion control measures. Rates of erosion average less than 5 feet annually in most areas. However, Cedar Point has eroded 488 feet during the period 1917-1974. The areas between Dog River Point and Fowl River Point and between Delchamps Bayou and Cedar Point show the severest erosion rates (from Geological Survey of Alabama, 1976).

The U.S. Army Corps of Engineers, Mobile District has centered its attention on this area in its nearly completed Mobile County Beach Erosion Control and Hurricane Protection Study. Structural alternatives do not appear feasible due to high costs which must be borne locally due to the private ownership of this land. Other alternatives included a proposal to extend the Bay shoreline with dredge spoil derived from the maintenenace dredging of the Mobile Ship Channel. Land owners were opposed to this and other alternatives proposed by the Corps to control shoreline erosion along the western shore of Mobile Bay because of 1) high costs of the project, 2) the requirement that restored land must be dedicated to public use, and 3) the malodor, texture, and unimprovable nature of dredged materials used to restore the shoreline. A public workshop was held on this subject in March, 1975.

d. Mobile Delta

The shoreline of Mobile Delta has shown a small net erosional trend overall. Erosion has occurred principally along the channel margins of the major rivers, and accretion is occurring in the shallow interdistributary bays for the period 1917 through 1967. Deltas are typically areas of accretion; the fact that the delta has lost 22.04 acres in the period 1917 to 1967 may indicate that the delta's progradation has slowed considerably (from Geological Survey of Alabama, 1976).

e. Mobile Bay - eastern shore

The eastern shore of Mobile Bay has for the most part maintained a state of equilibrium or has undergone accretion. Erosion does occur sporadically, however, with areas erosion prone including the shore north of Great Point Clear, Red Bluff, Seacliff, and several areas along the lower bay shoreline. The aforementioned areas experience 0-5 feet erosion per year excepting the shore north of Great Point Clear which averaged 5.0 feet per year during the period 1917-1956 (from Geological Survey of Alabama, 1976).

f. Fort Morgan Peninsula - Bay shore

Erosion along this low shoreline extending from the mouth of the Bon Secour River to Mobile Point has been measured with rates exceeding 10 feet per year in the Little Point Clear - St. Andrews Bay shoreline. During the period 1917 to 1974, 170 feet of erosion has occurred in the section of coast lying between Bon Secour River and Catlins Bayou, 50-100 feet between Catlins Bayou and Three Rivers, 200-800 feet from Little Point Clear to St. Andrews Bay, and 200 feet from Navy Cove to Fort Morgan. Residents of the shore from Seymour Bluff to Catlins Bayou have battled this persistent erosion problem by individually constructing bulkheads, groins, and filling (from Geological Survey of Alabama, 1976).

g. Gulf Shores - Ft. Morgan to Florida border

During the study period 1917-1974, the gulf shore eroded an average of 78 feet between Fort Morgan and Alabama Point. Nearly the entire stretch of coast has eroded. Inlets into the Little Lagoon - Shelby Lakes complex have opened and closed during this period. Exchange between these lakes and the Gulf is today only minimal, the only existing inlet does not function at all times of the year (from Geological Survey of Alabama, 1976). At Perdido Pass, a Corps of Engineers jetty and sand bypass system has been constructed. Though constructed for navigation purposes, this project has helped to alleviate a persistent erosion problem at this location. Erosion occurring at the pass today impacts a beach restored by sand pumped across the navigation channel.

h. Perdido Bay

The Alabama shores of Perdido Bay have shown little measurable change, according to presently available information. Perdido Pass has changed considerably since the late nineteenth century, partially due to the cutting of a man-made channel across the Ono Peninsula. Today, all water exchange with the Gulf occurs through Perdido Pass, whose westward shore is stabilized by a connecting seawall and jetty (from Geological Survey of Alabama, 1976).

i. Sand Island

Lying southward of Dauphin Island and the western tip of Mobile Point are a series of low emergent and submergent bars related to tidal flow through the mouth of Mobile Bay. Among these are Dixie Shoals and Sand/ Pelican Island. Sand Island Lighthouse presently lies near this bar complex and is heavily protected by riprap and protective structures. As has occurred throughout historic times, Sand and Pelican Islands have migrated extensively, presently leaving Sand Island Lighthouse surrounded by water.

2. Stabilization Alternatives

Various types of structural and non-structural shore protection measures have historically been designed and implemented along both estuarine and ocean or Gulf shorelines. The threat which erosion places on coastal development has in the past warranted these protective measures be taken. Fortunately, Alabama's low density of Gulf-front development has not required many

protective measures be taken, however, the rate of both development and erosion along Alabama's estuarine shoreline has forced the use of numerous structures.

a. Structural Control Methods

"Where beaches and dunes serve to protect the shore developments, additional protective structures may not be required" (U.S. Army Corps of Engineers, 1971). Where development does encroach on the coastal shoreline, however, a variety of structural erosion control methods have been utilized. These methods include bulkheads, seawalls, revetments, breakwaters, groins, and jetties.

Bulkheads, seawalls, and revetments are barriers constructed to protect backshore development from wave damage. These become partial substitutes for the natural protection afforded by lost or destroyed beaches, dunes, wetlands, and submerged grassbeds. Bulkheads are vertical structures of steel, timber, or concrete. In high energy locations, bulkheads do not provide a permanent solution. As the shore continues to recede, a more substantial wall will be required.

Seawalls are also vertical structures constructed as barriers to protect against wave uprush. Seawalls are not conducive to the accumulation of sand, will probably contribute to the erosion of shoreline sediments, and may still not adequately protect the upland surface.

Revetments are sloping reinforced walls, usually of concrete or stone. A revetment dissipates wave energy with less damaging effect on the beach, dune or bluff. If conditions are favorable, sand will accumulate at its base.

Coastal shorelines can also be protected by breakwaters. These are structures constructed offshore which provide sheltered waters in their lee. A detrimental effect of these structures is the stoppage of litorally transported sediments. In effect, the lee side of breakwaters stops littoral transport, obstructs the flow of sand and therefore starves downstream beaches of needed sediments.

Groins are structures constructed of timber, steel, concrete or rock, and extend perpendicular to the shoreline. The basic purpose of a groin is to intercept sand moving alongshore, thereby building up a beach with added sediments or to slow the rate of erosion. The groin system should be designed so that it will trap the required volume of beach material and bypass sufficient material to nourish downdrift beaches. Although a groin system may reduce erosion or cause accretion on a stretch of beach it will generally result in increased erosion for downdrift property.

Jetties, a sixth shoreline protection device, are usually massive structures, constructed of steel, concrete, or rock, employed at tidal inlets to trap sediments and thereby keep the inlet clear for navigation. Undesirable downdrift erosion usually results from the emplacement of these structures, so some plan of sand bypass or transport to the downdrift shore is required.

It can be seen that a number of structural alternatives are available to protect coastal Alabama's receding shoreline. The exorbitant cost of each structural alternative (Table D-1), frequent inability of each alternative to adequately solve the erosion problem, and the possible serious adverse effects experienced by adjacent property owners warrant exhaustive consideration before undertaking placement of structural erosion control measures.

Table D-1 Comparative costs of structural erosion control methods

Control Structure	Average Cost (1971) Per Foot of Shoreline Protected	Average Maximum Cost (1971) Per Foot of Shoreline Protected
Bulkheads	$75 to $150	$400
Seawalls	$200	$500
Stepped Seawall	$255	--
Revetments	$75 to $150	$400
Riprap Revetments	$265	--
Interlocking Concrete Block Revetment	$422	--
Groins	$100 to $350	--

Source: U.S. Army Corps of Engineers, 1971
U.S. Army Corps of Engineers, 1975

b. Nonstructural Control Methods

Often, natural shoreline processes and configuration can be restored through non-structural shoreline control techniques. "Beach structures, when properly used, have a place in shore protection. But research has shown that the best protection is afforded by using methods as similar as possible to natural ones" (U.S. Army Corps of Engineers, 1971). The desired end result in any erosion control project is shoreline stabilization; non-structural techniques are designed to accomplish this goal without the emplacement of any near-permanent fixed structure, and are more reliant on naturally occurring processes. Three non-structural shoreline erosion control techniques lend themselves well to application along Alabama's estuarine and Gulf shoreline.

Shoreline restoration and nourishment involves the deposit of sediments on an eroded beach through some form of unnatural transfer process such as the deposit of dredged material or the trucking in of sediments. Often, sediments to be used are dredged from a navigation channel, baybottom, or offshore, and are pumped to the disposal site to recreate the original shoreline. Drawbacks to this process include the malodor and discoloration of sediments due to their removal from waterbottoms, the destruction of bottom habitat and loss of animal life caught in dredging operations.

A variation of this technique is the placement of sediments (usually dredged material) at locations that littoral drift and shore currents can

distribute naturally to the shoreline. This alternative is under the Corps of Engineers consideration for restoration of Dauphin Island's eroding eastern shoreline.

A second nonstructural erosion control technique is the protection, restoration, and revegetation of wetland and submerged vegetation. Vegetation, whether wetland or submerged, buffers the existing shoreline from destructive waves and their erosive forces. Further, wetlands serve as storage areas for floodwaters and as a source of sediment to supply and replenish neighboring beaches and shorelines.

The protection of beaches and dunes from destructive development is a third non-structural approach to control shoreline erosion. Not only do the beach and dune absorb much of a coastal storm's energy, they provide sediments to one another as the system stabilizes itself in response to coastal energy conditions. Since the beach and dune interact with one another in this manner, the removal or destruction of either, or the interruption of natural sediment flow between the components, will eventually create a shoreline erosion problem. Removal of either beach or dune material should never be undertaken. Restoration or revegetation of dunes where alteration has occurred is essential to a stable shoreline.

B. Articulation of State Policies Pertaining to Erosion, Including Policies Regarding Preferences for Non-Structural, Structural and/or No Controls

Due to the influence of certain uses, resources and structures on shoreline erosion control, the Coastal Area Board recognizes the need for their management. Thus, the following policies pertaining to shorefront access have been formulated. The Coastal Area Board's operational rules and regulations by which the policies will be implemented are presented in parentheses.

1. Shoreline Erosion

It is the policy of the Coastal Area Board that the existing natural or man-made character of coastal shorelines shall be maintained in a manner to prevent the erosion of the Alabama coastline with primary emphasis on non-structural forms of erosion control, and where feasible, enhancement of the natural protective functions of the shoreline shall be encouraged.(Chapter 4, Section VI, Operational Rules and Regulations for shoreline erosion).

2. Hazard Management

Human activities within hazard management areas including flood and hurricane prone areas will be carried out in a manner which sustains the area's natural capability of absorbing the effects of flood and hurricane events, and development within these areas shall be designed, located, and constructed in a way that minimizes the possibility of property damage and human suffering resulting from hazard events. (Chapter 4, Section VII, Operational Rules and Regulations for natural hazard).

3. Wetlands and Submersed Grassbeds

The quality and quantity of coastal wetlands and grassbeds shall be maintained at the level necessary to provide for present levels of habitat for both terrestrial and aquatic life to play their pivotal role in the

aquatic food web and to provide natural control for shoreline erosion and where practicable, to enhance the quality and quantity of these wetlands and submersed grassbeds. (Chapter 4, Section VI, Operational Rules and Regulations for wetlands and submersed grassbeds).

4. Beach and Dune Protection

Recognizing the natural value of beaches and dunes for erosion control, wildlife habitat, and recreational opportunities, it is the policy of the Alabama Coastal Area Board to maintain the natural integrity of the beach and dune systems and to restore and enhance these valuable resources where feasible. (Chapter 4, Section VI, Operational Rules and Regulations for beaches and dunes).

C. A Method for Designating Areas for Erosion Control, Mitigation, and/or Restoration as Areas of Particular Concern or Areas for Preservation and Restoration

One approach to managing shoreline erosion in Alabama's coastal area is the nomination and designation of shorefront areas as Geographic Areas of Particular Concern (GAPC) or Areas for Preservation and Restoration (APR). None of the GAPC's or APR's presently designated has been established for the particular control of shoreline erosion. However, a process for designating additional areas as GAPC's and APR's has been established and is described in Chapter 4, Section IV. One criteria which can be used to designate an area as a GAPC is vulnerability to erosion.

D. Procedures for Managing the Effects of Erosion, Including Non-structural Procedures

The Coastal Area Board recognizes the pressing need for shoreline erosion management in Alabama's coastal area. Portions of our shoreline today are threatened by erosion and the increased rate of development descending upon the state's shorelines could make this problem more critical. Historically, the U.S. Army Corps of Engineers has been the lead agency in this matter, however, economic and property ownership conditions have nearly precluded the Corps' assistance in any role other than advisory.

The Coastal Area Board has promulgated policies and rules and regulations to manage uses with a direct and significant impact, including those uses which lead to shoreline erosion. The implementation of these policies and rules and regulations through the Coastal Area Board's review process and monitoring and enforcement provisions will enable effective management of shoreline erosion.

The Coastal Area Board has also identified certain action items related to their goal of shoreline erosion control. The Coastal Area Board will provide technical and financial assistance for special studies to assess the suitability of certain types of erosion control measures in specific areas; to educate the public regarding erosion-related matters; and to investigate methods to acquire specific areas within the Coastal Area that are subject to significant erosion.

E. An Identification of Legal Authorities, Funding Programs and other Techniques that can be Used to Meet Management Needs

Aside from the policies set by the Coastal Area Board and opportunities for the management of shoreline erosion through the designation of select GAPC's, various existing legal authorities and programs are available to meet the Coastal Area Board's management needs with respect to shoreline erosion.

1. State Statutes

Statutes within the Code of Alabama, 1975 which directly contribute to the management of shoreline erosion include:

a) Section 9-7-1 through 9-7-22 . Alabama Coastal Area Board.

This Act creates a reconstituted Coastal Area Board with responsibility and authority for developing, coordinating, and maintaining a coastal area program for the area in direct proximity to the coasts of Alabama to insure the enhancement of tourism and orderly economic development along coasts; and to provide for the promulgation of regulations and provisions for the enforcement of this Act.

The legislature finds in the Act that it is State policy to preserve, protect, develop, and where possible, to restore or enhance, the resources of the State's coastal area for this and succeeding generations. Given the authority to develop a management program and given the above state policy to guide the development and implementation of the program, the Coastal Area Board has the authority within its program to manage Alabama's coastal shoreline, in its many forms such as beaches, dunes and wetlands, to mitigate the effects of shoreline erosion.

b) Section 9-15-1 through 9-15-53. Department of Conservation and Natural Resources - State Lands Division.

Authority over state owned lands for their utilization and management in accordance with the Management Program is provided. Control is assured over the coastal lands and beaches from coastal waters up to the mean high tide boundary, if effectively implemented. The legal authority to manage this land may facilitate the implementation of shoreline erosion control methods. (see Appendix B., Section D-4)

c) Section 9-13-1 through 9-13-201. State Forestry Commission

The Commission has statutory authority to prevent the willful destruction or injury of any plant by any method without consent of the owner. If effectively implemented, this provision serves as a primary authority for the preservation of vegetation in the coastal area, including an indispensable tool for dunes preservation by methods utilizing vegetation. (see Appendix B, Section E1)

2. State Acts

Within the Acts of Alabama, 1973 are three Acts which directly contribute to shoreline erosion control. These include:

a) Act No. 971. Wild Sea Oats Act - Baldwin County

The provisions of the Act make it a misdemeanor to pick wild Sea Oats on the beaches of Baldwin County. The statute, if effectively implemented, will provide assistance in dune preservation and mitigation of shoreline erosion. (see Appendix B, Section Y)

b) Act No. 775. Sand Dune Protection Act - Baldwin County

The statute prohibits the operation of any motor vehicle upon coastal sand dunes located 50 feet or further from the waterline within Baldwin County without the express written permission of the landowner. This statute represents a dune preservation measure if effectively implemented. (see Appendix B, Section Z)

c) Act No. 1096. Island Beaches and Dunes Preservation Act - Mobile County.

This statute prohibits the operation of any motor vehicle upon the coastal beaches and/or sand dunes "located on any island within ... (Mobile County) upon any ... (Recorded) subdivided portion thereof without the express written permission of the landowner and all adjacent landowners." This authority will protect coastal dunes from the impacts of motorized vehicle operation in Mobile County. (see Appendix B, Section AA)

3. Constitution of Alabama, 1901

The Constitution of Alabama, 1901, in Amendment No. 15 provides that the:

"Legislature may form or provide for the formation of districts for establishing and maintaining a drainage system; ... and for building and maintaining a seawall or other protection against waves, storm or flood therein."

4. Federal Programs

Federal programs useful to the control of Alabama's shoreline erosion include:

a) Coastal Zone Management Program Administration

- Authorization: Coastal Zone Management Act of 1972, Section 306, Public Law 92-583; Coastal Zone Management Act Amendments of 1976, Section 306, Public Law 94-370.

- Administration: National Oceanic and Atmospheric Administration, Department of Commerce. Funds are channeled through the Alabama Coastal Area Board upon approval of the state's Coastal Zone Management Program.

- Eligibility: Any coastal state whose Coastal Zone Management Program has been approved by the Secretary of Commerce.

- Types of Assistance: Project grants are available. At least 33 1/3 per cent of the total project cost must be provided by the applicant. Federal funds from other sources cannot be used to match.

- Uses and Use Restrictions Applicable to Shoreline Erosion Control: Grants may be used only to administer the State's approved Coastal Zone Management Program. Purposes to which states are encouraged to apply implementation funding include those that resolve coastal problems and issues in which there are national interests, including reduction of losses due to coastal hazards and protection of natural resources. Other purposes include the management of designated areas of particular concern.

b) Beach Erosion Control Projects (Small Beach Erosion Control Projects)

- Authorization: Section 103 of 1962 River and Harbor Act, as amended; Public Law 87-874; 33 U.S.C. 426g.

- Administration: Office of the Chief of Engineers, Department of Army, Department of Defense.

- Eligibility: States, political subdivisions of states or other responsible local agencies established under state law with full authority and ability to undertake necessary legal and financial responsibilities.

- Types of Assistance: The Corps of Engineers provides specialized services, including design and construction. The determination of local cost is based on the public use and ownership of the beach protected. The Federal participation cannot exceed $1 million or 70 per cent of project cost whichever is lower.

- Uses and Use Restrictions Related to Shoreline Erosion Control: Each project selected must be engineeringly feasible, complete within itself, and economically justified. The non-Federal sponsoring agency must agree to 1) assume full responsibility for all project costs in excess of the Federal cost limit of $1 million; 2) provide all necessary lands, easements, rights of way; 3) hold and save the United States free from damages; 4) assure that water pollution that would affect the health of bathers will not be permitted; 5) assure continued public ownership or public use of the beach, and its administration for public use; 6) provide project maintenance; 7) provide and maintain necessary access roads, parking areas and other public use facilities open and available to all on equal terms.

c) Flood Control Works and Federally Authorized Coastal Protection Works, Rehabilitation (Public Law 99 Program)

- Authorization: Public Law 84-99, Flood Control Act of 1941; Public Law 77-228; as amended by Public Laws 87-874, 93-251, and 95-51.

- Administration: Office of the Chief of Engineers, Department of the Army, Department of Defense.

- Eligibility: Owners of damaged protective works, or state and local officials of public entities responsible for their maintenance, repair and operation.

- Types of Assistance: The Corps of Engineers provides specialized services including restoration of federally authorized coastal protection structures damaged by extraordinary wind, wave, or water action. Assistance does not extend to major improvements or betterment of flood control or federally authorized coastal protection structures, nor to reimbursement of individuals or communities for funds expended in repair or rehabilitation efforts. There are no formula or matching considerations.

- Uses and Use Restrictions Related to Shoreline Erosion Control: Authorized assistance includes the restoration of federally authorized coastal protection structures, damaged by extra-ordinary wind, wave, or water action. Local interests are normally required to a) provide without cost to the United States all lands, easements, and right-of-way necessary for the authorized work; b) hold and save the United States free from damages due to the authorized work; c) maintain and operate in a manner satisfactory to the chief of Engineers, all the protective works after completion of repairs. Additionally, work constituting deferred regular maintenance and desired major modifications, may be included at local cost.

d) Flood Insurance

- Authorization: Housing and Urban Development Act of 1968, Title XIII, Public Law 90-448, 82 Stat. 476, 572, as amended; 42 U.S.C. 4011, 4127; 83 Stat. 39, 42 U.S.C. 4056; 83 Stat. 579, 42 U.S.C. 4021, and Flood Disaster Protection Act of 1973, Public Law 93-234.

- Administration: Federal Insurance Administration, Department of Housing and Urban Development.

- Eligibility: Flood insurance can be made available in any community (a State or political subdivision thereof with authority to adopt and enforce flood plain management measures for the area within its jurisdiction) which submits a properly completed application to the FIA. The application must include copies of enacted flood plain management

measures consistent with the National Flood Insurance Program regulations.

- Types of Assistance: Insurance

- Uses and Use Restrictions Related to Shoreline Erosion Control: Property owners may buy flood insurance at a chargeable premium rate which is lower than a normal actuarial rate, reflecting a subsidy by the Federal Government. Properties built within identified special flood hazard areas are eligible for flood insurance only at actuarial rates.

  A number of provisions are written into the Flood Insurance Rules and Regulations. If effectively implemented, these provisions will be especially useful in the Coastal Area Board's control of coastal erosion.

  1) The man made alteration of sand dunes within zones VI-30 (coastal high hazard zone) on the community's FIRM which would increase flood damage (24 CFR 1910.3 e8) is prohibited. If effectively implemented, this will maintain the dune's function in shoreline erosion control in those areas designated as Coastal High Hazard Zone. Presently, most of Mobile County's coastal area is designated in this category. None of Baldwin County's coast is presently included in this zone, however, review of Baldwin's FIRM maps are anticipated by FIA officials in the coming 12 to 18 months (Rick Mayson, HUD-FIA, Personal Communication).

  2) For areas delineated Zone E (Area of special flood-related erosion hazards) on a community's FIRM, the community must require a setback for all new development from the ocean, lake, bay, riverfront, or other body of water, to create a safety buffer consisting of a natural vegetative or contour strip (24 CFR 1910.5 b2). If effectively implemented, this buffer zone will allow naturally occurring shoreline sediment supply and distribution processes to continue in those areas so designated. No zones of this type are designated in Alabama's coastal area, however, additional communities will be added as necessary information required for their inclusion becomes available to the Administrator of the Flood Insurance Administration.

  3) In these same E zones, the planning process for affected communities should include preventive action including setbacks, shore protection works, relocating structures from the path of flood-related erosion, and community acquisition of flood-related erosion-prone properties for public purposes (24 CFR 1910.24 d).

III. ENERGY FACILITY SITING

In order to meet requirements of subsection 305(b)(8) of the Coastal Zone Management Act, Alabama has developed a process to anticipate and manage the impacts from energy facilities in or affecting the Coastal Area. The process includes:

(A) Identification of energy facilities which are likely to locate in or which may significantly affect, the Coastal Area;

(B) Procedures for assessing the suitability of sites for such facilities;

(C) Alabama's policies for managing energy facilities and their impacts;

(D) Identification of how interested and affected public parties may be involved in the planning process and a discussion of the means for continued consideration of the national interest, in the planning for and siting of energy facilities that are necessary to meet more than local requirements, after program approval; and

(E) Identification of legal authorities and management techniques that will be used to implement state policies and procedures.

A. ENERGY FACILITIES

Energy in the Mobile-Baldwin County area is primarily derived from petroleum products, natural gas and electricity. Petroleum refineries, natural gas processing, treatment and liquid extraction plants, storage tanks, electric generating plants, coal handling facilities, major transmission lines and pipelines and other energy-related facilities are located almost exclusively in Mobile County. The development and processing of energy resources and the siting of new and existing energy-related facilities is of importance to the coastal economy and is an item of national interest.

1. Petroleum Exploration and Extraction

a. Petroleum Facilities

Over 61% of the oil and gas wells in Alabama are located in the Mobile-Baldwin County area. Since 1945, the Oil and Gas Board has issued about 700 permits to drill in the area, 69% of which were producers. The major petroleum producing areas of the SMSA are the Citronelle and South Carlton Oil Fields, and the major natural gas recovery operations are located in Chunchula and Hatter's Pond Fields (Figure D-4 and Table D-2).

Federal oil and gas leases approximately 6 miles seaward of Alabama's coastal waters south of Gulf Shores have been offered at Outer Continental Shelf (OCS) Sale Number 65 and proposed for OCS Sale Number 58A. Future drilling in this area and in Mobile Bay will help evaluate the petroleum potential of lands underlying Alabama's coastal waters. With the discovery of oil and gas reserves in offshore and nearshore areas, the Bureau of Land Management has predicted an associated increase in development of onshore energy-related

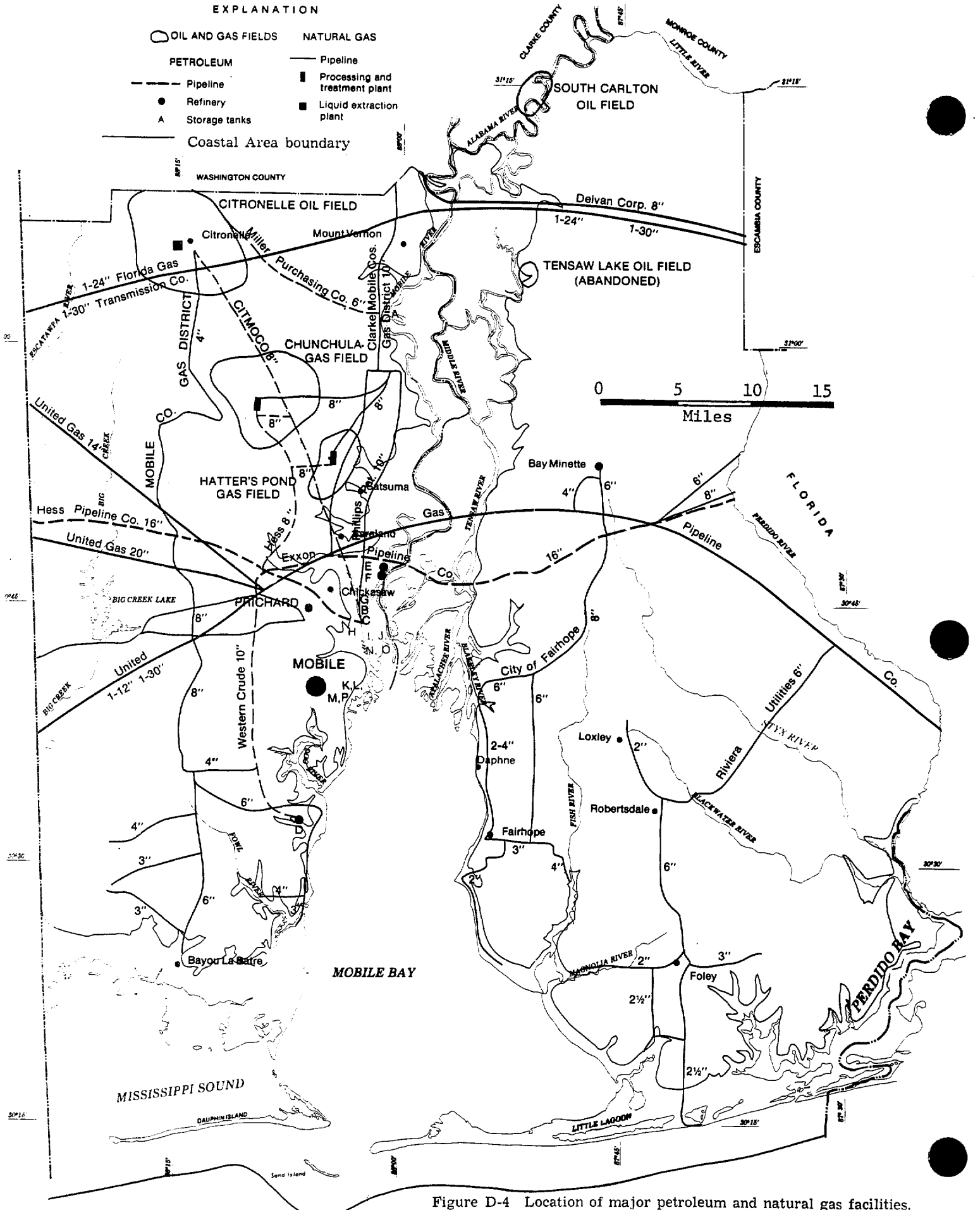


Figure D-4 Location of major petroleum and natural gas facilities.
Source: Modified after Energy Resources Map, 1977.

Table D-2 PETROLEUM

Storage of Petroleum and Petroleum Products

Map Ref.	Company	Number of Tanks	Primary capacity (barrels)
A	Miller-Purchasing	2	135,000
B	Citronell-Mobile Gathering System	4	525,000
C	Amerada Hess	16	1,500,000
D	Marion Oil	18	770,000
E	Louisiana Land and Exploration	31	785,000
F	Mobile Bay	6	205,000
G	Gulf Oil	10	176,647
H	Radcliff-Mid Stream Fuel	2	8,000
I	Triangle Refinery	13	230,000
J	Murphy Oil	7	153,000
K	Shell Oil	4	102,000
L	Triangle Refinery of Choctaw	10	120,000
M	Texaco	21	414,000
N	Mobile Bulk Terminal	6	630,000
O	American Oil	6	135,000
P	Belcher of Alabama	7	227,500
	Totals	163	6,116,147

Refineries

Map Ref.	Company	Design capacity *(BPD)	Production *(BPD)
D	Marion Oil	20,000	20,000
E	Louisiana Land and Exploration	40,000	34,200
F	Mobile Bay	**20,000	10,000
	Totals	80,000	64,200

* Barrel Per Day
** Under construction

Pipeline System

Company	Length (miles)	Average daily throughput (barrels)
Hess Pipeline	56	97,425
Exxon Pipeline	36	130,000
Western Crude	26	20,000
	34	16,500
Miller Purchasing	20	2,500
Totals	172	266,425

facilities.

Over 30% of Alabama's annual oil production comes from the Citronelle Oil Field, which has remained the state's leading oil producer since 1955. Approximately 53% of the gas produced in association with oil produced at Citronelle is used in the operation of production facilities throughout the field. Natural gas liquids are extracted from the remaining gas at a plant operated by Cities Service Oil Company in Citronelle (Figure D-4, Table D-3). Natural gas liquids produced in 1977 included 44,937 barrels of gasoline and 58,202 barrels of butane. Engineering studies indicate that at current production rates 39% of the original oil in place in the reservoir, or 146 million barrels of oil, will be produced by 1985, after which time present methods of enhanced recovery will no longer be an effective means of continuing production. Additional studies performed by oil companies operating wells in the field indicate that the life of the field could be extended an additional 25 to 30 years beyond 1985 by initiation of a more sophisticated, enhanced recovery method. This could result in recovery of another 100 million barrels of oil. The majority of oil produced in the Citronelle Oil Field is transported by pipelines to facilities located on the Mobile River where it is stored and ultimately barged to market (Figure D-4 and Table D-2).

The Tensaw Lake Oil Field, discovered in north Baldwin County in 1965, was abandoned in 1972 (Figure D-4). Discovery of the field caused excitement because production was essentially water-free and reservoir pressure was capable of driving initial production from the well-bore to surface production facilities. Forecasts following the discovery indicated as many as 50 wells, spaced at 40 acres per well, would be required to efficiently drain the oil reserves. However, further developments proved otherwise as other wells, including two producers, were drilled and production continued. Although an active water drive was present, it was not totally effective in pushing the viscous oil in the reservoir from the well-bore to the surface. Pumping was required to lift the production to the surface to continue producing. The pumping sustained oil production, but it also increased the volume of saline water produced in association with the oil.

The problems of efficiently draining the oil reserves, producing and handling the viscous crude and disposing of produced water caused abandonment of the field in 1972. Cumulative production from the Tensaw Lake Oil Field exceeds 164,000 barrels of oil. Increased prices for domestically produced oil may revitalize an interest in this area in future years.

Although the Chunchula and Hatters fields were discovered in 1973 and 1974, it was not until mid-1976 that production could begin. Following these discoveries, drilling continued at a rapid pace to develop the gas reserves and establish well productivities to determine the design capacity of required plant facilities for each field (Figure D-4, Table D-3). Continued development of gas reserves required the installation of additional plant capacity and processing and treatment capabilities. It is anticipated that the ultimate capacity of plant facilities in these fields will be designed to drain the gas reserves in 15 to 20 years.

In 1977 the Chunchula Field produced 3,216,403 thousand cubic feet (mcf) of gas and 1,501,335 barrels of condensate from 27 wells. The Hatter's Pond Field produced 4,493,177 mcf of gas and 1,287,989 barrels of condensate from 11 wells. Production from these fields is transported to various sales outlets (Figure D-4, Table D-3).

Table D-3 NATURAL GAS

Processing and Treatment

Design Plant Capacity

Field	Inlet *(MMCF/D) Full well stream gas	Gas *(MMCF/D)	Production Natural gas liquids *(BPD)
Chunchula	10.0	14.0	4,580
Hatter's Pond	15.0	9.4	4,526
	***35.3	20.6	10,320
Totals	60.3	44.0	19,426

*Million Cubic Feet/Day
**Barrels Per Day
***Additional capacity completed in June 1978

Extraction

Design Plant Capacity

Field	Inlet (MMCF) Full well stream gas	Production Natural gas liquids
Citronelle	2	**600
*Hatter's Pond	3	2,948
Totals	5	3,548

*Additional capacity to be ocmpleted in June 1978
**Estimate

Pipeline System

Company	Length (miles)	Average daily distribution (MMCF/D)
Untied Gas Pipeline	253	
Utility Sales:		
Mobile Gas Service	1,390	36.6
Mobile County Gas District	315	3.2
City of Fairhope	75	.8
Riviera Utilities	155	.7
Clark-Mobile Cos. Gas District	18	6.0
City of Bay Minette	63	2.3
Industry Sales:		28.7
Florida Gas Transmission	49	No sales outlets or pickups
Delvan	50	6.4
Phillips Petroleum	16	8.8
Totals	2,384	93.5

One injection well in the Chunchula Field and two in the Hatter's Pond Field are used to dispose of produced saltwater and plant effluents. The State Oil and Gas Board of Alabama regulates the construction, operation and maintenance of disposal wells used with oil and gas operations. The Alabama Water Improvement Commission is the lead state agency responsible for regulating the disposal of plant effluents. Therefore, approval from the Board and Commission must be obtained if an injection well is to be used to dispose of both saltwater and plant effluent.

b. Petroleum Comsumption

In 1974 almost 50% of the energy consumed in Alabama was derived from petroleum and natural gas. Actual records of consumption are not available because they are not required to be reported. Therefore, sales volumes for certain petroleum products reported to various federal, state and local governmental agencies are assumed to equal consumption in the area. When sales volumes in the area were not available, statewide volumes were prorated on the basis of: vehicle registration to determine an estimate of gasoline consumed in Baldwin County and projected sales volumes from prior years in conjunction with population distribution to determine an estimate of fuel oil consumed in the area (Table D-4). Annual consumption of natural gas was considered to be equal to the volume distributed by the major natural gas utilities in the area (Tables D-3 and D-4).

Table D-4 The estimated consumption of petroleum products and natural gas in 1977.

Petroleum Product	Volumes (thousand barrels)
Gasoline	15,094
LPG	1,037
Fuel Oil	3,666
Total	19,797
Natural Gas Total	34.128 billion cubic feet

A comparison of annual consumption with the volumes of petroleum and related products and natural gas produced at existing facilities indicates that the area theoretically produced all fuel oil consumed in 1977, produced approximately 83 percent of the liquid petroleum gas (LPG) consumed, 27 percent of the gasoline consumed and 6 percent of the natural gas consumed. However, almost all petroleum and natural gas liquids and a majority of petroleum products produced in the area were transported, primarily by barge, to markets out of state. Therefore, the majority of fuel oil consumed, 93% of the LPG consumed, and 99% of the gasoline consumed were piped or barged into the area. The volume of petroleum and natural gas liquids, which is exported for refining purposes and then ultimately returned for consumption in the area, are unknown at this time.

c. Petroleum Demand Forecast

It is expected that gross consumption of petroleum products and natural

gas will increase at the average rate of 1.7% per year with imports continuing to satisfy the majority of energy needs in the area. This projection is based solely on population growth in the area since the 1970 census.

d. Needed Capacity

Facilities inventoried in Tables D-2 and D-3 may or may not be operating at designed capacities. In most instances, the operating capacity is controlled by the available supply of petroleum or natural gas rather than the design capacity of the facility. This holds expecially true for natural gas pipelines and plants in the area and to a lesser degree for petroleum pipelines and related facilities. For this reason, the major pipelines are inventoried in terms of gas volumes distributed or petroleum throughput.

Depletion of natural gas reserves in Texas, Louisiana and Mississippi continues to diminish the volume of natural gas entering the major interstate transmission pipeline system that supplies the major gas utilities in the area. The increase in demand for natural gas ultimately required curtailment of supplies to these utilities in the early 1970's. Additional volumes of gas and petroleum could probably be transported through the pipeline system in the area if additional supplies were available.

2. Electricity

a. Electric Facilities

Alabama Power Company is the principal supplier of electricity in the area and exclusive supplier of electricity in Mobile County. Electric generating facilities operated by Alabama Power are located in Mobile County near Chickasaw and Barry (Figure D-5, Table D-5). These facilities have a total installed (name plating) rating of 1,645,000 kw and use coal, oil, or gas-fired boilers in powering turbines in the generation of electricity. Utilities that receive electricity distributed by Alabama Power in Baldwin County include the City of Fairhope, the City of Robertsdale, Baldwin County Electric Cooperative, and Riviera Utilities (Table D-5).

b. Electric Consumption

Electricity provided 36.3% of Alabama's total energy needs in 1974. Approximately 4,145 megawatt hours are consumed annually in the Mobile-Baldwin Counties area.

The Barry Steam Plant is primarily a coal-fired electrical generating facility that also includes a fuel oil fired facility during peak load demands. In 1977, the Barry Plant consumed 3,800,562 tons of coal; 147,746 barrels of fuel oil for boiler start-up and fuel and flame stabilization and for firing the auxiliary unit used during peak demands; and 780,774 mcf of gas in the process of generating electricity. Approximately 95% of the coal consumed at the Barry Steam Plant, except during prolonged periods of work stoppage, is extracted in North Alabama and barged down river to unloading facilities operated by Alabama Power (Figure D-5).

The Chickasaw thermo-electric generating plant has a rated capacity of 120,000 KW. It is commonly used as a standby unit because of its inefficiency. Natural gas and fuel oil are used in the production of steam that drives the turbines in the generation of electricity. In 1977 the plant consumed 187,973 barrels of fuel oil and 2,489,116 mcf of gas.

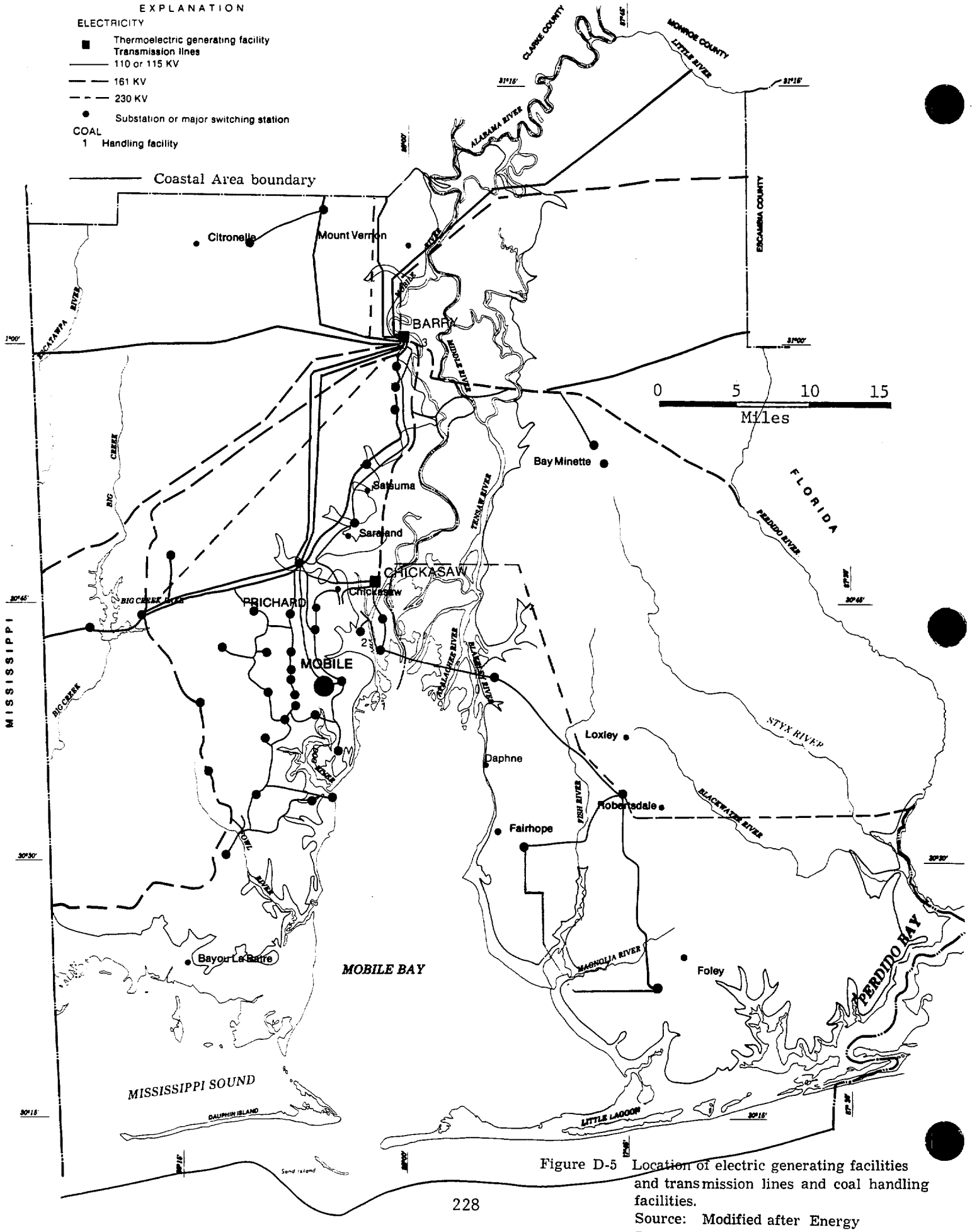


Figure D-5 Location of electric generating facilities and transmission lines and coal handling facilities.
Source: Modified after Energy Resources Map, 1977.

Table D-5 ELECTRICITY

Generating Facilities

Company	Facility	Installed (Name plate) Rating (KW)
Alabama Power	Barry	1,525,000
Alabama Power	Chickasaw	120,000
Totals		1,645,000

Transmission Lines

Company	Length of Major Lines (miles)	Average Daily Distribution (KWH)
Alabama Power	688	5,604,000
Utility sales outlets (Baldwin County):		*5,753,000
Baldwin County Electric	1,740	
Riviera	250	
City of Fairhope	85	
City of Robertsdale	15	
Totals	2,778	11,357,000

*Includes industrial customers served directly by Alabama Power in Mobile County.

c. Electricity Demand Forecast

The need for electricity is expected to increase at a rate of 7% per year for the next 5 years to approximately 6,221 megawatts in 1983.

d. Needed Capacity

At this time no new electric generating facilities are known to be required to meet forecasted demands in the area within the next 5 years. New generating facilities constructed by Alabama Power Company outside the area will supply the required increases through their statewide integrated network. However, within the next 10 years, Alabama Power does plan to construct a generating plant site approximately 15 miles north of U.S. Highway 31 between State Highway 225 and the Tensaw River in Baldwin County. This facility would supply the electrical needs of the general area for residential, commercial wholesale, and industrial customers.

e. Electricity Transmission and Distribution Systems

Electricity, an increasingly important source of energy, is delivered to the customer through a transmission and distribution network. This energy originates at the generating plants and by way of transmission lines and substations is dispersed to given geographical areas where it is further distributed through subtransmission lines, distribution substations, and distribution lines. Most residential and commercial consumers receive this energy through

distribution transformers and secondary lines. Some commercial and industrial customers are served at transmission or primary voltages.

According to Alabama Power Company, there are no ultra high voltage lines (745 kilovolts and above) in the Coastal Area, and there are no existing plans for such transmission lines. Research in this area is still preliminary, and evidence of adverse physiological effects from such voltage is not established at this time. Alabama Power Company indicates that the cost of installing and servicing underground lines is economically prohibitive as compared to overhead lines.

3. Coal

a. Coal Facilities

Alabama's coal and lignite reserves lie north of the coastal area. In fiscal 1977, Alabama produced 22.6 million tons of coal, a 7% increase over 1976 volumes.

Much of the coal exported from Alabama is barged down river to the Alabama State Docks' coal handling facilities located at the southern end of Mobile Harbor on McDuffie Island (Table D-5, Figure D-6). Barge and rail facilities are capable of handling up to 52,000 tons per day. Vessels 850 feet long with a 40-foot draft can be accommodated in the loading berth. Automated loaders and conveyors transport the coal directly to the vessel or to storage.

Other coal handling facilities in the area are owned and operated by industry for private consumption.

Table D-6 COAL

Map Ref.	Company	Capabilities (tons/day) Unloading	Loading
1	Alabama State Docks (McDuffie Terminal)	120,000	50,000
2	Alabama Power	No retail sales	
3	International Paper	No retail sales	
	Totals	120,000	50,000

b. Coal Consumption

In 1974 coal supplied 68% of the feed stock for the generation of electricity in Alabama. The majority of coal consumed at the Barry Steam Plant during 1977 was transported from coal fields in North Alabama.

c. Coal Demand Forecast

As previously discussed, the increased demand for electricity, and hence coal, within the next 5 years will be primarily supplied through Alabama Power's statewide integrated network system. Because no new coal-fired electrical generating facilities nor expansion of existing facilities is expected, coal consumption in the coastal area should remain essentially stable.

d. Needed Capacity

Since there will be no demand for additional volumes of coal used in the generation of electricity in the area, the capability of existing coal-handling facilities are expected to satisfy future needs for at least the next 5 years. However, upon the completion of the Tennessee-Tombigbee Waterway, increases in coal exports associated with this facility will require increases in coal handling facilities.

B. PROCEDURES FOR ASSESSING SITE SUITABILITY

In order to ensure that the development of energy-related facilities within the Alabama Coastal Area is carried out in a manner that is consistent with the Coastal Area Management Program, the Coastal Area Board has developed a procedure for reviewing such proposed facilities.

When a person plans to construct an energy facility which may have a direct and significant impact on the Alabama Coastal Area, he will submit to the Board a report which describes the impacts of a proposed facility on coastal resources.

The Coastal Area Board will review each proposed project based on its impacts on coastal resources. During this review period, the Board will work with the applicant in an effort to determine solutions to any apparent problems. Each proposed facility will be reviewed to make certain that it complies with all relevant operational rules and regulations adopted by the Coastal Area Board. Where practical solutions are not readily evident, the Board will try to identify alternative locations for siting energy-related facilities where the impacts would not degrade the Coastal Area. The efforts of the Board will be aimed toward developing a reasonable mechanism whereby a proposed energy-related operation may be carried on without degrading the Coastal Area.

C. ALABAMA'S POLICIES FOR MANAGING ENERGY FACILITIES AND THEIR IMPACTS

Two coastal resource use policies of the Coastal Area Board deal directly with energy-related activities in the Coastal Area:

(1) Coastal Development - The Alabama Coastal Area Board will encourage and support to the maximum extent practicable the

continued development of the economic resources of the Coastal Area, including the port, industrial, energy, and recreational resources so that they may continue their full contribution to the economic well-being of all citizens, and development within coastal Alabama will be carried out in a manner which is consistent with the Board's policies for natural resources.

(2) Mineral Resources and Extraction - It is the policy of the Alabama Coastal Area Board to encourage the extraction of mineral resources in coastal Alabama consistent with the water quality and natural resource policies of the Board.

The Coastal Area Board has established Operational Rules and Regulations in order to implement its policies. Presented in Chapter 4, Section VII, these rules and regulations have been prepared to address specific coastal issues including the siting, construction and operation of energy facilities.

Through the provision of compelling public interest, as described in Chapter 4, Section VII (B), the Board may make a determination as to whether the proposed energy-related facility is on balance, consistent with the management program. If determined by the Board that the use is of a compelling public interest, the use shall be undertaken in a manner that, to the maximum extent practicable, minimizes degradation of the Coastal Area.

D. PUBLIC INVOLVEMENT AND CONTINUED CONSIDERATION OF NATIONAL INTEREST REGARDING ENERGY FACILITY SITING

As described in Appendix E, Section II, it has been the intent of the Coastal Area Board to involve all affected citizens, groups, and agencies in the coastal management planning process. This has been accomplished through a wide variety of activities and methods.

Besides numerous workshops, conferences, and meetings where energy-related interest groups were invited to participate, representatives from the American Petroleum Institute and its affiliate, the Alabama Petroleum Council, made oral presentations at public hearings held by the Coastal Area Board on the Workshop Draft in September 1978 and on the Hearing Draft in March 1979. A summary of the remarks presented on behalf of the American Petroleum Institute and Alabama Petroleum Council at the public hearing on the Hearing Draft states:

> As you are aware, the Alabama Petroleum Council has previously presented to the Board rather extensive comments and recommendations concerning the earlier draft (Workshop Draft) of these regulations...
>
> We are pleased to note that the Board has addressed this concern in the latest Hearing Draft. We believe that these latest proposals will ensure that the requirements of the Coastal Area Management Statute are met while at the same

time avoiding delays inherent in duplicate permitting procedures by multiple state agencies.

Further, the State Geologist, who is also the head of the State Oil an Gas Board, serves as a member of the Coastal Area Board as established by Alabama Act 534. By serving on the Board, the State Geologist can represent the State's position on oil and gas issues directly to the Board to ensure that the Board's position on energy issues is fully coordinated with the state position.

A thorough discussion of the national interest related to energy facilities appears in Appendix E, Section I. Included in that section is a discussion of how the national interest in energy facilities was determined by the Coastal Area Board, what is the national interest in energy, how this national interest has been incorporated into the management program, and how this national interest may be considered continually.

The Board has made extensive efforts in the past to involve the public in the development of the Coastal Area Management Program, and the Board expects to expend similar energies in the future to ensure that the public's interests are considered in energy decisions taken by the Board.

E. IDENTIFICATION OF LEGAL AUTHORITIES AND MANAGEMENT TECHNIQUES TO IMPLEMENT STATE POLICIES AND PROCEDURES

Under existing legal framework of the State of Alabama an energy facility siting decision is made in separate decisions by several state and federal agencies.

- Each municipality is responsible for ensuring that the energy facility is constructed in accordance with local building, fire and other codes.
- Local jurisdictions are responsible for evaluating the impact of the proposed facility on adjacent land uses. Unincorporated areas have little or no control over land use compatibility.
- The Alabama Air Pollution Control Commission and the Mobile County Health Department are responsible for ensuring that proposed energy facilities meet state, federal and local air pollution regulations.
- The Alabama Water Improvement Commission is responsible for ensuring that proposed energy facilities meet water pollution control requirements.
- The Corps of Engineers reviews proposed energy facilities to ensure compliance with federal dredge and fill laws.
- The State Oil and Gas Board reviews oil drilling activities to ensure proper consideration is given to geologic features and to the preservation of groundwater supplies.

Recognizing the importance of energy related development to the Coastal Area and the fact that no single agency has the authority to review the entire range of impacts which could arise from the development of energy facilities in the Coastal Area, the legislature specifically identified energy development as a concern of the Board. Section 6 (f) of Act 534 mandates that the Board develop a Coastal Area Management Program which includes "Provisions for the adequate consideration of the local, regional, state and national interest involved in the siting of facilities for the development, generation, transmission and distribution of energy..."

It is the intention of the Board to carry out this responsibility by reviewing the potential impacts of proposed facilities based on the provisions of Chapter 4, Section VI, Operational Rules and Regulations, Chapter 4, Section III, Uses of Regional Benefit, and Appendix E, National Interest.

APPENDIX E

PROGRAM ELEMENTS

I. NATIONAL INTEREST IN THE SITING OF FACILITIES

Although no large areas are owned by the Federal Government in Alabama's Coastal Area, the Coastal Area Board has considered carefully the scope of national interest that exists in the Coastal Area. As provided for in Section 306 (c) (8) of the Coastal Zone Management Act, each coastal program must show that:

> The management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are more than local in nature.

A balance must be provided when planning for and siting of facilities with the national interest related to conservation and protection of coastal resources.

Further, the rules and regulations for Development and Approval of State Coastal Management Programs are very specific regarding consideration of the national interest in coastal management planning. To meet the requirements of the section of the Coastal Zone Management Act quoted above, Alabama must:

(1) Describe the national interest in the planning for and siting of facilities considered during program development.

(2) Indicate the sources relied upon for a description of the national interest in the planning for and siting of the facilities.

(3) Indicate how and where the consideration of the national interest is reflected in the substance of the management program.

(4) Describe the process for continued consideration of the national interest in the planning for and siting of facilities during program implementation...

Early in the development of Alabama's coastal program, efforts were begun to identify activities and facilities located in Alabama's Coastal Area that are involved with the national interest. A concerted effort was made to inform involved federal agencies of the Alabama Coastal Area Management Program. This was accomplished through correspondence with federal agency representatives as described in the June 1976 Coastal Area Board publication entitled "Agency Identification and Coordination".

Numerous formal and informal conferences and meetings were held with Federal agencies to discuss issues of mutual concern in the Coastal Area. Formal conferences included the Gulf States Conference on Coastal Zone Management in September 1974, Governor's Conference on Coastal Zone Management

in October 1974 and a Coastal Leaders Conference on Coastal Zone Management in April 1975.

As program planning progressed, identified federal agencies were provided further opportunities for input. Copies of a survey were mailed to each agency requesting their comments regarding proposed goals and objectives and policies of the Coastal Area Board. During development of the Coastal Area Management Program, the Coastal Area Board has worked closely with many federal agencies because of their extensive involvement in the Coastal Area. These agencies include:

Soil Conservation Service
Office of Sea Grant
Bureau of Land Management
Heritage Conservation and Recreation Service
Office of Coastal Zone Management
U.S. Army Corps of Engineers
Fish and Wildlife Service
National Coastal Ecosystem Team

Further, by consulting with Alabama state agencies that represent both state and national concerns, the Coastal Area Board has provided further consideration of the national interest. These included:

Alabama Air Pollution Control Commission
Alabama Department of Conservation and Natural Resources
Alabama State Docks Department
Alabama Water Improvement Commission
State Oil and Gas Board
Alabama Historical Commission

Coordination with these state agencies has continued since the very early stages of program development. Additional information on the missions and authorities of these state agencies is contained in the appendices.

Copies of each draft document of the Coastal Area Management Program have been sent to all identified federal agencies for their review. All comments especially those pertaining to the national interest, were carefully considered and appropriate revisions were made. All of the above state and federal agencies have had the opportunity to review the Workshop Draft, the Hearing Draft, and the Draft Environmental Impact Statement.

Through this involvement, national interests have been considered throughout the development of the Alabama Coastal Area Management Program. More than 50 federal agencies have been contacted and offered an opportunity to participate in all facets of the development of the Alabama Coastal Area Management Program. Every comment on each draft of the Alabama Coastal Area Management Program from involved federal agencies has been carefully considered, appropriate changes were made in the document and responses to each were prepared for distribution.

As a result of the coordination described above, the Alabama Coastal Area Board has considered the following resources and uses of national interest in the development of the Coastal Area Management Program.

(1) Uses of Regional Benefit as presented in Chapter Four, Section III, and

(2) Uses of Compelling Interest as discussed in Chapter Four, Section II (B)(1), General Rules and Regulations.

The two provisions outlined above have been incorporated to ensure that the national interest receives proper consideration in the Board's decision-making process.

Recreation

To determine the national interest in recreation, the following documents, legislation, and federal agencies have been consulted:

(1) Statewide Comprehensive Outdoor Recreation Plan,
(2) Heritage Conservation and Recreation Service,
(3) National Park Service,
(4) Fish and Wildlife Service,
(5) Historic Preservation Act, and
(6) Land and Water Conservation Fund Act,
(7) Executive Order 11593 (protection and enhancement of cultural environment).

The Board has determined the major objectives of the national interest in recreation are:

(1) Among competing uses in the Coastal Area, recreation is an equal.
(2) High quality recreation opportunities should be provided for all citizens consistent with environmental protection.
(3) There is a need for increased public recreational opportunities in high density areas.
(4) Coordination and management of recreation areas should be improved.
(5) Existing recreation areas should be protected from adverse adjacent uses.

The national interest has been incorporated into the Alabama Coastal Area Management Program through several means:

(1) The Coastal Area Board's Operational Rules and Regulations for providing Public Access and preserving the beaches and dunes are designed to make available recreational opportunities for all citizens.
(2) The Coastal Area Board has incorporated the Statewide Comprehensive Outdoor Recreation Plan which is consistent with the National Outdoor Recreation Plan.
(3) Alabama recognizes that its recreational facilities, especially its beaches and historic sites, greatly contribute to the national interest in recreation.
(4) Five Coastal Area Board policies in Chapter 3 deal directly or indirectly with recreation - Recreation, Coastal Development, Water Resources, Water Quality, and Biological Productivity

Energy

To determine the national interest in activities related to energy production and transmission, the following legislation, documents, and federal agencies were consulted:

(1) National Energy Plan,
(2) Department of Energy Reorganization Act,
(3) Outer Continental Shelf Lands Act,
(4) Energy Research and Development Administration,
(5) U.S. Department of Energy
(6) Bureau of Land Management,
(7) U.S. Geological Survey,
(8) U.S. Department of Transportation,
(9) U.S. Nuclear Regulatory Commission

According to the National Energy Plan, the major national interests in energy involve:

(1) It is in the national interest to reduce dependence on foreign oil and vulnerability to supply interruptions. Obviously, this need will become increasingly important.

(2) It is in the national interest to maintain U.S. oil imports low enough to weather the period when world oil production approaches its capacity limitation.

(3) It is in the national interest to develop renewable and virtually inexhaustible energy sources for sustained economic growth.

The national interest in energy has been incorporated into the Coastal Area Management Program through several means:

(1) Section 2(c) of Alabama Act 534, which establishes the Coastal Area Board requires the Board:
> To assure that in development of the state's Coastal Area adequate consideration is given to such uses of the Coastal Area as the establishment of harbor facilities for the receiving of oil, gas and other commodities from ships and tankers, pipelines from such ports; and utility plant sites, utility generation, transmission, distribution, and transportation facilities;

(2) Two policies of the Coastal Area Board deal directly or indirectly with energy--Coastal Development and Transportation. In addition, the Coastal Area Board has considered the national interest in energy when developing the Operational Rules and Regulations for Siting, Construction, and Operation of Energy Facilities as discussed in Chapter 4, Section VII.

(3) The Port of Mobile has been designated as a GAPC because of the tremendous increase in port activity expected with the completion of the Tennessee-Tombigbee Waterway. The port will

be the opening to the open sea for a large portion of cargo transported along this waterway. One of the major products to be transported will be coal. By designating the Port as a GAPC, the Coastal Area Board will work within its own means to provide financial and technical assistance in developing programs to meet the demands on the Port of Mobile in coming years.

Transportation, Ports, and Navigation

To determine the national interest in transportation, ports, and navigation, the following documents, legislation, and federal agencies have been consulted:

(1) Department of Transportation Act,
(2) Railway Safety Act of 1970,
(3) U.S. Coast Guard,
(4) Federal Aviation Administration,
(5) Materials Transportation Bureau,
(6) Maritime Administration,
(7) Office of Port and Intermodal Development,
(8) U.S. Army Corps of Engineers, and
(9) Interstate Commerce Commission.

The Coastal Area Board has determined that the major objectives of the national interest in transportation are:

(1) To provide fast, safe, efficient and convenient access via one or more modes of transportation of people, goods and services to, through and from the Coastal Area and

(2) to provide for a balanced national transportation system including all modes of transportation.

The national interest in transportation, ports, and navigation has been incorporated into the Coastal Area Management Program through several means:

(1) The Coastal Area Board recognizes the need for a balanced transportation system (including all modes) to move people and goods to, through and from the Alabama Coastal Area. In this regard, Section 4(d) of Alabama Act 534 states that permissible uses include:

> The normal maintenance and repair of bulkheads, piers, roads highways existing on the date of final approval of the rules and regulations pursuant to this act.

(2) Three policies of the Coastal Area Board as well as the goals and objectives outlined in Chapter 3, deal directly with transportation, ports and navigation -- Transportation, Coastal Development, and Water Resources. In addition, the Coastal Area Board recognizes the importance of dredging navigation

channels to support the Coastal Area port facilities. To ensure that coastal issues and impacts are fully considered, the Coastal Area Board shall cooperate with all agencies preparing environmental impact statements for transportation, port, and navigation facilities.

(3) The Port of Mobile, because of the expected growth in activity, has been designated as a GAPC. Through GAPC designation, the Coastal Area Board will work within its own means to provide financial and technical assistance in developing programs to meet the demands on the Port of Mobile in coming years.

National Defense and Aerospace

To determine the national interest in national defense, and aerospace, the following documents, legislation, and federal agencies were consulted:

(1) Department of the Air Force,
(2) Department of the Navy,
(3) U.S. Army Corps of Engineers,
(4) National Aeronautics and Space Administration, and
(5) U.S. Coast Guard.

The Board has determined that the national interest in national defense and aerospace is:

(1) To ensure the sovereignty of the nation and protect its citizens against physical harm or expropriation, and

(2) To establish and maintain these facilities necessary to carry out the first objective.

The Coastal Area Board recognizes the importance of national defense facilities to ensure the nation's sovereignty and to protect her citizens. Obviously, strategically located defense facilities are necessary to achieve these ends. Although no extensive defense installations exist in the Alabama Coastal Area, the Coastal Area Board will not jeopardize the nation's security by precluding the construction or expansion of defense installations if a national emergency should occur. However, all construction should be conducted using best management practices.

Air and Water Quality

In determining the national interest in air and water quality, the following documents, legislation, and federal agencies were consulted:

(1) Federal Water Pollution Control Act,
(2) Federal Clean Air Act,
(3) U.S. Environmental Protection Agency

Obviously, the national interest in air and water pollution control is to provide clean air and water to enhance the quality of life for all citizens of the nation.

The national interest in air and water quality has been incorporated into the Alabama Coastal Area Management Program through several means:

(1) Three of the policies of the Coastal Area Board -- water quality, water resources, and air quality -- listed in Chapter 3 deal directly with these concerns.

(2) The Operational Rules and Regulations, as presented in Chapter Four, Section VII deal directly with air and water quality.

The standards established by the Federal Water Pollution Control Act and the Clean Air Act have been incorporated into the management program. Nothing in the management program shall in any way affect any requirement established by either of these acts as amended or established by the Federal Government or any state or local government pursuant to these acts.

Endangered Flora and Fauna

To determine the national interest in endangered flora and fauna, the following legislation, documents, and federal agencies were consulted:

(1) Endangered Species Act of 1973, and
(2) Fish and Wildlife Service.

The Coastal Area Board has determined that the national interest in endangered flora and fauna is:

(1) To provide a means to conserve and enhance the ecosystems of endangered species, and
(2) To provide a program for conservation of threatened and endangered species.

The Coastal Area Board has considered the national interest in the Coastal Area Management Program through several means:

(1) All natural resource policies as presented in Chapter Three, Section II.

(2) Specifically, the endangered species policy as presented in Chapter Three, Section II.

(3) All Operational Rules and Regulations for Natural Resources as presented in Chapter Four, Section VII.

(4) Specifically, the Operational Rules and Regulations for Wildlife and Wildlife Habitat as presented in Chapter Four, Section VII.

Wetlands

To determine the national interest in wetlands, the following documents and federal agencies were consulted:

(1) The National Environmental Policy Act of 1969,
(2) Executive Order 11988 - Floodplain Management,
(3) Executive Order 11990 - Wetlands Protection
(4) Section 404 of the Federal Water Pollution Control Act,
(5) Fish and Wildlife Service,
(6) U.S. Army Corps of Engineers
(7) Soil Conservation Service.

The Coastal Area Board has determined that the national interest in wetlands is:

(1) To protect wetlands because of their value as habitat and food sources for aquatic life and waterfowl,
(2) To protect wetlands because of their functions relative to flood prevention, storm buffering, water supply, nutrient exchange, and as a recreational resource, and
(3) To regulate alteration of wetlands and disposal of dredged materials in U.S. waters and associated wetlands.

The Coastal Area Board has considered wetlands in the Coastal Area Management Program through several means:

(1) The Coastal Area Board's policy regarding Wetlands and Submersed Grassbeds, Shoreline Erosion, Hazard Management, Biological Productivity, and Wildlife Habitat as presented in Chapter 3.
(2) The Coastal Area Board's rules and regulations for Dredging and Filling, Shoreline Erosion, Natural Hazards, Solid Waste Disposal, Water Quality, Wetlands and Submersed Grassbeds, and Wildlife Habitat as presented in Chapter 4, Section VII.

Continuing Consideration of National Interest

Section 6(f) of Act 534 states that the coastal management program shall include:

> f. Provision for adequate consideration of the local,regional, state and national interest involved in the siting of facilities for the development, generation, transmission, and distribution of energy, adequate transportation facilities and other public services necessary to meet requirements which are other than local in nature.

The following basic components comprise the process for ensuring that the national interest in facility planning and siting is adequately considered:

(1) There will be several additional opportunities for federal agency input into the planning process for the Alabama program through the review of subsequent program drafts as outlined in Chapter 1, Section IV.

(2) All individuals and agencies who have expressed an interest in the activities of the Board will receive notice of all Board meetings. By law, all official business of the Coastal Area Board is carried on at scheduled Board meetings with proper public notice.

(3) As outlined in Chapter 4, Section V, the federal consistency procedures will provide further opportunities for federal-state interaction.

(4) Two other provisions included in the Coastal Area Management Program, uses of regional benefit and compelling public interest, will allow the Board future opportunities to consider and address items of national interest. These provisions are discussed in Chapter Four, Sectionc III and VII.

II. FULL PARTICIPATION

Throughout the development of the Coastal Area Management Program, the Coastal Area Board has a long history of citizen involvement as well as involvement by local,state, regional, and federal agencies. Extensive efforts have been directed at gaining participation by everyone who might be affected by the Coastal Area Management Program in addition to providing information to the public regarding coastal management and the activities of the Coastal Area Board.

Section 2(e) of Alabama Act 534 declares that it is State policy:

> To encourage the participation of the public, of federal, state, and local governments, and of regional agencies in the development of coastal area management programs. With respect to implementation of such management programs, it is the state policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures and joint action, particularly regarding environmental problems.

Further, Section 5 (h) of this act states: "The Board shall coordinate activities and plans of all existing interests, other state governments, local governments, regional planning agencies, interstate compacts and commissions, and federal agencies which have programs relevant to the Coastal Area." This same intent is expressed in the Coastal Zone Management Act where it states that it is the national policy:

> "To encourage the participation of the public, of Federal, State and Local governments, and of regional agencies in the development of coastal zone management programs."

Specifically, the Federal Rules and Regulations for development and approval of State Coastal Management Programs require the Coastal Area Board to:

(1) Identify public and private agencies which may be affected by or have a direct interest in the Coastal Area Management Program;

(2) Provide enough information to groups to encourage their informed participation;

(3) Make opportunities and methods for participation widely known;

(4) Demonstrate that comments and suggestions raised by the public are thoughtfully considered;

(5) Identify and establish a regular consultative mechanism with groups with adopted plans;

(6) Document the participation, consultation and coordination efforts of the Coastal Area Board; and

(7) Hold a public hearing on the entire management program.

This two way interaction process for coordination and participation between the Coastal Area Board and other involved entities could be best described through a recap of each of these efforts. For further discussions of interaction with federal agencies and consideration of federal views, refer to Appendix E, Sections I and II.

The composition of the Coastal Area Board provides for coordination among a wide array of governmental levels and various interests. As discussed in another section, the Board is composed of two representatives of local city governments, two representatives from county governments, four representatives from state agencies with particular coastal interests, and a representative from the Coastal Area Advisory Committee.

A mailing list of approximately 1,000 individuals was prepared including all identified local, state, and federal agencies, groups, organizations who may be "affected" by the program as well as all private citizens who have expressed an interest in the activities of the Coastal Area Board. Notices of all activities of the Board (i.e. meetings, draft documents, newsletters, hearings, surveys) were mailed to all individuals included on this listing. This process allows all involved persons to be aware of Board activities and informs them of opportunities for further involvement. The mailing list will be maintained throughout program development and will continue after program implementation.

The Coastal Area Board has hosted several public meetings regarding the Coastal Area Management Program. Each of these public meetings provided a forum whereby the Board could inform participants of matters related to the development of the program while interested individuals and agencies could make known their ideas and concerns about the Coastal Area.

Three conferences were held during early program development--Coastal States Conference on Coastal Zone Management, July 1974; Alabama Governor's Conference on Coastal Zone Management, October 1974; and Coastal Leaders Conference on Coastal Zone Management, April 1975. At least 100 individuals attended each of these conferences representing governmental agencies from all levels. environmentalists, industrialists, special interest groups, and the general public. A discussion of each of these conferences along with the outcome of each appears in several Coastal Area Board publications: Proceedings of the Alabama Governor's Conference on Coastal Zone Management and Proceedings of the Alabama Coastal Leaders Conference on Coastal Zone Management.

A series of public meetings to discuss the boundary of the coastal area were held in five different locations within the two coastal counties. These meetings were held to receive public comment on several proposed boundary alternatives. As a direct result of these meetings, the Alabama Legislature passed Alabama Act 534 during the 1976 Regular Session. The passage of this act provided for a Coastal Zone Management Program which is truly responsive to the citizens of Alabama.

A descriptive brochure entitled "Alabama's Coastal Area" was prepared and mailed to 10,000 residents of the two coastal counties. A 35-millimeter slide presentation with synchronized narrative was prepared to be used by the staff when they were invited to speak. Interestingly, the League of Women Voters prepared a similar presentation of their own to be used with the Coastal

Area Board's equipment. This presentation describes coastal area management with particular emphasis on coastal resources.

Two issues of "Coastline", the Coastal Area Board newsletter, were published and mailed to all individuals on the Coastal Area Board master mailing list. This listing is composed of any individual who has expressed an interest in the activities of the Board, including federal, state, and local agency representatives, special interest groups, and private citizens. These meetings provided a forum where citizens and agency representatives could speak their mind on topics related to Coastal Area Board actions. To date, twenty-two Coastal Area Board meetings have been held. All have been well attended.

A public opinion survey, designed to learn about local feelings on goals, objectives and issues of the Coastal Area program, was completed through contractual arrangements with the Sea Grant Advisory Service. Those surveyed included the 700 individuals on the Coastal Area Board mailing list plus 40 citizens who attended one of the 6 workshops on issues, goals, and objectives of coastal area management. About 125 people returned their comment forms. In addition, a contract was let with a local firm that specializes in opinion polling to obtain a statistically valid survey of the attitudes of Mobile and Baldwin County residents concerning coastal matters. As expected, the results of the random sampling and statistically valid survey were very similar.

As a result of these two surveys and six workshops, the Coastal Area Board was able to develop goals, objectives, and policies which truly reflect the concerns of all involved persons, groups, agencies, and organizations. These Coastal Area Board policies provide the basis for the Board's Operational Rules and Regulations.

As a result of public concern, the Alabama legislature provided for a Coastal Area Advisory Committee through the passage of Act 534. Composed of fourteen members, seven from each of the two coastal counties, this committee advises the Board on coastal-related matters. The Chairman of the committee is a member of the Coastal Area Board. The members of this committee represent a wide array of coastal interests. A listing of the fourteen members appears in Appendix C.

Copies of the Workshop Draft of the Alabama Coastal Area Management Program were printed and distributed to all identified federal, state, and regional governmental agencies, local governmental groups, clubs, organizations, and interested individuals. This Workshop Draft presented the management philosophy and framework, and comments on the Workshop Draft were solicited from all sources. Three public hearings were held to receive testimony regarding the Workshop Draft. More than fifty individuals provided comments on the Workshop Draft. These commentators represented agencies at all levels, special interest groups, and private citizens. All comments were then carefully considered, and appropriate revisions were made in the draft document. A listing of all comments and appropriate Coastal Area Board responses is presented in the 100-plus page Coastal Area Board publication entitled, "Comments and Responses to the Workshop Draft of the Alabama Coastal Area Management Program".

The Hearing Draft was prepared based upon revisions to the Workshop Draft and the addition of particular program elements. This Hearing Draft represented the first complete presentation of the Coastal Area Management Program. Almost 1,200 copies of the document were printed for distribution to all identified agencies, organizations, and interested citizens, and a public hearing was held to receive oral comments. All written and oral comments on the Hearing Draft were carefully considered by the Coastal Area Board, and individual responses were sent to all who commented.

Again, based on an analysis of all comments received, appropriate revisions were made to the Hearing Draft. This revised document, along with an assessment of the impact of the Coastal Area Management Program on the Alabama Coastal Area and a statement of the Office of Coastal Zone Management Findings, formed the basis of the Draft Environmental Impact Statement.

As was the Workshop Draft and Hearing Draft, the Draft Environmental Impact Statement was distributed to a wide array of agencies, organizations, and interested citizens in late April 1979. The Office of Coastal Zone Management held a public hearing on the Draft Environmental Impact Statement in early June, allowing another opportunity for review and comment on the proposed program. The Draft Environmental Impact Statement was designed to provide a continuing opportunity for private citizens, special interest groups, and governmental agencies at all levels to participate further in the program development process. Based on all comments received, the Final Environmental Impact Statement was prepared.

The Coastal Area Board has found that this two-way planning process has been extremely valuable to the development of the Alabama Coastal Area Management Program. Many beneficial changes resulted from the interaction of the Board and interested parties, and the Board has responded to all suggestions and criticisms.

Coordination of the Alabama Coastal Area Management Program with Other Relevant Plans

During the development of the Coastal Area Management Program, many relevant local and regional plans have been consulted. The major plans in this category include:

(1) Water Quality Management Plan for Mobile and Baldwin Counties, Alabama. Prepared by the South Alabama Regional Planning Commission in compliance with Section 208 of Public Law 92-500. 1978.
(2) Land Development and Policies Plan for Mobile, Baldwin, and Escambia Counties, Alabama. Prepared by the South Alabama Regional Planning Commission in accordance with Department of Housing and Urban Development federal regulations regarding lands use. 1977.
(3) Alabama Statewide Comprehensive Outdoor Recreation Plan prepared by Agricultural Experiment Station at Auburn University, under terms of a contract research project with the Alabama Department of Conservation and Natural Resources. The development and printing were financed in part through a planning grant from the (then) Bureau of Outdoor Recreation, Department of the Interior, under provisions of the Land and Water Conservation Fund Act of 1965 (Public Law 88-578). 1975.

(4) Long Range Development Plan for Facilities at the Port of Mobile, prepared for the Alabama State Docks Department, 1977.
(5) Alabama State Implementation Plan prepared in accordance with the Clean Air Act of 1970 by the Alabama Air Pollution Control Commission, a division of the Department of Health. 1972.
(6) Mobile Area Transportation Study prepared by South Alabama Regional Planning Commission. 1970.

In addition to the plans listed above, the Coastal Area Board has determined existing legal authorities which are currently exercised by State and federal agencies. These existing legal authorities, as presented in Chapter 4, Section VI, will provide an integral part of the Operational Rules and Regulations of the Coastal Area Board. A general overview of existing legal authorities exercised by state agencies appears in Appendix A.

In order to effectively review regulated and nonregulated uses within the Coastal Area, the Board has developed a detailed and comprehensive review procedure, as presented in Chapter 4, Section V. An integral step in this review procedure is Interagency Review. As defined, the interagency review process is initiated between an agency staff of the proposed project and Board staff to identify information gaps and other relevant aspects of the project. This process provides for and ensures that review will entail coordination between the Coastal Area Board and other federal,state, or local agencies.

III. CONTINUING CONSULTATION

According to Section 5(h) of Alabama Act 534:

> "The Board shall coordinate activities and plans of all existing interests, other State governments, local governments, regional planning agencies, interstate compacts and commissions, and federal agencies which have programs relevant to the Coastal Area."

Further, Section 306(c) 2 (B) of the Coastal Zone Management Act, states that the State must have "established an effective mechanism for continuing consultation and coordination between the management agency.. and with local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purpose of this title."

A. Composition of CAB - When the Alabama Legislature established the Coastal Area Board, it made certain that relevant local and state governmental representatives were included. Since these representatives are members of the Coastal Area Board, they are in a strategic position to be informed of, indeed responsible for, all program management decisions. As discussed previously, the Coastal Area Board is composed of:

1) Director, Office of State Planning, Alabama Development Office
2) Director, Department of Conservation and Natural Resources, Marine Resources Division
3) Member, Mobile City Commission
4) Member, Mobile County Commission
6) State Geologist
7) Director, Marine Environmental Sciences Consortium
8) One official of a municipality in Baldwin County, who is a member of and is selected by the Baldwin County Mayor's Association
9) Chairman, Coastal Area Advisory Committee

Obviously, local and state governmental units will be continually involved in all phases of the coastal management program.

B. Coastal Area Advisory Committee - This committee has been established to consult with the Coastal Area Board on matters concerning the coastal area. Composed of 14 members, 7 each from Baldwin and Mobile County, these individuals are appointed by their respective county commissions. These members are selected because they represent a broad array of coastal interests.

C. Office of Management and Budget Circular A-95 Project Notification and Review System - As provided for by the Intergovernmental Cooperation Act of 1968, the A-95 review process requires that any agency or individual who applies for federal assistance for a project or a direct federal development be required to notify both state and areawide clearinghouses. The purpose of this review process is to provide federal cooperation with state and local governments in the evaluation, review, and coordination of federal and federally assisted programs and projects.

D. CAB Meeting Notification and Minutes - Notice of each Coastal Area Board meeting is mailed to all individuals who have expressed an interest in the activities of the Board. Included in this listing are all mayors, councilmen and commissioners from all coastal counties and towns in Alabama, as well as representatives from agencies at all levels of government.

E. Review of Program Drafts - As discussed in Chapter I, Section IV, an extensive review process of the proposed management program is envisioned, allowing many opportunities for participation by agency representatives at all levels, local governmental units, interested clubs and organizations, and private citizens.

F. Continuing Consideration of National Interest - This procedure is outlined in Appendix E.

G. Action-Items - As presented in Chapter 3, the Coastal Area Board may provide technical assistance within its resources to work with other agencies on matters regarding the Coastal Area.

H. Information Exchange - It is the intent of the Coastal Area Board to provide for effective transfer of information between the Board and all other involved agencies and groups.

I. Optional Review of Local Codes - A procedure has been outlined, as presented in Chapter 4, Section V, whereby local governmental entities may submit their codes to the Board for review for compliance with the Coastal Area Management Program. This would help to avoid duplication of permitting and allow local governments to play a meaningful role in the Coastal Area Management Program.

APPENDIX F

SELECTED BIBLIOGRAPHY

Alabama Department of Industrial Relations, Division of Surface Mine Reclamation. 1978. Surface Mining Operations Permits. Montgomery.

Alabama Development Office. Industry--New and Expanding. Published annually. Montgomery.

Alabama Historical Commission. 1978. Alabama's Tapestry of Historic Places. Montgomery.

Alabama State Docks Department. 1977. Annual Report. Mobile.

Anderson, J. B. 1968. Ecology of Foraminifera from Mississippi Sound and Surrounding Waters. Alabama Academy of Science Journal, Vol. 394, pp. 261-269.

Auburn University Agricultural Experiment Station. 1970. Supply of Outdoor Recreation Resources in Alabama by Counties. Alabama's Statewide Outdoor Recreation Plan, Vol. 3. Auburn, Al.

Auburn University Agricultural Experiment Station. 1971. Alabama's Coastal Land and Water Resources. Alabama's Statewide Comprehensive Outdoor Recreation Plan, Vol. 13. Auburn, AL.

Auburn University Agricultural Experiment Station. 1975. Present and Projected Demand, Supply, and Needs for Outdoor Recreation in Alabama. Alabama's Statewide Comprehensive Outdoor Recreation Plan, Volume 2-1975 Plan. Auburn, Al.

Baldwin, W. P. 1957. An Inspection of Waterfowl Habitats in the Mobile Bay Area. Alabama Department of Conservation, Game and Fish Division, Report 2.

Barksdale, H. C., et al. 1976. Water Content and Potential Yield of Significant Aquifers in Alabama. Geological Survey of Alabama open-file report.

Bault, E. I. 1972. Hydrology of Alabama's Estuarine Areas. Alabama Marine Resources Bulletin 7.

Boone, P. A. 1973. Depositional Systems of the Alabama, Mississippi, and Western Florida Coastal Zone. Gulf Coast Association, Geological Societies Transactions, Vol. 23.

Boschung, H. B. 1976. Endangered and Threatened Plants and Animals of Alabama. Alabama Museum of Natural History, Bulletin 2.

Brunson, F. H. 1951. Decapod Crustacea of the Mobile Area. University of Alabama Master's Thesis.

Chapman, Charles. 1968. Channelization and Spoiling in Gulf Coast and South Atlantic Estuaries, in J. D. Newson, ed. Marsh and Estuary Management Symposium, Proceedings. Louisiana State University, Division of Continuing Education.

Chermock, R. L. 1974. The Environment of Offshore and Estuarine Alabama. Geological Survey of Alabama. Information Series 51.

Chilcott, Al. 1978. Housing Starts--Mobile and Baldwin Counties. South Alabama Regional Planning Commission. Unpublished.

Crance, J. H. 1971. Description of Alabama Estuarine Areas. Alabama Marine Resources Bulletin 6.

Department of Agricultural Economics and Rural Sociology. 1976. 1975 Alabama Statewide Comprehensive Outdoor Recreation Plan. Agricultural Experiment Station, Auburn University.

Eckhardt, R. 1974. Open Beaches: A Public and Private Framework in Ditton and Seymour (eds.) Recreational Land Use and Coastal Zone Management: Issues and Perspectives in Texas. Texas A & M University, p. 85.

Geological Survey of Alabama. 1978. Coastal Area Resources Data Synthesis, Baldwin and Mobile Counties. Unpublished manuscript.

Godfrey, Paul J. 1976. Comparative Ecology of East Coast Barrier Islands: Hydrology, Soil, Vegetation, in Barrier Islands and Beaches. Technical Proceedings of the 1976 Barrier Islands Workshop, Annapolis, Maryland.

Hardin, J. D., C. D. Sapp, J. L. Emplaincourt, and K. E. Richter. 1976. Shoreline and Bathymetric Changes in the Coastal Area of Alabama. Geological Survey of Alabama. Information Series 50.

Industrial Development: Some Answers. In Iowa Digest. October 1974. Des Moines.

Keeler, J. E. 1972. Rare and Endangered Vertebrates of Alabama. Alabama Department of Conservation and Natural Resources, Game and Fish Division.

Lamb, G. M. 1972. Distribution of Holocene Foraminifera in Mobile Bay and the Effects of Salinity Changes. Geological Survey of Alabama, Circular 82.

Leuth, F. X. 1963. Mobile Delta Waterfowl and Muskrat Research. Alabama Department of Conservation, Pitman-Robinson Project 7-R. Final Report.

May, E. B. 1971. A Survey of the Oyster and Oyster Shell Resources of Alabama. Alabama Marine Resources Bulletin 4.

May, E. B. 1971. Appendix B, Atlas of a Survey of the Oyster and Oyster Shell Resources of Alabama. Alabama Marine Resources Bulletin 4.

Mobile County Board of Health. 1970. The South Alabama Regional Air Pollution Study. South Alabama Regional Planning Commission. Mobile, Alabama.

Moore, D. B. 1971. Subsurface Geology of Southwest Alabama. Geological Survey of Alabama. Bulletin 99.

Moore, W. P., and Associates, Inc. 1977. Long Range Development Plan--Alabama State Docks Department, Facilities at the Port of Mobile. WPM Project 76121, Mobile.

National Aeronautics and Space Administration. 1978. Coastal Resources and Environment. Digital Inventory Techniques Applications Project. National Space Technology Laboratories. Slidell, Louisiana.

Parker, R. H. 1960. Ecology and Distributional Patterns of Macroinvertebrates, Northern Gulf of Mexico, in F. P. Shepard, ed. Recent Sediments, Northwest Gulf of Mexico. American Association of Petroleum Geologists.

Peterson, C. G. 1947. Groundwater Investigations in the Mobile Area, Alabama. Geological Survey of Alabama. Bulletin 58.

Polyengineering. 1977. Executive Summary prepared for South Alabama Regional Planning Commission. Mobile.

Real Estate Research Corporation. 1976. Business Prospects under Coastal Zone Management. A Report prepared for the Office of Coastal Zone Management, Washington, DC.

Reed, P. C. 1971. Geology of Baldwin County, Alabama. Geological Survey of Alabama. Map 94.

Reed, P. C. 1971. Geology of Mobile County, Alabama. Geological Survey of Alabama. Map 93.

Riccio, J. F., W. C. Isphording, and C. A. Gazzier. 1973. Neogene Sediments of Mobile County, in Recent Sedimentation along the Alabama Coast. Alabama Geological Society. Guidebook, 10th Annual Field Trip.

Sapp, C. D. and Jacques Emplaincourt. 1975. Physiographic Regions of Alabama. Geological Survey of Alabama. Map 168.

Shannon, S. W. 1978. Geology in P. H. Moser and R. L. Chermock, eds. Geologic and Hydrologic Environmental Atlas of Mobile and Baldwin Counties, Alabama. Alabama Development Office open file report.

South Alabama Regional Planning Commission, 1975. The Economy and Population of the South Alabama Region. Mobile.

South Alabama Regional Planning Commission. 1977. Environmental Baseline Study for Mobile 208 Wastewater Management Plan.

South Alabama Regional Planning Commission. 1977. Regional Land Development and Policies Plan, Mobile.

South Alabama Regional Planning Commission. 1978. Water Quality Management Plan, Mobile and Baldwin Counties.

Stout, Judy P. 1977. Assessment of Alabama Coastal Marshes for Coastal Zone Management Planning. Final Report Project 39(1) 1976-77. Mississippi-Alabama Sea Grant Consortium.

Swingle, H. A. 1971. Biology of Estuarine Areas. Alabama Marine Resources Bulletin 5.

Swingle, H. A. 1977. Coastal Fishery Resources of Alabama. Alabama Marine Resources Bulletin 12.

Swingle, W. E. 1976. Analysis of Commercial Fisheries Catch Data for Alabama. Alabama Marine Resources Bulletin 11.

Trussell, Gayle R. Public Access on Alabama Gulf Coast. Auburn University, Cooperative Extension Service. In press.

U.S. Army Corps of Engineers. 1955. Salinity Investigation in the Mobile River, Alabama. U.S. Engineer District, Mobile.

U.S. Army Corps of Engineers. 1967. Hurricane Survey of the Mississippi Coast. U.S. 90th Congress, 1st Session, House Document 99.

U.S. Army Corps of Engineers. 1971. National Shoreline Study, Regional Inventory Report, South Atlantic-Gulf Region, Puerto Rico and Virgin Islands. U.S. Army Corps of Engineers, South Atlantic Division. Atlanta.

U.S. Army Corps of Engineers. 1971. National Shoreline Study, Shore Protection Guidelines. U.S. Army Corps of Engineers. Washington, DC.

U.S. Army Corps of Engineers. 1975. Workshop Meeting on Beach Erosion Control and Hurricane Protection for Mobile County, Alabama. U.S. Engineer District. Mobile.

U.S. Army Corps of Engineers. 1975. Final Environmental Statement Mobile Harbor (Maintenance Dredging). U.S. Engineer District. Mobile.

U.S. Department of Commerce, Bureau of the Census. 1960 and 1970. U.S. Census of Population.

U.S. Department of Commerce, Bureau of the Census. 1972. 1972 Census of Manufacturers, Alabama. MC72(3)-1.

U.S. Department of Commerce, Bureau of the Census. 1975. Annual Survey of Manufacturers. M75(AS)-6.

U.S. Department of Commerce, Bureau of the Census, Current Population Reports, Series P-26, No. 76-1.

U.S. Department of Commerce, Bureau of Economic Analysis. Regional Economic Information System. Washington.

U.S. Department of Health, Education and Welfare, Public Health Service. 1965. National Shellfish Sanitation Program Manual of Operations, Part 1. Sanitation of Shellfish Growing Areas. Washington, DC.

U.S. Department of the Interior, Bureau of Land Management. 1978. Final Environmental Impact Statement for Proposed 1978 OCS Oil and Gas Lease Sale Offshore Eastern Gulf of Mexico OCS Sale #65. New Orleans, Louisiana.

Upshaw, C. F., W. B. Creath, and F. L. Brooks. 1966. Sediments and Microfauna off the Coasts of Mississippi and Adjacent States. Mississippi Geological Survey Bulletin 106.

Vittor, B. A. and J. P. Stout. 1975. Delineation of Ecological Critical Areas in the Alabama Coastal Zone. Report 75-002. Alabama Marine Environmental Sciences Consortium.

Wade, C. William. 1977. Survey of the Alabama Marine Recreational Fishery. Alabama Marine Resources Bulletin 12.

Walter, G. R. 1976. The Miocene-Pliocene Aquifer and the Alluvial Aquifer, in Barksdale, H. C., and others, Water Content and Potential Yield of Significant Aquifers in Alabama. Alabama Geological Survey open-file report, chap. 3, p. 1-36.

Walter, G. R. 1977. Water, in Moser, P. H., and Chermock, R. L., eds., Geologic and Hydrologic Environmental Atlas of Mobile and Baldwin Counties, Alabama. Alabama Geological Survey open-file report, 271 p.

APPENDIX G

DEFINITIONS

ACT -- Act 534, Alabama Acts, Regular Session, 1976.

AGENCY -- any unit, department, or office of federal, state or local government, including subdivisions thereof.

AREAS FOR PRESERVATION AND RESTORATION (APR) -- special group of geographic areas of particular concern singled out because of their conservation, recreational, ecological, or aesthetic values.

BEACH -- a sandy shoreline area characterized by low relief, generally of gentle slope, and some vegetation. The beach extends from the waterline to 1) a change in physiographic form such as a dune or bluff, 2) a change in sediment type, such as clay from sand, and/or 3) a change in vegetation type.

Gulf beaches are those sand beaches of the mainland and islands in Alabama which are subjected to the direct wave action of the Gulf of Mexico. The upper limit of Gulf beaches is usually a transition from halophytic, succulent, prostrate plant forms such as Hydrocotyl bonariensis (pennywort), Cakile epentula (sea rocket), Iva imbricata (no common name), and Ipomoea stolonifera (seaside morning glory) to a zone occupied by grasses, shrubs, and the same prostrate forms mentioned above. Some grasses indicative of this transition are Uniola paniculata (sea oats), Spartina patens (saltmeadow cordgrass), Panicum amarulum (dune panicgrass), and Distichlis spicata (saltgrass). Shrubs found at this transition are Solidago pauciflosculosa (seaside goldenrod), Ceratiola ericoides (seaside rosemary), Ilex vomitaria (yaupon), Quercus virginica var. maritima (live oak), and Myrica cerifera (waxmyrtle).

Estuarine beaches are narrow, low energy beaches occurring along the protected margins of Mobile Bay, Perdido Bay, Mississippi Sound, and their various tributaries. The upper limit of estuarine beaches in Alabama can be distinguished easily by any or all of the three boundaries mentioned previously, that is 1) a change in physiographic form, 2) a change in sediment type, or 3) a change in vegetation type.

BOARD -- the Alabama Coastal Area Board.

BOARD APPROVAL -- the approval of any activity requiring a state permit, any use subject to federal consistency provisions, and any local code or the issuance of any Board permit.

BOARD REVIEW -- the procedure by which the Board reviews uses subject to management for the purpose of determining whether or not to do any of the following: issue or deny a certificate of consistency; concur with or object to any person or agency's determination of consistency; issue or deny a Board permit; or approve or disapprove a local code.

CERTIFICATE OF COMPLIANCE -- document sent to state agency certifying that after careful review of a proposed use, the Coastal Area Board has determined the proposed use is in compliance with the Coastal Area Management Program.

CERTIFICATE OF CONSISTENCY -- document sent to federal, state, or local agency certifying, that after careful review of a proposed use, the Coastal Area Board has determined the proposed use is in compliance with the Coastal Area Management Program.

COASTAL AREA -- coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the lands therein and thereunder) strongly influenced by each and in proximity to the shorelines of Alabama, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches.

COASTAL RESOURCES -- valuable human, natural, cultural or historical assets within the Coastal Area, such as water quality, air quality, wetlands and submerged grassbeds, beaches and dunes, wildlife habitats, biological resources, cultural resources, public access to the Coastal Area, and water resources.

COASTAL WATERS -- areas adjacent to the shoreline, which contain a measurable quantity or percentage of seawater, including but not limited to, sounds, bays, lagoons, bayous, ponds and estuaries.

COMPELLING PUBLIC INTEREST -- a right recognized at law or an economic, environmental, health, or social interest shared by most persons in the Coastal Area, which if not recognized and protected, would jeopardize the public well-being.

CONSTRUCTION SETBACK LINE -- a line running parallel to the shoreline at a point 40 linear feet inland of the most inland point of the "crestline".

CONTINUING INTERAGENCY COORDINATION -- consultation, both formal and informal, between the Coastal Area Board and any federal, state, or local agency proposing to issue a license or permit for any use in the Coastal Area.

CRESTLINE -- a line running more or less parallel with the shoreline interconnecting the peaks of the primary dune system.

CULTURAL RESOURCE -- any district, building, site, object, or other material in American history, architecture, archeology, or culture which is of national, state, or local significance.

DEGRADE -- to affect the Coastal Area in such a manner as to produce a continuing reduction or destruction of present levels of coastal resources.

DIRECT -- existence of a causal relationship in which the consequence of an action or use exerts an impact upon the Coastal Area through an identifiable link or process.

DISCHARGE -- the addition, introduction, run-off, leakage, spilling or emitting of any waste from any source into the coastal waters.

DREDGING -- removal or excavation of any materials from lands underlying coastal waters.

DUNE -- see definition of primary dune system.

ENERGY FACILITY -- any equipment or facility which will be used in the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of any energy resource or for the manufacture, production or assembly of equipment, machinery, products, or devices involved in the activities listed above.

ENERGY FACILITY CONSTRUCTION AND OPERATION PLAN -- a plan submitted by persons wishing to construct energy facilities which shall identify the impacts of the proposed energy facility on the following coastal resources:

1. Water Quality
2. Air Quality
3. Wetlands and Submersed Grassbeds
4. Beaches and Dunes
5. Wildlife Habitat
6. Biological Resources
7. Cultural Resources
8. Public Access
9. Shoreline
10. Flood and hurricane mitigation areas
11. Water Resources
12. Associated Land Uses
13. Other coastal resources

EXECUTIVE DIRECTOR -- the Executive Director of the Alabama Coastal Area Board.

FEDERAL ACTIVITIES -- any function performed by or on behalf of a federal agency in the exercise of its statutory responsibilities.

FEDERAL CONSISTENCY -- the provisions by which 1) federal agencies conducting or supporting uses significantly affecting the Coastal Area are required to conduct or support those uses in a manner which is, to the maximum extent practicable, consistent with the Management Program; 2) federally licensed or permitted uses which may have a significant impact upon the Coastal Area must be conducted in a manner consistent with the Management Program; 3) any person submitting to the U.S. Secretary of the Interior a plan for the exploration of, or development of, or production from, any area leased under the OCS Lands Act shall certify that activities described in the plan which significantly affect the Coastal Area will comply with and will be conducted consistently with the Management Program; and 4) federal assistance to state and local governments must be consistent with the Management Program to the extent that it significantly affects the Coastal Area.

DETERMINATION OF CONSISTENCY -- document sent to Coastal Area Board by any person stating that a use proposed to be undertaken by that person is consistent with the management program and complies with all relevant rules and regulations.

FEDERAL DEVELOPMENT PROJECT -- federal activity involving the planning, construction or modification of public works, physical facilities, or other structures, or land or water resources development.

FEDERAL LAW -- the Coastal Zone Management Act of 1972 and its 1976 amendments.

FEDERAL LICENSE OR PERMIT -- any authorization, certification, approval, or other form of permission, and any renewal thereof, which any federal agency is empowered to issue to an applicant.

FILLING -- introduction of any substance into coastal waters or wetlands with the effect of replacing an aquatic or wetland area with dry land, or significantly changing the bottom elevation of coastal lands underlying coastal waters for any purpose.

FINAL BOARD ACTION -- an order of the Board issuing or denying a certificate of consistency, concurring with or objecting to any person or agency's determination of consistency, issuing or denying a Board permit, approving or disapproving a local code, or the revocation or suspension of such a concurrence, issuance, permit, or approval.

GEOGRAPHIC AREA OF PARTICULAR CONCERN (GAPC) -- a certain area within coastal Alabama determined to be of particular concern because of its coastal-related values or characteristics, or because the area faces special pressures.

INTERAGENCY REVIEW PROCESS -- review between the agency staff and the Board staff of the proposed project to identify information gaps and other relevant aspects of the project.

LOCAL AGENCY -- any duly authorized county or municipal government or agency of a county or municipal government, or special district.

LOCAL CODE -- any regulations, rules, plans, maps, ordinances, codes, or other related documents as well as any subsequent changes thereto which regard uses subject to management.

LOCAL PERMIT -- any license or permit issued for a use which has a direct and significant impact on the Coastal Area by a duly authorized agency of the State of Alabama.

MAJOR PROJECTS --

(a) construction and operation of energy facilities;
(b) construction and operation of industrial plants;
(c) construction of new roads over ½ mile in length;
(d) dredging operations over 250,000 cubic yards;
(e) filling operations over 250,000 cubic yards;
(f) dredge spoil disposal over 250,000 cubic yards;
(g) structural methods of erosion control;
(h) water wells which pump over 50 gallons per minute;
(i) facilities for the disposal of waste materials including but not limited to municipal and industrial effluent and solid waste;

(j) commercial and residential projects over 25 acres; and
(k) other major projects which may be identified by the Board as having a direct and significant imapct on the Coastal Area.

MANAGEMENT PROGRAM -- includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the state in accordance with the provisions of Act 534 setting forth objectives, policies and standards to guide public and private users of lands and waters in the Coastal Area.

MEDIATION -- process used by Coastal Area Board and federal agency in cases of serious disagreement to resolve such serious disagreements.

MORE THAN NEGLIGIBLE EFFECT -- the results of an activitity which are important enough to warrant attention.

NECESSARY INFORMATION -- all information received by the Coastal Area Board from the person submitting an OCS plan pursuant to the Department of the Interior's operating regulations governing exploration, development and production operations on the OCS and regulations pertaining to the OCS information program plus:

(1) other information required by the Coastal Area Board;
(2) brief assessment relating to the probable coastal zone effects of the activities and their associated facilities to the relevant elements of the management program; and
(3) a brief set of findings, derived from the assessment, indicating that each of the proposed activities and their associated facilities and their primary effects are all consistent with the provisions of the management program.

NEW ROADS -- state, federal, and local roads over ½ miles in length.

NONREGULATED USE -- use which has a direct and significant impact on the Coastal Area and which does not require a state permit or which is not required by federal law to be consistent with the management program.

OUTER CONTINENTAL SHELF (OCS) PLAN -- any plan for the exploration or development of or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. Section 1331 et seq.), which is submitted to the Secretary of the Interior following management program approval by OCZM and which describes in detail federal license or permit activities.

PARTY -- any person applying for Board review, any state or federal agency directly involved in a Board review, any person subject to a Board order or notice, or any person who appeals a final Board action.

PRELIMINARY DISCUSSIONS -- informal or formal meetings between any person intending to submit to the Secretary of the Interior and the Coastal Area Board an OCS plan regarding the means for ensuring that such activities will be conducted in a manner consistent with Alabama's Coastal Area management program.

PRIMARY DUNE SYSTEM -- a ridge or series of ridges of unconsolidated and usually mobile sands lying landward of the upper limit of Gulf beaches which serves as the principal defense against storm wave attack. Vegetatively, this primary protective dune can be characterized by Uniola paniculata (sea oats), Spartina patens (saltmeadow cordgrass), Panicum amarulum (dune panicgrass), Distichlis spicata (saltgrass), Solidago paucifloscula (seaside goldenrod), Hydrocotyl bonariensis (pennywort), and Ipomoea stolonifera (seaside morning glory).

REGULATED USE -- use which has a direct and significant impact on the Coastal Area and which requires a state permit or which is required by federal law to be consistent with the management program.

SIGNIFICANT IMPACT -- the result of any activity carried out by a person which is likely to have an adverse effect on the Coastal Area.

SPECIAL MANAGEMENT AREA -- areas which might require special attention beyond the general planning and regulatory system of the management program.

STATE LAW -- Act 534, Alabama Acts, Regular Session, 1976.

STATE PERMIT -- any license or permit issued for a use which has a direct and significant impact on the Coastal Area by a duly authorized agency of the State of Alabama.

SUBMERSED GRASSBEDS -- areas within the Coastal Area which support rooted vegetation that are not normally emerged even at low tide but remain covered within coastal waters.

USE -- any human or corporate activity or result therefrom.

USE OF REGIONAL BENEFIT -- a use which produces some benefit by providing services or other benefits to citizens of more than one unit of local government.

USES NOT SUBJECT TO MANAGEMENT PROGRAM -- uses which do not have a direct and significant impact on the Coastal Area.

USES THAT REQUIRE NO STATE OR FEDERAL PERMIT -- uses that have a direct and significant impact on the Coastal Area but require no permit from other federal, state, or local agency--includes uses which affect beaches and dunes, salt water intrusion, and nonpoint sources of pollution, or other uses which may at any time be determined by the Coastal Area Board.

WATER DEPENDENT USE -- those uses which must, under normal operating conditions, be located on or in or immediately adjacent to coastal waters in order to be physically and economically practicable.

WETLANDS -- those areas that are inundated or saturated by surface or ground water (salt and fresh) at a frequency and duration sufficient to support, and/or under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Vegetation typically adapted to wetlands in Alabama include but are not limited to the following vegetative species and in addition their presence in significant quantities creates a presumption that the area is a wetland:

1) Saltmarsh	Spartina alterniflora Juncus roemerianus
2) Brackish-Mixed Marsh	Juncus roemerianus Spartina cynosuroides Distichlis spicata Borrichia frutescens Scirpus spp. Spartina alterniflora Spartina patens
3) Saltflat	Salicornia sp. Batis maritima Distichlis spicata
4) Fresh-Mixed Marsh	Typha angustifolia Typha latifolia Sagittaria falcata Zizania aquatica Zizaniopsis miliacea Alternanthera philoxeroides Scirpus validus Scirpus americanus Orontium aquaticum Phragmites communis Cladium jamaicense Panicum virgatum Vigna repens
5) Saltbush	Baccharis halimifolia Iva frutescens Iva imbricata
6) Savannah	Spartina patens Pinus elliottii Pinus palustris Rhynchospora spp. Juncus spp. Andropogon spp.
7) Bogs	Sphagnum spp. Sarracenia spp. Cyrilla racemiflora Ilex glabra Drosera spp. Dichromena colorata

8) Swamp

Taxodium distichum
Taxodium ascendens
Salix nigra
Magnolia virginiana
Nyssa biflora
Acer rubrum
Cliftonia monophylla
Pinus serotina

APPENDIX H

RESPONSES TO COMMENTS RECEIVED FROM REVIEWERS OF THE DEIS

Presented in this appendix are comments from individuals, organizations, and governmental agencies which were submitted to the Office of Coastal Zone Management (OCZM) regarding the Alabama Coastal Area Management Program and Draft Environmental Impact Statement (DEIS), as well as OCZM's responses to each comment.

Approximately 2,000 copies of the DEIS were published and distributed in late April 1979. A public hearing was held in Mobile on June 6, 1979, when ten persons presented comments. The June 20, 1979 deadline for receiving written comments on the DEIS was extended until July 5, 1979. Written comments from 38 persons were received.

Considerable effort has been expended in carefully reviewing each comment and making appropriate changes. These changes have been incorporated into the Alabama Coastal Area Management Program and Final Environmental Impact Statement.

The comments presented in this appendix have been grouped according to those presented at the public hearing, comments received from individuals, comments received from organizations, comments received from state and local agencies, and comments received from federal agencies. Each reviewers comments will appear on the left of the page with the accompanying OCZM response on the right of the page.

Two general issues were raised frequently by reviewers of the DEIS. The responses to these two issues are presented below. Commentators will be referred to these two generic responses in the responses which appear on the following pages.

Generic Response Number 1 - Boundary

The inland boundary of the 10-foot contour described in the Alabama Coastal Area Management Program (ACAMP) meets the Federal requirements found under Section 306(a) of the Federal Coastal Zone Management Act of 1972 (CZMA), as amended, and under subsections 923.31 - 923.34 of the rules and regulations promulgated thereunder. Specifically the regulations state that the inland boundary must include (among other areas):

> "Those uses the management of which is necessary to control uses which have a direct and significant impact on coastal waters, pursuant to 923.11 of these regulations..."

By virtue of Act 534, the Coastal Area Board (CAB) has authority to manage all land and water uses which have a direct and significant impact within the Coastal Area. This authority parallels the authority found in the Federal consistency provisions of section 307 of the CZMA concerning spillover impacts that significantly affect coastal zone areas, uses or resources (see Section 923.33(c)).

Generic Response Number 2 - Permit Simplification

As required under Section 306(d)(1) of CZMA, the CAB has the ability to resolve conflicts through the use of the certifications of compliance and Federal consistency. In OCZM's view permit simplification efforts in Alabama will not be adversely affected by the implementation of the Alabama Coastal Area Management Program (ACAMP). In fact these efforts will be aided when implementation has commenced. With Section 305 program development funds, the CAB has already taken steps to establish a permit information center in the Coastal Area which will greatly simplify the process of obtaining information on activities which are regulated by other county, state, and Federal agencies. Persons wishing to develop property in the Coastal Area will be able to come to the Coastal Area Board Office, obtain copies of permit applications and assistance in properly filling out the forms required by other agencies. It is the policy and intent of the Coastal Area Board to complement and enhance the "one-stop" permitting concept through the Board's unique ability to coordinate review procedures with other state agencies as well as Federal agencies. The CAB plans to use implementation funds to finance this effort for permit simplification and work toward the establishment of a permit clearinghouse.

REVIEWERS OF DEIS

I. ORAL COMMENTS

A. Comments Presented at Public Hearing on June 6, 1979.

1. Jack Terry, Executive Vice President, Mobile Chapter, Associated General Contractors of America.

2. R.H. Allen, Chairman, Coastal Area Board Task Force, Mobile Area Chamber of Commerce

3. Jole E. Hossley, Mobile Mill, International Paper Company

4. George R. Irvine, Homebuilders Association of Metropolitan Mobile and Mobile County Board of Realtors

5. Ken Cleaveland, Executive Director, Associated Builders and Contractors.

6. Helen S. Stafford for Marie Herman, President, Baldwin County League of Women Voters

7. Verda Horne, Alabama Conservancy

8. Myrt Jones, Mobile Bay Audubon Society

9. Cal Daugherty, Mobile-Pensacola Building Trades Council

10. Danny Semmer

II. WRITTEN COMMENTS

A. Comments received from individuals

1. Daniel A. Benton

2. James F. Dietz

3. Charles E. Rogers

4. C.M. Rogers

B. Comments received from Clubs and Organizations

1. Alabama Power Company - Joseph M. Farley, President

2. American Institute of Architects, Mobile Chapter - Billy R. T. Thomas, Sr. Secretary

3. Associated General Contractors of America, Inc., Mobile Chapter - Jack Terry, Executive Vice President

4. Barrier Islands Coalition - Dinesh C. Sharma

5. Commercial & Marine Underwriters - D.E. Ludlow, Division President

6. Environmental Defense Fund - James T. B. Tripp,Counsel

7. Homebuilders Association of Metropolitan Mobile - George R. Irvine, Jr.

8. International Paper Company, Mobile Mill - Paul W. Klotz, Coordinator, Regional Environmental Services - Water

9. League of Women Voters of Baldwin County - Marie Herman, President

10. Mobile Area Chamber of Commerce - R.H. Allen, Chairman, Coastal Area Board Task Force

11. Mobile, Alabama - Pensacola, Florida Building and Construction Trades Council - Cal Daugherty, Business Manager

12. Union Carbide Corporation, Linde Division, Chickasaw Plant- Z.K. Zaremba, Superintendent, Environmental Services

C. Comments Received from State and Local Agencies

1. Alabama Historical Commission - Russell A. Mortensen

2. Alabama State Docks Department - W.H. Black, Jr., Chief Administrative Officer

3. Highway Department, State of Alabama - John L. Skinner, Jr., Chief, Design Bureau

4. Industrial Development Board of the City of Mobile - E. Frank Schmidt, President of the Board of Directors

5. Office of the Attorney General, State of Alabama - Mark Edward Brandon, Assistant Attorney General

6. Water Improvement Commission, State of Alabama - James W. Warr, Director

D. Comments Received from Federal Agencies

1. Department of Agriculture, Soil Conservation Service - R.M. Davis Administrator

2. Department of Commerce, National Oceanic and Atmospheric Administration, Terry L. Leitzell

3. Department of Defense, U.S. Army Corps of Engineers, Maximilian Irmhoff, Executive Director of Civil Works, Office of the Chief of Engineers

4. Department of Defense, U.S. Navy, Sixth Naval District, W.K. Peery, Assistant Chief of Staff for Operations/Logistics.

5. Department of Energy - Oil, Natural Gas and Shale Resources - R. Dobie Langenkamp, Deputy Assistant Secretary

6. Department of Energy, Region IV, Louis F. Centofanti, Regional Representative

7. Department of Health, Education and Welfare, Region IV - James E. Yarbrough, Regional Environmental Officer

8. Department of Housing and Urban Development, Region IV - John E. Wilson, Area Manager

9. Department of Interior - Heather L. Ross, Acting Assistant Secretary - Policy, Budget and Administration

10. Environmental Protection Agency, Region IV - Reginald G. Rogers, Coastal Zone Management Coordinator, Ecological Review Branch, Enforcement Division

11. Federal Energy Regulatory Commission - Carl N. Shuster, Jr., Coordinator, Coastal Zone Affairs

12. General Services Administration- Carl V. Penland, Acting Director, Environmental Affairs Division

13. Department of Transportation, Regional Representative of the Secretary - Thomas H. Lewis, Jr., Regional Representative

Alabama Coastal Area Management Program:
Summary of Public Hearing Comments
June 6, 1979 - 2:00 p.m.
International Trade Center - Mobile, Alabama

The following is a summary of comments received in a public hearing on the proposed Alabama Coastal Area Management Program and Draft Environmental Impact Statement, dated May 1979. Fifty seven (57) people attended the hearing. Introductory comments, attendance records, tape recordings and written comments submitted at the hearings are on file at the Office of Coastal Zone Management.

Jack Terry. Executive Vice President
Mobile Chapter - Associated General Contractors of America

- Represents 196 construction and construction related firms and 15,000 employees of these firms.
- Program could have potentially disastrous effects on the economic growth of Mobile and Baldwin Counties.
- The specific geographic area covered by the program is far too broad - it should be limited to the 10-foot contour. The language contained in paragraph 4, Section 1, of Chapter 4, seems to extend the jurisdiction of the Board to areas beyond the 10-foot contour. This should be removed.
- Objects to CAB authority to review and veto permits of other Federal and State agencies.
- Approval of program would result in a kind of no-growth-stagnation for Mobile and Baldwin Counties.
- They call upon the Dept. of Commerce and the Alabama Coastal Area Board to reconsider the program contents, removing those sections placing the Board in a position of authority far exceeding that intended by the legislature.
- In the event this cannot be accomplished they will call upon the legislature to amend the law (Act 534) to strictly

ASSOCIATED GENERAL CONTRACTORS OF AMERICA, INC. - JACK TERRY

Please refer to written comments from Jack Terry.

Jack Terry (continued)

restrict the CAB to the 10-foot contour, and to "remove the Board from the review and permitting process altogether."

R.H. Allen, Chairman
Coastal Area Board Task Force
Mobile Area Chamber of Commerce.

- Jurisdiction of CAB should be strictly limited to areas within the 10-foot contour.
- The authority to veto permits of other state and Federal agencies should be deleted.

Jole E. Hossley,
International Paper Company
Mobile Mill

- DEIS is virtually the same document as an earlier Hearing Draft dated Jan. 1979.
- Have not had adequate time to review CAB response to earlier comments.
- They support the Mobile Area Chamber of Commerce approach to legislative amendments and DEIS language changes.
- Additional comments will be submitted in writing.

George R. Irvine, Jr.
Homebuilders Association of Metropolitan Mobile and Mobile County Board of Realtors.

- Supports the Mobile Area Chamber of Commerce comments.
- Will submit comments specific to their industry later.

COASTAL AREA BOARD TASK FORCE - MOBILE AREA CHAMBER OF COMMERCE - R.H. ALLEN

Please refer to written comments by R.H. Allen

Ken Cleaveland, Executive Director
Associated Builders and Contractors

Represent 150 contractors in Mobile

1 CAB authority is too broad as proposed.

2 Additional permit review authority represents one more step that would kill attempts to institute one-stop permitting, supported by their association.

3 The geographic authority of the CAB beyond the 10-foot boundary should be removed.

Helen S. Stafford for Marie Herman, President
League of Women Voters, Baldwin County

The words "enhance" and "improve" as found in the Coastal Area Law No. 534, in the current program are missing.

There are problems with the goal of "maintaining present levels of coastal resources" -- i.e.: cessation of ship channel improvements, the industrial canal, dredging oyster shells in Mobile Bay and further oil exploration.

The goal is not consistent with NOAA's goal to triple the U.S. seafood harvest and create 50,000 jobs. To meet this goal in the Gulf we will have to increase feeding and spawning areas in bays, streams and bayous.

Access is grossly neglected. Recommends that the CAB compile a list of all State owned parcels of land in the coastal area and all public streets and roads that could afford visual or actual access.

Recommends the development of small parcels of land into recreational areas with access.

INTERNATIONAL PAPER COMPANY - JOEL E. HOSSLEY

Please refer to written comments by Paul W. Klotz.

Helen S. Stafford (continued)

No street or road in the county or city which provides access should be vacated without prior approval of the CAB.

The CAB should be concerned with poor building practices that cause extreme siltation.

Citizens attending CAB meetings should be provided with a summary of issues and alternatives (of the meeting) and the actions of the Board should be made clear.

The present Citizen's Advisory Board does not provide for a balance between economic development interests and conservation interests.

Wishes to commend the CAB on the stand it has taken to preserve sand dunes.

Verda Horne

Alabama Conservancy

273

Public access is very small. The DEIS acres listed is misleading because some are golf courses. The miles available for human use are very restricted.

2 Erosion is a big problem on the eastern shore and perhaps on the western shore. Once this eroded area is dredged, most of the life goes with it. People want to restore the use of the Gulf beaches.

3 The dune line needs to be protected.

4 There is no provision in the program for protection of endangered species. These species need to be recognized by those doing the planning and other destructive activities.

HOMEBUILDERS ASSOCIATION OF METROPOLITAN MOBILE AND MOBILE COUNTY BOARD OF REALTORS - GEORGE R. IRVINE, JR.

Please refer to written comments by George R. Irvine, Jr.

Verda Horne (continued

5. The protection of homes from erosion cannot be limited to within the 10-foot contour. Many homes on the bay are loosing front yards. We need a sound geological study of lands where erosion is too severe for habitation.

6. The Coastal Management Board should have authority to designate areas in critical (erodable) condition requiring more careful planning.

Myrt Jones
Mobile Bay Audubon Society

- Audubon strongly supports CAB efforts to implement a viable management program.

- The management program is now more acceptable.

- Recent public notices proposing creation of 7600 lineal feet of new waterfront development destroying 110 acres of wetlands at Little Point Clear; and maintenance dredging of Mobile Bay, proposing to destroy 110 acres of marsh and more bottom land at Pinto Island demonstrate the need for a coastal management program. These areas should be designated as APR's.

2. Builders and contractors should have better management practices to control run-off. We need better control of pollution outside of the 10-foot contour.

3. Technical and financial support for CZM program would help provide for a strong agency to help economic development and promote the quality of life.

Cal Daugherty
Mobile Building Trades Council

The draft program provides the CAB with authority far in excess of that intended by the legislature.

ASSOCIATED BUILDERS AND CONTRACTORS - K. CLEVELAND

1. Act 534 provides the appropriate and necessary authority to the CAB to manage only those uses which have a direct and significant impact on coastal resources within the Coastal Area as required by Section 306(a) of the CZMA.

2. See Generic Permit Simplification Response.

3. See Generic Boundary Response.

Cal Daugherty (continued)

- DEIS vague language could give the CAB authority outside boundary of coastal area.

- Program would be detrimental and potentially disastrous to the economy--its attempt to saddle the area with a "no growth" policy and to place its economic future in the hands of this Board.

- There's an abundance of red tape in land and water use permitting. Developments are bypassing the area because of the process.

- Board should be advisory in nature rather than dictatorial.

- Section involving the Board in permitting process, and enabling it to become involved outside of its jurisdiction should be removed.

Danny Semmer

- Why are property owners along the Bay not provided with reports and asked for their opinions? Only business people are giving their opinion.

- The people directly affected are working (during this hearing). A 2:00 p.m. workday hearing does not give these people a chance to be heard.

LEAGUE OF WOMEN VOTERS, BALDWIN COUNTY - HELEN STAFFORD FOR MARIE HERMAN, PRESIDENT

Please refer to written comments by Marie Herman.

ALABAMA CONSERVANCY - VERDA HORNE

1. Publically owned and maintained areas were only inventoried for the Coastal Area. No assessment was made of their individual level of access.

2. The ACAP's policy on erosion is directed at preventing erosion, and where feasible, enhancing eroded areas.

3. The dune line should be protected through the regulations pertaining to beaches and dunes. (Sec. VII, D, (5), p. 119).

4. The ACAP requires compliance with the Federal Endangered Species Act, p. 111, and also contains a policy to promote and encourage the preservation of endangered species (p. 59).

5. The Board will have the ability to require geological information where necessary, and to initiate studies.

6. Critical erosion areas can be nominated as areas of geographic areas of particular concern (p. 77 and 82).

MOBILE BAY AUDUBON SOCIETY - MYRT JONES

1. The ACAMP contains a procedure for nominating areas of preservation and restoration on p. 84.

2. Construction activities for developments of 25 acres or more must obtain a permit from the Board and demonstrate which best management techniques will be used to control erosion.

3. Federal approval of the ACAP will provide substantial funds to support the program.

MOBILE BUILDING TRADES COUNCIL - CAL DAUGHERTY

Please refer to written comments by Cal Daugherty.

DANNY SEMMER

Public notice for the DEIS public hearing was printed in local newspapers. Written comments from those unable to attend the hearing were received after the date of the hearing.

TAYLOR, BENTON, IRBY & GIBSON
ATTORNEYS AT LAW
101 NORTH SECTION STREET
P O BOX 471
FAIRHOPE, ALABAMA 36532
TELEPHONE (205) 928 0282

LLOYD E TAYLOR
DANIEL A BENTON
SAM W IRBY
W KENNETH GIBSON

ROBERTSDALE OFFICE
HIGHWAY 98 SOUTH
P O BOX 59
ROBERTSDALE, ALAUAMA 36567
TELEPHONE (205) 947-7343

May 14, 1979

Dr. E. Bruce Trickey
Coastal Area Board
Post Office Box 755
Daphne, Alabama 36526

Dear Dr. Trickey:

I have not had an opportunity to completely review your management program and draft environmental impact statement, but in thumbing through it I do find that one legislative act of importance is ommitted from Appendix A, which may be of interest to you, and that is Act No. 728, Acts of Alabama, 1977, which may permit the futher regulation of motor vehicles on the beaches between the dune line and the water within Baldwin County.

I have been attempting for quite some time to get the County Commission to enact some kind of an ordinance concerning this but without much luck.

I just thought it may be of some interest to you to know that there was an additional act regulating motorized vehicles on the beaches.

Yours very truly,

DANIEL A. BENTON

nb

Daniel A. Benton

Act No. 728, Acts of Alabama could provide for further regulation of motor vehicles on beaches of Baldwin County. This Act has been included in Appendix B of the Final Environmental Impact Statement. Motor vehicle activity which might alter the primary dune system is subject to the Board Operational Rule D (5)(e): See page 120.

DIETZ, PRINCE & FISCHRUPP ARCHITECTS

June 14, 1979

U.S. Department of Commerce
National Oceanic and Atmospheric Administration
Rockville, Maryland

Gentlemen:

A review of the Alabama Coastal Area Management Program and Draft Environmental Impact Statement indicates to us that, while we are vitally interested in the regulation and protection of coastal areas, certain aspects of this program could have grave effects on future building in this area.

1 Specifically, we challenge the wisdom of the seemingly excessive authority of this Board to grant Certificates of Compliance and its possible effect on development and growth of this area, as well as impact on existing construction and jobs.

2 Also, the ambiguity of the geographical area leaves too many possibilities for future interpretation and exploitation.

We call upon all parties concerned to re-examine the draft proposal and to revise those portions which were not the intent of the legislature, and thus help, rather than hinder, the economic and industrial growth of our area.

Yours very truly,

DIETZ, PRINCE & FISCHRUPP

James F. Dietz

281

James F. Deitz

1. Act 534 provides the appropriate and necessary authority to the CAB to manage only those uses which have a direct and significant impact on coastal resources within the Coastal Area as required by Section 306(a) of the CZMA.

2. See Generic Boundary Response

June 14, 1979

U. S. Department of Commerce
National Oceanic and Atmospheric Administration
Rockville, Maryland

Gentlemen:

As an Architect I am vitally concerned with well planned development to protect and improve our coastal environment.

However, following an extensive review of The Alabama Coastal Area Management Program and Draft Environmental Impact Statement, I must express grave concerns with regard to certain aspects of the Program and with the potentially disasterous effects the program could have on the economic growth of Mobile and Baldwin Counties.

While I believe that the Program is far too broad in its potential coverage and grants an excessive level of authority to the Board, I am most concerned with two specific aspects of the Program; 1) the definition of the specific geographic area covered by the Program and under the jurisdiction of the Board and 2) the authority of the Board to grant or refuse to grant Certificates of Compliance with respect to an activity being consistent with the dictates of the Program.

1 282

With respect to the question of the geographic area, covered by the Program and coming under the jurisdiction of the Board, I feel very strongly that such area should be confined strictly and specifically to the lands from the continuous ten (10) foot contour, seaward to the outer limit of the United States Territorial sea as outlined on page sixty-four (64) of the proposed draft. The language contained in Chapter Four, Section I of the proposed draft would at first appear to restrict the Board's jurisdiction to this limited area. However, additional language contained in paragraph four, Section I of Chapter Four, seems to extend the jurisdiction of the Board to areas beyond the designated area, if in the opinion of the Board land and/or water uses in those areas may have a significant impact within the designated Coastal Area. The language to which I refer reads as follows:

> "Although the management program will not directly regulate activities outside the Coastal Area, the authority of the Board within the Coastal Area is such that it may preclude from the Coastal Area those uses and effects of uses which have a direct and significant impact within the Coastal Area and which are inconsistent with the management program."

Donnell, Froom & Rogers, Architects 1407 Merchants National Bank Bldg. Mobile, Al. 36602 205/432-8868

Charles E. Rogers

1. Boundary
   See Generic Boundary Response

2. Act 534 provides the appropriate and necessary authority to the CAB to manage only those uses which have a direct and significant impact on coastal resources within the Coastal Area as required by Section 306 (a) of the CZMA.

3. See Generic Permit Simplification Response

4. There is no evidence that there will be "no growth" in the Coastal Area as a result of the implementation of the ACAMP. The Coastal Area Board has developed a management program which places the Board in a position to seek out new and innovative solutions to problems which have confronted industry, government, and the public for a number of years. Through this mechanism, it is anticipated that the Coastal Area can achieve economic growth in a way that maintains the present levels of coastal resources.

This language could be interpreted to include; any area from which runoff may drain into the designated Coastal Area; or any area from which air pollutants might be blown into the designated Coastal Area. It would appear that we can reasonably assume that the Coastal Area Management Program and the jurisdiction of the Coastal Area Board as set out in the draft proposal are not limited to the designated Coastal Area.

2 Of even greater concern than this misleading language, relating to the Board's geographic jurisdiction, is the establishment of the Board as an all powerful, dictatorial body with final veto power over virtually every type of land and water use imaginable. Recent history has shown that the very last thing our area needs is another governmental agency getting involved in the already crowded arena of land and water use permitting. We are already blessed with enough bureaucratic red tape to thoroughly confuse the uninitiated and easily discourage the most determined developer. We don't need any more! Placing the Coastal Area Board in a position to review permits granted by other governmental agencies and to determine the entire range of impact resulting from virtually every type of land and water use is not only impractical but utterly irresponsible. The potential economic and political implications are mind boggling.

283

3 It was my impression that Alabama was attempting to move towards the type of "one step" permitting which would place the state in a competitive position with our neighbors for new elements of economic growth. Approval of this draft program would virtually void the effort. The Coastal Area Board would become another layer of authority, placed on an already overly adequate base; an all powerful layer, with final veto power in virtually every instance.

4 In summary, I believe that the Coastal Area Board and the Coastal Area Management Program, as outlined in the draft proposal, can only prove burdensome to the economy of our area and will ultimately result in a kind of "no-growth" stagnation for Mobile and Baldwin Counties. As a consequence, I would call upon the Department of Commerce, the Alabama Coastal Area Board and everyone responsible for the compilation of this draft program to reconsider its contents, removing those sections which I believe place the Board in a position of authority, far exceeding that which was intended by the Legislature.

In the event this cannot be accomplished, I would call upon the Mobile and Baldwin County Legislative Delegations as well as the entire Legislature to introduce and support legislation amending

the law, Act 534, under which this Board was created. Specifically, I would ask that the Legislature strictly confine the jurisdiction of the Board to the designated Coastal Area and clearly define that Area as being the lands from the ten (10) foot contour extending seaward. Further, I would ask that the authority of the Board be limited to setting objectives, policies and standards to guide public and private users of land and water in the Coastal Area. The Board would be removed from the review and permitting process altogether.

Failing this, I would call upon Governor James to deny approval to this draft proposal and to any attempted action by the Board which would perpetrate the authority and powers sought in this draft program.

I appreciate this opportunity to comment on the proposed Alabama Coastal Area Management Program.

Sincerely,

Charles E. Rogers

Charles E. Rogers, AIA

cc: Governor Fob James
Lt. Governor George McMillan
Senator H. L. "Sonny" Callahan
Senator Bob Glass
Senator Michael Figures
Mr. Sidney R. Galler
Mr. Robert M. Knecht
Congressman Jack Edwards
Representative John McMillan, Jr.
Representative J. E. Turner
Representative Cain J. Kennedy
Representative James E. Buskey
Representative Thomas Sandusky
Representative Mary S. Zoghby
Representative Yvonne Kennedy
Representative George Stewart
Representative Taylor F. Harper
Representative Ann Bedsole
Senator Robert L. Gulledge

CER/dt

206 Fels Avenue
Fairhope, Alabama 36532
May 21, 1979

Mr. Gary Greenough
Chairman
Coastal Area Board
P. O. Box 755
Daphne, Alabama 36526

Dear Mr. Greenough:

I have completed reading The Alabama Coastal Area Management Program and Draft Environmental Impact Statement of May, 1979. I commend you and the members and staff of the Coastal Area Board for the time, effort and expertise which resulted in a document of such comprehensive scope and high quality. I notice an unfortunate dearth of information regarding cultural resources. May I assume that the one paragraph devoted to an assessment of the probable impact on such resources is but a distillation of an intensive study of these resources including historical, archaeological and contemporary? If not, I suggest that the identification and analysis of cultural resources is inadequate. If this inadequacy exists, there is a specific need for baseline data about the estimated hundreds of archaeological and historical sites and population isolates which would be disrupted if not destroyed by any shift in the natural and economic environments. The collection and availability of basic information on local cultural phenomena would be in keeping with the emphasis on anticipatory as opposed to reactionary planning contained in the EIS Draft. The availability of such data also coincides with your recommendation to establish a permit information center.

1

2

285

Futhermore, it is necessary that the process of planning include recognition of the non-renewable character of cultural resources in the coastal area and meet specifications for minimal compliance with federal legislation such as the following:

3

National Historic Preservation Act of 1966
P1 89-665 (80 Stat. 915, 16 U.S.C. 270)
National Environmental Policy Act of 1969
P1 91-190 (83 Stat. 915, 42 U.S.C. 4321)
Executive Order 11593 (36 FR 8921, 15 May 1971)

C.M. Rogers, Ph.D.

1. The information in Chapter 2 of the DEIS, including the section on cultural resources was presented to give the reader an overview of the wide array of concerns within the Coastal Area which may face coastal residents. No attempt was made to describe all coastal issues in detail. However, in the two earlier drafts of the management program, the Workshop Draft and the Hearing Draft, a comprehensive inventory of uses and resources, including cultural resources, was presented in the appendices to those documents. A revised appendix will be published by the Board during its first implementation year.

2. OCZM agrees that the collection and availability of basic information on local cultural resources coincides with the Board's anticipatory rather than reactionary planning. Several features of the program address cultural resources and will appropriately protect them for future generations. Refer to the Action Items for Coastal Resources (p. 61) and the Operational Rules and Regulations for Coastal Resources (p. 120) in the FEIS.

3. The National Historic Preservation Act and National Environmental Policy Act are included in the section on Existing Laws, Rules and Regulations in the Final Environmental Impact Statement, while Executive Order 11593 is included in the section on national interest regarding recreation (p. 237).

I bring these matters to your attention as both a concerned resident of Baldwin County and as a social scientist experienced in planning research. I will be happy to clarify and expand my comments. If I can be of further assistance, please do not hesitate to contact me at the above address or by telephone (205) 928-3210.

Sincerely yours,

C. M. Rogers

C. M. Rogers, Ph.D.

cc: Robert M. Knecht
Dr. George F. Crozier
Sidney R. Galler

Joseph M. Farley
President

Alabama Power
the southern electric system

June 20, 1979

Mr. James Murley
Regional Manager, Gulf-Island Region
Office of Coastal Zone Management
3300 Whitehaven Street, N. W.
Washington, D. C. 20235

Dear Mr. Murley:

Alabama Power Company has reviewed the Alabama Coastal Area Board Management Program Draft Environmental Impact Statement and believes that approval of the program in its present form would not be in the best interest of the State of Alabama. While our reasons for this position are explained in detail in the attached comments, the main objections are summarized below.

By imposing an additional regulatory authority administering additional standards on air and water pollution, this program is in direct conflict with the Federal Coastal Zone Management Act. The 1972 Federal Coastal Zone Act clearly specifies that air and water pollution controls developed under coastal zone management authorities shall be the water and air pollution programs as established by the Federal Water Pollution Control Act and the Clean Air Act. Furthermore, the proliferation of additional regulations can only serve to delay and increase the cost of needed electrical generation and transmission facilities and other future industrial development in the area.

The proposed regulations do not adequately address the problems of energy facility siting, as required by the Federal Act. Many facilities of Alabama Power Company must necessarily be located within the Coastal Zone. The Management Program should assure proper attention to the siting of energy facilities within the Coastal Zone.

It is our conclusion that the Program should not be approved until its deficiencies are remedied.

Yours very truly,

Joseph M. Farley

Joseph M. Farley

CMS/1

ALABAMA POWER - JOSEPH M. FARLEY

General Comments

1. Sec. 307(f) of the CZMA and Sec. 923.45 of OCZM program approval regulations require that State management programs incorporate air and water quality requirements adopted pursuant to the Federal Water Pollution Control Act Amendments and the Clean Air Act. Section A of the Operational Rules and Regulations of the Coastal Area Board, FEIS on page 110, explicitly incorporates these requirements. The Coastal Area Board has not itself adopted water quality standards in addition to those in the Federal Water Act. However, in order to manage uses with a direct and significant impact on coastal waters as required by CZMA Sec. 305(b)(2) and 15 C.F.R. § 923.11, ACAMP establishes biological criteria to maintain present levels of plants and animals in the coastal area.

2. This comment confuses the separate requirements in Secs. 305 (b)(8) and 306(c)(8) of the CZMA and Secs. 923.13 and 52 of OCZM program approval regulations. ACAMP meets the energy facility planning process requirements of the Federal Act by the material contained in Appendix D III. It meets the national interest requirements by the material contained in Appendix E.I. and Sec. B. 2. of the Operational Rules and Regulations of the CAB. Under the latter section, the CAB, in deciding whether a proposed use is consistent with the management program, may consider the "compelling public interest" in such use, including "significant national interest such as energy facilities...". Contrary to the comment, the ACAMP is not required by CZMA or OCZM program approval regulations specifically to meet the national interest requirements in its presentation on its energy facility planning process. Appendix E.I. and Sec. B. 2. of the CAB regulations provide adequate consideration of the national interest in the siting of energy facilities. The material on p. 235 demonstrates that the application of the compelling public interest test ensures that the national interest in facilities is considered in implementing the management program.

cc: Governor Fob James
Mr. Sidney R. Galler, Dept. of Commerce
Mr. E. Bruce Trickey, Alabama Coastal Area Board
Mr. James W. Warr, Alabama Water Improvement Commission
Mr. James W. Cooper, Alabama Air Pollution Control Commission

3. See Generic Boundary Response

Comments on Specific Portions of the Management Program

1. Page 31. The information provided in Chapter 2 of the DEIS was included to give the reader a general overview of the broad array of concerns which must be taken into account as the Board develops and implements the Coastal Area Management Program. The CAB has indicated that it will take the report referred to into account in implementing ACAMP as regards existing point-source dischargers.

2. Sec. 6(i) of Act 534 requires that the management program determine permissible land and water uses which have a direct and significant impact within the boundaries of the Coastal Area. Sec. 7 of the Act authorizes the Board to develop and promulgate rules and regulations to carry out the management program. The CAB is authorized under Act 534 to implement its management program through permits as required, within its rulemaking authority. This interpretation is strengthened by Sec. 8(a), which states that no "additional" permit will be required in cases in which permits are already issued by State agencies and by Sec. 8(b), which provides that certain uses without direct and significant impacts upon the coastal area may be regulated by local governments.

3. CZMA Sec. 305(b)(2) and OCZM program approval regulations § 923.11 require that the program manage uses with direct and significant effects on coastal waters. ACAMP provides an extensive list of such uses, in response to the Federal requirements, on pp. 71-72. In addition, ACAMP has provided a general definition to the effect that such uses are those with more than "negligible effect" on the coastal area. OCZM believes that ACAMP meets the Federal requirements.

Act 534 also requires that ACAMP manage uses with direct and significant impacts on the coastal area. The CAB has identified a list of such uses and provided a general definition to ensure that the requirements of the Federal and State Acts are met.

Comments on the Alabama Coastal Area
Management Program and
Draft Environmental Impact Statement

Alabama Power Company appreciates the opportunity to submit the following comments on the Alabama Coastal Area Management Program and Draft Environmental Impact Statement, hereafter referred to as the Management Program.

Alabama Power Company is a privately owned electric utility serving the majority of the State of Alabama. Alabama Power Company's service area includes the area designated as the Alabama Coastal Area. There are presently two Alabama Power Company generating facilities in the Coastal Zone Area, along with many miles of transmission lines and associated transmission facilities. Because of the responsibility which Alabama Power Company has of providing reliable electric service in this area at reasonable rates, and because of our very large commitment of generating and transmission-distribution facilities in this area, it is imperative that we emphasize our concern over several aspects of the described Coastal Area Management Program. Comments are divided into two areas: first, general comments regarding the program as it relates to existing federal and state coastal management legislation authorities, as well as applicable federal and state permitting requirements; and secondly, specific comments on certain portions of the management program.

General Comments

1 The Management Program requires extensive biological and physical monitoring for new and existing point source dischargers (Section VII D). These requirements are not supported either in federal or state Acts and clearly exceed the authority granted by these Acts in providing for protection of the coastal area. In a letter dated April 4, 1979, to the Coastal Board, Alabama Power Company noted that point source discharges from potentially

This list and definition have been adopted by the CAB and approved by the Governor for submission to OCZM.

4. CZMA Sec. 305(b) (3), (5) requires that coastal programs contain an inventory and designation of areas of particular concern and broad guidelines on priorities of uses in particular areas. ACAMP provides such priorities on pp. 81 and 82. Although Act 534 does not prohibit the CAB from prohibiting certain uses in specific areas, the language on pp. 81 and 82 has been changed to show that uses of lowest priority are discouraged, not necessarily prohibited. Actual regulation of uses in areas of particular concern will, however, be made by application of the operational rules and regulations of the CAB. The guidelines on priorities of uses will be taken into account in applying these regulations. The comment is incorrect in saying that Act 534 does not justify exclusion of certain uses from particular areas. The provisions in Act 534 that certain uses be accommodated or considered does not necessarily mean that such uses must be permissible in all parts of the coastal area.

5. This comment is incorrect in saying that certain generally insignificant uses will require burdensome regulatory requirements. In general, such uses are considered permissible and not subject to the management program.

"Normal maintenance and repair activities of railroads and of utilities or other persons engaged in transportation, or in telephone communication service, or in the distribution or transmission of gas, electricity, or water, or the collection of sewage including inspecting, maintaining, repairing, or renewing on private or public rights of way any sewers, mains, conduits, pipes, cables, utility tunnels, power lines, towers, poles, tracks, bridges, trestles, and drainage facilities or the like, or making service connections thereto, or inspecting, maintaining, repairing, or renewing any substation, pumping or lifting facility."

affected steam generating plants are covered under the NPDES permitting program as provided by the Federal Water Pollution Control Act Amendments. The relationship intended between State Implemented Coastal Zone Programs and the Federal Water Pollution Control Act Amendments is clearly delineated in Public Law 92-583, the Coastal Zone Management Act, as amended in 1976. Section 304(11) provides that the "'Management Program' includes, but is not limited to, . . . policies and standards to guide public and private uses of lands and waters in the Coastal Zone, and 314(16), "Water Use" means activities which are conducted in or on the water; but does not mean or include the establishment of any water quality standard or criteria or the regulation of the discharge or runoff of water pollutants except the standards, criteria, or regulations which are incorporated in any program as required by the provisions of Section 307(f).

Section 307(f) provides as follows: Notwithstanding any other provision of this title, nothing in this title shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended, or (2) established by the Federal Government or by any state or local government pursuant to such acts. Such requirements shall be incorporated in any program developed pursuant to this title and shall be the Water Pollution Control and Air Pollution Control applicable to such program. (emphasis added).

These statutory provisions clearly state that management of the coastal zone does not include the establishment of any water quality standards or criteria except those provided for by the Federal Water Pollution Control Act, and that such requirements shall be the Water Pollution Control Requirements applicable to such a program. We, therefore, conclude that where discharges are appropriately regulated by NPDES permit limitations, Section 208 Programs,

The CAB has assured OCZM that informational requirements will not be applied in a duplicative manner. Specifically, the information prepared for the construction of a major generating facility in accordance with the National Environmental Policy Act of 1969 to secure permits is sufficient to support a certification decision; no additional information should be required for the Energy Facility Construction and Operation Plan.

6. This comment misinterprets the operational rules and regulations of the CAB in that it fails to note that the cited provision is subject to a general provision, Sec. B.2. of the operational rules and regulations, which provides that uses which degrade the coastal area shall not be allowed unless the CAB determines that there is a compelling public interest in such uses. However, General rule B.4. has been added in the FEIS to clarify this point. Compelling public interest is defined to include "significant national interest such as energy facilities" and other similar factors, including significant economic benefit or the water dependency of such facilities. Local requirements and national needs are therefore taken into account in the ACAMP.

7. The statement that any authority of the Coastal Area Board in dredge and fill activities "should be limited to one of comment from the Board to the Corps of Engineers with the final approval of such an activity resting within the Corps of Engineers..." is inconsistent with federal rules and regulations regarding federal consistency adopted pursuant to the Coastal Zone Management Act, as amended. (15 C.F.R. Part 930)

8. See response to General Comment 1, this commentor. Page 115. As discussed earlier, the Coastal Area Board's monitoring requirements are not contrary to provisions of the Coastal Zone Management Act. Furthermore, the DEIS was carefully reviewed by the U.S. Environmental Protection Agency, which has not found inconsistencies between the Board's rules and regulations and applicable EPA requirements. (See EPA letter).

and/or state water quality standards, there is no justification for requiring additional biological or physical monitoring or regulations.

2. The Coastal Zone Management Act Amendments of 1976, Public Law 94-370, make provision for a planning process for energy facilities to be located in the coastal zone. Section 305(b)(8) requires that the Management Program provide for adequate consideration of the national interest involved in planning for, and in the siting of energy facilities which are necessary to meet requirements other than local in nature (Section 306(v)(8)). In response to this requirement, the following appears in the Management Program in Appendix D, Special Planning Elements, Section III.B: "Each proposed (energy) facility will be reviewed to make certain that it complies with all relevent operational rules and regulations adopted by the Coastal Area Board. Where practical solutions are not readily evident, the Board will try to identify alternative locations for siting energy related facilities where the impacts would not degrade the coastal area. The efforts of the Board will be aimed toward developing a reasonable mechanism whereby a proposed energy related operation may be carried on without degrading the coastal area."

291

This procedure for siting energy facility in the coastal area is grossly deficient in several respects. It does not provide for any balancing of costs and benefits to be derived from such a facility and simply states that if any degradation is expected to result from such facility that an attempt will be made to site the facility at some other location. The Management Program is therefore completely inadequate in making provision for new energy facilities as required by 306(c)(8) of Public Law 94-370.

The Alabama Legislature passed Act 534 in 1976, which defined the inland boundary of the Coastal Area subject to the Management Program as the continuous contour where the land surface elevation reached 10 feet above

9. See responses to General Comment 1 and Specific Comment 8. The Board's regulations concerning non-point source discharges are not inconsistent with applicable requirements under the Federal Water Pollution Control Act, specifically Sec. 208 of that Act. ACAMP, however, manages these uses insofar as they have direct and significant impacts on coastal waters that are of concern to the Board. The chief purpose of the ACAMP is to ensure that present levels of plants and animals in the coastal area are not degraded; the regulations applicable to non-point source dischargers are a valid measure in furtherance of that purpose.

10. OCZM regulations under Sec. 307(f) of CZMA require that air and water quality requirements under Federal acts be incorporated into the State's management program. These requirements have been incorporated in Sec. A of the operational rules and regulations of the CAB. There does not appear to be any inconsistency between any other regulations of the CAB and the air quality requirements incorporated by the CAB. ACAMP is required to address such uses insofar as they would have direct and significant effects on coastal waters.

11. As previously discussed, Alabama Act 534 gives the Board the authority to develop rules and regulations necessary to carry out the management program. The Board has found the authority to issue cease and desist orders to be necessary to protect coastal resources from degradation.

12. Page 226. Revisions to the electrical energy resources have been made in the Final Environmental Impact Statement based on your comments.

13. Page 227. This paragraph has been revised in the Final Environmental Impact Statement to reflect your comment.

14. Page 227. The last paragraph has been revised in the Final Environmental Impact Statement.

mean sea level. While this definition allows a determination of whether or not a parcel of land lies within the coastal area, the Management Program does not limit itself to this simple definition. It states in part that ". . . it may preclude from the coastal area those uses and effects of uses which have a direct and significant impact within the coastal area . . ." (emphasis added). This provision of the Management Program is unacceptable in that there is no way to readily determine in advance, or to quantify the effects of, an activity conducted outside of the coastal zone which might affect the coastal zone. Inasmuch as the Management Program would require a subjective determination on the part of the CAB in such instances, it is requested that any authority of the Board be limited to those activities which are carried on within the coastal area as defined by Act 534, and which are not already subject to regulations under the Federal Water Pollution Control Act Amendments or the Air Pollution Control Act Amendments. This is in keeping with the guidelines and requirements for program development as contained in 15 CFR Part 923, specifically the requirement that policies must be specific, comprehensive, and enforceable, and must provide an adequate degree of predictability as how coastal resources will be managed.

Comments on Specific Portions of the Management Program

Page 31, first paragraph. This paragraph discusses the lack of data concerning impact of existing thermal discharges and subjectively discusses the relationship between water temperature and biological well being. For the Barry Plant, Alabama Power Company submitted detailed biological studies as called for by Section 316(a) and 316(b) of Public Law 92-500 to EPA-Region IV and to the Alabama Water Improvement Commission on June 30, 1977. For your information, under separate cover, we are also submitting a copy of the 316(a) Demonstration (thermal effects) to the Coastal Area Board.

15. Page 228. Based on your comment the first and second paragraphs have been deleted in the Final Environmental Impact Statement. We have included a paragraph regarding ultrahigh voltage and underground transmission lines based on your comment.

16. Page 229. Please refer to our response to your General Comments 1 and 2.

2 Page 68, Section II.A.3 - Permits - This section stipulates that the Board may issue permits for uses subject to management which are not regulated by State agencies. The issuance of permits for such uses is not expressly authorized by Alabama Act 534.

3 Page 71, Section III - Usage Subject to Management - Alabama Act 534 specifies that the Management Program manage those lands and water uses which are determined to have direct and significant impact on the coastal waters. Section III defines significant impact as the result of any activity which has a more than negligible effect on the coastal area (emphasis added). This definition of significant impact with the stated intent of the program to manage such activities, coupled with the assumed authority of issuing permits for such activities would apparently result in the Board having the authority to regulate virtually any type activity to be conducted in the coastal zone. This authority clearly exceeds the intent of the Federal and State statutes.

293

4 Page 77, Section IV - Special Management Areas - This section defines Geographic Areas of Particular Concern (GAPC) and Areas for Preservation and Restoration (APR). The GAPC for the Mobile-Tensaw River Delta prohibits uses that significantly degrade the integrity and natural functions of the wetlands in the delta beyond present conditions. Likewise, all uses that degrade an APR are prohibited. Although Act 534 provides for designation of areas of particular concern, it in no way provides for such ironclad prohibition of activities as stated in the Management Program. On the other hand, Act 534 in Section 6.f and 6.i require that provisions be made for siting for energy facilities in the coastal area and that the Management Program determine permissible land and water uses giving due consideration to the requirements in such uses. Blanket exclusion of activities from the coastal zone is not provided for by this Act.

5 Page 112, Section VII.C.1.A. This section requires that persons wishing to construct energy facilities which may have a direct and significant impact on the coastal area must submit an "Energy Facility Construction and Operational Plan" to CAB which addresses the impacts on stated coastal resources. The requirement for such a plan is completely without basis in the Federal or State Acts. As stated previously, a significant impact is defined as being an activity which has a more than negligible effect on the coastal area. Furthermore, energy facility is defined to include any equipment or facility which would be used in the production, conversion, or transfer of energy. The impact of these requirements could be to require such a plan for virtually all activities associated with routine provision of electric service, including the setting of poles for distribution service, stringing of distribution wiring, and electrical hookup for commercial and residential customers. Preparation of such a plan for these activities would produce an unreasonable and unnecessary delay in providing needed electrical service and an undue administrative burden on our Company. Authorities already exist which provide for complete review of major electric generation and transmission facilities construction. Construction of a major generating facility necessitates the preparation of appropriate environmental impact assessments or environmental reports under the National Environmental Policy Act of 1969 in order to secure necessary federal and state permits under the Federal Water Pollution Control Act Amendments and the Air Pollution Control Act Amendments. Also, any activities involving dredging and filling require the submission of permit applications to the Corps of Engineers. Copies of these documents and applications would provide sufficient information to the CAB upon which to base a certification decision. It is therefore requested that the requirement for an "Energy Facility Construction and Operational Plan" be deleted.

294

6 Page 113, Section VII, C.1.C. Delete: "Siting, construction, and operation of energy facilities that degrade the coastal area shall not be permissible." This mandate is without justification in that it makes no provisions for the consideration of local requirements and needs for the energy facilities nor of the national interest involved in the siting of facilities to meet requirements which are more than local in nature.

7 Page 113, Section VII, C.2 - Coastal Area Board Regulations for Dredging and Filling - The Corps of Engineers has control over dredge and fill operations under authority established under Section 404 of the Federal Water Pollution Control Act Amendments. Any authority of the Coastal Area Board in such activities should be limited to one of comment from the Coastal Board to the Corps of Engineers, with the final approval or disapproval of such an activity resting within the Corps of Engineers in order to avoid unnecessary and burdensome duplication of regulation.

8 Page 115, Section VII, D.1. - Coastal Area Board Regulations for Water Quality - This section describes an elaborate program for baseline biological monitoring, establishment of toxicity levels, determination of present levels of plants and animals, and biological characterization within and around a Discharge Information Zone (DIZ). Furthermore, provisions of this section require continuing biological sampling and monitoring for both new point source discharges and existing point source discharges to assure compliance with the Management Program.

As stated earlier, these biological and physical monitoring requirements are contrary to provisions of the Coastal Zone Management Act. Inasmuch as the Federal and the State Coastal Acts do not provide for the extensive biological and physical monitoring requirements of this Section, this section should be deleted from the Management Program. In any event, it should be clarified that where new or existing point source discharges are

regulated under provisions of the Federal Water Pollution Control Act, no additional monitoring requirements or regulations will be required as a result of the Coastal Zone Management Program.

9 The requirement on page 117 that developments greater than 25 acres in size obtain a permit from the Coastal Area Board for non-point source discharge is without foundation in the Federal or State Coastal Zone Acts and is in contradition of the requirements of Section 307(f) of Public Law 92-583. The regulation of non-point source discharges is appropriately designated to the Mobile 208 Program, as provided for in Section 208 of the Federal Water Pollution Control Act. Requirements for monitoring under this section should be limited to those requirements pursuant to the Mobile 208 program.

10 On page 118, the statement that "air emissions from an identifiable source that degrade plant or animal life in the coastal area shall not be permissible" is completely without foundation and also contradicts the requirements of Section 307(f) of Public Law 92-583. This section clearly identifies programs implemented under the Clean Air Act, as amended, as being the Air Pollution Control Requirements applicable to the Coastal Zone Management Act and no additional requirement or limitation is justified.

296

11 Page 120, 6-c. The Alabama Coastal Area Management law does not give the Board power to issue emergency cease and desist orders.

12 Page 226, Figure D-5. Attached is a corrected (indicated by arrows) electrical energy resources map to replace that presently contained in the Management document.

13 Page 227, sub-paragraph d. The last sentence of this paragraph should be rewritten as follows: This facility would supply the electrical needs of the general area for residential, commercial, wholesale, and industrial customers.

14 Page 227, sub-paragraph 3. The paragraph beginning on this page should be rewritten as follows: "Electricity, an increasingly important source of energy, is delivered to the consumer through a transmission and distribution network. This energy originates at the generating plants and by way of transmission lines and substations is dispersed to given geographical areas where it is further distributed through subtransmission lines, distribution substations, and distribution lines. Most residential and commercial consumers receive this energy through distribution transformers and secondary lines. Some commercial and industrial customers are served at transmission, or primary voltages."

15 Page 228, sub-paragraph 3 (continued). We recommend deletion of the first and second paragraphs on this page. There are no ultra high voltage lines (745 kilovolts and above) in the coastal zone and there are no existing plans for such transmission lines. Research in this area is still preliminary and evidence of adverse physiological effects from such voltage is not established at this time. Also, the cost of undergrounds as described in the second paragraph make such application economically prohibitive as compared to overhead lines.

297

16 Page 229, sub-section B. Procedures for Assessing Site Suitability. See comments on page 3 of these comments.

In general, we find that the Alabama Coastal Area Management Program is in conflict with existing federal pollution laws and exceeds the authority vested by Alabama and Federal Coastal Zone Acts. We, therefore, recommend rejection or modification of the proposed Management Program.

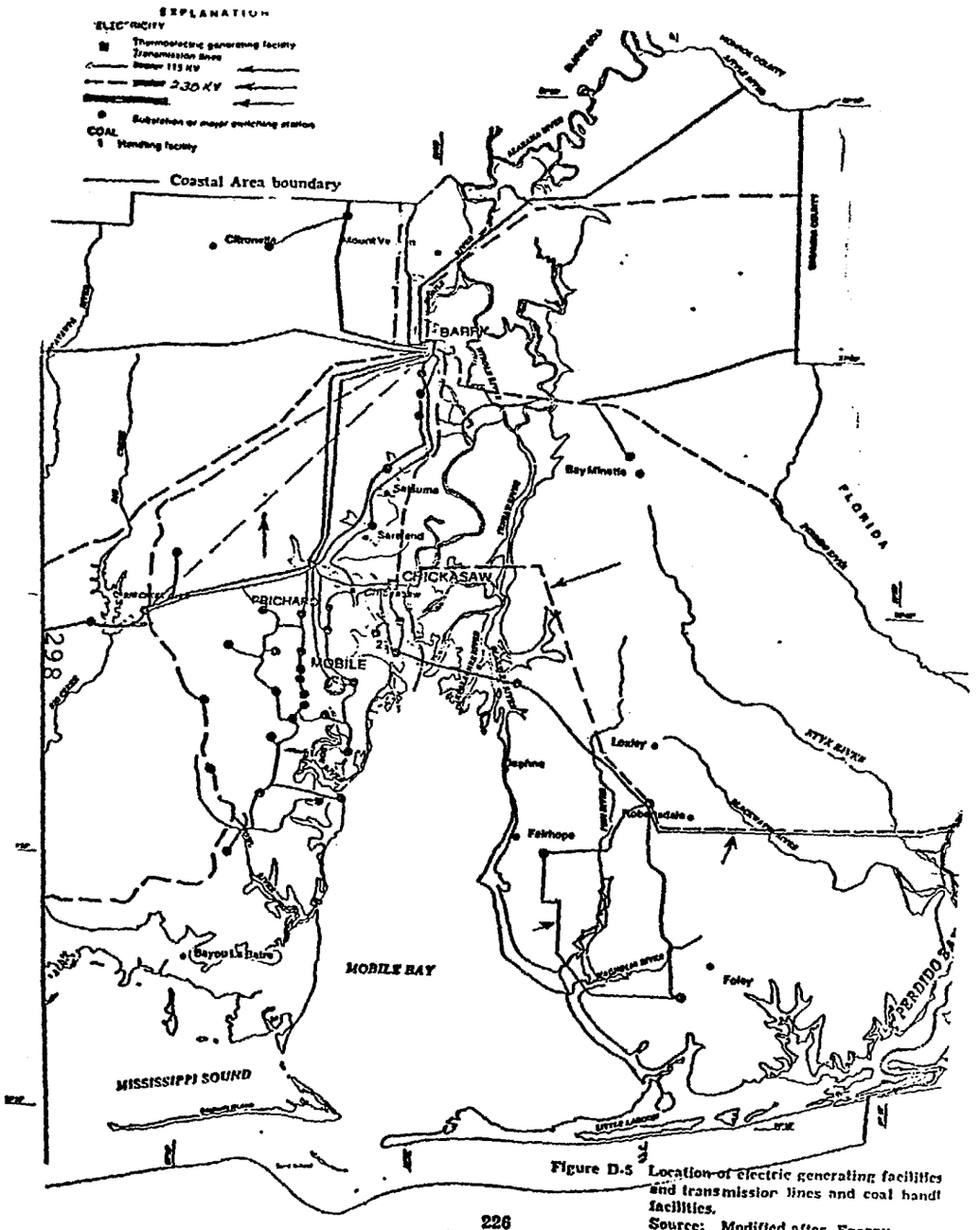


Figure D-5 Location of electric generating facilities and transmission lines and coal handling facilities.
Source: Modified after Energy Resources Map, 1977.

MC AIA
MOBILE CHAPTER OF THE AMERICAN INSTITUTE OF ARCHITECTS

June 18, 1979

U.S. Department of Commerce
National Oceanic and Atmospheric Administration
Rockville, Maryland

Gentlemen:

In reviewing The Alabama Coastal Area Management Program and Draft Environment Impact Statement, the Mobile Chapter of the American Institute of Architects believes a re-evaluation of the authority of the Board should be made. As proposed, the Coastal Area Board is placed in a position to review all permits granted by other Governmental Agencies, thereby surplanting existing permitting authorities and creating unnecessary work. 1

As architects, we are committed to maintaining the quality of our environment and would not be opposed to granting the Board an advisory position over an area contained within the continuous ten (10) foot contour line extending seaward.

Sincerely,

Billy R. Thomas, Sr.

BILLY R. THOMAS, SR., AIA
Secretary
Mobile Chapter/American Institute of Architects

BRTsr/ja
cc: Governor Fob James
Lt. Governor George McMillan
Congressman Jack Edwards
Senator H.L. "Sonny" Callahan
Senator Bob Glass
Senator Michael Figures
Senator Robert L. Gulledge
Representative John McMillan, Jr.
Representative J.E. Turner
Representative Cain J. Kennedy
Representative James E. Buskey

299

PRESIDENT . BRUCE D. KNODEL . 255½ N. JACKSON ST. . MOBILE, ALA. 36603
VICE PRESIDENT . WILLIAM T. DONNELL . 1407 MERCHANTS BANK BLDG. . MOBILE, ALA. 36602
SECRETARY . BILLY R. THOMAS, SR. . 255½ N. JACKSON ST. . MOBILE, ALA. 36603
TREASURER . GERALD J. MOORE . 31 S. LAFAYETTE ST. . MOBILE, ALA. 36604

BILLY R. THOMAS, SR.

1. Under Sections 306(c)(1) and 306(d) (15 C.F.R. 923.2 and 923.40), OCZM

> "shall judge the adequacy of a state's authority to carry out its program only on the enforceable policies of a state's management program..."

In compliance with this requirement the CAB reviews the actions of state agencies for compliance (as well as those uses for which there is no pre-existing state regulatory authority for permit) with the enforceable rules and regulations which it has promulgated under Act 534.

Representative Thomas Sandusky
Representative Mary S. Zoghby
Representative Yvonne Kennedy
Representative George Stewart
Representative Taylor F. Harper
Representative Ann Bedsole

MOBILE CHAPTER

ASSOCIATED GENERAL CONTRACTORS OF AMERICA, INC.

754 DOWNTOWNER LOOP WEST MOBILE, ALABAMA 36609 TELEPHONE 344-8220

OFFICERS

NORMAN J WALTON, SR.
President

PAUL K MALONE
Vice President

NORMAN J WALTON, JR
Secretary Treasurer

JACK TERRY
Exec Vice President

JOE H. BAKER, SR
Exec Secretary Emeritus

DIRECTORS

PHILIP N ATKINSON
Atkinson Industrial Contractors, Inc

JULES C. C BERNARD
Ernest Construction Co

WALTER C ERNEST, III
Ernest Construction Co

JOSEPH C. MARTIN
Martin Builders, Inc

J W. MITCHELL
Stuart Construction Co., Inc

TOM P OLLINGER
Tom P Ollinger General Contractor, Inc

JOHN F PATE
J F Pate Contractors

BEN M. RADCLIFF
Ben M Radcliff Contractor, Inc

CARLTON L SUMLIN
Carlton L Sumlin Construction Co., Inc

JIM PHILLIPS (CIA Associate)
Coast Corporation

301

1

June 5, 1979

U. S. Department of Commerce
National Oceanic and Atmospheric Administration
Rockville, Maryland

Gentlemen:

Following an extensive review of The Alabama Coastal Area Management Program and Draft Environmental Impact Statement, we must express grave concerns with regard to certain aspects of the Program and with the potentially disasterous effects the program could have on the economic growth of Mobile and Baldwin Counties.

While we believe that the Program is far too broad in its potential coverage and grants an excessive level of authority to the Board, we are most concerned with two specific aspects of the Program; 1) the definition of the specific geographic area covered by the Program and under the jurisdiction of the Board and 2) the authority of the Board to grant or refuse to grant Certificates of Compliance with respect to an activity being consistent with the dictates of the Program.

With respect to the question of the geographic area, covered by the Program and coming under the jurisdiction of the Board, we feel very strongly that such area should be confined strictly and specifically to the lands from the continuous ten (10) foot contour, seaward to the outer limit of the United States Territorial sea as outlined on page sixty-four (64) of the proposed draft. The language contained in Chapter Four, Section I of the proposed draft would at first appear to restrict the Board's jurisdiction to this limited area. However, additional language contained in paragraph four, Section I of Chapter Four, seems to extend the jurisdiction of the Board to areas beyond the designated area, if in the opinion of the Board land and/or water uses in those areas may have a significant impact within the designated Coastal Area. The language to which I refer reads as follows:

ASSOCIATED GENERAL CONTRACTORS OF AMERICA - JACK TERRY

1. See Generic Boundary Response

2. Act 534 provides the appropriate and necessary authority to the CAB to manage only those uses which have a direct and significant impact on coastal resources within the Coastal Area as required by Section 306(a) of the CZMA.

3. See Generic Permit Simplification Response.

4. There is no evidence that there will be "no growth" in the Coastal Area as a result of the implementation of the ACAMP. The Coastal Area Board has developed a management program which places the Board in a position to seek out new and innovative solutions to problems which have confronted industry, government, and the public for a number of years. Through this mechanism, it is anticipated that the Coastal Area can achieve economic growth in a way that maintains the present levels of coastal resources and promote continued development of economic resources.

"Although the management program will not directly regulate activities outside the Coastal Area, the authority of the Board within the Coastal Area is such that it may preclude from the Coastal Area those uses and effects of uses which have a direct and significant impact within the Coastal Area and which are inconsistent with the management program."

This language could be interpreted to include; any area from which runoff may drain into the designated Coastal Area; or any area from which air pollutants might be blown into the designated Coastal Area. It would appear that we can reasonably assume that the Coastal Area Management Program and the jurisdiction of the Coastal Area Board as set out in the draft proposal are not limited to the designated Coastal Area.

2 Of even greater concern than this misleading language, relating to the Board's geographic jurisdiction, is the establishment of the Board as an all powerful, dictatorial body with final veto power over virtually every type of land and water use imaginable. Recent history has shown that the very last thing our area needs is another governmental agency getting involved in the already crowded arena of land and water use permitting. We are already blessed with enough bureaucratic red tape to thoroughly confuse the uninitiated and easily discourage the most determined developer. We don't need any more! Placing the Coastal Area Board in a position to review permits granted by other governmental agencies and to determine the entire range of impact resulting from virtually every type of land and water use is not only impractical but utterly irresponsible. The potential economic and political implications are mind boggling.

302

3 It was our impression that Alabama was attempting to move towards the type of "one step" permitting which would place the state in a competitive position with our neighbors for new and expanded industry and other elements of economic growth. Approval of this draft program would virtually void that effort. The Coastal Area Board would become another layer of authority, placed on an already overly adequate base; an all powerful layer, mind-you, with final veto power in virtually every instance.

4 In summary, we believe that the Coastal Area Board and the Coastal Area Management Program, as outlined in the draft proposal, can only prove burdensome to the economy of our area and will ultimately result in a kind of "no-growth" stagnation for Mobile and Baldwin Counties. As a consequence, we would call upon the Department of Commerce, the Alabama Coastal Area Board and everyone responsible for the compilation of this draft program to reconsider its contents, removing those sections which we believe place the Board in a position of authority, far exceeding that which was intended by the Legislature.

In the event this cannot be accomplished, we would call upon the Mobile and Baldwin County Legislative Delegations as well as the entire Legislature to introduce and support legislation amending the Law, Act 534, under which this Board was created. Specifically, we would ask that the Legislature strictly confine the jurisdiction of the Board to the designated Coastal Area and clearly define that Area as being the lands from the ten (10) foot contour extending seaward. Further, we would ask that the authority of the Board be limited to setting objectives, policies and standards to guide public and private users

of land and water in the Coastal Area. The Board would be removed from the review and permitting process altogether.

Failing this, we would call upon Governor James to deny approval to this draft proposal and to any attempted action by the Board which would perpetrate the authority and powers sought in this draft program.

We appreciate this opportunity to comment on the proposed Alabama Coastal Area Management Program.

Sincerely,

Jack Terry
Executive Vice President

cc: Governor Fob James
Lt. Governor George McMillan
Senator H. L."Sonny" Callahan
Senator Bob Glass
Senator Michael Figures
Mr. Sidney R. Galler
Mr. Robert M. Knecht
Congressman Jack Edwards
Representative John McMillan, Jr.
Representative J. E. Turner
Representative Cain J. Kennedy
Representative James E. Buskey
Representative Thomas Sandusky
Representative Mary S. Zoghby
Representative Yvonne Kennedy
Representative George Stewart
Representative Taylor F. Harper
Representative Ann Bedsole
Senator Robert L. Gulledge

Barrier Islands Coalition

[illegible] Massachusetts Avenue NW Washington D.C. 20036 Telephone [illegible]

June 27, 1979

Mr. J. Murley, Regional Manager
Gulf-Islands Region
Office of Coastal Zone Management
3300 Whitehaven Street, N.W.
Washington, D.C. 20235

Dear Mr. Murley:

On behalf of the Barrier Island Coalition, I thank you for providing us a review copy of 'Alabama Coastal Area Management Plan: Draft EIS'. We have carefully reviewed the draft EIS and I am pleased to submit our comments and recommendations for your consideration.

Barrier Island Coalition applauds the Alabama Coastal Area Board and the Office of Coastal Zone Manaagement for preparing a balanced coastal zone management program for the state of Alabama. We hope that other Gulf Coast states will follow Alabama's lead and complete their coastal zone management programs as soon as possible.

304

The Coalition strongly endorses the findings, conclusions and recommendations for the coastal resources management contained in the Draft EIS. We submit the following recommendations for your kind consideration to further strengthen the intent, purpose and scope of the Coastal Zone Management Act of 1972 and it's amendments as applied to Alabama:

(1) Vital Areas of National Interest and Concern:

We support the inclusion of Port of Mobile and Mobile-Tensaw River Delta as areas of GAPC and Point Aux Pins Wetland System and National Audubon's Wildlife Sanctuary on Dauphin Island as APRs. We strongly urge the inclusion of undeveloped West end of Dauphin Island, all of Little Dauphin Island and Sand Island as areas of preservation to achieve 3 major objectives:

(i) Hurricane and erosion hazard loss prevention;

(ii) public access for recreation conservation and preservation of habitats, which at the present time is grossly inadequate in Alabama, and;

BARRIER ISLANDS COALITION - D.C. SHARMA

1. Regarding special management areas, the OCZM certainly agrees with you that the West End of Dauphin Island, Little Dauphin Island, and Sand Island are extremely important to the Coastal Area for the reasons you have noted. However, at this time, these areas have not been designated as special management areas because it is felt that they will be adequately protected by the Coastal Area Board's Operational Rules and Regulations for Natural Resources, as presented in Chapter Four, Section VII of the DEIS.

   The CAB and OCZM fully agree with your recommendation to purchase the West End of Dauphin Island. In fact, efforts have already begun to achieve this objective. The South Alabama Regional Planning Commission has received a Coastal Energy Impact Program (Section 308) planning grant to develop strategies to purchase the West End of Dauphin Island. Further, the Coastal Area Board's action items for public access as presented in Chapter Three of the DEIS provide a mechanism to explore the purchase of appropriate areas in the Coastal Area.

2. OCZM agrees with your first two recommendations, and noted that building regulations are the responsibility of the National Flood Insurance Administration and the local governments. The former's program comes under the Federal consistency provisions of the Coastal Area Management Program.

   The CAB agrees that there should be minimal removal of vegetation and paving for construction, parking lots, or access roads. The CAB agrees with your concern regarding island migration and the construction setback line. Natural migration is automatically accounted for in the rules and regulations for undeveloped property.

   The variance provision is important to having a viable dune protection ordinance. A blanket provision against construction on dunes could be challenged in court as arbitrary and capricious. OCZM will monitor the implementation of this regulation to

(iii) scientific studies and research areas for coastal habitats, processes, and resource dynamics.

The highest priority should be on the public acquisition of the West end of Dauphin Island and its possible inclusion in the Gulf Island National Seashore or as a State Conservation and Preservation area. This area has been recommended for the public acquisition in several Federal, State and private studies in the past.

The State and Federal government must establish a firm policy or program for the protection of Sand Island. It will be an excellent site for the scientific studies of dynamics of coastal resources and processes. At the present time there does not exist any policy about Sand Island. There is no mention of this island in the Draft EIS recommendations - it may have been an oversight that needs to be corrected.

Little Dauphin Island is a thin strip of land vulnerable to periodic flooding. There are some drawing board plans for 'Convention and Resort City' on this fragile island. Any intensive development on Little Dauphin or Dauphin will create future problems and call for Federal insurance, water, sewer, road and erosion mitigation subsidies. We can avoid that now by the inclusion of this area as APRs.

If complete life cycle fiscal impact analysis of Dauphin and Little Dauphin Island is conducted, it is very likely that the public acquisition would be less costly and mitigate hurricane and erosion damages. It will also meet the increasing coastal recreational demand in Alabama.

(2) Coastal Hazard Mitigation:

Recommended policies for hazard mitigation from hurricane, floods and erosion are excellent but can be strengthened by including the following recommendations:

(i) All structures, residential, commercial, institutional, etc., should be built to withstand hurricane winds (140-150 mph), wave, storm surge and scouring.

(ii) On the barrier islands and beaches all structures should be elevated on pilings above 100-year storm surge - still water elevation plus breaking waves. This elevation is generally 3-6 feet above 100-year still-water flood elevations shown on the National Flood Insurance Rate Map. These structures should also be able to withstand horizontal forces and verticle uplift force.

(iii) There should be minimal removal of vegetation and paving for constructions, parking lots, or access roads. All areas should be restored after the construction work is completed. Recommended policies on beach and dune protection are commendable but can be strengthened

assure that the variance procedure is not misused.

3. The rules and regulations of state and federal agencies in combination with the rules and regulations of the management program should provide adequate protection for the natural resources you mentioned. The CAB may seek judicial remedies including compensation when the ACAMP is violated (page 110).

(iv) Establishment of coastal "construction setback line" as proposed is good. However, it can be improved by incorporating natural shoreline retreat rates to minimize future erosion problems. At the present time sea level is rising at a rate of 1ft/100 years. This could mean about 50-200 feet of shoreline retreat every 100 year depending upon the local conditions. Most people perceive this phenomenon as erosion, but it is more accurate to call it island migration or retreat that must be incorporated in establishing "setback lines."

(v) Variance provision on page (119) is highly undesirable and should be excluded. Variances should not be granted if the lot is too small to build in the first place. This loophole is likely to create difficult problems for the Board when everyone wants to get a little closer to the waters or use a little more of their scarce land. It may also create hazards and problems for neighboring properties.

(3) Miscellaneous Comments

Inclusion of more specific policies on runoff pollutants, septic tank discharges and waste water vegetative treatment and recharge will help to further strengthen water resources conservation. There is no specific policy on oil spill prevention and mitigation of harms to the waters, wildlife, fisheries and resources. Who is responsible or liable for the damages to the public resources?

In conclusion, the Coalition commends the Alabama Coastal Area Board and the Office of Coastal Zone Management to take the lead in developing a good coastal zone management program on the Gulf of Mexico coast. We hope that you will carefully review and consider our comments and suggestions to further strengthen the proposed CMP for the State of Alabama.

306

On behalf of the members of the Barrier Island Coalition, I wish to thank you for providing us an opportunity to review, comment and participate on the Draft EIS. We will appreciate receiving a copy of the final draft.

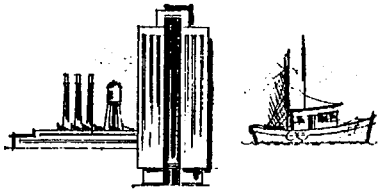
If we can be of further assistance, please contact us.

Sincerely,

Dinesh C. Sharma
NSF - Science for Citizens Resident
Barrier Islands Project

cc: Dr. Bruck Trickey, Alabama Coastal Area Board, Daphne, Alabama

DCS/cas



COMMERCIAL & MARINE UNDERWRITERS
A DIVISION OF MOULTON, ALLEN & WILLIAMS INSURANCE CORPORATION
INSURANCE CONSULTANTS AGENTS BROKERS

June 13, 1979

U. S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC & ATMOSPHERIC ADMINISTRATION
Regional Manager
Gulf-Islands Region
Office of Coastal Zone Management
3300 Whitehaven St., N. W.
Washington, D. C. 20235

RE: Proposed Coastal Area Management Program of the Alabama Coastal Area Board

Gentlemen:

307

As is the case with most businesses, the insurance industry relies heavily on the revenue derived from the continuous growth of business and industry in our area. We provide insurance and bonding where construction is taking place, and we provide a vast array of insurance coverages to the firms moving into this new construction, their employees and their families.

While we share in the desire of many to preserve the nature and beauty of the Coastal area of which we are so proud, we also share in the desire to see controls in this area kept within reason, thereby allowing the area to continue to flourish and grow to its fullest potential, and allowing our economy to continue to survive where other areas are seeing it die due to never-ending "red tape", etc. Along these lines, we would like to voice our opinion of the proposed Coastal Area Management Program.

1 2 3 It appears to us that this program, as now proposed, would be most detrimental to the economic growth and potential of the Mobile and Baldwin Co. areas. In particular, we are concerned about the geographic areas that would be involved, which we feel too extreme, and the extensive authority proposed for the Board, to the point of having the final word with regard to virtually every type of land and water use imaginable. In view of the governmental controls and "red tape" already faced by those desiring to move into our area, it seems impractical and most objectionable to have this Board place more obstacles in the paths of those making plans to construct and expand in our area. It would be our desire to see efforts toward a type of "one step" permitting that would make our area more enticing and more competitive with neighboring areas for new and expanded industry and other elements of economic growth. The proposed additional authority given the Board would virtually void any efforts along this line.

3612 DAUPHIN ST. • P. O. BOX 7221 • MOBILE, ALABAMA 36607 • PHONE (205) 343-7050

D.E. LUDLOW

1. See Generic Boundary Response.

2. Act 534 provides the appropriate and necessary authority to the CAB to manage only those uses which have a direct and significant impact on coastal resources within the Coastal Area as required by Section 306(a) of the CZMA.

3. See Generic Permit Simplification Response.

4. Under Sections 306(c)(1) and 306(d) (15 C.F.R. 923.3 and 923.40), OCZM

> "shall judge the adequacy of a state's authorities to carry out its program only on the enforceable policies of a state's management program..."

In compliance with this requirement, the CAB reviews the actions of state agencies for compliance (as well as uses for which there is no preexisting state permit) with the enforceable rules and regulations which it has promulgated under Act 534.

4 We see no reason that the Board should now be allowed to set objectives, policies and standards by which the public could be guided, but feel that they should definitely be removed from the review and permitting process altogether.

This is an area of grave concern to many people, and it is our desire and the purpose of this letter to express strong reservations with respect to the program as now proposed. We have also taken action to advise our governor, the lieutenant governor, each of our representatives and our senators of our strong feelings in this matter, and we trust that their good judgement will guide them to take positive action toward either removing these areas of concern or passing upcoming legislation now being drafted that would modify the act originally creating the Board.

Thank you for the time taken to hear our thoughts in this matter. We will watch with anticipation for the outcome.

Very truly yours,

COMMERCIAL & MARINE UNDERWRITERS

D. E. Ludlow
Division President

/ddb

July 6, 1979

Mr. James F. Murley
Gulf/Islands Regional Manager
Office of Coastal Zone Management
3300 Whitehaven Street N.W.
Washington, D. C. 20235

RE: EDF Comments on the Alabama Coastal Area Management Program and Draft EIS (May 1979)

Dear Mr. Murley:

Enclosed please find the comments of the Environmental Defense Fund in the Alabama Coastal Area Management Program and Draft EIS (May 1979). I regret that we were not able to get these comments to you at an earlier date. Unfortunately, the existance of the Draft EIS was only brought to our attention in early June.

If you have any questions about our comments, please feel free to contact us.

Please keep me advised about the Texas Program.

Yours very truly,

James T.B. Tripp
Counsel

Encl.

cc: Mr. William Matuszeski
Director, Office of State Programs
U.S. Department of Commerce, NOAA
Office of Coastal Zone Management
3300 Whitehaven Street, N.W.
Washington, D. C. 20235

Environmental Defense Fund, 475 Park Avenue South, New York, NY 10016 (212) 686-4191
OFFICES IN: NEW YORK, NY (NATIONAL HEADQUARTERS); WASHINGTON, DC; BERKELEY, CA; DENVER, CO

309

ENVIRONMENTAL DEFENSE FUND - J.T.B. TRIPP

1. OCZM believes that approval of ACAMP is justified in light of the information contained in the ACAMP/FEIS. In regard to the substantive requirements of the CZMA, we refer you to our findings on the program, published separately and available from OCZM. OCZM believes that approval of the program at this time is warranted in view of its environmental consequences revealed in the ACAMP/FEIS, especially in view of the long history of program development to date.

2. OCZM believes that the loss of the benefits of the federal consistency provisions of the CZMA and the loss of consideration of the national interest in facilities in the coastal zone by the Board would represent important disbenefits in failing to approve the program in its present form. The loss of federal monies, of course, means more than just that; withdrawal of federal support under CZMA would result in failure to implement the program at the anticipated level. OCZM believes that the program contains sufficient policies, authorities, and organization to manage uses with direct and significant impacts on coastal waters, as provided by CZMA. Lacking federal support under CZMA Sec. 306 the program would be unlikely to address such concerns effectively, even though as a legal matter the program would still be in effect under State law. OCZM urges reviewers like EDF, who feel that the program should be strengthened or modified in certain respects, to work with the Board to make necessary changes, and also to monitor the successfulness of the program so that OCZM will be able to have the benefit of these comments in evaluating the program as required by CZMA, Sec. 312.

3. OCZM feels that this comment concerning the "pro-development tune" of the program is subjective. OCZM believes that the policies of the program are sufficiently specific to provide a guide for federal agency actions.

COMMENTS OF THE ENVIRONMENTAL DEFENSE FUND, INC.
ON THE ALABAMA COASTAL AREA MANAGEMENT PROGRAM
AND DRAFT EIS (May 1979)

by: James T.B. Tripp

July 6, 1979

1. Introduction

For reasons which we give below, we consider approval of the
1 Alabama Coastal Area Management Program at this time to be unwarranted both under the National Environmental Policy Act and the substantive requirements of the Coastal Zone Management Program. The preferred alternative, as described in Part III, would be a delay of approval of the program until existing deficiencies are resolved.

310

The EIS at p. 127-128 describes three generalized impacts of
2 delay of approval on the Alabama program. In view of the existing deficiencies of the program which we detail below, only the first generalized impact, the loss of federal monies, would appear to be significant. We find it hard to believe however that the monies could not be found to support an adequate staff to correct the deficiencies in the management program if the political will exists.

The loss of consistency of federal actions with the Alabama
3 program, the second noted impact, would have little effect on the environment and natural resources since the program stresses the importance of maximum development of port facilities and channel

Environmental Defense Fund, 475 Park Avenue South, New York, NY 10016 (212) 686-4191
OFFICES IN: NEW YORK, NY (NATIONAL HEADQUARTERS); WASHINGTON, DC; BERKELEY, CA; DENVER, CO

4. EDF may be of the view that consideration of the national interest in facilities in the coastal zone, since it sometimes would involve environmental damage, is undesirable. OCZM is however, required to consider social and economic as well as purely environmental factors in assessing the consequences of program approval on the human environment under NEPA. Based on the information in ACAMP/FEIS and the comments of EDF and other reviewers, OCZM believes that the program represents an appropriate balancing of all these factors. OCZM also notes that CZMA Sec. 306(c)(8) requires consideration of the national interest in facilities in the coastl zone including energy facilities; it is unlikely therefore, that Congress believes such facilities inherently to have adverse environmental effects on balance.

5. OCZM regrets that EDF has not provided more specific comments on this point. ACAMP includes both policies and procedures for coastal management; it is by no means purely procedural.

OCZM believes the "present levels" approach adopted by the Board is in general an acceptable balancing of environmental and other factors. This approach primarily applies to point source dischargers into water. Many other policies are phrased in terms of non-degradation; this standard may actually lead to amelioration of environmental conditions in the Coastal Area. Regulation D(2)(b) provides for compensation for wetlands lost due to project development. Specific restoration efforts may be undertaken in designated Areas of Particular Concern.

6. EDF is incorrect in saying that implementation of the program will weaken existing regulatory programs. A number of such regulatory provisions have explicitly been incorporated in Board regulations, especially air and water quality requirements. See regulation A. Air and water quality requirements must be incorporated in coastal programs pursuant to CZMA Sec. 307(f). Such other programs regulate air and water quality hazards, and other matters. OCZM believes that the biological

improvements under the aegis of the Corps of Engineers. Thus, there is no reason to believe that the program would place any constraints on Corps or other federal development programs at all. On the other hand, we would not expect that the Park Service programs, including the on-going study of the Mobile Tensaw River Delta, or Fish and Wildlife Service programs would cause any adverse environmental impacts if approval of the Alabama program were delayed. Indeed, given the existing deficiencies of the program, Park Service and Fish and Wildlife Service programs to protect the wetlands of the Alabama Coastal Zone or the Mobile Tensaw River Delta might be impeded on the grounds that they are not consistent with the pro-development tone of the management program.

4 The third reason is bizarre. Since the management program is now designed to give strong support to regional or national programs, including energy facility sitings, which would support economic development in the coastal zone, in particular around the port, we would expect that approval of the program could result in more adverse environmental impacts on natural resources in the area than delay would. We certainly see few net benefits. It is ironic that the generalized impact number three provides that "the national interest also encompasses a concern for the protection of resources such as water, air, wetlands and wildlife," when the management program itself is so weak on this point.

311

5 The discussion at pages 128-29 as to whether the Alabama Coastal Area Act provides an adequate basis for coastal management program and whether that program provides the mechanism to implement the management program assumes that the 1972 Coastal Zone Management Act is simply a "procedural" act. However, as the Court in API v. Knecht, 456 F. Supp. 889 (D.C. Cal. 1978) noted,

integrity approach adopted by the Board and implemented in its regulation will be an important supplement to such existing programs.

7. OCZM believes that the policies referred to in the comment are worded in such a manner as they will be enforceable in a case by case application.

8. OCZM believes that the present levels concept proposed by the Board is not ambiguous and will provide a basis for preserving and managing existing habitat in the coastal area.

9. See comment (8) above.

10. OCZM believes the General Rules and Regulations provide a predictable framework through which competing interests within the coastal area can be balanced consistent with the policies and findings of the Federal CZMA.

11. OCZM believes that the Act's treatment of uses of regional impact meets the Federal requirements.

12. The Board has proposed in its draft Section 306 work program sufficient tasks to provide users and the public relevent information concerning present levels of the coastal area.

13. Policy 2(b) has been rewritten in response to this and other comments received.

14. OCZM does not find that designation of the Port of Mobile as a geographic area of particular concern will weaken existing federal law in any way.

15. The Board's policy on dredge spoil disposal calls for disposal in upland areas or in offshore waters. Dredge disposal which degrades the coastal area is prohibited (Sec. VII, C, 2(d) and (e), p. 115).

the Act is "first and foremost a statute directed to and solicitous of environmental concerns." The Act requires consideration of policies and programs both to protect and to restore the natural resources of the coastal zone. Except by way of pious hopes, the Management Program contains no policies based on restoration, let alone any kind of implementation program.

6 In our view, effective enforcement of existing federal policies and programs under the Clean Water Act, the Clean Air Act, the Marine Protection Research and Sanctuaries Act, the Flood Disaster Protection Act and others can do far more than the proposed Management Program for protecting those resources. Although proposed uses must comply with existing rules and regulations (EIS, p. 110), as a practical matter the Management Program can only weaken enforcement of those programs as presently established. It certainly will contribute little to conservation of those resources.

312

Since the impacts of delay vs. approval require a critique of the Program's policies and regulations, we submit our views on those.

2. Deficiencies in the policies of the Alabama Program

7 The basic deficiency of the Alabama Program is that it combines strongly worded, unambiguous development policies with natural resource policies which are sufficiently ambiguous and muddled that they are probably unenforceable and easily overridden. The draft EIS points out existing serious water quality problems in the Western Bay and the Mobile River (p. 28), shoreline erosion (p. 36), importance of the commercial fisheries (p. 39), the importance but on-going destruction of wetlands and submersed grass beds (pp. 42-43) and anticipated industrial and population growth,

16. Designation of the Mobile-Tensaw Delta, together with the use guidelines on p. 82, and the applicable Operational Rules and Regulations, are intended to prevent degradation of the Delta. The term wetlands is defined on page 263 in the FEIS.

17. The uses of regional benefit are not operational rules and regulations and do not have a priority of use anywhere in the coastal area. The Federal CZMA requires that that state program demonstrate only that they cannot be unreasonably restricted from locating in the coastal area.

much of it related to the Tennessee Tombigbee (p. 55). The overall objective is then defined in terms of maintenance of present levels of coastal resources (with some hope of restoration). We doubt, however, that even the Program's stated policies, let alone the regulations, call for maintenance.

8 The Coastal Use Policies, Section I, provide for the encouragement and support "to the maximum extent practicable" of the "continued development of the economic resources of the Coastal Area, including the port, industrial, energy and recreational resources, ...". They also encourage development of the transportation network and mineral extraction, all consistent with the policy for natural resources.

The ambiguity of the natural resource policies, by contrast, is expressed in #5 (p. 59) relating to wetlands and submersed grass beds. It states, in pertinent part:

> "The quality and quantity of coastal wetlands and submersed grass beds shall be maintained at the level necessary to provide for present levels of habitat for both terrestrial and aquatic life...". (emphasis added).

313

The use of the terms "level" and "levels" can only be confusing. One level defines another level. It should simply provide as follows:

> "The quality and quantity of coastal wetlands and submersed grass beds shall be maintained at present levels of habitat for both terrestrial and aquatic life...".

The key issue is the condition of habitat. If controlled loss or degradation of habitat, such as wetlands or grass beds is the accepted policy, the Program should at least be candid. If not, the policy should be clearly stated. The same ambiguity is present in Natural Resource Protection Policy #7 relating to wildlife

habitat protection. By contrast, Policy #6 relating to beach and dune protection is clear in that its standard is the "integrity of the beach and dune systems", not their present levels of terrestial and aquatic life, whatever that may mean.

9 The same ambiguity reappears in the regulations for dredging and filling and definition of degradation. These regulations (EIS p. 113) provide, among other things, that "no dredge spoil, fill, or other foreign solid material shall be deposited in waters of the Coastal Area unless it is determined by the Coastal Area Board that such deposition will not degrade the Coastal Area."*

In view of the Coastal Area Board Regulations for dredge and filling, the definition of degradation is critical. The Rules and Regulations at p. 111 define the term "degrade" as follows:

> "Degrade means to affect the coastal area in such a manner as to produce a continuing reduction and destruction of present levels of coastal resources."

314

If wetlands, submersed grass beds or wildlife habitats in the coastal area are reduced or destroyed, does that mean that the coastal area will be degraded? Or will someone have to establish that resource production, i.e., the number of fishes or birds, will be reduced? This term is neither specific nor enforceable, despite its importance to the regulatory framework.

10 Apart from the ambiguity of the dredge and fill and other regulations, as we understand them, uses which violate those regulations can still be approved if the applicant establishes

---

* We assume that the term "waters", as in the Clean Water Act, encompasses wetlands. Unless this definition is clarified, it is exceedingly weak.

that a particular use is of compelling public interest. For all intents and purposes, all the factors which the Board is to consider in determining whether a use is of compelling public interest, other than (a) are weighted heavily toward economic development. Thus, so long as an applicant is proposing construction of energy facilities, construction or improvement of facilities in the Port of Mobile, some other project which will have significant economic development and is water dependent, all the regulations may be overridden. We simply do not see how this general rule and regulation at page 111 can be considered to be consistent with the Coastal Zone Management Act. Indeed, it can also be used to condone massive development in the Mobile Tensaw River Delta.

11 Likewise, the list of uses of regional benefit (EIS p. 73), similarly include only development type of benefits or structural facilities. It does not include protection of estuaries, fisheries spawning and nursery areas in the wildlife breeding areas, in recognition of the regional and national importance of Mobile Bay and its river tributaries for production of fish and shellfish.

315

12 The same ambivalence in the Program's wetland and submerged grass bed policy is contained in Section VII, D (Natural Resource Rules and Regulations)(2) relating to regulations for wetlands and submersed grassbeds (EIS p. 118)(2)(a) would seem to permit the projects in wetlands or submersed grassbed areas where the applicant can demonstrate that the remaining wetlands or submersed grassbeds can support "present levels of plants and animals..." as well as other natural functions. It is doubtful that any ecologist can describe so accurately what the "present levels of plants and animals" and other natural functions are of the wetlands and

submersed grassbeds in the management area.

As written, this kind of policy is a Catch 22. It can either be used to deny to an applicant permission to fill in any wetlands because he cannot establish quantitatively that his program will not reduce present levels or, it will be used against conservation groups to encourage piecemeal actions where the applicant will argue successfully that the destruction of a minor portion of the remaining wetlands and submersed grassbeds in the management area will have an insignificant effect on plants and animals and other natural functions. The policy is therefore ambiguous, unspecific and unenforceable. It should read instead:

> "(a) Before undertaking any project in wetlands or submerged grassbed areas, the applican must demonstrate to the satisfaction of the Coastal Area Board that the proposed activity will not degrade the natural functions of any wetlands or submersed grassbeds."

316
13

2(b) is also unacceptable. It would clearly be unacceptable under both the Section 404 Regulations and the Fish and Wildlife Coordination Act. Again, the ambiguity derives from the meaning of the word "equivalent amount of wetlands". Does this simply mean quantity or both quality and quantity of the wetlands? The function of wetlands depends not only on the acreage, but the quality of that acreage and the hydrologic and geographic locus of those wetlands. Any wetlands is part of a larger system. The destruction of a given number of acres of wetlands and their replacement elsewhere may still represent a significant loss. At the very least, it should be written:

> "The Board may accept the replacement or creation of an equivalent amount of wetland with equivalent wetland values as compensation for the loss of wetlands

resulting from an approved project."

As stated, this regulation is still weak since the destruction of wetlands for a project through dredge or fill activities is immediate and final, whereas the replacement or creation of new wetlands is always a promise. It may take years to establish new wetlands systems. Unless specific monitoring requirements, goals and bonding amounts are established, the promise may typically remain unfulfilled.

3. Application of these policies to the geographic areas of particular concern

The Program identifies two GAPCs, the Port of Mobile and the Mobile-Tensaw River Delta. It is hard to see how the Program will modify on-going development of the Port of Mobile or on-going encroachment into the River Delta.

374 In its present form, the Management Plan will greatly facilitate expansion and development of port facilities in Mobile and expansion of ship channels and other navigation improvements supporting port development with attendent adverse impacts on natural resources. From that point of view, the plan can only weaken existing federal laws and regulations.

15 In recent years, the Mobile District Corps of Engineers and the Alabama State Docks Board have realized that they may no longer freely dispose of dredged spoils generated from maintenance and development of harbor facilities on wetlands. The Corps' present proposal is to dispose of dredged spoils in disposal islands in the Bay or in the Gulf. Dredged spoils from the Theodore Ship Channel and port expansion, including an enlarged main turning and anchorage basins are to form disposal islands.

The Theodore Ship Channel disposal island will be some 1200 to 1500 acres in size. The proposed Mobile Harbor dredged spoil island will be of comparable size, designed, conveniently, to form new fastland which the State Docks Board can use to expand its port facilities in the Harbor. The Corps of Engineers has estimated that the creation of this latter 2 to 3 square miles island will cover some 10% of the shallow bay bottoms remaining in the Harbor. In effect, the Management Plan condones this. In other words, continued degradation of the Mobile estuary is inevitable under the Management Plan.*

16 This kind of planned degradation of the Mobile estuary could be viewed as part of an overall natural resource strategy if, in exchange, the Program in fact provided for the preservation of the Mobile Tensaw River Delta area described at Figure IV-3. Although the 289 square mile River Delta, composed of 20,323 acres of open water, 10,450 acres of fresh mixed marsh; 69,348 acres of swamp and 84,839 acres of mixed bottomland forest, is presumably listed as a GPCA because of its extraordinary natural resources, the Program does not contain an enforceable policy for protecting it -- indeed, the Program condones its development. Protection of the Mobile Tensaw River Delta is not explicitly stated as a compelling

318

* Under Natural Resource Protection Action Items No. 1(a), it is stated that the Coastal Area Board will support on-going efforts of the Alabama Water Improvement Commission and EPA to monitor and control water quality problems. It should be pointed out that the Alabama Water Improvement Commission routinely waives certification of compliance with state water quality standards for most major activities, particularly those with any kind of political significance. So long as that practice continues, this particular action item is next to worthless.

public interest at page 111 (in contrast, construction and improvement of the facilities in the Port of Mobile is so stated). Furthermore, the Management Plan doesn't clearly define what a wetland is. We would like to assume, in the absence of a statement to the contrary, that all of these eco-types of the River Delta are considered to be wetlands for purposes of the use priorities listed on page 82. If this assumption is wrong, the use priority will not protect effectively almost half of the Delta.

In addition, while recognizing that the potential for increased activity in the Delta associated with completion of the Tennessee Tombigbee Waterway is significant, the Management Plan does little to protect that area from such development pressure. Indeed, completion of the Black Warrior Tombigbee project as envisioned by the Mobile District Corps of Engineers can only disrupt significantly the River Delta area.

The ambiguous definition of use priorities for this GPAC contribute to our skepticism. Presumably, many of the alleged future uses proposed for this GPAC can be arguably deemed to be "water dependent". What then does it mean for a use to "maintain the wetlands in the Delta at a level necessary to provide present natural functions?" Or to maintain "the deltaic wetlands at a level necessary to provide natural functions?" Will these use priorities protect the mixed bottomland hardwoods of the Delta? The suggestion implicit in use priorities (b) and (c) is that development can occur in this region and that wetlands can be destroyed and yet the Delta can still be expected to provide present natural functions. Otherwise, the use priority could be defined much more clearly and less ambiguously, to insure expressly that

all uses must maintain the wetlands in the Delta at present levels, including open water, fresh mixed swamp, swamp and mixed bottomland hardwood forests.

17 It is also not clear whether so-called "uses of regional benefits" (p. 73) will take precedent over "use priorities" in the Mobile Tensaw River Delta. All of the described uses of regional benefit could be destructive of that Delta system. Arguably, they could all be considered water dependent.

Conclusion

Until ambiguities in natural resource policies, regulations and Mobile Tensaw River Delta use priorities are clarified, approval of the Alabama Coastal Zone Management Program should be delayed. The adverse impacts associated with approval now, which could sanction development plans in the estuary and River Delta and weaken existing programs, are significant.

320

July 6, 1979

Gentlemen:

I am George R. Irvine, Jr., Irvine & Co. Realtors. I am here to make the following statement concerning the Draft Environmental Impact Statement and Regulations of the Coastal Area Board on behalf of the Home Builders Association of Metropolitan Mobile.

In 1975-76 we worked very hard to have Alabama's Coastal Zone Act repealed -- as we believed then and do now, that it is very bad legislation. However, failing that, we worked just as hard with all parties to the issue to arrive at an acceptable law that would lead to regulations that the business community could operate under with a minimum of additional paperwork, regulation and inflationery expense.

Somewhere along the line things have gotten out of hand, as the regulations under discussion have gone far afield of the law -- as a member of the work force that helped in re-writing Alabama's Coastal Zone Law, I can tell you the intent of the 1976 law is not present.

The intent was to establish the Coastal Area as the 10' contour seaward to the territoral limits.

321

The intent was to send the CAB copies of permit applications that were required by any other agency having jurisdiction for the Boards information and comment if any.

The intent was for Municipal Governments to maintain their jurisdiction and integrity within their legal limits.

The intent was for the Board to have permitting authority only over uses that were not already regulated.

And any regulations put forth were to go through a complete due process procedure before adoption.

Let's look at what has happened:

1 On page 19 of the Draft EIS, the hearing dates are listed -- notice that there is no hearing scheduled for the re-write of the regulations -- if any -- only the issuance of the final statement with assumed approval by the governor -- without hearing.

2 In regard to the boundary question -- Section 6 of the law confines the boundary to the 10' contour --

3 Somehow the interpretation of the definition of Coastal Area in 3a of the law has been construed to mean Mobile and Baldwin

HOMEBUILDERS ASSOCIATION OF METROPOLITAN MOBILE
GEORGE R. IRVINE, JR.

1. Throughout development of the Coastal Area Management Program, the Coastal Area Board has directed extensive efforts towards gaining participation by everyone who might be affected by the program. Through the past two years, numerous opportunities for review have been provided with each successive draft of the management program.

   Three public hearings were held in September 1978 after distribution of the Workshop Draft. A public hearing was held in March 1979 after the distribution of the Hearing Draft. And a public hearing was held in June 1979 after distribution of the Draft Environmental Impact Statement. For those unable to attend the hearings, citizens were urged to provide written comments on each draft. Through these means, all interested groups have been provided ample opportunities for review. The Final Environmental Impact Statement is based on comments received on the DEIS. Please note that Table I-1 has been revised to reflect the narrative discussion of the timetable which states that the issuance of the Final Environmental Impact Statement is subject to the approval of the ACAMP by the Governor.

2. See Generic Boundary Response.

3. Act 534 provides the appropriate and necessary authority to the CAB to manage only those uses which have a direct and significant impact on coastal resources within the Coastal Area as required by Section 306 (a) of the CZMA.

4. Section V, E of Chapter Four provides an option by which a local code, can avoid the duplication of CAB permits for: construction on beaches and dunes on the 100 year floodplain; septic tank construction and operation; extraction of groundwater resources; and any other use which may have a direct and significant impact on the Coastal Area and which do not require an existing state permit nor are subject to Federal consistency.

Counties in their entirety. I refer you to page 63, Section 1, paragraph 4 of the Draft EIS

I invite your attention to page 85 through 105 of the Draft EIS which describes a total review process over any application for permitting including complete veto of permits issued by other governing agencies.

4 I refer now to page 101, Section E -- Local Permitting Programs. This Section takes away the authority of the cities to issue their building permits if the building codes and procedures are not approved by CAB. How about zoning -- subdivision approval? It appears this section takes over the cities functions.

We therefore strongly suggest that the following minimum changes in the Draft EIS be made; and that there will be an approval hearing prior to submission to the Governor of the final Draft.

5 We feel that paragraph 4, Section 1, Chapter 4 should be deleted in its entirety.

6 That the phrase "a more than negligible effect" in the definition of "Significant Impact" should be replaced with "an important effect".

7 That the phrasing of Section V REVIEW PROCEDURE be changed to clearly indicate that it applies only to uses within the correctly defined Coastal Area. And the municipalities affected by this regulation are made fully aware of its implications.

8 We also suggest that the phrase "approved by the Coastal Area Board" in paragraph 6, sub Section C, Section III be omitted.

9 We suggest that any reference to any land use program not already approved and in operation by the proper authority -- Federal -- State or local -- should be removed. Such as the reference on page 117 of the Draft EIS in d. New Non Point Sources (1) - (c) to the "Mobile 208 study".

It is our strong feeling that the remedies available to the Board contained in Section 12 of Act No. 534, are sufficient. And its contents should be followed in enforcing the CAB Rules and Regulations.

Respectfully submitted,

George R. Irvine, Jr.
For the Home Builders Association
of Metropolitan Mobile

5. See Generic Boundary Response.

6. The definition of "Significant Impacts" meets the requirements of the CZMA under Section 305(b)2.

7. Since the CAB's area of jurisdiction includes lands and waters seaward of the 10-foot contour, the review procedures apply only to those uses and impacts within this defined Coastal Area. All municipalities within the Coastal Area affected by these regulations have been informed of the management program. Coastal Area Board members and staff are available to discuss with any local governments any concerns they may have regarding the management program.

8. Paragraph 6 of subsection C, Section III of Chapter Four has been deleted in its entirity as it is not found in Section 4. Permissible Uses, of Act 534.

9. The language of regulation d. New Non Point Sources (1)(c) has been revised to say:

> "The following BMP's have been recommended for controlling runoff from construction and new developments."

INTERNATIONAL PAPER COMPANY
160707
POST OFFICE BOX [illegible] MOBILE, ALABAMA 36616

MANUFACTURING AND ENGINEERING SERVICES

June 29, 1979

Dr. Bruce Trickey, Executive Director
Alabama Coastal Area Board
Post Office Box 755
Daphne, Alabama 36526

Re: Comments and Proposed Revisions to the Alabama Coastal Area Management Program and Draft Environmental Impact Statement, May, 1979

Dear Dr. Trickey:

The Draft Environmental Impact Statement for the Alabama Coastal Area Management Program has been reviewed in depth and we submit the attached comments and recommendations for revisions for your consideration and inclusion in the hearing record.

We hope that following resolution of the Act amendment question, we can continue to work with you on program language amendments to obtain an acceptable program which will thereby benefit the coastal area.

Yours very truly,

Paul W. Klotz, Coordinator Regional
Environmental Services - Water

PWK:rg
Enclosure

cc: Mr. J. F. Kilborn

INTERNATIONAL PAPER COMPANY - P.W. KLOTZ

1. Summary, Page 1, Paragraph 1

   The term "autonomous" in this case means that the Coastal Area Board is itself a state agency rather than a part of another state agency.

2. Summary, Page 2, What the program will achieve.

   The Coastal Area Board will require a small staff to review and coordinate permits issued by other agencies which do have large technical and scientific staffs. The Coastal Area Board will not duplicate the already existent permitting activities of other local, state, and federal agencies.

3. Summary, Page 2, What the program will achieve.

   The direct and indirect effects resulting from program approval are described in Part V of this Final Environmental Impact Statement. We do not expect a determination of present levels near a discharge point to be significant on a long-term basis.

4. Summary, Page 2, What the program will achieve.

   OCZM expects the Coastal Area Board will have an excellent working relationship with all other involved agencies whether state, federal, local, and the basis for this type relationship has already been established. The DEIS was carefully reviewed by many state and federal agencies, who have not found inconsistencies between the Board's program and their requirements.

5. Summary, Page 3, Paragraph 1, Line 5.

   The statement you include here is quoted directly from the Final Environmental Impact Statement.

6. Chapter One, Section 1, Page 14, Paragraph 2.

   In the Workshop Draft, which was produced in October 1978, the general intent of the management program was presented. At that time, the reviewers of the document were in general agreement

cc: w/enclosure
Senator H. L. Callahan
Senator M. A. Figures
Senator Bob Glass
Senator R. I. Gulledge

Representative Ann Bedsole
Representative J. E. Buskey
Representative Gary Cooper
Representative T. F. Harper
Representative C. J. Kennedy
Representative J. M. McMillan, Jr.
Representative V. M. Parker
Representative W. E. Penry
Representative Tom Sandusky
Representative G. Stewart
Representative J. E. Turner
Representative Mary Zoghby

that the goals of the management program were a proper interpretation of public and legislative sentiment, but reviewers also criticized the Workshop Draft for not describing the manner in which the management program would be implemented and the standards which would be used to evaluate compliance or non compliance with the management program. Through the DEIS, the Board has presented these elements of the program and the general criteria which will be used to evaluate proposed uses.

7. Chapter One, Section II, Page 14, Paragraph 5.

The management program as proposed in the Hearing Draft and the Draft Environmental Impact Statement should not be misconstrued as a land and water use plan. The land use plan is a rigidly fixed map which prescribes the location of each type of land use that is allowed. The management program, on the other hand, is a general, flexible program which allows the Board to find solutions to the problems of economic development and natural resource protection.

8. Chapter One, Section II, Page 15, Paragraph 3.

The management program, in several instances, speaks to the issue of coordination among state, federal and local agencies. The program fosters cooperation and a problem solving approach.

One of the purposes of developing the management program is to notify other state and federal agencies of the coastal uses which will be considered by the Board. It is anticipated that the other agencies will be able to consider the Board's program as they review uses that have been submitted to them for a permit. The record of DEIS comments does not support your assertion that state agencies oppose the ACAMP.

9. Chapter One, Section II, Page 16, Paragraph g.

Section 307 of the Federal Coastal Zone Management Act provides states with the authority to review federal activities for consistency with an approved state program.

INTERNATIONAL PAPER COMPANY

The following are comments regarding the text of the Draft Environmental Impact Statement by chapter, page and line:

1 Summary, Page 1, Paragraph 1
States that the Coastal Area Board is an autonomous state agency. Webster states autonomous means independent in government; self governing; also without outside control. This statement further enforces our concerns with the structure, rules and regulations, and function of the agency. It implies they will do what is their will.

2 Summary, Page 2, What the Program Will Achieve
o Add Specificity and predictability to the review for compliance and Coastal Area Board permitting with adoption of this program by the governor. During numerous discussions with the staff, it has been stated categorically that the board does not intend to be a permitting agency yet the above referenced paragraph clearly states what the program will achieve.

3 Summary, Page 2, What the Program Will Achieve
o Provide the necessary scientific data to determine "present levels" which is the basis for a number of the Coastal Area Board's regulations. In review of this statement, the definition resulting from or acting under complusion; not voluntary is very appropriate because the studies will be costly and industry is already saddled with burdensome tests for the physical and biological aspects of their effluent.

325

4 Summary, Page 2, What the Program Will Achieve
o Assure consistency with the program of all federal and state actions in the coastal zone through a review of federal and state actions that affect the coastal area. The staff and citizens advisory group may feel like this is a new and wonderful capability but you may be assured that if the Coastal Area Board management plan does not suit either the federal or state government it will be revised in accordance with their wishes or it will not be approved for implementation or funding.

5 Summary, Page 3, Paragraph (1), Line 5
Provisions are made which enable the Coastal Area Board to make certain that all uses subject to the management program, whether or not reviewed by the Board, are consistent with the management program.

6 Chapter One, Section I, Page 14, Paragraph 2
The coastal management program in Alabama in no way provides a general management framework. It is very specific and addresses and seriously impacts virtually every process which promotes economic development along the designated coastal management area and its inland counterpart. The plan is not beneficial to all coastal interest as it now exists.

10. Chapter One, Section II, B. Federal Law, Page 18, Paragraph 4.

The DEIS does not state that if a state does not have a coastal zone plan, the federal government would implement a plan.

11. Chapter One, Section II, Page 16, Paragraph 2.

The boundary description in the ACAMP meets the Federal requirements found under Section 306(a) of the Federal Coastal Zone Management Act of 1972, as amended, and under subsections 923.31 923.34 of the rules and regulations promulgated thereunder. Specifically, the regulations state that the inland boundary must include (among other areas):

> "Those areas the management of which is necessary to control uses which have a direct and significant impact on coastal waters, pursuant to § 923.11 of these regulations..."

The authority provided in Act 534 provides the Coastal Area Board (CAB) the ability to manage all land and water uses which have a direct and significant impact within the Coastal Area and thus may have such impacts on coastal waters.

12. Chapter One, Section III, Page 19, Program Completion Process, Paragraph 1, Line 3.

The Coastal Area Board has fully considered public input during each phase of program preparation, has met with many individuals and groups, and has made many reasonable changes to the management program in order to develop a program that has wide public support, and meets the requirements of the State and Federal coastal acts.

13. Chapter One, Section III, Page 19, Table I-1.

Based on all comments received on the Hearing Draft, the Submission Draft was submitted to OCZM. OCZM added the Environmental Impact Statement information required by the National Environmental Policy Act of 1969, and this document became the Draft Environmental Impact Statement. The DEIS was distributed in late April 1979.

Chapter One, Section II, Page 14, Paragraph 5

7 The intent of the Act has been misconstrued in development of the plan. The plan as it exists is the creation of a burdensome, all powerful board, which virtually controls all aspects of the growth of the coastal area through land and water use.

Chapter One, Section II, Page 15, Paragraph 3

8 "It is the state policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures and joint action particularly regarding environmental problems." The plan does not address this issue properly. The plan indicates the Coastal Area Board is all powerful with veto or dictatorial inclusion provisions which are not even concurrently considered during the normal approval times of existing adequate local, state and federal agencies. It should also be pointed out that throughout the state the consensus of the people is to obtain National Pollutant Discharge Elimination System permitting authority to alleviate duplication of permitting effort and time consuming delays. The Coastal Area Board is nothing but another layer of authority imposed on an already adequate base. The record also indicates that the state agencies do not feel that the program as proposed fosters cooperation, but rather steps on their toes through taking away of their authority.

Chapter One, Section II, Page 16, Paragraph g

9 "Provision for consideration of whether a proposed activity of an applicant for a federal license or permit complies with the state's coastal program and for the issuance of notice to any concerned federal agency as to whether the state concurs with or objects to the proposed activity." The state now has this authority in several forms (1) the Alabama Water Improvement Commission, Public Health Department, (2) the 208 Plan, and does not need another watchdog to impose its will as the final judgement. By the requirement for Office of Coastal Zone Management to review and approve the plan, what real authority will the Coastal Area Board have over the federal agencies' activities in the area of authority?

326

Chapter One, Section II, B. Federal Law, Page 18, Paragraph 4

10 "Each coastal state has the responsibility to develop its own coastal management program on a voluntary basis. The Coastal Zone Management Act provides financial assistance to aid each state develop and implement its program." Numerous statements have been made that indicated if the state did not have a coastal zone plan the federal government would implement a plan. Based upon the previously quoted statement from the Draft Environmental Impact Statement, this is not so and should not be implied. If Alabama does not have a plan, it will not be catastrophic.

Chapter One, Section II, Page 16, Paragraph 3, i.

11 The management program shall determine permissible land and water uses which have a direct and significant impact within the boundaries of the coastal area and must give due consideration to requirements for agriculture, industries, commerce, etc. This statement indicates that the Board will have a direct control over land and water uses outside the zone if it has a direct and significant impact within the boundaries of the coastal area. This power is too vast and control should be limited to inside the coastal area (ten foot contour only) for the Board's activities.

A public hearing was held on the DEIS in early June 1979. The deadline for comments was extended until July 5, 1979. As such, all interested individuals were provided ample opportunities to comment on the DEIS pursuant to federal regulations.

14. See comment to 13 above.

15. Chapter Two, Section I, B. Industrial Development, Page 25, Paragraph 5.

Points raised in the 208 study are used to identify issues concerning water quality in the coastal area. Recommended actions in the 208 study are subject to implementation by state and local authorities.

16. Chapter Two, Section I, Page 26, Urban Development, Paragraph 3.

The extension of water and sewer services can have a significant impact on the coastal resources including coastal waters, wetlands, beaches and dunes, etc. Because of these potential impacts, the Board is required by law to review these activities. Coordination with any adopted 208 plan is required by Section 307 (f) of the CZMA.

17. Chapter Two, Section I, Page 26, D. Energy Development, Paragraph 2.

Only those activities related to energy facilities which have a significant impact on the coastal area are subject to the management program.

18. Chapter Two, Section I, Page 26, D. Energy Development, Paragraph 3.

The Board has the responsibility to review the impacts of energy facilities including coal handling facilities on coastal resources. It will be the responsibility of the Board to retain the staff necessary to exercise this review responsibility.

19. Chapter Two, Section I, Page 27, F. Water Quality, Paragraph 2.

While existing water quality studies have been successful in identifying changes in the chemical parameters which they test, there are many parameters for which standards have not been set and for which the relationship to fishable and swimmable

12 Chapter One, Section III, Page 19, Program Completion Process, Paragraph 1, Line 3
Such a review process will make certain that the final program reflects the feelings and concerns of the people of Alabama and provides for a balanced approach to economic development and coastal resource protection. The intensive review process has got to be supplemented with the discussions agreed upon and changes in language and amendments to the Act to insure clarity and accurate interpretation of the rules and regulations of the management plan to be acceptable. If this were truly the efforts of the Coastal Area Board, they would be willing to fight the Office of Coastal Zone Management for approval of the amendments proposed by the Mobile Area Chamber of Commerce.

13 Chapter One, Section III, Page 19, Table I-1
The Hearing Draft hearing date was March 13, 1979 with the Submission Draft to the Office of Coastal Zone Management on March 27, 1979. This time frame did not allow adequate time for submission of written comments following the close of the public hearing and their inclusion in the draft to be submitted to the Office of Coastal Zone Management. Normally, the hearing record is held open thirty (30) days following the conclusion of the hearing.

14 Chapter One, Section III, Page 20, Paragraph 2
The Draft Environmental Impact Statement includes the management program which has been revised based upon public comment on the Hearing Draft. If that is the case, the Draft Environmental Impact Statement should be revised in light of the International Paper Company comments submitted on March 27, 1979 and responded to on June 4, 1979 since on May 29, 1979 the staff of the Coastal Area Board agreed to change language in the Hearing Draft to make it more acceptable. It would appear that in the context of that agreement, the response received June 4, 1979 is inadequate in numerous sections.

327

15 Chapter Two, Section I, B. Industrial Development, Page 25, Paragraph 5
Addresses the stressed coastal waters as a result of waste discharges. It is assumed that this statement comes from the 208 Plan. It appears as if this is very factual, yet in your response to Chapter Two, Section I, Page 13, Paragraph C, you clearly state that based upon questions raised on the 208 it would not be in the interest of the State of Alabama to accept without analysis all of the recommendations or statements of the study.

16 Chapter Two, Section I, Page 26, C. Urban Development, Paragraph 3
Corridor selection and water and sewer extension decision should be covered adequately under the 208 Plan which is now in its final stages of development.

17 Chapter Two, Section I, Page 26, D. Energy Development, Paragraph 2
This section implies that in-plant design and operation are to be considered by the Coastal Area Board. Historically, design of plants falls within the responsibility of the developer and only those process waters and their disposal fall within the responsibility of the permitting agencies. The Coastal Area Board does not have the staff nor expertise to become involved in in-plant design or approval.

waters is either undetermined or inadequately determined. It is the Board's position that the best way to assure fishable and swimmable waters is through the direct observation of the levels of plants and animals in the Coastal Area.

20. Chapter Two, Section I, F. Water Quality, Pages 27-28, Paragraph 8.

In the 1950's a large area of Mobile Bay was closed to shellfish harvesting because the Alabama Health Department determined the high levels of coliform pollutants which were found in these waters made shellfish taken from these waters unsafe for human consumption.

21. Chapter Two, Section I, F. Water Quality, Page 28, Paragraph 2.

This information is taken from the proposed Mobile 208 Water Quality Management Plan, Page 8-4.

22. Chapter Two, Section I, Pages 34-35, G. Air Quality and H. Solid Waste.

The management program recognizes the expertise that is available to handle problems of solid waste and air quality and expects to rely heavily on this expertise when considering impacts of uses on the Coastal Area.

23. Chapter Two, Section I, Page 35, I. Recreation.

The importance of considering the overall impact on the area from economic as well as other viewpoints in reviewing proposed uses is recognized in the DEIS. Consideration of all viewpoints is essential to a balanced approach.

24. Chapter Three, Section I, Page 56, A. Coastal Resource Uses Policies I. Coastal Development.

The Board's position is that it is essential that economic development be encouraged within the Coastal Area and that this policy be pursued vigorously during the implementation of the management program.

18 Chapter Two, Section I, Page 26, D. Energy Development, Paragraph 3
Again, the Coastal Area Board has neither the expertise nor responsibility for design, locating or capability of facilities of this nature and should not be allowed to impose such restrictions.

19 Chapter Two, Section I, Page 27, F. Water Quality, Paragraph 2
This paragraph is very vague as to definition of a biological baseline and implies that the biological baseline would be the tool to evaluate the long-term impact of our waters. It is interesting to note that, "It is difficult to evaluate progress in achieving the goal of monitoring water quality that will support existing biological processes." Improved water quality will not necessarily support existing biological systems indices because they are dependent upon water quality and the biological systems indices will change with improved water quality. With ongoing water quality studies, there is no difficulty in determining the progress toward maintaining water quality.

20 Chapter Two, Section I, F. Water Quality, Pages 27-28, Paragraph 8
"Since these areas were closed during the early 1950's, no current studies have been carried out to determine if these areas should still be closed to oyster harvesting." Is this so, or is it because the areas are not condusive to commercial harvesting?

328

21 Chapter Two, Section I, F. Water Quality, Page 28, Paragraph 2
"The principal water quality problems occur in the western portion of the Mobile Bay water frontage and are of the Mobile River system." This statement is not true when related to the 208 Plan for the Mobile River. International Paper Company was recommended to have its discharge point moved to the Mobile River at current treatment levels to improve Chickasaw Creek water quality. It was implied by discharge at current treatment levels that water quality was not a problem in that segment of the river.

22 Chapter Two, Section I, Pages 34-35, G. Air Quality and H. Solid Waste
These paragraphs are concerning issues in the coastal area, but the generalized statements made are vague and certainly do not provide definitive direction for the Coastal Area Board to move toward. At this time, an adequate number of control agencies exists with capable and competent staffs to control the discharge of treated waste water, air emissions and the deposition of solid waste and the Coastal Area Board can do nothing to enhance the control in the above mentioned areas and still maintain an economic balance.

23 Chapter Two, Section I, Page 35, I. Recreation
It is true, recreational areas can be affected by water pollution, but it is also true that increased recreational activity creates water pollution. The economic value of land needs to be evaluated from a compatibility standpoint when designating recreational areas for it is not good judgement to place a recreational area in such a position as to dictate economic ruin for a community.

25. Chapter Three, Section I, Page 57, B. Coastal Resource Use Operational Rules and Regulations.

The management program, as presented in the DEIS, does not exceed the authority provided by Act 534.

26. Chapter Three, Section I, Page 57, B. Coastal Resource Use Action Items, 1. Economic Development, (a) - (f).

It is the intent of the management program that review responsibiliti be undertaken with dispatch. In most cases, the Board's review can be undertaken concurrently with the review of the permitting agency.

27. Chapter Three, Section II, Page 58, A. Natural Resource Protection Policies, 1. Biological Productivity.

a. A biological monitoring program will be established which is designed to provide for a biological baseline of the Coastal Area. The locations of these stations will be determined based on available funding and the results of technical studies which the Board intends to undertake.
b. The 208 plan does not address the concept of maintaining presen levels.
c. The overpumping of well fields has been identified as an area of potential degradation to the Coastal Area. The details of our approach to this issue are discussed in Chapter Four, Section VII.
d. The Board does not intend to duplicate the efforts of the existing agencies that address air pollution in the Coastal Area.
e. Proposed uses and their expected impacts on the wetlands and submersed grassbeds of the Coastal Area will be analyzed based on available information for compliance with the management program's rules and regulations.

28. Chapter Three, Section II, Page 59, A. Natural Resource Protection Policies, 7. Wildlife Habitat Protection.

The Board is presently initiating a program which will measure present levels of plants and animals to establish the biological baseline of the Coastal Area of Alabama. Progress in protecting coastal resources will be measured against these present levels.

Chapter Three, Section I, Page 56, A. Coastal Resource Use Policies, 1. Coastal Development

24 The mere existence of the Coastal Area Board will have serious impact on the continued development of the economic resources of the coastal area if the plan is approved designating the full authority sought in the Hearing Draft.

Chapter Three, Section I, Page 57, B. Coastal Resource Use Operational Rules and Regulations

25 The regulations cited in Section VII (C) with several exceptions exceed the intent of the Act and authority of the Coastal Area Board.

Chapter Three, Section I, Page 57, B. Coastal Resource Use Action Items, 1. Economic Development, (a)-(f)

26 The Coastal Area Board will need a large staff to provide action in these areas and will create significant unwarranted delays in permitting of activities in the coastal area by these untimely reviews and requirements stated in later chapters of this document.

Chapter Three, Section II, Page 58, A. Natural Resource Protection Policies, 1. Biological Productivity

27 "To maintain directly these levels through regular biological sampling." How is regular sampling proposed? This document addresses requirements for point source discharge sampling biological life upstream and downstream once but not regularly. 2. Water Quality. The 208 Plan adequately addresses water quality maintenance, therefore, there is no need for duplication of effort. 3. Water Resources. Other than permitting wells in the coastal zone, how is this to be done? 4. Air Quality. The current air pollution regulations adequately address and control ambient air quality and the State Implementation Plan addresses improvements in the future, therefore, why have duplication? 5. Wetlands and Submerged Grassbeds. How does the Coastal Area Board plan to determine, "...the level necessary..." to provide for permit levels of habitat and to enhance the quality and quantity of these wetlands and submerged grassbeds?

329

Chapter Three, Section II, Page 59, A. Natural Resource Protection Policies, 7. Wildlife Habitat Protection

28 "...to maintain areas of wildlife habitat sufficient to support present levels of terrestrial and aquatic life, including fish and shellfish,..." What is considered sufficient, if conditions improve or endangered species increase additional area may be required?

Chapter Three, Section II, B. Natural Resource Protection Operational Rules and Regulations, Page 60

29 With all but a few exceptions, the requirements are unnecessary, unwarranted, and are an increase on the cost of doing business in the Mobile and Baldwin County area that is unnecessary.

29. Chapter Three, Section II, B. Natural Resource Protection Operational Rules and Regulations, Page 60.

The Coastal Area Board's Natural Resource Operational Rules and Regulations as provided for by Act 534, were developed in order to carry out the Board's natural resource policies.

30. Chapter Three, Section II, Page 60, C. Natural Resource Protection Items, 1. Water Quality

a. The Board has no intention of duplicating the efforts of AWIC which deals in chemical water quality analysis. The significant element in the action items is the biological baseline analysis which is not being carried out by any agency.

b. It is the responsibility of the Board to identify the technical and financial means to implement the management program once it is approved. Federal financial assistance (700k in 1979) is available once the ACAMP is approved.

31. Chapter Four, Section I, Paragraph 4.

The Board is responsible for reviewing any activity which will have a significant impact in the Coastal Area. The landward limit of the jurisdiction of the Coastal Area Board is the continuous 10-foot contour detailed in Act 534. Any uses or effects from uses which have a direct and significant impact on the Coastal Area may be precluded from the Coastal Area.

32. Chapter Four, Section II, Page 67, A. Alabama Act 1. Management Program, Paragraph 1.

The management program, as presented in the Hearing Draft, does not exceed the authority provided by Act 534.

33. Chapter Four, Section II, Page 67, A. Alabama Act, 3. Permits

For a long period (see the minutes of the February 28, 1978 CAB meeting) the Board has clearly stated its support for one-stop permitting in the Coastal Area. The Coastal Area Management Program will not interfere with one-stop permitting, and the program can, in fact, assist the economic growth of the Coastal Area.

Chapter Three, Section II, Page 60, C. Natural Resource Protection Action Items, 1. Water Quality

30 The Coastal Area Board will conduct special studies to (a) establish a biological baseline including bottom characterization, (b) determine present levels of animal species, (c) comprehensive inventories of wetlands and submerged grassbeds, and (d) chemically characterize the water quality. Once again the Coastal Area Board staff does not possess these capabilities either in number, education or financially. It is also worthy of note that some of these tasks are covered under already funded ongoing programs and do not need duplicating nor should they be placed on the business or industrial sector to provide data or funding. 2. Wetlands and Submerged Grassbeds. (a) What are the financial and technical assistance means of the Coastal Area Board? (b) How will the Coastal Area Board conduct special studies to determine the quality, quantity and location of all wetlands and submerged grassbeds? Without tremendous funding and a sizeable staff, the Coastal Area Board cannot follow through with this type planning. This also should be addressed in Item 3. Beaches and Dunes, and Item 4. Cultural Resources.

Chapter Four, Section I, Page 63, Paragraph 4

31 This paragraph can be interpreted to include any area which could have runoff which would drain into the coastal area, emit air pollutants which could be blown into the coastal area, any well which would draw water from the aquafer in the coastal zone, and any operation which caused traffic in the coastal area. The limits of the coastal area and the Coastal Area Board's jurisdiction are not limited to the coastal area, particularly in the drainage of the river systems of the coastal area.

330

Chapter Four, Section II, Page 67, A.Alabama Act, 1. Management Program, Paragraph 1

32 "Prepared and adopted by the State in accordance with the provisions of the Act, setting forth objectives, policies and standards to guide public and private users of lands and waters in the Coastal Area." The key word is guide, not dictate, use as determined by the Coastal Area Board. Under this section authority the Coastal Area Board has overstepped its boundaries.

Chapter Four, Section II, Page 67, A. Alabama Act, 3. Permits

33 This is probably one of the most important paragraphs of the draft and should be eliminated in its entirety because it voids the State's entire effort for one step permitting and adds another unnecessary layer of political authority to be dealt with in virtually every process (construction, real estate, water use, water discharge, nonpoint runoff, air emissions, transportation, ship building, channel dredging, recreation, etc.) which stimulates economic growth of the area.

Chapter Four, Section II, Page 68, B. Coastal Zone Management Act of 1972, 1. Federal Consistency

34 The Coastal Area Board requires that federal projects, federal licenses and permits, OCS plans and federal assistance be consistent with the plan or approval will not be granted. This is an unwarranted step in the permit process because the existing agencies are concerned with protection of the environment and compliance with the laws, therefore, an additional layer of responsibility is not needed nor required.

34. Chapter Four, Section II, Page 68, B. Coastal Zone Management Act of 1972, 1. Federal Consistency.

Please see previous response to your comment number 4 regarding the importance of federal consistenty determinations by the Coastal Area Board.

35. Chapter Four, Section III, Page 71, A. Uses with a Direct and Significant Impact on the Coastal Area.

The statement on the Board's authority on page 71 of the DEIS refers to the authority provided to the Board by the legislature under sections, 3,7, and 8 of Act 534. The statement which you refer to on page 67 of the Hearing Draft refers to a different provision of the Act, Section 4, in which the legislature identifies specific permissible uses and gives the Board the authority to adopt additional permissible uses as needed.

36. Chapter Four, Section III, Page 73, B. Uses of Regional Benefit, 2. Authority to Prevent Unreasonable Restrictions, Paragraph 2.

This provision is specifically designed to ensure that essential economic development can take place in the Coastal Area. There can be situations where local governments adopt policies that exclude uses that are determined to be of regional benefit. This section speaks to the unreasonable restriction of regional development pursuant to Section 306 - of the Federal Act.

37. Chapter Four, Section III, Page 75, C. Uses Not Subject to the Management Program.

The Board's authority to determine if a use has a direct and significant impact on the Coastal Area is limited to those uses that have a direct, identifiable and adverse relationship to present levels of coastal resources.

Regarding your reassertion that existing regulatory agencies adequately protect coastal resources, please see the previous response to your comment number 3.

35 Chapter Four, Section III, Page 71, A. Uses With a Direct and Significant Impact on the Coastal Area

The Act (534) as described on Page 67 does not state that, "Act 534 specifies that the management program manage those lands and water uses which are determined to have a Direct and Significant Impact upon coastal waters." It states that, "Additional authority given to the Board in establishing the management program is the ability to determine permissible land and water uses which have a direct and significant impact within the boundaries of the Coastal Area." In addition, those uses considered as subject to the management program encompass all activities which are a part of life as we see it today and not any board should have that responsibility and power.

36 Chapter Four, Section III, Page 73, B. Uses of Regional Benefit, 2. Authority to Prevent Unreasonable Restrictions, Paragraph 2

The review and approval process is redundant and unnecessary and is a discouragement to economic development.

37 Chapter Four, Section III, Page 75, C. Uses Not Subject to the Management Program

This section is virtually useless because the board has the power to construe every activity as a direct or significant impact on the Coastal Area. It is worthy of repeating that the management plan is not necessary with the existing levels of regulatory authority now watching over the coastal area.

38 Chapter Four, Section IV, Page 78, a. Port of Mobile, (2) Concern or Significance

"The Coastal Area Board will cooperate with other agencies and groups to provide special assistance, both technical and financial, to cope with the stress on this area. Through these special studies a method can be developed to protect these wetlands and wildlife habitats." What studies are being contemplated?

39 Chapter Four, Section IV, Page 82, (3) Use Priorities (c)

Reference is made to maintaining "level necessary to provide natural functions." This is a vague statement and needs extreme clarification of level and natural functions.

40 Chapter Four, Section V, Pages 85-105

Generally the Review Procedure is not concurrent with other regulatory reviews which certainly does not indicate cooperation with those seeking permit approvals. The review procedure is not needed and is an unnecessary layer of authority which does not enhance the economic growth, cultural growth, recreational growth, or historic growth of the coastal area.

The review process will undoubtedly interfere with the one step National Pollutant Discharge Elimination System permitting authority which the State has worked so diligently to obtain, but has had difficulty obtaining due to procedural questions.

38. Chapter Four, Section IV, Page 78, a. Port of Mobile, (2) Concern or Significance.

The specific design for studies of the Port of Mobile will be developed in cooperation with the Alabama State Docks during the implementation of the program.

39. Chapter Four, Section IV, Page 82, (3) Use Priorities (c).

We are presently initiating a program which will measure present levels of plants and animals to establish the biological baseline of the Coastal Area of Alabama. Our progress in protecting coastal resources will be measured against these present levels.

40. Chapter Four, Section V, Page 85-105.

The Coastal Area Board has been on record consistently in support of the one-stop NPDES permit system and OCZM belives the management program will be complementary to the one-stop approach. The proposed management program identifies a need for a comprehensive clearinghouse for permits in the Coastal Area which will quickly and efficiently deal with all permits.

41. Chapter Four, Section VI, Monitoring and Enforcement, Pages 106-109.

The management program, as presented in the Hearing Draft, does not exceed the authority provided by Act 534.

42. Chapter Four, Section VII, Page 112, B. General Rules and Regulations, 3.

The 1969 National Environmental Policy Act (NEPA) already requires large projects to prepare an Environmental Impact Statement. General rule number 3 requires that only major projects must show the impacts that the proposed use will have on the Coastal Area. The Board will accept EIS's that address these specific characteristics.

41 Chapter Four, Section VI, Monitoring and Enforcement, Pages 106-109
The Coastal Area Board neither has the staff nor expertise to conduct the studies it can use in monitoring the uses in the coastal area. Currently, industry is overburdened with monitoring and reporting and there is no need for duplication of existing monitoring programs even to the point of administrative duplication of monitoring reports. Regarding enforcement, the avenue of enforcement for the board should be solely Item 4. Judicial remedies because without permitting authority they have the same responsibility as industry to sell their story to the existing responsible agencies who will take enforcement action as necessary.

42 Chapter Four, Section VII, Page 112, B. General Rules and Regulations, 3.
The requirements of the board are to "show, to the satisfaction of the Board, the impacts of the proposed use on the following coastal resources:

1. Water Quality
2. Air Quality
3. Wetlands and Submerged Grassbeds
4. Beaches and Dunes
5. Wildlife Habitat
6. Biological Resources
7. Cultural Resources
8. Public Access
9. Shoreline
10. Flood and Hurricane Mitigation Areas
11. Water Resources
12. Associated Land Uses
13. Other Coastal Resources"

332

This is a very big order and a significant requirement economically to any project in or out of the immediate coastal area. This data and its accumulation comprises an Environmental Impact Assessment and is costly and could cause development of the Coastal Area to decline economically because it may or may not be required for location in another area.

43 Chapter Four, Section VII, Page 113, 2. Coastal Area Board Regulations for Dredging and Filling.
The protection of the coastal area with regard to dredging and filling is more than adequately covered with existing authority of the United States Army Corps of Engineers, Bureau of Sports Fisheries and United States Fish and Wildlife Bureau, this section is unnecessary.

44 Chapter Four, Section VII, Page 115, 6. Coastal Area Board Regulations for Solid Waste Disposal
Proposed federal regulations under RCRA and proposed state regulations adequately protect the coastal area regarding solid waste disposal and, therefore, this section is unnecessary.

43. Chapter Four, Section VII, Page 113, 2. Coastal Area Board Regulations for Dredging and Filling

This speculation is necessary to address several issues that deserve special consideration from a comprehensive problem solving coastal perspective, e.g. dredge spoil disposal on Bay bottoms, maintenance dredging spoil disposal.

44. Chapter Four, Section VII, Page 115, 6. Coastal Area Board Regulations for Solid Waste Disposal

Since the federal and state regulations under Resource Conservation and Recovery Act (RCRA which deals with solid waste) have not been adopted - Board policies can be adjusted in the future to recognize new federal or state regulations.

45. Chapter Four, Section VII, Page 115, D. 1. Coastal Area Board Regulations for Water Quality, a. New Point Source Discharges

See response to comment 19 above.

46. Chapter Four, Section VII, Page 116, D. 1. b. Monitoring New Source Dischargers

The existing compliance monitoring program addresses chemical parameters but does not address the biological information that is set forth in the management program.

47. Chapter Four, Section VII, Page 116, D.1. c. Existing Point Source Dischargers, (1)

The regulation for existing point source dischargers has been modified based on your comment. Rather than requesting that the sample program be carried out within 180 days of the program approval, the DEIS calls for the results of the biological sampling program to be provided when the NPDES permit comes due for renewal.

48. Chapter Four, Section VII, Page 116, D.1. d. New Point Sources.

Currently none of the existing water quality agencies have regulations which control non point source runoff.

45 Chapter Four, Section VII, Page 115, D. 1. Coastal Area Borad Regulations for Water Quality, a. New Point Source Discharges
"The following requirements will be imposed upon new point source discharges into the coastal waters of Alabama in addition to existing state and federal water quality regulations." There is no need to impose additional requirements on a new point source other than those imposed by existing agencies or being proposed by existing agencies. There is enough data being generated and submitted to existing agencies on a routine basis by all waste dischargers and there is no requirement for additional regulatory agencies if no reason other than duplication of effort from an economics standpoint.

46 Chapter Four, Section VII, Page 116, D. 1. b. Monitoring New Source Dischargers
The existing requirements for self monitoring as well as those under consideration by existing agencies more than adequately assures compliance with the water quality in the coastal area and there is no further justification for the economic burden of additional biological monitoring and reporting responsibilities to an unnecessary agency which is just layer and duplication of existing agencies.

47 Chapter Four, Section VII, Page 116, D. 1. c. Existing Point Source Dischargers, (1)
"...required to determine the extent of the impact of the discharge on the biology of the coastal waters by conducting biological sampling as specified by the Coastal Area Board, from the outfall point to a sufficient distance up and downstream from the outfall to indicate where their discharge ceases to have an impact upon the plant and animal life of the receiving waters." The Coastal Area Board does not have the expertise nor staff to evaluate or design a biological sampling program of the magnitude imposed in this statement. The approach is also not adequate to depict the whole picture when reviewed as a sum of the parts. The requirement is not warranted and will be an unjustified expense to the economy of the area.

333

48 Chapter Four, Section VII, Page 117, D. 1. d. New Non Point Sources
The activities under this section are adequately covered under existing or proposed regulations with existing agencies and represent an unjustified duplication of effort at the expense of the economy of the area.

49 Chapter Four, Section VII, Page 118, D. 2. Coastal Area Board Regulations for Wetlands and Submersed Grassbeds
"...must demonstrate to the satisfaction of the Coastal Area Board..." is extremely vague and needs a clear definition through what vehicle the demonstration should occur.

50 Chapter Four, Section VII, Page 118, D. 3. Coastal Area Board Regulations for Air Quality
This section is inappropriate due to its all inclusive nature and must be clearly defined regarding what criteria the Coastal Area Board intends to utilize to evaluate air emissions and their degredation effect on plants and animals.

49. Chapter Four, Section VII, Page 118, D. 2. Coastal Area Board Regulations for Wetlands and Submersed Grassbeds.

The Board does not wish to close any avenues available to potential users of coastal resources to demonstrate that they will not degrade present levels of wetlands.

50. Chapter Four, Section VII, Page 118, D.3. Coastal Area Board Regulations for Air Quality.

The criteria that the management program proposes to use to evaluate air emissions is not all-inclusive. The criteria is limited to whether or not the proposed use would result in a continuing reduction or destruction of present levels of coastal resources.

51. Chapter Four, Section VII, Page 118, D.4. Coastal Area Board Regulations for Beaches and Dunes.

There are currently no ordinances or regulations on the State, Federal or local level which provide adequate dune protection. The Board's provides the option for local governments to adopt such ordinances.

52. Chapter Four, Section VII, Page 119, D.5. Coastal Area Board Regulations for Water Resources.

The test which the management program proposes for approving a use is whether or not it will degrade present levels of coastal resources. The term degradation is defined in the management program as the continuing reduction or destruction of present levels of coastal resources.

53. Chapter Four, Section VII, Page 120, D., 7 and 8

The term reflects common usage of the words involved and provide flexible guidance for the CAB to make case by case decisions in applying the regulations.

51 Chapter Four, Section VII,Page 118, D. 4. Coastal Area Board Regulations for Beaches and Dunes
Existing requirements for recording of deeds with regard to surveys, construction plans, etc. and their existing review process should be adequate with the addition of various clauses concerning dune and vegetation preservation without the creation of another permit application and board review.

52 Chapter Four, Section VII,Page 119, D. 5. Coastal Area Board Regulations for Water Resources
Conservation of ground water and other fresh water sources should be regulated to insure its adequacy for future use, but for the Coastal Area Board to implement the program for any well in or out of the coastal area is ridiculous. A specific area needs to be designated either in the coastal area or in the aquafer which encompasses the coastal area whichever is the more appropriate.

53 Chapter Four, Section VII,Page 120, D., 7 and 8
"To the maximum extent practicable,..." is vague and specific limits need to be assigned to the use requirements to avoid personal opinion with regard to the "extent practicable" question.

54 Chapter Four, Section VIII, Page 122, Administrative Rules and Regulations
The Coastal Area Board has included draft administrative rules and regulations in the Draft Environmental Impact Statement. The rules and regulations do not shed light as to how the Coastal Area Board plans to fund and provide technical expertise to implement the program, but regardless of their content the rules and regulations do not justify the need for another agency with the powers endowed in the draft plan, and Draft Environmental Impact Statement, when existing agencies can effectively do the job without increasing the possibility of impairing the economy of the coastal area.

334

54. Chapter Four, Section VII, Page 122, Administrative Rules and Regulations.

Funding will be provided through a Federal Section 306 Program Implementation Grant ($600,000) and from State general revenues ($50,000).

LEAGUE OF WOMEN VOTERS
OF BALDWIN COUNTY
BOX 937
FAIRHOPE, ALABAMA 36532

June 6, 1979

Regional Mgr., Gulf-Islands Region
Office of CZM
3300 Whitehaven St., N. W.,
Washington, D. C.

Dear Sirs:

1 The Baldwin County League of Women Voters has reviewed the Al Coastal Area Mgt. Program and Draft Environmental Impact Statement. We cannot help but chide you for the goal you have chosen: "maintain present levels of coastal resources." That is certainly a modest enough goal and we miss the words, "enhance" and "improve" as found in the Al Coastal Area Law No. 534. However, even with this goal there are problems: to maintain present levels of coastal resources would mean the cessation of the Mobile Bay ship channel improvements, the industrial canal, dredging of oyster shells in Mobile Bay and further oil exploration; just to mention a few activities that have had destructive impacts on the coastal resources. At what point, and after how many more studies are we going to say this is the level at which we will hold?

2 This goal is not consistent with the policy of the Fisheries Div., National Oceanic and Atmospheric Adm. for their goal is to triple the U.S. seafood harvest and presumable create 50,000 jobs. If we here on the Gulf Coast are to contribute our share to the realization of this goal, we will have to increase our feeding and spawning areas in our bays, streams and bayous.

335

3 Access is an issue voiced at the early CAB workshops and appears in the document before us. However, this issue is grossly neglected and surely a more positive approach could be taken by the CAB. It is recommended that the CAB compile a list of all State owned parcels of land in the coastal area and all public streets and roads, whether in use or only platted that could afford visual or actual access; surther that steps be taken to develop any small parcel of land into recreation areas and that no street or road in the county or cities which provide visual or actual access be vacated without prior approval of the CAB. In Baldwin County we have a history of vacating such roads and streets and easements, turning them over to private owners and thereby denying the public the right of access.

4 Because of the nature of the contours of many miles of coastal lands, erosion is a major concern, particularly where elevations are abrupt beyond the ten foot contour. In view of the fact that the Alabama Law No. 534 defines "coastal area" extending inland from the shore to control the impacts on the shorelands, it is hoped the CAB will be concerned with the poor building practices that occur near the coast, causing extreme siltation. Further, here is an opportunity to help the various municipalities and counties with technical advice in their efforts to deal with siltation.

BALDWIN COUNTY LEAGUE OF WOMEN VOTERS

1. The policies of the Coastal Area Board, as presented in Chapter 3 of the DEIS, do provide for enhancement of coastal resources. Please note policies in Section I, A(3), A(6) on page 56 and Section II, A(1), A(2), A(3) on pp. 58-59 in the FEIS. It is the opinion of the Board that economic growth within the Coastal Area is inevitable due to the development of the Tennessee-Tombigbee Waterway Project and other potential developments. The difficult task is to avert the tragic decline in the quality of life which has accompanied growth in other parts of the country. The most reasonable and immediate task in view of this expected growth appears to be to devise the means to maintain present levels of coastal resources. The Board is presently establishing a biological baseline of the Coastal Area upon which future decisions regarding levels of plants and animals will be based. At the same time this has been accomplished, the Board will work towards enhancing coastal resources.

2. OCZM believes that careful implementation of all the policies in the ACAMP will produce results compatible with the recently established objectives of the National Marine Fisheries Service (NMFS) . Operating at the State level, the CAB will be able to maintain present levels of marine species and their habitat, and where feasible, undertake efforts to enhance marine species. The policies of NMFS also take into consideration improved marketing of fisheries, which will not be affected by CAB policies. The CAB is currently contracted with the Marine Resources Division to provide mechanisms to carry out the ACAMP. It is anticipated that these activities will continue during implementation.

3. OCZM is confident that the CAB intends to use its access regulations, p. 115, in order to achieve its recreation policy on p. 56, when reviewing new projects in the coastal area. The CAB has identified general access action items

League of Women Voters
of Baldwin County

June 6, 1979

5 The Alabama LWV began its studies of coastal zone management in 1969, when it shared a grant from the Federal Water Polution Control Adm. During these intervening ten years a task force of technically trained people and capable League members have monitored our coastal areas and supported Federal and State management programs.

The Baldwin County LWV has studied coastal issues for a number of years. We have travelled all over the county in an attempt to interest people in our coastal resources. We have found many citizens who are concerned about the problems and issues that appear in this Draft. But when the interested citizen comes to a Board Mtg. he finds that many times it is impossible to ascertain the issues and actions proposed by the Board. We recommend tha t the citizens attending the Board Meetings be furnished with a summary, delineating the issues and alternatives and that the actions taken by the Board be made clear.

6 The Citizens Advisory Board as presently organized does not provide for a balance between economic development and those who believe many conservation issues must be presented. This balance between economic growth and preservation of our natural resources is the basis upon which all Board policy, rules and regulations are predicated and this same balance is needed in the Citizens Advisory Boa d if it is to have credibility.

337 We wish to commend t he CAB on the stand it has taken with respect to preservation of the sand dunes, that natural resource tha t is so essential to maintaining the shore line, especially during hurricanes and storms.

Marie Herman
Marie Herman, President
Baldwin Co. LWV

C.C. Sidney R. Galler
Dep. Asst. Secy. for Env. Affairs
Al. LWV
Al. CAB

on p. 58, which would include studies pertaining to vacating public street right of ways. OCZM will monitor program implementation to review progress in accomplishing the recreational/ access policy in the ACAMP.

4. OCZM believes that the erosion analysis contained in pages 208-220 of the FEIS is sufficient to meet Federal requirements and if adequately implemented will accomplish the objectives of reducing coastal erosion. On page 58 of the FEIS the CAB states its intention to provide technical assistance to local governments in order to reduce upland erosion that may affect the coastal area.

5. OCZM recognizes the need for continual meaningful citizen participation in the implementation of the ACAMP. We are grateful for the past interest that the League has taken. The CAB has Administrative Rules, p. 123, dealing with procedures related to CAB meetings. OCZM would expect that the CAB will provide sufficient advance notice and information to continue to comply with Federal requirements for public participation.

6. OCZM notes that the appointment of the Citizen Advisory Committee is governed by the provisions of Section 9, Act 534, page 168 of the FEIS. Given the one year terms the County Commissions can consider new appointments to the Committee. OCZM recommends that the League should suggest names to the appropriate County Commission.

OCZM and the CAB acknowledge your support for the rules and regulations on preservation of sand dunes.

July 2, 1979

Dr. E. B. Trickey
Alabama Coastal Area Board
P.O. Box 755
Daphne, Alabama 36526

Dear Bruce:

As we indicated in our statement for the record on June 6, 1979, attached are the detailed comments and recommendations concerning the Draft Environmental Impact Statement.

Sincerely,

R. H. Allen, Chairman
Coastal Area Board Task Force

RHA/f

Attachment

Mobile Area Chamber of Commerce
P.O. Box 2187, Mobile, Alabama 36601, 205/433-6951

MOBILE AREA CHAMBER OF COMMERCE - R. H. ALLEN

1. Summary, Page 1, Paragraph 1

   The term "autonomous" in this case means that the Coastal Area Board is itself a state agency rather than a part of another state agency.

2. Summary, Page 2, What the program will achieve.

   The Coastal Area Board will require a small staff to review and coordinate permits issued by other agencies which do have large technical and scientific staffs. The Coastal Area Board will not duplicate the already existent permitting activities of other local, state, and federal agencies.

3. Summary, Page 2, What the program will achieve.

   The direct and indirect effects resulting from program approval are described in Part V of this Final Environmental Impact Statement. We do not expect a determination of present levels near a discharge point to be significant on a long-term basis.

4. Summary, Page 2, What the program will achieve.

   OCZM expects the Coastal Area Board will have an excellent working relationship with all other involved agencies whether state, federal, local, and the basis for this type relationship has already been established. The DEIS was carefully reviewed by many state and federal agencies, who have not found inconsistencies between the Board's program and their requirements.

5. Summary, Page 3, Paragraph 1, Line 5.

   The statement you include here is quoted directly from the Final Environmental Impact Statement.

6. Chapter One, Section 1, Page 14, Paragraph 2.

   In the Workshop Draft, which was produced in October 1978, the general intent of the management program was presented. At that time, the reviewers of the document were in general agreement

MOBILE AREA CHAMBER OF COMMERCE
JULY 2, 1979

The following are comments regarding the text of the Draft Environmental Impact State for the Alabama Coastal Area Management Program:

1 Summary, Page 1, Paragraph 1:
States that the Coastal Area Board is an autonomous state agency. Webster states autonomous means independent in government; self governing; also without outside control. This statement further enforces our concerns with the structure, rules and regulations, and function of the agency. It implies they will do what is their will.

2 Summary, Page 2, What the Program Will Achieve:
Add specificity and predictability to the review for compliance and Coastal Area Board permitting with adoption of this program by the Governor. During numerous discussions with the staff, it has been stated categorically that the Board does not intend to be a permitting agency yet the above referenced paragraph clearly states what the program will achieve.

3 Summary, Page 2, What the Program Will Achieve:
Provide the necessary scientific data to determine "present levels" which is the basis for a number of the Coastal Area Board's regulations. In review of this statement, the definition resulting from or acting under complusion; not voluntary is very appropriate because the studies will be costly and industry is already saddled with burdensome tests for the physical and biological aspects of their effluent.

338

4 Summary, Page 2, What the Program Will Achieve:
Assure consistency with the program of all federal and state actions in the coastal zone through a review of federal and state actions that affect the coastal area. The staff and citizens advisory group may feel like this is a new and wonderful capability but you may be assured that if the Coastal Area Board management plan does not suit either the federal or state governments it will be revised in accordance with their wishes or it will not be approved for implementation or funding.

5 Summary, Page 3, Paragraph (1), Line 5:
Provisions are made which enable the Coastal Area Board to make certain that all uses subject to the management program, whether or not reviewed by the Board, are consistent with the management program.

6 Chapter One, Section I, Page 14, Paragraph 2
The coastal management program in Alabama in no way provides a general management framework. It is very specific and addresses and seriously

that the goals of the management program were a proper interpretation of public and legislative sentiment, but reviewers also criticized the Workshop Draft for not describing the manner in which the management program would be implemented and the standards which would be used to evaluate compliance or non compliance with the management program. Through the DEIS, the Board has presented these elements of the program and the general criteria which will be used to evaluate proposed uses.

7. Chapter One, Section II, Page 14, Paragraph 5.

The management program as proposed in the Hearing Draft and the Draft Environmental Impact Statement should not be misconstrued as a land and water use plan. The land use plan is a rigidly fixed map which prescribes the location of each type of land use that is allowed. The management program, on the other hand, is a general, flexible program which allows the Board to find solutions to the problems of economic development and natural resource protection.

8. Chapter One, Section II, Page 15, Paragraph 3.

The management program, in several instances, speaks to the issue of coordination among state, federal and local agencies. The program fosters cooperation and a problem solving approach.

One of the purposes of developing the management program is to notify other state and federal agencies of the coastal uses which will be considered by the Board. It is anticipated that the other agencies will be able to consider the Board's program as they review uses that have been submitted to them for a permit. The record of DEIS comments does not support your assertion that state agencies oppose the ACAMP.

9. Chapter One, Section 11, Page 16, Paragraph g.

Section 307 of the Federal Coastal Zone Management Act provides states with the authority to review federal activities for consistency with an approved state program.

impacts virtually every process which promotes economic development along the designated coastal management area and its inland counterpart. The plan is not beneficial to all coastal interest as it now exists.

7 Chapter One, Section II, Page 14, Paragraph 5:
The intent of the Act has been misconstrued in development of the plan. The plan as it exists is the creation of a burdensome, all powerful board, which virtually controls all aspects of the growth of the coastal area through land and water use.

8 Chapter One, Section II, Page 15, Paragraph 3:
"It is the state policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures and joint action particularly regarding environmental problems." The plan does not address this issue properly. The plan indicates the Coastal Area Board is all powerful with veto or dictatorial inclusion provisions which are not even concurrently considered during the normal approval times of existing adequate local, state and federal agencies. It should also be pointed out that throughout the state the consensus of the people is to obtain National Pollutant Discharge Elimination System permitting authority to alleviate duplication of permitting effort and time consuming delays. The Coastal Area Board is nothing but another layer of authority imposed on an already adequate base. The record also indicates that the state agencies do not feel that the program as proposed fosters cooperation, but rather steps on their toes through taking away of their authority.

339

9 Chapter One, Section II, Page 16, Paragraph g:
"Provision for consideration of whether a proposed activity of an applicant for a federal license or permit complies with the state's coastal program and for the issuance of notice to any concerned federal agency as to whether the state concurs with or objects to the proposed activity." The state now has this authority in several forms (1) the Alabama Water Improvement Commission, Public Health Department, (2) the 208 Plan, and does not need another watchdog to impose its will as the final judgement. By the requirement for Office of Coastal Zone Management to review and approve the plan, what real authority will the Coastal Area Board have over the federal agencies' activities in the area of authority?

10 Chapter One, Section II, B. Federal Law, Page 18, Paragraph 4:
"Each coastal state has the responsibility to develop its own coastal management program on a voluntary basis. The Coastal Zone Management Act provides financial assistance to aid each state develop and implement its program." Numerous statements have been made that indicate if the state did not have a coastal zone plan the federal government would implement a plan. Based upon the previously quoted

10. Chapter One, Section II, B. Federal Law, Page 18, Paragraph 4.

The DEIS does not state that if a state does not have a coastal zone plan, the federal government would implement a plan.

11. Chapter One, Section II, Page 16, Paragraph 2.

The boundary description in the ACAMP meets the Federal requirements found under Section 306(a) of the Federal Coastal Zone Management Act of 1972, as amended, and under subsections 923.31 923.34 of the rules and regulations promulgated thereunder. Specifically, the regulations state that the inland boundary must include (among other areas):

> "Those areas the management of which is necessary to control uses which have a direct and significant impact on coastal waters, pursuant to § 923.11 of these regulations..."

The authority provided in Act 534 provides the Coastal Area Board (CAB) the ability to manage all land and water uses which have a direct and significant impact within the Coastal Area and thus may have such impacts on coastal waters.

12. Chapter One, Section III, Page 19, Program Completion Process, Paragraph 1, Line 3.

The Coastal Area Board has fully considered public input during each phase of program preparation, has met with many individuals and groups, and has made many reasonable changes to the management program in order to develop a program that has wide public support, and meets the requirements of the State and Federal coastal acts.

13. Chapter One, Section III, Page 19, Table I-1.

Based on all comments received on the Hearing Draft, the Submission Draft was submitted to OCZM. OCZM added the Environmental Impact Statement information required by the National Environmental Policy Act of 1969, and this document became the Draft Environmental Impact Statement. The DEIS was distributed in late April 1979.

statement from the Draft Environmental Impact Statement, this is not so and should not be implied. If Alabama does not have a plan, it will not be catastrophic.

11 Chapter One, Section II, Page 16, Paragraph 3, i:
The management program shall determine permissible land and water uses which have a direct and significant impact within the boundaries of the coastal area and must give due consideration to requirements for agriculture, industries, commerce, etc. This statement indicates that the Board will have a direct control over land and water uses outside the zone if it has a direct and significant impact within the boundaries of the coastal area. This power is too vast and control should be limited to inside the coastal area (ten foot contour only) for the Board's activities.

12 Chapter One, Section III, Page 19, Program Completion Process, Paragraph 1, Line 3:
Such a review process will make certain that the final program reflects the feelings and concerns of the people of Alabama and provides for a balanced approach to economic development and coastal resource protection. The intensive review process has got to be supplemented with the discussions agreed upon and changes in language and amendments to the Act to insure clarity and accurate interpretation of the rules and regulations of the management plan to be acceptable. If this were truly the efforts of the Coastal Area Board, they would be willing to fight the Office of Coastal Zone Management for approval of the amendments proposed by the Mobile Area Chamber of Commerce.

340

13 Chapter One, Section III, Page 19, Table I-1:
The Hearing Draft hearing date was March 13, 1979 with the Submission Draft to the Office of Coastal Zone Management on March 27, 1979. This time frame did not allow adequate time for submission of written comments following the close of the public hearing and their inclusion in the draft to be submitted to the Office of Coastal Zone Management. Normally, the hearing record is held open thirty (30) days following the conclusion of the hearing.

14 Chapter Two, Section I,B. Industrial Development, Page 25, Paragraph 5:
Addresses the stressed coastal waters as a result of waste discharges. It is assumed that this statement comes from the 208 Plan. It appears as if this is very factual, yet in your response to Chapter Two, Section I, Page 13, Paragraph C, you clearly state that based upon questions raised on the 208 it would not be in the interest of the State of Alabama to accept without analysis all of the recommendations or statements of the study.

A public hearing was held on the DEIS in early June 1979. The deadline for comments was extended until July 5, 1979. As such, all interested individuals were provided ample opportunities to comment on the DEIS pursuant to federal regulations.

14. Chapter Two, Section I, B. Industrial Development, Page 25, Paragraph 5.

Points raised in the 208 study are used to identify issues concerning water quality in the coastal area. Recommended actions in the 208 study are subject to implementation by state and local authorities.

15. Chapter Two, Section I, Page 26, Urban Development, Paragraph 3.

The extension of water and sewer services can have a significant impact on the coastal resources including coastal waters, wetlands, beaches and dunes, etc. Because of these potential impacts, the Board is required by law to review these activities. Coordination with any adopted 208 plan is required by Section 307 (f) of the CZMA.

16. Chapter Two, Section I, Page 26, D. Energy Development, Paragraph 2.

Only those activities related to energy facilities which have a significant impact on the coastal area are subject to the management program.

17. Chapter Two, Section I, Page 26, D. Energy Development, Paragraph 3.

The Board has the responsibility to review the impacts of energy facilities including coal handling facilities on coastal resources. It will be the responsibility of the Board to retain the staff necessary to exercise this review responsibility.

18. Chapter Two, Section I, Page 27, F. Water Quality, Paragraph 2.

While existing water quality studies have been successful in identifying changes in the chemical parameters which they test, there are many parameters for which standards have not been set and for which the relationship to fishable and swimmable

15 Chapter Two, Section I, Page 26,C. Urban Development, Paragraph 3: Corridor selection and water and sewer extension decision should be covered adequately under the 208 Plan which is now in its final stages of development.

16 Chapter Two, Section I, Page 26,D. Energy Development, Paragraph 2: This section implies that in-plant design and operation are to be considered by the Coastal Area Board. Historically, design of plants falls within the responsibility of the developer and only those process waters and their disposal fall within the responsibility of the permitting agencies. The Coastal Area Board does not have the staff nor expertise to become involved in in-plant design or approval.

17 Chapter Two, Section I, Page 26,D. Energy Development, Paragraph 3: Again, the Coastal Area Board has neither the expertise nor responsibility for design, locating or capability of facilities of this nature and should not be allowed to impose such restrictions.

18 Chapter Two, Section I, Page 27,F. Water Quality, Paragraph 2: This paragraph is very vague as to definition of a biological base-line and implies that the biological baseline would be the tool to evaluate the long-term impact of our waters. It is interesting to note that, "It is difficult to evaluate progress in achieving the goal of monitoring water quality that will support existing biological processes." Improved water quality will not necessarily support existing biological systems indices because they are dependent upon water quality and the biological systems indices will change with improved water quality. With ongoing water quality studies, there is no difficulty in determining the progress toward maintaining water quality.

The

19 Chapter Two, Section I,F. Water Quality, Pages 27-28, Paragraph 8: "Since these areas were closed during the early 1950's, no current studies have been carried out to determine if these areas should still be closed to oyster harvesting." Is this so, or is it because the areas are not condusive to commercial harvesting?

20 Chapter Two, Section I,F. Water Quality, Page 28, Paragraph 2: "The principal water quality problems occur in the western portion of the Mobile Bay water frontage and are of the Mobile River System." This statement is not true when related to the 208 Plan for the Mobile River.

21 Chapter Two, Section I, Pages 34-35,G. Air Quality and H. Solid Waste: These paragraphs are concerning issues in the coastal area, but the generalized statements made are vague and certainly do not provide definitive direction for the Coastal Area Board to move toward. At this time, an adequate number of control agencies exists with capable and competent staffs to control the discharge of treated waste water,

waters is either undetermined or inadequately determined. It is the Board's position that the best way to assure fishable and swimmable waters is through the direct observation of the levels of plants and animals in the Coastal Area.

19. Chapter Two, Section I, F. Water Quality, Pages 27-28, Paragraph 8.

In the 1950's a large area of Mobile Bay was closed to shellfish harvesting because the Alabama Health Department determined the high levels of coliform pollutants which were found in these waters made shellfish taken from these waters unsafe for human consumption.

20. Chapter Two, Section I, F. Water Quality, Page 28, Paragraph 2.

This information is taken from the proposed Mobile 208 Water Quality Management Plan, Page 8-4.

21. Chapter Two, Section I, Pages 34-35, G. Air Quality and H. Solid Waste.

The management program recognizes the expertise that is available to handle problems of solid waste and air quality and expects to rely heavily on this expertise when considering impacts of uses on the Coastal Area.

22. Chapter Two, Section I, Page 35, I. Recreation.

The importance of considering the overall impact on the area from economic as well as other viewpoints in reviewing proposed uses is recognized in the DEIS. Consideration of all viewpoints is essential to a balanced approach.

23. Chapter Three, Section I, Page 56, A. Coastal Resource Uses Policies. I. Coastal Development.

The Board's position is that it is essential that economic development be encouraged within the Coastal Area and that this policy be pursued vigorously during the implementation of the management program.

air emissions and the deposition of solid waste and the Coastal Area Board can do nothing to enhance the control in the above mentioned areas and still maintain an economic balance.

22 Chapter Two, Section I, Page 35,I. Recreation:
It is true, recreational areas can be affected by water pollution, but it is also true that increased recreational activity creates water pollution. The economic value of land needs to be evaluated from a compatibility standpoint when designating recreational areas for it is not good judgement to place a recreational area in such a position as to dictate economic ruin for a community.

23 Chapter Three, Section I, Page 56,A. Coastal Resource Use Policies 1. Coastal Development:
The mere existence of the Coastal Area Board will have serious impact on the continued development of the economic resources of the coastal area if the plan is approved designating the full authority sought in the Hearing Draft.

24 Chapter Three, Section I, Page 57,B. Coastal Resource Use Operational Rules and Regulations:
The regulations cited in Section VII (c) with several exceptions exceed the intent of the Act and authority of the Coastal Area Board.

342

25 Chapter Three, Section I, Page 57,B. Coastal Resource Use Action Items, 1. Economic Development, (a)-(f):
The Coastal Area Board will need a large staff to provide action in these areas and will create significant unwarranted delays in permitting of activities in the coastal area by these untimely reviews and requirements stated in later chapters of this document.

26 Chapter Three, Section II, Page 58,A. Natural Resource Protection Policies, 1. Biological Productivity:
"To maintain directly these levels through regular biological sampling." How is regular sampling proposed? This document addresses requirements for point source discharge sampling biological life upstream and downstream once but not regularly. 2. Water Quality. The 208 Plan adequately addresses water quality maintenance, therefore, there is no need for duplication of effort. 3. Water Resources. Other than permitting wells in the coastal zone, how is this to be done? 4. Air Quality. The current air pollution regulations adequately address and control ambient air quality and the State Implementation Plan addresses improvements in the future, therefore, why have duplication? 5. Wetlands and Submerged Grassbeds. How does the Coastal Area Board plan to determine, ". . . the level necessary. . ." to provide for permit levels of habitat and to enhance the quality and quantity of these wetlands and submerged grassbeds?

24. Chapter Three, Section I, Page 57, B. Coastal Resource Use Operational Rules and Regulations.

The management program, as presented in the DEIS, does not exceed the authority provided by Act 534.

25. Chapter Three, Section I, Page 57, B. Coastal Resource Use Action Items, 1. Economic Development, (a) - (f).

It is the intent of the management program that review responsibilitie be undertaken with dispatch. In most cases, the Board's review can be undertaken concurrently with the review of the permitting agency.

26. Chapter Three, Section II, Page 58, A. Natural Resource Protection Policies, 1. Biological Productivity.

a. A biological monitoring program will be established which is designed to provide for a biological baseline of the Coastal Area. The locations of these stations will be determined based on available funding and the results of technical studies which the Board intends to undertake.
b. The 208 plan does not address the concept of maintaining present levels.
c. The overpumping of well fields has been identified as an area of potential degradation to the Coastal Area. The details of our approach to this issue are discussed in Chapter Four, Section VII.
d. The Board does not intend to duplicate the efforts of the existing agencies that address air pollution in the Coastal Area.
e. Proposed uses and their expected impacts on the wetlands and submersed grassbeds of the Coastal Area will be analyzed based on available information for compliance with the management program's rules and regulations.

27. Chapter Three, Section II, Page 59, A. Natural Resource Protection Policies, 7. Wildlife Habitat Protection.

The Board is presently initiating a program which will measure present levels of plants and animals to establish the biological baseline of the Coastal Area of Alabama. Progress in protecting coastal resources will be measured against these present levels.

27 Chapter Three, Section II, Page 59,A. Natural Resource Protection Policies, 7. Wildlife Habitat Protection:
". . . to maintain areas of wildlife habitat sufficient to support present levels of terrestrial and aquatic life, including fish and shellfish, . . ." What is considered sufficient, if conditions improve or endangered species increase additional area may be required?

28 Chapter Three, Section II,B. Natural Resource Protection Operational Rules and Regulations, Page 60:
With all but a few exceptions, the requirements are unnecessary, unwarranted, and are an increase on the cost of doing business in the Mobile and Baldwin County are that is unnecessary.

29 Chapter Three, Section II, Page 60,C. Natural Resource Protection Action Items, 1. Water Quality:
The Coastal Area Board will conduct special studies to (a) establish a biological baseline including bottom characterization, (b) determine present levels of animal species, (c) comprehensive inventories of wetlands and submerged grassbeds, and (d) chemically characterize the water quality. Once again the Coastal Area Board staff does not possess these capabilities either in number, education or financially. It is also worthy of note that some of these tasks are covered under already funded ongoing programs and do not need duplicating nor should they be placed on the business or industrial sector to provide data or funding. 2. Wetlands and Submerged Grassbeds. (a) What are the financial and technical assistance means of the Coastal Area Board? (b) How will the Coastal Area Board conduct special studies to determine the quality, quantity and location of all wetlands and submerged grassbeds? Without tremendous funding and a sizeable staff, the Coastal Area Board cannot follow through with this type planning. This also should be addressed in Item 3. Beaches and Dunes, and Item 4, Cultural Resources.

313

30 Chapter Four, Section I, Page 63, Paragraph 4:
This paragraph can be interpreted to include any area which could have runoff which would drain into the coastal area, emit air pollutants which could be blown into the coastal area, any well which would draw water from the aquafer in the coastal zone, and any operation which caused traffic in the coastal area. The limits of the coastal area and the Coastal Area Board's jurisdiction are not limited to the coastal area, particularly in the drainage of the river systems of the coastal area.

31 Chapter Four, Section II, Page 67,A. Alabama Act, 1. Management Program, Paragraph 1:
"Prepared and adopted by the State in accordance with the provisions of the Act, setting forth objectives, policies and standards to guide public and private users of lands and waters in the Coastal Area." The key word is guide, not dictate, use as determined by the Coastal Area Board. Under this section authority the Coastal Area Board has overstepped its boundaries.

28. Chapter Three, Section II, B. Natural Resource Protection Operational Rules and Regulations, Page 60.

The Coastal Area Board's Natural Resource Operational Rules and Regulations as provided for by Act 534, were developed in order to carry out the Board's natural resource policies.

29. Chapter Three, Section II, Page 60, C. Natural Resource Protection Items, 1. Water Quality

a. The Board has no intention of duplicating the efforts of AWIC which deals in chemical water quality analysis. The significant element in the action items is the biological baseline analysis which is not being carried out by any agency.

b. It is the responsibility of the Board to identify the technical and financial means to implement the management program once it is approved. Federal financial assistance (700k in 1979) is available once the ACAMP is approved.

30. Chapter Four, Section I, Paragraph 4.

The Board is responsible for reviewing any activity which will have a significant impact in the Coastal Area. The landward limit of the jurisdiction of the Coastal Area Board is the continuous 10-foot contour detailed in Act 534. Any uses or effects from uses which have a direct and significant impact on the Coastal Area may be precluded from the Coastal Area.

31. Chapter Four, Section II, Page 67, A. Alabama Act 1. Management Program, Paragraph 1.

The management program, as presented in the Hearing Draft, does not exceed the authority provided by Act 534.

32. Chapter Four, Section II, Page 67, A. Alabama Act, 3. Permits

For a long period (see the minutes of the February 28, 1978 CAB meeting) the Board has clearly stated its support for one-stop permitting in the Coastal Area. The Coastal Area Management Program will not interfere with one-stop permitting, and the program can, in fact, assist the economic growth of the Coastal Area.

Chapter Four, Section II, Page 67,A. Alabama Act, 3. Permits:

32 This is probably one of the most important paragraphs of the Draft and should be eliminated in its entirety because it voids the State's entire effort for one-step permitting and adds another unnecessary layer of political authority to be dealt with in virtually every process (construction, real estate, water use, water discharge, non-point runoff, air emissions, transportation, ship building, channel dredging, recreation, etc.) which stimulates economic growth in the area.

Chapter Four, Section II, Page 68,B. Coastal Zone Management Act of 1972, 1. Federal Consistency:

33 The Coastal Area Board requires that federal projects, federal licenses and permits, OCS plans and federal assistance be consistent with the plan or approval will not be granted. This is an unwarranted step in the permit process because the existing agencies are concerned with protection of the environment and compliance with the laws, therefore, an additional layer of responsibility is not needed nor required.

Chapter Four, Section III, Page 71,A. Uses With a Direct and Significant Impact on the Coastal Area:

34 The Act (534) as described on Page 67 does not state that, "Act 534 specifies that the management program manage those lands and water uses which are determined to have a Direct and Significant Impact upon coastal waters." It states that, "Additional authority given to the Board in establishing the management program is the ability to determine permissible land and water uses which have a direct and significant impact within the boundaries of the Coastal Area." In addition, those uses considered as subject to the management program encompass all activities which are a part of life as we see it today and not any board should have that responsibility and power.

344

Chapter Four, Section III, Page 73,B. Uses of Regional Benefit, 2. Authority to Prevent Unreasonable Restrictions, Paragraph 2:

35 The review and approval process is redundant and unnecessary and is a discouragement to economic development.

Chapter Four, Section III, Page 75,C. Uses Not Subject to the Management Program:

36 This section is virtually useless because the Board has the power to construe every activity as a direct or significant impact on the coastal area. It is worthy of repeating that the management plan is not necessary with the existing levels of regulatory authority now watching over the coastal area.

33. Chapter Four, Section II, Page 68, B. Coastal Zone Management Act of 1972, 1. Federal Consistency.

Please see previous response to your comment number 4 regarding the importance of federal consistenty determinations by the Coastal Area Board.

34. Chapter Four, Section III, Page 71, A. Uses with a Direct and Significant Impact on the Coastal Area.

The statement on the Board's authority on page 71 of the DEIS refers to the authority provided to the Board by the legislature under sections, 3,7, and 8 of Act 534. The statement which you refer to on page 67 of the Hearing Draft refers to a different provision of the Act, Section 4, in which the legislature identifies specific permissible uses and gives the Board the authority to adopt additional permissible uses as needed.

35. Chapter Four, Section III, Page 73, B. Uses of Regional Benefit, 2. Authority to Prevent Unreasonable Restrictions, Paragraph 2.

This provision is specifically designed to ensure that essential economic development can take place in the Coastal Area. There can be situations where local governments adopt policies that exclude uses that are determined to be of regional benefit. This section speaks to the unreasonable restriction of regional development pursuant to Section 306 - of the Federal Act.

36. Chapter Four, Section III, Page 75, C. Uses Not Subject to the Management Program.

The Board's authority to determine if a use has a direct and significant impact on the Coastal Area is limited to those uses that have a direct, identifiable and adverse relationship to present levels of coastal resources.

Regarding your reassertion that existing regulatory agencies adequately protect coastal resources, please see the previous response to your comment number 3.

Chapter Four, Section IV, Page 78,a. Port of Mobile, (2) Concern or Significance:

37 "The Coastal Area Board will cooperate with other agencies and groups to provide special assistance, both technical and financial, to cope with the stress on this area. Through these special studies a method can be developed to protect these wetlands and wildlife habitats." What studies are being contemplated?

38 Chapter Four, Section IV, Page 82, (3) Use Priorities (c): Reference is made to maintaining "level necessary to provide natural functions." This is a vague statement and needs extreme clarification of level and natural functions.

Chapter Four, Section V, Pages 85-105:

39 Generally the Review Procedure is not concurrent with other regulatory reviews which certainly does not indicate cooperation with those seeking permit approvals. The review procedure is not needed and is an unnecessary layer of authority which does not enhance the economic growth, cultural growth, recreational growth, or historic growth of the coastal area.

The review process will undoubtedly interfere with the one-step National Pollutant Discharge Elimination System permitting authority which the State has worked so diligently to obtain, but has had difficulty obtaining due to procedural questions.

345

Chapter Four, Section VI, Monitoring and Enforcement, Pages 106-109:

40 The Coastal Area Board neither has the staff nor expertise to conduct the studies it can use in monitoring the uses in the coastal area. Currently, industry is overburdened with monitoring and reporting and there is no need for duplication of existing monitoring programs even to the point of administrative duplication of monitoring reports. Regarding enforcement, the avenue of enforcement for the Board should be solely Item 4. Judicial Remedies because without permitting authority they have the same responsibility as industry to sell their story to the existing responsible agencies who will take enforcement action as necessary.

41 Chapter Four, Section VII, Page 112,B. General Rules and Regulations. 3: The requirements of the Board are to "show, to the satisfaction of the Board, the impacts of the proposed use on the following coastal resources:

1. Water Quality
2. Air Quality
3. Wetlands and Submerged Grassbeds
4. Beaches and Dunes
5. Wildlife Habitat

37. Chapter Four, Section IV, Page 78, a. Port of Mobile, (2) Concern or Significance.

The specific design for studies of the Port of Mobile will be developed in cooperation with the Alabama State Docks during the implementation of the program.

38. Chapter Four, Section IV, Page 82, (3) Use Priorities (c).

We are presently initiating a program which will measure present levels of plants and animals to establish the biological baseline of the Coastal Area of Alabama. Our progress in protecting coastal resources will be measured against these present levels.

39. Chapter Four, Section V, Page 85-105.

The Coastal Area Board has been on record consistently in support of the one-stop NPDES permit system and OCZM belives the management program will be complementary to the one-stop approach. The proposed management program identifies a need for a comprehensive clearinghouse for permits in the Coastal Area which will quickly and efficiently deal with all permits.

40. Chapter Four, Section VI, Monitoring and Enforcement, Pages 106-109.

The management program, as presented in the Hearing Draft, does not exceed the authority provided by Act 534.

41. Chapter Four, Section VII, Page 112, B. General Rules and Regulations, 3.

The 1969 National Environmental Policy Act (NEPA) already requires large projects to prepare an Environmental Impact Statement. General rule number 3 requires that only major projects must show the impacts that the proposed use will have on the Coastal Area. The Board will accept EIS's that address these specific characteristics.

6. Biological Resources
7. Cultural Resources
8. Public Access
9. Shoreline
10. Flood and Hurricane Mitigation Areas
11. Water Resources
12. Associated Land Uses
13. Other Coastal Resources"

This is a very big order and a significant requirement economically to any project in or out of the immediate coastal area. This data and its accumulation comprises an Environmental Impact Assessment and is costly and could cause development of the coastal area to decline economically because it may or may not be required for location in another area.

42 Chapter Four, Section VII, Page 113, 2. Coastal Area Board Regulations for Dredging and Filling:
The protection of the coastal area with regard to dredging and filling is more than adequately covered with existing authority of the United States Army Corps of Engineers, Bureau of Sports Fisheries and United States Fish and Wildlife Bureau, this section is unnecessary.

43 Chapter Four, Section VII, Page 115, 6. Coastal Area Board Regulations for Solid Waste Disposal:
Proposed federal regulations under RCRA and proposed state regulations adequately protect the coastal area regarding solid waste disposal and, therefore, this section is unnecessary.

44 Chapter Four, Section VII, Page 115, D. 1. Coastal Area Board Regulations for Water Quality, a. New Point Source Discharges:
"The following requirements will be imposed upon new point source discharges into the coastal waters of Alabama in addition to existing state and federal water quality regulations." There is no need to impose additional requirements on a new point source other than those imposed by existing agencies or being proposed by existing agencies. There is enough data being generated and submitted to existing agencies on a routine basis by all waste dischargers and there is no requirement for additional regulatory agencies if no reason other than duplication of effort from an economics standpoint.

45 Chapter Four, Section VII, Page 116, D. 1. b. Monitoring New Source Dischargers:
The existing requirements for self-monitoring as well as those under consideration by existing agencies more than adequately assures

42. Chapter Four, Section VII, Page 113, 2. Coastal Area Board Regulations for Dredging and Filling

This speculation is necessary to address several issues that deserve special consideration from a comprehensive problem solving coastal perspective, e.g. dredge spoil disposal on Bay bottoms, maintenance dredging spoil disposal.

43. Chapter Four, Section VII, Page 115, 6. Coastal Area Board Regulations for Solid Waste Disposal

Since the federal and state regulations under Resource Conservation and Recovery Act (RCRA which deals with solid waste) have not been adopted - Board policies can be adjusted in the future to recognize new federal or state regulations.

44. Chapter Four, Section VII, Page 115, D. 1. Coastal Area Board Regulations for Water Quality, a. New Point Source Discharges

See response to comment 19 above.

45. Chapter Four, Section VII, Page 116, D. 1. b. Monitoring New Source Dischargers

The existing compliance monitoring program addresses chemical parameters but does not address the biological information that is set forth in the management program.

46. Chapter Four, Section VII, Page 116, D.1. c. Existing Point Source Dischargers, (1)

The regulation for existing point source dischargers has been modified based on your comment. Rather than requesting that the sample program be carried out within 180 days of the program approval, the DEIS calls for the results of the biological sampling program to be provided when the NPDES permit comes due for renewal.

47. Chapter Four, Section VII, Page 116, D.1. d. New Point Sources.

Currently none of the existing water quality agencies have regulations which control non point source runoff.

compliance with the water quality in the coastal area and there is no further justification for the economic burden of additional biological monitoring and reporting responsibilities to an unnecessary agency which is just layer and duplication of existing agencies.

46 Chapter Four, Section VII, Page 116, D. 1. c. Existing Point Source Dischargers, (1):
". . . required to determine the extent of the impact of the discharge on the biology of the coastal waters by conducting biological sampling as specified by the Coastal Area Board, from the outfall point to a sufficient distance up and downstream from the outfall to indicate where their discharge ceases to have an impact upon the plant and animal life of the receiving waters." The Coastal Area Board does not have the expertise nor staff to evaluate or design a biological sampling program of the magnitude imposed in this statement. The approach is also not adequate to depict the whole picture when reviewed as a sum of the parts. The requirement is not warranted and will be an unjustified expense to the economy of the area.

47 Chapter Four, Section VII, Page 117, D. 1. d. New Non-Point Sources:
The activities under this section are adequately covered under existing or proposed regulations with existing agencies and represent an unjustified duplication of effort at the expense of the economy of the area.

347

48 Chapter Four, Section VII, Page 118, D.2. Coastal Area Board Regulations for Wetlands and Submerged Grassbeds:
". . . must demonstrate to the satisfaction of the Coastal Area Board. . ." is extremely vague and needs a clear definition through what vehicle the demonstration should occur.

49 Chapter Four, Section VII, Page 118, D. 3. Coastal Area Board Regulations for Air Quality:
This section is inappropriate due to its all inclusive nature and must be clearly defined regarding what criteria the Coastal Area Board intends to utilize to evaluate air emissions and their degradation effect on plants and animals.

50 Chapter Four, Section VII, Page 118, D. 4. Coastal Area Board Regulations for Beaches and Dunes:.
Existing requirements for recording of deeds with regard to surveys, construction plans, etc. and their existing review process should be adequate with the addition of various clauses concerning dune and vegetation preservation without the creation of another permit application and board review.

48. Chapter Four, Section VII, Page 118, D. 2. Coastal Area Board Regulations for Wetlands and Submersed Grassbeds.

The Board does not wish to close any avenues available to potential users of coastal resources to demonstrate that they will not degrade present levels of wetlands.

49. Chapter Four, Section VII, Page 118, D.3. Coastal Area Board Regulations for Air Quality.

The criteria that the management program proposes to use to evaluate air emissions is not all-inclusive. The criteria is limited to whether or not the proposed use would result in a continuing reduction or destruction of present levels of coastal resources.

50. Chapter Four, Section VII, Page 118, D.4. Coastal Area Board Regulations for Beaches and Dunes.

There are currently no ordinances or regulations on the State, Federal or local level which provide adequate dune protection. The Board's provides the option for local governments to adopt such ordinances.

51. Chapter Four, Section VII, Page 119, D.5. Coastal Area Board Regulations for Water Resources.

The test which the management program proposes for approving a use is whether or not it will degrade present levels of coastal resources. The term degradation is defined in the management program as the continuing reduction or destruction of present levels of coastal resources.

52. Chapter Four, Section VII, Page 120, D., 7 and 8

The term reflects common usage of the words involved and provide flexible guidance for the CAB to make case by case decisions in applying the regulations.

Chapter Four, Section VII, Page 119, D. 5. Coastal Area Board Regulations for Water Resources:

51 Conservation of ground water and other fresh water sources should be regulated to insure its adequacy for future use, but for the Coastal Area Board to implement the program for any well in or out of the coastal area is ridiculous. A specific area needs to be designated either in the coastal area or in the aquafer which encompasses the coastal area whichever is the more appropriate.

Chapter Four, Section VII, Page 120, D., 7 and 8:

52 "To the maximum extent practicable, . . ." is vague and specific limits need to be assigned to the use requirements to avoid personal opinion with regard to the "extent practicable" question.

Chapter Four, Section VIII, Page 122, Administrative Rules and Regulations:

53 The Coastal Area Board has included draft administrative rules and regulations in the Draft Environmental Impact Statement. The rules and regulations do not shed light as to how the Coastal Area Board plans to fund and provide technical expertise to implement the program, but regardless of their content the rules and regulations do not justify the need for another agency with the powers endowed in the draft plan, and Draft Environmental Impact Statement, when existing agencies can effectively do the job without increasing the possibility of impairing the economy of the coastal area.

348

53. Chapter Four, Section VII, Page 122, Administrative Rules and Regulations.

Funding will be provided through a Federal Section 306 Program Implementation Grant ($600,000) and from State general revenues ($50,000).

MOBILE, ALABAMA - PENSACOLA, FLORIDA
BUILDING AND CONSTRUCTION TRADES COUNCIL
IN AFFILIATION WITH
BUILDING AND CONSTRUCTION TRADES DEPARTMENT
AFL-CIO
801 ST. FRANCIS STREET, MOBILE, ALABAMA 36602

AFFILIATED UNIONS:
MOBILE, ALABAMA
ASBESTOS WORKERS No. 55
BOILER MAKERS No. 112
BRICKLAYERS No. 2
CARPENTERS DIST. COUNCIL
CARPENTERS No. 89
MILLWRIGHTS No. 2734
PILE DRIVERS No. 438
ELECTRICAL WORKERS No. 505
ELEVATOR CONSTRUCTORS No. 124
OPERATING ENGINEERS No 653
GLAZIERS No. 1268
IRON WORKERS No. 798
LABORERS No. 70
LATHERS No. 216
MILLMEN No. 1932
PAINTERS No. 779
PAINTERS No. 1319
PLASTERERS & CEMENT MASONS No. 293
PLUMBERS & STEAMFITTERS No. 119
ROOFERS & WATERPROOFERS No. 82
SHEET METAL WORKERS No. 441
TEAMSTERS No. 991
TILE SETTER HELPERS No 210
PENSACOLA, FLORIDA
BRICKLAYERS No. 8
CARPENTERS No 1194
ELECTRICAL WORKERS No. 676
LABORERS No. 277
MILLWRIGHTS No. 2471
PAINTERS No. 737
PLASTERERS & CEMENT MASONS No. 354
PLUMBERS & STEAMFITTERS No. 366

June 6, 1979

U. S. Department of Commerce
National Oceanic and Atmospheric Admistration
Rockville, Maryland

Gentlemen:

In response to the Draft Management Program and Environmental Impact Statement, issued by the Alabama Coastal Area Board, I wish to call your attention to what we believe are gross exagerations of the scope and authority of the Board as originally envisioned by the Legislature.

1 It is our impression that the draft management program provides the Board with authority in the area of land and water use review and permitting far in excess of anything ever intended by the Legislature. Further, we believe that the vague and misleading language, contained in the Draft Program, could lead to an attempt by the Board to apply its authority to areas outside those areas originally designated as comprising the Alabama Coastal Area.

2 My purpose in addressing you today is simple and straightforward. I represent over 7000 working people in the Mobile-Baldwin County area, whose very livelihood is dependent upon the continued healthy growth of the area's economy. This Draft Program, if implemented, will in our opinion prove extremely detrimental and potentially disasterous to that economy. It is a thinly disguised attempt to saddle the area with a "no growth" policy and to place its economic future in the hands of this Board.

3 Recent history has shown that our area is already blessed with an overabundance of bureaucratic red tape in the field of land and water use permitting. More than one interested developer has by-passed Mobile due to the tremendous complexity already involved in the

CAL DAUGHERTY

1. See Generic Boundary Response

2. There is no evidence that there will be "no growth" in the Coastal Area as a result of the implementation of the ACAMP. Instead the Coastal Area Board has developed a management program which places the Board in a position to seek out new and innovative solutions to problems which have confronted industry, government, and the public for a number of years. Through this mechanism, it is anticipated that the Coastal Area can achieve economic growth in a way that maintains the present levels of coastal resources.

3. As required under Section 306(d)(1) of CZMA, the CAB has the ability to resolve conflicts through the use of the certification of compliance and Federal consistency. OCZM's review of the efforts to create permit simplification in Alabama will not be adversely affected by the implementation of the Alabama Coastal Area Management Program (ACAMP). In fact these efforts will be aided after implementation has commenced. With Section 305 program development funds, the CAB has already taken steps to establish a permit information center in the Coastal Area which will greatly simplify the process of obtaining information on activities which are regulated by other county, state and Federal agencies. Persons wishing to develop property in the Coastal Area will be able to come to the Coastal Area Board Office, obtain copies of permit applications and assistance in properly filling out the forms required by other agencies. It is the policy and intent of the Coastal Area Board to complement and enhance the "one-stop" permitting concept through the Board's unique ability to coordinate review procedures with other state agencies as well as Federal agencies.

The CAB plans to use implementation funds to finance this effort for permit simplification and work toward the establishment of a permit clearinghouse.

permitting process. We certainly don't need any more agencies involved in this process, particularly an all-powerful one, as the Coastal Area Board would be under this Draft Program.

4 To summarize, we are interested in the economic health and growth of our area and in providing job opportunities for the people we represent. In our opinion, this Draft Program as now written would prove extremely detrimental to that effort. We are not at all convinced of the basic need for this Board. However, if it must exist, then we believe that its jurisdiction and authority should be limited to that originally envisioned by the Legislature. We believe that this Board should be advisory in nature rather than dictatorial. To this end, I now call upon the Board to reconsider this Draft Program and to remove from it those sections which provide the Board with excess authority and jurisdiction. I refer specifically to those sections which involve the Board in the permitting process, and enable the Board to exercise authority outside of its originally mandated jurisdiction.

If this cannot be accomplished, then I pledge the full support of the Mobile - Pensacola Building Trades Council and its 31 Local Unions, representing some 7000 persons, to an effort to see that this Draft Program never receives the approval of the Governor. I call upon the Governor, the Legislature of Alabama, and particularly the Mobile - Baldwin County Legislative Delegation to work to see that this Draft Program never goes into effect in its present form.

I appreciate the opportunity to comment on this proposed program.

350

Kindest regards,

Cal Daugherty
Business Manager
Mobile, Alabama - Pensacola, Florida
Building and Construction Trades Council

cc: Governor Fob James
Lt. Governor George McMillan
Senator H. L. "Sonny" Callahan
Senator Bob Glass
Senator Michael Figures
Senator Robert L. Gulledge
Congressman Jack Edwards
Representative John McMillan, Jr.
Representative J. E. Turner
Representative Cain J. Kennedy
Representative James E. Buskey
Representative Thomas Sandusky
Representative Mary S. Zoghby
Representative Yvonne Kennedy
Representative George Stewart

4. Under Sections 306(c)(1) and 306(d) (15 C.F.R. 923.2 and 923.40), OCZM

> "shall judge the adequacy of a state's authority to carry out its program only on the enforceable policies of a state's management program..."

In compliance with this requirements, the CAB reviews the actions of state agencies for compliance (and those cases where there is no pre-existing state regulatory authority for permit) with the enforceable rules and regulations which it has promulgated under Act 534.

cc: Representative Taylor F. Harper
Representative Ann Bedsole
Mr. Sidney R. Galler
Mr. Robert M. Knecht
Senator Donald Stewart
U. S. Department of Labor
AFL-CIO Building and Construction Trades Department

UNION CARBIDE CORPORATION
LINDE DIVISION
P.O. BOX 11486, CHICKASAW, ALABAMA 36611

June 20, 1979

Alabama Coastal Area Board
Post Office Box 755
Daphne, Alabama 36526

Gentlemen:

Comments on CAB Management Program
and Draft Environmental Impact Statement

Union Carbide's Chickasaw Plant wishes to express the following recommendations, comments and opinions on the subject matter:

1 Recommendation for Replacement of Item D, 1., c.(4) on page 117:

In a letter of May 28 responding to our comments on CAB's Hearing Draft document, Dr. E. Bruce Trickey, CAB's Executive Director, wrote:

> Existing dischargers are not required by the regulations of the management program to reduce their present area of degradation. Existing industries which degrade a smaller area than the DIZ described in the DEIS will be able to expand their area of degradation to the edge of the DIZ. Dischargers which presently degrade an area larger than the DIZ will be required to take reasonable steps to control their effluent so that it does not destroy plants and animals outside the present area of degradation.

We believe that the above is a clearer statement of CAB's proposed management program than is Item D, 1., c.(4) on page 117 on the subject of regulations for existing point source dischargers. We recommend that it replace Item D,1., c.(4) in the final document.

Comments and Recommendation for Proposed Biological Sampling, Monitoring and Reporting Requirements

2 We question the justification for the requirement of sampling, monitoring and reporting of biological activities "within and around the DIZ" for every new source discharger and "sufficient distance up and downstream from the outfall" for existing dischargers of more 1 MGD of discharge. As pointed out in our March, 1979, comments on CAB's Hearing Draft document, the results of most biological activity surveys are expected to be very dependent upon such things as water temperatures, water levels, tides, nearby discharges by others, algal activity, rainfall and hence inflows of non-point sources, etc. It seems much more logical to us for CAB to assume the responsibility for conducting the monitoring in key points or areas in our coastal region and, in the event of a definite deterioration or unacceptable conditions, to then proceed to pinpoint causes of the

352

UNION CARBIDE - Z.K. ZAREMBA

1. Section D 1c. (4) on page 117 concerning existing point source dischargers is changed in the FEIS to read.

   Existing dischargers are not required by the requlations of the management program to reduce their present area of degradation. Existing industries which degrade a smaller area than the DIZ described in the DEIS will be able to expand their area of degradation to the edge of the DIZ. Dischargers which presently degrade an area larger than the DIZ will be required to control their effluent so that it does not destroy plants and animals outside the present area of degradation.

2. OCZM recognizes that there are seasonal variations in biological activity. Variations relative to water temperature, water level, tides, nearby discharges, algae activity, and rainfall shall be taken into account during the Board's biological baseline analyses. The management program does not intend to hold dischargers responsible for periodic variations in levels of plants and animals. The management program includes provisions whereby dischargers into coastal waters refrain from practices which lead to extensive and continuing alterations of the existing biological community.

   Routine sampling is necessary in order to determine where areas of deterioration or unacceptable conditions exist. Through the routine sampline program described generally in the management program, areas of deterioration or unacceptable conditions can be quickly detected. Then efforts can be made to correct the situation before it causes degradation of coastal plants and animals.

3. As required under Section 306(d)(1) of CZMA the CAB has the ability to resolve conflicts through the use of the certification of compliance and Federal consistency. OCZM's review of the efforts to create permit simplification in Alabama will not be

deterioration and to seek to correct the problem within the scope of CAB's delegated authority. In essence, we are saying that biological monitoring should be done only where needs or problems exist rather than require routine monitoring by all dischargers regardless of a pre-established need.

Comments on CAB's Authority to Approve or Disapprove of Permits Issued by AWIC, EPA, etc.

3 CAB has apparently been authorized, by both the Federal and State legislatures, to approve or disapprove future permits currently administered by existing agencies, such as the Alabama Water Improvement Commission, the Environmental Protection Agency, the Mobile County Board of Health, the U.S. Army Corps of Engineers, the Alabama State Board of Health, etc. for discharges into water, air and land that may have an impact upon the coastal region. In order to avoid duplication of permitting reviews, evaluations, etc., it seems to us that the Federal and State legislatures should have simultaneously delegated to CAB the current permitting and monitoring responsibilities of the AWIC, the EPA, the MCBH, etc., in the areas in which CAB is to exercise its delegated authority. In essence our opinion is: permitting, monitoring, reporting, etc., either to CAB or the existing AWIC, EPA, MCBH, etc., agencies but not to all of these semi-independent authorities regulating the same activities simultaneously.

Opinion on Effects of CAB's Management Program on Economic Development of our Coastal Area

353 CAB's Management Program proposes to impose several additional requirements upon industrial and commercial activities not required in in-land regions. The costs of implementing these requirements will be substantial. Just the proposed requirements of monthly biological activity monitoring and reporting could amount to millions of dollars per year. These extra costs will, in our opinion, place our coastal region in a non-competitive position with in-land locations and thereby cause a strongly negative effect upon commitments to locate new facilities in our coastal zone. We suggest that the costs of compliance with each proposed special regulation for our coastal zone be estimated and then ascertained that it will be recovered by the expected benefits before adoption of the special regulation.

4 Costs/Benefits of CAB Management Program

The "extra" costs of CAB's Management Program will include:

a) $700,000 per year of Federal tax revenues and presumably $187,500 (20%) per year of State tax revenues to administer and implement the program;

b) Possibly several million dollars per year of added expense for the industrial, commercial, and other businesses to fulfill the extra requirements to be imposed, i.e. biological monitoring and reporting, environmental impact statements, processing of forms for additional permits that CAB may require, etc.;

adversely affected by the implementation of the Alabama Coastal Area Management Program (ACAMP). In fact these efforts will be aided after implementation has commenced. With Section 305 program development funds, the CAB has already taken steps to establish a permit information center in the Coastal Area which will greatly simplify the process of obtaining information on activities which are regulated by other county, state and Federal agencies. Persons wishing to develop property in the Coastal Area will be able to come to the Coastal Area Board Office, obtain copies of permit appliations and assistance in properly filling out the forms required by other agencies. It is the policy and intent of the Coastal Area Board to complement and enhance the "one-stop" permitting concept through the Board's unique ability to coordinate review procedures with other state agencies as well as Federal agencies.

The CAB plans to use implementation funds to finance this effort for permit simplification and work toward the establishment of a permit clearinghouse.

4. While it might be useful to compare the costs of program development and implementation and any possible consequential economic losses with the benefits to the coastal environment that may be achieved by the program, such a cost-benefit analysis is not required by the National Environmental Policy Act nor would it be particularly accurate in the present case, due to the speculative nature of the economic disbenefits mentioned and difficulty of quantifying environmental values. Furthermore, Congress apparently intended by CZMA to provide for additional management of coastal resources, including development of such resources, despite the possible slowing effect such management could possibly have in coastal areas. Either Congress believed the gain to be worth the losses or believed that more effective management of coastal areas pursuant to the CZMA would not lead to an economic downturn on the coast.

5 c) Many thousands if not millions of dollars of extra costs in delays in construction activities stemming from CAB's requirement of up to nine months to review permits for activities that may have an environmental impact upon our region.

We believe it is very appropriate to provide a listing of the benefits and their values that implementation of CAB's proposed Management Program will provide to the country, to the state and/or to our region. They should not include those benefits that already have or are projected to be derived from implementation of the programs currently administered by the AWIC, the EPA, the State and County Boards of Health, the U.S. Army Corps of Engineers, etc. We believe that the benefits should outweigh the costs of any regulation or requirements. It is our conviction that the costs of all programs are borne not by the Federal or State governments, not by industry or businesses, but by all citizens in the form of Federal and State taxes and by prices they pay for goods and services. A satisfactory balance between expenditures and benefits must therefore be a key consideration in all programs in order to provide the citizens with adequate protection as both taxpayers and as consumers.

Very truly yours,

Z. K. Zaremba
Superintendent, Environmental Services
Chickasaw, Alabama Plant
Linde Division
UNION CARBIDE CORPORATION

ZKZ:vmw

cc: Mr. Sidney R. Galler
Deputy Assistant Secretary
for Environmental Affairs
U.S. Department of Commerce, Room 3425
Washington, D.C. 20230

Regional Manager, Gulf-Islands Region
Office of Coastal Zone Management
3300 Whitehaven Street, N.W.
Washington, D. C. 20235

354

5. See response to comment 4. It is unclear where the figure of 9 months for CAB permit review comes from. The ordinary period for review of State agency actions is 45 days. The longest review period authorized is 6 months, which arises under CZMA for Board review of Federal licenses and permits. This period could be shortened by informal cooperation between applicants, Federal agencies, and the Board, and by memoranda of agreement between the Board and Federal agencies regarding coordinated processing of permit applications. The Board has recommended both these measures in the DEIS. At any rate, the period for Board review could be shorter than the existing processing time for many types of permits. If there is full cooperation among all parties, Board review may require no additional time whatsoever.

REQUEST FOR REVIEW OF PROJECT NOTIFICATION

TO: Dr. A. Russell Mortensen
Historical Commission

CH Number: ADO-012-79

Applicant: Alabama Coastal Area Board

Program: Draft Environmental Impact Statement for a proposed Alabama Coastal Area Management Program

DATE: April 16, 1979

Return Prior to: May 31, 1979
Date

Please review the attached Environmental Impact Statement and indicate your comment with respect to any environmental impact involved.

Comments: (Please check one block.)

No comment (Environmental Impact Statement is in order and no additional comments are offered.)

Comments (Elaborate below.)

RECEIVED
MAY 17 1979
Alabama Development Office
State Clearinghouse

Comment here:

The state office of historic preservation, the Alabama Historical Commission has reviewed this draft and is pleased that valuable cultural resources were acknowledged (pp.55, A-108, A-158) and that the Coastal Area Board has included statements concerning the preservation of this resource (p. 114). However, the Alabama Historical Commission recommends that a statement should be included in the draft which requires that all proposed project areas will be surveyed (an on-site investigation and literary search), by a professionally-trained archaeologist. This should also state that the archaeologist report will include an evaluation of all sites discovered in terms of the National Register of Historic Places and will include photographs of all structures which will be destroyed.

The archaeologist report should be sent to this office for review prior to any construction activities.
(see attached)

A R Mortensen
Signature

Please Return Original to:

Office of State Planning
and Federal Programs
3734 Atlanta Highway
Montgomery, Alabama 36130

FORM CH-2a
8/71

355

ALABAMA HISTORICAL COMMISSION - DR. A. RUSSELL MORTENSON

The Coastal Area Board recognizes the value of protecting historic and archaeologic resources. Your recommendation regarding an archaeologic and historic survey of all proposed project areas will be fully considered within the technical and financial resources of the Board when CAB begins to implement the Coastal Area Management Program. The action items in cultural resources, as presented in Chapter Three of the document, provide a mechanism to address issues of archaeologic or historic concern.

This request for a cultural resource assessment is authorized by executive order 11593, the National Historic Preservation Act of 1966, the National Environmental Policy Act, and the Archaeologist and Historic Preservation Act of 1975

ALABAMA STATE DOCKS DEPARTMENT AN AGENCY OF THE STATE OF ALABAMA
TWX 810 741-7748
P.O.BOX 1588
MOBILE,ALABAMA 36601

June 6, 1979

TO: HEARING OFFICER
U. S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OFFICIAL STATEMENT OF ALABAMA STATE DOCKS DEPARTMENT TO BE ENTERED INTO THE RECORD OF A PUBLIC HEARING HELD JUNE 6, 1979, AT 2:00 P.M., IN THE KILLIAN ROOM, INTERNATIONAL TRADE CENTER, MOBILE, ALABAMA

The Alabama State Docks Department, an agency of the State of Alabama, is charged by law with promoting, developing, constructing, maintaining and operating harbors and ports on navigable waters within the State of Alabama, and is committed to a program of updating and expanding the Mobile ocean terminal facilities to meet the needs of the shipping interests through Mobile.

After a careful review of "The Alabama Coastal Area Management Program and Draft Environmental Impact Statement" dated May, 1979, it is the Department's conclusion that, if the rules and regulations promulgated in the Statement are adopted and enacted, the ability of the Alabama State Docks Department to perform its designated functions will be impaired and will seriously and adversely effect the Department's ability to meet the ever-increasing needs for ocean and river terminal facilities.

The Alabama State Docks Department objects to all phases of "The Alabama Coastal Area Management Program and Draft Environmental Impact Statement" which add or increase time required to process permits through the various regulatory agencies in connection with port facilities construction and operation. Further, the Alabama State Docks Department objects to the addition of another layer of permitting authority over the existing regulatory agencies which now have authority over port construction and/or operation.

We respectfully request that revisions be made in "The Alabama Coastal Area Management Program and Draft Environmental Impact Statement"

ALABAMA STATE DOCKS DEPARTMENT - W.H. BLACK

1. Based on the policies proposed in the Alabama Coastal Area Program (ACAP), specifically those dealing with coastal development, (Sec. I, A, (1), p. 56) and transportation, (Sec. I, A, (7), p. 57) OCZM does not believe that the ACAP will seriously and adversely affect the Department's ability to operate. These supportive policies plus the designation of the Port of Mobile as a Geographic Area of Particular Concern should facilitate and promote the operation of the port consistent with sound natural resource policies.

2. While Federal approval of the ACAMP will result in some additional regulations that the Department will be subject to, OCZM believes based on experience with other ports in states wich approved programs, that the overall effect of Federal approval will make port operation more efficient and predictable. The time periods referred to are in one instance created under existing state law, but may be minimized by voluntary interagency consultation as suggested by the Board. The federal consistency provisions will not usually cause such delays because the Board can be expected to act before the federal agency would have issued the relevant permit in its normal conduct of business, especially in areas in which environmental impact statements would be required in the first instance.

to eliminate the objections we have stated herein. Thank you for this opportunity to express our feelings in this matter.

Very truly yours,

W. H. Black, Jr.
Chief Administrative Officer

WHB/mh

STATE OF ALABAMA
HIGHWAY DEPARTMENT
MONTGOMERY, ALABAMA 36130

FOB JAMES
GOVERNOR

REX K. RAINER
HIGHWAY DIRECTOR

June 6, 1979

ALABAMA HIGHWAY DEPARTMENT - JOHN L. SKINNER, JR.

Thank you for your review.

Regional Manager, Gulf-Islands Region
Office of Coastal Zone Management
3300 Whitehaven Street, N.W.
Washington, D.C. 20235

Dear Sir:

SUBJECT: The Alabama Coastal Zone Management Program and
Draft Environmental Impact Statement

The Alabama Highway Department has reviewed the above referenced document. We find the proposed management program to be consistent with our review process and environmental objectives. We appreciate the opportunity to review and comment on this very important document.

Sincerely yours,

John L. Skinner, Jr., Chief
Design Bureau

By: Paul G. Stough
Paul G. Stough, Coordinator
Environmental Technical Section

JLS,Jr./PGS/JPB/bl

cc: Mr. Sidney R. Galler
File (2)

INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF MOBILE

MOBILE, ALABAMA

REPLY TO:
P. O. BOX 2187

May 28, 1979

Regional Manager, Gulf-Islands Region
Office of Coastal Zone Management
3300 Whitehave Street, N. W.
Washington, D. C. 20235

Re: The Alabama Coastal Area Management Program and Draft Enviornmental Impact Statement

Dear Sir:

Pursuant to notice of a public hearing to be held on June 6, 1979 regarding the captioned Program and Statement, we have reviewed the contents thereof and submit our comments upon same.

360

This Board has long been interested in the development of Mobile and its environs, and is, and has been extremely concerned that orderly development within the parameters of reasonable environmental control should be pursued. It is a significant property owner in Theodore and throughout Mobile County. It will be affected by the Program and the various matters set out therein.

1

The Program avowedly attempts to inject itself and thereby inject the Coastal Area Board into a permitting process which will add yet another stop on the "commuter run" of permitting authorities to which industry and commerce are already subjected. It is noted that this tier of "compliance" is being sought at the very same time that Senator Gulledge's"one-stop permitting" bill is under active and apparently favorable consideration by the Alabama Legislature. This Program will possibly nullify the work done in streamlining permitting.

The Program is obviously an attempt to expand the enabling legislation which authorized the Coastal Area Board to permit uses within the 10 foot contour, though the Act which is contained in the Statement clearly does not contemplate expansion.

Without belaboring the matter, we would suffice it to say that Section 8a of the Act found on page 165 of the Statement clearly indicates that there is to be no additional

E. FRANK SCHMIDT

1. OCZM has reviewed Senator Gulledge's "one-stop" permitting bill and finds that the ACAMP does not conflict with its intent.

   As required under Section 306 (d)(1) of the CZMA the CAB has the ability to resolve conflicts through the use of the certifications of compliance and Federal consistency. OCZM believes that permit simplification efforts in Alabama will not be adversely affected by the implementation of the Alabama Coastal Area Management Program (ACAMP). In fact these efforts will be aided after implementation has commenced. With Section 305 program development funds, the CAB has already taken steps to establish a permit information center in the Coastal Area which will greatly simplify the process of obtaining information on activities which are regulated by other county, state and Federal agencies. Persons withing to develop property in the Coastal Area will be able to come to the Coastal Area Board Office, obtain copies of permit applications and assistance in properly filling out the forms required by other agencies. It is the policy and intent of the Coastal Area Board to complement and enhance the "one-stop" permitting concept through the Board's unique ability to coordinate review procedures with other state agencies as well as Federal agencies. The CAB plans to use implementation funds to finance this effort for permit simplification and work toward the establishment of a permit clearinghouse.

2. See Generic Boundary Response

3. Act 534 provides the appropriate and necessary authority to the CAB to manage only those uses which have a direct and significant impact on coastal resources within the Coastal Area as required by Section 306(a) of the CZMA. The definitions of "direct" and "significant" meet the requirements of Section 305(b)(2) of the CZMA and Section 923.11 of regulations.

permitting where a permit is required from the several listed agencies, however none of the agencies may issue a permit for an activity or action within the Coastal Area without a compliance determation by the Coastal Area Board. That legislative direction is patently disregarded by the attitude expressed at page 128 of the Statement which reads in part "There may be uses which occur beyond the 10-foot contour which have significant impacts on coastal waters".

2 The extension of authority beyond the 10-foot contour is further undercut, by the definition of Coastal Area in Act 534 to shorelands which have an impact on coastal waters. This was the reason for the 10 foot contour being employed because these were the shorelands within the shorelines from which direct and significant impacts would come.

3 The definitions of "direct" and of "significant" by the Program have again been tortured to the point of "wonderland" by having them defined thus:

1. "Significant" is defined as having more than a negligible effect on the Coastal Area or on coastal resources;" and

2. "Direct" is defined as "a causal relationship in which the consequence of an action or use exerts an impact upon the Coastal Area through an identifiable link or process" (Emphasis supplied.)

361

It would seem not unreasonable for the words to be defined more in line with what they actually mean such as "important" in the case of "significant" and "immediate" or "stemming from an immediate source" in the case of "direct". It is also noted in passing that the term "coastal resource" used in the definition (which can be found on page 71 of the Statement) is not a defined term in either the Program and Statement or in Act 534, though it is used in all.

Perhaps the most telling subject of inquiry as to the entire issue of Coastal Area Board vel non is found in Appendix B to the Statement wherein are listed 31 legal authorities which regulate various economic and industrial existence in Alabama and which are now to be increased to 32 in Mobile and Baldwin Counties only.

4 The summation of the comment on this 262 page document is simply that the Coastal Area Board was given a charter to review for compliance with its Program actions, uses or

4. Section 8 of Act 534 provides that no state agency

> "shall issue a permit for any activity or action within the boundaries of the coastal area until there has been a determination by the Board that any permit issued by the ... agencies will be in compliance with the management program of the Board."

In those cases where a use which has a direct and significant impact on the Coastal Area is not regulated by a state agency or authority or a Federal Permit, the CAB may issue or deny a permit for such use (see page 101).

activities to occur within the 10 foot contour line which have a direct and significant impact on the Coastal Area and were not covered by one of the several agencies mentioned in Act 534.

Sincerely,

THE INDUSTRIAL DEVELOPMENT BOARD
OF THE CITY OF MOBILE, ALABAMA

By E. Frank Schmidt
E. FRANK SCHMIDT
President of the Board of Directors

EFS:db

cc: The Honorable Fob James
Governor of Alabama

Office Of The Attorney General

CHARLES A. GRADDICK
ATTORNEY GENERAL
STATE OF ALABAMA

LEE L. HALE
DEPUTY ATTORNEY GENERAL

WILLIAM M. BEKURS, JR
EXECUTIVE ASSISTANT

WALTER S. TURNER
CHIEF ASSISTANT ATTORNEY GENERAL

JANIE NOBLES
ADMINISTRATIVE ASSISTANT

ADMINISTRATIVE BUILDING
64 NORTH UNION STREET
MONTGOMERY, ALABAMA 36130
AREA (205). 834-5150

June 1, 1979

Dr. E. Bruce Trickey
Executive Director
Coastal Area Board
P. O. Box 755
Daphne, Alabama, 36526

Re: Attorney General's comments on the Alabama Coastal Area Management Program and Draft Environmental Impact Statement

Dear Dr. Trickey:

Because a representative from our office will not be able to appear at the public hearing to be held on 6 June, 1979, I submit this letter as the Attorney General's comments, and respectfully request that it be made a part of the public record on the Draft Environmental Impact Statement. The purpose of these comments is basically to re-emphasize any of our prior recommendations which have not yet been incorporated into the management program.

1. Management and Control of Septic Tank Sites and Sewage Systems.

As was stated in the Attorney General's comments on the Workshop Draft and the Hearing Draft, the siting of septic tanks and the management and development of sewage systems are problems of the utmost importance in the coastal area. The Coastal Area Board's Regulatory authority needs to be asserted in this area in order to prevent environmental damage and to ensure that development is orderly and manageable.

OFFICE OF THE ATTORNEY GENERAL - M. BRANDON

1. OCZM wishes to thank the Attorney General for these valuable suggestions. The Board has indicated to OCZM that it is not currently in a position to undertake extensive studies leading to a regulatory program as described. Please note, however, that septic tanks are subject to management if they are found to have direct and significant effects on the coastal area. See p. 101. Persons wishing to construct septic tanks must seek a permit from the Board. Id. OCZM believes that this meets the federal requirements for such uses - that they be controlled if they have a direct and significant effect on coastal waters. CZMA, Sec. 305(a)(2). The question whether the Board is exercising its authority effectively in this area will be reviewed by OCZM in its evaluations of the program under CZMA, Sec. 312.

2. The Board has informed OCZM that studies conducted as part of the Mobile § 208 planning effort indicate that control of sedimentation from parcels smaller than that indicated would significantly adversely affect applicants without leading to significant reduction in sedimentation. We urge you to follow up this question and re-raise these concerns during program evluation under CZMA, Sec. 312.

As to the question of segmentation, OCZM believes that this is a legal question concerning the applicability of the Board's rules. OCZM hopes the Board receives the full cooperation of your office in resolving such issues.

OCZM thanks you for the suggestion that a performance bond be required for land clearing. As such, this requirement does not affect coastal waters in itself and is not required by CZMA; requiring such a bond would, however, be a reasonable regulation for the Board to consider in obtaining compensation for economic or other losses resulting from failure to complete projects in a timely manner or to conduct them properly.

The Board's involvement is needed in this area despite the fact that the county health departments are presently administering a general permit plan. One problem with health department administration has been the existence of regulatory loopholes. In addition, the county health officer is often overworked and in certain situations may tend to be more subject to political pressures than the board. A comprehensive sewage treatment plan with adequate standards administered by the CAB could help to avoid many such problems and could guide development only to those areas which are best able to receive the development.

Thus, an extensive study should be made of the entire coastal area. The study should include a comprehensive soil survey, noting soil types and the percolation quality of the soils. It should also note the topography of the area, and should determine the locations of ground waters, neighboring surface waters, bedrock, and the water table, the location and capacity of existing sewage systems, the probability of flooding in specific areas, and the location and extent of existing development. Based on the findings of this study, the board should classify every portion of the coastal area as to its suitability for accepting certain numbers of septic tanks. With a mind toward long-range needs in particular areas, the classification system resulting from the study will provide a standard for approval of particular projects.

Until such a system is instituted, however, areas not suitable for septic tanks and not furnished with sewers and adequate waste treatment should simply not be developed. In addition, it must be recognized that septic tanks are in most cases only a short-term (five to ten years) answer to the problem of sewage disposal. Eventually sewage collection and treatment systems must be constructed. The existence of such systems should be from the beginning of the management program a primary consideration in determining the location and nature of residential and commercial development in the coastal area.

2. Sedimentation from development projects.

The control of sediment runoff constitutes a major challenge to the coastal area board. The Natural Resource Rules and Regulations on New Non Point Sources are a meritorious attempt to deal with this problem. However, it is difficult to understand why the regulations apply only to projects greater than twenty-five acres, since even five acre projects, if car-

3. OCZM blieves that the rules and regulations of the Board with respect to activities in wetlands adequately balance the conflicting interests therein and provide for protection of wetland areas. OCZM urges the Attorney General to make his concerns with respect to such areas known when any amendments to the program are considered which would affect such areas or when specific wetland areas are proposed for designation as special management areas.

4. OCZM wishes to thank the Attorney General's Office for these suggestions, which will be considered by the Board in implementing the program under CZMA Sec. 306. Funding for beach cleaning efforts, including equipment, and for enforcement is available under Sec. 306, should the Board concur with you that such items have priority over other legitimate expenses.

OCZM believes that the rules and regulations of the Board adequately address the effects of industrial and large-scale residential projects on coastal waters, as required by CZMA. The Board may wish to undertake additional regulations of such uses in areas in which they would not be appropriate.

Finally, OCZM would urge the Attorney General's Office to clarify the application of the sea oats law by a legal interpretation or through consistent enforcement activity. The cooperation of the Attorney General will also be required in implementing regulation 4(e) of the Board, applicable to the taking of such vegetation as well as other practices destructive to dunes.

5. The Board, after careful evaluation of its earlier proposals and after analysis of the comments it has received, has determined that generic categories of resources could more effectively be protected through its rules and regulations than through designation as GAPC's. A new category of regulations has been added for activities affecting oyster reefs. Particularly sensitive resource areas may be designated later as areas for preservation and restoration, pursuant to the Board's procedures Thank you for the suggestion that such designations would be appropriate; OCZM hopes your office will play an active role in promoting such designations.

ried on irresponsibly, may cause substantial damage to the surrounding environment. We recommend that the size limitation be deleted or reduced substantially, and that, if some sort of size limitation is retained, provision be made to cover projects which may be segmented into more than one smaller project and which might, thus, avoid regulation. The regulations should be made to apply to all non point sources, both new and existing.

In addition, we would encourage inclusion in the Regulations of a requirement that all developers must demonstrate themselves to be financially responsible and must post a bond with the Board in an amount sufficient to ensure that the problems causing and resulting from sediment runoff will be remedied. The bond would be released only after the development project has been completed and sufficient time has elapsed to guarantee that runoff from the completed project will not present a problem for the surrounding environment.

3. Wetlands.

We would encourage strengthening the language of the CAB Regulations for Wetlands and Submerged Grassbeds to provide an absolute policy against the diminution of wetlands. The need for such a requirement is underscored by the ecologically critical and valuable nature of our wetlands and by the fact that in past years untold acres of wetlands have been destroyed by careless or nonexistent management. Because wetlands are so valuable as breeding, nesting, and feeding grounds for numerous species of wildlife, the Regulations need to establish an enforcement policy which is an absolute priority and not merely a factor which may be balanced away in land use decisions.

4. Beaches.

The CAB Regulations for Beaches and Dunes should prohibit the picking of sea oats in the coastal area. Although a statute prohibits picking in Baldwin County, its scope is unclear and it has not been enforced. By regulation, the CAB could clarify the scope of the prohibition and enforce the Regulation uniformly for both Baldwin and Mobile County beaches, thus preserving this vegetation which is attractive and which is one of the few plants which grow on sand dunes, stabilizing the dunes and providing a buffer against erosion.

In addition, beaches should be recognized as prime recreational and scenic areas, and inconsistent, intensive, or high impact development (such as oil refineries, coal steam generating plants, heavy industrial operations, particularly noisy enterprises, drive-in movies, and even multistory condominiums) should be prohibited on them.

A significant impediment to the full recreational use of beaches is the fact that many of Alabama's beaches are dirty. The CAB should take steps to ensure that our beaches are cleaned regularly. A prime Action Item for the Board would be to investigate the availability of and obtain funds for keeping the beaches clean and free from litter.

Another desirable Action Item for helping the CAB to deal with the enforcement problems associated with litter, dune buggies, sea oats pickers, and open burning is the establishment of special reporting stations along the coast at which the public can transmit complaints about these and other problems on the beach areas. By utilizing reporting stations, the Board will be better able to determine the scope and types of problems which exist, and enforcement of the laws and regulations will be much easier.

5. Geographic areas of particular concern and areas for preservation and restoration.

The generic designations of Geographic Areas of Particular Concern which were made in the Workshop Draft have been omitted in both the Hearing Draft and the Draft Environmental Impact Statement. These designations should have been retained either as GAPC's or as Areas for Preservation and Restoration. In this regard, the most significant generic designations are Historic Sites, Coastal Waters, Wetlands, Submerged Vegetation, Beaches, Dune Systems, Coastal Islands and Bars, and Special Habitat Areas. In addition, more designations of specific areas as either GAPC's or APR's are appropriate.

I sincerely appreciate the opportunity to comment on the Alabama Coastal Area Management Program and Draft Environmental Impact Statement. If you have any questions concerning our comments, please feel free to call me.

Respectfully submitted,

MARK EDWARD BRANDON
Assistant Attorney General

MEB/sa

STATE OF ALABAMA

WATER IMPROVEMENT COMMISSION

Ira L. Myers, M.D.
Chairman, State Health Officer

John W. Hodnett
Vice Chairman
Commissioner, Department of
Conservation and Natural Resources

Perry Hill Office Park
3815 Interstate Court
Montgomery, Alabama

James W. Warr
Director

Commission Members
Dr. Robert M. Bucher, Mobile
Charles O. Cargile, Huntsville
Sam Dyson, Fairhope
Louis Graben stader, Huntsville
David L. Thomas, Montgomery

Mailing address:
State Office Building
Montgomery, AL 36130

Telephone 205/277-3630

1979 JUN 18 PM
MAIL ROOM

June 15, 1979

Mr. James F. Murley
Regional Manager
Gulf-Islands Region
Office of Coastal Zone Management
3300 Whitehaven Street, N.W.
Washington, D.C. 20235

Dear Mr. Murley:

We have completed our review of the Alabama Coastal Area Management Program and Draft Environmental Impact Statement and have included written comments as an attachment to this letter. We request that these comments be included in the official record of the public hearing which was held on June 6, 1979.

367

You will note that the comments indicate a concern by this agency over the proper role of the Coastal Area Board as described in State Act 534. We would strongly urge that the entire document, and specifically those areas identified in the comments, be reexamined for consistency with State and Federal laws, including an evaluation of the practicalities of implementation.

This appears to be a very ambitious management program that will require an abundance of resources (manpower and funds) to implement. We do not find an implementation schedule beyond program approval or manpower and cost data to carry out the program. Likewise, this subject area is not addressed fully in the Environmental Impact Statement.

If there are any questions concerning our comments, please contact this office.

Very truly yours,

James E. McIndoe

for James W. Warr
Director
Water Improvement Commission

JWW/HEC/lds

cc: Mr. Sidney R. Galler w/attachments

ALABAMA WATER IMPROVEMENT COMMISSION

General Comment

The Board has been given the authority in Act 534 to prepare and administer a management program to preserve, protect, develop, and where possible, enhance the resources of the state's Coastal Area (Chapter 4, Section II, Management Authority of the Board in the Final Environmental Impact Statement). The draft management program, as presented, is clearly within the authority provided by the legislature. Similarly, the legislature expressly provided the Coastal Area Board the authority to review all permits issued by state agencies for activities which may have a direct and significant impact on the Coastal Area (p. 165 in the FEIS. The CZMA requires that the program manage those uses directly and significantly affecting coastal waters. ACAMP identifies such uses and has provided regulations to manage them.

Specific Comments

1. The publication "National Shellfish Sanitation Program Manual of Operations, Sanitation for Shellfish Growing Areas", has been added to the discussion on page 28 and the Bibliography in the Draft Environmental Impact Statement (p. 253).

2. The Management Program recognizes the potential value of memoranda of agreement between the Board and other state agencies in developing a smooth, efficient review process, and we have made a provision to enter into discussions of memoranda of agreement with other agencies once the Board is in the implementation phase of the program (p. 83). As indicated in the CAB letter of June 8, 1979, the CAB would look forward to exploring areas of mutual interest including the coordination of permitting with you and your staff. The present review procedure presented in the Final Environmental Impact Statement is clearly within the authority provided to the Coastal Area Board by Act 534. Act 534 provides that the Coastal Area Board make a compliance decision within 45 days of the receipt of a proposed state permit.

AWIC Comments on the Alabama Coastal Area
Management Program and Draft
Environmental Impact Statement

General Comment:

It would appear the the Alabama Coastal Area Management Program, as proposed, has several areas which exceed the authority for plan development granted in State Act 534, especially in the areas of monitoring and permitting. It would appear to us that if the Management Program is approved as it is proposed, there will be protracted litigation over it, especially in the aforementioned permitting and monitoring areas. It further appears that the Plan attempts to impose certain responsibilities on State and Federal agencies in the area of permits and plan evaluations which are outside the authority of the Coastal Area Board. We would suggest reevaluation of these areas.

Specific Comments:

1. Pages 27, 44, and 134. On these pages reference is made to the closing of certain coastal waters for oyster harvesting; however, there is no mention that closing is governed by the "National Shellfish Sanitation Program Manual of Operations, Sanitation of Shellfish Growing Areas," which is published by the Public Health Service, U.S. Department of Health, Education, and Welfare. A discussion of this document and its requirements would serve to clarify questions related to the closure of the oyster beds.

2. Pages 87 through 89, Section V.B., Review of State Agency Permits. The review procedure for state agency permits is considered totally unacceptable to this agency. In our opinion, the process described is not in conformance with the provisions of Section 8 of State Act 534, which specifies that the Board will act on a request for a determination of compliance within forty-five (45) days of its receipt. We feel very strongly that the requirements for certain time-consuming activities in advance of submitting a Request for Certification exceed the provisions of Section 8. As we have indicated in previous comments on the Workshop Draft and the Hearing Draft of the Management Program and by separate correspondence to the Board, we feel that the certification procedure for permits issued by the Alabama Water Improvement Commission (AWIC) can best be governed by a Memorandum of Understanding or Agreement between the Board and AWIC. We note that a Memorandum of Agreement is discussed in this section; however, we would like to emphasize that the provisions of such a Memorandum should be agreed upon prior to implementation of the Coastal Area Management Program in order to prevent delays in implementation following Federal approval of the Program.

3. The statutes and regulations to which you refer have been included in the section on Existing Laws, Rules and Regulations, Page 110 of the FEIS, as well as in Appendix B in the Final Environmental Impact Statement.

4. Act 534, as discussed earlier, clearly provides the Board with the authority to protect the resources of the Coastal Area from those uses which would have direct and significant effects on it.

5. If necessary, Board meetings may be held monthly, but meetings are required to be held quarterly by Act 534.

6. a. The exemption of Baldwin County has been addressed in this section of the FEIS.
   b. This reference is changed to read 22-27-1 instead of 22-17-1 in the FEIS.
   c. Reference to the Department of Agriculture and Industry's regulation of pesticides is included in the FEIS.

7. It is the opinion of OCZM that the statement presented here appropriately conveys the intended meaning. The operational rules and regulations of the CAB incorporate applicable air and water quality standards; they also contain other requirements, consistent with these standards which are necessary to manage land and water uses which directly and significantly affect the coastal area. The DEIS was carefully reviewed by the U.S. Environmental Protection Agency which has not found inconsistencies between the Board's rules and regulations and EPA's requirements.

3. Pages 110-111, Section VII.A., Existing Laws, Rules and Regulations. The statutes and regulations for the following State agencies concerned with the development and/or preservation of resources have not been included:

   a. Alabama Department of Agriculture and Industries

      1. Alabama Code Sections 2-27-1--16 (1975) (registration, sale and use of pesticides)

      2. Alabama Code Sections 2-27-50--63 (1975) (application of pesticides)

   b. Alabama Department of Conservation and Natural Resources

      1. Alabama Code Section 9-2-2 (1975) (state-owned lands and submerged lands)

      2. Alabama Code Section 9-2-120 (1975) (state-owned islands)

   c. Alabama Forestry Commission

      Alabama Code Section 9-3-4 (1975) (forest resources)

   d. Alabama Department of Public Health

      1. Alabama Code Sections 22-2-2-14 (1975) (authority and jurisdiction)

      2. Alabama Code Sections 22-23-1--54 (1975) (water supplies)

      3. Alabama Code Sections 22-26-1--6 (1975) (sewage)

      4. Alabama Code Sections 22-27-1--7 (1975) (solid waste)

   e. Alabama Soil and Water Conservation Districts

      Alabama Code Sections 9-8-25--30 (1975) (erosion control)

4. Pages 115 through 117, Section VII.D.1., Coastal Area Board Regulations for Water Quality. We believe that the requirements in this section for biological monitoring by point source wastewater dischargers exceed the authority granted the Coastal Area Board in State Act 534.

5. Page 122, Section VIII.C., Board Meetings. Because the Board must take action on a Request for Certification (on proposed state agency permits) within forty-five days of its receipt, we feel that the Board may be required to meet more frequently than quarterly to take action within the given time limitations. A possible alternative solution would entail action on permits by an executive committee with presentation to the Board at its next scheduled meeting.

6. Pages 181, 182, and 183, Appendix B, paragraphs R, S.4., and T.

   a. Paragraph R, Alabama Water Well Standards Board. Act No. 263 of 1977 added Section 22-24-12 to the Code of Alabama (1975) which exempts Baldwin County from the provisions of Chapter 24. The exemption should be addressed at appropriate places in the Management Program document.

   b. Paragraph S.4., State Board of Health - Solid Waste. Section 22-17-1 should read 22-27-1.

   c. Paragraph T., Alabama Department of Agriculture and Industries. This agency's regulation of pesticides deserves recognition in describing its existing legal authorities. The Department is responsible for the registration, sale, and use of pesticides by Code of Alabama (1975), Sections 2-27-1 through 2-27-16. The Department is further responsible for regulating the custom application of pesticides under Sections 2-27-50 through 2-27-63.

7. Page 239, Appendix E, Program Elements, Air and Water Quality, last paragraph, last sentence. This sentence is open to interpretation and it would appear that a better choice of words is needed to convey the intended meaning. The statement that "Nothing in the management program shall in any way affect any requirement established by . . . (the Federal Water Pollution Control Act) . . ." is questionable since the Proposed Management Program includes requirements, such as those governing review of state agency permits and biological monitoring by point source wastewater dischargers, which definitely affect existing State and Federal requirements under this Act.

United States Department of Agriculture
Soil Conservation Service
P.O. Box 2890
Washington, D.C. 20013

JUN 19 1979

Mr. Jim Murley
Regional Manager, Gulf-Islands Region
Office of Coastal Zone Management
3300 Whitehaven Street, NW.
Washington, D.C. 20235

Dear Mr. Murley:

The Alabama Coastal Area Management Program and Draft Environmental Impact Statement has been reviewed by several agencies in the U.S. Department of Agriculture. The following general comments reflect their combined reactions.

1 - The effects of this program appear to have little or no impact on the management of Alabama's forest resources.

2 - The Environmental Impact Statement, in general, gives little consideration to the effect on soils of proposed land uses or the suitability of the soil for particular land uses.

3 - Page 39: We were pleased that the Environmental Impact Statement recognized hazard management. Awareness of hazards resulting from national disasters is essential for successful management of natural resources.

4 - Pages 77-80: It is suggested that the description of the geographic area of particular concern (designated the Mobile-Tensaw River Delta) be in terms of both soil properties and cover. Soil survey data are available for this purpose. Soils suitability is of particular importance in this area.

The Department of Agriculture appreciates the opportunity to review this report.

Sincerely,

Acting For

R. M. DAVIS
Administrator

cc:
M. Rupert Cutler, Assistant Secretary for Conservation, Research and Education, SEC
John R. McGuire, Chief, Forest Service
Sidney R. Galler, Deputy Assistant Secretary for Environmental Affairs, U.S. Department of Commerce, Washington, D.C. 20230

DEPARTMENT OF AGRICULTURE - R. M. DAVIS

1. Thank you for your careful review of the document.

2. A description of soils was included in the Appendix A of the first two drafts, the Workshop's Hearing Drafts's, of the management program which were distributed for review. This information was omitted from the DEIS and FEIS due to its length, however it will be published later as a separate publication.

3. No response necessary.

4. During program implementation, the CAB will direct efforts toward describing more precisely the properties of soil and cover in both designated GAPC's. Also, the CAB will be taking into account other important considerations and traits.

UNITED STATES DEPARTMENT OF COMM:
National Oceanic and A nospheric Admini:
National Marine Fisheries Service
Washington, D.C. 20235

F7:RG

JUN 27 19[illegible]

TO: CZ - Robert W. Knecht

FROM: F - Terry L. Leitzell

SUBJECT: NOAA Review of the Alabama Coastal Area Management Program a Draft Environmental Impact Statement (DEIS)

We have reviewed the subject documents and have the following comment to offer.

The descriptive material contained in the discussion paper on physiog geology, soil and climate has been deleted. Also, the biophysical descrip of the coastal zone has been condensed to only one page in the DEIS. We b these subjects should not be omitted or condensed in the DEIS. In this regard, we are particularly concerned about seismic risk in association wi numerous faults and folds. If little or no risk exists, the document shou state so and include the rationale for such a statement. The matter of fa siting in fault areas in one which should not be lightly dismissed.

Specific Comments

1 Page 39. Hazard Management. The report states several times the act that should be taken to reduce loss from natural disasters (hurricane and flooding), without stating who should take these actions, and how the Alabama Coastal Area Board would insure that the proper actions were/are taken.

2 Page 56, 3. Coastal Resource Use Policies. Coastal Area Board (CAB) apparently is agreeing to a status quo for commercial fishing while encouraging development of new technologies. This implies acceptance existing conditions in Mobile Bay, where large areas are closed to oystering due to bacterial contamination and where fishing may be continually impacted because of heavy metals. We suggest adding the phrase "to encourage conservation practices favoring increases of mari and estuarine species, as well as after "marine species" and before "to encourage development of new methods and techniques..."

3 Page 58 and 59. Natural Resource Protection Policies. Feasibility an practicability are used to qualify CAB's intent to enhance biological productivity, water quality, wetlands and submersed grasses, beaches a dunes, and wildlife. We understand the need for qualifications. How units of worth by which feasibility and practicability are measured sh be described.

372

NOAA - T. LEITZELL

General Comment

1. The biophysical description contained in earlier drafts is being revised and will be republished as part of a complete environmental description during the first year of implementation. Data examined in preparing the biophysical description indicated that substantial seismic risks do not exist in Alabama's coastal area.

Specific Comments

1. The Board will attempt to reduce loss from natural disasters by requiring projects subject to the management program to comply with its operational rules and regulations for Natural Hazards (Sec. VII, C, (5), p. 115). The Board will also provide technical assistance related to protection from floods, erosion, and hurricanes and investigate the purchase of lands within the coastal area that are prone to severe flood damage (p. 58).

2. Comment accepted. See change to Commercial Fishing Policy (Sec. VII, A, (3), p. 56).

3. The use of the terms feasibility and practicability is intended to promote the enhancement of the areas mentioned within the confines of available technology and financial resources. They are not meant to modify or minimize the Board's intention to maintain present levels of plants and animals in the coastal area.

4. Please note that the Operational Rules and Regulations require that the Federal Endangered Species Act be complied with wherever applicable (p. 111) in order for a state permit, including one for the taking and processing of turtles, to be consistent with the management program.

4 Page 172. Department of Conservation - Marine Resources (DCMR). The statement that DCMR has authority to regulate taking and processing of sea turtles gives the impression of conflict with the Endangered Species Act. We suggest adding terms to the effect that "In the case of endangered or threatened species of sea turtles, Federal permits under the Endangered Species Act are also required."

cc: F F2 F31 F6 FSE613

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20314

REPLY TO ATTENTION OF:

DAEN-CWP-P

15 JUN 1979

Mr. Robert W. Knecht
Assistant Administrator for Coastal Zone Management
National Oceanic and Atmospheric Administration
Department of Commerce
3300 Whitehaven Street, NW
Washington, DC 20235

Dear Mr. Knecht:

We have reviewed the Alabama Coastal Area Management Program and Draft Environmental Impact Statement.

374 We find that a number of our concerns, previously identified in our reviews of the "Workshop Draft" and "Hearing Draft," have not been adequately addressed. Those of most concern have been reiterated. In addition, a number of comments concern new portions of the document. Comments are inclosed.

Sincerely,

MAXIMILIAN IMHOFF
Colonel, Corps of Engineers
Executive Director of Civil Works

1 Incl
As stated

CORPS OF ENGINEERS

DEPARTMENT OF THE ARMY - M. IMHOFF

1. OCZM believes that the regulations of the Board are adequate in indicating what factors will be considered in decision-making under the regulations. The language referred to (p. 27) is in a narrative discussion; in general, adherence to the specific regulations of the Board is required unless there is a "compelling public interest" in deciding otherwise, as indicated in the General regulations. In addition, review of Federal activities, including those at different stages of development referred to in the comment, are governed by OCZM's Federal Consistency regulations (Federal Register, June 25, 1979), dealing with proposed activities (Section 930.37). The regulations differentiate between reviews of proposed projects in the planning stage and those that are performed repeatedly.

2. OCZM has reviewed this issue with the CAB and has determined that the Board recommended upland disposal as the least environmentally damaging form of spoil disposal. OCZM would like to point out that alternative forms of disposal can be considered under the Board's consideration of compelling public interest, see page 112-113, of the FEIS which includes the national interest in navigation. OCZM would also expect that the CAB will work with the Corps and the Port of Mobile to establish long range spoil disposal plans that are consistent with ACAMP policies, see page 23 of the FEIS.

3. The language cited is drawn from OCZM's Federal Consistency Regulations, Section 930.34(b), Federal Register, June 25, 1979. OCZM would anticipate that the Board, if it found that mediation was necessary, would seek to find ways to make the proposed Federal activity consistent with the ACAMP. However, it is impossible for OCZM or the Board to state a specific position prior to an actual dispute on a particular project or activity. The CAB intends to consider writing MOA's with state and Federal agencies whose activities occur

U. S. Army Corps of Engineers
Comments on "The Alabama Coastal Area Management
Program and Draft Environmental Impact Statement"
dated May 1979

1. The issues of maintaining existing navigation projects, the development of new projects, and the disposal of dredged material have not been defined with the thoroughness and specificity necessary for the development of a rational and equitable management program. For instance, the issue of the effect of dredged material on water quality is discussed in one short paragraph (p. 27) and no distinction is made between maintenance of existing projects, new projects already authorized, and new projects in the planning phases. In reality, legal, social-economic, and environmental aspects of these categories of projects usually have clear distinctions. The lack of clear definition of issues results in policies and rules and regulations which are ambiguous and fall short of achieving the objective of ". . . specificity and predictability to the review for compliance...." (p. 2).

2. The rules and regulations concerning dredging and filling (p. 113) may have a serious impact on maintenance dredging activities of existing Federal projects. It appears that the present proposed rules and regulations would likely be interpreted to consider open water disposal inconsistent with the program. It is absolutely essential for most projects within Alabama which presently depend on open water disposal to be maintained in this fashion until such time as environmentally and economically feasible alternatives are available. Special consideration for such projects is believed to be warranted because of the National interest in navigation and, in general, environmental impacts of maintenance dredging activities are less severe than other categories of projects. It should be recognized that the social and economic implications of presently existing alternatives are great. To discontinue this method of disposal at the present time would effectively shut down maintenance of these projects.

3. While the proposed program generally outlines the Federal consistency provisions pursuant to the Coastal Zone Management Act of 1972 (CZMA), specific procedural aspects warrant further development prior to adoption of the program. For instance, guidelines should be developed for the type and extent of information needs that the Board will consider "reasonably necessary to support a consistency determination" (p. 91). It should be specified what position the Board would take during the negotiation and/or mediation phases concerning an ongoing project that was determined inconsistent. With respect to Federal projects and activities, provision should be made for the development of memoranda of understanding between the Board and respective Federal agencies to facilitate orderly coordination.

INCL 1

frequently in the coastal area. OCZM would anticipate that given the scope of the Corps activity a MOA with the CAB would be considered in the first year of implementation.

4. The Corps is correct that pursuant to the OCZM's Federal Consistency regulations, Section 930.30, Federal Register, June 25, 1979, that the Federal agency makes the initial decision on whether its activity is consistent with an approved state coastal program. However, please note Section 930.41, State Agency Response, which authorizes the language on page 69 and 90 of the FEIS relating to the CAB responsibilities in the Federal Consistency process. If the CAB disagrees with the Federal agency's decision on consistency it is authorized to transmit such disagreement to the Federal agency.

5. Changes to the text have been made to reflect the opinion of the Department of Justice and OCZM's new Federal Consistency regulations which implement the opinion. 44 Federal Register 37142 (June 25, 1979).

6. OCZM believes that the ACAMP is approveable under Federal regulations. At the same time, OCZM recognizes that further improvements to the program will be based on additional studies and experience in implementing the program. Program approval will authorize OCZM to provide increased Federal assistance to the CAB ($700,000 in the first year) to implement and refine the program. OCZM believes that approval will provide a more positive impact than to delay approval of a program that meets Federal requirements.

7. OCZM believes that the policies and regulations of the ACAMP meet the specificity and predictability requirements of the Federal regulations. However, as stated in comment 2, OCZM also recognizes that proper implementation of the policies will require joint programs between the Board and the Corps concerning such issues as dredge and fill disposal.

4. Pages 69, 90. The Program implies that consistency of Federal projects and activities will be determined by the State. This should be changed to indicate that consistency determinations for Federal projects and activities will be made by the Federal agency.

5. The Program should be revised to reflect the recent Department of Justice opinion that the requirements of Section 307 (c) (1) apply only to activities directly affecting the coastal zone.

6. The alternatives evaluation (Part III) should consider a possible positive impact of delaying approval of the program. That would be to allow more time for development of a program which better meets the objectives and intent of the CZMA.

7. The discussion of environmental consequences (Part V) generally assumes that the basic objectives of the CZMA will be met by the Program. For be example, predictability of decision making is forecast (p. 146). This may overly optimistic in view of the ambiguity of some policies and rules and regulations as discussed in above comments.

8. The discussion of the environmental consequences of the dredging and filling rules and regulations (p. 148) is reflective of the inadequate nature in which the issues, policies, and rules and regulations have been developed. The rules and regulations apparently promote dredged material disposal in either upland or offshore waters. It should be recognized that environmental impacts of such alternatives are not, in all instances, less severe than disposal in coastal waters. The social and economic impact may be tremendous as discussed in Comment 2 (above).

8. Economic and social consequences such as those indicated have been considered pursuant to the General Regulations of the Board. In general, upland disposal, where practicable, would have relatively more beneficial environmental consequences over most alternatives currently in use.

IN REPLY ADDRESS NOT THE SIGNER OF THIS LETTER, BUT COMMANDANT SIXTH NAVAL DISTRICT, NAVAL BASE, CHARLESTON, S. C. 29408.

HEADQUARTERS SIXTH NAVAL DISTRICT
NAVAL BASE
CHARLESTON, S. C. 29408

IN REPLY REFER TO:

Code N3

25 JUN 1979

Regional Manager
Gulf-Islands Region
Office of Coastal Zone Management
3300 Whitehaven Street, N. W.
Washington, D. C. 20235

Dear Sir:

This Command appreciates the opportunity to review the Draft Environmental Impact Statement on the proposed Alabama Coastal Area Management Plan. The Draft has been reviewed primarily for those issues pertinent to the Navy although there are no existing Naval installations in Alabama's Coastal Zone.

The Navy's recommended changes to the draft are contained in Enclosure (1) and would amend the "Consistency" provisions of the draft to reflect those of the Act of 1972. In addition, the Navy's Offshore Operating Areas are shown on Enclosure (2) and should be identified in the Draft as a valid use of the coastal zone.

Please accept these recommendations as constructive changes that would provide a workable coastal zone management program wholeheartedly supported by all.

Sincerely,

W. K. PEERY
Captain, U. S. Navy
Assistant Chief of Staff
for Operations/Logistics

Enclosures:
(1) Navy's recommended changes to Draft EIS
(2) Navy's Offshore Operating Areas

377

NAVY

I. COMMENTS

1. This comment has not been followed. OCZM believes that the language of these paragraphs correctly indicates that the Board has the authority to review the federal actions listed for consistency with the management program and to determine for itself whether such actions are consistent.

2. This comment has not been followed. Such uses are identified as "regulated" to indicate that an existing mechanism applies to such uses, and a permit from the Board need not be sought for them. In the case of federal actions subject to the consistency requirements, the procedure is established in OCZM federal consistency regulations, 15 C.F.R. Part 930. It is difficult to ascertain whether the statement contained in this comment is accurate due to its great generality; however, to the extent that "federal land uses" are subject to the federal consistency requirements of OCZM or would require a state permit, they would be regulated by the State. In view of the above response, there is no need to amend Fig. IV-5.

3. See response to comment (2).

4. Please note that the paragraph referred to concerns federal licenses and permits; the six month period is as specified in CZMA Sec. 307 (c) (3) (A) for such actions. The phrase "determination of consistency", however, actually refers to the "certification of consistency" required by OCZM federal consistency regulations for federal licenses and permits. 15 C.F.R. Part 930.57.

II. Operating Areas. Navy operating areas identified in this comment have been included in the FEIS, in discussion of the national interest in defense. Thank you for providing this information.

COMMENTS ON THE ALABAMA COASTAL AREA

MANAGEMENT PROGRAM & DRAFT ENVIRONMENTAL

IMPACT STATEMENT

1. Page 68. B. Coastal Zone Management Act of 1972.

   a. Federal Consistency.
   Delete the first and last paragraphs.

2. Page 85, Para. V.A.1. Regulated Uses.

Delete "or which are subject to the federal consistency requirements". The State does not regulate Federal land uses. Amend Figure IV.5.

3. Page 85, Para V.A.1.b. Federal.

Delete entire paragraph - The state does not regulate Federal land use. Amend Figure IV-5.

4. Page 96 - Second Paragraph.

"Except as provided hereinabove, within six months" - six months is too long. Change to 45 days.

Enclosure (1)

U.S. NAVY OFFSHORE OPERATING AREAS

PENSACOLA OPERATING AREAS

The Navy usage of the following operating, warning or restricted areas includes all facets of readiness training; ordnance firing; research, development, testing and evaluation programs; support operations; and air, surface and subsurface access to military facilities and installations in support of the national defense and national security interests The importance of continued unobstructed Naval usage of these areas has been established by categorical evaluation as follows:

A - Cannot accept interference in any of the areas without loss of major capability or the functions performed in that area would have to be relocated at a major cost.

Areas: None

B - Cannot accept interference in a specific portion of a designated OP-AREA for same reasons as (A) specifying the portion that cannot be interfered with.

Areas: None

C - Cannot accept interference in any of the area without loss of a majc capability or the function in that area would have to be relocated a a substantial cost.

Areas: W-155 and R-2908

D - Cannot accept interference in a specific portion of a designated OP-AREA for same reasons as (C) specifying the portion that should not be interfered with.

Areas: None

E - Interference would result in a degradation of a function performed c would result in a major scheduling or coordination inconvenience.

Areas: None

F - Interference would result in a minor scheduling or coordination inconvenience.

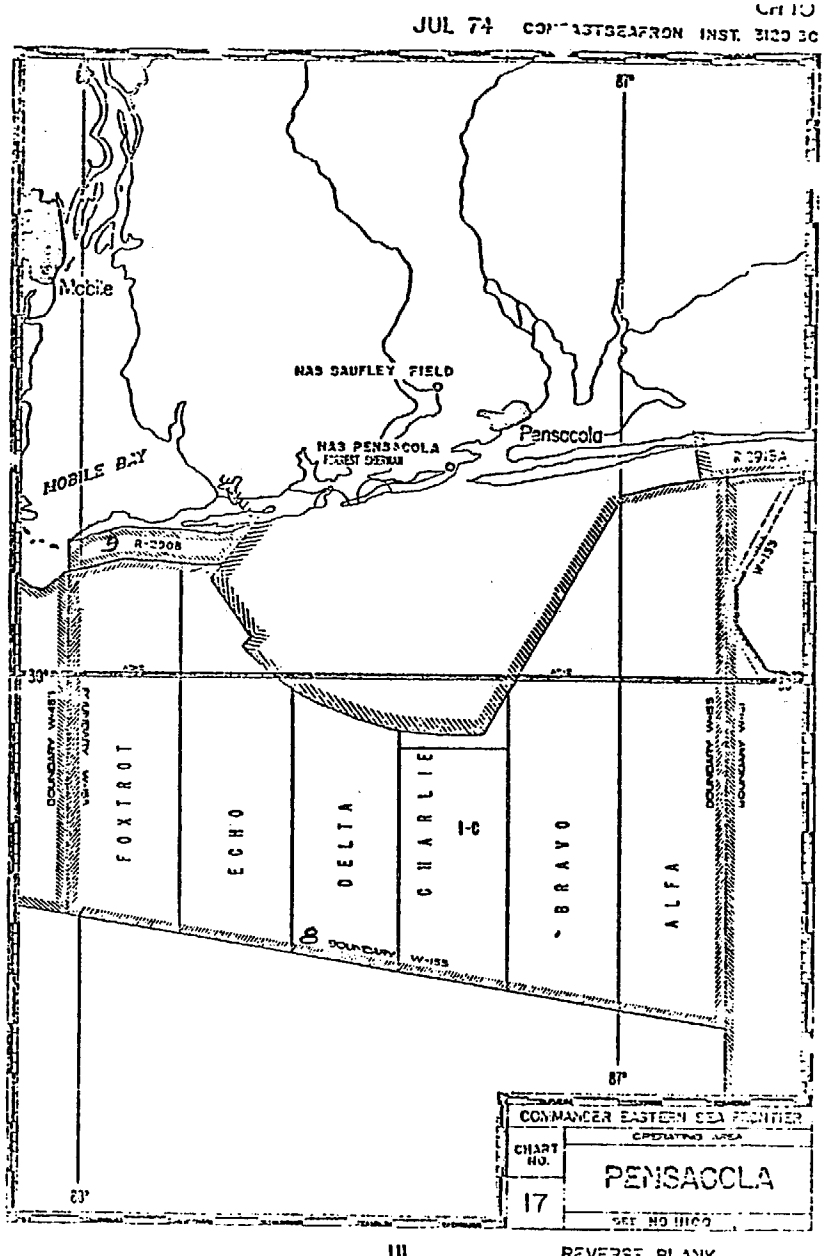
Areas: None

G - Interference would be of little or no consequence to Naval operation or functions.

Areas: None

H - Mutual use of an area or portion thereof would be compatible.

Areas: None



REVERSE BLANK

Enclosure (1)

FLIGHT INFORMATION PUBLICATION
AREA PLANNING

SPECIAL USE AIRSPACE

UNITED STATES 11 SEP 1975

NUMBER	AREA NAME	EFFECTIVE ALTITUDE	TIME USED: DAYS OF WEEK	TIME USED: HOURS OF DAY	TIME USED: WEATHER	CONTROLLING AGENCY / USING AGENCY
W-155	Pensacola, FL	To FL 400	Mon-Sat, OT by NOTAM	Days, OT by NOTAM	VFR-IFR	FAA, ARTCC, Jacksonville, FL / COMTRAWING SIX, NAS Pensacola, FL (Fone Area Code 904 Duty hr 452-2305 AUTOVON 922-2305 OT 452-2431 AUTOVON 922-2431)
	Beginning at the intersection of 88°02'W and a line 3 NM from and parallel to the shoreline thence E along a line 3 NM from and parallel to the shoreline to 30°11'N 87°44'W thence to 30°10'N 87°46'W thence counterclockwise along a 30 SM arc centered at NAS Pensacola TACAN (30°21'N 87°19'W) to 30°04'N 87°41'W to 29°03'N 87°42'W thence counterclockwise along a 30 SM arc centered at 30°20'N 87°20'W to 29°54'N 87°15'W to 30°18'N 87°00'W thence E along a line 3 NM from and parallel to shoreline to 85°43'W thence S along 86°48'W to 27°25'N to 29°36'N 88°02'W thence N along 88°02'W to point of beginning. (27 MAR 75)					
R-2908	Pensacola, FL	To 12,000'	Cont	Days	VFR-IFR	FAA, Pensacola RATCF / Refer to Remarks
	Bounded on the N by the Alabama-Florida shoreline, on the E by a line extending from 30°15'N 87°31'W to 30°11'N 87°44'W, on the S by a line 3 NM from and parallel to the Alabama-Florida shoreline and on the W by 88°02' W. (27 MAR 75)					
	REMARKS: Using Agency - COMTRAWING SIX, NAS Pensacola, FL (Fone Area Code 904 Duty hr 452-2305 AUTOVON 922-2305 OT 452-2431 AUTOVON 922-2431)					

Published by
DEFENSE MAPPING AGENCY AEROSPACE CENTER
ST. LOUIS AIR FORCE STATION, MO.63118

1. Area. Warning Area W-155

Location. Beginning at the intersection of 88°02'W and a line 3 NM from and parallel to the shoreline thence E along a line 3 NM from and parallel to 30°11'N 87°44'W thence to 30°10'N 87°46'W thence counterclockwise along a 30 SM arc centered at NAS Pensacola TACAN (30°21'N 87°18'W) to 30°04'N 87°41'W to 29°03'N 87°42'W thence counterclockwise along a 30 SM arc centered at 30°29'N 87°28'W to 27°54'N 87°15'W to 28°18'N 87°00'W thence E along a line 3 NM from and parallel to shoreline to 85°48'W thence S along 86°45'W to 27°25'N to 29°36'N 83°02'W thence N along 88°02'W to point of beginning. (27 MAR 75)

Description. Special use airspace

Type of exercises. Air-to-air and surface gunnery, carrier qualification and operations, formation and tactics training, submarine and surface operations, and minesweeping operations.

Usage limitations. Continuous.

2. Area. Restricted Area R-2908

Location. Bounded on the N by the Alabama-Florida shoreline, on the E by a line extending from 30°15'N 87°31'W to 30°11'N 87°44'W, on the S by a line 3 NM from and parallel to the Alabama-Florida shoreline and on the W by 88°02'W. (27 MAR 75)

Description. Special use airspace

Type of exercises. Formation and tactics training, low-level aerobatics (Blue Angels) and the Naval Air Rework Facility test flights.

Usage limitations. Continuous.

Department of Energy
Washington, D.C. 20461

JUL 11 1979

Mr. Robert Knecht
Assistant Director for
Coastal Zone Management
National Oceanic & Atmospheric
Administration
3300 Whitehaven Street, N.W.
Washington, D.C. 20235

Dear Mr. Knecht:

1 The Department of Energy (DOE) has reviewed the Alabama Coastal Area Management Program and Draft Environmental Impact Statement. We concur in your proposed action to grant approval to the proposed program.

The State of Alabama has clearly stated its coastal policy as allowing energy facilities in locations which will not degrade the Alabama Coastal Area. Overall, we believe the program is adequate to accomplish this purpose.

383

2 We are concerned, however, about the relative roles between the Coastal Area Board (CAB) and other State agencies which have energy regulatory responsibilities. It appears that the CAB operates primarily through review and certification of consistency regarding the actions of other agencies. We would appreciate the inclusion of more specific indication of how this oversight mechanism will be applied in relation to energy regulatory administrative procedures and authorities.

3 The concept of "degradation" of coastal resources is a central element of the proposed program implementation system. In this system, monitoring to establish baseline conditions, procedures for measurement, and criteria for assessing significance of any changes in conditions are of major importance. We encourage the State to further develop Chapter Four, Section VI, Monitoring and Enforcement to provide more information on the concerns indicated above.

DEPARTMENT OF ENERGY - WASHINGTON, D.C. - R. LANGENKAMP

1. Thank you for your comment.

2. OCZM believes that the review procedure indicated in the ACAMP/FEIS adequately demonstrates how the coastal managment program is applied to such uses through application of the operational rules and regulations of the CAB which would apply to the impacts of such uses. In the case of energy facilities, OCZM would direct your attention to the inclusion of energy needs in the compelling public interest test specified in the CAB's general regulations which includes consideration of the national interest in such facilities (Chap. 4, Sec. VII. B). The national interest in energy facilities has been discussed and identified in Appendix E. I.

3. Chapter Four, Section VI, has been provided in response to comments on previous drafts of the management program; further development of monitoring and enforcement capability will occur during program implementation under CZMA Sec. 306. If you would like further information on these matters, it may be obtained by contacting the Board during implementation as well as by inspecting Sec. 306 grant awards on file at OCZM and the Board.

We appreciate this opportunity to review the Alabama coastal program and look forward to the opportunity to assist in its implementation.

Sincerely,

R. Dobie Langenkamp
Deputy Assistant Secretary
Oil, Natural Gas and Shale
Resources

Department of Energy
Region IV
1655 Peachtree Street, NE
Atlanta, Georgia 30309

June 14, 1979

Mr. E. Bruce Trickey
Executive Director
Coastal Area Board
P.O. Box 755
Daphne, Alabama 36526

Re: The Alabama Coastal Area Management Program and Draft Environmental Impact Statement

Dear Mr. Trickey:

In June 1976 Congress amended the Coastal Zone Management Act of 1972 (the "Act") (16 U.S.C.A. §1451, et seq.) "to authorize and assist the coastal states to study, plan for, manage, and control the impact of energy resource development and production which effect the coastal zone . . . ." Senate Report No. 94-277, U.S. Code Cong. and Ad. News, p. 1768 (1976). Section 305(b)(8) of the Act, as amended, provides that the management program for each coastal state shall include:

> (8) A planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including but not limited to, a process for anticipating and managing the impact from such facilities.

In accordance with Section 302 of the Act, which provides for federal agency cooperation and participation with state and local governments and agencies, the Department of Energy (DOE) plays an important role in helping the state to formulate a management plan that will be consistent with the "national objective of attaining a greater degree of energy self-sufficiency . . . from new or expanded energy activity in or affecting the coastal zone." (Section 302(i) of the Act, as amended)

DEPARTMENT OF ENERGY - REGION IV - Louis F. Centofanti

1. OCZM thanks you for this comment and has transmitted your offer of assistance to the Board.

2. It is intended that the other provisions cited, being General provisions, determine the applicability of specific regulations such as regulation C.1.c. Therefore, no change has been made in the language of the specific regulation. However, a new General Regulation, B.4., has been added to clarify the relationship.

Section 6(f) of the Alabama Coastal Area Act provides that the Coastal Area Management Program shall provide for "adequate consideration of the . . . national interest in the siting of the facilities for the development, generation, transmission and distribution of energy . . . ." Moreover, in Section 2 of the Coastal Area Act, the Alabama Legislature establishes the following State policy:

> To assure that in development of the state's coastal area adequate consideration is given to such uses of the coastal area as the establishment of harbor facilities for the receiving of oil, gas, and other commodities from ships and tankers; and utilities plant sites, utility generation, transmission, distribution, and transportation facilities;

To implement the policy described above, the Coastal Area Act establishes an Alabama Coastal Area Board charged with authority to "coordinate activities and plans of all existing interests . . . which have programs relevant to the coastal area." (Section 5(h)) Section 6 of the Coastal Area Act requires development of the management program by the Board "in cooperation with . . . federal interests."

DOE is particularly interested in two aspects of the management plan--development of the Port of Mobile and review by the Board of energy-related activities requiring federal permits. The Alabama Coastal Area Management Program and Draft Environmental Impact Statement (hereinafter referred to as "DEIS") identifies the importance of the Port of Mobile for the nation's future energy needs. DOE notes that the Port of Mobile is designated a geographic area of particular concern (GAPC), with use priorities centering around improvement and development of port operations. The DEIS states:

> A tremendous increase in port activity is expected in the near future because of industrial and energy development and especially and completion of the Tennessee-Tombigbee waterway. The Port of Mobile will be the opening to the open sea for a large portion of cargo transported along this waterway. (page 8, DEIS)

Elsewhere in the DEIS, the Board explains the importance of the Tennessee-Tombigbee waterway, and thus the Port of Mobile, for development and transportation of northern Alabama coal reserves.

1 The DEIS appears to set forth responsible procedures for review of federal permits. The DEIS states that the Board "will work with federal agencies to develop memoranda of agreement where appropriate to facilitate and simplify the permitting of regulated uses within the coastal area." (page 96, DEIS) DOE notes that such federal/state cooperation might be

particularly appropriate in the energy area and would welcome the opportunity to participate in such an effort.

2 DOE notes a possible ambiguity in Part II, Chapter 4, Section VII of the DEIS. Under Subsection B, General Rules and Regulations, the Plan provides as follows:

> Uses that are determined by the Board to degrade the Coastal Area shall not be permitted nor certified to be in compliance or consistent with the management program unless the Board determines that there is a compelling public interest. If uses of a compelling public interest are permitted by the Board the uses shall be undertaken in a manner that, to the maximum extent practicable, minimizes degradation of the Coastal Area.
>
> Degrade means to affect the Coastal Area in such a manner as to produce a continuing reduction or destruction of the present levels of coastal resources.
>
> A compelling public interest is something more than mere convenience. It is a right recognized at law, or an economic, environmental health, or social interest shared by most persons in the Coastal Area which if not recognized and protected would jeopardize the public well-being. The burden of proof that a particular use is of compelling public interest shall be upon the applicant. The Board shall consider: (a) significant national interest such as energy facilities or uses which improve water quality, air quality or wet lands; (b) enhancement or protection of geographic areas of particular concern and areas of preservation and restoration, such as construction or improvement of facilities in the Port of Mobile; (c) significant economic benefit for the Coastal Area; (d) water dependency; and (e) other similar factors in any determination of compelling public interest and balance its significance in each case in relation to the ability of the use to meet the Board's rules and regulations. (page 111, DEIS)

On page 113 of the DEIS, under Subsection C.1., relating to siting, construction and operation of energy facilities, the Plan provides as follows:

> c. Siting, construction, and operation of energy facilities that degrade the coastal area shall not be permissible.

This statement appears inconsistent with the designation in quoted Subsection B.2, which asserts that matters of "significant national interest such as energy facilities . . ." shall merit consideration by the Board as being of compelling public interest that justify, under limited circumstances, some degradation of the Coastal Area.

DOE wishes to affirm at this point its position that coastal degradation should be avoided to whatever extent practicable. Nevertheless, in view of the energy supply problems faced by the United States today, this office suggests that Subsection C.1.c., be amended to clarify that energy facilities are eligible for consideration as being of compelling public interest in accordance with Subsection B, General Rules and Regulations. Such a change would be consistent with the general rule stated in Subsection B.2., quoted above.

In conclusion, we again express our appreciation for the opportunity to comment on Alabama's Coastal Area Management Program and Draft Environmental Impact Statement and reaffirm our overall support for the Plan. We hope that our office may be of assistance on a continuing basis after implementation of the Plan.

Sincerely,

Louis F. Centofanti
Regional Representative

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
REGION IV
101 MARIETTA TOWER Suite 1503
ATLANTA, GEORGIA 30323
June 8, 1979

OFFICE OF THE
Principal Regional Official

HEW-927-5-79

Regional Manager
Gulf Islands Region
Office of Coastal Zone Management
3300 Whitehaven Street, N.W.
Washington, D. C. 20230

Dear Sir:

Subject: DEIS, Alabama Coastal Area Management Program

We have reviewed the subject draft Environmental Impact Statement. Based upon the data contained in the draft, it is our opinion that the proposed action will have only a minor impact upon the human environment within the scope of this Department's review. The impact statement has been adequately addressed for our comments.

Sincerely yours,

James E. Yarbrough
Regional Environmental Officer

cc: A. McGee
R. Goldberg

Sidney R. Galler
Deputy Asst. Secretary for
Environmental Affairs
U. S. Department of Commerce
Washington, D. C. 20230

389

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE - JAMES E. YARBROUGH

Thank you for your careful review of this document.

REGION IV

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
BIRMINGHAM AREA OFFICE
DANIEL BUILDING, 15 SOUTH 20TH STREET
BIRMINGHAM, ALABAMA 35233

May 24, 1979

IN REPLY REFER TO:
4.2SS

Regional Manager, Gulf-Islands Region
Office of Coastal Zone Management
3300 Whitehaven Street, N.W.
Washington, D. C. 20235

Dear Sir:

Subject: The Alabama Coastal Area Management Program and Draft Environmental Impact Statement

We are pleased to acknowledge receipt of the above referenced request for HUD comments under the requirements of the National Environmental Policy Act of 1969 (P.L.91-109).

We have reviewed the information submitted along with your referral and, to the extent of available staff resources, have investigated the environmental impact, adverse effect and commitment of resources for the project involved. From the information available to us, we find that this project will not have an adverse effect on any current HUD programs in the State of Alabama.

Your interest in this matter is appreciated.

Sincerely,

John E. Wilson
Area Manager

390

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT - JOHN E. WILSON

Thank you for your careful review of this document.

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

JUN 27 1979

Mr. Robert W. Knecht
Assistant Administrator
Office of Coastal Zone Management
National Oceanic & Atmospheric Administration
U. S. Department of Commerce
3300 Whitehaven Street, N. W.
Washington, D. C. 20235

Dear Mr. Knecht:

The Bureaus and Offices of the Department of the Interior have reviewed the draft Alabama Coastal Area Management Program (ACAMP) and the accompanying draft Environmental Impact Statement (DEIS). Our detailed comments are included in the attachment to this letter.

1 The State of Alabama is to be commended for its efforts to solicit comments on previous drafts of the program document and for the many improvements to be found in the present draft. The addition of "enhancement" standards to the resource policies and the inclusion of rules and regulations have alleviated a number of concerns earlier expressed by this Department. The discussion of resource issues is generally informative, particularly in its treatment of the protection requirements and information needs for such resources as wetlands and submerged grassbeds, beaches, dunes, oyster reefs, and wildlife. The discussion of certain other areas such as cultural resources and mining is somewhat weaker. We support efforts by the State to develop additional information and techniques to address these resource issues during program implementation, and include in the attachment several suggestions as to how this might be done.

We believe that there are several areas where the program can and should be strengthened prior to program approval. First, we question whether the program policies and regulations will, in the absence of completed biological baseline analyses, ensure predictable decisionmaking on the part of the Alabama Coastal Area Board (CAB). Many of the policies and regulations are written to maintain or not degrade "present levels" of coastal resources. However, it is our understanding that the baseline analyses needed to establish these "present levels" may not produce usable data for three to five years. We believe that the final document should address this issue and explain how the Board will make its decisions until the baseline analyses become available.

2 Second, we are concerned about the use of the term "to the maximum extent practicable" in a number of the ACAMP regulations. We recognize that it

391

DEPARTMENT OF THE INTERIOR

General Comments

1. OCZM is pleased that the Department agrees with the addition by the Board of many provisions in the Draft Environmental Impact Statement, such as "enhancement" standards to policies, rules and regulations.

   As you have suggested, the Board will develop additional information and techniques to address particular resource issues during program implementation. In fact, the Board has proposed certain action items to address some of your concerns (Action items for cultural resources, for example, are listed on page 61 of the DEIS). In addition, your suggestion for developing additional information and techniques to address other coastal issues, particularly mining, will be fully considered when the Board begins to implement the Coastal Area Management Program.

   The Coastal Area Board has already begun to develop and gather biological baseline information, and these efforts will be increased upon implementation of the management program. Most of the Board's operational rules and regulations will be implementable when the program is approved. The regulations applicable to new point source dischargers will be applicable immediately, since such applicants are obliged to submit the necessary information. The regulations for existing point source dischargers will be implementable after a short initial test period. The regulations applicable to other uses are effective immediately, because they are not based on biological baseline monitoring. The effect of these regulations would be predictable because application of these regulations would be based on the clear language of the regulations as applied to situations described in the application and existing information on coastal resources.

...ay at times be impossible for a project to comply fully with a given ...egulation, but believe such circumstances should be as carefully defined ...s possible. Since the term, "to the maximum extent practicable," has ...een specifically defined in NOAA's Federal consistency regulations, we ...elieve it is important to clarify the term's meaning and application within ...he context of the ACAMP. Therefore, we strongly encourage the Board to ...efine the term as specifically as the Board defined the term "compelling ...ublic interest" on page 111 of the ACAMP.

3 Third, we are concerned about the possible negative impacts on coastal ...esources from those "permissible" uses which are not subject to the manage-...ent program. We understand that the State makes a distinction between these "uses" which are not subject to the management program and certain ...pecific "activities" which may result from them and which are subject to ...he program. While we recognize the merits of this distinction, we do not ...eel that it is clearly articulated or substantiated in the program document.

4 Fourth, we consider the procedure for designating geographic areas of ...articular concern (GAPC's) and areas for preservation and restoration (APR's) ...o be highly simplified and lacking in necessary detail. In fact, specific ...riteria for APR designation, a requirement of the Federal regulations, do ...ot appear to be included in the ACAMP. It also appears that only members ...f the Coastal Area Board can nominate GAPC's and APR's. We believe that ...ther individuals and entities, including Federal agencies, should be permitted ...o nominate possible areas, and we encourage the Board to develop specific ...uidelines and procedures allowing wider participation in the nomination ...rocess. In this regard, we recommend that the list of GAPC's be expanded ...o include the major oyster reefs in the Alabama coastal area.

3692

5 Fifth, regarding the ACAMP Federal consistency procedures, we have a number ...f specific comments which are included in the attachment to this letter. ...mong these is the recommendation that the discussion of Federal activities ...e revised to reflect the recent Department of Justice opinion that Federal ...ctivities are subject to consistency requirements only where such projects ...re likely to directly affect a State's coastal zone. We believe that issues ...elated to Federal consistency determinations, as well as to changes in the ...ational interest and in the Alabama program, can best be addressed through ...ontinuing Federal/State coordination and consultation, and recommend that ...he ACAMP develop a mechanism to provide for such consultation.

6 Sixth, we believe that the ACAMP method(s) for assuring that local govern-...nts do not unreasonably restrict or exclude land and water uses of ...gional benefit should be discussed in greater detail. Specifically, we ...quest that the final document include procedures for using the eminent ...main authority should it be needed.

2. The phrase "to the maximum extent practicable" will be implemented in accordance with the General Rules and Regulations of the Board, which call for specific regulations to be overridden in uses of "compelling public interest", as defined in the General Regulations. Use of the phrase "to the maximum extent practicable" in specific regulations will provide for greater flexibility in applying such regulations than in applying other specific regulations which do not contain the phrase. The Board, in developing its operational regulations, carefully examined the variety of situations likely to arise and decided to apply this qualifier in certain situations. Both regulations containing the qualifier and other specific regulations are subject to the compelling public interest test contained in the general regulations.

3. ACAMP's specification of uses not subject to the management program was developed on the basis of provisions of Act 534 which provide that the program should manage uses with a direct and significant impact on the coastal area. Act 534 also specifies that certain uses are "permissible", that is, cannot be excluded from the coastal area per se. ACAMP manages such uses, however, to the extent that they involve activities, such as dredging and filling, which would have direct and significant effects on the coastal area. OCZM believes that this distinction is valid under the State act and is sufficiently clear to provide for predictable decision making.

4. OCZM has determined that the procedure for designating geographic areas of particular concern (GAPC's) and areas for preservation or restoration (APR's) is sufficient to meet federal regulations 15 CFR § 923.20 - 923.24.

We look forward to continued work with you on the ACAMP. If you have any questions regarding our comments, please call Paul Stang (343-7258) of our staff.

Sincerely,

Heather A. Ross

Acting Assistant Secretary—Policy, Budget and Administration

Specific criteria are given for such areas. According to the ACAMP, the criteria for designating an area as an APR is that the area must have bery special conservational,recreational, or ecological values and thus deserves special regulatory emphasis in order to preserve the area in its natural state. These determinations are to be made by the Board.

Regarding designation of future special management areas, the Board is comprised of a wide variety of individuals with varied backgrounds. Individuals or agencies who wish the Board to designate an area as a GAPC or APR should contact members of the Board with their request. If the request is reasonable, it should be a simple matter to have a Board member introduce the measure.

The Board has determined that generic categories of resources such as oyster reefs could be more effectively protected through the CAB rules and regulations than as designated GAPC's. In this regard, it has developed new rules and regulations applicable to oyster reefs which are included in the Final Environmental Impact Statement, p. 119.

5. The conclusions of the Opinion of the Justice Department have been incorporated into the language of the FEIS, as indicated in response to your specific comment number 1. We agree that issues related to federal consistency determinations can best be addressed through continuing and effective federal/state coordination and consultation. The Board has provided for such consultation through the provision for establishing memoranda of agreement and through the interagency review process discussed in Chapter 4, Part V, Review Procedures.

Specific Comments on the Alabama Coastal Area Management Program (ACAMP) and Draft Environmental Impact Statement (DEIS)

Program Authorities and Implementation

The statutory basis for the Alabama Coastal Area Management Program (ACAMP) is the Alabama Coastal Area Act of 1976 (Act 534) which establishes an autonomous Coastal Area Board (CAM) to develop and implement the program. The Board is authorized to review all uses having a direct and significant impact within the coastal area for consistency with Board-promulgated policies, rules and regulations which form the basis of the management program. Where uses already require a State permit or are subject to Federal consistency (e.g. Federal licenses, permits, assistance, etc.), the CAB must certify that these uses comply with the management program; certain other uses which are not otherwise regulated (see p. 101) require a permit from the Board.

The coastal resource use and natural resource protection policies, together with operational rules and regulations, constitute the decisionmaking framework of the ACAMP. Many of the policies (e.g. those relating to biological productivity, wildlife habitat protection, and wetlands and submersed grassbeds) contain both "maintenance of present level" and "enhancement" performance standards (pp. 58-59). The implementing rules and regulations stress that uses which "degrade" the coastal area will not be permitted or certified unless a compelling public interest is demonstrated (p. 111). The word "degrade" is defined in terms of reducing or destroying "present levels" of coastal resources.

It is our understanding from discussions with State representatives present at the Federal agency briefing held in Washington, D. C., on May 23, 1979, that the biological baseline analyses needed to determine the "present levels" of coastal resources have not yet been completed and that data suitable for use in the decisionmaking process may not be available for three to five years. In the absence of this important baseline data, how does the Board intend to enforce these policies? Will interim standards be established? We request that the final document provide additional information on the nature and timing of the baseline data acquisition program and clarification of the Board's means for applying its policies uniformly and consistently in the interim.

In addition to its role in establishing standards for coastal resource use and protection, baseline data is important to the Board's plans for monitoring compliance with the ACAMP (p. 106). We believe the document's discussion of monitoring and enforcement should also be expanded to clarify what will be done until such time as the necessary baseline data has been collected. We would also like to see more detail on how the monitoring program will be operated: who will do the work, how often it will be undertaken, and which techniques will be used when.

6. The eminent domain process is an acceptable method of assuring that local governments do nor unreasonably restrict or exclude uses of regional benefit. See OCZM program approval regulations, § 923.12. Specific procedures for implementation of the Board's acquisition authority may be found in Title 19, Alabama Code, which is incorporated by reference in Act 534, Sec.5(i), and the statutes cited on p. 74 with regard to the specific authority of the State agencies and private entities to acquire land through eminent domain.

Specific Comments

1. Program Authorities and Implementation

a. See response to general comment one. The Board has already entered into contracts for baseline studies, literature searches, and a resource inventory. These efforts will continue during program implementation.

If you would like further information concerning data acquisition and analysis during the first year of program implementation, we would request that you write directly to OCZM or the Board to obtain copies of the terms of the Board's Sec. 306 grant award and up to date information concerning further efforts by the Board to acquire usable data.

As noted above in response to general comment one, many Board policies, including those applicable to energy facilities, solid waste disposal, beaches and dunes, water resources, and oyster reefs will be implementable immediately upon program approval. New point source dischargers will be obliged to provide the necessary information regarding their activities. Only existing dischargers require additional information. In this case, the Board does not intend to apply interim standards, but will apply its operational rules and regulations to the extent that they are applicable. The Board will apply its regulations to the extent that the information available justifies their application.

ving commented generally on the policies, rules and regulations, there are veral specific comments which we would also like to make. First, we believe t the regulation concerning public access (p. 114) is not sufficiently prehensive. By limiting the regulations coverage to public projects, and en only "to the maximum extent practicable," the Board has exempted much of coastal area. If the CAB feels that it must maintain a distinction tween public and non-public projects, then we recommend that a second gulation be added to encourage the provision of public access in non-public tivities as well.

cond, we believe that the wetland mitigation regulation (p. 118) should stinguish between the relative values of naturally occurring and man-made tlands. The older or naturally occurring wetland can be expected to be more ductive than a new, man-made one; therefore, a greater area of man-made tland should be required to mitigate the loss of a natural wetland.

ird, we are concerned about the variance procedure which enables the Board permit construction on or close to existing dunes if the lot is not other- se buildable and if the construction plan "minimizes alteration (p. 119). ven the lack of information on the State beach and dune system (p. 60), it not clear that adequate information exists upon which to base a decision. would be interested in knowing how many lots in the coastal area are tentially candidates for such a variance and also whether or not the ard would retain or delegate the variance authority to local governments mitting acceptable local codes.

urth, we suggest that the action item covering cultural resources (p. 61) amended to include identification as well as restoration and preservation valuable historic resources. Although the discussion of the cultural sources issue (p. 53) indicates that a number of historic sites have ready been identified, it also assumes that additional ones are present t not yet recognized; it would appear that the identification of arche- logical sites is of particular importance.

ifth, we are concerned about the use of the term "to the maximum extent acticable" in a number of the ACAMP regulations. We recognize that it at times be impossible for a project to comply fully with a given gulation, but believe such circumstances should be as carefully defined possible. Since the term, "to the maximum extent practicable," has en specifically defined in NOAA's Federal consistency regulations, we lieve it is important to clarify the term's meaning and application within context of the ACAMP. Therefore, we strongly encourage the Board to fine the term as specifically as the Board defined the term "compelling blic interest" on page 111 of the ACAMP.

2 <u>ndary</u>

boundary of Alabama's coastal zone for management purposes is established Act 534 at the "10-foot contour where the land surface elevation reaches feet above mean sea level" (p. 63). While the Program notes that this ndary was chosen after public hearings on a range of alternatives, the

b. An extensive discussion and description of the Board's enforcement and monitoring program has been provided in Sec. VI, pp. 106 - 109. Specific details concerning the allocation of grant funds for such activities have not yet been developed but can be obtained as they are developed from OCZM or the Board.

c. Based on your comment, the Board has included in the rules and regulations for public access a provision that all non-public activities are encouraged to provide for visual and physical public access.

d. The Board has considered your concern regarding the relative value of new and older wetlands and have modified the wording of this provision.

e. The variance provision is important to having a legally viable dune ordinance. The provision is phrased so as to be limited to this function. A blanket provision against construction on dunes could be challenged in court as an unconstitutional taking of private property. OCZM experience in other states with such provisions, e.g. Delaware, indicates that the operation of such provisions does not lead to uncontrolled development in such areas. Since this provision serves this limited function, OCZM believes that it is not necessary to inventory such areas.

f. Cultural resources has been revised to include identification of these resources based on your comment.

g. The phrase "to the maximum extent practicable" will be implemented in accordance with the General Rules and Regulations of the Board, which call for specific regulations to be overridden in uses of "compelling public interest", as defined in the General Regulations. Use of the phrase "to the maximum extent practicable" in specific regulations will provide for greater flexibility in applying such regulations than in applying other specific regulations which do not contain the phrase. The Board, in developing its operational regulations, carefully examined the variety of situations likely to arise and decided to apply this qualifier in certain situations. Both regulations containing the qualifier and other specific regulations are subject to the compelling public interest test contained in the general regulations.

reasons for this choice are not articulated. We believe that the boundary discussion would be enhanced by a more detailed explanation of why this relatively narrow definition was chosen. This discussion should also indicate how the Alabama coastal zone boundary relates to those under consideration in the adjoining States of Florida and Mississippi (cf. 15 CFR 923.34). We also suggest that a scale be added to the map on page 64 as well as to those on pages 17, 24, 33, 37, 40, 79, 81, 193, 195, 220, and 226.

3 Uses of Regional Benefit

a The ACAMP maintains that it has two methods for assuring that local governments do not unreasonably restrict or exclude land and water uses of regional benefit: review of local government codes for compliance with the management program and use of eminent domain authority to acquire sites for regional benefit uses (p. 73). Since the former method is voluntary on the part of local governments, it is the lattet method on which the Board must rely to assure compliance. While use of eminent domain authority is clearly an acceptable mechanism under the Federal regulations, we do not believe that it has been adequately developed in the Alabama program. No procedures have been established for invoking the eminent domain authorities of the CAB or other agencies. Who determines that an unreasonable exclusion is threatened? What standards are used to make that determination? We request that the final document include procedures for using the eminent domain authority should it be needed.

b We also suggest that the State may want to consider additions to its list of uses of regional benefit. Major transportation facilities such as highways, ports, and airports are already included; since these activities require abundant sand and gravel, it would seem advantageous for the State to also consider operations associated with construction materials as uses of regional benefit. In addition, the State might want to include energy production and support facilities, although they would be covered in any event under consideration of the national interest.

4 Uses Not Subject to the Management Program

a Section 4 of Act 534 lists nine types of land and water uses which are "permissible" in the coastal area. These nine, together with two others, are listed as "not subject to the management program" on page 75. The two additional uses are: uses which do not have a direct and significant impact within the coastal area, and uses undertaken pursuant to a local government code approved by the CAB. These two additional items raise several questions. First, the addition of "uses which do not have a direct and significant impact" implies that all other uses listed on pages 75-76 do, and raises the question as to why they are exempted from the management program. Second, if approved local codes are not considered part of the management program, why, then, are they potentially eligible for funding to assist in enforcement under section 306 (p. 103)?

2. Boundary

The boundary description meets the Federal requirements found under Section 306(a) of the Federal Coastal Zone Management Act of 1972, as amended, and under subsections 923.31 - 923.34 of the rules and regulations promulgated thereunder. Specifically, the regulations state that the inland boundary must include (among other areas):

> "Those areas the management of which is necessary to control uses which have a direct and significant impact on coastal waters, pursuant to § 923.11 of these regulations..."

The authority provided in Act 534 provides the Coastal Area Board (CAB) the ability to manage all land and water uses which have a direct and significant impact within the Coastal Area and thus may have such impacts on coastal waters. In response to your comment, ACAMP has provided a scale in maps of the Coastal Area.

3. Uses of Regional Benefit

a. See response to general comment 6. Exercise of eminent domain to satisfy the requirement that there be a mechanism to ensure that uses of regional benefit are not excluded from the coastal zone will be through theprocedures specified in the applicable statutes referenced above and on p. 74 of the FEIS. The Board itself may become aware of such exclusions through communications directed to it The Board will implement the statutory procedures for eminent domain after resolving to do so upon a motion submitted by a Board member.

b. OCZM believes that the list of uses of regional benefit provided by ACAMP are sufficient to meet federal requirements. The Board, however, wishes to thank the Department for this valuable suggestion. As you note, energy facilities are covered by the Board's consideration of the national interest; as you are aware, there is no specific requirement that such facilities be considered uses of regional benefit per se.

4. Uses Not Subject to the Management Program

a. The fact that "uses which do not have a direct and significant impact" are included among those which are not subject to the management program does not mean that the other uses which are so listed do. This item is necessary because Act 534 requires that only uses with such impacts be managed by the program. Furthermore, the Alabama legislature in Act 534 determined that the other listed uses generally do not have direct and significant impacts on the coastal area that should be managed by the program. However, to the extent that these generally permissible uses (i.e.,

...se exempted uses are said to be not subject to the management program ...less they involve "dredging, filling, new or additional discharge into ...stal waters, or draining of wetlands" (p. 75). When questioned at the ...eral agency briefing, State representatives maintained that there is a ...tinction between excluded "uses" which are not subject to management ...l the specific "activities" resulting from there uses (e.g. dredging, ...lling) which are subject to the program. We request that the distinction ...ween these terms be clarified in the final document, particularly since ... cannot find such a distinction in Act 534.

...n-regulated Uses

... contrast to "uses not subject to the management program," "non-regulated ...s" are subject to the management program. "Non-regulated uses" are ...fined as "those uses which have a direct and significant impact on the ...stal Area and which do not require a State permit and are not subject to ...eral consistency requirements" (p. 85). These uses include (1) construction ... beaches and dunes and the 100-year floodplain, (2) septic tank construction ...d operation, and (3) extraction of groundwater resources (p. 101). These ...n-regulated uses" are, in fact, regulated by the Board and may also be ...ulated by local governments. with or without Board approval (pp. 101-105). ... fact that these uses are regulated by the Board makes the term "non-...ulated" both misleading and confusing. We believe it would be helpful if ... Board adopted another less confusing term, such as "Board or CAB or ...MP-regulated," to describe these uses. At a minimum, we suggest that the ...rd expand the definition on page 259 to indicate what these uses are ...l how they are regulated.

...litional confusion arises from the reference to the Federal consistency ...quirements in the definition of "non-regulated uses." We believe that this ...ect of the definition should be clarified.

...graphic Areas of Particular Concern

... ACAMP designates two geographic areas of particular concern (GAPC's): ... Port of Mobile and the Mobile-Tensaw River Delta (pp. 77-82). The ...undaries of these two GAPC's appear to overlap along the western side of ... Delta between Chickasaw and Mobile. While the program states that "the ...ard does not intend for . . . existing urbanized areas to be included ...thin the delta designated as a GAPC" (p. 80), we feel some uncertainty ...ill exists and should be rectified by a more precise verbal or graphic ...scription. Unless a clear boundary, between the two GAPC's is delineated, ... are afraid that the variation in use priorities established for each of ...se areas may result in conflicts and induce undertainties with respect ... Federal consistency determinations during program implementation.

... procedures for designating additional GAPC's (p. 123) appear to us to ... highly simplified and lacking in necessary detail. For example, there

397

uses that cannot per se be excluded from the coastal area) have such effects, i.e. if they involve dredging and filling and the like, they are subject to management.

Finally, approved local codes are a part of the management program to the extent that local governments with such codes conclude with the CAB agreements whereby enforcement by them becomes a valid technique of control under OCZM program approval regulations, 15 C.F.R. § 923.44. Such activities by local governments would provide the basis for a legitimate pass-through of Sec. 306 funds.

b. See response to general comment 3.

5. Non-Regulated Uses

The term "non-regulated uses" was chosen to reflect the fact that this section of the management program applies to uses which are not subject to existing administrative machinery (i.e., permitting or licensing) or federal consistency procedures. Of course, after approval of the management program, the Board will manage such uses directly, or through use of the federal consistency procedures.

Three specific such uses have been identified on p. 101, and the ACAMP indicates on the same page that other uses may become regulated if the Board determines that they have a direct and significant impact on the coastal area.

6. Geographical Areas of Particular Concern

a. In response to this comment, a procedure has been added whereby the CAB can inform interested persons whether a particular parcel is located in the Port of Mobile or Delta GAPC, based on the location and resource values of the parcel. OCZM program approval regulations, § 923.21 (b)(2), require that the State identify such areas such that the public may determine their extent and that such identification should be based on location and resources. The procedure described in the FEIS is based on location and resources and will provide for such notice. Boundary

is no discussion as to how conflicts between GAPC nominations would be resolved. Moreover, it would appear that only CAB members may nominate GAPC"s. We believe that other individuals and entities, including Federal agencies, should be permitted to nominate possible GAPC's, and encourage the Board to develop specific guidelines and procedures allowing wider participation in the nomination process.

c In this regard, we recommend that the list of GAPC's be expanded to include the major oyster reefs in the Alabama coastal area. These include Buoy, Cedar Point, Fish River, Great Point Clear, Heron Bay, Klondike, Sand, Shell-bank and White House reefs (1,400 acres). Oysters bring $6 million retail to the economy of Alabama and 200 coastal residents derive at least part of their income from the harvest of oysters. Because of their immobility, oysters are especially vulnerable to changes in salinity, dredging and domestic sewage. Low salinity kills oysters directly, high salinity favors oyster drills which prey on oysters, dredge spoil may smother oysters and sewage effluent contains pathogens which render oysters unfit for human consumption. Obviously, oyster reefs meet the criteria for inclusion as GAPC in that they are fragile, scarce, and vulnerable; and they are areas of high natural productivity and essential habitat for living resources.

d 3987 We also strongly encourage the State to consider the designation of identified and delineated "critical habitats" of endangered species as GAPC's and/or areas for preservation and restoration (APR).

Areas for Preservation and Restoration

The two areas designated as areas for preservation and restoration (APR's) are: Point aux Pins wetland system and the National Audubon Society wild-life sanctuary on Dauphin Island (pp. 82-84). We urge the State to include a larger maps in the final document so that the boundaries of these areas can be precisely determined.

b We note that the procedure for designating additional areas for preservation and restoration is the same as that for GAPC's, and reiterate our concerns expressed above about the vague character of this procedure. Further, specific criteria for APR designation, a requirement of the Federal regulations, do not appear to be incuded in the ACAMP. We believe such criteria must be included in the final program document.

8 National Interest

a Appendix E (p. 233) contains a discussion of the various national interests which were considered during the development of ACAMP. We suggest that reference to Executive Orders 11988 (Floodplain Management) and 11990 (Wetlands Protection) be included in this section. Inclusion of these executive orders would be consistent with section 923.3(b)(2)(ii) of the program development and approval regulations, which strongly encourages States to consider these statements of national interest when developing their wetland and floodplain policies.

overlaps may be resolved through application of this procedure.

These GAPC's were identified precisely because of the conflicts which might arise due to the use priorities for each area and thereby require special management in accordance with the locations and resources included in the areas.

b. OCZM has determined that the procedure for designating special management areas meets the Federal requirements found in 15 C.F.R. Section 923.21. The specific criteria for such designations are provided on p. 77 of the FEIS. Individual government agencies who wish to nominate a GAPC or APR should contact a member of the CAB with their request. Nominations should be accompanied by sufficient information to allow the Board to determine whether these criteria are met and the area nominated is appropriate for special management.

c. The CAB has determined that generic categories of resources can be more effectively protected through the CAB rules and regulations than as designated GAPC's. In this regard, CAB has included rules and regulations for oyster reefs which are presented in the Final Environmental Impact Statement (see p. 119).

d. Provisions for protection of habitats for endangered species are included within the rules and regulations for wildlife and habitats as presented on page 120 of the DEIS.

7. Areas of Preservation and Restoration

a. Larger scale maps of these APR's may be found at the CAB.

b. As presented in the DEIS, the criteria for designating an area as an APR is that the area must have very special conservational, recreational, or ecological values and thus deserves special regulatory emphasis in order to preserve its natural state. The same procedures are used to designate APR's as GAPC's subject to special requirements for APR's. These determinations are to be made by the Board. Based on an examination of the Alabama coastal area, OCZM expects that future special areas designated will be APR's. The two areas designated to date are areas of mixed use and development pressure appropriate for special management as GAPC's. The Office of Coastal Zone Management has determined

b In addition, we believe that the national interest for endangered flora and fauna is not only to conserve, but may also include enhancement, especially when recovery plans are initiated. We suggest that the discussion on page 239 of the ACAMP be modified accordingly.

g Federal Consistency

a The Department has a number of specific comments to make on the ACAMP Federal consistency procedures (pp. 89-99); unless otherwise noted, citations are to the Federal consistency regulations (15 CFR 930). First, we recommend that the discussion of Federal activities (pp. 89-92) be revised to reflect the April 20, 1979, Department of Justice opinion that Federal activities are subject to the consistency requirements of section 307(c)(1) of the Federal Act only where such projects are likely to directly affect a State's coastal zone.

b Second, although the ACAMP does not so specify (p. 89), we note that Federal agencies are required to notify the State of a proposed action at least 90 days in advance, unless an alternative schedule is agreed to by the State agency and the affected Federal agency (930.34(b)).

c Third, we believe that the second part of Table IV-3 (p. 91) which begins "In addition, federal activities" and ends "quality of coastal area resources" should be deleted. This merely restates the general criteria found in 930.21(b) of the regulations, but does not meet the requirement of 930.35(a) that Federal activities be described in terms of the specific type of activity involved.

399

d Fourth, we note that an unresolved State/Federal disagreement on the consistency of a direct Federal activity (p. 92) need not delay implementation of the proposed action beyond the 90-day notification period (930.42(c)).

e Fifth, we request that the final document clarify whether or not the third paragraph on page 92 refers to unlisted Federal activities. If it does, we also request that this paragraph be expanded to reflect the language of 930.35(b) which spells out procedures for notifying the affected Federal agency.

f Sixth, the Department of the Interior is indicated as having jurisdictional authority for the issuance of permits for water easements and timbering activities on U. S. Forest Service land (p. 95). In fact, the Department of the Interior does not have this authority, the Department of Agriculture does.

g Seventh, we request that the discussion of State/Federal coordination on the submission of OCS plans (p. 97) contain reference to the procedures set out in 30 CFR 250.34. We also request that ACAMP procedures provide for notification of the U. S. Geological Survey if, at any time during its review, the CAB determines that an OCS plan is not subject to the management that the process for designation of special areas meets the Federal requirements.

8. National Interest

a. Executive Orders No. 11988 and 11990 have been listed in Appendix E1.

b. Based on your comment, the discussion of the national interest concerning endangered flora and fauna is modified in the Final Environmental Impact Statement to include reference to enhancement of these resources.

9. Federal Consistency

a. The necessary corrections have been made.

b. Thank you for this comment; an addition to the text has been made to include reference to this requirement.

c. The section referred to has been deleted. Sec. 930.21 (b) does not state such general criteria.

d. Thank you for this comment. There appears to be nothing in the text of this section of the DEIS that made any contrary statement. As indicated on p. 92, the Board has indicated that it will pursue Secretarial mediation by the Secretary of Commerce and judicial resolution, as appropriate, in consistency disputes with Federal agencies. Nothing would prevent the Board from seeking temporary relief in court from such disputes.

e. The sentence referred to was intended to apply to unlisted activities as well as other activities that come to the attention of the Board that would be subject to Federal consistency requirements. However, to clarify this point, additional language has been added to the text.

f. The indicated correction has been made.

g. OCZM feels that the procedures of the Board to implement federal consistency relative to OCS plans are adequate based on OCZM regulations, 15 C.F.R. Part 930. Of course, OCS plans will be processed by USGS subject to its own regulations, specifically 15 C.F.R. § 250.34. OCZM expects that the Board would inform

program. In addition, we note that States are expected to complete consistency determinations on OCS plans within the six-month period provided in the Federal Coastal Zone Management Act. Further, we note that should the Board object to a determination of consistency, the CAB will be expected to submit alternative measures for making the OCS plan consistent with the ACAMP (930.64). Finally, we request that "Department of the Interior" (p. 97, last paragraph) be changed to "USGS and applicant" and that "Secretary of the Interior (p. 98, Table IV-9) be changed to "Area Oil and Gas Supervisor, USGS;" both of these changes are pursuant to the January 18, 1979, amendments to the Federal consistency regulations.

Coordination and Consultation

We strongly recommend that the State consider establishing a procedure for continuing State-Federal coordination and consultation following program approval. We have been impressed by the effectiveness of State-Federal coordination to date and would like to see it continued, so that program changes, changes in the national interest, and Federal consistency determinations can be addressed readily. A continuing mechanism for coordination would also enable the State to avail itself of Federal technical information and expertise during program implementation; for example, Federal agencies could assist the CAB in developing guidelines for the development and review of local codes.

The Department also endorses the Board's plans to develop memoranda of agreement with other State agencies. We suggest that as such memoranda are drafted, consideration be given not only to procedures for simplifying permit review but also to ways in which State agency expertise can be mobilized to assist permit applicants in meeting the requirements of the ACAMP. For example, consultation with the State Historic Preservation Officer would enable an applicant to determine whether historic or archeological resources have been identified in a proposed project area and to assess the value of such resources.

Resource Inventory and Evaluation

Under Section 6 of Act 534, the ACAMP must identify and evaluate State coastal resources in terms of quality, quantity, and capability for use now and in the future.

As evidenced by the discussion of coastal issues in Chapter Two, considerable work has been done by the CAB and other State agencies to meet the Act's requirements. However, in the Department's view there are at least two areas which merit additional work from that currently reflected in the ACAMP: mining and mineral resources and cultural resources. Although the CAB may have undertaken more detailed studies, the draft contains only two relatively short paragraphs devoted to mining and mineral resources (p. 26). We believe this section could be improved by adding an evaluation of mineral quality and capability for use, especially for heavy minerals and oyster shells.

USGS if it determines, at some point in its consistency review, that a proposed plan would not affect the Coastal Area.

Of course, States are required to make their determinations on OCS plans within six months of receipt of a proper application for concurrence with the Certification of Consistency. It is also true that states must, in objecting to a Certification, describe alternative measures that would bring the plan into consistency. 15 C.F.R. § 930.64 (b).

Finally, the indicated textual changes have been made.

10. Coordination and Consultation

a. As always OCZM requires continuing consultation with Federal agencies to be part of the 306 grant application and will ensure that there is a specific focal point for interaction between the CAB and other agencies.

b. OCZM is pleased that the Department of the Interior endorses the CAB's plans to develop memoranda of agreement with other agencies. As these memoranda of agreement are developed, your suggestion will be taken into account regarding consideration being given not only to procedures for simplifying permit review but also to ways in which State agency expertise can be mobilized to assist permit applications in meeting the requirements of the management program.

11. Resources Inventory and Evaluation

The discussion of coastal issues in Chapter 2 was presented to give the reader a very general overview of the wide array of coastal issues which must be considered. A more detailed inventory was presented as Appendix A in the two earlier drafts of the Alabama Coastal Area Management Program, the Workshop Draft and the Hearing Draft. The inventory presented in the draft is being revised and will be presented in a separate publication. It will include reference to mining and minerals and cultural resources. See discussion under general comments above.

The section on cultural resources (p. 53) is also quite short and indicates some uncertainty as to the number of archeological and historical sites present in the coastal area. We encourage the State to undertake additional efforts to identify these important cultural resources during program implementation. Two means which we suggest the CAB use to identify these are: a survey of the coastal area, and work with individual applicants through the permit process.

Draft Environmental Impact Statement

Overall, we consider the DEIS to be adequate; however, we feel that some of the coastal issue discussions contain incomplete impact analysis. For example, in the discussion of dredging and filling (p. 148), it is stated that these activities will occur with "minimal environmental impact;" we believe that this discussion should be expanded to explain what these impacts will be. In another instance, it is simply stated that plant and animal life "shall be protected from air emissions" (p. 149); we think this discussion should include mention of what these air emissions are and how they will be controlled.

Although we agree that land and water uses subject to management will be clarified as a result of Federal approval, we do not believe that the uncertainties related to the permissibility of proposed uses will be eliminated (p. 146). As noted in our comments above, we are concerned both about the way in which the Board will apply its standards in the absence of baseline data and about the way in which uses not subject to the management program will be controlled.

Additional Comments

1. p. 43, paragraph 5. It is apparent that a portion of a sentence has been omitted.

2. p. 46 and Table II-5. We suggest that the discussion and table relating to endangered species clarify the relationship between State and Federal programs and indicate those species covered under Federal jurisdiction.

3. p. 66. We suggest that the Department of the Interior holdings be identified by Bureau and/or by use.

4. p. 71, second line from bottom. We suggest insertion of the phrase "or adverse effect to" after "loss of," since we believe that major damage should be avoided just as complete loss is.

5. p. 95. The Department of the Interior does not have jurisdictional authority for the issuance of permits for water easements and timbering activities on U. S. Forest Service land.

6. p. 110, paragraph A. We believe that the list of existing laws, rules and regulations relating to the development and preservation of resources

12. Draft Environmental Impact Statement

a. In both cases, the regulations of the CAB are the basis for the statements cited. See pp. 114, 115, and 119. All such activities will be regulated if determined to degrade the coastal area. In the case of the minimal impacts associated with dredge and fill, such impacts will arise only if certain wetlands loss or spoil disposal is allowed. The state has taken a strong position disfavoring such activities. Therefore OCZM expects the environmental effects of implementation of the State program to be beneficial.

b. See response under general comments above.

13. Additional Comments

a. Although a portion of a sentence was not omitted, a word was misplaced. This correction is made in the Final Environmental Impact Statement.

b. Based on information provided the Board by the Fish and Wildlife Service, we will include in the Final Environmental Impact Statement a table regarding threatened or endangered species under Federal jurisdiction.

c. The lands to which you refer are holdings of the Bureau of Land Management. This will be indicated on Table IV-1 in the Final Environmental Impact Statement.

d. The phrase "or adversely affect" has been added based on your comment.

e. Issuance of permits for water easements and timbering activities on U.S. Forest Service land is the responsibility of the Department of Agriculture. This revision will be made in the Final Environmental Impact Statement.

f. The Acts to which you refer have been included in the section on Existing Laws, Rules, and Regulations in the Final Environmental Impact Statement. Executive Order 11593 to which you refer has been included in the section on national interest in recreation.

within the coastal area should include the Coastal Zone Management Act of 1972, as amended, the Outer Continental Shelf Lands Act Amendments of 1978, the National Historic Preservation Act of 1966, as amended, the Archeological and Historic Preservation Act of 1974, and Executive Order 11593 (Protection and Enhancement of the Cultural Environment).

7. pp. 111, 256. We believe that the term "continuing" should be dropped from the definition of "degrade," since a single event could cause a major degradation in coastal resources.

8. p. 230, lines 14 and 18; p. 235, subparagraph (2); p. 236, line 40; p. 239, lines 7, 32, and 34; p. 240, last line. References made to sections III and IV, Chapter Four of the program, do not seem to contain the information indicated. Should section VII be referenced in these instances?

9. p. 256. We believe that a definition of "cultural resources" should be added, and suggest the following: "any district, building, site, object, or other material significant in American history, architecture, archeology, or culture which is of national, State, or local significance.

g. It is the opinion of the Coastal Area Board that the definition of degrade, as presently stated, best describes the intent of the Board.

h. Section VIII should be referred to in the instances noted. Revisions have been made in the Final Environmental Impact Statement.

i. A definition of cultural resources will be included in the Final Environmental Impact Statement.

JUN 20 1979

4E-ER/RGR

Regional Manager, Gulf-Islands Region
Office of Coastal Zone Management
3300 Whitehaven Street, N.W.
Washington, D.C. 20235

Dear Sir:

Region IV of the Environmental Protection Agency has reviewed the Draft Environmental Impact Statement (DEIS) on the proposed Alabama Coastal Area Management Program and has the following comments.

1 We cannot find a listing of the civil penalties attached to any violations of the rules and regulations. Additionally, we have comments concerning the following sections.

2 Page 71. Here, concerning Uses Subject to Management, the plan defines significant impact with a meaningless phrase. The term "negligible" is used to define significant impact but without a definition of negligible, both remain arbitrary and undefinitive.

3 Page 75. Uses not subject to management includes "Activities of any mosquito control commission which is a political subdivision or agency of the State of Alabama." Such activities should not be excluded from management because not only can they be environmentally destructive, but to exclude them so arbitrarily is not consistent.

4 Page 82. Mobile-Tensaw River Delta GAPC. Use Priorities. "Uses that...maintain the wetlands in the delta at a level necessary to provide present natural functions." Since the present "level" has not been quantified, the amount of wetlands necessary to sustain

403

ENVIRONMENTAL PROTECTION AGENCY

1. The Coastal Area Board under Act 534 does not appear to be empowered to impose civil penalties for violations of the management program.

2. CZMA Section 305(b)(2) and OCZM program approval regulations § 923.11 require that the program manage uses with direct and *significant* effects on coastal waters. ACAMP has provided an extensive list of such uses, in response to the Federal requirements, on pp. 71-72. ACAMP provides the definition referred to in order to provide general guidance concerning activities not listed.

3. The uses not subject to the management program listed on page 75 are specifically excluded by Act 534. However, as noted on page 76, these uses are brought under the jurisdiction of the management program if they involve dredging, filling, new or additional discharges into coastal waters, or draining of wetlands.

4. Efforts have already begun to establish those present levels. Therefore, it would be inappropriate to delete use priorities (b) and (c). Based on your comment, "significant" has been deleted from the prohibited category.

CZMA Section 305(b)(5) and OCZM program approval regulations Section 923.21 (b) require that the State provide broad guidelines on priorities of uses in particular areas, including specifically uses of lowest priority. Such identification of priorities does not necessarily serve a direct regulatory function, although the State would be expected to take such priorities into account in implementing its operational regulations. OCZM believes that the identification of priorities on p. 82 is sufficiently specific to meet Federal requirements and that, since the guidelines do not as such serve a direct regulatory function, that any ambiguity as to their application would be overcome by the more precise langugage of the specific regulations. The guidelines on priorities given on the referenced page would, however, enable prospective users of such areas to determine whether their activities would likely be in conformance with the policies of the ACAMP.

the present level of natural functions would be a qualitative judgement and would lead to unsupported arbitrary decisions. We suggest deleting (b) and (c) of this section, let (a) stand alone and omit the word significant in the "Prohibited" category.

The Alabama plan has improved greatly since the original draft and the Board is to be commended on the progress made to date.

Sincerely yours,

R. G. Rogers

Reginald G. Rogers
Coastal Zone Management Coordinator
Ecological Review Branch
Enforcement Division

cc: Dr. James Jones
Mississippi-Alabama Sea Grant Consortium

Mr. J. Paul Smith, Field Supervisor
U.S. Fish and Wildlife Service
NSTL Station, Mississippi

Mr. Sidney R. Galler
Deputy Assistant Secretary for
Environmental Affairs
U.S. Department of Commerce

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

June 20, 1979

Mr. Robert W. Knecht
Assistant Administrator for
Coastal Zone Management
National Oceanic and Atmospheric
Administration
3300 Whitehaven Street, N. W.
Washington, D.C. 20235

Dear Mr. Knecht:

The Alabama Coastal Area Management Program and Draft Environmental Impact Statement (ACAMP/DEIS) has been reviewed by the staff of the Federal Energy Regulatory Commission (FERC).

Our comments pertaining to action items, uses subject to management, FERC's licensing authority, the planning process for hydroelectric powerplants, and miscellaneous are offered for your consideration.

1 Action Items

On page 55 of the ACAMP, the State indicates that it will "undertake certain action items to address specific coastal issues...." Then, on page 57 the State lists examples of items that "the Board proposes to consider...." While not objecting to the action items for economic development, we would prefer a more concrete assurance that these programs and activities will be carried out under the ACAMP. The State should indicate the exact program and energy planning that it anticipates accomplishing under the ACAMP.

2 Uses Subject to Management

Page 63 of the ACAMP indicates that the Alabama Coastal Area Board will be able to preclude "uses and effects of uses which have a direct and significant impact within the Coastal Area...." Since this Board can only regulate uses within the relatively small Coastal Area, it is not clear how the State intends to regulate "the effects of uses" outside the Coastal Area. This should be clarified in the final program document.

FEDERAL ENERGY REGULATORY COMMISSION - CARL N. SHUSTER JR.

1. Action Items

The action items to which you refer are examples of activities that the CAB proposes to consider carrying out with the use of Section 306 implementation funds. The priority and specific nature of each action will be reviewed by OCZM on a yearly basis via the grant application review process. OCZM and the CAB will coordinate relevent activities with FERC and DOC as well as other agencies. In addition, we would be happy to review the first year and any subsequent work programs with FERC officials prior to grant award.

2. Uses Subject to Management

Uses outside the coastal area which directly and significantly affect the coastal area are regulated to precisely the same extent as uses within the coastal area -- i.e., the same uses are regulated and the same policies apply whenever applicable on their face. The only distinction is the additional question whether such uses directly and significantly affect the coastal area. Therefore, after determining whether their activities outside the coastal area directly affect the coastal area pursuant to CZMA Sec. 307(a)(1), Federal agencies should apply the relevant uses and policies of the program in determining whether their proposed activities are consistent with the management program. Federal agencies are in any case required to determine whether their proposed activities directly affect the coastal zone by CZMA Sec. 307(a)(1), and by 15 C.F.R. § 930.33(a).

3. FERC's Licensing Authority

The information regarding the licensing authority of the FERC has been revised.

3 FERC's Licensing Authority

FERC's licensing authority as presented on page 95 is not entirely correct. The license and certificate authority listing in the ACAMP should be as follows:

Federal Energy Regulatory Commission

- Licenses required for non-Federal hydroelectric projects and associated transmission lines under Sections 4(e) and 15 of the Federal Power Act (16 U.S.C. 797(e) and 808).
- Orders interconnection of electric transmission facilities under Section 202(b) of the Federal Power Act (16 U.S.C. 824 a (b)).
- Certificates required for the construction and operation of natural gas pipeline facilities, defined to include both interstate pipeline and terminal facilities under Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)).
- Permission and approval required for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act (15 U.S.C. 717f(b)).

90th

4 Planning Process For Hydroelectric Powerplants

Existing hydroelectric powerplants and known potential hydroelectric development sites in Alabama are located outside of the coastal area. Because no discussion on hydroelectric powerplants is presented in the energy facility planning process of the management program, we assume that hydroelectric powerplants in Alabama are either outside of the boundaries of the coastal area or would not significantly affect the coastal area. If this assumption is incorrect, Alabama must discuss a planning process for hydroelectric powerplants in the program.

5 Miscellaneous

At the bottom of page 222, the gas production figures for the Chunchula and Hatters fields are given in Mcf. This is the standard abbreviation for one thousand cubic feet, not one million, as noted in the document. Thus, the first sentence in the last paragraph should read "In 1977 the Chunchula Field produced 3,216,403 thousand cubic feet (Mcf) of gas...."

4. Planning Process for Hydroelectric Power Plants

Potential hydroelectric power plant sites in Alabama are located outside the Coastal Area. The possibility of such a facility locating within or affecting the Coastal Area is remote. However, if this possibility should occur, the CAB will take appropriate steps to address the issue.

5. Miscellaneous

The sentence regarding the Chunchula Field production has been revised (see p. 224).

We appreciate the opportunity to review the Alabama Coastal Area Management Program and Draft Environmental Impact Statement and look forward to reviewing the Final document.

Sincerely,

Carl N. Shuster, Jr. - Ph.D.
Coordinator, Coastal Zone Affairs

cc: Honorable Charles Warren
Mr. Gary Greenough
Dr. Sidney R. Galler

407

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION

Public Buildings Service
Washington, DC 20405

JUL 3

Dr. Sidney Galler
Deputy Assistant Secretary
for Environmental Affairs
U. S. Department of Commerce
Washington, DC 20230

Dear Dr. Galler:

Thank you for the opportunity to review the Draft Environmental Impact Statement on the Proposed Alabama Coastal Management Program. We have one comment on the document as written that we would appreciate clarified in the final statement. That matter is the method of notifying the Coastal Area Board of a proposed or on going Federal project or activity. Heretofor it has been the practice in other jurisdications to notify the appropriate state authority through the A-95 notification process. Unless the final EIS specifies another manner in which the Coastal Area Board is to be informed of a proposed or ongoing Federal program or activity, GSA will continue the practice followed elsewhere.

Sincerely,

CARL W. PENLAND
Acting Director
Environmental Affairs Division

cc: Regional Manager, Gulf-Islands Region (OCZM)

AMERICAN REVOLUTION BICENTENNIAL 1776-1976

Rec'd 7/9/79
Mail sent to NOAA

Keep Freedom in Your Future With U.S. Savings Bonds

GENERAL SERVICES ADMINISTRATION

1. OCZM Federal Consistency Regulations (Federal Register, June 25, 1979) requires that the Federal agency inform the CAB at the earliest practical time whether the Federal agency believes that its proposed action is consistent. OCZM's regulations specifically acknowledge the A 95 review process so long as that procedure meets requirements of the regulations. Unless the CAB contacts the General Services Administration seeking a different procedure the A 95 review procedure is sufficient.

DEPARTMENT OF TRANSPORTATION
REGIONAL REPRESENTATIVE OF THE SECRETARY
1720 PEACHTREE ROAD, NORTHWEST
SUITE 515
ATLANTA, GEORGIA 30309

June 12, 1979

Regional Manager
Gulf-Islands Region
Office of Coastal Zone Management
3300 Whitehaven St., N.W.
Washington, D.C. 20235

Dear Sir:

We have reviewed the Alabama Coastal Area Management Program and Draft Environmental Impact Statement and we have no adverse comments. However, the comments previously submitted by our Eighth Coast Guard District on April 5, 1979, (copy attached) still apply.

Sincerely,

Thomas H. Lewis, Jr.
Regional Representative

Copy to: Sidney R. Galler
Deputy Asst. Secretary
for Environmental Affairs
Room 3425
U.S. Dept. of Commerce
Washington, D.C. 20230

U.S. DOT, P-20

60h

DEPARTMENT OF TRANSPORTATION - THOMAS H. LEWIS, JR.

1. The CAB has made provisions for the development of memoranda of agreement (MOA) to handle special types of uses (reference p. 86), of which aids to navigation is one. During the first year of implementation the CAB intends to develop an MOA with the U.S. Department of Transportation concerning the installation, shifting and maintenance of aids to navigation.

2. The listing on p. 91 of permits for transporting hazardous substances and materials under the Department of Transportation has been removed.

16000
5 APR 1979

the quantities to be handled at any planned waterfront facility which requires a Corps of Engineers "404" permit public notice.

In conclusion, we are prepared to fully support your efforts in reviewing significant Coast Guard activities and permit programs that may impact on your coastal region. We look forward to meeting with you as soon as your management program has been approved to work out the details for implementing it as it pertains to the Coast Guard. Please contact me if you have any questions or require any help from us.

Sincerely,

C. F. JUECHTER
Captain, U.S. Coast Guard
Chief of Staff
Eighth Coast Guard District

411

PCGOLDEN:mdb 30 Mar 79