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DANIEL W. O'CONNELL*

Florida's Struggle for Approval Under the Coastal Zone Management Act

On September 24, 1984, the State of Florida received federal approval for its coastal management program,¹ in accordance with Section 306 of the Coastal Zone Management Act (CZMA).² The approval came five years after the State of Washington's CZM Program was the first so designated. This article focuses primarily on the difficulties Florida encountered in developing a federally approved coastal management program. Florida is unique, not only because it has one of the longest coast lines in the United States, but also because it faces perhaps the most intense pressures for coastal development. Before discussing the administration of the CZMA and Florida's coastal management politics, the state's special coastal characteristics will be described.

THE COASTAL STATE OF FLORIDA

While Florida is called the "Sunshine State," it is also called the Coastal State, both geographically and economically. Florida has 11,000 miles of tidal coastline (second only to Alaska), of which 1,160 miles are sandy beaches. It is the only state bounded by both the Atlantic Ocean and the Gulf of Mexico. The peninsula is never more than 95 miles wide, which means with rare exceptions Floridians are no more than 50 miles from a coast. The State is, in effect, two coasts back to back.

Florida's coastal nature also has tremendous economic significance. The annual economic value of coastal tourism, sports and commercial fishing, development, and port activity is substantial.³ At the beginning of this decade, approximately five million people lived in Florida's coastal counties, the fourth largest coastal county occupation in the United States.⁴

These geographic, economic, and population factors, combined with

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1. 46 Fed. Reg. 48,742 (1981).

2. 16 U.S.C. § 1455 (1982).

3. See F. BELL, RECREATIONAL VERSUS COMMERCIAL FISHING IN FLORIDA: AN ECONOMIC IMPACT ANALYSIS (1979) (public policy study estimating profound impact of resident and tourist sport fishing, and of retail sales by fishing industry, on state economy). For a recent discussion of concerns regarding overdevelopment and unimpeded growth, see generally Jaynes, *As Florida Grows, So Does Concern About Saving Sun-and-Sand Good Life*, N.Y. Times, July 7, 1982, at A17, col. 1.

4. Interview with William Matuszeski, director, Coastal Zone Management Programs Office, Washington, D.C. (1980) [hereinafter cited as Matuszeski Interview].

legal considerations, formed the basis for deciding to include the entire state within the boundary definition in the application for federal approval of Florida's Coastal Management Program:⁵

Florida's relatively low land elevation, high water table, many rivers of inland origin which empty into coastal waters, extensive coastline, and the generally close proximity of all land locations to the Atlantic Ocean or Gulf of Mexico make it difficult, if not impossible, to establish a scientifically rational boundary which includes inland areas having no significant effect on coastal waters. Furthermore, since the legislature has limited the development of the state's program to existing laws and regulations, no new regulatory scheme is being created by the state program. The existing laws which are the basis for the program are laws of statewide applicability.

Only two other state programs included their entire geographic area within the coastal zone: Delaware and Puerto Rico.⁶

Although Florida is rich in a variety of natural, commercial, recreational, ecological, industrial, and aesthetic resources, it also has an abundance of coastal zone problems. These include flooding and beach erosion, loss of vital natural resources to coastal development, failure to protect water dependent economic development opportunities, loss of beach access, and hurricanes endangering life and property. Florida and its coastal zone will also continue to face severe developmental pressures.⁷

FEDERAL APPROVAL OF FLORIDA'S COASTAL PROGRAM: THE LONG MARCH

From the standpoint of the one key federal coastal official, Florida has been their "least satisfactory" experience.⁸ Of the 35 states and territories eligible for Section 306 administrative grant funds, 25 had federally approved programs by September 1980.⁹ Of the remaining ten, Florida was long considered a "maybe." Because of the overall importance of the State of Florida and its unique coastal resources, however, the federal

5. Brindell, *Florida and Coastal Zone Management*, 54 FLA. B.J. 295, 298 (1980) (footnote omitted).

6. *Id.* at 299, n. 34.

7. Florida in the 1980s promises to continue as a high growth state, with the attendant problems and opportunities that growth entails. . . . [T]he University of Florida Bureau of Economic and Business Research . . . projects Florida's 1990 population to be more than eleven and one-half million people. The projections are based on full-time residents; adding Florida's tourist population to those figures increases the impact that will be felt on the state's resources.

RESOURCE MANAGEMENT TASK FORCE, FINAL REPORT TO GOVERNOR BOB GRAHAM at 7 (1980) [hereinafter cited as REPORT].

8. Matuszeski Interview, *supra* note 4.

9. See Eliopoulos, *Coastal Zone Management: Program at a Crossroads*, [Monograph 30] ENV'T REP. (BNA) at 24-25 (Sept. 17, 1982).

office considered Florida the symbolic "swing" state for the ultimate effectiveness of the federal coastal management program.¹⁰

Such a recalcitrant state coastal zone management experience was not initially anticipated. Florida was one of the first states to prepare for the enactment of the CZMA. As early as 1970, the Florida legislature created, within the Department of Natural Resources (DNR), the Florida Coastal Coordinating Council. One of the Council's primary duties was "to develop a comprehensive state plan for the protection, development, and zoning of the coastal zone, making maximum use of any federal funding for this purpose."¹¹ The first major study group to look into the matter, the Environmental Land Management Study Committee, concluded in 1973 that the State should qualify as soon as possible for the maximum amount of available CZMA funds.¹²

Between 1967 and 1978 numerous state laws and constitutional amendments were enacted in the area of natural resource management.¹³ Florida's draft coastal program, however, was not presented to the legislature until March 1978. The legislature reacted by passing the Florida Coastal Management Act of 1978,¹⁴ nicknamed the "no-nothing-new bill."¹⁵ The Bill was so named because it provided that Florida's federal approval program must be based upon existing state laws and regulations. The legislature expressly rejected the current coastal program draft and the previously prepared coastal zone atlases which divided areas of the state into preservation, conservation, and development areas. The first three sections of the "no-nothing-new bill" also contained major amendments to the Florida State Comprehensive Planning Act of 1972.¹⁶

In response to a draft state comprehensive plan, the legislature downgraded the plan by giving it only advisory status.¹⁷ The specific goals, objectives, and policies contained in the plan could only be implemented or enforced through specific legislative acts. In addition, substantial cuts were made in the budget of the state coastal management office.¹⁸

10. Matuszeski Interview, *supra* note 4.

11. FLA. STAT. ANN. § 380.19(4)(d) (West Supp. 1984).

12. ENVIRONMENTAL LAND MANAGEMENT STUDY COMMITTEE, ENVIRONMENTAL LAND MANAGEMENT 78 (1973) (Final Report to the Governor and Legislature).

13. See, e.g., Florida Air and Water Pollution Control Act, FLA. STAT. ANN. ch. 403 (West 1973 & Supp. 1984) (enacted 1967); FLA. CONST. art. II, § 7 (West 1970) (natural resources and scenic beauty); Florida Environmental Land and Water Management Act of 1972, FLA. STAT. ANN. ch. 380 (West 1974 & Supp. 1984); Florida Aquatic Preserve Act of 1975, FLA. STAT. ANN. ch. 258 (West 1975 & Supp. 1984); Florida Safe Drinking Water Act, FLA. STAT. ANN. §§ 403.850-.864 (West Supp. 1984) (enacted 1977).

14. FLA. STAT. ANN. §§ 380.20-.25 (West Supp. 1984).

15. Letter from Edward T. LaRoe, Bureau of Coastal Zone Management, Florida Department of Environmental Regulation, to Bob Jones, Southeastern Fisheries Association, Inc. (Jan. 8, 1979) (discussing the Florida CZM program).

16. FLA. STAT. ANN. §§ 23.011-.017 (West Supp. 1984).

17. FLA. STAT. ANN. § 380.21 (West Supp. 1984).

18. See *infra* note 57.

In 1979, the new administration of Governor Bob Graham committed itself to present a program for federal approval within the confines of Florida's Coastal Management Act.¹⁹ Florida's participation in the federal program also was strongly recommended by the Governor's Resource Management Task Force in its January 1980 *Final Report to Governor Bob Graham*.²⁰

Following this report, negotiations accelerated between the Florida Department of Environmental Regulation and the federal Office of Coastal Zone Management (OCZM).²¹ The basic state strategy was to develop a program that included a combination of non-statutory increments to Florida's existing natural resource management system. This program involved the creation of an Interagency Management Committee to improve the administration and effective implementation of existing state and local laws relating to coastal management.²² At this point, in 1980, Florida was operating on its final Section 305 federal program development grant, approaching its last realistic opportunity to obtain federal approval of its program for Section 306 administrative and implementation grant funding.

PRE-APPROVAL FEDERAL FUNDING OF COASTAL MANAGEMENT ACTIVITY

Although Florida had not qualified in 1980 for Section 306 funding, the state had actively participated in Section 305.²³ From Florida's first receipt of federal planning funds in October 1974 to 1980, the state had spent approximately \$3.5 million.²⁴ Florida also had been a recipient of substantial Section 308, Coastal Energy Impact Program (CEIP), funds.²⁵ From 1978-1980, Florida's CEIP awarded over \$2.5 million to units of local government to assist them in dealing with the impacts associated with energy facilities in coastal areas.²⁶ Projects for which CEIP assistance was awarded included: two port planning studies, two oil spill studies, two Outer Continental Shelf (OCS) policy studies, one OCS workshop, one power plant study, one community development plan, and one pipe-

19. See, e.g., *infra* text accompanying notes 45-46.

20. REPORT, *supra* note 7, at IX-5.

21. In 1982, the Office of Ocean and Coastal Resource Management (OCRMR) succeeded OCZM in overseeing the CZMA. See Wolf, *Accommodating Tensions in the Coastal Zone: An Introduction and Overview*, 25 NAT. RES. J. 15 n. 20 (1985).

22. Brindell, *supra* note 5, at 296.

23. 16 U.S.C. § 1454 (1982).

24. These and other figures cited in this article were obtained through the author's discussions with various officials of the Bureau of Coastal Management, Florida Department of Environmental Regulation (DER); the CEIP Planner, Florida Department of Community Affairs (DCA); Robert Weiss, CEIP Program Coordinator, Florida DCA; and Ed Conklin, Florida DNR, during the spring and summer of 1980 [hereinafter cited as Discussions].

25. 16 U.S.C. § 1456a (1982).

26. Discussions, *supra* note 24.

line.²⁷ Florida was also an active participant in the Section 314 Coastal Zone Management Advisory Committee,²⁸ through the appointment of Dr. Shirley Taylor, a prominent Florida environmentalist.

Finally, the federal government, by 1980, had designated two estuarine sanctuaries in Florida under Section 315;²⁹ \$1.5 million was available to the state for land acquisition in connection with the Rookery Bay National Estuarine Sanctuary in Collier County, while \$50,000 was available on an annual basis for sanctuary management purposes.³⁰ The federal government obligated \$1.95 million for land acquisition in connection with the Appalachian River and Bay Estuarine System in Franklin County.³¹ The state also received a \$50,000 pre-acquisition award for sanctuary designation preparation.³² In addition to the continuation of, even increase in, these funds, one of the strongest incentives for seeking approval under Section 306 was the approximately \$2.5–\$3.5 million Florida would receive annually for program administration and implementation.³³

FEDERAL APPROVAL: A MOVING TARGET?

Other articles in this symposium detail the history of the CZMA,³⁴ but several highlights are necessary in order to dramatize the pressures on federal officials as they undertook the difficult task of implementing the Act. The "Quiet Revolution"³⁵ in land use controls reached its most dramatic peak at the federal level with the passage of the CZMA in 1972. Congress, however, failed to enact a successor national land use act the following year.³⁶ In 1976, the CZMA was amended to add the CEIP which also had the positive effect of keeping the Gulf states in the federal program.³⁷ Accordingly, this muddled the legislative mandate, already frustrated by unclear statutory directives:

27. *Id.*

28. 16 U.S.C. § 1460 (1982).

29. 16 U.S.C. § 1461 (1982).

30. Discussions, *supra* note 24.

31. *Id.*

32. *Id.*

33. In fact, as of October 1983, the Florida Coastal Management Program was "operating pursuant to Section 306 of the CZMA with a Federal award of \$5,600,000 matched by \$1,400,000 from the State and local governments." OFFICE OF COASTAL RESOURCE MANAGEMENT, NATIONAL OCEANIC, ATMOSPHERIC ADMINISTRATION, EVALUATION FINDINGS FOR THE FLORIDA COASTAL MANAGEMENT PROGRAM FOR THE PERIOD JUNE 1982 THROUGH OCTOBER 1983 at 1 (1984) [hereinafter cited as Evaluation]. In addition, "Florida was allotted \$546,982 in FY 82 CEIP funds. . . . In March, 1982, OCZM awarded the State \$317,000 in 308 planning funds for six planning studies." Eliopoulos, *supra* note 9, at 33.

34. See, e.g., Chasis, *The Coastal Zone Management Act: A Protective Mandate*, 25 NAT. RES. J. 21 (1985).

35. F. BOSSELMAN & D. CALLIES, *THE QUIET REVOLUTION IN LAND USE CONTROL* (1971).

36. See C. HAAR, *LAND-USE PLANNING* 98–102 (3d ed. 1977).

37. Coastal Zone Management Act Amendments of 1976, Pub. L. No. 94-370, 90 Stat. 1019 (codified as amended at 16 U.S.C. §§ 1456a–1463 (1982)).

Recognizing these difficulties, the [national coastal] office took a compromise position when it implemented the national act. It discouraged conventional land use planning in state coastal programs and encouraged coastal policies in lieu of plans, which were often included in state coastal legislation. State means of control were reduced to state enforcement measures which had a less than probable chance of success. Judicial enforcement, which is sporadic and may be ineffective, is one of these state means of control. The "networking" of existing state legislation was accepted in lieu of new legislation, an approach that may be a proper interpretation of a statute that does not call explicitly for a new law. Gubernatorial executive orders were accepted as a means for enforcing these networks, even though in some states they might be ineffective for this purpose. The designation of "particular areas" as a means of making these areas subject to state control was de-emphasized, although the technique has been adopted in a few states.³⁸

OCZM designed administrative flexibility into their final Coastal Zone Management Program Regulations (March 28, 1979)³⁹ which allowed the office to approve 13 additional states.⁴⁰

All of this suggests that approval would not be as demanding as early position papers suggested or as environmental interests hoped it would be.⁴¹ By 1979, in the face of the Florida Coastal Management Act of 1978, the federal office was now willing to consider program approval based on existing statutes *if* appropriate administrative rules were adopted or strengthened, and other administrative and enforcement mechanisms were created. Despite what appeared to be easier approval standards, Florida did not hit the target of Section 306 approval until 1981.

One explanation for this delay came from Ted LaRoe, the former chief of the Florida Bureau of Coastal Management, and Betsy Roy, co-authors of a paper entitled, "Federal Inconsistency: Administration of the CZM in the Absence of Explicit Federal Policies and Standards."⁴² LaRoe and

38. Mandelker, *The Quiet Revolution Reconsidered*, LAND USE L. & ZONING DIG., Aug. 1979, at 4, 5.

39. 44 Fed. Reg. 18,590-18,624 (1979) (codified at 15 C.F.R. §§ 923.1-105 (1984)).

40. See Eliopoulos, *supra* note 9, at 24-25.

41. For example, the 1977 Florida status report on developing a coastal management program explained that the Local Government Comprehensive Planning Act (LGCPA):

does not require local governments to conform with the consistency . . . review comments submitted by the state coastal management agency. There's an inherent weakness in the LGCPA, which could result in built-in conflicts between locally adopted plans and the state CZMA plan. Federal program guidelines will require rectification of this situation prior to approval of Florida's "306" submission.

FLORIDA DNR, STATUS REPORT TO THE GOVERNOR AND CABINET ON THE FLORIDA COASTAL ZONE MANAGEMENT PROGRAM (Section 305) ch. IX (1977) (State/Regional/Local Government Interaction: Executive Summary).

42. E. LaRoe & E. Roy, *Federal Inconsistency: Administration of the CZMA in the Absence of Explicit Federal Policies and Standards* (1979) (unpublished paper) [hereinafter cited as LaRoe & Roy].

Roy argued that Florida was a victim of an ad hoc and inconsistent federal administration. Other state programs were cited which were approved with far less detail and authority than that contained in the proposed Florida program.⁴³ The authors also highlighted the current wisdom concerning the reasons Florida's program was for so long unacceptable to federal officials:

OCZM . . . required a demonstration of more substantive progress, in spite of the fact that nothing in the federal Act or regulations required states to show an improvement. Florida was attempting to make a case that its existing laws met the existing federal requirements. Regardless of the merits of the argument . . . OCZM was unwilling to approve the program unless there was a demonstrable alteration or augmentation.⁴⁴

State officials recognized that the key to unlocking the Section 306 approval door was to prove that Florida had, indeed, made *some* program changes. A primary institutional adjustment for this purpose was the formation by Governor Graham of an Inter-agency Management Committee (IMC), composed of the secretaries of the Departments of Commerce, Environmental Regulation, Transportation, Community Affairs, and Health and Rehabilitative Services, the executive directors of the Game and Fresh Water Fish Commission and DNR, and the director of the Governor's Office of Planning and Budgeting.⁴⁵ The IMC was directed to give special attention to the management of coastal resources; to natural hazard prevention and mitigation; to funding practices which created conflicts with natural resource policies; and to a more efficient, effective, and coordinated administration of environmental licensing laws.⁴⁶

There was some justification for OCZM's demands for, in many ways, Florida was deficient in administering, enforcing, and otherwise implementing its existing coastal resource laws. The *Final Report* of the Governor's Resource Management Task Force mentioned several problems: natural resource laws were chronically underfunded; Florida did not have an integrated policy framework for effective resource management; implementation of existing laws fell short—in some cases far short—of what must be demanded to achieve sensible resource management; Florida's

43. *Id.*

44. *Id.* at 7. According to LaRoe and Roy, the federal office was rather blatant in the reasoning behind this augmentation requirement:

It [OCZM] has candidly commented that it cannot go to OMB or Congress and admit that a state is being funded to do substantially the same thing it was doing before, regardless of how good it was. As a result, it created a new, purely political requirement for approval of Florida's program.

Id.

45. Brindell, *supra* note 5, at n. 22.

46. Letter from Governor Bob Graham to designated agency heads (Oct. 5, 1979) (discussing the agenda of the IMC).

state and local planning efforts failed to provide clear policy direction or implementing force; and coastal management had not reached its potential.⁴⁷ The Task Force also recognized that it was of the utmost importance that the governor visibly lead the Florida citizens in developing a new public commitment to more effective coastal resource management.⁴⁸ As a further way of meeting the need for demonstrable change, Governor Graham's Legislative Program on Resource Management took additional important steps to resolve these under-implementation issues and described new initiatives for coastal protection.⁴⁹

The state, however, completed final negotiations with the federal government on the required final draft program components in time for mailing the Florida Coastal Management Hearing Draft in August 1980; public hearings were held during the following month. The target, Section 306 approval, was reached a year later.⁵⁰ The following explains why Florida took so long to get its "coastal act" together.

THE FLORIDA POLITICS OF COASTAL MANAGEMENT: THE "QUIET REVOLUTION" SILENCED?

Many dedicated people from both the public and private sectors of Florida struggled throughout the 1970s to create responsible and acceptable coastal management advances. Even greater struggles occurred in mobilizing and sustaining constituencies to support these programs. The results of these efforts supported the conclusions articulated in 1979 to the Governor's Resource Management Task Force by the Director of the Federal CZM Program Office.⁵¹ The director concluded that there was no effective constituency for environmental protection as a coastal vision nor was there a viable constituency for economic development. Furthermore, getting more money for local governments has never worked to ensure local government support where substantial strings were attached. There may be an exception where states and local governments share federal goals,⁵² but not where a federal law has as a primary objective

47. REPORT, *supra* note 7, at 8-9.

48. A survey conducted by the DCA in 1978, concerning local attitudes about the LGCPA and its mandatory elements, revealed that coastal zone protection was identified as both the second most unnecessary and the second least important element. Sidor, *Local Government Comprehensive Planning Act: Three Years Later*, FLA. ENVTL. & URB. ISSUES, Oct. 1978, at 11.

49. OFFICE OF THE GOVERNOR, LEGISLATIVE PROGRAM: RESOURCE MANAGEMENT (1980).

50. See *supra* note 1 and accompanying text.

51. Remarks by William Matuszeski, Director, Coastal Zone Management Programs Office, Tallahassee, Fla. (June 29, 1979) [hereinafter Remarks].

52. See Ingram, *Policy Implementation Through Bargaining: The Case of Federal Grants-In-Aid*, 25 PUB. POL'Y 499 (1977).

the strengthening of the state role over local governments in the coastal zone.⁵³

Despite the lack of an environmental base, an economic development base, or a local government base, there did appear to be a constituency and vision designed to pilot the Florida coastal program into port. The director of OCZM referred to this as the "improved or better management constituency."⁵⁴ This was the vision of the Florida Legislature in its Florida Coastal Zone Management Act of 1978, and became a major program focus of the Florida Department of Environmental Regulation:

Consequently, the focus of the state program is on the refinement of the current management and regulatory scheme to improve coordination among agencies, to reduce the total time and unnecessary redundancy in decisionmaking, to achieve better long-range management of resources, to identify and resolve conflicts among regulatory and funding programs, and to improve substantive resource decisions.

One of the major tasks addressed by the state coastal management program is to demonstrate to the federal government that the component laws, regulations, and programs can be effectively implemented by an administrative system involving a number of state, regional, and local agencies.⁵⁵

Fortunately, the lack of a defined interest group does not necessarily mean less environmental protection. In the case of Florida, the federal government's insistence on a demonstrable alteration or augmentation had already forced a state agency organizational change and administrative rule

53. Florida's Assistant Secretary of the DER testified at a CZMA hearing:

It must be recognized that the funding levels for Section 305 and 306, particularly in regard to a voluntary grant-in-aid format, are not necessarily of sufficient impact to warrant support from state legislators who see the program as a pittance compared to the funding levels of other federal programs, i.e. 208.

Letter from Assistant Secretary Victoria J. Tschinkel to Congressman Gerry Studds (Nov. 29, 1979) (discussing the Oceanography Subcommittee CZM Regional Oversight Hearings in New Orleans, La.).

54. Remarks, *supra* note 51.

55. Brindell, *supra* note 5, at 296. This approach is probably best described in an article which concluded:

The unique nature of CZM as an intergovernmental, multiple-use management activity requires a new and sophisticated approach to the generation of support, other than reliance upon an interest-group constituency. Support and acceptance of the program must be based on documented evidence that CZM is an appropriate forum for decision-making in the coastal zone and that equitable conflict resolution is resulting or is likely to result, from the CZM program.

Hershman & Evans, *Building Support for Coastal Zone Management Without an Interest Group Constituency*, 5 COASTAL ZONE MGMT. J. 155 (1979).

changes that improved environmental decisionmaking.⁵⁶ Improved management practices in purchasing and using coastal lands can more effectively influence limited financial resources.

Florida's most prominent advocates of coastal region planning envisioned much more than the prospect of "better management" under the aegis of the CZMA. Three sources will highlight the sharp contrasts between the idea envisioned and the reality effected:

(1) an experienced elected official from one of Florida's most sensitive barrier islands, Sanibel, described his experience with the CZMA:

The State of Florida is not willing to make a commitment to the public benefits of the Act because special interests have persuaded a majority of the legislators that "disadvantages" would prevail. . . . [T]he State of Florida certainly does not balance economic and environmental concerns in sensitive coastal areas. I have heard many excuses about why the state has never adopted a meaningful coastal zone management plan of its own. I conclude that the excuses are just that, and that the real reason is that the powers that be do not wish further regulation by Big Brother in what is demonstrably the most lucrative geography of the state.

I would point out that enlightened, responsible local governments in the coastal zone that are trying to cope with management problems are being deprived of the benefits of the Federal Act because of the state's recalcitrance in committing to the Federal Program. I know the Feds were as lenient as possible in their negotiations with those responsible in Tallahassee for the State Act in order to add Florida as a major feather in the federal cap. . . .⁵⁷

(2) The Florida Atlantic University/Florida International University (FAU/FIU) Joint Center studied local governments' response to the Florida Coastal Management Program presented to and rejected by the 1978 Florida Legislature, documenting four causes behind the program's failures:

- (a) the program came during an election year when excessive governmental regulation was a major campaign issue;
- (b) insufficient time was available for the recently transferred agency operation to put together and build a constituency for a new initiative on such a complex subject;
- (c) local officials feared the Department of Environmental Regulation; and

56. See *supra* text accompanying notes 45–46 (discussion of creation of Governor's Inter-Agency Management Committee).

57. Letter from Porter J. Gross, Councilman, City of Sanibel, Fla., to the author (Apr. 1, 1980).

- (d) there was a lack of strong and vocal proponents, resulting in unanswered fears and misconceptions about the program.⁵⁸

(3) Professor Luther Skelton, in a thorough analysis of coastal zone management policy in Florida,⁵⁹ argued that the state and federal governments waste a lot of time and money gaining no significant results—a development that could have been predicted in advance. He pinpointed four major forces that defined what he called “boundaries of policy possibilities” surrounding the coastal zone issue in Florida. Three of these forces are structural and inherent in Florida state government, while the fourth is essentially economic and tied into the politics of the state. The four forces include:

- (a) Florida's governor and cabinet and their effect on agency coordination in the development of the state's coastal program;
- (b) separation of environmental regulation from natural resources administration (the state has both a Department of Environmental Regulation under the governor and a Department of Natural Resources under the governor and cabinet);
- (c) the history of the coastal policy development process (structural instability from its formation in 1970 as the Coastal Coordinating Council through its present operation in the Department of Environmental Regulation); and
- (d) the significant power and sophistication of the interests concerned with developing coastal resources.⁶⁰ Six of the 12 major parties writing the final House bill in 1978 were representatives of construction, utilities, and petroleum interests, and of large manufacturers, while only one was strictly environmentalist.

The interaction of these four forces resulted in a non-program policy

58. FAU-FIU Joint Center for Environmental and Urban Problems, *Local Response to State-Imposed Land Use and Environmental Controls* (Apr. 1979) (unpublished report). There was more than a little horsetrading in the legislative process:

[I]n the absence of forceful proponents for the program, the Senate leadership decided to block passage of the FCMP as developed by DER. The bill that passed the special session reflected a compromise with the House leadership, which favored the program. An apparent part of this compromise involved a substantial cut in the budget for the Bureau of Coastal Zone Management, trading off passage of the program for the assurance that it could not become too large or comprehensive. This move was apparently spearheaded by individuals who perceived the proposed program as a threat to economic development interests, and retaliated in an economic manner.

Id. at 25–26.

59. Skelton, *The Development of Coastal Zone Management Policy In Florida, 1968–1979* (1979) (unpublished report).

60. *Id.* at 19–20.

which, in most part, confirmed the status quo.⁶¹ Despite all of these constraining factors noted above, there was still a desire in Florida to evolve, at least incrementally, beyond the predicted failures and unrealistic expectations for the state's coastal zone management policy.

CONCLUSION

Although Florida's program was eventually approved by the federal government, the state must continue to pursue additional incremental improvements, such as guidelines for coastal management programs under the LGCPA of 1975.⁶² Final federal approval was only a new beginning for effective coastal management in Florida. It cannot be seen as a final resting place.

Despite Florida's prolonged "doubtful" status, the intense continuing federal/state negotiations kept coastal management issues on the state policymakers' agenda. It allowed a forum and vehicle for interested coastal constituencies to create incrementally a successful program. This was accomplished despite the political odds against a major additional reallocation of power away from the local level in the name of improved management.

Review of Florida's and other federally approved state programs reveals tremendous diversity in approaches among states, as well as the reality that there is no one true path to federal acceptance of state programs. Even with CZM goals more clearly delineated in the 1980 amendments,⁶³ the way to achieve these goals must still be through highly sensitive federal/state negotiations. National coastal legislation should not forsake this incremental approach, however untidy, for some notion of uniform CZM standards.

61. "The end result of eleven years of staff effort and the expenditure of millions of federal and state dollars was a coastal zone management act which defined the parameters of coastal zone management policy based on previously existing legislation." *Id.*

62. The most recent federal review of Florida's coastal zone program identifies recent accomplishments and recommends certain improvements:

The State completed a management plan for the aquatic preserves in the Charlotte Harbor area and is also developing an orderly process to maintain channel depths in Florida's deepwater ports in an environmentally sound and expeditious manner. State agencies and local governments have completed studies and plans that will enable each to respond effectively to hurricane warnings. . . . [T]he DER should actively support . . . legislative action [for improved wetlands protection]. The evaluation findings indicate the need for the IMC support staff to be funded with State monies; and the need for the State, acting through the IMC, to coordinate various planning and regulatory aspects of resource management. It is also important for the State to continue to improve and clarify its Federal consistency process.

Evaluation, *supra* note 34, at 1. Subsequent to the period covered by this evaluation (June 1982–October 1983), the Florida legislature did pass the Warren S. Henderson Wetlands Protection Act of 1984, chs. 84–79, 1984 Fla. Sess. Law Serv. 171 (West) (to be codified at FLA. STAT. ANN. §§ 403.901–.915).

63. Coastal Zone Management Act Amendments of 1980, Pub. L. No. 96-464 § 3, 94 Stat. 2060 (codified at 16 U.S.C. § 1452 (1982)).