

SACRAMENTO OFFICE
STATE CAPITOL, ROOM 5035
SACRAMENTO, CA 95814
(916) 445-3405

SAN LUIS OBISPO OFFICE
1250 CHORRO STREET, SUITE A
SAN LUIS OBISPO, CA 93401

SANTA BARBARA OFFICE
228 WEST CARRILLO, SUITE F
SANTA BARBARA, CA 93101
(805) 966-2296

VENTURA OFFICE
89 S. CALIFORNIA STREET, SUITE E
VENTURA, CA 93001
(805) 641-1500

California State Senate

SENATOR
JACK O'CONNELL
EIGHTEENTH SENATORIAL DISTRICT



CHAIR
BUDGET & FISCAL REVIEW
SUBCOMMITTEE ON EDUCATION
COASTAL CAUCUS
MAJORITY CAUCUS
MEMBER:
BUDGET AND FISCAL REVIEW
BUSINESS AND PROFESSIONS
CONSTITUTIONAL AMENDMENTS
EDUCATION
ENVIRONMENTAL QUALITY
GOVERNMENTAL ORGANIZATION
JUDICIARY

October 3, 2002

David M. Kaiser, Federal Consistency Coordinator
Coastal Programs Division, Office of Ocean and Coastal Resource Management
National Oceanic and Atmospheric Administration
1305 East-West Highway, 11th Floor
Silver Spring, MD 20910

Dear Mr. Kaiser:

It has come to my attention, through the Advance Notice of Rulemaking in the Federal Register, that the National Oceanic and Atmospheric Administration (NOAA) is evaluating whether to undertake procedural changes to existing federal consistency regulations, particularly for energy developments on the Outer Continental Shelf (OCS). I am strongly urging NOAA to withdraw any proposal to change the federal consistency regulations at this time.

As you know, modifications were made to the federal consistency regulations as recently as January of 2001, following a five year, comprehensive review of the changes made to the Coastal Zone Management Act (CZMA), involving coastal states and other stakeholders, including industry. Clearly, an inadequate amount of time has passed since those changes were made to determine whether any problems exist in the current review process that need to be addressed. In fact, the small number of appeals is evidence that the opposite is, in fact, the case.

The purpose of the CZMA, and, therefore the federal consistency determination process contained therein, is to ensure that coastal states with federally approved coastal management programs have the opportunity to ensure that activities under federal jurisdiction that may affect a state's coastal zone are consistent with those management plans and policies which were designed to protect and enhance coastal resources. This authority gives coastal states the ability to review such activities and their effects in light of a coastal state's environmental and economic interests. Any changes to the existing regulations that would weaken that role and/or the public's ability to participate in the process, are simply not acceptable.

For example, I would certainly oppose any suggestion that a geographic limitation be instituted for requiring federal consistency determinations for far offshore oil and gas activities. The impacts from these types of facilities are more directly related to the types of activities taking place than any arbitrary line

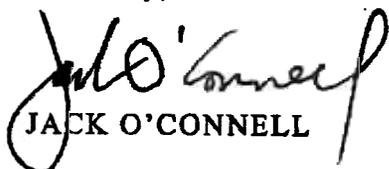
David M. Kaiser
October 3, 2002
Page Two

drawn on a map and must continue to be decided on a case by case basis, as is currently done. The characteristics and needs of this nation's coastal states are extremely diverse. Therefore, any proposal that would utilize a "one size fits all" approach attempts to simplify the complex and could result in compromising the integrity of the coastal resource management efforts of the affected states.

As indicated in letters from the California Coastal Commission and the County of Santa Barbara, among others, the federal consistency process is continuously evolving to address problems and issues as they arise. It is, in fact, because the recently modified, current federal consistency regulations allow for this dynamic process to continue working, that they are considered successful. In other words, the problem or problems which NOAA seeks to "fix" are not inherent in the regulations. I would, therefore, urge NOAA to follow the adage, "If it isn't broken, don't fix it" and withdraw any proposal to modify the federal consistency regulations at this time.

Thank you for your consideration of my comments.

Sincerely,



JACK O'CONNELL

JO:cdf
E8b