

MINUTE ITEM

This Calendar Item No. 32
was approved as Minute Item
32 by the State Lands
Commission by a vote of 3
to 0 at its 5/29/80
meeting.

CALENDAR ITEM

32.

5/80
W 40117
Gorfain

MARINE SANCTUARIES

The Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431-1434) authorizes the Secretary of Commerce, after consultation with appropriate Federal agencies, concurrence of the affected State (Governor), and Presidential approval, to designate ocean areas having distinctive conservation, recreational, ecological, or aesthetic values as Federal marine sanctuaries. Two areas, the site of the Civil War vessel Monitor and Key Largo, in Florida (excluding State lands), are existing sanctuaries under the management authority of the Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA).

Subsequent to the designation of an area as a Marine Sanctuary by the President pursuant to the recommendation of the United States Secretary of Commerce, the Governor of the affected State may veto all or any portion of the designation insofar as it includes State lands. Once established, a sanctuary is administered by NOAA pursuant to its Designation Document and regulations established by the Federal Office of Coastal Zone Management. While the regulations may be changed, the Designation may only be changed by the President after a repeat of the entire designation procedure. Activities to be regulated are specified in the Designation Document and any existing authorizations and subsequent projects must be consistent with the sanctuary designation and new activities must receive a permit from the Assistant Administrator for Coastal Zone Management.

Two areas offshore California in Federal and State waters, the Santa Barbara Channel Islands and the Farrallon Islands-Point Reyes (Marin County area), have been nominated as marine sanctuaries and are nearing the end of the designation process. In general, these activities would be prohibited by the Federal Government in the proposed sanctuaries:

1. Hydrocarbon operations;
2. Discharge of polluting substances;
3. Alteration of or construction on the seabed;

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4. Unnecessary operations of vessels and aircraft;
5. Removing or damaging distinctive historical or cultural resources.

The staff of the Commission have heretofore opposed the inclusion of State lands in the proposed sanctuaries on these general bases:

1. The transfer of management control over State lands to the Federal Government is an unnecessary usurpation of State sovereignty, the powers of the State Legislature and the State Lands Commission;
2. Existing State laws, programs and rules and regulations are sufficient, both in content and philosophical application to meet or exceed those of Federal law and/or the proposed regulations;
3. There is no requirement that a State's lands be included in order for a Federal Marine Sanctuary to exist, in fact the Florida Sanctuary exemplifies quite the opposite.

IT IS RECOMMENDED THAT THE COMMISSION:

1. SUPPORT THE ESTABLISHMENT, EXCLUSIVE OF STATE LANDS, OF FEDERAL MARINE SANCTUARIES IN THE AREAS PRESENTLY NOMINATED;
2. ADVISE THE GOVERNOR OF THE COMMISSION'S POSITION AND THE REASONS THEREFORE; AND
3. AUTHORIZE STAFF OF THE COMMISSION TO NEGOTIATE WITH REPRESENTATIVES OF STATE AND FEDERAL AGENCIES TO FACILITATE THE ESTABLISHMENT, AS ILLUSTRATED BY THE SANCTUARY IN FLORIDA, OF STATE AND FEDERAL PROGRAMS WHICH ARE COMPATIBLE WITH THE INTENT OF THE MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972.