



Transcript of Video Interview with Michael Fischer, recorded August 2012.

This interview is part of Earth Alert's Heroes of the Coast video archive, featuring interviews with leading California coastal activists, past and present California Coastal Commissioners and Coastal Commission staff. For more information, visit www.earthalert.org.

Janet Bridgers (JB): Our guest today is Michael Fischer. Michael Fischer was the second executive director of the California Coastal Commission. Michael, thanks for coming in.

MF: My pleasure.

JB: What path led you to become the second executive director of the California Coastal Commission?

MF: Well, I got engaged in the coastal legislation that was the precursor to Proposition 20. As the representative of the American Institute of Planners, I'm an urban planner by training, on the Board of the Planning and Conservation League. I was the board member who was chosen to make peace between PCL and the Sierra Club about coastal legislation.

And the issue basically was what percentage of the commissioners could be sitting local elected officials? And being a Solomon-like guy, we agreed on 50%. And then as the legislation proceeded through the halls of Sacramento, two years in a row it passed the Assembly and then was killed by the Senate government organization committee, by Senator Dick Dolwig from San Mateo County. And it was only after the legislation had gone through the process those two years that citizens turned to the citizen initiative process.

I think most of us in the citizen end in the coastal legislation have a great deal of skepticism about the value of the citizen initiative because it tends to jump over the legislature. But in this case, the legislature, in essence, had its crack. They took the legislation, went through the public hearings and created a product that we then took to the public through Proposition 20.

The other dimension that the authors of Proposition 20 took that was indicative of their reluctance to use the citizen initiative, was that they created a temporary commission with a drop-dead date. So Proposition 20 when it passed, created the California Coastal Zone Conservation Commission which went out of existence in 1976. But because I had been directly involved with PCL, the Sierra Club and the legislature in the legislation, and then was active in the Prop 20 campaign, I was then a known quantity. And when the regional commissions were created, I threw my hat in the ring for the North Central Region, which covers San Francisco, Marin and Sonoma counties, I then became their first executive director.

Just before 1976 and the drop-dead date came through, I was recruited by Jerry Brown to be the deputy director of the Office of Planning and Research in Sacramento. And there I was very active in the lobbying to create the successor Coastal Commission. When Joe and Mel decided to leave, I was, again a known quantity to commissioners and to legislators and to the governor. I was delighted to have the ability to come back from Sacramento to San Francisco. To return

here. Sacramento is not a place that was attractive to me either as a living place or as a work place. So that's what brought me to the Commission.

A lot of years of preparation behind me before I could succeed.

JB: And what year was it that you took...

MF: 1978. I was 38 years old.

JB: What was the size of the staff?

MF: The staff is 212 people at that time counting all of the regional commission staff and the state staff.

JB: OK. What is it now? Do you know?

MF: Oh, somewhere in the neighborhood of 110. And we'll get to that story. It was Governor Deukmejian who wielded the ax and cut our staff in half in one budget year. Quite a traumatic experience.

JB: Joe Bodovitz left because he didn't want to stay indefinitely and he tried to leave at a time when it would be less disruptive. But how would you describe the time at which you joined the Commission?

MF: Well, indeed there was a period of somewhat a peaceful interlude in Sacramento. But it was certainly a time of great activity. Lease sale 53, the offshore oil leasing in Santa Barbara channel and around Pt. Conception, north of Santa Barbara, was hot.

We were directed at the Coastal Commission to find a location for a liquefied natural gas terminal. Leo McCarthy said, "Michael, it's not "if", it's "where. You find the right spot." So that took a lot of time.

In Sacramento, there was a fight on the Coastal Act challenging the low and moderate housing provision. That was an unsuccessful battle, but certainly took an awful lot of our time. At that time, we had a staff of a dozen attorneys working here in the Commission office, plus we had 25 dedicated Attorneys General working for us. We had about 200 lawsuits at any given time. And they were challenging public access to the coast, and they were claiming vested rights. The developments had already been approved before the Coastal Commission came in. So, "Sorry, you can't stop us now." Well, we won most of those cases. The public access provisions have been written into the State Constitution in 1859, but never enforced by any government agency until the Coastal Commission came in.

So many people said, "Wait a minute, it's my private property. I have the right to prevent trespass." Well, under the State Constitution, they didn't own the right to prevent trespass. They couldn't block access to the beach. But legions of lawyers told them that they could fight it and win. So we were battling in court all the time.

We had two Commission meetings a month and they lasted for two and a half or three days each. And the mailing deadline for one commission meeting was the day before the commission meeting preceding. So we were always kind of thinking ahead and juggling agendas. They were, as I said, long agendas, the Commission met from 8:00 in the morning until after midnight sometimes.

The Federal Coastal Zone Management Act was passed the same month that Proposition 20 passed. And that was under attack in Congress and we had to jostle for position to get funding from the federal government. And we were also jostling for position to get our state coastal plan approved as a Federal Coastal Zone Management Act-approved plan, which then would give us authority over the Navy and the Marines and the Department of the Interior and central federal agencies. So all of those things were bubbling around when I came in, and filling the shoes of Joe Bodovitz and Mel Lane was quite a task for a 38-year old young planner.

JB: And who became chair at the time you became executive director?

MF: When Mel and Joe left, Brad Lundberg, who had been regional commissioner and I had served Brad when I was executive director of the regional commission. So when I came to the State Commission, he knew me, I knew him. And it was a very good partnership. Also, it was good that he was a doctor because just at that time my dad came down with pancreatic cancer and died four months later. So Brad was able, not only to introduce me to the Commission and help me take over those reins, but also help me through that tragic period of our family's life.

JB: You began your term under Jerry Brown's administration. How would you characterize the Commission's relationship with the governor at that time?

MF: Well, again I came to the office from the governor's office. What many people think is that the Coastal Commissioner today is a creature of Proposition 20. I would strongly differ. The Proposition 20 Commission died in 1976. The Coastal Act of 1976 was passed the last hour of the last day of the legislative session with a margin of one vote in the Senate! That was how close it was. And that was as a result *only* of 48 hours of literally non-stop lobbying that Jerry Brown did with the state senators. So I would argue that in 1976 the role of Proposition 20 ended. And the Coastal Act that was created is really the legacy of Jerry Brown and Jim Mills, the Senate President Pro-Tem and Leo McCarthy, the Speaker.

But because Jerry Brown had wrapped his arms around it and had spent so much of his personal credibility on the passage of the Coastal Act, we had immense support from the governor's office. When the new Commission came into existence, for instance, Carlotta Mellon who was Jerry's appointment secretary, she and I interviewed all candidates for all of the regional commissions and all of the State Commissions. And then we put together a list of the state-appointed Commissioners, then we sat down with Leo McCarthy and Jim Mills and said, "OK, Jim, you appoint these two to the South Central and these two to the North Central and these two to the State Commission." and "Leo, you appoint those two, and those two and those two." And the governor will then appoint these. So Carlotta, with Jerry's approval, in essence was very helpful about building a balanced set of Commissions. Again an indication of the level of

ownership the governor's office had in this new state agency. So I couldn't emphasize *too* much the support, and all the other state agencies knew of this support, so that there was a wonderful level of credibility to put this new agency in place. And do a strong job with great support from the governor.

JB: I asked you who was the first Chair. As you took the executive director's job in '78, the sunset of the regional commission, stipulated by the Coastal Act passage took place. And did that happen like simultaneously or was it gradual?

MF: It happened all in one day, but it didn't happen in 1976. It was 1978...excuse me...it was 1978 or 1979, I've forgotten exactly. But when I took the job, the regional commissions were still in place. And while their staffs were in essence, my staffs, that was true only on paper. The regional executive directors really did serve at the pleasure of the regional commissions. And the regional commissions each had its own culture and character. So for the first couple of years that I had the position, we were trying to run a single state agency but with different expectations and different styles. You have to think that if you were to put the coast of California on the East coast; flip it and put it on the East coast, it would stretch from Boston down to Savannah. It would cover 10 states. And people in Boston don't think of the political situation in Savannah. Or people in Providence, Rhode Island don't think of the situation in Chesapeake Bay. Just so, the people in the Eureka Commission...to them San Diego or Santa Barbara could have been on another planet. And so the regional commissions looked to their regional reality to come up with their decisions. And it was up to us at the State Commission to try to regularize those; to make sure that the Eureka Commission wasn't creating a precedent that was going to kick us in the head down in San Diego.

I, at the time, was of course, previous had been at the regional commission, and I looked at these State Commission staffers and state commissioners as "what planet are you guys from?" "You haven't had to deal with the permit applicants of local elected officials, local media. You haven't had people break down in tears in your offices. And now with your pointy heads in your ivory tower, you're going to second guess our balanced decisions? Where are you coming from?"

Then when I took the State position, I was saying, "Gee, Eureka, Santa Barbara, what are you thinking of?" So it was a very interesting dynamic, but they all went out at the same time. A number of the regional directors I let go, 'cause now at this time they did serve at my pleasure. And it did create a big bump up in permit traffic, because the permits that had heretofore been handled by the regional commissions now had to come to the State Commission, waiting of course for the day that we hand that over to the local governments once their local coastal programs had been approved.

JB: So there were some big swings in terms of the work load for your staff.

MF: Well, you know the staff didn't go down very much. So we had the staff. The staff then in essence became staff to the State Commission. So the staff workload didn't increase very much just because regional commissions went out of existence. And the State Commission did give me authority to handle a goodly number of the permits administratively. But their workload did go up, and so the number of hours in the day and those two meetings that they had to hold went very

high. And for instance when we would travel to Los Angeles, the Coastal Commission would be *the most* accessible government agency to the people who lived along the coast of Los Angeles. They didn't have to go down to the County building or the City Hall in Los Angeles.

So they tried to bring before us "where should the curve cut for the new McDonalds hamburger shop on Venice Blvd. be located?" And, you know, we tried to stop many of those things at the administrative level, but nonetheless the permit workload for the Commissioners took a big dip up.

JB: So what do you remember about the time and the campaign when Deukmejian was running for governor?

MF: Well, it's keenly etched in my memory, because I took off my bureaucratic hat and took holidays and vacation and very actively campaigned for Tom Bradley. Not very seemly for a government official, a government-appointed official, but I stumped standing shoulder to shoulder with Tom. Saying this time to citizens, "This time vote as though the future of the coast was at stake, because it is." Well, Tom didn't win.

Some well-meaning folks who put the kind of ballot initiative that I would have supported on the ballot for gun control, put that on the same ballot as the governor's election. And that brought out of the hills, literally, many very conservative people who normally didn't vote. So they came in, big posters on sporting goods shops all around the state, particularly in rural parts of the state, saying, "Vote this time and Vote NO on the Gun Control legislation." Well as long as they were at the polls voting against gun control, well they voted against the black guy for governor. And so in came George Deukmejian and, in fact, the future of the coast was at risk from him.

JB: How soon after he took office did the waves start hitting your beach?

MF: Immediately. Immediately! Had I not been a creature of an independent commission, I would have lost my job in a nano second and virtually any other state agency would have, and should have lost its job immediately. Indeed I think it was a month later that John Garamendi, now congress member, but then the Senate President Pro-Tem, called Mel Nutter, who by this time was the chair, called him and me into his office and the purpose of it was to John to say in front of my Chair, "Michael, quit! It's time for you to resign. The Governor hates your guts! And if you don't quit, I can't protect you. **???? (192)** the budget section."

We walked out of the door and Mel looked at me and said, "Michael, don't quit!" I didn't, but in that very next budget, the governor, did in fact, cut our budget in half. We went from 212 staff members to 105, 110 something like that. And I became the person who had to decide who stayed and who left. And half of the staff was a lot of people to have their careers terminated. They didn't have their careers terminated by George Deukmejian, they had them terminated by me. Not a lot of fun!

But the other thing that the governor did immediately was to yank all of the Jerry Brown appointees from the Commission, from all of the Commissions. And to put in pro-development people who didn't give a fig for what the Coastal Act said. They simply wanted to vote yes on

every project. And they were also told, the four Governor's appointees, were told that they had a mission, which was get me fired.

JB: So the overlap here is the regional commissions are still in effect, Deukmejian had come in, but he's told all of his appointees to vote for any development project regardless. So how did you survive that, emotionally, and actually the workload for the Commission?

MF: Well, ultimately I didn't. Ultimately I said, "Life's too short." But it was several years later, it was in 1985. I lasted for at least two years knowing that there were six automatic votes against me: two that Willy Brown had appointed and four that the Governor had appointed. One of the major changes that I made when Joe left: Joe would have two public hearings on every project, and the first public hearing was no staff recommendation; it was to just to let's see what the person wants to do? And then after Joe had basically done this, both politically and practically and looked at what the Commission would likely do, then he would come up out with the staff recommendation. Well, I, again because of the workload, but also because I felt that some leadership was necessary, I narrowed that down to one public hearing and prior to the public hearing, I made a staff recommendation. Now that staff recommendation became the target for the media, for the developer, for the opponents and the public hearing was basically on the staff recommendation. So some of those staff recommendations were not all that popular with some of the *good guy* Commissioners for a couple of reasons. Number one, I in fact was looking at the law and trying to follow the law and not just what we'd like to have happen on the coast. But the other reason and the other thing that changed immediately upon Deukmejian leaving office was Jim Costa, again now a Congress member, but at the time the Chair of the Assembly Budget Committee for our budget. He called me in, he says, "OK, Mike, you don't need Jerry to protect you anymore. You need me. Tell you what. Your budget's going to get through, but you need to meet with this developer, this developer and this developer. And they're going to tell me what sort of progress they've made with you. And if it isn't sufficient to them, then your budget's going to get cut some more." So *some* of my recommendations were done in order to protect the staff, knowing that I had the majority of Commissioners who were likely to be reading the Coastal Act. I didn't tell them because I didn't want their judgment to be sullied by the dirty backroom politics that Jim Costa was planning with Willy Brown's active support. So in essence, I was ready to continue kind of dancing on the edge of a cliff with the Commissioners until one thing happened. I got a call from Willy Brown and Willy said I had to fly in on a private plane. Willy said I want you here tomorrow at whatever time it was. I got up and he says, "Hey Mike, this is going to be short. I just want to give you a heads up. Listen, I'm going to appoint two good guys and two bad guys to the Commission." I said, "But Willy, you can't do that. The Duke has already appointed four bad guys. If you appoint two bad guys, that's six." And Dave Roberti, the President Pro-Tem, he can't stick with four good guys forever. And Willy said, "Look Mike, get it straight. Dave Roberti's going to do what Dave Roberti's going to do. You're getting two bad guys from me."

Well, knowing that was the case, and watching Willy Brown with all of his Commissioners, including his *good guy* Commissioners, during Commission meetings, if there was a development in front of us, these were the days before cell phones...although it was the first day of cell phones, so cell phones were these big, brick-like things, and one lobbyist, I'm lacking on his name right now, but he's departed this mortal earth, but he came up with this big cell phone

out of his pocket, during a public hearing handed it to one of the Willy Brown appointees. And of course, everybody, nobody knew what this thing was, everybody's watching the guy's face, "Yes, yes, yes, no, no, no, uh, OK Mr. Speaker." And he gives the phone back to the lobbyist and gets the microphone and says to the Chair, "I've just been replaced. I'm no longer a commissioner." And the Speaker asked that this item be postponed until tomorrow when the new commissioner can be there.

So here's Willy doing that even with his *good guy* Commissioners? I said, "Wait a minute! Life's too short!" I saw the job of executive director differently than Peter did. I saw the job of executive director as being the representative of the Commission. I served at their pleasure. I represented them. I operated the agency for them. They're the ones with the statutory authority. And I'm relatively proud of myself. I needed to have pride in them. I didn't. So because I didn't have pride in them, I couldn't be proud serving them.

Now Peter didn't see his job as serving the Commission, he saw his job as serving the people of the State, whether the Commission agreed with him or not. Again I beg to differ; just two very different styles or approaches, but I needed to have that level of pride and reflective pride in the body that I served. So particularly after that meeting with Willy Brown and the times when Willy yanked his commissioners if they weren't following his lobbyists' direction, I said, "It's time to get...(laughter)...feet don't fail me now!" And as you know, I'm a trained urban planner and one of my former professors, Paul Sedway, at *the* leading urban planning firm on the West coast, and Paul offered me a job as his chief planner and potential successor to him. And so I jumped over and had a wonderful couple of years with him doing coastal projects in Hawaii and Florida and Massachusetts and Alaska and Iowa, along the river. So that's what happened.

JB: And Peter was serving as your deputy?

MF: Peter was deputy director at the time and indeed the day before I went to the Commission to announce my resignation, I gave him a letter appointing him as active executive director, which gave the Commission some heartburn itself. Because they said, "Wait a minute. That's our job to appoint the acting executive director!" I said, "Well, sorry, I've already formally done it. Here's a copy of the letter that I've given to him." I had appointed him. Peter had already been working for the Commission before I came as executive director. He was our legislative liaison. But because I was in Washington, D.C., at least once, if not twice a month, because of the Coastal Commission meetings, which took up six working days a month, I needed someone to be the boss while I was gone. So I asked Peter when the legislative session permitted him (he was living in Sacramento) to come down and run the shop in my absence. But the bigger reason when I appointed him Chief Deputy was that in Sacramento parlance, a Chief Deputy Director has the same standing as the Executive Director. So when there's a committee meeting that needs the executive director to be there, Peter was able to sub for me with no skin off of our nose. So I called him our Chief *Roto Rooter*. And I was happy, cause I didn't have to go to Sacramento.

JB: Are there Commissioners who particularly stand out for one reason or another?

MF: Well, of course, Naomi Schwartz, and of course, Brad Lundberg and of course, Glen Groat, also now passed away. And I remember very well, Judy Rosener. It was Judy and Naomi actually who travelled to Sacramento to recruit me from the Governor's office to come to the

State Commission. I remember Mary Henderson, another Commissioner, a State Commissioner on the, a representative of the Central Coast Regional Commission. And mentioning Naomi and Judy and Mary's names and other women (another dynamic for another interview someday) was that when there was only one or no women on the Commission, the Commissioners acted like *bad boys*. They wouldn't pay attention to the public hearing, they'd go off and take a restroom break, or a smoke break, tell dirty jokes to each other on the dais. They wouldn't be paying attention to the staff recommendation. It was embarrassing! But as soon as there were two women, all that stopped! They had to grow up cause the women *did* their homework. The women knew what the law was. The women demonstrated respect for all comers. The women knew what the staff recommendation was and were going to remind the rest of the Commissioners that the motion to approve the staff recommendation was a motion with these conditions and you can't just take these four conditions off and still have a recommendation for approval. So the dynamic, the creative and responsible input that the women commissioners had was *incredibly* important in the establishment of the credibility and the wonderful track record we had in court, because every one of our decisions was challengeable. When the women weren't there, the overturn rate went up. So that's my long answer to which commissioners I remember: the name of the women.

JB: That's remarkable! I'm glad to hear it! What are your thoughts, if you care to share them, about the state of the Commission, the appointing authorities, and citizen activism to protect the coast?

MF: You know, I haven't been paying attention to the Commission lately. I did see that the *good* news of a successful lawsuit against the Commission by the very conservative right wing folks, was to remove the ability of the legislators to remove their appointees during the middle of their term. And had that been in place when I was at the Commission, I probably would have stayed longer.

But the current Commission appears to be stable, certainly beloved of the people. The secret of the Commission, as opposed to any other land use body in the country, is that it depends for its support on a larger than local constituency. My good friend, Carol Whiteside, who established the Great Valley Center, seeking to protect the richness of California's Central Valley, has the same problems that the California Coast did before Prop 20; all these local elected officials looking only at their local area are approving subdivision after subdivision after subdivision and the rich agricultural resource of the Central Valley is being lost. It's said by the year 2050 that the Central Valley, which now provides more than half the fruits and vegetables for the nation, won't be able to feed its own population. But Carol Whiteside said to me, "Michael, we can't protect the Central Valley based on Central Valley voters or Central Valley officials. It is a larger-than-local resource; it's an international resource. And putting the future of the Central Valley in the hands of local elected officials and local voters is irresponsible. Somehow we need to get the larger-than-local owners of the Central Valley to pass legislation much like the Coastal legislation."

So, again, you know there's an old rule of thumb that a regulatory agency becomes captured by the industry that it regulates within seven years, is the rule of thumb. I believe that the Coastal Commission is not captured by the industry that it regulates. It took about 15 years, but that industry of course, is local government.

And to your question about why aren't some local coastal plans done? Well, the local governments don't want to do them. Local planning directors have been trained to provide general plans. The level of specificity that the Commission requires of their local coastal plans is *waaaaaay* off the charts for local planning directors in terms of specificity. Their job security demands that they provide discretion to their city council and keep those plans general so that the city council has lots of wiggle room.

Well, the Coastal Commission isn't allowing the cities to keep their local coastal plans general. And so the city planning directors know that Commission staff is wrong. The general plans aren't *supposed* to be specific. The Coastal Commission knows that the local planning directors are wrong. The local coastal plan *has* to be specific in order for us to give over to you, the local agency, a resource that really belongs to a larger-than-local constituency. So that's where the disconnect comes.

And for my thought for the future; it's just *never* forget that it's the *larger-than-local* constituency that the Commission exists to serve. And it *is* effectively finding ways to reach out to that constituency.

JB: The one that stands out in my mind is Malibu as the holdout on local coastal plans. But are there others? I assume there's more than one *Malibu* out there.

MF: You know, again, I haven't been paying attention. You mention Malibu; and that's one of my great regrets is that the public hearing for the local coastal plan on Malibu seeking to build a trusting partnership with the local County Planning Director, Norm Murdock, of L.A. County. And knowing that there was going to be a *lot* of vitriol at the meeting and not wanting to subject my staff to the vitriol, it was due to me, the executive director.

I skipped my son's High School graduation to attend that meeting. I thought it was my responsibility. I was wrong! That local Coastal Plan *still* isn't approved! **It didn't matter whether I attended or not!** It did matter to my son 20 years later that I wasn't there for his graduation.

JB: So, this question that I'm asking quite a lot of people is about impending sea level rise. There are predictions from a few inches to 24'?

MF: Right.

JB: Do you think any of the coastal communities have even begun to consider what that could mean?

MF: Well certainly they've begun to consider it, and their staffs have begun to consider it. Our colleague, Will Travis, the executive director of BCDC has been an international leader in trying to raise the level, no pun intended, of awareness and consciousness. He's been successful in San Francisco Bay. But, you know, that's a problem of the future. And the future doesn't vote. The future doesn't invest. The future doesn't shop. So investment decisions and elected decisions are not influenced by the future. They're influenced by *today's* voters. Today's voters aren't going to

want to spend the billions of dollars necessary to remove development from the flood plain or to raise the dikes and raise the freeways until they've got to.

So as Winston Churchill said, "Democracy is the worst form of government invented. It happens to be the best one that's around." Democracy is *not* well suited to serve the future. So no! No current elected legislator in California is able to successfully address climate change. The structure just isn't there that s/he is going to want to do it. They're not given the ability to do it. And won't be.

JB: Michael, I can't think of a question with more import or a better answer than you've provided for it! (Laughter) *Why things are the way they are!*

So I thank you very, very much...

MF: You're welcome.

JB: ...for making your time available. And your insights and all the work you've done for public interest.

MF: Thank you very much.

[end of interview]