

Recreational Water Use Management Plan [RWUMP]

**BUREAU OF STATISTICS AND PLANS
P.O. BOX 2950
Hagatna, Guam 96932**



DEPARTMENT OF PARKS AND RECREATION
GOVERNMENT OF GUAM
AGANA GUAM 96910

Y.
Camp
12

MAR 19 1992

MEMORANDUM

To: Director, Bureau of Planning
From: Director, Department of Parks and Recreation
Subject: Recreational Water Use Management Plan

Please be advised that the Recreational Water Use Management Plan Rules and Regulations are now in effect and should be taken into consideration when reviewing applications concerning the following:

Platforms
Rafts
Submerge Land
Bouys
Anchors
Business License (Watercraft)
Ramps
and other water related matters.

Your cooperation in helping make our water activities safe and enjoyable is greatly appreciated.

Should you have any questions, feel free to call me at 477-9620 or 21.


ANTHONY C. MARIANO

Attachment: Recreational Water Use
Management Plan Rules &
Regulations



Bureau of Planning

**Recreational Water Use
Management Plan
(RWUMP)**

1. **Public Law 24-218 - AN ACT TO AMEND RULES AND REGULATIONS FOR THE DEPARTMENT OF PARKS AND RECREATION RELATIVE TO THE RECREATIONAL WATER USE MANAGEMENT PLAN. (Bill No. 641(COR) - by Felix P. Camacho, sign into law: 6/4/98)**
2. **Public Law 24-137 - An Act to provide for on-street, oceanside parking along route no. 1, east Agana bay, to facilitate jet ski launching and the expansion of swimming and other recreational Activities and facilities. (Bill No. 233(COR) - by V. C. Pangelinan, J. WonPat-Borja, E. J. Cruz, sign into law: 2/20/98)**
3. **Public Law 24-74 - AN ACT TO AUTHORIZE THE DEPARTMENT OF PARKS AND RECREATION TO REVIEW, EVALUATE AND SUBMIT AMENDED MAPPING AND RULES AND REGULATIONS FOR THE AREAS FROM THE TALOFOFO SHORELINE TO MERIZO. (Bill No. 279(COR) - by Francisco P. Camacho, sign into law: 9/30/97)**
4. **Public Law 23-89 - AN ACT TO AMEND RULES AND REGULATIONS FOR THE DEPARTMENT OF PARKS AND RECREATION RELATIVE TO THE RECREATIONAL WATER USE MANAGEMENT PLAN. (Bill No. 572(LS), Sponsor - By request of the Governor in accordance with the Organic Act of Guam., passed: 4/19/96, signed into law: 5/1/96)**
5. **Public Law 23-78 - AN ACT TO AMEND 9 GCA 570.25 RELATIVE TO JET SKI OPERATION. (Bill No. 302(LS), Sponsor - J.M.S. Brown, T.S. Nelson, T.C. Ada, passed: 2/28/96, signed into law: 3/12/96)**
6. **Public Law 20-117 - AN ACT TO ADD SUBPARAGRAPH (f) TO §26017 OF THE GOVERNMENT CODE TO GIVE RESPONSIBILITY OVER MOTORIZED WATER RECREATIONAL CRAFT AND THEIR OPERATIONS TO THE RECREATION DIVISION OF THE DEPARTMENT OF PARKS AND RECREATION. (SBill No. 589 Sponsor - J.P. Aguon, F.J.A. Quitugua, E.D. Reyes, Passed: 1/5/90, Signed into Law: 1/18/90)**

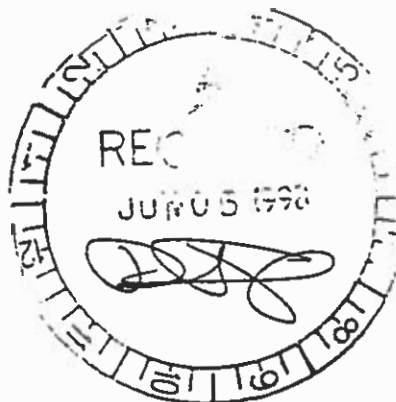
7. **Executive Order No. 90-08 – Amending Executive Order 89-10 Relative to the temporary Closure of East Agana Bay to the Use of Mechanized Vessels for the Protection of Traditional Manahac Fishing Rights**
8. **Executive Order No. 89-10 – Establishes procedures for the annual closure of Agana Bay to all motorized water craft during the actual runs of manahac, in order to preserve traditional fishing rights.**
9. **Executive Order 89-31 – Adoption of Recreational Water Use Management Plan (RWUMP) for the waters of Guam.**
10. **Executive Order No. 90-08 – Amends E.O. 89-10 relative to temporary closure of East Agana Bay to the use of mechanized vessels for the protection of traditional manahac fishing rights.**



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

JUN 04 1998

The Honorable Antonio R. Unpingco
Speaker
Mina'Bente Kuáttro na Liheslaturan Guåhan
Twenty-Fourth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Hagåtña, Guam 96910



Dear Speaker Unpingco:

Enclosed please find Substitute Bill No. 641 (COR), "AN ACT TO AMEND RULES AND REGULATIONS FOR THE DEPARTMENT OF PARKS AND RECREATION, RELATIVE TO THE RECREATIONAL WATER USE MANAGEMENT PLAN", which I have signed into law today as Public Law No. 24-218.

This legislation amends the currently effective 1991 rules and regulations for recreational water use management relative to the operation of dinner boat cruises on East Agana Bay. Dinner boat cruises are a desirable attraction for our tourists and in most vacation destinations are a very popular activity. There are shallow bottom boats that can readily navigate on the shallow waters of East Agana Bay and will provide a beautiful setting to admire the shoreline and wonderful sunsets while dining. Also, the dinner boat cruises will be scheduled to coincide with jetskis which also operate in East Agana Bay during the daytime.

Very truly yours,


Carl T. C. Gutierrez
I Maga'lahaen Guåhan
Governor of Guam

Attachment: copy attached for signed bill
original attached for vetoed bill

cc: The Honorable Joanne M. S. Brown
Legislative Secretary

Office of the Speaker
ANTONIO R. UNPINGCO
Date: 6-5-98
Time: 3:00 pm
Rec'd by: [Signature]
Print Name: P. Roberto



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

JUN 04 1998

Refer to
Legislative Secretary

The Honorable Antonio R. Unpingco
Speaker
Mina'Bente Kuáttro na Liheslaturan Guåhan
Twenty-Fourth Guam Legislature
Guam Legislature Temporary Building
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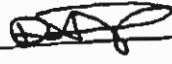
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Very truly yours,


Carl T. C. Gutierrez
I Maga'lahaen Guåhan
Governor of Guam

00858

OFFICE OF THE LEGISLATIVE SECRETARY
ACKNOWLEDGMENT RECEIPT

Received By: 

Time: 4:55pm

Date: 6-5-98

Attachment: copy attached for signed bill
original attached for vetoed bill

cc: The Honorable Joanne M. S. Brown
Legislative Secretary

Office of the Speaker
ANTONIO R. UNPINGCO

Date: 6-5-98

Time: 3:00pm

Rec'd by: 

Print Name: R. Roberto

MINA'BENTE KUATTRO NA LIHESLATURAN GUAHAN
1998 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Substitute Bill No. 641 (COR), "AN ACT TO AMEND RULES AND REGULATIONS FOR THE DEPARTMENT OF PARKS AND RECREATION, RELATIVE TO THE RECREATIONAL WATER USE MANAGEMENT PLAN," was on the 22nd of May 1998, duly and regularly passed.


ANTHONY C. BLAZ
Acting Speaker

Attested:


JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by I Maga'lahaen Guahan this 29th day of May, 1998,
at 4:15 o'clock P.M.


Assistant Staff Officer
Maga'lahaen's Office

APPROVED.


CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: 6-4-98

Public Law No. 24-218

MINA'BENTE K UATTRO NA LIHESLATURAN GUAHAN
19 98(SECOND) Regular Session

Bill No. 641 (COR)

As amended by the Author and substituted
by the Committee on Power, Foreign Affairs
and General Government Services and as
amended on the Floor.

Introduced By:

Felix P. Camacho
A. R. Unpingco
A. C. Lamorena, V
E. J. Cruz
T. C. Ada
F. B. Aguon, Jr.
A. C. Blaz
J. M.S. Brown
Francisco P. Camacho
M. C. Charfauros
W. B.S.M. Flores
Mark Forbes
L. F. Kasperbauer
C. A. Leon Guerrero
L. A. Leon Guerrero
V. C. Pangelinan
J. C. Salas
A. L.G. Santos
F. E. Santos
J. Won Pat-Borja

AN ACT TO AMEND RULES AND
REGULATIONS FOR THE DEPARTMENT OF
PARKS AND RECREATION, RELATIVE TO THE
RECREATIONAL WATER USE MANAGEMENT
PLAN.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent. Section 77119(f) of Title
3 21 of the Guam Code Annotated authorizes the Department of Parks and
4 Recreation ("DPR") to promulgate rules and regulations providing for
5 formulating a comprehensive plan and policy for the use and operation of
6 mechanized water-craft and other activities under the Recreational Water-Use
7 Management Plan ("RWUMP"). On August 21, 1991 DPR submitted its rules
8 and regulations for the RWUMP to *I Liheslaturan Guahan*. On December 22,
9 1991 the regulations became effective.

10 It is the intention of *I Liheslaturan Guahan* to repeal and reenact, and add
11 certain provisions to the regulations for the use and operation of mechanized
12 water-craft and other activities under RWUMP.

13 Section 2. Section 1 of Part 1 of the Rules Regulating the Use and
14 Operation of Mechanized Water Craft and other Activities promulgated
15 pursuant to RWUMP is hereby *repealed and reenacted* to read as follows:

16 "Section 1. Purpose and Applicability. The purpose of these
17 rules and regulations are to reduce conflicts among water users in the
18 recreational Water-Use Management Plan area, especially within those
19 areas of high activity, and to insure the safety and rights of the general
20 public. The Recreational Water-Use Management Plan ('RWUMP')
21 designates specific areas for specific uses, pursuant to the policy in 10
22 GCA Chapter 69 and §26017 of the Government Code of Guam, to
23 promote safety for persons and properties in and connected with the
24 use, operation and equipment of vessels."

25 Section 3. Section 2.4 of Part 1 of the Rules Regulating the Use and

1 Operation of Mechanized Water Craft and other Activities promulgated
2 pursuant to RWUMP is hereby *repealed and reenacted* to read as follows:

3 "2.4. 'Commercial Vessel' means vessels used for commercial
4 purposes including, but not limited to, vessels used in Dinner Boat Cruise
5 Operations."

6 Section 4. Section 2.24 is hereby added to Part 1 of the Rules
7 Regulating the Use and Operation of Mechanized Water Craft and other
8 Activities promulgated pursuant to RWUMP to read as follows:

9 "2.24 'Dinner Boat Cruise Operations' means the operation of a
10 commercial vessel by a commercial operator for the purpose of
11 providing evening or night-time cruises during which food, drink
12 and/or entertainment (e.g. dinner and dancing) may be provided."

13 Section 5. Section 5.2(e) of Part 2 of the Rules Regulating the Use and
14 Operation of Mechanized Water Craft and other Activities promulgated
15 pursuant to RWUMP is hereby *repealed and reenacted* to read as follows:

16 "(e) Operation of MWRC will be permitted only during the hours
17 set forth in 10 GCA Section 69119 (b). This Section does not apply to
18 vessels regulated under §8, *Dinner Boat Operations*. Dinner Boat
19 Operations may not take place after 2:00 a.m. (Guam Standard Time)."

20 Section 6. Sections 8 through 17 of Part 2 of the Rules Regulating the
21 Use and Operation of Mechanized Water Craft and other Activities
22 promulgated pursuant to RWUMP are hereby renumbered §§9-18
23 respectively.

24 Section 7. A new Section 8 is hereby *added* to part 2 of the Rules

1 Regulating the Use and Operation of Mechanized Water Craft and other
2 Activities promulgated pursuant to RWUMP to read as follows:

3 "Section 8. Dinner Boat Operations. Dinner Boat Cruise
4 Operations shall be conducted in the waters of Guam in compliance
5 with all applicable United States Coast Guard licensing and safety
6 procedures, and with the laws of Guam, including Title 10, GCA,
7 Chapter 69 and applicable rules and regulations issued thereunder.
8 Dinner Boat Cruise Operations shall further be subject to the following
9 provisions:

10 8.1 Certificate of Inspection. Vessels to be engaged in
11 Dinner Boat Cruise Operations may not be operated without a
12 valid United States Coast Guard Certificate of Inspection as
13 required pursuant to 46 CFR §176.100 et seq.

14 8.2 Application of RWUMP Regulations. Dinner Boat
15 Cruise Operations shall be subject to RWUMP rules and
16 regulations otherwise applicable to commercial MWRCs and
17 vessels, except as noted in these rules and regulations.

18 8.3 Course Designation Considerations. In
19 designating a specific course for Dinner Boat Cruise Operations
20 pursuant to Section 9 of these rules and regulations, the
21 Department of Parks and Recreation shall consider the structure,
22 appearance, length, draft, speed operating modes, including the
23 suitability of the vessel for nighttime operations, maneuverability
24 and other characteristics of each vessel to be so engaged, as well
25 as the proposed hours of operation.

1 (a) Based upon such considerations, the
2 Department of Parks and Recreation and the Guam Police
3 Department may assign routes or corridors, where available,
4 in areas and waterways suitable for such vessels and for
5 such activity based on applicable boating safety
6 considerations.

7 (b) The Department of Parks and Recreation may,
8 as required by the nature of the course to be assigned, limit
9 the number and/or size and type of vessel(s) that may
10 conduct Dinner Boat Cruise Operations in such course, as
11 well as the hours of operation.

12 8.4 Music/Entertainment. The commercial operator of
13 each vessel engaged in Dinner Boat Cruise Operations shall
14 ensure that, to the extent music or other entertainment is
15 provided, such activity does not create public nuisance or
16 interfere with the safe and efficient management of the
17 Recreational Water-Use Management Plan area. Any violation of
18 this provision may result in revocation of such operator's
19 Recreation Vendor Permit and/or imposition of such fines and
20 penalties as may be permitted by law.

21 8.5 Food. The storage, preparation and provision of
22 food in the course of Dinner Boat Cruise Operations shall be
23 subject to 10 GCA Chapters 20 through 23, as well as applicable
24 United States Coast Guard specifications, including, but not
25 limited to, the following specific requirements:

(a) The Commercial Operator for each vessel engaged in Dinner Boat Cruise Operations wherein food is stored, prepared or provided shall obtain a sanitary permit to engage in such activities pursuant to Chapter 21 of Title 10 of the Guam Code Annotated.

(b) Any vessel engaged in the preparation or provision of food in the course of Dinner Boat Cruise Operations shall be considered an "eating and drinking establishment" as defined in §23101 of Chapter 23 of Title 10 of the Guam Code Annotated.

(c) All persons employed as handlers of food or drink shall comply with the provisions of Chapter 22 of Title 10 of the Guam Code Annotated.

(d) All cooking areas, surfaces and appliances shall conform to the specifications set forth with regards to the same in 46 CFR §177.410.

8.6 Alcohol. The provision of alcohol in the course of Dinner Boat Cruise Operations shall be subject to Chapter 3 of Title 11 of the Guam Code Annotated, the Alcoholic Beverage Control Law, with the following additional requirements:

(a) The Commercial operator of any vessel engaged in Dinner Boat Cruise Operations wherein alcoholic beverages are to be sold shall obtain an appropriate Retail Dealer's on-sale License; provided, however, that such license shall permit the sale of alcoholic beverages only

during the course of a Dinner Boat Cruise Operation.

(b) No alcoholic beverage shall be consumed by any Commercial Operator or employee of a Dinner Boat Cruise Operation at any time while on board a vessel engaged in such operation.

8.7 Passenger Limitation/Seating Requirements. Unless otherwise allowed by an Officer in Charge, Marine Inspection, of the United States Coast Guard, the following shall apply to vessels engaged in Dinner Boat Cruise Operations:

(a) The maximum number of seating passengers permitted on any such vessel shall be the greatest number permitted by the length of rail criterion as described in 46 CFR §176.113, or a combination of such criteria as permitted thereunder.

(b) Passenger seats and seat arrangements on board any such vessel must conform to the following specifications:

(i) Aisles of not more than fifteen feet (15' or 3.8m) in overall length must be not less than twenty-four inches (24" or 610 mm) in width, and aisles of more than fifteen feet (15' or 3.8 m) in overall length must be not less than thirty inches (30" or 760 mm) in width.

(ii) Seats must be constructed and installed to minimize the possibility of injury, avoid trapping

occupants, and provide for ready escape.

8.8 Lifesaving and Escape Requirements. Vessels engaged in Dinner Boat Cruise Operations shall adhere to the following minimum requirements:

(a) Every vessel shall carry at least one (1) United States Coast Guard approved adult type life preserver for each person on board and, in addition, unless the service is such that children are never carried, there shall be provided a number of approved life preservers suitable for children equal at least ten percent (10%) of the total number of persons carried, so placed as to be readily accessible. All lifesaving devices shall be kept in good and serviceable condition.

(b) Every vessel shall be provided with such number, size, and type of United States Coast Guard approved fire extinguisher, as may be prescribed by the regulation of the Guam Police Department and/or the United States Coast Guard which fire extinguishers shall at all times be maintained in good and serviceable condition for immediate and effective use and so placed as to be readily accessible.

(c) Each vessel must comply with the applicable escape requirements set forth in 46 CFR §177.500.

8.9 Lighting Requirements. All vessels operating in the waters of Guam from sunset to sunrise shall carry and exhibit

lights when underway in compliance with the regulations of the United States Coast Guard and/or the Guam Police Department.

During such time no other lights shall be used which may be mistaken and/or confused with navigational lights or aids."

Section 8. Section 16.1(b)(3) of Part 2 of the Rules Regulating the Use and Operation of Mechanized Water Craft and other Activities promulgated pursuant to RWUMP is hereby *repealed and reenacted* to read as follows:

"(3) Prior to the issuance of the Recreation Vendor Permit, the applicant must have in place, and shall maintain at all times, liability insurance with a minimum coverage of One Hundred Thousand Dollars (\$100,000.00) per MWRC. In the case of an applicant seeking to conduct Dinner Boat Cruise Operations the minimum coverage shall be One Million Dollars (\$1,000,000.00)."

Section 9. Section 17(g)(2) of Part 2 of the Rules Regulating the Use and Operation of Mechanized Water Craft and other Activities promulgated pursuant to RWUMP is hereby *repealed and reenacted* to read as follows:

"(g)(2) A yearly user's fee of One Thousand Dollars (\$1,000.00) for July 1 to June 30 shall be payable to the Department of Parks and Recreation. Upon issuance of a Recreation Vendor Permit, a One Thousand Dollar (\$1,000.00) fee is required. The entire fee shall be payable on or before June 30. If issued a Recreation Vendor Permit, no portion of the fee shall be refundable. Failure to renew a permit and pay the entire fee by August 31st, shall void a renewal of §3(c). In the case of an applicant seeking to conduct Dinner Boat Cruise Operations, the Recreation Vendor Permit fee shall be One Thousand Dollars

1 (\$1,000.00)."

2 Section 10. Approval of Dinner Boat Route. The Dinner Boat Route
3 for East Agana Bay as illustrated on Key Map 001 attached to this Act as
4 "**Exhibit A**" is hereby approved.

5 Section 11. Severability. If any provision of this law or its
6 application to any person or circumstance is found to be invalid or contrary
7 to law, such invalidity shall not affect other provisions or applications of this
8 Law which can be given effect without the invalid provisions or application,
9 and to this end the provisions of this Law are severable.

RECREATIONAL WATER USE
MANAGEMENT PLAN
(DPR 91-1001 A RWUMP 001)
KEY MAP AREA

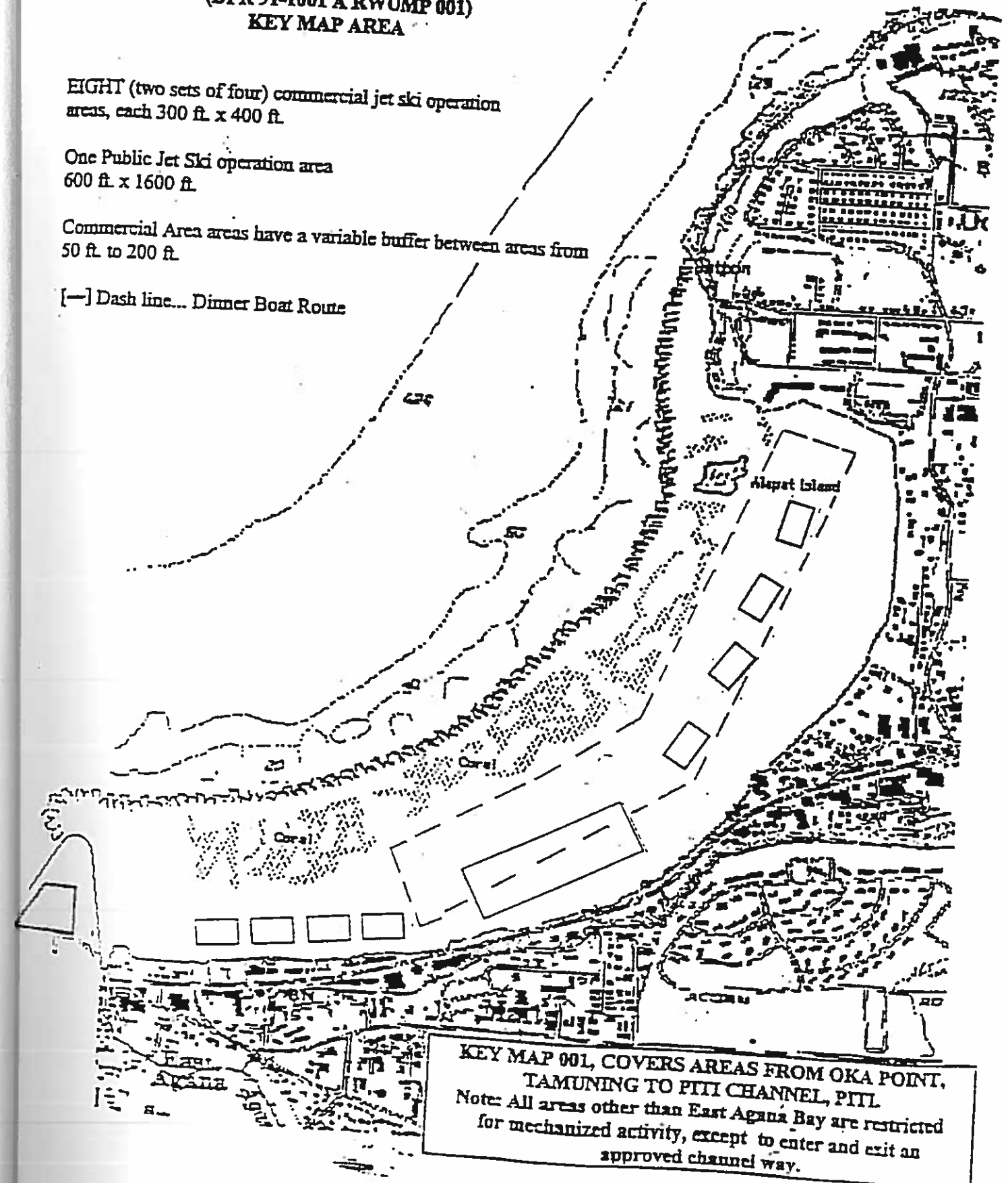
(EXHIBIT A)

EIGHT (two sets of four) commercial jet ski operation
areas, each 300 ft. x 400 ft.

One Public Jet Ski operation area
600 ft. x 1600 ft.

Commercial Area areas have a variable buffer between areas from
50 ft. to 200 ft.

[—] Dash line... Dinner Boat Route



24-218



GUAM LEGISLATURE

Senator Felix P. Camacho

Power, Foreign Affairs and General Government Services

472 3505

472 5747

May 18, 1998

The Honorable
Antonio R. Unpingco
Speaker, 24th Guam Legislature
Agana, Guam

via: Committee on Rules

Dear Mr. Speaker:

The Committee on Power, Foreign Affairs & General Government Services, to which was referred **Bill No. 641** "An act to amend rules and regulations for the Department of Parks and Recreation relative to the Recreational Water Use Management Plan" does hereby report back with the recommendation **TO DO PASS** as Amended by the Author and Substituted by the Committee.

Votes of committee members are as follows:

9 ✓	To pass
—	Not to pass
—	To place in inactive file
—	Abstained
5	Not available/Off island


FELIX P. CAMACHO
Chairman

Attachments

**COMMITTEE ON POWER, FOREIGN AFFAIRS
AND GENERAL GOVERNMENT SERVICES
TWENTY-FOURTH GUAM LEGISLATURE
155 Hesler Street, Agana, Guam 96910**

COMMITTEE REPORT

ON

BILL 641

**"An act to amend rules and regulations for the
Department of Parks and Recreation relative to the
Recreational Water Use Management Plan."**

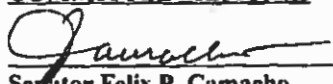
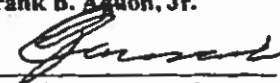
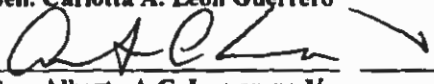
COMMITTEE MEMBERS

Chairman: Felix P. Camacho
Vice Chairman: Lawrence F. Kasperbauer
Ex-Officio Member: Speaker Antonio R. Unpingco

Thomas C. Ada
Frank B. Aguon, Jr.
Elizabeth Barrett-Anderson
Francisco P. Camacho
Mark C. Charfauros
Edwardo J. Cruz, M
William B. S.M. Flores

Alberto A.C. Lamorena,
Carlotta A. Leon Guerrero
Vicente C. Pangelinan
Angel L.G. Santos
Francis E. Santos
Judith Won Pat-Borja

BILL NO. 641, VOTING SHEET

COMMITTEE MEMBERS	TO PASS	NOT TO PASS	ABSTAIN	TO PLACE IN INACTIVE FILE
 Senator Felix P. Camacho	✓			
Sen. Lawrence F. Kasperbauer				
Sen. Thomas C. Ada				
Sen. Frank B. Aguon, Jr.				
 Sen. Francisco P. Camacho	✓			
 Sen. Mark E. Charfauros	✓			
Sen. Edwardo I. Cruz, MD				
 Sen. William B. S.M. Flores	✓			
 Sen. Carlotta A. Leon Guerrero	✓			
 Sen. Alberto A.C. Lamorena V				
 Sen. Vicente C. Pangelinan	✓			
 Sen. Angel L.G. Santos	✓			
Sen. Francis E. Santos				
Sen. Antonio R. Unpingco* (ex-officio member)				
Sen. Judith Won-Pat Borja				

**COMMITTEE REPORT
POWER, FOREIGN AFFAIRS, AND GENERAL GOVERNMENT
SERVICES**

BILL NO. 641

**"An act to amend rules and regulations for the
Department of Parks and Recreation, relative to the
Recreational Water Use Management Plan."**

PUBLIC HEARING

Monday, May 18, 1998 at 9:00 a.m. to hear testimonies on Bill No. 641.

SENATORS PRESENT

Felix P. Camacho	Chairman
L. F. Kasperbauer	ViceChair
F. B. Aguon, Jr.	Member
J. M. S. Brown	Guest
V.C. Pangelinan	Member
C.M. Leon Guerrero	Member
E. J. Cruz	Member
Francisco P. Camacho	Member

PRESENT TO TESTIFY

Bruce Kloppenburg	President, Kloppenburg Enterprises
A. J. Sonny Shelton	Director, Department of Parks and Recreation
Gerry Davis	Department of Agriculture, Div of Aquatic & Wildlife Resources
Frank Santos	Harbor Master, Port Authority

BACKGROUND

Amendments to the Rules Regulating the Use and Operation of Mechanized Water-Craft and other Activities promulgated pursuant to RWUMP were submitted to the Legislature on March 30, 1998 by the Department of Parks and Recreation.

Said Rules were referred to the Committee on Power, Foreign Affairs and General Government Services on April 6, 1998 for appropriate action. Key Map 001 was submitted to the Legislature on May 8, 1998 and referred to the Committee on May 13, 1998.

Bill 641 was introduced on May 7, 1998 by Sen. Felix P. Camacho and referred to the Committee

on May 11, 1998.

Fiscal Note has not been received.

TESTIMONY AND DISCUSSION

Mr. Bruce Kloppenburg: Submitted and read written statement on Bill 641 in favor of its provisions. (See attachment)

Mr. A.J. Sonny Shelton: Public Hearings on Dinner Boat Cruises in East Agana Bay were held by DPR. No opposition presented. Survey done by Kloppenburg shows such cruise is viable in the bay with no environmental impact. DPR's position - supports the effort and the economic benefits.

Sen. Pangelinan: Inquired as to whether the Bill regulated the number of vessels able to use the bay.

Shelton: Number of vessels are determined by DPR. Foresees 3 such dinner boats in the near future. There have been 2 other permit applications. Practically, 5 vessels per course is possible.

Pangelinan: Inquired on the permitting procedure for such operations.

Shelton: 1st come, 1st serve.

Sen. F.B. Aguon, Jr.: Based on infrastructure in area, 3-company capacity or 3-vessel capacity?

Shelton: 3 vessel capacity. East Agana Bay maximum capacity is 10 vessels.

Aguon, Jr.: Commends Kloppenburg on environmental consciousness. What is Kloppenburg's concern with fee structure?

Kloppenburg: Bill 641 discriminates against his Dinner Boat Operations as it (\$5,000.00) is higher than other RWUMP operators' fees (\$1,000.00). Furthermore, other Dinner Boat Operations pay no fees. Inequity exists among operators.

Shelton: All operators under the Plan should pay a \$5,000.00 user fee. Guam has lost thousands of dollars in revenue in the past due to low fees.

Sen. J.M.S. Brown: Same concern regarding fee structure. Should look at standardizing fee structure for the use of public resources. In the future we should look at these types of projects and determine what specific uses we want for specific areas. Decision needs to be made on what we want to preserve and what we want to put out for these operations. Inquired on the current number of jet skis operating in East Agana Bay.

Gerry Davis: 170.

Sen. Felix P. Camacho: Inquired on the maximum number of jet skis allowed in East Agana Bay.

Shelton: Maximum number has been attained.

Gerry Davis: The maximum number of skis is regulated by insurance. Currently, East Agana Bay is at its maximum jet ski capacity.

Dept. Of Agriculture's concerns: When jet ski operations began, it was made clear by the Department of Agriculture that significant environmental damage would be done to the bay. This has happened. Lost coral around jet ski courses due to sediment. After storms, coral is breaking in decreasing amounts from the courses. Suspect it is due to noise attenuation. There are studies that show adverse effects of low pulse vibrations on coral. The Department continues to monitor the area.

Another user will impact the bay environmentally. Applicant has been environmentally conscious. Jet drives will do damage, but no more than jet skis.

There are problems with the proposed course. Depth contours are inconsistent because when surveying, they used a reference based on datum for high tide rather than low tide. Shows more water than really exists. Operator will not be able to operate in the proposed course as there won't be any water there. Deep areas have very large coral heads. Tumon operators will not operate in East Agana Bay due to level of difficulty in navigation.

Applicant has adjusted operation, but Dept. Of Agriculture is concerned with the possibility of other vendors and courses.

Government or private sector could dredge area near Onward where there exists a man made causeway which inhibits the quality of water as well as the access that vessels may need to get into deep water. Onward was permitted to do said dredging, but did only enough to create a swimming area for their guests. They were permitted to do more than they needed to do.

Maps need to be finalized with DPR. Concerns with navigating in East Agana Bay: Not a straight drift, takes place at night, lack of markers.

Brown: Concerned with conflicting uses between jet ski operators and dinner boat operations.

Davis: Jet ski commercial operators typically operate between 9am - 4pm. Public operators must stop before dark. Foresees no conflict.

Other concerns: Loss to fisheries in the bay; fueling & sewage issues.

Dept. Of Agriculture's recommendation: Approval of Bill 641, but revisit RWUMP as a whole to address all concerns. Manahak run needs to be addressed in the RWUMP.

Shelton: Manahak run situation. Ordinarily, DPR in consultation with Dept. Of Agr. determines the size of a run. Notifies commercial operators. Large run = Bay closure. Smaller, sporadic runs = course shifting.

Davis: Concerning RWUMP. Manahak issue needs to be addressed, maps for Cocos Lagoon and Apra Harbor need to be looked at. There exists at Apra Harbor a potential death situation as divers and jet skiers share similar areas.

Sen. C. Leon Guerrero: Noted that Port Authority is undergoing a comprehensive review of the Harbor Rules & Regs. Inquired about Onward's obligation to complete dredging job they were permitted to do.

Davis: Not obligated.

E.J. Cruz: Concerns. Permitting smoking and alcoholic beverages could lead to pollution of the bay through cigarette butts, beer cans and bottles.

Kloppenburg: Japanese tourists are very environmentally conscious.

Sen. E.J. Cruz: Possibility of dredging both sides of the bay.

Davis: Department not supportive of dredging lagoons. Not able to predict the resulting current pattern. Cited Fiji where dredging turned lagoon into mud flat. Area near Onward had been humanly altered and should be dredged. Area near Agana River outflow should not. Current patterns could cause mud to flow into the bay.

E.J. Cruz: Concerned with agency cooperation as RWUMP is a multi-agency issue.

Davis: Rules & Regs should simply reference federal law as Coast Guard standards already address most of the issues.

Kloppenburg: Boat is in full compliance with the Coast Guard.

Sen. Frank P. Camacho: Dept. Of Agriculture should take steps into looking at the long term effects of the bay.

Davis: Currently engaged in, and will continue fish monitoring and coral assessments.

Kasperbauer: Would like to see dinner boat operations in East Agana Bay soon. Ensure it does not impact other operators of the bay. Inquired on the accuracy of manahak run predictions.

Shelton: Runs are generally consistent. (Last quarter moon of May, June and October). Everyone in the industry is well aware of this fact.

Kloppenburg: Appealed to proceed with the amendments "as is". Recognizes the need to revise the entire RWUMP, but has been waiting for 2 years for GovGuam to approve his application. (Unjustified)

Shelton: Agrees that Bill 641 should be passed as Kloppenburg has been waiting for 2 years. The RWUMP should then be addressed and revised as a whole.

Frank Santos: Concerned that amendments to RWUMP would conflict with the Harbor Rules & Regulations.

Felix P. Camacho: Conclusion.

FINDINGS

The Legislature finds that certain provisions to the regulations for the use and operation of mechanized water-craft and other activities under the RWUMP should be amended and added to allow for the operation of Dinner Boat Cruises. The Legislature further finds that a course designation is needed for the operation of such cruises in East Agana Bay.

RECOMMENDATION

The Committee on Power, Foreign Affairs and General Government Services wishes to report out Bill No. 641 As Amended by the Author and Substituted by the Committee **TO DO PASS.**



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

OFFICE OF THE SPEAKER

Date: 5/1/96

Time: 2:00 PM

Received By: [Signature]

Print Name: [Signature]

MAY 01 1996

The Honorable Speaker
Twenty-Third Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910

Dear Speaker:

Enclosed please find a copy of Bill No. 572 (LS), "AN ACT TO AMEND RULES AND REGULATIONS FOR THE DEPARTMENT OF PARKS AND RECREATION RELATIVE TO THE RECREATIONAL WATER USE MANAGEMENT PLAN" which I have signed into law today as **Public Law 23-89**.

This bill puts into effect the rules relative to operation of water skis and other recreational water craft on the eastern side of Guam.

Very truly yours,

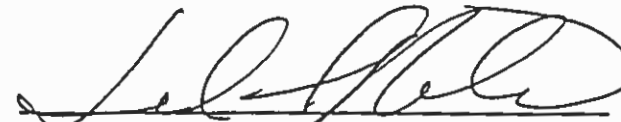

Carl T. C. Gutierrez
Governor of Guam

Attachment

TWENTY-THIRD GUAM LEGISLATURE
1996 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

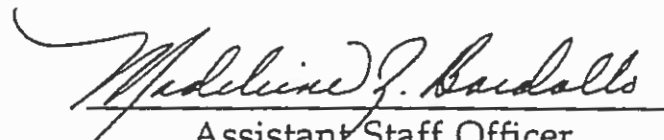
This is to certify that Bill No. 572 (LS), "AN ACT TO AMEND RULES AND REGULATIONS FOR THE DEPARTMENT OF PARKS AND RECREATION RELATIVE TO THE RECREATIONAL WATER USE MANAGEMENT PLAN," was on the 19th day of April, 1996, duly and regularly passed.


TED S. NELSON
Acting Speaker

Attested:


JUDITH WON PAT-BORJA
Senator and Legislative Secretary

This Act was received by the Governor this 26 day of April
1996, at 6:00 o'clock P.M.


Assistant Staff Officer
Governor's Office

APPROVED:


CARL T. C. GUTIERREZ
Governor of Guam

Date: 5-1-96

Public Law No. 23-89

TWENTY-THIRD GUAM LEGISLATURE
1996 (SECOND) Regular Session

Bill No. 572 (LS)

Introduced by:

By request of the Governor
in accordance with the Organic
Act of Guam.

T. S. Nelson
T. C. Ada
J. P. Aguon
E. Barrett-Anderson
A. C. Blaz
J. S. Brown
F. P. Camacho
M. C. Charfauros
H. A. Cristobal
M. Forbes
A. C. Lamorena V
C. Leon Guerrero
L. Leon Guerrero
S. L. Orsini
V. C. Pangelinan
D. Parkinson
J. T. San Agustin
A. L. G. Santos
F. E. Santos
A. R. Unpingco
J. Won Pat-Borja

AN ACT TO AMEND RULES AND REGULATIONS FOR
THE DEPARTMENT OF PARKS AND RECREATION
RELATIVE TO THE RECREATIONAL WATER USE
MANAGEMENT PLAN.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

1 Section 1. (a) Authority for Department of Parks and Recreation to
2 promulgate rules and regulations for the operation of motorized water
3 recreational craft usage. Subsection (f) of Section 26017 of the Government
4 Code authorizes the Department of Parks and Recreation to promulgate
5 rules and regulations providing for formulating a comprehensive plan and
6 policy for the operation of motorized water recreational craft.

7 (b) Submission of rules and regulations in bill form. Public Law 22-96
8 requires that rules and regulations proposed by a government agency, after
9 submission to the Governor, be transmitted to the Legislature in bill form for
10 the convenience of the Legislature. After the passage of Forty-five (45)
11 calendar days plus Seven (7) legislative days, the rules and regulations are
12 approved.

13 (c) Approval of amendment to rules and regulations provided by the
14 Department of Parks and Recreation for Recreational Water Usage
15 Management Plan. The following amendment to rules and regulations for
16 Department of Parks and Recreation is approved:

17 "Operation of jet ski or motorized water recreational craft within the
18 reef or channel. No person shall operate a Jet Ski or any Motorized Water
19 Recreational Craft within the reef or channel from (Area 4) Mannel Channel
20 to (Area 5) Pati Point, Yigo as shown in Key Map DPR95-1001 A RWUMP 003.

21 Specially permitted competitive or sporting events held in conjunction
22 with village fiestas, or for the purpose of local, national, or international
23 competition, may be exempted by discretion of the Director of the
24 Department of Parks and Recreation.

25 All MWRC Crafts shall have access to enter and exit areas outside the
26 reefs from any designated launching area or ramp facility, and only by the

1 most direct route consistent with safety consideration and shall be permitted
2 within this corridor at a speed limit not to exceed Five (5) miles per hour.

3 A key map is attached."

**GUAM POLICE DEPARTMENT
and
THE DEPARTMENT OF PARKS AND RECREATION**

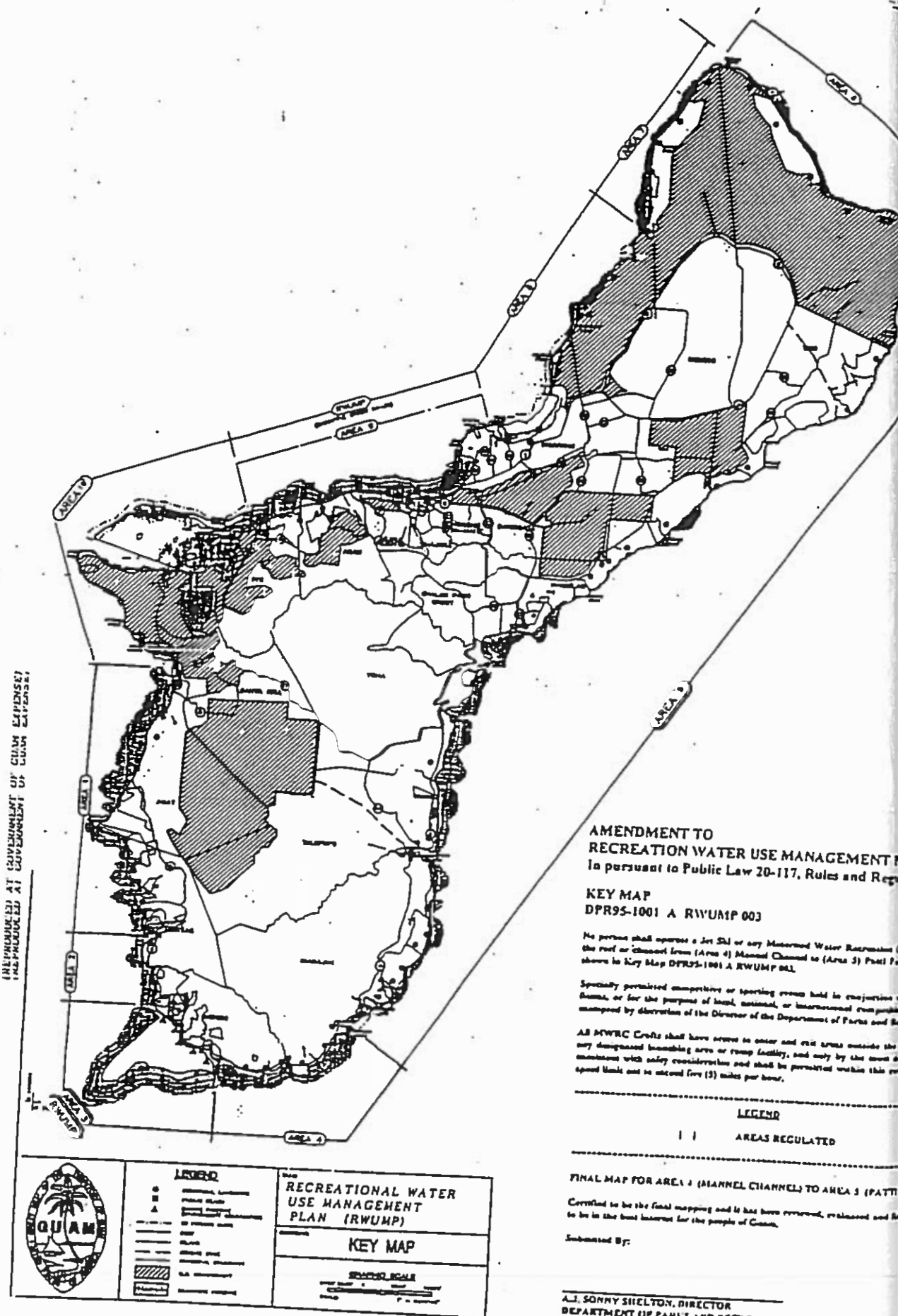
Part I - General Provisions:

- Section 1 ... Purpose and Applicability.
Section 2 ... Definitions.
Section 3 ... Safety and Enforcement.
Section 4 ... Penalties

- Section 5 ... Water-craft Vessel Operations.
- Section 6 ... Para-sailing activities/operations.
- Section 7 ... Windsurfing activities/operations.
- Section 8 ... Aircraft, Hovercraft and Jet Boat Operations.
- Section 9 ... MWRC Courses
- Section 10 ... Use of Commercial or Recreational Vessels within the Recreational Water Use Management Plan area.
- Section 11 ... Fees.
- Section 12 ... Registration requirements for motorized water-craft
- Section 13 ... Placement of Markers.
- Section 14 ... Rafts and platforms.
- Section 15 ... Commercial Operations.
- Section 16 ... Priority and procedures in the issuance of commercial use permits.
- Section 17 ... Severability

Section 1. Purpose and Applicability.

The purposes of these rules and regulations are to reduce conflicts among water users in the Recreational Water-Use Management Plan area, especially within those areas of high activity, and to insure the safety and rights of the general public. The Recreational Water-Use Management Plan (RWUMP) designates specific areas for specific uses, pursuant to the policy in 10 GCA Chapter 60 and section 26017 of the Government Code of Guam, to promote safety for persons and



properties in and connected with the use, operation and equipment of vessels.

Section 2. Definitions.

As used in these rules and regulations unless the context clearly requires a different meaning:

- 2.1 Canoe means a narrow light boat moved by paddle.
- 2.2 Commercial operator means the individual, corporation, partnership, joint venture or other entity to which a business license is issued for the purpose of conducting a water business within the waters of Guam.
- 2.3 Commercial Use means the rental or sale of vessels for a fee within the RWUMP.
- 2.4 Commercial Vessel means vessels used for commercial purposes.
- 2.5 Corridor means an area designated within the RWUMP to serve as the only authorized access for vessels to and from the shoreline to specially designated areas.
- 2.6 Egress means a way out. Exit.
- 2.7 Hovercraft means a vessel whose propulsion allows the craft to float above land or water on a cushion of air.
- 2.8 Ingress means the act of entering. An entrance.
- 2.9 Marker means a waterway marker which indicates the existence of regulatory areas, speed zones or restricted areas which has no equivalent in the United States Coast Guard system of navigational aids.
- 2.10 Motorized Water Recreational Craft (MWRC) means any motorized vessel with the capacity to carry the operator and may also have the capacity to carry one or more other persons while in operation. The term includes but is not limited to a "jet ski", Hydroplane, wet bike and surf-jet.
- 2.11 Operator means the person who operates or has charge of the navigation or use of a vessel.
- 2.12 Para-sailing means the activity in which an

individual is transported or carried aloft by a parachute, sail or other material attached to a tow-line which is towed by a vessel.

- 2.13 Person means an individual, partnership, firm, corporation, association or other legal entity.
- 2.14 Platform means a raised horizontal surface normally supported by post or pillars permanently or temporarily affixed to the ocean floor.
- 2.15 Raft means a flat structure of wood or other flotation device, fastened together and floated on water.
- 2.16 Recreational Water-Use Management Plan (RWUMP) means the rules and regulations, statutes and maps which govern the use of areas designated as RWUMP areas.
- 2.17 RWUMP areas or Plan areas means areas designated for regulated use by executive order of the Governor.
- 2.18 Seaplane means any aircraft which is able to take off and land on water including, but not limited to, ultralight float equipped aircraft and helicopters.
- 2.19 Slow-no-wake means as slow as possible without losing steerage way and so as to make the least possible wake. This almost always means speeds of less than five miles per hour.
- 2.20 Ultralight float equipped aircraft means an aircraft of light weight construction and limited range able to land on water surfaces using floats.
- 2.21 Vessel means every description of water-craft, other than a seaplane, on the water used, or capable of being used, as a means of transportation on water.
- 2.22 Water-craft means every description of vessel, other than a seaplane, on the water used, or capable of being used, as a means of transportation on water.
- 2.23 Windsurf means the use of a surfboard-like vessel equipped with a sail and propelled by the wind.

Section 3. Safety and Enforcements.

The restrictions cited in these rules and regulations shall not apply in the event of an emergency to law enforcement or rescue craft, or to vessels participating in an event authorized pursuant to an approved marine event permit issued by GPD, or the U.S. Coast Guard.

Section 4. Penalties.

Any person violating any of the provisions of these rules and regulations shall be penalized as provided in Chapter 69, Title 10 of the Guam Code Annotated, as amended.

Part II - Rules & Regulations

Section 5. Water-craft Vessel Operations.

5.1 General Operating Procedures.

- (a) All MWRC users operating within the waters of the territory of Guam must comply with all United States Coast Guard licensing and safety procedures.
- (b) The speed limit of all vessels upon rivers and lakes within the territory of Guam shall not exceed five miles per hour.

5.2 Water-craft Operations.

- (a) Ingress and egress of water-craft through a defined corridor shall be at a slow-no-wake speed of not more than five miles per hour (5 MPH).
- (b) Access to a designated water-craft course shall be permitted only within corridors as designated in the management plan.
- (c) Guam Police Department (GPD) and the Department of Parks and Recreation (DPR) shall be responsible for placement of anchors for water-craft operations.
- (d) Operators using a MWRC, course as designated by DPR pursuant to section 9 of these rules and regulations, shall stay within the designated course area.
- (e) Operation of MWRC will be permitted only

during the hours set forth in 10 GCA section 69119 (b).

5.3 Age of Operator.

No person under the age of 16 shall operate a MWRC unless visually supervised by a person 18 years of age or older. This age requirement shall apply to all MWRC operations.

Section 6. Para-sailing activities/operations.

Para-sailing activities shall be conducted in the waters of Guam in compliance with the U.S. Coast Guard and rules and regulations promulgated by the territory of Guam. Para-sailing activities shall further be subject to the following provisions:

- 6.1 No para-sailing shall be permitted within the reef or harbor areas surrounding the island of Guam except within areas specifically designated for such activity.
- 6.2 All para-sailing vessels shall have access to areas outside the reef or harbor areas only from harbor or ramp facilities, and only by the most direct route consistent with safety considerations.
- 6.3 Para-sailing shall not be permitted within any mark channel entrance.

Windsurfing activities/operations.

Section 7.

Windsurfing activity shall be governed by the following:

- 7.1 No person shall engage in windsurfing activity within one hundred feet of a shoreline except in designated areas used for supervised instruction or when launching from or landing on a shoreline.
- 7.2 Ingress and egress to the shoreline shall be made by the most direct route as dictated by wind conditions.
- 7.3 Maneuvering shall be in accordance with rules of the road pertaining to sailing vessels.
- 7.4 Windsurfer operators shall approach no closer than one hundred feet to a dive flag indicating dive

activity in progress.

Section 8. Prohibited Operations.

8.1 Seaplane, helicopter, ultralight float equipped aircraft, hovercraft, and other craft of similar design, or vessels as defined in 10 GCA Title 16, are prohibited within the reef and harbor areas surrounding the island except within specifically designated areas.

8.2 The use of shuttle vessels in support of activities in subsection (a) above shall be prohibited within the RWUMP area except through designated corridors to permit access to areas outside the reef.

Section 9. MWRC Courses

The DPR shall establish within each RWUMP specifically designated MWRC courses, pursuant to P.L. 20-117. These courses shall be the only areas within the RWUMP where operation of MWRC will be permitted. Within a RWUMP area the maximum number of separate and distinct MWRC courses shall be determined after the public hearing.

Section 10. Use of Commercial or Recreational Vessels within the Recreational Water-Use Management Plan area.

No commercial or recreational vessel shall land, board or discharge passengers at any part of the beach or at other public areas within the RWUMP except at those locations so designated, nor can any commercial operator use or operate in areas within the RWUMP other than the area for which the commercial operator has been issued an appropriate permit.

Section 11. Fees.

Fees required to be paid for licensing vessels shall be as provided in 10 GCA Chapter 69 and applicable rules and regulations.

Section 12. Registration requirements.

The requirements for the registration of vessels, shall be in

accordance with the applicable registration provisions set forth in 10 GCA Sections 69102 through 69106. The GPD may suspend, cancel or revoke the certificate of ownership or the certificate of number of any vessel in any of the events occurring as stipulated in 10 GCA Section 69109.

Section 13. Placement of Markers.

Placement of movable markers on the permanent anchors will be the responsibility of vendors. Type of markers must be approved by GPD.

Section 14. Rafts and platforms.

Course markers and rafts located within the RWUMP will be removed after the hours designated for the close of operations, as defined in Section 5.2 (e), from the waters of the Territory or secured overnight within an area designated by GPD. No platforms shall be allowed within the RWUMP area.

Section 15. Commercial Operations

15.1 Operation and Water Safety

(a) In order to operate a commercial MWRC business within a RWUMP area, a Recreation Vendor Permit must be obtained from the DPR. Those commercial operators possessing, at the date of adoption of these rules and regulations, a valid business license as required in section (b)(1) of this section and who have all other required permits and/or clearances required for this type of activity by these rules and regulations, may apply for and shall be given priority consideration for issuance of the Recreation Vendor Permit. Should there be more qualified applicants for a Recreation Vendor Permit to operate within a RWUMP area than there are designated courses, then a lottery shall be conducted by the DPR to determine the issuance of permits and to establish a waiting list. Priority shall be given to operators actively operating as of October 1, 1990.

(b) To qualify for a Recreation Vendor Permit to operate within a designated motorized water-craft

course the applicant must supply acceptable evidence to DPR that the following requirements have been satisfied:

- (1) The applicant for a Recreation Vendor Permit must possess a valid business license from the Department of Revenue and Taxation (DRT) as required by section 18000 et seq., of the Government Code of Guam.
 - (2) All vessels owned and operated by a Recreation Vendor Permit holder shall be registered as required by 10 Guam Code Annotated section 69000 et seq..
 - (3) Prior to the issuance of the Recreation Vendor Permit, the applicant must have in place, and shall maintain at all times, liability insurance with a minimum coverage of \$100,000 per MWRC.
 - (4) An applicant for a Recreation Vendor Permit must provide proof that at least one employee of the business meets the minimum qualifications for a Water Safety Coordinator, as set forth in (c) of this section.
- (c) At all times of operation there shall be on the course a Water Safety Coordinator (WSC) who shall be identifiable by wearing a colored T-shirt in international orange with the letters WSC which shall be at least six (6) inches in height on the front and back of the shirt. The WSC shall meet the following requirements:
- (1) Possession of a current Red Cross Emergency Water Safety Certificate showing completion of a course taught in the English language.
 - (2) Possession of a current Red Cross Standard First Aid card showing completion of a course taught in the English language.
 - (3) Possession of a current American Heart Association or Red Cross CPR certification.
 - (4) Possession of a certificate issued by the Guam Police Department showing that the person has successfully completed an orientation course offered by GPD including, but not limited to, water safety, oceanographic conditions, local ecology, vessel familiarity and operation and

the United States Coast Guard Rules of the Road.

- (d) There shall be available at all times during hours of operation a vehicle available for responding to emergencies on the water.

Section 16. Priority and procedures in the issuance of Recreation Vendor permits.

16.1 The following regulations are applicable to all soliciting, advertising, rentals and sales in RWUMP areas.

(a) Definition

- (1) Commission means the Parks and Recreation Commission.
- (2) Department means the Department of Parks and Recreation.
- (3) Director means the Director of Parks and Recreation.
- (4) Vendor Licensed owner of commercial WMRC operations.
- (5) RWUMP means The Recreation Water-Use Management Plan.
- (6) Recreation Vendor Permit means a permit issued by the Department of Parks and Recreation for commercial operations.

- (b) It shall be unlawful for any person to operate a MWRC within a RWUMP area except upon permission therefore first obtained from the Director.

- (c) All MWRC vendors with authorized permits shall be allowed to continue to operate from year to year in the RWUMP area already designated in their permit. Only one Recreation Vendor permit shall be issued per business license. The vendor receiving a permit shall only be allowed one Recreation Vendor permit per year. Permits are non-transferable, whether by sale, exchange, sub-lease assignments,

gift, or any other means.

- (d) Any person found operating commercially in a RWUMP area without an authorized Recreation Vendor permit shall be charged with 9 GCA section 37.30 (Criminal Trespass).
- (e) No vendor shall use sound amplification devices for the purposes of soliciting, advertising, or selling in any RWUMP area without prior written authorization from the Director or his authorized representative.
- (f) Application for Recreation Vendor permits must be filed with the Director in the form prescribed by the Director or his authorized representative.
- (g) All applications for Recreation Vendor permits shall be accompanied by the following:
 - (1) The appropriate business license as provided by Title XVII, Government Code of Guam;
 - (2) A yearly user's fee of \$1,000.00 for July 1 to June 30 shall be payable to the Department of Parks and Recreation. Upon issuance of a Recreation Vendor Permit, a \$1,000.00 fee is required. The entire fee shall be payable on or before June 30. If issued a Recreation Vendor Permit, no portion of the fee shall be refundable. Failure to renew a permit and pay the entire fee by August 31st, shall void a renewal of applicant's permit from the prior obligation of Section 3.
- (h) Each vendor, must display at all times a vendor identification bearing his or her name issued by the Director.
- (i) Permits shall be renewable on an annual basis. Permit will start on July 1 of each year and expire on June 30, of the

following year.

- (j) Vendors shall confine their operations to the specific course assigned to them by the Director or his representative.
- (k) All vendors shall comply with government of Guam land use controls, including zoning, seashore protection, building code, and federal public law and outdoor recreation grant land use restrictions where applicable.
- (1) Revocation of Recreation Vendor Permit
 - (1) For violation of these or other relevant rules, regulations, or statutes, the vendor may have his Permit suspended or revoked after a hearing conducted in accordance with the Administrative Adjudication Act.
 - (2) Under exceptional circumstances, to preserve peace and order or to avert damages or destruction to property, the Director may effect an immediate temporary suspension of a vendor's permit, provided that procedures are begun within two working days to conduct a hearing in accordance with the provisions of the Administrative Adjudication Act. The burden of proving the necessity of such an exceptional suspension shall be upon the Director.
- (m) Notwithstanding any other regulation promulgated by the Director, the Director is authorized to issue permits for special activities subject to the following provisions:
 - (1) No permit shall be valid for longer than 10 days.
 - (2) The fee shall be \$50.00 for the first three days. There will be a \$15.00 charge per day for days thereafter, not to exceed 10

days. This applies to non-profit organizations who qualify for exemption under Government Code Sections 19543.02, 19543.03, 19543.04, and 19543.05.

- (3) The fee shall be \$100.00 for the first three days. There will be a \$20.00 charge per day for days thereafter not to exceed ten (10) days for profit organizations.

- (n) The Director, with the approval of the Commission, may include new MWRC areas in these rules, under whatever section is deemed appropriate, so long as such inclusion does not violate existing laws.

Section 17. Severability

If any part or section of these regulations is declared to be invalid by a court of law or administrative tribunal for any reason, the rest of these regulations shall not be affected thereby and shall remain valid and enforceable.

10 GCA - HEALTH AND SAFETY DIV. 3 - PUBLIC SAFETY

The fact that such report has been made shall be admissible in evidence solely to show compliance with this Section but no such report nor any part thereof nor any statement contained therein shall be admissible as evidence for any purpose in any trial, civil or criminal.

SOURCE: §8995.18 GC, as renumbered by P.L. 15-54.

§69118. Transmittal of Information. In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the Guam Police Department pursuant to §69117(b) shall be transmitted to said official or agency of the United States for analytical and statistical purposes.

SOURCE: §8995.19 GC, as renumbered by P.L. 15-54.

§69119. Water Skis, Aquaplanes, Surfboards, or Similar Devices. (a) Observer. No person shall operate a vessel on any waters of this Territory for towing a person or persons on water skis, aquaplane, surfboard, or similar device unless there is in such vessel a competent person, in addition to the operator, in a position to observe the progress of the person or persons being towed. This Section shall not apply to motorboats classified as Class A motorboats, actually operated by the person being towed and so constructed as to be incapable of carrying the operator in or on the motorboat.

(b) Hours for skiing. No person shall operate a vessel on any waters of this Territory towing a person or persons on water skis, aquaplane, a surfboard, or similar device, nor shall any person engage in water skiing, aquaplaning, surfboarding, or similar activity at any time between the hours from one (1) hour after sunset to one (1) hour before sunrise.

Ch. 69 - Territorial Boating Act -
1993 [P.L. 21-90] - p. 814



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

MAR 12 1996

The Honorable Ted S. Nelson
Acting Speaker
Twenty-Third Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910

Dear Speaker Nelson:

Enclosed please find a copy of Bill No. 302 (LS), "AN ACT TO AMEND 9 GCA §70.25 RELATIVE TO JET SKI OPERATION", which I have signed into law today as **Public Law No. 23-78**.

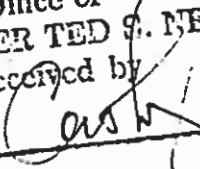
Presently, due to Administrative action, there are no jet ski companies operating in the Pago Bay area. There is also a pending amendment to the Recreational Water Use Management Plan (RWUMP) of the Department of Parks and Recreation which calls for restrictions on the usage of jet skis and other recreational water vehicles, which will further organize the different activities to take place in the waters along our shoreline.

There must be areas that are available on the shoreline for traditional activities such as fishing. It is appropriate that Pago Bay, long a site for these traditional endeavors, to be set aside for these purposes.

Very truly yours,


Carl T. C. Gutierrez

Attachment

Office of VICE-SPEAKER TED S. NELSON	
Received by 	
Print Name	Initial
Date: 3/12	Time: 1:38 pm

TWENTY-THIRD GUAM LEGISLATURE
1996 (SECOND) Regular Session

This is to certify that Bill No. 302 (LS), "AN ACT TO AMEND 9 GCA §70.2 RELATIVE TO JET SKI OPERATION," was on the 28th day of February 1996, duly and regularly passed.


D. PARKINSON
Speaker

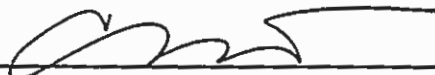
Attested:


JUDITH WON PAT-BORJA
Senator and Legislative Secretary

This Act was received by the Governor this 1st day of March 1996, at 5:40 o'clock P.M.


Assistant Staff Officer
Governor's Office

APPROVED:


CARL T. C. GUTIERREZ
Governor of Guam

Date: 3-12-96

Public Law No. 23-78

TWENTY-THIRD GUAM LEGISLATURE
1995 (First) Regular Session

Bill No. 302 (LS)

Introduced by:

J. M. S. B
T. S. Nelson
T. C. A. on
J. P. Aguirre
E. Barrett-An
A. C. Blaz derson
F. P. Camacho
M. C. Charfauros
H. A. Cristobal
M. Forbes
A. C. Lamorena V
C. A. Leon Guerrero
L. A. Leon Guerrero
S. L. Orsini
V. C. Pangelinan
D. Parkinson
J. T. San Agustin
A. L. G. Santos
F. E. Santos
A. R. Unpingco
J. Won Pat-Borja

AN ACT TO AMEND 9 GCA §70.25 RELATIVE TO JET
SKI OPERATION.

1 BE IT RESOLVED BY THE PEOPLE OF THE TERRITORY OF GUAM:
2 Section 1. §70.25 of Title 9, Guam Code Annotated, is hereby
3 to read: amended
4 "§70.25. Jet Ski Operation, Tumon Bay and Pago Bay. No person
5 shall operate a jet ski or water ski within the reef along Tumon Bay and

1 Pago Bay except that a jet ski may be operated in the channel to enter or
2 exit Tumon Bay and Pago Bay. This prohibition shall not apply to the
3 use of jet ski for emergency rescue or for law enforcement purposes.
4 Any person who violates this Section is guilty of a misdemeanor."



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

OFFICE OF THE LEGISLATIVE SECRETARY
ACKNOWLEDGMENT RECEIPT
Received By: <u>[Signature]</u>
Time: <u>1:30 PM</u>
Date: <u>3/12/96</u>

MAR 12 1996

The Honorable Ted S. Nelson
Acting Speaker
Twenty-Third Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY
ACKNOWLEDGMENT RECEIPT
Received By: <u>[Signature]</u>
Time: <u>1:30 PM</u>
Date: <u>3/12/96</u>

Dear Speaker Nelson:

Enclosed please find a copy of Bill No. 302 (LS), "AN ACT TO AMEND 9 GCA §70.25 RELATIVE TO JET SKI OPERATION", which I have signed into law today as **Public Law No. 23-78**.

Presently, due to Administrative action, there are no jet ski companies operating in the Pago Bay area. There is also a pending amendment to the Recreational Water Use Management Plan (RWUMP) of the Department of Parks and Recreation which calls for restrictions on the usage of jet skis and other recreational water vehicles, which will further organize the different activities to take place in the waters along our shoreline.

There must be areas that are available on the shoreline for traditional activities such as fishing. It is appropriate that Pago Bay, long a site for these traditional endeavors, to be set aside for these purposes.

Very truly yours,

[Signature]
Carl T. C. Gutierrez

Attachment
231035

Office of VICE SPEAKER TED S. NELSON	
<u>[Signature]</u>	
Print Name	Initial
Date: <u>3/12</u>	Time: <u>1:30 PM</u>

TWENTY-THIRD GUAM LEGISLATURE
1996 (SECOND) Regular Session

This is to certify that Bill No. 302 (LS), "AN ACT TO AMEND 9 GCA §70.25
RELATIVE TO JET SKI OPERATION," was on the 28th day of February,
1996, duly and regularly passed.


D. PARKINSON
Speaker

Attested:


JUDITH WON PAT-BORJA
Senator and Legislative Secretary

This Act was received by the Governor this 15 day of MARCH,
1996, at 5:40 o'clock P.M.


Assistant Staff Officer
Governor's Office

APPROVED:


CARL T. C. GUTIERREZ
Governor of Guam

Date: 3-12-96

Public Law No. 23-78

TWENTY-THIRD GUAM LEGISLATURE
1995 (First) Regular Session

Bill No. 302 (LS)

Introduced by:

J. M. S. Brown
T. S. Nelson
T. C. Ada
J. P. Aguon
E. Barrett-Anderson
A. C. Blaz
F. P. Camacho
M. C. Charfauros
H. A. Cristobal
M. Forbes
A. C. Lamorena V
C. A. Leon Guerrero
L. A. Leon Guerrero
S. L. Orsini
V. C. Pangelinan
D. Parkinson
J. T. San Agustin
A. L. G. Santos
F. E. Santos
A. R. Unpingco
J. Won Pat-Borja

AN ACT TO AMEND 9 GCA §70.25 RELATIVE TO JET
SKI OPERATION.

- 1 BE IT RESOLVED BY THE PEOPLE OF THE TERRITORY OF GUAM:
2 Section 1. §70.25 of Title 9, Guam Code Annotated, is hereby amended
3 to read:
4 "§70.25. Jet Ski Operation, Tumon Bay and Pago Bay. No person
5 shall operate a jet ski or water ski within the reef along Tumon Bay and

VOTING SHEET

Bill No. 302

Resolution No. _____

Question: _____

Pago Bay except that a jet ski may be operated in the channel to enter or exit Tumon Bay and Pago Bay. This prohibition shall not apply to the use of jet ski for emergency rescue or for law enforcement purposes. Any person who violates this Section is guilty of a misdemeanor."

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P.	✓			
BARRETT-ANDERSON, Elizabeth	✓			
BLAZ, Anthony C.	✓			
BROWN, Joanne S.	✓			
CAMACHO, Felix P.	✓			
CHARFAUROS, Mark C	✓			
CRISTOBAL, Hope A.	✓			
FORBES, MARK	✓			
LAMORENA, Alberto C., V	✓			
LEON GUERRERO, Carlotta	✓			
LEON GUERRERO, Lou	✓			
NELSON, Ted S.	✓			
ORSINI, Sonny L.	✓			
PANGELINAN, Vicente C	✓			
PARKINSON, Don	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Angel L. G.	✓			
SANTOS, Francis E.	✓			
UNPINGCO, Antonio R.	✓			
WONPAT-BORJA, Judith	✓			

TOTAL

21 0 0 0

CERTIFIED TRUE AND CORRECT:

Recording Secretary

PL 73
Senator Mark C. Charfauros

Chairman

Committee on Judiciary, Criminal Justice, and Environmental Affairs
Twenty-Third Guam Legislature

Ada's Commercial and Professional Center
138 East Marine Drive, Suite 101C-Annex
Agana, Guam 96910

Tel: (671) 472-3342/3/5
Fax: (671) 472-3440
E-Mail: markchar@uog9.uog.edu

February 12, 1996

SPEAKER DON PARKINSON
Twenty-Third Guam Legislature
155 Hesler St.
Agana, Guam 96910

Dear Mr. Speaker:

The Committee on Judiciary, Criminal Justice and Environmental Affairs to which was referred **Bill No. 302**, wishes to report back to the Legislature with its recommendation to pass **Bill No. 302- "AN ACT TO AMEND 9 GCA 70.25 RELATIVE TO JET SKI OPERATION."**

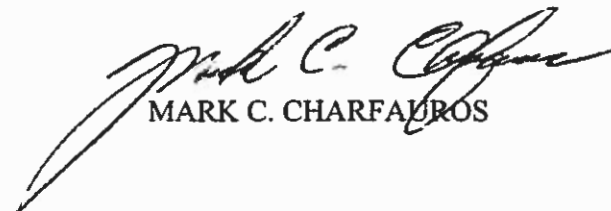
The voting record is as follows:

TO PASS	<u>10</u>
NOT TO PASS	<u>0</u>
ABSTAIN	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>

Copies of the Committee Report and other pertinent documents are attached.

Your attention to this matter is greatly appreciated.

Attachments.


MARK C. CHARFAUROS

Senator Mark C. Charfauros

Chairman

Committee on Judiciary, Criminal Justice, and Environmental Affairs
Twenty-Third Guam Legislature

Ada's Commercial and Professional Center
138 East Marine Drive, Suite 101C-Annex
Agana, Guam 96910

Tel: (671) 472-3342/3/5
Fax: (671) 472-3440
E-Mail: markchar@uog9.uog.edu

February 5, 1996

MEMORANDUM

TO: Members

FROM: Chairman

SUBJECT: Committee Report - **Bill No. 302** "AN ACT TO AMEND 9 GCA 70.25 RELATIVE TO JET SKI OPERATION."

Transmitted herewith for your information and action is the Committee on Judiciary, Criminal Justice and Environmental Affairs' Report on the subject Bill.

The narrative report is accompanied by the following:

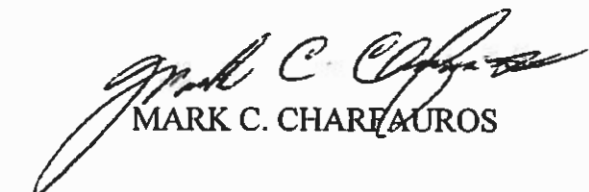
1. Original Bill 302;
2. Committee Voting Sheet;
3. Testimony and Sign-in Sheet
4. Public Hearing Notice.

Should you have any questions on the narrative report or the accompanying documents, I would be most happy to answer any of them.

Please take the appropriate action on the attached voting sheet and return the documents to my office for transmittal to the other members.

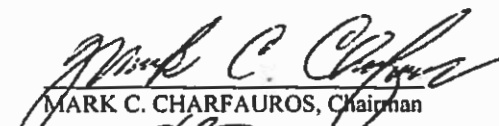
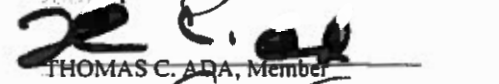
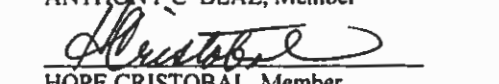
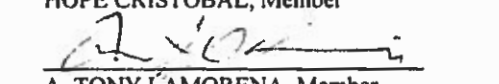
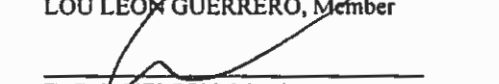
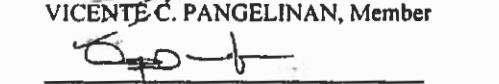
Your attention and cooperation in this matter is greatly appreciated.

Attachments.


MARK C. CHARFAUROS

COMMITTEE ON JUDICIARY, CRIMINAL JUSTICE AND
ENVIRONMENTAL AFFAIRS
23rd Guam Legislature
VOTING RECORD

Bill No. 302 "AN ACT TO AMEND 9 GCA 70.25 RELATIVE TO JET SKI OPERATION."

	TO PASS	NOT TO PASS	ABSTAIN	INACTIVE FILE
 MARK C. CHARFAUROS, Chairman	✓	—	—	—
 JUDIT. WOMPAT BORJA, Vice-Chairperson	✓	—	—	—
 THOMAS C. ADA, Member	✓	—	—	—
 ELIZABETH BARRETT-ANDERSON, Member	✓	—	—	—
 JOANNE BROWN, Member	✓	—	—	—
ANTHONY C. BLAZ, Member	—	—	—	—
 HOPE CRISTOBAL, Member	✓	—	—	—
 A. TONY LAMORENA, Member	✓	—	—	—
LOU LEON GUERRERO, Member	—	—	—	—
 T. D. S. NELSON, Member	✓	—	—	—
VICENTE C. PANGELINAN, Member	—	—	—	—
 ANGEL L.G. SANTOS, Member	✓	—	—	—
DON PARKINSON, Ex-Officio Member	—	—	—	—

COMMITTEE ON JUDICIARY, CRIMINAL
JUSTICE AND ENVIRONMENTAL
AFFAIRS
Twenty-Third Guam Legislature

COMMITTEE REPORT

on

Bill No. 302

"AN ACT TO AMEND 9 GCA 70.25 RELATIVE TO JET SKI OPERATION."

December 15, 1995

I. OVERVIEW

The Committee on Judiciary, Criminal Justice and Environmental Affairs scheduled a public hearing on December 15, 1995 at 9:30 a.m. at the Legislative Public Hearing Room. Public notice was announced on the December 13, 1995 issue of the PDN. Members present were:

Senator Mark C. Charfauros, Chairman
Senator Ben Pangelinan
Senator Ted Nelson
Senator Judith WonPat-Borja
Senator Hope Cristobal
Senator Angel L.G. Santos
Senator Tom Ada
Senator Lou Leon Guerrero
Senator Alberto Lamorena
Senator Joanne S. Brown

Appearing before the Committee to testify on the bill were:

Phil Tydingco, Legal Counsel, Guam Police Department, **oral**.
Rosanna D. San Miguel, Mayor, Chalan Pago/Ordot, **oral**.
A.J. Sonny Shelton, Director, Department of Parks and Recreation, **written**.
Francisco C. Duenas, Inetnon Peskatdot Association of Guam, **written**.
Gus F. Diaz, Acting Attorney General, Department of Law, **written**.
Jack S. Shimizu, Chief, Guam Police Department, **written**.

II. SUMMARY OF TESTIMONY

Mr. Phil Tydingco, Legal Counsel, Guam Police Department, testified in support of Bill 302. He questioned the reasons for the increase in penalties, **oral**.

Senator Joanne S. Brown, author of Bill 302, responded that the increased penalties would provide for a \$500 increase in fines for violating this section, stating that it would send a stronger message to people that they must abide by the law.

Ms. Rosanna D. San Miguel, Mayor, Chalan Pago/Ordot, testified in support of Bill 302. She stated that the Bill will guarantee the safety of the children and the fishermen in the area, as well as preserve the tranquility of Pago Bay, **oral**.

Mr. A.J. Sonny Shelton, Director, Department of Parks and Recreation, **written, attached**.

Mr. Francisco C. Duenas, Inetnon Peskatdot Association of Guam, testified in support of Bill 302, **written, attached**.

Gus F. Diaz, Acting Attorney General, Department of Law, **written, attached**.

Jack S. Shimizu, Chief, Guam Police Department, **written, attached**.

III. FINDING AND RECOMMENDATION

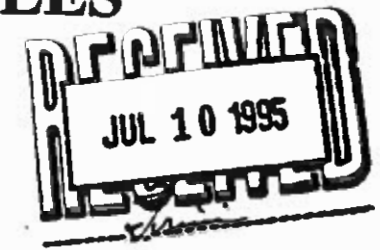
The Committee finds that Bill 302 would prohibit the operation of jet skis in Pago Bay. The Committee finds that Bill 302 is a response to recent controversies surrounding both private and commercial use of jet skis in the area. The Committee further finds that the community of Chalan Pago, as represented by Mayor Rosanna D. San Miguel, has indicated support for the Bill. The Committee finds that testimony received regarding Bill 302 has been favorable.

Accordingly, the Committee on Judiciary, Criminal Justice and Environmental Affairs, to which was referred **Bill No. 302**, does hereby submit its findings and recommendation to the Twenty-Third Guam Legislature **TO DO PASS Bill No. 302** "AN ACT TO AMEND 9 GCA 70.25 RELATIVE TO JET SKI OPERATION."



COMMITTEE ON RULES

Twenty-Third Guam Legislature
155 Hesler St., Agana, Guam 96910



July 10, 1995

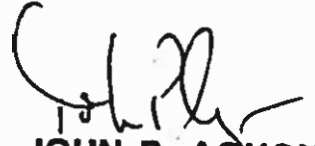
MEMORANDUM

TO: Chairman, Committee on Judiciary, Criminal Justice
and Environmental Affairs

FROM: Acting Chairman, Committee on Rules

SUBJECT: Referral - Bill No. 302

The above Bill is referred to your Committee as the principal committee. Please note that the referral is subject to ratification by the Committee on Rules at its next meeting. It is recommended you schedule a public hearing at your earliest convenience.


JOHN P. AGUON

Attachment:

TWENTY-THIRD GUAM LEGISLATURE
1995 (First) Regular Session

Bill No.: 302

Introduced by:

J.M.S. Brown

AN ACT TO AMEND 9 GCA 70.25 RELATIVE TO JET SKI
OPERATION

BE IT RESOLVED BY THE PEOPLE OF THE TERRITORY OF
GUAM:

Section 1. Title 9 Guam Code Annotated Section 70.25 is hereby
amended to read:

Section 70.25. Jet Ski Operation, Tumon Bay and Pago Bay.

No person shall operate a jet ski or water ski within the reef along Tumon Bay
and Pago Bay except that a jet ski may be operated in the channel to enter or
exit Tumon Bay and Pago Bay. This prohibition shall not apply to the use of jet
ski for emergency rescue or for law enforcement purposes. Any person who
violates this Section is guilty of a petty misdemeanor.

DEC 15 95 09:40 FROM: FISC

ID: 67133 266
FAX TRANSMITTAL

PAGE 1/1

SENATOR MARK CHARFAUROS
Chairman on Judiciary, Criminal J
and Environmental Affairs
Twenty-Third Guam Legislature
Agana, Guam 96910

SENATOR BROWN FRANK DUENAS
Dep't/Agency Phone 339-6140
Fax 339-2265
NSN 7540-01-317-7368 5099-101 GENERAL SERVICES ADMINISTRATION

15 Dec 95

Dear Senator Charfuros,

The INETNON PESKADOT ASSOCIATION OF GUAM, and other concern
citizens of the district of Ordot/Chalan Pago, supports Bill 302
introduced by Senator Joanne Brown; however we feel that the
language needs to be change and insert the following (or motor
craft) between the words ski and within on the first sentence. A
motor craft is usually the vehicle that pulls the water ski. By
doing this the proposed amendment will be clear and concise so
that no mistakes on its interpretation.

Mr. Chairman, the second sentence (Except that a jet ski
may be operated in the channel to enter or exit Tumon Bay and
Pago Bay) needs to be change or be remove completely for the
following reasons:

- a. It gives operators the opportunity to take advantage of
the language set forth enter and exit specially for the Pago Bay
area.
- b. The INETNON PESKADOT members does not support this
section of the proposed amendment unless the following words are
added. (for emergency purposes only)

In an effort to be heard, I am submitting this written
testimony and to appeal to you Mr. Chairman to ensure that our
recommendation be inserted into this amendment. If the change is
made on the second sentence we the people of Guam will once again
enjoy our waters, either for recreation or fishing.

Mr. Chairman, thank you for your support in ensuring that
the changes are made, and to you Senator Brown, thank you for
introducing Bill 302. Now our people of Guam can be given the
opportunity to utilized the waters around our island as our
ancestors did.

Very respectfully

FRANCISCO C. DUENAS



Carl T. C. Gutierrez
Governor

Madeline Z. Bordallo
Vernor

DEPARTMENT OF PARKS AND RECREATION

GOVERNMENT OF GUAM
BUILDING 13-8, TIYAN
Post Office Box 2950
Agana, Guam 96910
Telephone: (671) 475-6296/7
Facsimile: (671) 472-9626

December 15, 1995



A.J. Sonny Shelton
Director

Franklin J. Gutierrez
Deputy Director

Senator Mark C. Charfauros
Chairman, Committee on Judiciary, Criminal
Justice and Environmental Affairs
Twenty-Third Guam Legislature
138 East Marine Drive, Suite 101C-Annex
Agana, Guam 96910

RE: BILL NO. 302

Dear Mr. Chairman:

As conveyed in my testimony at your most recent public hearing regarding RWUMP, this department in coordination with the RWUMP committee, has developed and routed proposed amendments addressing jetski usage in Pago Bay and the eastern seaboard. The proposed amendments envision specific prohibition of jet skis within the reef areas of Pago Bay and the eastern seaboard.

As such, it would appear that this department and the legislature via bill no. 302 are progressing along parallel tracks towards the same goal.

Sincerely,

A. J. SONNY SHELTON
Director



The Way Forward!



Calvin E. Holloway, Sr.
Attorney General

Gus F. Diaz
Chief Deputy Attorney General

Office of the Attorney General Territory of Guam

Phone: (671) 475-3324
Telefax: (671) 472-2493

December 15, 1995

HAND DELIVER

The Honorable Mark C. Charfauros
Chairman, Committee on Judiciary & Criminal Justice
and Environmental Affairs
Twenty-Third Guam Legislature
Ada's Commercial & Professional Center
138 East Marine Drive, Suite 101C-Annex
Agana, Guam 96910

Re Bill Nos. 274, 302, 310, 381, 394, 398, 420,
and Resolution No. 340

Dear Senator Charfauros:

Hafa Adai!

In response to your letter dated December 7, 1995, which was received by our office on December 11, 1995, I hope the following written testimony will be helpful to your committee in connection with the bills and resolution cited above.

COMMENT: BILL NO. 274

This bill would create a second Guam Police Department Reserve composed of former regular officers who have retired or left the department and hold other jobs. It would also pay the volunteers at the same rate as regular active duty officers. This could cause those employees who are currently drawing retirement to run afoul of the requirement in 4 G.C.A. 8121 which requires suspension of their retirement payments if they return to work as an employee for the government.

COMMENT: BILL NO. 302



Commonwealth Now!

Suite 2-200E, Judicial Center Bldg., 120 West O'Brien Drive, Agana, Guam U.S.A. 96910

This bill is apparently a reaction to the controversy over the operation of the Pago Bay Marine Club. The issue is now moot as the Club is no longer in operation, and no other group will be able to get a permit to operate in Pago Bay since the Water Recreational Use Management Plan (WRUMP) has been drafted for that area and prohibits the use of motorized watercraft in that area as well as all along the east side of the island.

COMMENT: BILL NO. 310

This bill would restore an earlier requirement for a regular re-registration of firearms. Basically it will restore prior legislation. However, there is a sentence on page 3 at lines 6-7 that should be removed. The requirement for the ID card should be placed in another section entirely. At lines 6-7, the bill removes the word "permanent" preceding "firearms identification card" and would leave 10 G.C.A. §60107 as being the only place in the code which indicates the length of time for which a firearms identification card is valid--3 years. It would be preferable to delete the entire sentence from this section. It does not need to be placed in another section as §60106 already requires firearms identification cards if one possesses, etc., a firearm.

The second section creates an amnesty period for those who have unregistered firearms to register them. This is a good idea that may result in the registration of illegal firearms..

COMMENT: BILL NO. 381

We are of the opinion that the bill is a good idea for Guam because it would provide a relatively easy and inexpensive way to invest someone with the power to act on another person's behalf in making important, even crucial, decisions should that other person later become unable to act on his or her own behalf because of physical disability or mental incapacity.

To lessen the chances for overreaching by relatives or other putative agents or any kind of hanky panky as to when a principal is "disabled" or "incompetent", the bill perhaps should contain definitions for those terms. Chapter 38 of Guam's Probate Code, 15 GCA, defines "incompetent person", "incompetent" and "mentally incompetent" to mean "any person, whether insane or not, who by reason of old age, disease, weakness of mind or other cause, is unable, unassisted, properly to manage and take care of himself or his property, and by reason thereof is likely to be deceived or imposed upon by artful or designing persons". At page 5 of the bill, Section 21504, which sets out the sample form for a durable power of attorney for health care decisions, uses the test of "if I should develop a terminal condition or permanent loss of the ability to communicate concerning medical treatment decision with no reasonable chance of

regaining this ability." Presumably, a treating physician would make that determination, but the bill doesn't spell that out. The bill impliedly contemplates the objective opinion of a qualified medical authority as to the physical condition or capacity of the principal in question.

Although Section 1 of the bill covers both medical and non-medical situations, the later focus of the measure is mostly upon the health care kinds of decisions. The sample form, for example, is for only those kinds of decisions. A sample form for the contractual or non-medical setting might be advisable.

On page 3 of the bill, at line 17, the sentence is incomplete. The missing last word probably is "presence".

Section 21503, detailing the requirements for a durable power of attorney, requires that it be signed in the presence of two or more witnesses. The bill should provide, in the alternative, that the power of attorney may be signed in the presence of and authenticated by a notary public. (Guam has an ample supply of notaries. These notaries would appreciate the recognition of their authority and ability to perform this kind of transaction under our notary laws!)

At page 4 of the bill, on line 9, after "physician" the word "an" should be corrected to read "and".

A further note on the terms "disability" and "incapacity": A footnote to Am Jur Section 58 discussing the Uniform Durable Power of Attorney Act S.2, cites the Commissioners' Comment that those terms "embrace legal incompetence as well as less grievous disadvantages". Evidently the drafters of the uniform act eschewed any statutory definition of the terms in favor of a liberal interpretation of their meaning. We believe the term "disability" suggests more of a lack of physical capability to perform an act, whereas "incapacity" refers to incompetence or a lack of legal ability to act. Actually, as a matter of legal interpretation, the two terms are practically interchangeable, depending upon the context in which they are used.

COMMENT: Bill 394

Bill No. 394 could jeopardize federal funding of our Family Division's child support and paternity program inasmuch as it would mandate the Department of Law to perform a function (the temporary restraining orders) which is not part of the child support program. Guam's program is, in most respects, 66% federally funded and, in some respects (including paternity establishment), 90% federally funded.

When our department enters an ongoing marriage dissolution case, we are strictly limited to

handling only the child support aspect. Many of our cases involve couples not married to each other; thus, there is no legal relationship by which the Bill's provisions concerning transferring assets should be applied to them. The custodian of the children is often a relative other than a parent, and such a provision would be even less fair. Other provisions of the Bill would involve us in custody issues. We have many cases where we are simply seeking to recover past welfare paid to a parent who now resides with the other parent and the children - this Bill forces them to separate. Other cases involve unmarried couples who get along fine, without rancor, and we properly file a case for child support because the custodial parent receives welfare; this bill could create conflicts where none otherwise existed and may disturb the parental relationship with their children.

Last, under Public Law 22-99, section 3, the Department of Law does not represent either parent in a child support (or paternity) action. We represent the Territory (e.g., welfare reimbursement) and/or the best interests of the children as to meeting Guam's Child Support Guidelines. The Bill would make us act as an attorney for one parent or party, so in many of our cases where the Department of Public Health and Social Services is the plaintiff, that department would be under the restraining order.

We urge you to remove references to paternity and child support cases and feel it is inappropriate to comment on the Bill otherwise since marital dissolutions are not the province of the Department of Law. Certainly, this department is in full support of legislation to deal with all forms of domestic violence.

COMMENT: Bill 398

Bill No. 398 includes language from a family violence statute which has already encountered problems with at least one Judge of the Guam Superior Court for being unconstitutionally vague. As an example of such vagueness, the phrase, "physically abuses," should be defined. To my knowledge, our department was not asked for input on this statute, and we would be happy to assist in drafting such an important statute.

COMMENT: Bill 420

Earlier this month, Public Law 23-64 was enacted. As the following analysis indicates, this bill is, in most respects, already contained within P.L. 23-64.

Section 51103 (b) of P.L. 23-64 states that public sanitary landfills, hardfills, etc., as currently exist or may be established will be operated and maintained by the Department of Public Works (DPW). It also provides that "The Director of Public Works, with the approval of the

Governor, may execute a contract after public bid with a private party or firm for the collection and disposal of any solid or bulky waste . . . including the operation of any sanitary landfill, hardfill, transfer stations. . . which is publicly owned . . ." This seems to match the intent and vision of Bill 420.

P.L. 23-64 also authorizes DPW to negotiate for and approve contracts for recycling and composting at the Ordot Landfill or at any other site approved by GEPA, as does Bill 420.

Page 2 of Bill 420, line 4, states that the Governor is authorized to negotiate the regulations by which the landfill will be operated. Regulations are, of course, promulgated through the Administrative Adjudication Law process and would require public hearings as well as legislative action.

DPW has been working very hard to pass its Guam Users Fee Ordinance. These are the service fees DPW will be charging residential users for curbside trash collection and commercial haulers that dump at the landfill. These fees are to be used towards closure of the Ordot Landfill, operation of a recovery facility and the new landfill. DPW, in this ordinance, reserved its authority to contract out for collection and disposal of solid wastes and that these contracts would be awarded in accordance with the Guam Procurement Law. This seems to satisfy page 2 of Bill 420, lines 9-11.

On page 2, lines 5 and 6, of Bill 420, it states that when negotiations are completed satisfactorily, the Governor shall submit a report to the legislature. Then in Section 3 of Bill 420, lines 12-14, it states that the complete report of the bid, negotiations, and recommendations shall be submitted to the legislature within 180 days of the date of enactment of this Act with a request for approval. The practicality of this timeframe is discussed below.

It is not clear whether the legislation requires legislative approval on the lowest responsible bidder and the resulting purchase order. The terminology that defines invitation for Bids and Request for Proposals are separate and distinct. Bids do not have negotiations, the award goes to the lowest responsible bidder. Request for Proposals (RFP) have negotiations for a fair and reasonable fee. The result of a bid is a purchase order, which, although a contract, is not usually approved by the Attorney General or signed by the Governor. The result of an RFP is a formal contract. Bill 420 confuses these two processes. The bill should reflect the procurement process desired and maintain consistent terminology appropriate to that process.

Assuming it is the RFP process that is desired, there is a separation of powers violation in Bill 420 with the Legislature approving the contract, prior to the Governor. The Governor is the leader of the executive branch and he approves all contracts that will bind the territory.

Letter to the Honorable Mark C. Charfauros
Senator, Twenty-Third Guam Legislature
December 15, 1995
Page 6

Whether the RFP process or the bid process is utilized, the 180-day time frame required, as a practical matter, will be difficult to meet. Writing the scope of work can easily take 2-3 months, then the notice requirements and selection can take another 2 months, and finally BBMR approval is required. We suggest that a more practical requirement would be to require a status report rather than a complete report in 180 days.

The intent of Bill 420 is an excellent concept; however, it has some flaws in its execution and its apparent purpose seems to have been already addressed in P.L. 23-64.

My only comment to Resolution No. 340 is that, to the extent a resolution could adversely impact Guam's inspection service charges in the view of the FAA, I believe the resolution is ill-advised.

The above comments and recommendations are submitted for your consideration. Thank you for the opportunity to do so.

Dangkolo Na Agradesimento - Thank You Very Much!


GUS F. DIAZ
Attorney General, Acting

cc: Bill Review File

1214bills
CEH/bd

SENT BY:

12-15-95 : 5:03PM : GLAM POLICE DEPT -

4*23440: 1 1



CARL T.C.
GUTIERREZ
Governor of Guam

MADELINE Z.
BORDALLO
Lieutenant Governor

Guam Police Department

Government of Guam

Post Office Box 23909 ★ GMF, Guam 96921 U.S.A.
Tel: (671) 475-8508-11 ★ Fax (671) 472-4036



JACK B.
SHIMIZU
Chief of Police

COL. B.A.
LEON GUERRERO
Deputy Chief of Police

Hon. Mark C. Charfauros
Senator and Chairman of the
Committee on Judiciary, Criminal Justice
and Environmental Affairs
Twenty-Third Legislature
Ada's Commercial and Professional Center
138 Marine Drive, Suite 101C Annex
Agana, Guam 96913

Subject: Proposed Legislative Bills Numbers 274, 302, 310, 394 and 398.

Dear Mr. Chairman,

This is to provide input regarding the aforementioned legislative bills received by GPD on December 11, 1995 and scheduled for public hearing on December 15, 1995.

Bill No. 274

GPD supports the intent of the proposed bill to create a "police ready reserve," especially in light of uniformed personnel shortages experienced by the Department as a result of budgetary constraints, annual off-island military training, vacations, normal attrition or any combination thereof.

GPD would however respectfully request more time to study the bill because it raises a number of financial, operational and personnel issues. For example, Section 66204 mandates GPD to "identify funds within [its] departmental appropriations to satisfy the intent" of compensating members of this reserve activated for duty which requires careful examination of our current budget. Another concern is that the bill contemplates GPD retirees as comprising a substantial part of the police ready reserve and the intent of Section 66204 to make such reserve members equivalent to regular uniformed personnel when activated requires clarification on what impact compensation in that status will have on their retirement or whether GPD should contract with them as unclassified.

Drug Free Guam Para Todos

full-time employees or as independent consultants. GPD also needs to determine whether its current civilian police reserve force will be negatively impacted by this bill. Despite these concerns and others that may arise, GPD remains supportive of the bill as an alternative remedy for addressing GPD's uniformed personnel shortages.

Bill No. 302

GPD has no objection to amending Section 70.25 by including "Pago Bay" as another area where jet ski operation is prohibited. GPD also has no strong objection to increasing the liability for violating this section from a petty misdemeanor to a full misdemeanor.

Bill No. 310

GPD Strongly supports the intent of Bill 310. GPD specifically welcomes the amending of Section 60110 of Title 10 GCA which proposes to require that firearms be registered triennially or every three years rather than the current one-time permanent registration of a firearm. This is especially needed when faced with the presence of large numbers of firearms in our community and the difficulty in keeping track of them.

GPD also appreciates that section of Bill 310 which provides for the generation of funds to assist the Department in addressing the financial costs of training future police academy cycles of recruits.

GPD would like to additionally recommend that Chapter 60 of Title 10 GCA which governs firearms as a whole be examined for any other necessary amendments as a "Firearms Safety Act."

Bill No. 394

The goal of Bill 394 to help decrease violence in divorces or marital dissolution proceedings and other related matters has GPD's full support.

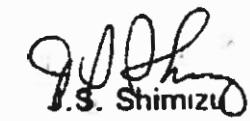
Although sections of the bill adds a new subsection(s) to Section 60108(b)(4) of Title 10 GCA, GPD would however respectfully recommend that the following additional language or something similar to it be added on to Section 7 of the bill which creates a new Section 8418 of Title 19 GCA. It should read:

" §8414. Order to be served on Guam Police Department.
Whenever the Courts orders firearms to be deposited with the court pursuant to 19 GCA §8416, the executed order shall be served on the Guam Police Department, and make known that the Guam Police Department shall not renew nor issue any new firearms identification cards or registration

cards to those parties subject to the provision or restrictions of Section 8416(b)(4) of Title 19 GCA and for the duration specified therein."

Bill No. 398

GPD respectfully directs your attention to the fact that Section 31.60 of Title 9 GCA was repealed in 1994 by the Family Violence Act and therefore the instant bill to amend Section 31.60 ought to be directed toward the new Chapter 30 of Title 9 GCA.


J.S. Shimizu
Chief of Police
Guam Police Department

cc: Governor's Legal Counsel
Deputy Chief of Police
GPD Legal Advisor

Senator Mark C. Chabros

Chairman

Committee on Judiciary, Criminal Justice and Environmental Affairs
Twenty-Third Guam Legislature

Ada's Commercial & Professional Center
138 East Marine Dr., Suite 101C-Annex
Agana, Guam 96910

Tel: (671) 472-3342~3
Fax: (671) 472-3440

WITNESS SIGN-IN SHEET

Friday, December 15, 1995

9:30 a.m.

Public Hearing Room

Guam Legislature, Agana

Bill No. 302, AN ACT AMEND 9 GCA 0 25 RELATIVE TO JE SKI OPERATION

NAME (please print)

ORGANIZATION

ORAL/WRITTEN FOR/AGAINST

Phil Tyding w GPD Blls 274,502,30,371,394

1. Leaf or bark Thymus

The figure consists of four horizontal bar charts, one for each category: 'No', 'Yes', 'Don't know', and 'No answer'. Each chart has four bars representing the countries: Germany (light blue), France (dark blue), Italy (light grey), and Spain (dark grey). The y-axis for each chart represents the percentage of respondents, ranging from 0 to 100.

Category	Germany	France	Italy	Spain
No	~10%	~10%	~10%	~10%
Yes	~85%	~85%	~85%	~85%
Don't know	~5%	~5%	~5%	~5%
No answer	~0%	~0%	~0%	~0%



Notice of Public Hearing

**Senator
Mark C. Charfauros**

**Chairman, Committee on Judiciary,
Criminal Justice and Environmental Affairs**

9:30 a.m.

Agenda

Resolution No. 340, RELATIVE TO REQUESTING THE FEDERAL GOVERNMENT TO GRANT THE COMMONWEALTH OF THE NORTHERN MARIANAS EXEMPTION FROM THE CUSTOMS, AGRICULTURE, AND QUARANTINE INSPECTION SERVICES CHARGE.

Bill No. 274, AN ACT TO CREATE A POLICE READY RESERVE AND FIREFIGHTER READY RESERVE BY ADDING A NEW CHAPTER 66-B AND A NEW CHAPTER 72-A TO TITLE 10 OF THE GOVERNMENT CODE OF GUAM. Bill No. 302, AN ACT TO AMEND 9 GCA 70.25 RELATIVE TO JET SKI OPERATION.

BILL No. 310, AN ACT TO AMEND SECTION 60110 OF TITLE 10 OF THE GCA TO REQUIRE THAT FIREARMS BE REGISTERED TRIENNIALLY, RATHER THAN PERMANENTLY, AND IN AN EFFORT TO ENCOURAGE THE REGISTRATION OF ALL FIREARMS, TO GRANT AN AMNESTY TO PERSONS WHO HAVE FAILED TO REGISTER THEIR FIREARMS, AND TO CREATE A GUAM POLICE ACADEMY CYCLE TRAINING REVOLVING FUND WITHIN THE GUAM POLICE DEPARTMENT.

Bill No. 371, AN ACT TO REPEAL GUAM'S EXISTING UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT AND REPLACE IT WITH THE UNIFORM INTERSTATE FAMILY SUPPORT ACT TO BE CHAPTER THIRTY-SIX OF TITLE FIVE OF GCA.

Bill No. 381, AN ACT TO CREATE THE UNIFORM DURABLE POWER OF ATTORNEY ACT TO GUAM.

BILL No. 394, AN ACT TO HELP DECREASE VIOLENCE IN MARITAL DISSOLUTION PROCEEDINGS BY AMENDING TITLE 19 OF THE GCA AND OTHER RELATED MATTERS.

BILL No. 398, AN ACT TO AMEND TITLE 9 GCA §31.60 (c) TO INCREASE THE PENALTY FOR CRIMINAL SPOUSE ABUSE.

THE PRIVATE OPERATION OF THE NEW LAND FILL AND TO SUBMIT A REPORT TO THE LEGISLATURE FOR APPROVAL TO IMPLEMENT SUCH PRIVATIZATION.

Date: Friday, December 15, 1995

Time: 9:30 a.m.

Place: Public Hearing Room, Guam Legislature
155 Hesler St., Agaña

~~The Public is invited to attend~~

Rec'd 12/11/95
Fast-track

Run date 12/13/95



BUREAU OF BUDGET & MANAGEMENT RESEARCH
OFFICE OF THE GOVERNOR, Post Office Box 2990, Agaña, Guam 96910

JOSEPH E. RIVERA
Director

JUL 19 1995

The Bureau requests that Bill No(s). 302 be
granted a waiver pursuant to Public Law 12-229 for the following
reasons:

The Bill is administrative in nature and does not pose
a fiscal impact on the General Fund.

7/18 Joseph E. Rivera
Joseph E. Rivera,
Acting



TWENTY-THIRD GUAM LEGISLATURE
1995 (First) Regular Session

AUG 03 1995

Bill No.: 302 (L)

Introduced by:

J.M.S. Brown *JMS*

AN ACT TO AMEND 9 GCA 70.25 RELATIVE TO JET SKI
OPERATION

1 BE IT RESOLVED BY THE PEOPLE OF THE TERRITORY OF
2 GUAM:

3
4 Section 1. Title 9 Guam Code Annotated Section 70.25 is hereby
5 amended to read:

6
7 Section 70.25. Jet Ski Operation, Tumon Bay and Pago Bay.
8 No person shall operate a jet ski or water ski within the reef along Tumon Bay
9 and Pago Bay except that a jet ski may be operated in the channel to enter or
10 exit Tumon Bay and Pago Bay. This prohibition shall not apply to the use of jet
11 ski for emergency rescue or for law enforcement purposes. Any person who
12 violates this Section is guilty of a petty misdemeanor.



Territory of Guam
Teritoriu Guam

OFFICE OF THE GOVERNOR
LTSINAN I MALA LANI
AGANA, GUAM 96910 U.S.A.

JAN 18 1990

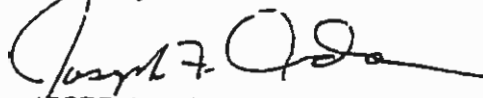


The Honorable Joe T. San Agustin
Speaker, Twentieth Guam Legislature
Post Office Box CB-1
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 589, which I have signed into law this date as Public
Law 20-117.

Sincerely,


JOSEPH F. ADA
Governor

200662

Attachment

RECEIVED JAN 24 1990





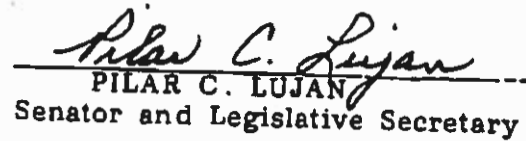
TWENTIETH GUAM LEGISLATURE
1990 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

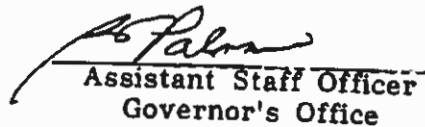
This is to certify that Substitute Bill No. 589 (LS), "AN ACT TO ADD SUBPARAGRAPH (f) TO §26017 OF THE GOVERNMENT CODE TO GIVE RESPONSIBILITY OVER MOTORIZED WATER RECREATIONAL CRAFT AND THEIR OPERATIONS TO THE RECREATION DIVISION OF THE DEPARTMENT OF PARKS AND RECREATION," was on the 5th day of January, 1990, duly and regularly passed.


JOE T. SAN AGUSTIN
Speaker

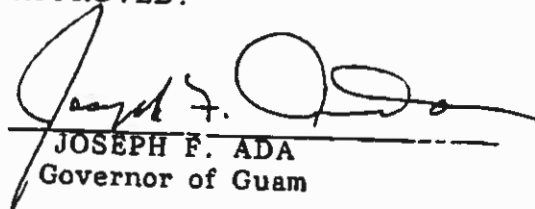
Attested:


PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 12 day of Jan., 1990,
at 6:00 o'clock p.m.


Assistant Staff Officer
Governor's Office

APPROVED:


JOSEPH F. ADA
Governor of Guam

Date: JAN 18 1990

Public Law No. 20-117

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

Bill No. 589 (LS)

As substituted by the Committee
on Youth, Senior Citizens, Cultural
Affairs and Human Resources and
further substituted by the Committee
on Rules on 1/3/90.

Introduced by:

J. P. Aguon
F. J. A. Quitugua
E. D. Reyes

E. P. Arriola
H. D. Dierking
M. Z. Bordallo
T. S. Nelson
C. T. C. Gutierrez
P. C. Lujan
G. Mailloux
D. Parkinson
J. T. San Agustin
F. R. Santos
J. G. Bamba
D. F. Brooks
E. R. Duenas
E. M. Espaldon
M. D. A. Manibusan
M. C. Ruth
T. V. C. Tanaka
A. R. Unpingco

AN ACT TO ADD SUBPARAGRAPH (f) TO
§26017 OF THE GOVERNMENT CODE TO GIVE
RESPONSIBILITY OVER MOTORIZED WATER
RECREATIONAL CRAFT AND THEIR
OPERATIONS TO THE RECREATION DIVISION
OF THE DEPARTMENT OF PARKS AND
RECREATION.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:
2 Section 1. Subparagraph (f) is hereby added to §26017 of the
3 Government Code to read:

4 "(f) Formulating a comprehensive plan and policy for the
5 operation of motorized water recreational craft which plan shall be
6 adopted and promulgated according the provisions of the Administrative
7 Adjudication Law. The plan shall include designations and descriptions
8 of those areas within Guam's territorial waters where motorized water
9 recreational craft may be operated, compulsory safety regulations

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

ROLL CALL SHEET

Bill No. 229

Date: 12/10/89

Resolution No. _____

QUESTION: _____

1 regarding the noise levels of motorized water recreational craft, and
2 regulations requiring appropriate training prior to the use of motorized
3 water recreational craft. Motorized water recreational craft shall be
4 registered and licensed by the Department of Parks and Recreation for
5 a reasonable fee charged to cover administrative costs."
6 Section 2. The Department of Parks and Recreation shall submit
7 proposed rules and regulations under this Act to the Legislature within
8 ninety (90) days after the enactment of this Act.

	AYE	NAY	NOT VOTING	ABSENT
J. P. Aguon	✓			
E. P. Arriola	✓			
J. G. Bamba	✓			
M. Z. Bordallo	✓			
D. F. Brooks				✓
H. D. Dierking	✓			
E. R. Duenas	✓			
E. M. Espaldon	✓			
C. T. C. Gutierrez	✓			
P. C. Lujan	✓			
G. Mailloux	✓			
M. D. A. Manibusan				✓
T. S. Nelson	✓			
D. Parkinson	✓			
F. J. A. Quitugua	✓			
E. D. Reyes	✓			
M. C. Ruth	✓			
J. T. San Agustin	✓			
F. R. Santos	✓			
T. V. C. Tanaka	✓			
A. R. Unpingco	✓			

19

2

Intro

APR 12 '89

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

Bill No. 589 (LS)

Introduced by:

J. P. Aguon
FIA. Quite just JPA
ED REYES

AN ACT TO ADD SUBPARAGRAPH (f) TO
§20167 OF THE GOVERNMENT CODE TO GIVE
THE RECREATION DIVISION OF THE
DEPARTMENT OF PARKS AND RECREATION
RESPONSIBILITY OVER JET SKIS AND THEIR
OPERATIONS.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:
Section 1. Subparagraph (f) is hereby added to §20167 to read as

follows:

"(f) Formulating a comprehensive plan and policy for the
operation of those water recreational devices known as "jet skis" which
plan shall include a description of those areas within Guam's territorial
waters where such jet skis may be lawfully operated, compulsory
safety regulations for the operators of such jet skis, regulations as to
the noise levels of such jet skis while operating, and regulations
requiring appropriate training prior to the use of jet skis, which plan
shall be adopted and promulgated according to the provisions of the
Administrative Adjudication Law."

SENATOR ELIZABETH P. ARRIOLA

Chairperson
Committee on Youth, Senior Citizens,
Cultural Affairs and Human Resources



Twentieth
Guam Legislature

December 27, 1989

The Honorable Joe T. San Agustin
Speaker
Twentieth Guam Legislature
163 Chalan Santo Papa
Agana, Guam 96910

VIA: Chairman, Committee on Rules

Dear Mr. Speaker:

The Committee on Youth, Senior Citizens, Cultural Affairs and Human Resources to which were
referred Bill No. 589, "AN ACT TO ADD SUBPARAGRAPH (f) TO §26017 OF THE
GOVERNMENT CODE TO GIVE THE RECREATION DIVISION OF THE DEPARTMENT OF
PARKS AND RECREATION RESPONSIBILITY OVER JET SKIS AND THEIR
OPERATION", has had the same under consideration and now wishes to report back its
recommendation TO DO PASS AS SUBSTITUTED.

Committee votes received:

TO DO PASS	TO NOT PASS	REPORT OUT	OTHER
-11-	-0-	-2-	-0-

Attached herewith are the Committee Report and other pertinent documents for your perusal.

Sincerely,

E. P. Arriola
ELIZABETH P. ARRIOLA

Attachments

VOTE SHEET
THE COMMITTEE ON YOUTH, SENIOR CITIZENS,
CULTURAL AFFAIRS AND HUMAN RESOURCES

On Bill No. 589 (LS) - as substituted by the Committee
"AN ACT TO ADD SUBPARAGRAPH (f) TO §26017 OF THE GOVERNMENT CODE TO
GIVE THE RECREATION DIVISION OF THE DEPARTMENT OF PARKS AND
RECREATION RESPONSIBILITY OVER JET SKIS AND THEIR OPERATION."

Chairperson:	To Pass	Not To Pass	Report Out	Inactive File
<u>Elizabeth P. Arriola</u> Elizabeth P. Arriola	☒	☐	☐	☐
Members:				
<u>Frank R. Santos</u> Frank R. Santos	☒	☐	☐	☐
<u>J. George Bamba</u> J. George Bamba	☒	☐	☐	☐
<u>Madeleine Bordallo</u> Madeleine Bordallo	☒	☐	☐	☐
<u>Herminia Dierking</u> Herminia Dierking	☒	☐	☐	☐
<u>Edward Duenas</u> Edward Duenas	☒	☐	☐	☐
<u>Ernesto Espaldon</u> Ernesto Espaldon	☒	☐	☐	☐
<u>Pilar C. Lujan</u> Pilar C. Lujan	☒	☐	☐	☐
<u>Gordon Mailleux</u> Gordon Mailleux	☒	☐	☐	☐
<u>Ted S. Nelson</u> Ted S. Nelson	☒	☐	☐	☐
<u>Edward D. Reyes</u> Edward D. Reyes	☒	☐	☐	☐
<u>Martha C. Ruth</u> Martha C. Ruth	☐	☐	☒	☐
<u>Joe T. San Agustin</u> Joe T. San Agustin	☐	☐	☒	☐

**COMMITTEE REPORT
OF THE
COMMITTEE ON YOUTH, SENIOR CITIZENS, CULTURAL
AFFAIRS AND HUMAN RESOURCES
ON BILL NO. 589 (LS)**

AN ACT TO ADD SUBPARAGRAPH (f) TO §26017
OF THE GOVERNMENT CODE TO GIVE THE
RECREATION DIVISION OF THE DEPARTMENT
OF PARKS AND RECREATION RESPONSIBILITY
OVER JET SKIS AND THEIR OPERATION.

PREFACE

The Committee on Youth, Senior Citizens, Cultural Affairs and Human Resources held a public hearing in the Legislative Session Hall on June 5, 1989, to receive testimony on Bill No. 589 (LS). The hearing was conducted by Committee Chairperson, Senator Elizabeth P. Arriola and attended by Senators Pilar C. Lujan and Martha C. Ruth.

BACKGROUND

Bill No 589 (LS) proposes to give the Department of Parks and Recreation the responsibility to formulate a comprehensive plan and policy for the operations of "jet skis".

SUMMARY OF TESTIMONY

Tamuning Mayor, Alfred Dungca, testified in support of the intent of Bill 589. He told the Committee that because of the proliferation of the use of "jet skis" at the Alupang and Dungca's Beach, he would like to see their operation areas be confined where they would not interfere with other users of the coastal area. He said that too much recreational activities in the area would be detrimental to the ecology of the ocean resources.

Next to testify was Mr. Ike Iseke, President of the Guam Water-Ski Association. Mr. Iseke questioned why the Bill singles out "jet skis" from other water recreational crafts. He suggested that all motorized water recreational crafts be regulated as well. The regulation should address the safety, economic and ecological impacts on the use of the coastal areas. Any incompatible uses or activities should be restricted or prohibited.

The Committee asked if regulation or legislation is needed to restrict the age limit in respect to the operation of motorized water recreational crafts, Mr. Iseke responded that it is not a bad idea, but he continued that enforcement should be strictly adhered to since many families own "jet skis" and they do allow their children to operate them. He also feels that all motorized water recreational crafts should be insured.

There being no further testimony, the Chairperson concluded the hearing on Bill No. 589 (LS).

COMMITTEE FINDINGS

The Committee finds that:

1. A task force headed by Bureau of Planning is formulating a regulation on use zones where motorized water recreational crafts may operate. The initial focus is on Agana Bay from Alupang to Cabras. The task force is also formulating a proposal that would require a special business license for commercial water activities.
2. The Bill should be amended to include all motorized water recreational crafts.

COMMITTEE RECOMMENDATIONS

The Committee on Youth, Senior Citizens, Cultural Affairs and Human Resources, to which was referred BILL NO. 589 (LS), "AN ACT TO ADD SUBPARAGRAPH (f) TO §26017 OF THE GOVERNMENT CODE TO GIVE THE RECREATION DIVISION OF THE DEPARTMENT OF PARKS AND RECREATION RESPONSIBILITY OVER JET SKIS AND THEIR OPERATION", as substituted, has had the same under consideration, and now wishes to report back the same with the recommendation of the Committee members as reflected on the attached vote sheet.

ATTACHMENTS

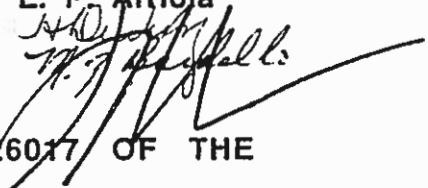
1. Written testimony from Mr. Anthony C. Mariano, Director, Department of Parks and Recreation.
2. Written testimony from Mr. Peter S. Calvo, Chairman, Intercollegiate Athletic Council, UOG
3. Petition by residents along Dungca's Beach, Tamuning

Twentieth Guam Legislature
1989 (First) Regular Session

Bill No. 589 (LS)
As Substituted by the
Committee on Youth, Senior Citizens, Cultural Affairs
and Human Resources

Introduced by:

J. P. Aguon
F. J. A. Quitugua
E. D. Reyes
E. P. Arriola



AN ACT TO ADD SUBPARAGRAPH (f) TO §26017 OF THE
GOVERNMENT CODE TO GIVE THE RECREATION DIVISION OF
THE DEPARTMENT OF PARKS AND RECREATION
RESPONSIBILITY OVER MOTORIZED WATER RECREATIONAL
CRAFTS AND THEIR OPERATIONS.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. Subparagraph (f) is hereby added to §26017 to read as follows:

3 "(f). Formulating a comprehensive plan and policy for the operation of motorized water
4 recreational crafts which plan shall include a description of those areas within Guam's
5 territorial waters where such motorized water recreational crafts may be lawfully
6 operated, compulsory safety regulations as to the noise levels of such motorized water
7 recreational crafts while operating, and regulations requiring appropriate training prior
8 to the use of motorized water recreational crafts, which plan shall be adopted and
9 promulgated according to the provisions of the Administrative Adjudication Law."

INTRODUCED

APR 12 '89

Referred to Deb
for May hearing

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

Bill No. 589(25)

Introduced by:

J. P. Aguon

FIA. Quitigua
ED REYES

26017 AN ACT TO ADD SUBPARAGRAPH (f) TO
~~§20167~~ OF THE GOVERNMENT CODE TO GIVE
THE RECREATION DIVISION OF THE
DEPARTMENT OF PARKS AND RECREATION
RESPONSIBILITY OVER JET SKIS AND THEIR
OPERATIONS.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:
2 Section 1. Subparagraph (f) is hereby added to ~~§20167~~ to read as
3 follows:

4 "(f) Formulating a comprehensive plan and policy for the
5 operation of those water recreational devices known as "jet skis" which
6 plan shall include a description of those areas within Guam's territorial
7 waters where such jet skis may be lawfully operated, compulsory
8 safety regulations for the operators of such jet skis, regulations as to
9 the noise levels of such jet skis while operating, and regulations
10 requiring appropriate training prior to the use of jet skis, which plan
11 shall be adopted and promulgated according to the provisions of the
12 Administrative Adjudication Law."



4-18-89

SENATOR

HERMINIA D. DIERKING

TWENTIETH GUAM LEGISLATURE



COMMITTEES:

CHAIRPERSON
Rules

VICE CHAIRPERSON
Ways & Means
Energy, Utilities &
Consumer Protection

MEMBER:

Economic Development

Internal, Foreign &
Legal Affairs

Health, Welfare &
Labor

Judiciary & Criminal
Justice

Education

Planning & Transportation

Public Safety, Citizens,
Cultural Affairs &
Human Resources

General Governmental
Operations

April 14, 1989

Deb
Please schedule
for May hearing

4/14/89

MEMORANDUM

TO: Chairperson, Committee on Youth, Human
Resources, Senior Citizens &
Cultural Affairs

FROM: Chairperson, Committee on Rules

SUBJECT: Referral - Bill No. 589

The above Bill is referred to your Committee.
Please note that the referral is subject to
ratification by the Committee on Rules at its next
meeting.

Herminia D. Dierking
HERMINIA D. DIERKING

Enclosure

COMMITTEE ON YOUTH, SENIOR CITIZENS
CULTURAL AFFAIRS AND HUMAN RESOURCES

TWENTIETH GUAM LEGISLATURE

Bill No. 589

June 5, 1989

DATE _____

[illegible]

JOSEPH F. ADA
Governor

FRANK F. BLAS
Lt. Governor

ANTHONY C. MARIANO
Director

DENNIS M. ZERMENO
Deputy Director

DEPARTMENT OF PARKS AND RECREATION

GOVERNMENT OF GUAM
490 Naval Hospital Road
Agaña Heights, Guam 96919
Telephone: (671) 477-9620/1



JUN 05 1989

Honorable Elizabeth P. Arriola
Chairperson, Committee on Youth, Senior
Citizens, Cultural Affairs and
Human Resources
Twentieth Guam Legislature
163 Chalan Santo Papa
Agana, GU 96910

Dear Senator Arriola:

I am testifying on Bill No. 589, an act to give the Recreation Division of the Department of Parks and Recreation responsibility over jet skis and their operations.

During this year, several agencies of the executive branch have been meeting regarding water use and aquatic laws. Our concerns have focused on hazards created by recreational watercraft, conflict with other users, noise, and impact on the resources. Our initial focus is on Agana Bay from Alupat to Cabras. The Bureau of Planning is focusing on use zones for these areas that would be enforced by the Guam Police Department. Future plans are being formulated for the remainder of the in-shore waters of Guam by a Committee under our leadership. In addition, a proposal is being formulated that would require a special business license for commercial water activities. Because of the ongoing efforts of the administration, I would suggest deferring action on Bill No. 589 until the Committee is able to complete its work. Unifying Bill No. 589 with Committee recommendations will lead to a unified approach in addressing this important issue.

Sincerely,

ANTHONY C. MARIANO
Director

6-7-84

6/8/84

Done pls. include
in bill folder.

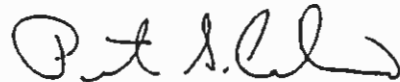
The Honorable Elizabeth P. Arriola
Senator, 19th Guam Legislature
Chairperson, Committee on Youth,
Senior Citizens, Cultural Affairs
and Human Resources

Dear Senator Arriola:

As per your request for input on various legislative measures up for consideration, please find enclosed my testimony for your committee's consideration and review.

Please forgive me for not attending the public hearing, but I had problems at the last moment trying to make the scheduled time. However, I do appreciate your kind consideration in allowing me the opportunity to provide input.

Once again, thank you for your kind consideration. If you should have any questions, please do not hesitate to call.



Peter S. Calvo
Chairman, Intercollegiate Athletic
Council, UOG

TESTIMONY OF PETER CALVO CHAIRMAN, INTERCOLLEGIATE ATHLETIC COUNCIL

Good morning Madam Chairperson Arriola, and Honorable members of this august committee. I am pleased to have this opportunity to testify on several bills relevant to my interest and involvement.

As it would be too time consuming to testify on each bill separately, please allow me to consolidate my testimony on Bills 589, 416 and 201. These issues have been a recurring concern and I am thankful to see the legislature address these matters.

Bill 589 is indeed a worthy bill for consideration. It is quite obvious that the enjoyment and excitement of jet skis is here to stay in Guam, as part of the tourist related entertainment and enhancement of local recreation. However, there is a need to formulate a comprehensive plan to ensure the compatibility with our environment and the safety of the jet ski operation. As an example, in 1984, Retired Commissioner Gregorio Calvo, myself and others picnicking at Matapang Beach witnessed a close call with an unknowing swimmer and an excited jet skier. The swimmer had submerged and if he had surfaced one second earlier, he may have gotten seriously injured. Needless to say, the jet skier had no knowledge of the near miss. It was incidents such as this that caused the prohibition of jet skis operating in Tumon Bay. But that did not discourage this form of recreation and as is apparent, this water sport has continued to grow. We can no longer continue to simply move its operations, but rather seek solutions to realize a compatible use in convenient locations.

Therefore, I strongly support the intent of Bill 589 allowing for a comprehensive plan and policies governing the operations of jet skis and assigning the Department of Parks and Recreation the responsibility to oversee these operations. Additionally, may I offer several suggestions for your consideration as you deliberate the mechanism to handle this task. Surely, there is a solution to realize the compatible use of jet skis without dislocating its operation. Presently, jet ski operations must pick-up and transfer their customers to operational areas, making it inconvenient to the would be customers. Perhaps avenues for launching and designated use areas beyond 300 or 400 feet from the shoreline may allow more convenient use of these water devices. In addition, limitations on the operations of jet skis or other water devices that obstruct the normal migration of the various schools of fish that travel through our coastal waters should be of a major priority. Studying their seasonal patterns

may assist us in retaining this splended resource for our future generations. Indeed, the concepts of noise reduction and training emphasizing the safe handling of jet skis morl some concern. In any case, there should be an effort to intorgrate this water sport with other recreational sports in our public beaches. Where would we move jet skis after Agana Bay.

On the issue addressed in Bill 416, I appreciate the continued concern by an advid suporter of Tamuning-Tumon, Senator Ted Nelson to secure this parcel for the welfare of our dear residents. However, I beleive this particular parcel had already been reserved by PL 19-30, thanks to the initiative of Senator Arriola and the timing of Senator Espadon as well as the entire 19th Guam Legislature's unanimous support. If perhaps this is an addition to the original parcel, then it would be beneficia to include the entire area as a whole. In any case, the residents of Tamuning-Tumon are fortunate to have such concerned leaders looking out for their welfare.

Finally, I would lke to address the issue of Bill 201. Although, I am supportive of the intent, I am concerned of the effects this measure may have on the sporting community. Recently, the Guam National Olympic Committee approved eligibilty requirements of five(5) years residency to participate in the olympic games for Guam. This obviously has some relevance as it is the nature of the public to support their national team.

Furthermore, the measure may discourage participation of temporary residents, causing idol time for our visitors. The clubs and organizations would have to restrict their off-island selectees to ten(10) year residents, causing lengthy explanations and d'slusion. Therefore, may I suggest a qoser look into this issue and perhaps a conference with the various athletic groups.

Again, I thank you for this opportunity to testify on these on-going concerns.

Pat L. Cal

RECEIVED
6-14-89

Bill #587

S. Elizabeth Arriola
Don F. Hill on Jet Skis.
June 8, 1989

The attached petition with 99 names is being submitted to all Senators of the 20th Guam Legislature, the Tamuning commissioner, the directors of Land Management, Public Works, Planning, Parks and Recreation, Guam Police Department, and Guam E.P.A., and the Governor of Guam.

Since no particular agency appears to have responsibility over "motorized water craft," we would like all government entities to be aware of our concerns, and to take action.

Those of us who live along Dungca's Beach in Tamuning are unable to enjoy peace and quiet in our beachside homes because of the noise caused by motorized water craft operating close to our residences. Those of us who do not have or do not want to use air conditioners are forced to close up our homes anyway to keep out the noise. If we leave our windows open, we hear the whine of the motorized water skis and the roar of hovercraft all day long, often as early as 8:00 a.m., including on weekends.

We were told that the Harbor Patrol division of the Guam Police Department determined where the motorized water craft could set up their buoys/floats. However, the Harbor Patrol never approached the residents of Dungca's Beach to ascertain whether the operation would cause a noise problem. Consider a similar, hypothetical situation: a government agency decides that the operation of motorbikes/motorcycles and other loud vehicles will be concentrated on the street where you, the heads of the public sector, live; and that these vehicles will be allowed to zoom up and down the street in front of your home all day, every day. What would you do?

The attached petition suggests that motorized water craft be confined to the commercial area of East Agana Bay, where there are no waterfront residences. There is plenty of room between Island Imports and the Paseo, and thus there is no need for such commercial operations to be conducted in a residential-zoned area. It should also be noted that these commercial operations are being conducted from property that is zoned R-2.

Please advise the undersigned, as well as the other two persons whose names and addresses are given below, of any actions, decisions, public hearings, etc., relating to this matter.

P.S. Is it of no concern to anyone that our Japanese tourists are unknowingly being subjected to the almost continual water-pollution problem of the Dungca's Beach area?

Phyllis Koontz
Phyllis Koontz
133-A Lagoon Dr., #202
Tamuning, Guam 96911
Tel. 646-5135

Mr. Chris Felix
Realty Management
P. O. Box 7988
Tamuning, Guam 96911
Tel. 646-6953, 4, 5

Mr. Clayton Duvall
Island Estates Realtors
P. O. Box 6779
Tamuning, Guam 96911
Tel. 646-6688, 649-5349

PETITION

We, the undersigned, request that Jetskis, hovercraft and other motorized water craft be removed from the north-east half of Agana Bay. There is plenty of room for them to pursue their own enjoyment and commercial ventures west of Island Imports.

We have no desire to put the Jetski operators out of business, but we would like them moved for the following reasons:

1.) Jetski and other motorized water craft operations monopolize the area. Other people cannot sail, fish, swim, walk or even lie on the beach in peace and quiet. It also disturbs birds, fish and other marine life.

2.) Jetskis and other motorized watercraft operations create the same noise and disturbance of motorcross motorcycle racing. Such disturbances would not be tolerated in residential areas, why should they be allowed in our "backyard"?

3.) Motorized water craft are controlled on Tumon Bay. Shouldn't the same considerations of noise, safety and environment apply to Agana Bay?

4.) Agana Bay has already evolved into a "residential" area (the north-east half of the bay) and a "non-residential" area (from Island Imports west). The logical solution would recognize this and allow people to safely enjoy a quieter environment in the residential area.

The above suggestion, when implemented, will be the simplest compromise, allowing everyone to share this natural asset with minimal conflict.

SIGNATURE	PRINT NAME	ADDRESS	DATE
<i>Lucy Corrigan</i>	LUCY CORRIGAN	202 LAGOON CONDO	5/1/89
<i>David E. Orlans</i>	DAVID E. ORLANS	133A LAGOON DR	5/1/89
<i>Robert Koontz</i>	ROBERT KOONTZ	133A LAGOON DR. #202	5/1/89
<i>Phyllis Koontz</i>	PHYLLIS KOONTZ	133A LAGOON DR	5/1/89
<i>Jose A. Matanove</i>	JOSE A. MATANOVE	Lagoon Dr. (365)	5/1/89
<i>Myra V. Matanove</i>	MYRA V. MATANOVE	Lagoon Dr. (365)	5/1/89
<i>Chloe Maye</i>	CHLOE MAYE	133A Lagoon Dr.	5/1/89

SIGNATURE	PRINT NAME	ADDRESS	DATE
<i>Scott W. Carothers</i>	SCOTT W. CAROTHERS	#304 Lagoon Drive	1 May 89
<i>Jan Houser</i>	JAN HOUSER	#304 Lagoon Dr.	May 1, 1989
<i>Tom Muths</i>	TOM MUTHS	#104	5/1/89
<i>MZ Kleschen</i>	MZ KLESCHEN	#104 Lagoon Dr.	5-1-89
<i>Brad Maveil</i>	BRAD MAVEIL	#103 Lagoon Dr	5/1/89
<i>K. Elafson</i>	K. ELAFSON	#103 Lagoon Dr	5-1-89
<i>Gezita McNeill</i>	GEZITA MCNEILL	#103 Lagoon Dr	5-1-89
<i>Conoe McNeill</i>	CONOE MCNEILL	#103 Lagoon Dr	5-1-89
<i>Timothy P. Brady</i>	TIMOTHY P. BRADY	#302 Lagoon Condo	5-2-89
<i>DM Mudd</i>	DM MUD	#101 Lagoon Dr.	5-3-89
<i>Jull Mudd</i>	JULL MUD	#101 Lagoon Dr.	5-3-89
<i>Dennis Yeomans</i>	DENNIS YEOMANS	BOX 788, AGANA	5-3-89
<i>Karina Tapi</i>	KARINA TAPI	BOX 3087 Agana	5-5-89 96910
<i>Rich Krusez</i>	RICH KRUSEZ	POB 9321 TAM.	5/7/89
<i>Robert E. Beck, Jr</i>	ROBERT E. BECK, JR	35 Condo Seaview, Yona	5-15-89
<i>Kathleen Dummitt</i>	KATHLEEN DUMMITT	PO 21153 G.M.F.	5/15/89
<i>Linda Jones</i>	LINDA JONES	Box 6651, Tam.	5/2/89
<i>Chris Felix</i>	CHRIS FELIX	Box 3297, Agana	5/2/89
<i>Gina Campos</i>	GINA CAMPOS	Box 8397 Tam.	5/2/89
<i>Augusta Perez</i>	AUGUSTA PEREZ	Box 2181 Agana	5/2/89
<i>Dorcas Tamzik</i>	DORCAS TAMZIK	7988 Tamuning	5/2/89
<i>Dee Quichoch</i>	DEE QUICHUCH	818 6th St	5/2/89
<i>Judith R. Booth</i>	JUDITH R. BOOTH	POB 8181 TAM.	5/2/89

SIGNATURE	PRINT NAME	ADDRESS	DATE
Bryon Bass	Bryon Bass	ADT 101 Alupang	5/3/89
Gladys Barre	GLADYS BARRE	101 ALUPANG	5/3/89
John W. Smith	J. W. Smith	ALUPANG COVE	5/3/89
Mike McDonald	Mike McDonald	ALUPANG #402	5/3/89
Richard Gomez	Richard Gomez	Alupang 616	5/3/89
S. Takahizawa	S. TAKAHIZAWA	ALUPANG #728	5/4/89
Kick Bellis	Kick Bellis	Alupang Cove #809	5/4/89
Paula Miller	PAULA MILLER	Alupang Ave 709	5/5/89
Timothy H. Bellis	Timothy H. Bellis	" 622	5/5/89
Yoshimbu Muto	Yoshimbu Muto	Alupang #603	5/5/89
Hariko Muto	Hariko Muto	#603	May 5 '89
Mark Conner	MARK CONNER	" 715	5/5/89
Paul Ansberry	PAUL ANSBERRY	#514	5.5.89
Claire Ansberry	CLAIRE ANSBERRY	514	4.5.89
Lauritts R. Larsen	LAURITTS R. LARSEN	241 CONDO LN # 821	
J.A. Medina	J.A. MEDINA	#110 5/6/89 (ALUPANG CONDO)	
V. Hartzell	V. Hartzell	Alupang #314	5.6/89
Anthony Stewart	Anthony Stewart	Alupang Cove #725	5/6/89
Henry Stewart	Henry Stewart	alupang Cove #725	5/6/89
Susan Mizukita	SUSAN MIZUKITA	Alupang Cove #426	5/7/89
Matthew Sung	MATHEW SUNG	N. 223	5/7/89
Van Sittely	VAN SITTLEY	ST 7 ALUPANG COVE	5/7/89
M. O'Leary	M. O'LEARY	Alupang	
M. McDonough	MCDONOUGH	Alupang	5/8/89

SIGNATURE	PRINT NAME	ADDRESS	DATE
Roger P. Gauthamel	Roger Gauthamel	241 Condo Lane #D	5-2-8
Clayton Duvall	CLAYTON DUVALL	241 CONDO LN 221	5/2/89
L. W. See	L. W. See	"	3.15 do
June Harrell	June Harrell	Agencia Ray Condo	
Wanda Larsen	Wanda Larsen	241 Condo Lane #821	
Jose L. Lujan	JOSE L. LUJAN	241 Condo Ln	5/10/89
John Steele	JOHN STEELE	241 CONDO LN MAY 10	
Simon Yu	SIMON YU	510 #	5/11/89
Wei Ling Yu	WEI LING YU	508	5/11/89
Lin Cheng-ye	LIN CHENG-YE	603	5/11/89
Wei Ling Yu	WEI LING YU	602	5/11/89
James S. Lee	JAMES S. LEE	#815	5/11/89
George Castro	George Castro	#222	5/12/89
Denalds Beane	Denalds Beane	523	5/13/89
Caroline Gerhold	CAROLINE GERHOLD	115	5/14/89
Blake Brodersen	BLAKE BRODERSEN	Oceanside Apts. Tamuning	5/14/89
Hiroo Narita	HIROO NARITA	#507.5	5/14/89
Louise Van Dyke	LOUISE VAN DYKE	107	10/15/89

SURNAME	PRINT NAME	ADDRESS	DATE
Bryce Bass	Bryce Bass	Adrian Alupang	5/3/89
Gladys	GLADYS BARRIE	101 ALUPANG	5/3/89
John W. Smith	J. W. Smith	ALUPANG COLE	5/3/89
MIKE MCDONOUGH	MIKE MCDONOUGH	ALUPANG #602	5/3/89
Richard Gomez	Richard Gomez	Alupang 616	5/3/89
S. Takamizawa	S. TAKAMIZAWA	ALUPANG #720	5/4/89
Kirk Bellis	Kirk Bellis	Alupang Cove #809	5/4/89
Paula Miller	PAULA MILLER	Alupang Ave 709	5/5/89
Timothy H. Bellis	Timothy H. Bellis	" 622	5/5/89
Yoshinobu Muto	Yoshinobu Muto	Alupang #603	5/5/89
Hariko Muto	Hariko Muto	#603	May 5 '89
Mark C. Anson	Mark C. Anson	" 715	5/5/89
Paul Ansberry	PAUL ANSBERRY	#514	5.5.89
Claire Ansberry	CLAIRE ANSBERRY	514	4.5.89
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V. Hartsell	V. Hartsell	Alupang #314	5.6/89
Anthony Stewart	Anthony Stewart	Alupang Cove #725	5/6/89
Henry Stewart	Henry Stewart	alupang Cove #725	5/6/89
Susan M. Wilk	SUSAN M. WILK	Alupang Cove #426	5/7/89
Mathew Sung	MATHEW SUNG	N. 223	5/7/89
Van Sittely	VAN SITTLEY	ST 7 ALUPANG BOX	5/7/89
M. O'Leary	M. O'Leary	Alupang	
M. McDonough	MCDONOUGH	Alupang	5/8/89

SURNAME	PRINT NAME	ADDRESS	DATE
Roger P. Gouthamel	Roger Gouthamel	241 Condolane #D	5/2/89
Clayton Duvall	Clayton Duvall	241 CONDO LN 221	5/2/89
L. W. Lee	L. W. Lee	"	5/2/89
June Hannell	June Hannell	Agana Bay Condo	
Wanda Larsen	Wanda Larsen	241 Condo Lane #831	

Joseph Lejan	JOSEPH LEJAN	241 Condo Ln	5/10/89
John Steele	JOHN STEELE	241 CONDO LN MAY 10	
Simon Yu	SIMON YU	510 #	5/11/89
Wei Ling Yu	WEI LING YU	508	5/11/89
Lin Cheng-ye	LIN CHENG-YE	608	5/11/89
Wei Ling Yu	WEI LING YU	602	5/11/89
James S. Lee	James S. Lee	#815	5/11/89
George Castro	George Castro	#222	5/12/89
Denise Beane	Denise Beane	523	5/13/89
Caroline Gerhold	CAROLINE GERHOLD	115	5/14/89
Blake Brodersehl	BLAKE BRODERSEHL	OCEANSIDE APTS. TAMUNING	5/14/89
Hiroo Narita	HIROO NARITA	#507.5	5/14/89
Louise Van Dyke	LOUISE VAN DYKE	107	10/15/89

Audubon Society

SIGNATURE PRINT NAME ADDRESS DATE

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O. R. L. K. K. K. O. R. L. K. K. K. P.O. Box 6677 Tam 5/2/89

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Elsie Woodward Elsie Woodward P.O. 220 Agana 96910 5/15/89

Martha Frew Martha Frew P.O. Box 23726 GMF Guam 96921 5/15/89

Paul J. Conky PAUL J. CONKY PO Box 24471 GMF Guam 96921 5/15/89

SIGNATURE PRINT NAME ADDRESS DATE

Christopher S. Lobban C.S. LOBBAN Man. Lab., UOG 15 May 89

G. J. W. 7.5 G. J. W. 7.5 P.O. 24471 MPO Guam 96921 5/15/89

Marilyn Vander Weide Marilyn Vander Weide P.O. Box 2055 Agana 5/15/89

Ralph A. Frew Ralph A. Frew POB 23726 GMF 15 May 1989

R. F. Myers R. F. Myers P.O. Box 21153 GMF 15 May 89

J. Johnson J. Johnson P.O. Box 24746 GMF Guam 5/15/89

Joy Opinion Joy Opinion P.O. Box 7205 Tamuning 5/15/89

Audubon Society 11/11/89



TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGAÑA, GUAM 96910
U.S.A.

EXECUTIVE ORDER NO. 90-08

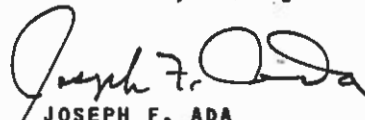
AMENDING EXECUTIVE ORDER NO. 89-10
RELATIVE TO THE TEMPORARY CLOSURE OF EAST AGANA BAY
TO THE USE OF MECHANIZED VESSELS FOR THE PROTECTION
OF TRADITIONAL MANAHAC FISHING RIGHTS

WHEREAS, the traditional taking of seasonal juvenile rabbitfish (manahac) is a highly anticipated and participated fishing event in Guam; and

WHEREAS, the daily use of mechanized vessels in the area of East Agana Bay interferes with this traditional event that occurs for but a few days during each year.

NOW, THEREFORE, I, JOSEPH F. ADA, Governor of the Territory of Guam, by virtue of the powers vested in me by the Organic Act of Guam, as amended, do hereby amend Executive Order No. 89-10, and direct the Director of Parks and Recreation, who is mandated by law to regulate the use of jet skies in public waters, to designate specific courses for the use of jet skiers during the manahac run and to implement such regulations as he deems necessary for the protection of traditional fishing activities relating to manahac or juvenile rabbitfish.

SIGNED AND PROMULGATED in the City of Agana this 17th day of May, 1990.


JOSEPH F. ADA
Governor of Guam

COUNTERSIGNED:


FRANK F. BLAS
Lieutenant Governor of Guam

EXECUTIVE ORDER 89-10

PROTECTION OF WETLANDS

WHEREAS, wetlands:

- (A) provide, protect and preserve drinking water supplies by purifying surface water and ground water;
- (B) provide a natural means of flood and storm damage protection through the absorption and storage of water during high runoff periods, thereby reducing flood crests and preventing loss of life and property;
- (C) often serve as transition zones between dry land and water courses, thereby retarding soil erosion;
- (D) provide essential breeding, spawning, rearing, feeding, nesting and wintering habitats for a major portion of the state's fish and wildlife;
- (E) provide special vegetation and vegetative communities;
- (F) maintain surface waters through the gradual release of stored flood waters and ground water, particularly during drought periods;
- (G) provide readily accessible outdoor biophysical laboratories, living classrooms and training and educational resources; and
- (H) provide ecological as well as economic benefits; and

WHEREAS, more than fifty percent of the state's original wetlands have been drained, dredged, filled or otherwise altered; and

WHEREAS, over ninety percent of the original saltwater wetlands in some urban estuaries of Puget Sound have been eliminated; and

WHEREAS, wetlands losses statewide are as much as two thousand acres annually; and

WHEREAS, in urban areas in the state of Washington, freshwater wetlands losses are estimated at seventy-five acres per month or more than nine hundred acres per year; and

WHEREAS, the loss of wetlands often leads to economic and ecological harm of the state; and

WHEREAS, wetlands conservation is a matter of state concern, since wetlands of one county may be affected by activities on rivers, lakes, streams, or wetlands of other counties and because they support migratory animal species which cross local government boundaries; and

WHEREAS, use of artificial structures, such as stormwater treatment systems, to provide wetlands functions and values may be more costly than protection of existing wetlands; and

WHEREAS, there is need for stronger state coordination to ensure wetlands protection;

NOW, THEREFORE, I, Booth Gardner, Governor of the State of Washington, by virtue of the power vested in me, do hereby order:

Section 1. It is the interim goal of my administration to achieve no overall net loss in acreage and function of Washington's remaining wetlands base. It is further the long-term goal to increase the quantity and quality of Washington's wetlands resource base.

Section 2. In the interest of preserving and protecting valuable resources, the Department of Ecology shall provide guidance and each affected state agency shall provide to the Governor an action plan, where appropriate, to lessen the destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands.

Section 3. Each affected state agency shall ensure that it avoids any activities that would adversely affect wetlands, and that unavoidable impacts are adequately mitigated.

Section 4. To meet the long-term goal of this order, each affected state agency, in pursuing its agency mandate, should seek opportunities for voluntary wetlands restoration and creation of additional wetlands.

Section 5. In carrying out the intent of this order, each affected state agency shall consider the ecologic and hydrologic benefits provided by wetlands. Each affected state agency shall strive to prevent environmental and economic harm that results from continuing loss of wetlands, consistent with human health and safety and the general welfare of the state.

Section 6. Each affected state agency shall encourage sensitive site design and planning on a watershed basis, where appropriate, to avoid or minimize damage to wetlands.

Section 7. Each affected agency shall, when possible, direct its agency-mandated activities not dependent upon wetlands locations to suitable upland locations.

Section 8. Nothing in this Executive Order shall apply to assistance provided for emergency work that is essential to save lives and protect property and public health and safety.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the State of Washington to be affixed at Olympia this 11th day of December A.D., Nineteen hundred and eighty-nine.

By:

BOOTH GARDNER
Governor of Washington

BY THE GOVERNOR:
Secretary of State



TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGAÑA, GUAM 96910

U.S.A.
EXECUTIVE ORDER NO. 89-31

**ADOPTION OF THE RECREATIONAL WATER
USE MANAGEMENT PLAN (RWUMP) FOR
THE WATERS OF GUAM**

- WHEREAS**, the public beaches and waters of Guam are available for all of the people to enjoy for recreational, sports, and other activities; and
- WHEREAS**, safety is a primary concern for those using the beaches, especially for the children; and
- WHEREAS**, mechanized recreational watercraft vessels are not properly regulated to ensure the safety of those using the beaches and the vessels; and
- WHEREAS**, the commercialized recreational water vessels use a larger amount of area and restrict others from using those areas; and
- WHEREAS**, Government of Guam agencies/departments have recognized that the user demand in our limited lagoon waters is increasing and, as a result, user conflicts and environmental damage are occurring; and
- WHEREAS**, over the past year, the government has received complaints regarding not only user conflicts, but the noise, nuisance, and safety problems caused by mechanized crafts; and
- WHEREAS**, protection of Guam's ocean resources are vital to the residents of Guam and to tourism; and
- WHEREAS**, in order to prevent further loss to the environment and to create optimal and compatible activities for all types of inshore water uses; and
- WHEREAS**, a working committee was formed to prepare a management plan for the area from Oka point (also known as Satpon Point) to Tepungan Channel, Piti; and
- WHEREAS**, where a series of public hearings was held in Agana, Asan, Piti and Tamuning, the villages that are affected by the RWUMP, at which the plan was well received by those in attendance, with minor changes to the RWUMP based on comments received at the public hearing; and
- WHEREAS**, changes to the plan was made based on the comments received at the public hearing and have been incorporated in the RWUMP Map.

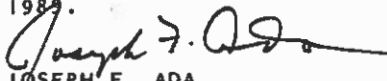


EXECUTIVE ORDER NO. 89-31
PAGE TWO

NOW, THEREFORE, I, JOSEPH F. ADA, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam do hereby order and direct as follows:

1. That the Recreational Water Use Management Plan (RWUMP) as prepared by the working committee and attached to this order shall serve as the official Plan for the types of water related activities that will be permitted in the areas within the RWUMP.
2. That the areas impacted upon by the RWUMP include all water areas from the main high water line to the outer edge of the reef.
3. That the use of mechanized crafts and water sports equipment will be permitted only in areas as designated by the RWUMP.
4. That the Guam Police Department make special rules and regulations pursuant to 10 GCA to achieve the intent of the RWUMP.
5. That the Department of Agriculture make special rules and regulations pursuant to Title 13, Government Code 12321, to achieve the intent of the areas defined in the RWUMP.
6. That the Department of Revenue and Taxation's issuance of a business license for commercial operation within the RWUMP area be in accordance with established procedures of the department.
7. That all designated departments shall complete the assigned tasks within 90 days of the effective date of the executive order.
8. That the working committee meet periodically to evaluate the need for revisions to the RWUMP.

SIGNED AND PROMULGATED at Agana, Guam this 29th day
of December, 1989.


JOSEPH F. ADA
Governor of Guam

COUNTERSIGNED:


FRANK F. BLAS
Lieutenant Governor of Guam

Appendices



SETBISION MAMPLANEHA
GOVERNMENT OF GUAM
AGANA GUAM 96910

JUL 13 1988

Memorandum

To: Administrator, Guam Environmental Protection Agency
Director, Department of Agriculture
Director, Department of Commerce
Director, Department of Land Management.
Director, Department of Parks & Recreation
President, University of Guam
ATTN: Marine Laboratory

Dur...

From: Director, Bureau of Planning

Subject: Water Use Master Plan

It has been recognized by all agencies that the user demand in our lagoon waters, particularly Agana Bay, is increasing and the potential for user conflict and environmental damage has increased with use.

In order to prevent further loss to the environment and in order to create maximum potentials for all types of uses, the Guam Coastal Management Program is prepared to undertake a Master Plan for the area from Dungca's Beach to the Piti Power Plant, including all water areas from mean high water to the outer edge of the reef. We have identified monies for aerial photography and printing, as well as a major allotment of personnel time. This effort, however, will only be fully successful if your agency determines to make the manpower effort as well.

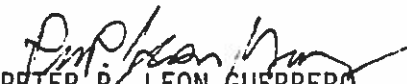
I am therefore requesting that you designate a knowledgeable representative to participate in this effort. It is envisioned that the product will include:

1. identification of areas which require special protection from specific usages;
2. definable areas allowable for varying kinds of usage;
3. areas where privately funded dredging would be allowable;
4. areas where government dredging would be desirable;
5. draft rules and regulations for currently unregulated uses;

6. draft legislation; and
7. Recommendations for plan implementation.

In order to achieve these goals, the Bureau is requesting a copy of current laws for which your agency has responsibility (within the defined area of study), any maps which would provide useful information (identifying coral beds of interest, manahac grounds, etc), and any other information which you believe would be helpful in this project. The Bureau will compile this information and provide copies to other plan committee members.

In order to begin this project, we are requesting that all information called for, be submitted to the Bureau no later than August 15, 1988. We would also appreciate any suggestions you may wish to offer in order to ensure the most thorough product possible.


PETER P. LEON GUERRERO



University of Guam

OFFICE OF THE ACADEMIC VICE PRESIDENT

UOG Station * Mangilao, Guam 96923
Cable: "UnivGuam" * Telex: 721 6275
Tel: (671) 734-3434

July 20, 1988

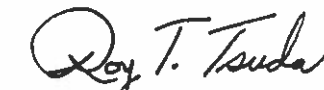
MEMORANDUM

To: Director, Bureau of Planning
From: Academic Vice President/Acting President
Subject: Water Use Master Plan

Based on the recommendation of Dr. Steven S. Amesbury, Director of the Marine Laboratory, I am designating Mr. Barry D. Smith to participate in the efforts of Guam Coastal Management Program to develop a water use Master Plan for the area from Dungca's Beach to the Piti Power Plant. Mr. Smith, Sea Grant Extension Agent III, is very interested in the project and has already discussed the matter with Mr. Michael Ham.

Mr. Smith will be summarizing the past work carried out by the Marine Laboratory within the study area and will be providing the information soon to your Office. Although the University is not specifically responsible for any laws related to coastal zone water use, the Marine Laboratory has considerable expertise in the area.

It is the University's extreme pleasure to cooperate with your Office on this most important project.


ROY T. TSUDA

cc: Mr. Barry D. Smith, ML
Director, ML
President



GOVERNMENT OF GUAM
HAGANU, GUAM 9690



AUG 15 1988

DC-EDP-167

Memorandum

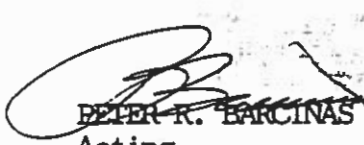
To: Director, Bureau of Planning
From: Director, Department of Commerce
Subject: Water Use Master Plan

This is in response to your memorandum dated July 13 requesting a representative from my department to participate in the undertaking of the above subject.

Joseph Quinata of my staff have been designated as the representative of my department regarding the above subject.

Also, attached are working papers related to the above subject for your review.

If there are any questions and/or information regarding the above subject matter, please contact myself or my staff representative.


PETER R. BARCINAS
Acting

Attachment

DEPARTMENT OF COMMERCE
590 SOUTH MARINE DRIVE
GITC BLDG. SUITE 601, 6TH FLR
TAMUNING, GUAM 96911

Copy

**SUMMARY OF
RESEARCH NEEDS RELATED TO
OCEAN RECREATION AND TOURISM
IN HAWAII AND THE PACIFIC**

Proceedings of a workshop

**Sponsored by
The University of Hawaii Sea Grant College Program
December 10, 1987
Honolulu, Hawaii**

**Workshop Coordinator
and Editor:
Jan Auyong,
Ocean Recreation & Tourism Specialist
UH Sea Grant Extension Service**

EXECUTIVE SUMMARY

Participants in a long-range research planning workshop for ocean recreation and tourism concluded that the allocation process for resources (natural and man-made) and the management of activities were the two most critical issues in the development of ocean recreation and tourism in Hawaii. This conclusion by a mixed group of over 50 industry, community, government and academic leaders appears to have been brought about by: 1) the rapid growth of the ocean recreation industry, 2) the ever increasing demand for ocean activities, and 3) the increasing incidences of user conflicts in Hawaii.

The group felt that conflicts were often intensified by poor access and degraded resources. Studies of the impacts of ocean recreation and tourism activities on the physical environment and on society were considered essential to the understanding and management of these activities. Marine technology was viewed as an important tool for the enhancement of access and resources (for example, artificial reefs, sand mining and submersibles) and in the maintenance and use of existing resources. The overall conclusions were: 1) that ocean recreation and tourism is a challenging area of study because of the human and natural resource dimensions involved, and 2) that a variety of disciplinary approaches will be needed to provide a better understanding of this subject.

OCEAN RECREATION AND TOURISM AS A FIELD OF STUDY

INTRODUCTION

Tourism and recreation are generally regarded as the largest and fastest growing segment of coastal activities. This growth is due to the increasing numbers of independent, affluent travelers under the age of 40 who are primarily looking for adventure and new experiences, ocean sports, and respite from urban life. Additionally, it appears that today's tourists are interested not only in the aesthetic quality of a destination but the quality of the environment and the experience itself.

This interest is often translated into expenditures for viewing and direct involvement with the environment. Travel agents interviewed all over the United States indicated that on the average 15% of the bookings for each agency involved special interest travel (Alpine, 1986). This is especially true for tropical or resort destinations, where nature and environmental quality have been found to be of particular attraction to the visitor (Auyong and Liu, 1987; Liu and Auyong, 1987). This visitor wants a foreign flavor to familiar surroundings, in addition to the possibility of adventure, activity and the chance to try something new.

The growing use of coastal areas for water sports, visitor and recreation centers, charter boats, marinas, restaurants, resorts, second homes and regional festivals attest to the growing economic importance of marine recreation and tourism. Natural resources such as beaches, wetlands, high quality water, aesthetic seascapes, marine life and reefs, combined with the rich cultural and historical tradition of many coastal communities, provide an attractive setting for recreation and tourism. Since the businesses are dependent upon the natural resources surrounding them, it is important to understand the nature of the use of these resources.

Furthermore, the escalating demand for land and shoreline access in coastal areas, coupled with the swift expansion of the marine recreation and tourism industry, intensifies the possibility for conflict between recreation and various other uses of our coastal resources. Coastal access and resource management decisions must be made concerning the availability and quality of marine recreation and tourism opportunities. The following exemplify some of the many concerns identified by the national network of Sea Grant College Programs (1987a and 1987b).

Access. Coastal recreation depends on the public having reasonable entry to the shoreline and adjacent waters. Restrictions on access to coastal shorelines for

ocean sports, fishing, boating and beach enjoyment are producing concern nationwide. How the national and local governments weighs the public versus private provision of recreation opportunities will be a continuing question in the decades ahead.

Shoreline Allocation. There is a need to understand the economic and social trends driving the allocation of coastal resources. Conflicts are inevitable as rival economic pursuits compete for the use of scarce coastal assets. Net benefits from ports, offshore energy and mineral extractions, municipal, industrial and toxic waste disposal, and commercial fishing must be gauged against diminished recreational opportunities for coastal residents and tourists.

Socio-Economic Impacts. Public and private efforts to respond to recreational demands have broad-reaching social, cultural, environmental and economic consequences.

Natural Forces. The physical beauty, stability and health of any shoreline environment is affected by the dynamic natural processes of waves, wind and weather. Without adequate attention being given to these processes, coastal growth can have deleterious effects on the marine environment, on the safety of coastal residents and tourists and on the flow of ecological, recreational and commercial benefits.

THE GROWTH OF OCEAN RECREATION AND TOURISM IN HAWAII

Tourism represents the number one industry in the State and produces over one-half of the gross export income (Figure 1). Total visitor arrivals to Hawaii during 1986 increased 14.8 percent to a record 5.6 million. The two major components of that total, westbound and eastbound visitors, increased at almost identical rates, 14.8 and 14.9 percent, respectively (First Hawaiian Bank, 1987).

The ocean recreation and tourism industry in Hawaii is heavily dependent upon tourism, although the degree of dependence can vary greatly between segments. Concomitant with the growth of tourism has been the phenomenal growth of the ocean recreation industry over the past 20 years. Most of this growth has occurred in the 1980's and the industry is finally being recognized as an economic force in the state. By 1985, it was estimated that the industry produced direct revenues of over \$200 million annually and employed about 2,700 people (MacDonald and Deese, 1987).

On the other hand, the burgeoning activity has led to increasing awareness of the dependancy of this industry on a quality environment. Industry representatives bemoan the loss of reef habitat through indiscriminant or over use, anchor damage,

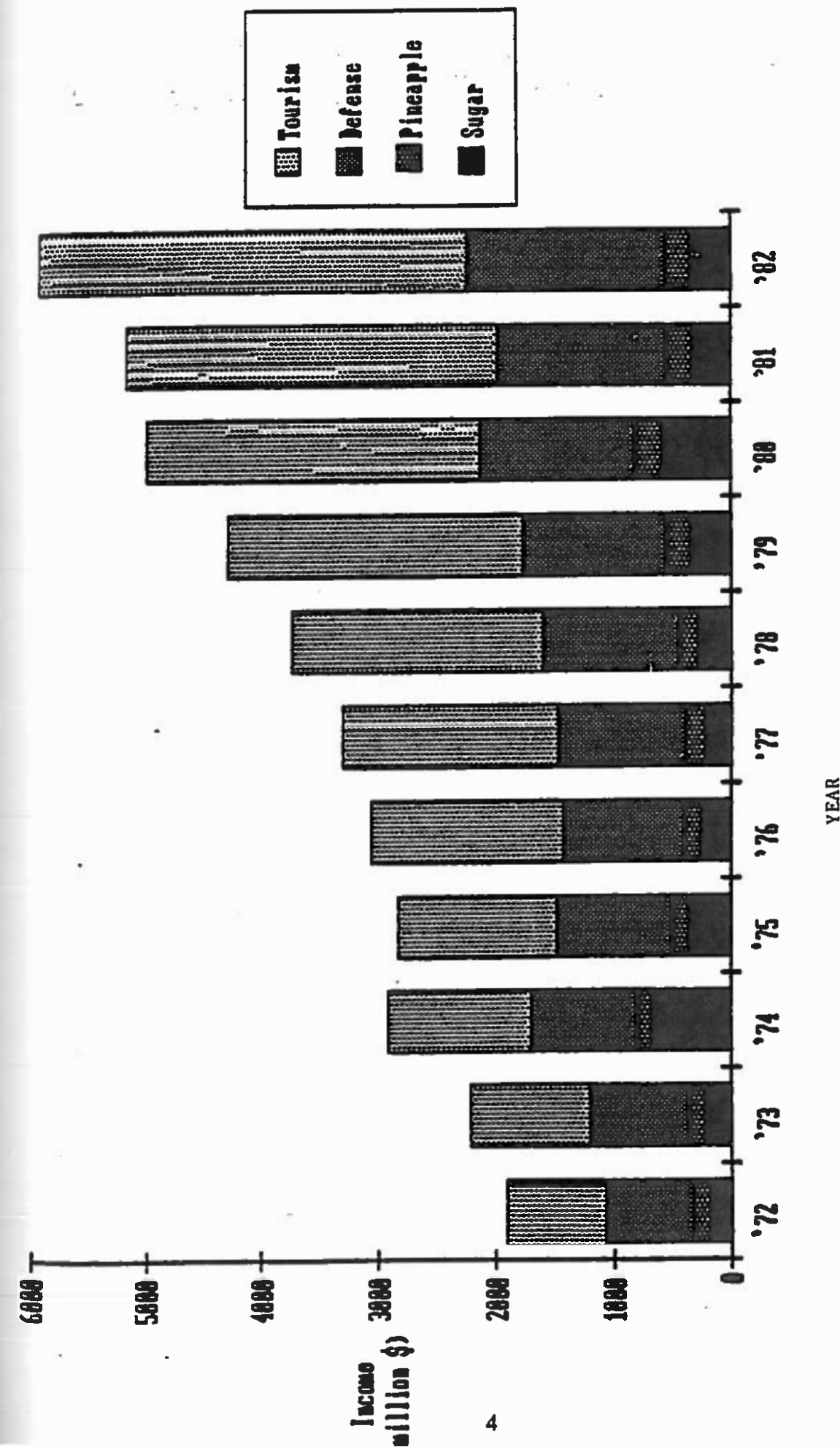


Figure 1. DIRECT INCOME FROM MAJOR EXPORT INDUSTRIES 1972-1982

pollution from passing vessels and sedimentation from onshore development. Additionally, diminishing pelagic and benthic fishery stocks are leading to conflicts among commercial and recreational fishermen and scuba divers and between tropical fish collectors and scuba diving firms.

Increasingly visible and sometimes hazardous conflicts are occurring between visitor and resident recreational users at congested access points and on-water sites. In the previous decade, impacts and tensions were less evident due to much lower use levels. Today, however, regulatory measures are having to be rapidly promulgated, but these decisions are hampered by a sparse information base and are without the benefit of a reference base of test cases. This situation is exacerbated by jurisdictional crossovers and gaps.

Furthermore, this predominantly small business industry appears to have a relatively high rate of business turnover in comparison to other ocean industries. And until recently, the industry was left to fend for itself in terms of marketing and financial planning.

OCEAN RECREATION AND TOURISM RESEARCH NEEDS

It is evident that ocean recreation and tourism would benefit from a multitude of basic and applied research as well extension efforts. Although the literature on ocean recreation and tourism per se is limited, researchers can make use of their own disciplinary literature in making applications in this field of study as well as previous work in outdoor recreation and tourism. Additionally, interdisciplinary approaches would appear to be desirable.

Recreation data is often collected on a crisis by crisis basis, thus making it difficult to understand use impacts due to a lack of baselines and routinized monitoring efforts (i.e., what's a natural cyclical occurrence and what's an event). Conceptual models need to be tested and a problem solving approach taken.

To facilitate the development of an information base, UH Sea Grant hosted a research planning workshop on December 10, 1987 for a select group of over 50 community, government and academic leaders. The larger group broke up into several smaller, disciplinary or subject matter groups in order to promote and focus discussion (see Appendix A). The following sections will summarize the recommendations of the various small groups.

SMALL GROUP DISCUSSION SUMMARIES

BIOLOGICAL AND PHYSICAL FACTORS

This group looked at the coastal resource management issues related to ocean recreation and tourism development in tropical locations. The identified needs in this area include:

Recreation/Tourism and the Shoreline

This line of research should look at: a) the effect of motorized vehicles, such as ORV's, on sand dunes and on other activities, b) the impact of loss of beaches or cause of beach erosion due to recreational and tourist activities/development, c) the impacts of beach nourishment, replenishment, and sand mining, d) the impacts of artificial shoreline structures on recreational opportunities and visual aesthetics, e) the identification of hazardous areas and development of ways to mitigate coastal hazards, and f) the relationship between water safety and physical coastal features.

Critical habitat

Inventories and designations of critical areas and potential critical areas for seabird nesting sites, marine mammal breeding and resting areas should be made in light of continuing development pressures. This information should be incorporated into existing or proposed coastal resources atlases, inventories and management plans. Habitat enhancement techniques and impacts should continue to be an important component of habitat resource research.

Resource Stocks

Investigations should look at the effect of any perceived or real decline in the availability of fish, coral, and other stock resources due to overfishing, pollution, vessel anchoring, and souvenir collections. In addition, the effect of resource management techniques on the recovery of species and habitats as well as on recreational opportunities should be proposed.

Effect of mass tourism on habitat and resources

Items under this line of research include: a) comparing the rates of degradation in high use commercial and private recreation areas as opposed to areas with less use, b) determining the implications of marketing strategies which increase tourist demand and use on resource quality and viability, c) looking at the effect of the shift from consumptive to nonconsumptive behavior and d) determining the relationship of marine parks and protected areas to tourism and recreation. Analysis of such situations would provide better predictive capabilities regarding impacts in newly opened or designated resort and recreational areas.

MARINE RECREATION ECONOMICS AND BUSINESS FACTORS

This group identified several areas of needs related to the development of the ocean recreation and tourism industry:

Economic Impact Assessment

This line of research should identify the direct and indirect economic impacts (income and employment) generated by ocean recreational activities. The methodology should be refined enough so that the impacts of fairly specific activities can be analyzed. It is also important that the research be easy to replicate so that trend analysis can be conducted. Additionally, research could look at the impact of recreational activities on the commercial sector, such as the competition for resources between recreational and commercial fishermen.

Assessment of Industry Growth Potential

This research should identify infrastructural and marketing bottlenecks that constrain commercial development of specific marine recreational activities, such as risk management and water safety specialists. Alternative strategies should be pursued which could ease the dependence upon out of state visitors or reduce the effects of seasonality.

Consumer Demand Studies

This line of research should measure use values and demand frequency, and assess the sensitivity of both to changes in recreation quality. In particular, the research will verify any differences between locals and tourists regarding the importance of quality attributes. Further, marketing research should be conducted on the package of ocean resources which enhance a destination's appeal.

Analysis of Business Operations

This line of research should explore the organization and operating characteristics of marine recreational businesses with the purpose of being able to anticipate industry needs and regulatory impacts.

The group also concluded that much of the information generated by the various disciplinary or subject matter groups would impact business operations. Thus, the research findings should be transformed into various publications on "how to" deal with the issues. Small business assistance groups could be asked to help firms incorporate the findings into financial, marketing and management plans. Additional topics related to ocean recreation business management are listed in Table 1.

Table 1. Ocean Recreation Business Management Concerns (*)

Human resource management

- effects of seasonality
- employee loyalty and productivity

Marketing and sales

- pricing strategies which reflect costs and influence demand
- industry networking/public relations (coordination and cooperation)
- developing client loyalty
- advertising and marketing
- demand mgmt

Finance and accounting

- taxes and insurance
- bookkeeping/accounting/cash mgmt
- financial statements and ratios
- decision making/investments
- general

Operations management (or facilities and operations)

- planning (dealing with client demands, measure capacity, understand growth, insurance/liability connected with patrons servicing their own boats, vs contractors, etc.)
- efficiency (facility use, seasonality, extending seasons, costs, energy)
- electrical engineering, energy mgmt, corrosion, in-service training)
- facilities (how to work with permit process, upgrade existing facilities)

(*) Source: Marine Recreation Business Management: a needs analysis of University research and education. Proceedings of a workshop sponsored by the Northeast Marine Advisory Council, UHN/UMe Sea Grant Marine Advisory Program, New York Sea Grant Extension Program. New England Center, Durham, N.H. March 27-28, 1985.

TOURISM SOCIAL FACTORS

Industry and residents have stated that: 1) protection of the environment must not be overshadowed by the economic benefits generated by tourism and 2) greater outdoor recreation opportunities are needed by residents (Liu, 1984; Liu and Var, 1986; Liu, et al., 1987). These concerns are reflected in the following research areas:

Perceptions and Attitudes Towards Quality of Resources and Facilities

A major concern is the need to determine the level of quality of facilities and environment necessary to maintain a high level of user satisfaction and repeat visitation. Within this research line should be a determination of the perceptual differences between visitors and residents on resource quality and rate of resource degradation, that is, what are the "limits of acceptable change."

Accessibility of ocean recreation areas

The conflict between residents and tourists for access to the ocean requires consideration of spatial and temporal as well cultural differences in use. Analyses should be made on the social, economic and legal constraints on limiting access to public areas by visitors. Additionally, studies of time use/zoning for particular types of private and commercial recreation activities should be conducted.

Perceptions and Attitudes Towards Safety

A number of questions pertain to how important the perception of safety and freedom of hazards is to the development of ocean recreation and tropical tourism (i.e., motivation, attraction). Is safety an important aspect for tourism marketing? Does it provide an attraction for destinations or participation in an activity?

Tourism Growth

An important question to ask is what would happen if tourism declined rather than grew. This situation would have grave implications not only for Hawaii but also for the emerging Pacific nations that are looking to tourism for economic development. Ancillary questions concern whether the impact would be greater before, during, or after major tourism development, what resource opportunities would have been lost, and what contingency plans would be needed. This question also asks who benefits from coastal resorts/tourism development, and what are the long term benefits or costs of tourism.

RECREATION BEHAVIOR/MANAGEMENT FACTORS

This group focused on stress to the environment due to use, overuse and abuse, changes in environment with changes in recreation patterns, and diversity within user groups.

Extent of participation

Basic participation information includes 1) annual days of participation, 2) reasons for participation, 3) overall satisfaction measured, 4) specialization variables which allow for an understanding of segments and 5) social/economic characteristics of participants.

We need to know the extent that resident and visitor populations participate in ocean recreation activities, including the frequency of participation and extent of expenditures in Hawaii. Some of this information is provided by the SCORP but data are not available on the full array of ocean recreation activities. As resource management issues arise, it will be necessary to survey various populations to collect these data.

Temporal and Spatial Patterns

There is a need to understand the temporal and spatial patterns of recreational use at high density sites (the sites selected will be issue driven). Additional studies are needed at the site level that probe the extent of diversity within user groups, especially with regard to such issues as perceived crowding, crowding/density relationships, user expectations, and user satisfaction. This information could be used to determine the needs for social and biological carrying capacities.

Various research methods and techniques can be used to study recreational behavior at the site level. Evaluations are needed regarding their effectiveness and efficiency.

Dynamics of Constituency Groups

Understanding who the influential people are within particular recreational constituency groups will be useful for dissemination of information and for building support for particular programs and services. In particular, we need to understand who the influentials are within the recreational fishing community and how information flows within the network of resource users.

LEGAL AND PLANNING FACTORS REGARDING ACCESS

The focus of this group concerned the social and legal constraints and opportunities in providing access. Among the major points discussed were:

Current and Future Access Needs

An analysis of current access points to the shoreline, types of uses at different accesses and projected population movements would be critical for the identification of future public access needs. Since most of the major developments in Hawaii tend to be clustered, major sections of shoreline could end up closed to public.

Conflicts Related to Access

In areas where traditional uses have been dominate, new development, activities or users could produce local tensions and conflicts.

Impacts on the Private Owner. Impacts from the provision of public access on private property/private sector, – such as trash, vandalism and other property damage, noise, drugs – have not been a major focus of research in the past.

Legal Aspects

The legal constraints and opportunities concerning access should be examined with respect to current and projected needs as well as in light of the recent California decision in the Nolan case. Other issues include looking at the implications of current liability issues, of legal requirements affecting developers, and of the vesting of access rights.

CONFLICT MANAGEMENT

The group's discussion emphasized four types of conflict issues: resource use, coastal zone management, enforcement and safety.

Determining the Limits of Resource Change

Environmental change will occur in response to population and recreational demand. The key to dealing with change partly lies in how we determine the carrying capacity or the limits of acceptable change for specific beach and ocean resources. Having an understanding of the environmental concerns held by beach users and of the differences between traditional and current resource use will be useful for the development of management strategies. Additionally, it is unknown how well models used for managing marine protected areas will work in different regions or locales, and how well we can translate what we now know about the theory of carrying capacity into practice

Coastal Zone Management

The effects of upland activities on ocean resources remain an important research question. Work should continue on the tools and criteria which would be used to determine sites, amounts and types of development that should occur in the coastal zone.

Enforcement

The discussion group felt that there was a need to evaluate alternatives for enforcement, to look at ways to increase enforcement potential and for analyzing and evaluating the effectiveness of enforcement techniques. The socio-economic impacts of various management techniques (e.g., ocean zoning) should also be investigated, along with looking at how management techniques impact various recreational activities.

Safety

When vessels and people coincide in congested areas, accidents and hazardous events can occur. There needs to be identified those important safety considerations that should be managed, the legal basis for enforcing regulations, and the consequences of actions taken.

MARINE TECHNOLOGY

Offshore Sand Deposits

This line of research proposes the use of offshore sand deposits as a resource for the replenishment of beaches. In light of the environmental outcries 15 years ago which prevented this approach, the topic should be evaluated in terms of:

- (a) greater knowledge of the physics of sand transport onshore, offshore and longshore, and especially of ways to capture and use sand destined for loss to deep offshore zones.
- (b) newer technologies that exist for mining offshore sand without damage to adjacent environments.
- (c) better opportunities to present the issue to the public for discussion, and to educate the public (e.g., TV).
- (d) opportunity to rephrase existing law to remove senseless bottlenecks while more clearly stating means to protect the near- and onshore sand resource.

Enhancement of Offshore Recreational Resources.

With the expansion of ocean recreation and tourism in Hawaii, in addition to a growing resident population, resource enhancement and access improvements are needs which can be addressed by marine technology. Examples include:

- (a) construction of environmentally sound and compatible artificial reefs, that is, reefs that are not physically damaging, chemically and/or aesthetically polluting – e.g., rubber tires or concrete in the reef zone.
- (b) introduction of nutrient into barren zones which today provide a physical haven for fish stocks, but which are naturally nutrient deficient. Such nutrients could be periodically pumped through pipes from shore and broadcast through diffusers, or pumped up from deeper waters through relatively small pipelines.
- (c) development of vehicles or structures which permit access by people who are physically or psychologically unable to participate in traditional offshore and undersea recreation: the aged and infirm, the very young and those unable or unlikely to swim need some way to support such visitations, and by loss of right of way.
 - (1) commercial submersibles and semisubmersibles
 - (2) underwater viewing facilities

- (3) rafts moored 50-100 feet offshore as auxiliary beach areas
- (4) offshore platforms housing ocean recreation day activity centers
- (5) offshore platforms for extended recreational experiences, e.g., distant or overnight game fishing centers equivalent to cruise liner with sport fishing activities.

Recreational management

An offshore equivalent to fences might be devised to separate conflicting ocean users, e.g., jet skis and windsurfing from fishing, swimming and/or diving.

Better Weather Predictions and Associated Safety Alarms

Better predictive devices, early warning systems and information relays to the public are needed for such events as tsunamis and flash floods. For example, sirens wired to water level measuring stations upstream could be used to alert the public when cloudbursts hit the upstream drainage basin, and assist water management officials better predict the demands on their waste water systems in order to avoid the dumping of raw sewage into the ocean.

FUTURE RESEARCH DIRECTIONS

To date, research by Hawaii Sea Grant has focused upon the economic and physical description of the supply side of the ocean recreation and tourism sector. Several studies document the breadth and depth of the economic force that this sector represents (Markrich, 1984, 1986a, 1986b; Miller, 1984; Samples, 1983; van Poolen, 1983). In addition, a recent study of 18 criteria contributing to Hawaii's growth and maturation as a tourism destination indicated that ocean recreational activities were only preceded in importance by her outstanding climate and natural beauty (Liu and Auyong, 1987). Indications are that this economic sector could continue to exhibit considerable potential through the next decade.

On the other hand, the workshop discussion identified three major constraints to the future growth of ocean recreation and tourism in Hawaii: (1) competition for limited resources and access points, (2) increasing incidences of user conflicts and hazards concomitant with diminished availability of affordable liability coverage, and (3) business information needs. These problems are not unique to Hawaii and can be extended to many coastal resort development areas.

Recreation and tourism research offers a good opportunity to conduct interdisciplinary as well as regional projects. As Table 2 shows, most of the research issues identified at the workshop could be address by a variety of disciplines. The research needs can be merged into three major categories: use, resource, and business factors.

Having determined the economic force and potential of ocean recreational tourism through studies on the supply side, work will be needed on the demand side and in the area of recreational behavior. It will be necessary to know the extent that resident and visitor populations participate in ocean recreation activities, what barriers to participation exist, how temporal and spatial patterns of use at high density sites affect resources and management options, what levels of environmental change will be tolerated for the sake of economic benefits, and how the dynamics of constituency groups could affect information flow and management effectiveness.

User conflicts appear to often be intensified by poor or limited access and degraded resources. Studies of the impacts of ocean recreation and mass tourism on the physical environment and society will be essential for the understanding and managment of these activities. Further, studies which determine the legal constraints and opportunities concerning access and the impact of private owners by the provision or requirement of public access will increasingly be needed as the industry grows.

Table 2. Matrix of research issues identified in the workshop by disciplinary area.

Research Issues Discussed	Discipline						
	BP	EB	SF	RB	A	CM	MT
USE FACTORS							
recreational demand	X	X	X	X	X	X	X
recreational use	X		X	X	X	X	X
recreational satisfaction	X	X	X	X	X	X	X
access	X	X	X	X	X	X	X
crowding or congestion at sites	X		X	X	X	X	X
water safety and hazard warnings	X		X	X	X	X	X
legal issues			X		X	X	X
RESOURCE FACTORS							
resource quality	X	X	X	X	X	X	X
habitat enhancement	X			X	X	X	X
marine protected areas	X		X	X	X	X	
coastal zone development	X	X	X	X	X	X	X
pollution & sedimentation	X			X	X	X	X
enforcement/management	X	X		X	X	X	X
BUSINESS FACTORS							
economic impacts		X	X	X			X
special events development	X	X	X	X	X	X	
risk management		X	X	X	X	X	X
quality of facilities & services	X	X	X	X	X	X	X
business operations management		X		X			X

where:

BP = biological and physical science
 EB = economics and business aspects
 SF = tourism social aspects
 RB = recreation behavior/management

A = legal and planning
 CM = conflicts management
 MT = marine technology

Ocean recreation economics and business research will be characterized by investigations into infrastructural and marketing bottlenecks that could constrain commercial development. Critical issues include the development of loss prevention procedures and risk management programs, identification of the critical aspects which would increase the public's perception of safety related to ocean recreation businesses, and provision of linkages between resource and user behavior issues and operations management, that is, incorporating research information into financial, marketing and management plans.

Marine technology can be viewed as an important tool for the enhancement of resources, the improvement of access, and assistance in use management. Current efforts include day-use mooring devices for charter boats, infrared overflights to locating fresh water intrusion along the shoreline, and artificial reef designs and composition. Future technological developments in smooth riding vessels, underwater viewing facilities, offshore recreational platforms, and beach nourishment techniques are not unattainable by 1995.

Some Sea Grant institutions have begun cooperative research programs which are aimed at understanding regional recreation and tourism patterns, impacts, and net benefits. Such analyses enable decision-makers to better compare and evaluate among recreational opportunities, and to better define the best mix of activities for a region.

Some national priorities which can be addressed through Hawaii Sea Grant:

Work on recreational fishing is still a high priority at the national level since there is a large gap in our understanding of how fish stocks are utilized in this activity. Recreational fishing is also considered the weakest aspect of the fishery management process.

Research that addresses the technical, legal, and socioeconomic changes needed to broaden recreation opportunities or remove barriers to participation is important. This might include research on boating access, urban waterfront recreation, pollution control, user preferences-expectations-behavior, and beach access and congestion.

The question of the impact of tourism growth has generally been considered above. However, what would happen if tourism were to decline? This situation would have grave implications not only for Hawaii but also for the emerging Pacific nations that are looking to tourism for economic development opportunities.

Some caveats:

Sea Grant is not generally inclined toward the routine analysis of baseline data or research which applies standard techniques to yet another geographical area. Therefore, although industry and government users often express their research needs

have grave implications not only for Hawaii but also for the emerging Pacific nations that are looking to tourism for economic development opportunities.

Some caveats:

Sea Grant is not generally inclined toward the routine analysis of baseline data or research which applies standard techniques to yet another geographical area. Therefore, although industry and government users often express their research needs in terms of wanting a descriptive picture or inventory for a geographical area, researchers should focus on scholarly and analytical studies which can also address these informational needs.

GOALS AND OBJECTIVES

The proposed goals and subgoals of Hawaii Sea Grant in ocean recreation are:

(Business Development)

1. To support the development of commercial ocean recreation enterprises and tourism in the state and in U.S. affiliated island governments;

To see selected ocean recreation business sectors measurably increase in economic activity statewide;

(Recreational Use)

2. To enhance ocean recreation opportunities and to reduce user conflicts;

(Resource Management)

3. To promote better use of coastal and nearshore resources for ocean recreation;

To better understand the role of ocean and coastal resources in the development of ocean recreation and tourism.

To achieve these goals, research objectives (grouped by subject matter rather than by priority) for Hawaii Sea Grant should include:

1. Understanding motivations, perceptions and attitudes in order to devise better marketing and management strategies.
2. Developing activities and attractions which boost tourism draw, increase length of stay and produce repeat visitation.

3. Identifying opportunities and constraints in ocean recreation industry development.
4. Consider the effects of tourism decline.
5. Understanding recreational activity patterns for more effective program in resource and conflict management.
6. Comparing the impacts of high use recreational areas and predicting effects of use on future recreational sites.
7. Determining the legal constraints of limiting access to public areas by visitors or commercial operations.
8. Determining criteria for evaluating risk management programs.
9. Developing criteria for the identification of critical habitats which should be enhanced or which support the development of ocean recreation.
10. Determining the limits of acceptable resource change or determining management strategies to ensure optimum use of resources for ocean recreation development.

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APPENDIX A. WORKSHOP DISCUSSION GROUPS

General Discussion

Chuck Gee, Dean of UH School of Travel Industry Management
Fred Kamemoto, UH Dept. of Zoology
Arthur Reed, UH Dept. of Zoology

Access/Conflict Management

Kem Lowry (co-leader), UH Urban & Regional Planning Program
Casey Jarman (co-leader), UH School of Law
John Clark, Ocean Sports Consultant
Jim Coon, Maui Charter Boat Owners Association
John Goody, UH Urban & Regional Planning Program
Bill Gorst, State Parks, DLNR
Take Harada, UH Student Activities Center
Alan Hong, City & County of Honolulu Parks & Recreation
Kathy Kawaguchi,
Colleen Murakami, Dept. of Education
David Padgett, Ocean Activities Center
David Parsons, Harbors Division, DOT
David Tarnas, Marine Policy Consultant

Recreation Behavior/Mgmt

Robert Ditton (group leader), Dept. of Recreation & Parks, Texas A&M University
Barbara Brundage, Destination Hawaii
Tom Eisen, UH Dept. of Geography
Warren Grabau, visiting professor
Steve Salis, City & County of Honolulu Recreation & Parks
Ray Tabata, UH Sea Grant Extension Service

Tourism Social Factors

Juanita Liu (group leader), UH School of Travel Industry Management
Tom Enomoto, Hawaii Visitors Bureau
Jim Rizer, East-West Center
Beth Shaw,
Jerry Shimoda, National Park Service

Marine Technology

George Wilkins (group leader), Hawaii Inst. of Geophysics
Reb Bellinger, State House of Representatives
Peter Celone, National Weather Service
David Kern, U.S. Army Corps of Engineers
Narendra Saxena, UH Dept of Ocean Engineering

Biological/Physical Factors

Bruce Miller (co-leader), UH Sea Grant Extension Service
Jesse Walker (co-leader), UH Dept. of Geography
Chew Lun Lau, State Dept. of Public Works
Jim Maragos, U.S. Army Corps of Engineers
John Naughton, National Marine Fisheries Service
Eric Onizuka, Division of Aquatic Resources, DLNR
Richard Shomura, National Marine Fisheries Service
Sharon Yakote, Sierra Club

Business Factors

Angela Williams (group leader), Pacific Business Center
Elizabeth Corbin, Ocean Resources Branch, DBED
Terry O'Halloran, TORCH
Sam Pooley, National Marine Fisheries Service
Jonathan Roberts, Pacific Business Center

Marine Recreation Economics:

Karl Samples (group leader), UH Dept. of Agricultural Economics
Christopher Dahl, Pohnpei Extension Agent
Jack Ellis, Hawaii Billfish Association
Craig MacDonald, Ocean Resources Branch, DBED
John Sproul, Western Pacific Fisheries Management Council

DBED - Department of Business and Economic Development
DLNR - Department of Land and Natural Resources
DOT - Department of Transportation

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Ocean Resources Criteria for Tourism Management

Jan Auyong¹ and Juanita C. Liu²

ABSTRACT

While ocean recreation and coastal resources are assumed to be the major attractions of tropical or coastal destinations little direction or importance has been given to these attractions. This study assessed the importance of ocean recreation in a tourism destination. A sophisticated methodology devised by Gearing, Swart and Var (1974) was applied to Hawaii and was further extended to ocean recreation criteria especially developed for the study. The categories of criteria included offshore characteristics, physical coastal characteristics, recreational development, recreational experience, and regional setting. These criteria were applied to tourism related activities such as nearshore and offshore scuba diving, charter boat fishing, and boat cruises. Priorities with respect to the criteria were distinct for each particular activity and the findings were statistically significant, indicating validity of the results. On the other hand, priorities generally varied among the tourism related activities although conservation, water quality and landforms were rated high in importance by those interviewed.

Introduction

How does one assess the draw or attractiveness of a tourism destination and how can one objectively allocate or invest available financial resources towards the enhancement of that draw? Few studies in the available literature have taken an in depth look at the supply side of tourism. On the other hand, studies analyzing the tourist abounds. These studies of tourism demand focus on characteristics of travelers, factors motivating travel, perceived benefits and economic impacts. However, a logical approach to proper tourism planning and management incorporates both demand and supply variables in order to know what visitor demands are and match these to what tourist resources are available. Tourist planning organizations continuously monitor the needs and wants of visitors but few have adequately evaluated the resources that attract visitors to their respective locales. Coastal and ocean resources used for recreation and tourism are perhaps the least studied.

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Many tropical destinations are known for their four S's: sand, surf, sea and sun. A major assumption has been that the four S's are the major features attracting visitors, but to date, no study has confirmed this assumption. Also, although ocean recreation is an essential part of the tourism base for Hawaii and other Pacific and tropical destinations, its role in tourism development has been virtually neglected in both the research and planning contexts.

The purpose of this study was to assess the importance of marine resources for recreational use in a tourism destination. Hawaii was taken as a case study to identify marine recreation criteria, to obtain a ranking of these criteria by expert users in tourism-related ocean sports, and to discuss the implications for developing a decision support system for the use of resources.

The Attractivity Model and Methods

Over the past two decades a number of studies on attractiveness has appeared in the literature, where attraction has been defined in terms of some innate quality of the array of sites/attractions as opposed to the actual choice of a particular destination. Early studies involving the attractivity of tourist destinations were based on a concept similar to the gravity model, that is, that the attraction between two locations can be measured by a set of relationships (Clawson and Knetsch, 1963). These relationships are considered specific and measurable and exist between the number of visitors traveling to a specific destination from specific markets and a number of independent variables, among which are the size of the population of a specific origin market and the distance between the market area and destination.

Later studies incorporated a systems theory approach by also looking at a destination's physical attributes and the number and quality of available facilities (Ellis and Van Doren, 1966). Other parameters which have been considered in this type of approach include the relationships between user profiles and coastal characteristics.

A functional method of assessing physical, social, and developmental factors was devised by Gearing, Swart and Var (1974). Their method, hereinafter referred to as the GSV method, suggests that touristic attraction of a district or region (j) is:

$$T_j = f(N_j, S_j, H_j, R_j, I_j, E_j)$$

where T_j = touristic attractiveness;

N_j = natural factors;

S_j = social factors;

H_j = historical factors;

R_j = recreational and shopping opportunities; and,

I_j = accessibility and accomodation above a minimum quality

E_j = shopping, evening and educational activities.

The GSV is a measure of potential demand, or derived demand based on supply (attractions). In other words,

$$\text{Tourist Demand} = f(\text{Touristic Attractiveness})$$

The GSV evaluates various tourist regions by having selected experts rank a set of criteria which have been categorized into a number of major factors, each with a varying number of subfactors. Using a modified Churchman-Ackoff weighting procedure (Churchman, Ackoff and Arnoff, 1957; Gearing, Swart and Var, 1974) an overall attractivity index can be derived for various locations from these rankings.

Table 1.
Criteria for Judging Ocean Recreational Attractiveness

FACTOR HEADING	CRITERION	DEFINITION
A. OFF-SHORE CHARACTERISTICS	1. Water Quality	Warm, clean, clear
	2. Waves & Currents	Wave type and frequency
	3. Undersea Landscape (topography, scenery)	Marine life; coral reef; sandy bottom; interesting geological formation; water depth
	4. Wind	Speed; direction; duration
B. PHYSICAL COASTAL CHARACTERISTICS	1. Beach Composition	Sandy or rocky beach
	2. Landforms	Point of land; beaches and bays; breakwater; cliffs
	3. Dynamic Conditions	Tidepools; benches; high/low tides; sand bars and berms

The Churchman-Ackoff technique forces the respondents to be consistent in their judgments regarding the criteria. The respondent is first asked to rank the major factors, and these ranks are subsequently used as weighting factors. The respondent is then asked to rank each set of subfactors which together with the weighted factor results in weighted rank scores for each variable. Thus, there are $n+1$ phases in the GSV method. The first "n" phase involves ranking the major factors. In the other phases, the subfactors within each group are ranked with respect to each other (see Gearing, Swart and Var, 1974 and 1977, for details of the ranking procedure).

Experts in the area of tourism are used to produce the rankings. This modified "Delphi" method reduces cost and increases efficiency (Kaynak and MacAulay, 1984). It would be extremely costly to survey visitors because of the large sample size that would be required for dependable results, and studies on behavior indicate that some tourists may express an opinion which is different from their actual behavior. A case can be made that experts can provide more objective evaluations based upon observed behavior.

Tests of the level of confidence in subsequent studies showed that agreement between respondents, or concordance, was achieved at levels significantly beyond the possibility due to chance occurrences. These studies also indicated that there was very close agreement in responses between experts and users, and that results derived from expert opinion corresponded with actual market shares (Gearing, Swart and Var, 1974 and 1977; Nuttall and Var, 1976; Var, Beck and Loftus, 1977; Var and Steiner, 1976).

Extension of the GSV model to Ocean Recreation Destinations

The GSV method has been applied to various tourism destinations in Turkey and Canada as well as recreation destinations such as parks and ski resorts (Gearing, Swart and Var, 1974 and 1977; Nuttall and Var, 1976; Var, Beck and Loftus, 1977; Var and Steiner, 1976). To further test its generalizability, we applied the concept to tropical ocean destinations. We further extended the method with the development and ranking of ocean recreation criteria with respect to visitor-related marine activities.

We hypothesized that if ocean recreation plays an important role in the overall attractiveness of tropical tourism regions, the GSV should permit the ranking of ocean recreation among tourism factors; this is the subject of a related paper. Furthermore, the GSV may be able to provide a ranking scheme for the review of important ocean recreation criteria. This ranking would give resource managers another decision-making tool for resource allocation and investment.

In this study a set of 18 criteria (Table 1) for marine activities was derived through open-ended surveys of experts and extensive pilot testing. It is felt that these criteria are comprehensive and can be applied to other destinations.

On the other hand, the GSV requires establishment of weights depending upon the situation being studied. Another time and place would require a different set of weights to be developed. In this study indices are developed for four visitor-related marine activities considered to be major income generators in Hawaii. They are: nearshore scuba diving, offshore scuba diving, charter boat fishing and boat cruises. Results are reported in this paper. Results on swimming, which is the most popular visitor activity reported for Hawaii (Auyong, 1987), are still being compiled and will be reported later.

Selection of Ocean Recreation Criteria

As a supplement and check on criteria proposed in the literature, an open-ended questionnaire was used to solicit criteria from ocean sports participants. The responses were summarized and categorized into a matrix of ocean recreational activities vs. criteria

(Table 1. cont.)

FACTOR HEADING	CRITERION	DEFINITION
E. REGIONAL SETTING	1. Regulations and permitting	Public right-of-way; permitting
	2. Development policies	Potential for major spectator sport; special events; tourism development
	3. Conservation and preservation policies	Establishment of marine life conservation areas; setting aside areas as off-limits to commercial enterprise; policies to prevent over fishing or over use

(Table 1. cont.)

FACTOR HEADING	CRITERION	DEFINITION
C. RECREATIONAL DEVELOPMENT	1. On-site Access	Ease and safe entry into water from shore; entrance/exit
	2. User Facilities	Adequate and safe parking; potable water supply; restrooms and showers; storage for equipment; concessions
	3. Harbor Facilities	Launching site; slip and mooring facilities; loading dock; wash down area; refueling area
	4. Commercial equipment and outlets	Dive and surf equipment shops; fuel and supply services; charter and tour services
D. RECREATIONAL EXPERIENCE	1. Uncrowded recreational area	Uncrowded wave breaks, beaches and reef
	2. Safety standards	Lifeguards and signs; absence of hazardous materials; emergency phones and services
	3. Informational services	Information and instructional services; printed material; signs, tour guides; activity desks
	4. Aesthetics	Aesthetically pleasing environment

group. A review of the matrix indicated that some of the activities could be combined and the number of factor groups could be consolidated.

The resultant categories of criteria were: offshore characteristics, physical coastal-characteristics, recreational development, recreational experience, and regional setting. Each category contained three to four subfactors (or criteria). Because variations in the number of subfactors per major classification could lead to biasing of the results, an attempt was made to achieve a near even number of subfactors per category. The number of subfactors also had to be limited to avoid problems in comprehension. The more numerous the criteria per factor category, the more difficult it was for respondents to deal with the ranking procedure.

The respondents were provided with a definition for each factor and subfactor (Table 1) to reduce the possibility of misinterpretation and confusion. The individual criteria were defined with a broad enough scope to incorporate the range of recreational activities chosen for the study.

Only those sports/activities which depend to a great extent upon tourists for their livelihood were chosen. This paper reports on the findings for the tourism related ocean sports of nearshore and offshore scuba diving, charter fishing, and boat cruises.

Three pilot tests were conducted to ensure validity of the criteria, definitions and ranking procedures.

Selection of Ocean Recreation Experts

For the purpose of establishing the criteria weights, judgments were solicited from a group of individuals experienced with Hawaii's ocean recreation. For the most part they were the operators in a particular recreational activity. Each expert was screened regarding years of residency, number of years involved with the visitor industry in Hawaii and their area of expertise. Each expert was assumed to be representative of a large group of tourists who might participate in a particular sport. About 15 experts in each activity were interviewed (Table 2).

The Collective Results

The composite rank orders of the criterion for each tourism related ocean sport studies are presented in Table 2. The criterion with the greatest weight is given rank 1, the next greatest, rank 2, and so on. Kendall's coefficient of concordance was used to test the extent of agreement among the experts. This statistic measures the degree of agreement among several, rather than just two, sets of rankings of n objects or individuals. The value can vary between 0 and 1, with an associated level of significance. Hence, significant results can be attained with lower values of association than one is normally accustomed to in more commonly used tests of agreement, given a sufficiently large n .

Although the coefficients of concordance were low as compared to previous studies, they are, nevertheless, highly significant (Table 2), indicating validity of the results. The results indicate that while individuals did not rank the criteria exactly the same they generally assigned similar priorities or order to the criteria.

The greatest level of agreement occurred among the nearshore scuba divers (0.31, $p=0.001$) and the least among cruise boat respondents (0.15, $p=0.004$). We suspect that the lower coefficient scores are due to the nature of ocean recreation which tends to be rather individualistic and because the operators of these marine-related activities tend to be users themselves.

The rank orders indicated priorities for each sport. For instance, the primary concerns for nearshore diving revolved around entry/exit considerations such as access,

Table 2.

Implied Ranks of Tourism Related Ocean Sports in Hawaii

Criterion	Composite Rankings			
	Off Shore Diving	Near Shore Diving	Boat Cruises	Charter Fishing
Water Quality	5	5	1	2
Waves & Currents	9	2	4	5
Undersea Landscape	1	7	7	15
Wind	17	12	15	10
Beach Composition	16	3	3	16
Landforms	4	4	5	6
Dynamic Conditions	12	6	8	9
On-site Access	11	1	11	14
User Facilities	8	9	10	11
Harbors	3	17	6	3
Commercial Equipment and outlets	14	16	18	4
Uncrowded Areas	18	11	17	17
Safety	6	2	13	12
Informational Services	15	14	16	7
Aesthetics	13	13	14	8
Regulations & Permitting	7	10	12	13
Development Policies	10	15	9	7
Conservation & Preservation Policies	2	8	2	1
No. of Experts Interviewed	13	17	14	14
Kendall's Coefficient of Concordance	0.2169	0.3100	0.1544	0.2875
Level of Significance	0.0001	0.0000	0.0036	0.0000

safety, waves and currents, beach and shore topography. Viewing considerations took a secondary position but were ahead of facilities and developmental concerns.

On the other hand, offshore diving experts were more concerned with the viewing aspects than nearshore diving components. High ranks were given to underwater landscape, marine life and water quality. Facilities and developmental factors were ranked much higher by these experts due to their reliance on boats to participate in their activity. Understandably, beach access and user density criteria were less important.

Cruise boat respondents also stressed viewing related criteria, both surface and underwater, as important items. Being boat dependent, harbor facilities and development were the next important group of criteria. User density and marketing or directional information did not seem to be very important.

Charter boat fishing respondents, with the second highest level of agreement, ranked marine life and water quality only slightly higher than facilities and developmental factors. Not unexpectedly, undersea landscapes and shore access and user density were not considered important factors to the success of their activity.

A number of interesting differences among the activities were noted with respect to ranking the criteria. Commercial equipment and outlets, aesthetics, and informational services were a much more important criteria to charter fishing respondents than to the other activity experts. Developmental criteria were more important to cruise boat and charter fishing than to either scuba diving activity, whereas safety was of much more concern to scuba diving than to the two boat operations.

A few similarities in priorities were also noted. Water quality, landforms and conservation seemed to rate high in all activities, with user facilities a moderate concern, and crowding not a major concern in any of the activities.

A surprising finding was the high rank that was given to conservation and preservation policies. It was the first or second criteria in three sports — charter fishing, offshore scuba diving, and boat cruises. In our deliberations during the pilot tests there was some discussion as to whether this variable should even be included.

Conclusions

The major accomplishments of this study were: a) the establishment of a set of marine criteria by which to evaluate priorities for the development of various tourism related ocean recreation activities; b) the ranking of these criteria for major visitor-related ocean activities in Hawaii; and c) the establishment of the usefulness of this methodology in planning and development of coastal resources.

We were also able to document the important planning issues as perceived by marine recreation operators in Hawaii. While the operators of different activities perceived some criteria very differently, some issues such as conservation and preservation policies, and water quality were important to all activities surveyed. Thus, the methodology is useful in determining the criteria of greatest importance to all activities while also prioritizing other major developmental issues.

In this study only the mainstream visitor-related ocean recreation activities were evaluated. However, the methodology should be extended to other ocean sports, e.g., windsurfing, ocean kayaking and canoeing, parasailing, and jetskiing. These sports are becoming important components of the ocean recreation industry. Understanding their priorities and incorporating them into development plans for ocean and coastal resources will ease their transition into the mainstream industry as well as reduce potential conflicts among activity types.

ACKNOWLEDGEMENTS

This work is a result of research ("Determination of the Attractiveness of Touristic Regions in Hawaii with a Focus on Ocean Recreation") which was funded by the University of Hawaii Sea Grant College Program ("Program Development and Rapid Response" project, PM/M-2, and "UH Sea Grant Extension Service" project, AS/A-1) under Institutional Grant No. NA85AA-D-SG082 from NOAA Office of Sea Grant, Department of Commerce. This is Sea Grant publication UNIH-SEAGRANT-CP-87-04. Additional support was given by the University of Hawaii School of Travel Industry Management. The authors would like to acknowledge the hard work, diligence and good humor of Stephanie Nagata on this project.

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Marine Recreation and Tourism

Marine recreation and coastal tourism attract millions of Americans to our nation's oceans and Great Lakes. The natural setting, combined with the rich cultural and historical tradition of many coastal communities, provide an attractive climate for recreation and tourism. The burgeoning use of coastal areas, for water sports, marinas, charter boats, restaurants, motels, resorts, second homes and regional cultural festivals attest to the growing economic importance of marine recreation and tourism. These businesses are directly dependent on natural resources such as beaches, wetlands, fisheries and aesthetic seascapes.

Two-thirds of our population now live within 50 miles of a coastline. Demographers predict this coastal concentration will increase markedly by the end of the century. This population growth coincides with a rising demand for coastal lands, resulting in property values that have more than tripled in many areas in recent years. In addition, coastal wetlands have been destroyed at the rate of about 100,000 acres per year during the last 25 years due to dredging, filling and erosion. It is important to understand the nature of these changes, and their impact on future marine recreation and tourism opportunities.

National Scope of Marine Recreation and Tourism

Coastal recreation involves both land and water. The water resources are publicly owned and regulated. Coastal land resources, however, are a patchwork of private and public ownership. Almost 20 percent of the coastal shoreline in the continental United States is owned by Federal, state or local governments and available to the general public; the remainder is in private ownership. Of the 80 percent of the shoreline in private ownership, only about 15 percent is used for private recreation ventures that provide access to the coastal resources.

Federal and state resource agencies are the primary providers of public marine recreation. The National Park Service manages 53 ocean and Great Lake shoreline areas. These sites annually account for about one-third of the total national park visitors. Federal programs to acquire and preserve coastal lands for public use have been supplemented by state mechanisms to retain public access to critical coastal areas.

Today, tourism ranks among the top three industries in 41 states; in most coastal states it is number one or two. The economy of many coastal communities has been stimulated by private recreation development at times when other sectors of the economic base have weakened. The planning and provision of marine recreation and tourism is a collaborative undertaking that often involves both the private and public sectors. Government has given priority to protecting marine resources and providing public access, but private enterprise has become an important factor in developing and promoting marine recreation and tourism. Striking examples are the numerous small coastal communities and large urban centers that have rehabilitated waterfront neighborhoods into vital economic zones. Another approach has been for recreation land developers to provide controlled access to private shorelines.

Marine recreation policies determine how recreation resources are allocated among diverse leisure-based interest groups and how marine recreation will co-exist with other coastal resource uses such as business and commercial development, shipping and commerce, military installations, commercial fishing, offshore mineral development, and waste disposal. A balance must be achieved so that the coastal lands, shorelines and adjoining water bodies of small coastal towns and urban centers can accommodate a variety of uses and changing demands.

National Needs and Opportunities

The escalating demand for land and shoredline access in coastal areas, coupled with the swift expansion of the marine recreation and tourism economy, intensifies the possibility for conflict between recreation and various other uses of our coastal resources. Coastal management decisions must embrace

facts and knowledge about the quality of marine recreation and tourism, and public issues affecting recreation opportunities must be addressed through vigorous conduct of resource management. The following are among many particular concerns:

Access

Coastal recreation depends on the public having reasonable entry to the shore and adjacent waters. Restrictions on access to coastal shorelines for swimming, boating and beach enjoyment are producing concern nationwide. The private standing of most shorelines within the continental United States does limit means of public access, but it also supplies the inducement for private sector recreation expansion, which serves a wide range of consumer interests as well. How the nation weighs the public versus private provision of recreation opportunities will be a decisive question in the decades ahead.

Shoreline Allocation

There is a need to understand the economic and social trends driving the allocation of coastal resources. Conflicts are inevitable as rival economic pursuits compete for the use of scarce coastal assets. Net benefits from offshore energy and mineral extractions, municipal, industrial and toxic waste disposal, and commercial fishing must be gauged against diminished recreational opportunities for boaters, anglers and coastal tourists.

Socio-Economic Impacts

Recreational wants and behavior and public and private efforts to respond to these demands have broad-reaching social, cultural and economic consequences. Many incentives for recreation and tourism development involve increasing employment, wages and tax revenues. The reach of these benefits must be examined and compared with the costs often associated with rapid recreation and tourism development.

Natural Forces

The physical beauty, stability and health of any shoreline environment is affected by the dynamic natural processes of waves and wind. If these processes are not accorded adequate attention, coastal growth can have injurious effects on the marine environment, and on the safety of coastal residents and tourists. The physical forces at work in the coastal environment must be understood and reckoned with if our natural coastal resources are to keep on furnishing a rich flow of ecological, recreational and commercial benefits.

Current Sea Grant Research and Extension Activities

Sea Grant recreation and tourism activities focus on extending recreation opportunities through the productive use of ocean and Great Lakes resources, typically as joint efforts involving Federal, state and local governments, academic institutions, and the marine recreation and tourism industry.

- Governments expend millions of dollars annually on beach enhancement programs. But only limited evidence is at hand regarding the economic gain derived from beaches. Studies in Florida determined that the economic impact of saltwater beaches to the state's economy is substantial. In 1984, 13 million beach users, recreating a total of 146 million beach days, generated \$5 billion in sales, almost 3 percent of total sales in the state. An estimated 180,000 jobs originated from beach activity, or more than 4 percent of total employment in the state. In addition, beach users indicated they were willing to pay an estimated \$2 billion annually for programs that would ensure continued access to quality beaches.
- The growth of recreational fishing is evident nationwide, and perhaps nowhere is this expansion more robust than in the Great Lakes region. Research in water quality, habitat ecology and fisheries

population dynamics undertaken by the Great Lakes Network of Sea Grant Programs has had a definite impact on this growth. For example, the discovery that the year-round movements of Great Lakes salmonids were associated with thermal features, enabled anglers to expand their fishing season by following offshore migratory patterns. This, in turn, helped the growth of the charter boat industry, which provided better fishing opportunities and longer seasons. Sea Grant provided support to this expanding industry with research on the economic impact from sport fishing, study of participant markets and information on technical and financial management. Research on the design of fish aggregation devices and artificial reefs also promises to add to recreation opportunities by providing anglers with access to good fishing in nearshore areas that were once unproductive.

- The boaters' access point to the water is most often a marina or public boat ramp. Sea Grant scientific and engineering research has helped operators of these facilities with the technical design of small craft harbors, control of pollution and the engineering aspects of ice and storm damage. Rhode Island Sea Grant is coordinating the first national study of the recreational boating industry with particular emphasis on an in-depth inventory of boating access. Preliminary results of this research show that recreational boating participation, and its attendant economic and social benefits, are considerably greater than earlier estimates suggested.
- Sea Grant Colleges in the six-state northeast regional network conducted tourism development case studies in three local communities within each state. From the different experiences of each community, the researchers developed a general planning model for use by local recreation and tourism planners. Social and economic benefits and costs are embodied in a computer model that allows tourism development plans across a broad range of alternatives to be compared. The model provides planners with a practically analytical tool for evaluating returns to long-term fiscal investments and development strategies.
- The Sea Grant Marine Extension Service is the technology transfer and educational arm for the research program. For example, research on barrier island dynamics, nearshore and transport, erosion processes and the effectiveness of shoreline protective structures is transferred to coastal property owners and local governments through the network of Sea Grant extension agents and specialists. The Great Lakes Sea Grant network has presented workshops for marina operators on small craft harbor design, ice engineering, materials science and financial management. Small marine trades and recreation businesses have received help on marketing, financing, insurance, taxes and other small business management aids. Sea Grant often has been instrumental in helping to form marine trade associations to help marine enterprises and other recreation-related groups effectively help themselves.

Research Needs and Opportunities

The diversity of issues involved in coastal recreation and tourism generate a challenging range of important research topics. Among these are:

- To develop measures of the benefits and costs associated with allocating marine resources to coastal recreation and tourism, compared with alternative uses.
- To understand the biological and physical limits of the coastal environment and the impact of recreational activities on the coastal ecosystem.
- To determine current conditions of water and habitat quality, and provide a scientific basis for resource enhancement, rehabilitation and preservation of recreational and aesthetic natural assets.
- To measure the full recreational value derived from coastal areas, including non-market and non-consumptive uses, as well as market-oriented marine recreation activities.

- To address the needs of small recreation businesses for better management tools in such areas as operations, financing, risk management and technological advances, with particular attention to the liability problems faced by small communities and businesses.
- To comprehend the behavior, preferences, choices and satisfactions of marine recreation users, and the compatibility or interchangeability of various recreational activities in the private and public sectors.
- To determine the factors affecting the demand for and supply of marine recreation goods and services, and identify recreation trends and their effect on the growth of the industry and the broadening of recreation opportunities.
- To explore the cultural, social and historical significance of coastal areas and marine communities that enhance tourism.
- To assess the primary and secondary socio-economic impacts of marine recreation and tourism development on coastal communities and resources.
- To describe and understand the roles assumed by various government agencies at the local, state and national levels, including the ways in which they relate to one another, resolve conflicts, and affect the recreational use of the coastal margin.

DEPARTMENT OF COMMERCE
590 SOUTH MARINE DRIVE
GITC BLDG. SUITE 601, 6TH FLR
TAMUNING, GUAM 96911



DEPARTMENT OF PARKS AND RECREATION
GOVERNMENT OF GUAM
AGUADUAGUAM 96910



AUG 15 1988

Memorandum

To: Director, Bureau of Planning
From: Director, Department of Parks and Recreation
Subject: Water Use Master Plan

Attached are current laws affecting this department and are forwarded per your memorandum of July 13, 1988, subject referenced above:

- Historic Preservation, Public Law 12-126
- Parks and Recreation, Public Law 12-209
- Ocean Shores, Public Law 12-19
- Public Access to the Ocean Shore, Public Law 19-5

Contact person for the Water Use Master Plan Project for this department is Mr. David T. Lotz and he may be reached at 477-7825/6.


ANTHONY C. MARIANO

Attachments



Public Law 14-12
Fourteenth Guam Legislature
(Bill 28)

AN ACT

Amends to amend Section 26007 and to add a new Section 26009.1 of Chapter V of Title XXVII (Public Law 12-209) of the Government Code relative to the listing of Parks and Recreation areas of the Guam Territorial Park System.

Be it enacted by the People of the Territory of Guam:

Section 1. Section 26007 (Public Law 12-209) of the Government Code is hereby amended to read as follows:

"Section 26007. Guam Territorial Park System. There is hereby created the Guam Territorial Park System. The Director of Parks and Recreation shall inventory all properties belonging to the government of Guam and determine which properties shall be included therein. A detailed list shall be forwarded to the Speaker of the Legislature and the Legislature shall, after public hearing and report by the appropriate standing committee, approve or disapprove those properties to be included within the Territorial Park System, as designated under Section 26009.1, within thirty (30) legislative days following receipt of such a list and failure to so act shall be deemed consent by the Legislature. The list shall be added to or deleted as deemed necessary."

Section 2. A new Section 26009.1 is hereby added to the Government Code to read as follows:

"Section 26009.1. Reserved properties. Pursuant to Sections 26007 and 26009 of this Chapter, the below described properties are reserved for public parks according to their respective classifications in numerical order:

- (a) Natural Preserves
- (b) Conservation Reserves
- (c) Territorial Parks or Community Parks
- (d) Territorial Recreation Facilities or Community Recreation Facilities.
- (e) Historical and Pre-Historic Objects and Sites."

Section 3. This is an urgency measure.

Approved April 5, 1977

CHAPTER III
Historical Objects and Sites
Part I

- § 13985. Purpose
- § 13985.1. Definitions
- § 13985.2. Historic preservation and restoration
- § 13985.3. Administration
- § 13985.4. Acquisitions and gifts
- § 13985.5. Condemnation
- § 13985.6. Interest acquired
- § 13985.7. Operation of properties
- § 13985.8. Conveyance of properties
- § 13985.9. Contracts
- § 13985.10. Entry upon private land
- § 13985.11. Excavation and removal of prehistoric and historic remains or objects on private lands
- § 13985.12. Court actions
- § 13985.13. Guam Museum as a depository for certain specimens and objects
- § 13985.14. Designation of historic sites

§ 13985. Purpose. Whereas the Legislature has determined that the historic, archaeological, architectural, and cultural heritage of Guam is among her most important environmental assets and furthermore that the rapid social and economic development of contemporary society threatens to destroy the remaining vestiges of this Spanish-Chamorro heritage, it is declared to be the public policy and in the public interest of this territory to engage in a comprehensive program of historic preservation, undertaken at all levels of the government of this territory, and to promote the use and conservation of such property for education, inspiration, pleasure, and enrichment of the residents of this territory.

§ 13985.1 Definitions. When used in this Chapter 'department' means the 'Department of Parks and Recreation'.

(1) 'Historic preservation' means the research, protection, restoration, and rehabilitation of sites, buildings, structures, and objects significant in the history, architecture, archaeology, or culture of Guam.

(2) 'Historic property' any building, structure, object, area, or site that is significant in the history, architecture, archaeology, or culture of Guam or the nation. (Amended by P.L. 12-208, effective January 23, 1975.)

§ 13985.2 Historic preservation and restoration. The department in cooperation with the Central Planning Council shall establish a comprehensive program for historic preservation, restoration, and presentation, which shall include but not be limited to the following:

- (1) Plans to acquire, restore, and preserve historic areas, buildings, and sites significant to Guam's past;
- (2) Establish and maintain the Guam Register of Historic Places;
- (3) Establish regulations on the use of such areas;
- (4) Develop a territory wide survey of historic areas, buildings, and sites with a phased preservation and restoration development plan and accompanying budget and land use recommendations;
- (5) Provide for matching grants-in-aid to private agencies for projects which will fulfill the purposes of this Chapter;
- (6) Seek assistance for the territorial historic preservation and restoration program by applying for technical assistance and funds from the Federal government and private agencies and foundations for the purposes of this Chapter;
- (7) Employ sufficient professional and technical staff for the purposes of this Chapter;
- (8) Advise and cooperate with other public and private agencies engaged in similar work;
- (9) Submit an annual report and budget to the Governor and the Legislature by February 1 of each year, with recommendations for programs of historic preservation and restoration.

§ 13985.3. Administration. All territorial projects and programs relating to historic preservation and restoration shall come under the authority of the Department.

§ 13985.4. Acquisitions and gifts. For the purpose of protecting or preserving any historic property, the Department may acquire, preserve, restore, hold, maintain, operate, or dispose of such properties, together with such adjacent or associated lands as may be necessary for their protection, preservation, maintenance, or operation. Such property may be real or personal in nature, and in the case of real property, the acquisition may include the fee or any lesser interest therein. Property may be acquired by gift, grant, bequest, devise, lease, purchase, condemnation, or otherwise. Property may be acquired by the Department, using such funds as may be appropriated for such purpose. The Department may receive gifts and grants from public and private sources to be used for the purposes of this Chapter.

§ 13985.5. Condemnation. In the event that a property which has been found by the Department to be important for public ownership or assistance is in danger of being sold, used, or neglected to such an extent that its historical or cultural importance will be destroyed or seriously impaired, or that the property is otherwise in danger of destruction or serious impairment, the Department in cooperation with the Department of Land Management may acquire the historical property or any interest therein by condemnation under the laws of this territory. All condemnation proceedings shall be instituted and prosecuted in the name of the territory.

§ 13985.6. Interest acquired. In the case of real property the interest acquired shall be limited to that estate, agency, interest, or term deemed by the Department to be reasonably necessary for the continued protection or preservation of the property. The Department may acquire the fee simple title, but where it finds that a lesser interest, including any development right, negative or affirmative easement, a grant, or appurtenant covenant, lease, or other contractual right of or to any real property, to be the most practical and economical method of protecting and preserving historical property, the lesser interest may be acquired.

§ 13985.7. Operation of properties. Any historic property acquired, whether in fee or otherwise, may be used, maintained, improved, restored, or operated by the Department for any public purpose within its powers and not inconsistent with the purpose of the continued preservation of the property. Such historic property shall not be subject to condemnation unless such method of acquisition is first approved by the Governor.

§ 13985.8. Conveyance of properties. In appropriate cases, the Department of Land Management with the concurrence of the Department may acquire or dispose of the fee or lesser interest in any historic property, including adjacent and associated lands, for the specific purpose of conveying or leasing the property back to its original owner or to any such other person, firm, association, corporation, or other organization under such covenants, deed restrictions, lease, or other contractual arrangements as will limit the future use of the property in such a way as to insure its preservation. In all cases where property is conveyed, it shall be subjected by covenant or otherwise to such rights of access, public visitation, and other conditions or restrictions of operation, maintenance, restoration, and repair as the Department may prescribe, or to such conditions as may be agreed upon between the Department and the grantee or lessee to accomplish the purposes of this section.

§ 13985.9. Contracts. The Department may enter into and carry out contracts with the Federal government or any agency thereof under which the Federal government or agency grants financial or other assistance to the Department to further the purposes of this Chapter. The Department may agree to and comply with any reasonable conditions not inconsistent with territorial law which are imposed on such grants. Such grant funds or other assistance may be accepted from the Federal government or agency and expended whether or not pursuant to a contract. The Department may further enter into and carry out contracts with any private party to further the purpose of this Chapter.

§ 13985.10. Entry upon private land. The Department is authorized to enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof; provided that no member, employee or agent of the Department may enter any private building or structure without the express consent of the owner or occupant thereof.

§ 13985.11. Excavation and removal of prehistoric and historic remains or objects on private lands.

(a) Before any prehistoric remains or objects are excavated or removed from private lands by the Department, the Department or its designated representatives may, for the purpose of examining the remains or objects, enter upon the land and make investigations. The entry shall not constitute a cause of action in favor of the owner of the land, except for damages resulting from willful acts or negligence on the part of the Department or its designated representatives.

(b) Removal of any prehistoric or historic remains or objects from private lands shall be made in the presence of the owner or his representative. Whenever any prehistoric or historic remains or objects are excavated or removed from private lands by the Department or its designated representatives, the owner of such lands shall be compensated for the loss of such remains or objects at a sum mutually agreed upon by the Department and the owner, or if no agreement is reached, the amount of compensation shall be determined by trial in the Superior Court and measured by the fair market value of such remains, assessed as of the date of its removal by the Department or its designated representatives, and established by the testimony of experts qualified in the appraisal of such remains or objects.

§ 13005.12. Court actions. Where any violation of this Chapter occurs, or is likely to occur, which will result in unauthorized or improper demolition, alteration, or transfer of historic property, the Attorney General, any agency of the territory, any person, partnership, corporation, association, organization, or other legal entity may maintain an action in the Superior Court for declaratory and equitable relief against the territory, any person, partnership, corporation, association, organization, or other legal entity for the protection of a historic property and the public trust therein. Any party who prevails in an action brought under the provisions of this section shall be awarded his costs, including reasonable attorney fees.

§ 13005.13. Guam Museum as a depository for certain specimens and objects. Any specimen and object of natural history and of botanical, ethnological, or archaeological value or interest, and any book, treatise, or pamphlet relating to natural history, botany, ethnology, or archaeology now in the possession of the University of Guam, or any territorial department, bureau, or board, or which may hereafter come into the possession of the university or the department, bureau, or board, if and when the same is no longer needed for scientific investigation, for study, or for any other purpose by the university or the department, bureau, or board may, at the request of the museum be transferred and delivered by and with the consent of such department, bureau, or board having possession of to the museum or exchanged with the museum, and whereupon, in any such case, the title thereto shall become vested in the museum, provided, that the specimens and objects so transferred to the museum are made available at all reasonable times by the museum for study and examination by the officials of the university or such department, bureau, or board.

§ 13005.14. Designation of historic sites. The Department shall designate particular places as places of historic interest, and take such action, including the erection of signs or markers, as may be appropriate for public recognition and appreciation of such sites.

PART II

Conservation of Archaeological Resources

- § 13005.15. Declaration of legislative intent
- § 13005.16. Definitions
- § 13005.17. Archaeological resources on government land
- § 13005.18. Archaeological investigation, recording, and salvage; appropriations
- § 13005.19. Prehistoric and historic sites and remains
- § 13005.20. Permits to examine ruins, excavate, and gather objects on public lands
- § 13005.21. Monumental reservation of land; relinquishment of private claims
- § 13005.22. Excavation and removal of prehistoric and historic remains on private lands
- § 13005.23. Cooperation of other governmental units
- § 13005.24. Field investigations on private lands
- § 13005.25. Penalties
- § 13005.26. Prehistoric or historic objects; public property
- § 13005.27. Reproductions of prehistorical or historical objects; representation as originals; penalties
- § 13005.28. Removal and trespass

§ 13005.15. Declaration of legislative intent. The Legislature declares that the public has an interest in the preservation and protection of the territory's archaeological resources; that the public has a right to the knowledge to be derived and gained from a scientific study of these resources, and that therefore it is the purpose of this part to provide that activities for the preservation, excavation, study, and exhibition of the territory's archaeological resources be undertaken in a coordinated and organized manner for the general welfare of the public as a whole.

§ 13005.16. Definitions. As used in this part:

(1) "Field investigation" means the study of the traces of human culture at any land or water site by means of surveying, digging, sampling, excavating, or removing surface or subsurface objects, or going on a site with that intent.

(2) "Site" means any aboriginal mound, homesite, earthwork, village location, burial ground, historic or prehistoric ruin, quarry, cave, or other location which is or may be the source of important archaeological data.

(3) "Specimens" mean all relics, artifacts, remains, objects, or any other evidence of a historical, prehistorical, archaeological, or anthropological nature, which may be found on or below the surface of the earth, and which have scientific or historic value as objects of antiquity, as aboriginal relics or as archaeological samples.

§ 13005.17. Archaeological resources on government land. The territory reserves to itself the exclusive right and privilege of field investigation on sites owned or controlled by the territory, its agencies, departments, or institutions in order to protect and preserve archaeological and scientific information and objects. All new information and objects deriving from government lands shall remain the property of the territory and be utilized for scientific or public educational purposes.

§ 13005.18. Archaeological investigation, recording, and salvage; appropriations. Whenever any public construction or improvement of any nature whatsoever is undertaken by any government agency on lands which are controlled or owned by the territory and which are sites of historic or prehistoric interest and value, or locations of prehistoric or historic remains, one per cent of the appropriation for such public construction or improvement, or so much thereof as may be necessary, shall be expended by the department for the archaeological investigation, recording, and salvage of such sites or remains where it is deemed necessary by the department.

§ 13005.19. Prehistoric and historic sites and remains.

(a) The Department shall locate, identify, and preserve in the Guam Register of Historic Places information regarding prehistoric and historic sites, locations, and remains. The Department of Land Management shall clearly designate on its records and cadastral maps of the territory, the location of all prehistoric and historic sites, or locations and remains.

(b) Before any public construction or improvement of any nature whatsoever is undertaken by the territory, or any governmental agency or officer, the head of such agency or such officer shall first examine the Department's records and cadastral map of the area to be affected by such public construction or improvement to determine whether any site listed upon the Guam Register of Historic Places is present. If so designated, the proposed public construction or improvement shall not be commenced, or, in the event it has already begun, continued, until the head of such agency or such other officer shall have advised the Department of the proposed public construction or improvement and shall have secured the concurrence of the Department or, as hereafter provided, shall have secured the written approval of the Governor.

If the concurrence of the Department is not obtained within ninety days after the filing of a request therefor with the Department or after the filing of a notice of objections by the Department with the agency or officer seeking to proceed with any project, such agency or officer may apply to the Governor for permission to proceed notwithstanding the nonconcurrence of the Department and the Governor may take such action as he deems best in overruling or sustaining the Department.

(c) Before any construction, alteration, or improvement of any nature whatsoever is undertaken or commenced on a designated private prehistoric or historic site listed on the Guam Register of Historic Places by any person, he shall give to the Department three (3) months notice of intention to construct, alter, or improve the site.

After the expiration of the three-month notification period, the Department shall either commence condemnation proceedings for the purchase of the site or remains, permit the owner to proceed with his construction, alteration, or improvement, or undertake or permit the recording and salvaging of any historical information deemed necessary to preserve Spanish-Chamorro history, by any qualified agency for this purpose.

Any person who violates the provisions of the first paragraph of this subsection shall be fined not more than One Thousand Dollars (\$1,000) or imprisoned not more than ninety (90) days or both.

(d) Inclusion of any historic site structure, building or object on the Guam Register of Historic Places shall be by the majority affirmative vote of the Guam Review Board for Historic Preservation.

§ 13005.20. Permits to examine ruins, excavate, and gather objects on public lands. Permits for the examination of ruins, excavation of archaeological sites, and the gathering of objects of antiquity upon lands owned or controlled by the territory may be granted by the Department to persons or institutions which they deem properly qualified to conduct such examination, excavation, or gathering, subject to such rules and regulations as the Department may prescribe; provided, that the examinations, excavations, and gatherings are undertaken for the benefit of public museums, universities, colleges, or other recognized public scientific or educational institutions, with a view to increasing the knowledge of such objects and that the gatherings may be made for permanent preservation in public museums if so deemed by the Department.

§ 13005.21. Monumental reservation of land; relinquishing of private claims. Upon the recommendation of the Department, the Governor may declare by executive order historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the territory to be territorial monuments and may reserve as a part thereof

parcels of land the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected. When such objects are situated upon a tract covered by a lease held in perpetuity or held in private ownership, the trust, or as much thereof as may be necessary for the proper care and management of the object, may be relinquished to the territory, and the Governor is authorized to accept the relinquishment of such tracts on behalf of the territory.

§ 13985.22. Excavation and removal of prehistoric and historic remains on private lands. Before any prehistoric or historic remains are excavated or removed from private lands by the Department, the department or its designated investigators shall first secure the written approval of the owner of such lands. Whenever the value of the private prehistoric or historic site is diminished by the excavation or removal of prehistoric or historic remains by the Department, the owner of the site shall be compensated for the loss, at a monetary sum mutually agreed upon by the Department and the owner or at a monetary sum set by the court.

§ 13985.23. Cooperation of other governmental units. All agencies, departments, institutions, and commissions, shall cooperate fully with the Department in the preservation, protection, excavation, and evaluation of specimens and sites and to that end:

(1) When any agency finds or is made aware by an appropriate historical or archaeological authority that its operations in connection with any territory, territory assisted, territory licensed, or contracted project, activity, or program adversely affects or may adversely affect scientific, historical, or archaeological data, such agency shall notify the Department and shall provide the Department with appropriate information concerning the project, program, or activity. The provisions of this section shall be made known to contractors by the territorial agencies doing the contracting.

(2) The Department, upon notification or determination that scientific, historical, or archaeological data including relics and specimens, is or may be adversely affected, shall, after reasonable notice to the responsible agency, conduct or cause to be conducted a survey and other investigations to recover and preserve or otherwise protect data, including analysis and publication, which in its opinion should be recovered in the interest.

(3) The Department shall initiate action within sixty (60) days of notification under Paragraph (1) and within such time as agreed upon in other cases. The responsible agency is authorized and directed to expend agency funds for the purpose of recovering such data, including analysis and publications, and such costs shall be included as part of the contractor's costs if the adverse effect is caused by work being done under contract to a territorial agency.

§ 13985.24. Field investigations on privately owned lands. It is the declared intention of the Legislature that field investigations on privately owned lands should be discouraged except in accordance with both the provisions and spirit of this Chapter, and persons having knowledge of the location of archaeological sites are encouraged to communicate such information to the Department.

§ 13985.25. Penalties. It shall be unlawful for any person to take, appropriate, excavate, injure, or destroy any prehistoric or historic relic or monument or object of antiquity, situated on lands owned or controlled by the territory without the permission of the Department. Any person who violates this section shall be fined not more than One Thousand Dollars (\$1,000) or imprisoned not more than ninety (90) days, or both.

Any prehistoric and historic objects and remains which have been taken without a permit shall be seized, deposited, and preserved in public museums by the Department.

§ 13985.26. Prehistoric or historic objects; public property. The Department shall, subject to the provisions of this Chapter, determine the disposition of such prehistoric or historic remains or objects wherever located within the territory which are the property of the territory. Any person who disturbs remains or objects of prehistoric or historic significance or removes such remains or objects from its site with the intent to convert the object to his own use or for the use of others shall be fined not more than One Thousand Dollars (\$1,000) or imprisoned not more than ninety (90) days, or both.

When a private landowner or lessee in the territory discovers remains or objects which may be of historic significance on his property, he shall report the location of such remains or objects, without disturbing the remains or objects, to the Department. Such private landowner shall be compensated, in accordance with § 13985.22, for any prehistoric or historic remains or objects excavated or removed from his lands by the Department.

§ 13985.27. Reproduction of prehistoric or historic objects; representation as originals; penalties. It shall be unlawful to reproduce or forge a prehistoric or historic object with the intent to represent it as an original. Any person who violates this section shall be fined not more than One Thousand Dollars (\$1,000) or imprisoned not more than ninety (90) days, or both.

§ 13985.28. Removal and trespass. It shall be deemed an act of trespass for any person, natural or corporate, to remove artifacts and antiquities of the kind described herein from the private land of any owner thereof without his permission being first obtained, and any person so doing shall be guilty of a misdemeanor punishable by a fine not exceeding Five Hundred Dollars (\$500) or by imprisonment for a period not to exceed six (6) months, or both.

Part III

Protection and Recovery of Underwater Historic Property and Sites

- § 13985.29. Declaration of legislative intent
- § 13985.30. Definitions
- § 13985.31. Title to underwater historic property
- § 13985.32. Custody of underwater historic property
- § 13985.33. Salvage research
- § 13985.34. Permits
- § 13985.35. Penalties

§ 13985.29. Declaration of legislative intent. The Legislature declares that the public has an interest in the protection and salvage of underwater historic properties situated under the navigable waters and territorial seas of the territory; that the public has a right to the knowledge to be derived and gained from a scientific study of these materials; and that therefore it is the purpose of this part to provide that activities for the protection, recovery, study, and exhibition of underwater historic properties be undertaken in a coordinated and organized manner for the general welfare of the public as a whole.

§ 13985.30. Definitions. As used in this part, 'underwater historic property' means any shipwreck, vessel, cargo, tackle, or underwater archaeological specimen, including any found at refuse sites or submerged sites of former habitation, that has remained unclaimed for more than ten (10) years on the bottoms of any waters.

§ 13985.31. Title to underwater historic property. Subject to any statute of the United States and any vested riparian rights, the title to all bottoms of navigable water within Guam's boundaries and the title to any underwater historic property lying on or under such bottoms is declared to be in the territory, and such bottoms and underwater historic properties shall be subject to the exclusive dominion and control of the territory.

§ 13985.32. Custody of underwater historic property. The custodian of underwater historic properties as defined in § 13985.29 and § 13985.30 shall be the Department which shall administer the preservation and protection of these properties as hereinafter directed by this part. The Department is empowered to prescribe such rules and regulations as may be necessary to preserve, protect, and recover any or all underwater historic properties.

§ 13985.33. Salvage research. The Department shall establish a center responsible for salvage research in areas designated by the Department as endangered by the lease, sale, or use of public or private lands.

§ 13985.34. Permits. Any qualified person, firm, or corporation desiring to conduct any type of exploration or recovery operations in the course of which any underwater historic property or part thereof may be removed, displaced, or destroyed, shall first make application to the Department for a permit to conduct such operations. If the Department finds that the granting of such permit is in the best interest of the territory, it may grant such applicant a permit for such a period of time and under such conditions as the Department deems to be in the best interest of the territory. Such permit may provide for the fair compensation to the permittee in terms of a percentage of the reasonable cash value of the objects recovered or a fair share of the objects recovered, such fair compensation or share to be determined by the Department. Superior title to all objects recovered shall be retained by the territory unless or until they are released to the permittee by the Department. All exploration and recovery operations undertaken pursuant to a permit issued under this section shall be carried out under the general supervision of the Department and in accordance with the rules and regulations

prescribed under § 13985.32 and in such manner that the maximum amount of historic, scientific, archaeological, and educational information may be recovered and preserved in addition to the physical recovery of items. Permits may be renewed upon or prior to expiration upon such terms as the Department may specify. Holders of permits shall be responsible for obtaining permission of any Federal agencies having jurisdiction prior to conducting any salvaging operations.

§ 13985.34. Penalties. Any person violating the provisions of this part or any rules and regulations duly established thereunder shall be guilty of a misdemeanor punishable by a fine not exceeding Five Hundred Dollars (\$500) or by imprisonment for a period not to exceed six (6) months, or both, and, in addition, shall forfeit to the territory any artifacts or objects collected.

Part IV

Guam Institute of Spanish-Chamorro Culture

- § 13985.36. Statement of purpose
- § 13985.37. Establishment of Guam Institute of Spanish-Chamorro Culture; board of trustees
- § 13985.38. Powers and duties
- § 13985.39. Development of support programs
- § 13985.40. Annual report

§ 13985.36. Statement of purpose. The purpose of this part is to create a nonprofit corporation for historic and cultural preservation, research, restoration, presentation, museum activities, and support programs; and in cooperation with and in assistance to the Department and other territorial agencies to receive sites, buildings, and objects significant in Guam's history and culture, to preserve and administer them for public benefit; to accept, hold, and administer gifts, securities, grants, scholarships, endowments, private bequests, or other property of whatever character for a comprehensive historic and cultural preservation and museum's program.

This corporation shall be the depository of all resources which are made available or offered of desirable land, historical collections, and donations made by groups and persons as gifts to the territory to help preserve the Spanish-Chamorro heritage.

§ 13985.37. Establishment of the Guam Institute of Spanish-Chamorro Culture; board of trustees. There is created an educational, nonprofit corporation to be known as the Guam Institute of Spanish-Chamorro Culture which shall be headed by a board of trustees.

The board shall consist of eleven (11) members of which the following shall serve as ex-officio voting members of the board:

- (1) President of the University of Guam,
- (2) Director of the Micronesia Area Research Center,
- (3) Director of the Central Planning Commission,
- (4) Director of Parks and Recreation,
- (5) Attorney General.

The remaining members shall be chosen by the members of the Institute from its membership at any regular meeting of the Institute except that the initial members of the board shall be appointed by the Governor. Each member of the board other than ex-officio members shall serve for a term of five (5) years from the expiration of his predecessor's term, except that the members first appointed shall serve for terms of from one (1) to five (5) years as designated by the Governor at the time of appointment.

A vacancy in the board shall be filled for the balance of the unexpired term as prescribed in the rules and regulations of the Institute. The chairman of the board shall be elected by majority vote of the members of the board. No compensation shall be paid to members of the board of trustees for their services as such members, but they may be reimbursed for travel and actual and reasonable expenses necessarily incurred by them in attending board meetings and performing other official duties on behalf of the Institute at the direction of the board.

Membership shall be open to any resident of Guam upon payment of such reasonable fees as the board of trustees may prescribe. (Amended by P.L. 12-209, effective January 23, 1975.)

§ 13985.38. Powers and duties. The Guam Institute of Spanish-Chamorro Culture shall have the following powers and duties:

- (1) To have succession until dissolved by act of the Legislature, in which event title to the properties of the Institute, both real and personal, shall, insofar as consistent with existing contractual obligations and subject to all other legally enforceable claims or demands by or against the Institute, pass to and become vested in the territory;
- (2) To sue or be sued in its corporate name;
- (3) To adopt, alter, and use a corporate seal;
- (4) To adopt a constitution and to make such bylaws, rules, and regulations, not inconsistent with the laws of the territory, as it deems necessary for the administration of its functions, bylaws, rules, and regulations governing visitation to historic properties, museums, and other facilities under its control, administration of corporate funds, and

the organization and procedure of the board of trustees;

(6) To select and employ a director to serve on a full-time basis who shall be a native-born resident who by reason of education or extensive experience is generally recognized as being professionally qualified in the field of Spanish-Chamorro culture, who shall receive a salary of Twenty-Five Thousand Dollars (\$25,000) per year. The director shall exercise the powers and duties of the Institute under the direction of the board of trustees and shall select necessary additional staff subject to Title V of the Government Code, within available appropriations;

(5) To administer and direct the operations of the Guam Museum. The Institute director shall serve as the museum director and shall have necessary additional staff subject to Title V of the Government Code. The Institute shall submit in its first annual report recommendations as to the responsibility and role which the museum should assume with respect to the preservation and furtherance of the historic, archaeological, architectural, and cultural heritage of Guam and as to organization and administrative arrangements which should be provided for by law or otherwise;

(7) To accept, hold, and administer funds and properties from private or governmental agencies for the purposes for which the Institute is created and in accordance with such conditions as the transferring agency or the Legislature may prescribe.

(8) To accept, hold, and administer gifts and bequests of money, securities, or other personal property of whatever character, in trust, for the purposes for which the Institute is created. Unless otherwise restricted by the terms of the bequest or gift, the Institute is authorized to sell, exchange, or otherwise dispose of, and to invest or reinvest in such investments as it may determine from time to time the moneys, securities, or other property given or bequeathed to it. The principal of such corporate funds, together with the income therefrom and all other revenues received by it from any source whatsoever, shall be placed in such depositories as the Institute shall determine and shall be subject to expenditure by the Institute for its corporate purposes;

(9) To acquire by gift, devise, purchase, and to hold in trust real property for the territory and for the people of Guam unless otherwise restricted by the terms of the gift or devise, to encumber, convey, or otherwise dispose of any real property, or any estate or interest therein with the exception that no designated historic site or monument may be encumbered, conveyed, or disposed of without legislative approval, as may be necessary and proper in carrying into effect the purposes of the Institute;

(10) To conduct research, studies, and investigations in the fields of history and the humanities, and to make, publish, and distribute the results thereof;

(11) To coordinate and correlate activities and projects of the Institute with the work of the University of Guam, the Department, and other territorial agencies to further the purposes of this Chapter;

(12) To stimulate, guide and promote the Spanish-Chamorro culture which includes the arts, music, festivities, customs, traditions and mores of the Spanish-Chamorro heritage;

(13) To assist in coordinating the plans, programs and activities of individuals, associations, corporations, and agencies concerned with the preservation and furtherance of Spanish-Chamorro culture;

(14) To review the work of the Department and to collaborate with it on its functions under this Chapter, pertaining to historical objects and sites, and to review such surveys and historic preservation plans as may be required, and to approve properties for nomination to the National Register as provided for in the Historic Preservation Act of 1966, Public Law 89-665.

(15) To establish within the Institute, a review board for the Guam Register of Historic Places, which meets the requirements of Public Law 89-665, to evaluate and nominate historical properties to the National Register of Historic Places pursuant to Public Law 89-665, and to order and enter historical and archaeological sites into the Guam Register of Historic Places on the basis of their value to Guam's heritage. The review board shall be appointed by the board of trustees of the Institute and as more than two (2) members of the board of trustees shall be appointed to the review board. Trustee-members of the review board may be reimbursed at the same rate as other members of the review board for official duties performed while serving on the review board. Until such time as the review board is established in accordance with this subsection, the Guam Review Board for Historic Preservation which was created by Executive Order 73-37 shall discharge the responsibilities of this subsection;

(16) To enter into contracts and to execute all instruments necessary and appropriate to carry out the purposes of the foundation;

(17) To approve all designations of particular places as places of historical interest;

(18) To establish and maintain an inventory, and certification and evaluation system for portable artifacts significant to Guam's cultural heritage; and

(19) To maintain a living war memorial commemorating the sacrifices of our heroic dead of World War II.

§ 13085.38. Development of support programs. The Institute shall develop a continuing comprehensive museum and museum activities support program in furtherance of its responsibility under § 13085.37 which shall include, but not be limited to:

- (1) Providing matching grants-in-aid to governmental or private agencies for projects which fulfill the purpose of this part;
- (2) Providing technical assistance and staff development and training opportunities; and
- (3) Assisting in the training of competent personnel and in the development of employment and career opportunities in museum and related fields.

§ 13085.40. Annual report. The Institute shall submit an annual report to the Governor and the Legislature. The report shall include, but not be limited to, the total number and amount of gifts received, payroll disbursements, contracts entered into, programs and accomplishments made during the year, and recommendations for legislative and administrative action for the preservation and furtherance of the goals and purpose of this Act.

Part V

Preservation Procedures in Guad Territory Agencies

- § 13085.41. Declaration of legislative intent to preserve.
 § 13085.42. Responsibilities of territorial agencies

§ 13085.41. Declaration of legislative intent. The Legislature declares it to be the public policy of this territory to provide leadership in preserving, restoring, and maintaining the historic, architectural, archaeological, and cultural environment of this territory and that therefore it is the purpose of this part to provide that the instrumentalities of the territory administer the historic properties under their control in a spirit of stewardship and trusteeship for future generations and conduct their activities, plans, and programs in a manner consistent with preservation and enhancement of historic properties and sites.

§ 13085.42. Responsibilities of territorial agencies. All agencies, departments, bureaus, and commissions of the territory, shall:

- (1) Consult the Guam Institute of Spanish-Chamorro Culture before demolishing, altering, or transferring any property under their jurisdiction that is potentially of historical, architectural, archaeological, or cultural significance, including, but not limited to, any property listed on the territorial register.
- (2) Initiate measures and procedures to provide for the maintenance, through preservation, rehabilitation, or restoration, of properties under their ownership that are listed on the territorial or national register, such measures and procedures shall comply with applicable standards prescribed by the Department.
- (3) Develop plans for the maintenance, through preservation, rehabilitation, or restoration, of historic properties under their ownership in a manner compatible with preservation objectives and which do not result in an unreasonable economic burden to public interest.
- (4) Institute procedures to assure that their plans, programs, rules, and regulations contribute to the preservation and enhancement of historic structures, and objects of historical, architectural, archaeological, or cultural significance.
- (5) Submit annually procedures required pursuant to Paragraphs (2), (3), and (4) to the Department and the Institute for review and comment.
- (6) Determine whether their existence is no longer necessary in view of the Institute's responsibilities and if so, to report same to the Institute.

TITLE XXVII

Parks and Recreation

CHAPTER I

Parks and Recreation

- § 28000. Definitions
 § 28001. Department Purpose
 § 28002. Same: Divisions
 § 28003. Director: Duties
 § 28004. Commission: Purpose
 § 28005. Same: Composition: Compensation: Meetings
 § 28006. Same: Duties
 § 28007. Guam Territorial Park System
 § 28008. Same: Description
 § 28009. Same: Classification
 § 28010. Community Parks and Recreation Facilities Control
 § 28011. Parks Division: Duties
 § 28012. Parks Fund: Establishment: Management
 § 28013. Same: Revenues from Commission and Use
 § 28014. Same: Donations: Provisions
 § 28015. Voluntary Improvements
 § 28016. Damage to Property
 § 28017. Recreation Division: Powers and Duties
 § 28018. Community Recreation Programs
 § 28019. Compliance with Federal Programs

§ 28000. Definitions. As used in this Chapter, unless otherwise indicated by the context:

- (a) "Department" means the Department of Parks and Recreation.
- (b) "Director" means the Director of the Department of Parks and Recreation.
- (c) "Commission" means the Parks and Recreation Commission.

§ 28001. Department Purpose. The Department shall be responsible for the accomplishment of the provisions of this Chapter and Chapter XIII, Title XIV of this Code.

§ 28002. Same: Divisions. The Department is divided into two divisions, to be known as the Parks Division and the Recreation Division.

§ 28003. Director: Duties. The Director shall have the following duties:

- (a) To establish rules and regulations to accomplish the purpose of the Department;
- (b) To administer the Department through such organizational units which he may establish;
- (c) To attend, ex-officio, all meetings of the Commission;
- (d) To prescribe the duties of assistants, deputies, agents and other persons employed by the Department;
- (e) To determine which properties constitute the Guam Territorial Park System and to classify such properties pursuant to § 28007 and § 28009;
- (f) To manage the Parks Fund pursuant to § 28012; and
- (g) To be the Liaison Officer for the Bureau of Outdoor Recreation, State Liaison Officer for Historic Preservation and State Officer for Forestry and Conservation Programs.

§ 28004. Commission: Purpose. The Commission is hereby established for the purpose of appointing, removing, and advising the Director.

§ 28005. Same: Composition: Compensation: Meetings. The Commission shall consist of seven (7) members, two (2) of whom shall be youth members in their first terms on the Board who are between the ages of eighteen (18) and twenty-two (22), when appointed, who shall be appointed by the Governor with the consent of the Legislature. The Governor shall appoint commission members within 30 days of the effective date of this section. Members shall serve for four (4) years, provided that of the members first appointed, three (3), including one (1) youth member, shall serve for two (2) years. Commission members shall serve without pay but shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties. Commission meetings shall be public.

§ 28006. Same: Duties. The Commission shall have the following duties:

- (a) To appoint, within 15 days of the effective date of this section or within 15 days of the granting of a vacancy in such office, the Director, who shall serve at its pleasure, the affirmative vote of not less than four (4) members being necessary to appoint or remove him;

(b) To advise the Director on such matters relative to the Department as he shall bring before it, at meetings called by him;
 (c) To meet at the request of any of its members to discuss such matters relative to the Department as it deems appropriate and to make recommendations to the Director thereon; and
 (d) To make a report to the Governor and the Legislature not later than July 1 of each year delineating activities of the Department during the preceding fiscal year, and outlining the plans of the Department for the coming fiscal year.

§ 26007. **Guam Territorial Park System.** There is hereby created the Guam Territorial Park System. The Director of Parks and Recreation shall inventory all properties belonging to the government of Guam and determine which properties shall be included therein. A detailed list shall be forwarded to the Speaker of the Legislature and the Legislature shall approve or disapprove those properties to be included within the Territorial Park System, within thirty (30) legislative days following receipt of such a list and failure to do so shall be deemed consent by the Legislature.

§ 26008. **Same Description.** The Territorial Surveyor shall provide the Director with maps of record for all property within the Guam Territorial Park System not later than eighteen (18) months after request by the Director. The Department of Land Management shall similarly provide recorded document numbers for all such property.

§ 26009. **Same Classification.** The Director shall classify, and may subsequently reclassify, each area of the Guam Territorial Park System according to (a) through (e) below, unless an area is listed in the Guam Register of Historic Places pursuant to § 13985.19(a) of this Code, in which case such area shall be classified according to (e) below:

- (a) 'Natural Preserves', which are to remain unimproved;
- (b) 'Conservation Reserves', which may be improved for the purpose of making them accessible to the public in a manner consistent with the preservation of their natural features;
- (c) 'Territorial Parks' or 'Community Parks', which may be improved for the purpose of providing public recreational facilities in a manner consistent with the preservation of their natural features;
- (d) 'Territorial Recreation Facilities' or 'Community Recreation Facilities', which may be improved for the purpose of providing public recreation facilities; and
- (e) 'Historical and Pre-Historic Objects and Sites', which shall be administered according to Chapter XIII, Title XIV of this Code.

§ 26010. **Community Parks and Recreation Facilities: Control.** The control, management, development and maintenance of areas classified as 'Community Parks' and 'Community Recreation Facilities' shall be vested in the Commissioner of the municipality or village in which such area is located.

§ 26011. **Parks Division: Duties.** The Parks Division shall have the following duties:

- (a) To control, manage, develop and maintain all areas of the Guam Territorial Park System except as provided in § 26010; and
- (b) To keep a listing of all areas of the Guam Territorial Park System according to classification, with current, accurate descriptions thereof as determined by the Director in accordance with § 26007.

§ 26012. **Parks Fund: Establishment Management.** There is hereby established separate and apart from any other government fund a Parks Fund. Monies therein shall be only as appropriated by the Legislature for the development or improvement of the Guam Territorial Park System. The Fund shall be managed by the Director, who may invest any of the monies there in such bank deposits, bonds or securities authorized by Chapter III, Title V of this Code, provided, that such monies shall be invested so as to be available for use within thirty (30) days of the effective date of any legislative appropriation made thereof. The Department certifying officer shall be the certifying officer for the Fund.

§ 26013. **Same Revenues from Concessions and Uses.** The Director may grant permits to individuals or groups to establish concessions on or otherwise use any part of the Territorial Park System, the fees for which shall be deposited in the Parks Fund; provided, that any person or group granted such a permit must give bond in such amount as, in the opinion of the Director, is necessary to insure that any damage to the System caused by such person or group, including littering, can be rectified.

§ 26014. **Same Donations Proviso.** Money or the proceeds of any property donated, granted or bequeathed generally for the benefit of the Guam Territorial Park System shall be deposited in the Parks Fund; provided, however, that money or property donated, granted or bequeathed for specific purposes, concerning the System or any part thereof shall be held in trust by the Director, and may be used for such purposes only upon authorization by the Legislature.

§ 26015. **Voluntary Improvements.** The Director may grant permits to any individuals or group to improve, without expense to the government, any part of the Guam Territorial Park System.

§ 26016. **Damage to Property.** Any person who injures or damages any property within the Guam Territorial Park System, or who removes, destroys, or defaces any tree, shrub, plant, or other attraction of any nature on or in such property is guilty of a misdemeanor, punishable by a fine not to exceed Five Hundred Dollars (\$500.00) per violation.

§ 26017. **Recreation Division: Powers and Duties.** The Recreation Division shall be responsible for:

- (a) Initiating, promoting and supervising recreational programs on areas within the Guam Territorial Park System, except as provided in § 26018, and, with the consent of the Department of Education, initiating, promoting and supervising recreational programs on properties under the control of the Department of Education;

- (b) Providing equipment necessary to accomplish (a) above;
- (c) Formulating a comprehensive recreation policy and a long range plan relative to the development of new recreation facilities and programs within the territory; such policy and plan to be developed in cooperation with other federal and territorial agencies, interested organizations and citizens, and to be submitted to the Legislature within one (1) year of the effective date of this section; and

- (d) Performing such other duties and functions pertaining to the promotion of public recreation as may from time to time be prescribed by the Director.

§ 26018. **Community Recreation Programs.** The initiation, promotion, and supervision of recreation programs in Community parks and Recreation Facilities, and the supplying of equipment therefor, is the responsibility of the Commissioners of the municipality or village in which such Park or Recreation Facility is located.

§ 26019. **Compliance with Federal Programs.** The Department may serve as the agency for compliance with the terms of any Federal program, as determined by the Governor, which concerns the implementation or development of plans for the conservation or utilization of water and related land resources. (Chapter I of Title XXVII added in 1952; Repealed and reenacted by P.L. 12-209, effective January 23, 1975.)

CHAPTER V-B

Ocean Shore/Territory Beach Areas

- § 13450. Legislative findings
- § 13451. Legislative policy
- § 13452. Construction and interpretation
- § 13453. Definitions
- § 13454. Ownership of Guam ocean shore
- § 13455. Vesting of public rights in ocean shore
- § 13456. Acquisition of ocean shore
- § 13457. Ocean shore not to be alienated
- § 13458. Title and rights of territory unimpaired
- § 13459. Liability of property owners of ocean shore
- § 13460. Landowner declaration of control of ocean shore

§ 13450. Legislative findings. The Legislature declares that:

(a) The traditional pattern of land ownership of land abutting the beaches and ocean shores of Guam is that a strip of dry land between the mean high watermark as can be physically established from the latest tide elevation data published by the U.S. Coast and Geodetic Survey, and privately-owned land is owned by the government for general use of the inhabitants of the island, being open and available to all users, both for recreational purposes and as a means of livelihood for throwaway fishermen;

(b) The shore side boundaries of privately-owned real properties which were surveyed before World War II did not extend to the mean high watermark, as can be testified to respecting the privately-owned land along Agaña Bay in the Organized villages of Asan, Piti and Agaña;

(c) Since World War II, an increasing amount of the government-owned land abounding the sea has been alienated and lost to private ownership;

(d) Although fee title to the ocean shore may have vested in private individuals, the Legislature recognizes that over the years the public has made frequent and uninterrupted use of such ocean shore and recognizes, further, that where such use has been legally sufficient to create rights or easements in the public through dedication, prescription, grant, or otherwise, that it is in the public interest to protect and preserve such public rights or easements as a permanent part of Guam's recreational resources;

(e) The indiscriminate building of structures on the ocean shores of Guam creates a menace to the well-being of the people of the territory by increasing the pollution of tidal waters, and such construction, in addition, deprives the people of Guam of their right to untrammeled use of beach areas above the mean high watermark;

(f) Such construction destroys the natural beauty of Guam's ocean shores, one of the territory's greatest natural resources; and

(g) Finally, in spite of the enactment of certain laws and the adoption of numerous resolutions for the protection and preservation of the beach areas of Guam, the Executive Branch of the government, which has the responsibility for enforcing these laws and implementing the resolutions adopted, has failed to adequately preserve and protect that strip of said land above the mean high watermark which belongs to the people of Guam.

§ 13451. Legislative Policy. The Legislature of Guam hereby declares as the public policy of the territory of Guam that it is the public right to have unrestricted access to the ocean shores of Guam for common use by all the people of Guam, and therefore that strip of public land above the high mean watermark must be preserved and protected for all generations to assure free access to the beaches of the territory to the maximum extent, to preserve the natural beauty of Guam's beaches, and to alleviate the health problems caused by construction near tidal areas. It is, therefore, the purpose of this Chapter to forever preserve and maintain the sovereignty of the territory heretofore legally existing over the ocean shore of the territory so that the public may have the free and uninterrupted use thereof; to protect, settle and confirm the public rights to the use of the ocean shore heretofore acquired by public dedication, prescription, or otherwise and to authorize the reacquisition of the ocean shore where a portion thereof has been lost to private ownership and no public rights exist therein as a result of dedication, prescription, or otherwise.

§ 13452. Construction and interpretation. The Legislative findings and policy set forth in §§ 13450 and 13451 shall govern in the interpretation of any provision in this Chapter.

§ 13453. Definitions: 'ocean shore', 'territory recreational area'. As used in this Chapter, unless the context requires otherwise:

(1) 'Ocean shore' means the land between the mean low waterline and a series of lines connecting angle points located at a distance of twenty-five (25) feet inland from the two (2) feet contour line as established and described by the U.S. Coast and Geodetic Survey. The angle points shall be so selected as to secure maximum parallelism of the twenty-five (25) feet setback line with two (2) feet contour.

(2) 'Territory beach area' means a land or water area or combination thereof, under the jurisdiction of the Department of Parks and Recreation, used by the public for recreational and fishing purposes.

§ 13454. Ownership of Guam ocean shore. Ownership of the part of the ocean shore of Guam between mean high tide and extreme low tide, excepting such portions as may have been disposed of by the territory prior to January 1, 1972, is vested in the territory beach area.

§ 13455. Vesting of public rights in Guam ocean shore. All public rights or easements in any part of the ocean shore of Guam legally acquired through express dedication, implied dedication, prescription, grant, or otherwise are confirmed and declared vested exclusively in the territory beach area. No land subject to rights vested pursuant to this section shall, after the effective date of this Act, be registered pursuant to the provisions of Article I, Chapter IV, Title IV, Part IV, Division Second of the Civil Code of Guam, unless the registration is in the name of the government of Guam or clearly sets forth the existence of rights in the government of Guam.

§ 13456. Acquisition of Guam ocean shore. The Governor is hereby authorized and directed to acquire ownership of or interests in any part of the ocean shore of Guam where such lands are held in private ownership; provided, however, the Governor shall not acquire ownership of or interests in any such ocean shore if it is unregistered and frequent and uninterrupted use of the ocean shore by the public has been legally sufficient to create rights and easements in the public which are confirmed and vested pursuant to § 13455 of this Chapter; and provided further that any interest in such ocean shore acquired by the Governor which is less than full ownership thereof shall be sufficient to permit the Department of Parks and Recreation to administer the interest acquired as a territory beach area. Such acquisition from private owners shall either be by condemnation, exchange, or negotiated purchase, except that the price for such negotiated purchases shall not exceed the most recent appraised value of such property for real property taxes under Chapter IV, Title XX, Government Code of Guam, and if by exchange with government-owned property, only if the government-owned property to be exchanged has been included in the inventory of government land, or amendments thereto, provided under § 13505.1 of the Government Code of Guam.

§ 13457. Guam ocean shore not to be alienated; judicial confirmation of public rights in ocean shore. No portion of the ocean shore of Guam or any interest therein vested by §§ 13454 and 13455 of this Chapter or hereafter acquired by the territory of Guam or any political subdivision thereof shall be alienated by any agencies, departments, commissions or corporations of the territory except as expressly provided by law; provided, however, the restriction on alienation shall not apply to a judicial sale of such land resulting from a condemnation action brought by the United States of America or to an exchange of land made pursuant to § 13525(c) of this Code. The Department of Parks and Recreation, when necessary shall undertake appropriate court proceedings to protect, settle and confirm all public rights and easements vested in the territory pursuant to §§ 13454 and 13455 of this Chapter.

§ 13458. Title and rights of territory unimpaired. Nothing contained in this Chapter shall be construed to relinquish, impair or limit the sovereign title or rights of the territory of Guam in its shores as the same may exist before or after the effective date of this Chapter.

§ 13459. Liability of property owners of ocean shore. The owner or person in control of any property subject to a public easement declared a territory beach area by § 13455 of this Chapter or acquired as ocean shore for a territory recreational area pursuant to § 13456 of this Chapter shall not be liable for any injury to another person or damage to property of another resulting from a condition of the property within either area, unless the injury or damage results from a condition that he created and that he knew of or in the exercise of reasonable care, should have known was likely to cause injury to persons or damage to property.

§ 13460. Landowner declaration of continuing control of land along ocean shore: effect: failure to file.

(a) In any court proceedings involving prescriptive rights of the public over unregistered property abutting, adjacent or contiguous to the ocean shore, an instrument executed and filed as provided by Subsection (b) of this section shall be an act and declaration admissible as evidence of the intent of the owner or person in control of property to exercise dominion and control over his property.

(b) The declaration shall describe the property and shall be signed and acknowledged. It shall state that the public is granted permission to use the property, or a specifically described portion of the property, and that the public use may be for certain purposes which shall also be described. The declaration shall be filed in the Department of Parks and Recreation.

(c) Failure of the owner or person in control of property to execute and file the declaration as provided in Subsection (b) of this section shall not imply an intent to relinquish dominion and control over his property. [§§ 13450-13460 added by P.L. 12-19, effective April 24, 1973. Chapter V-B of TITLE XIV renumbered from Chapter V-A and renamed 'Ocean Shore/Territory Beach Areas', by P.L. 12-09, effective January 23, 1975.]

PL 19-5
Public Access to
the Ocean Shore

NINETEENTH GUAM LEGISLATURE
1987 (SECOND) Regular Session

Bill No. 476 *
Substituted by
Committee on Ways and Means
Further substituted by the
Committee on Rules
(7/27/87)

Introduced by:

T. S. Nelson
H. D. Dierking
F. R. Santos

J. T. San Agustin
E. P. Arriola
P. C. Lujan
P. C. Sanchez
At the request of the Governor

AN ACT TO AMEND THE APPROPRIATIONS MADE IN
P. L. 18-15, MAKING REPROGRAMMING APPROPRIATIONS
WITHIN THE VARIOUS DEPARTMENTS AND AGENCIES
AND FOR OTHER PURPOSES.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Part I of Section 2 of Chapter I (P.L. 18-15) is hereby repealed and
reenacted to read:

"I. GENERAL FUND REVENUES TAXES

	AMOUNT
Income Taxes (Corporate and Individual)	\$114,000,000
Federal Income Tax Collection (Section 30 Funds)	36,760,997
Alcohol Beverage Tax	1,982,885
Tobacco Tax	539,686
Excise Admission Tax	120,552
Use Tax	569,835
Gross Receipts Tax	57,550,051
Real Property Tax	5,508,142
Others	261,075
Subtotal	\$215,772,425

(d) The Authority shall give preferential treatment to loans submitted regarding agriculture and aquaculture development, and shall encourage the development of agriculture and aquaculture.

(e) The Authority shall deposit the sum of Two Hundred Thousand Dollars (\$200,000) into the Fund established by Subsection (a) of this Section from funds derived from 12 GCA §2508.1."

Section 112. A new Chapter V-C is added to Title XIV of the Government Code to read:

"Chapter V-C

Public Access to the Ocean Shore

Section 13470. Short Title. This Act shall be known and may be cited as the Ocean Shore Public Access Act of 1987.

Section 13471. Legislative Findings and Purpose. The Legislature finds that the ocean shore is a vital part of the patrimony of the people of Guam and is a major source of recreation and livelihood; that extensive areas of ocean shore are inaccessible to the public due to the absence of public rights-of-way that structures and other obstructions have blocked public access through traditional rights-of-way; and that the absence of public access to ocean shore constitutes an infringement upon the fundamental right of free movement in public space and access to and use of coastal recreational areas. The purpose of this Chapter is to guarantee the right of public access to the ocean shore and to provide for the maintenance of traditional rights-of-way and the acquisition of public rights-of-way to the ocean shore.

Section 13472. Definitions: (a) 'Ocean Shore' means the land between the mean low waterline and series of lines connecting angle points located at a distance of twenty-five (25) feet inland from the two (2) foot contour line as established by the United States Coast and Geodetic Survey. The angle points shall be so selected as to secure maximum parallelism of the twenty-five (25) foot setback line with the two foot contour.

(b) 'Public Highway'. For purposes of this Chapter the term 'Public Highway' means any highway, street, road, jeep trail, or any other thoroughfare intended for, or utilized by, motor vehicles and which is owned or maintained by the government of Guam or any agency or instrumentality of the United States Government as of the effective date of this Chapter.

(c) 'Traditional Right-of-way'. For the purposes of this Chapter the term 'Traditional right-of-way' means any road, trail, bull cart road, easement, right-of-way, by whatever terms known and described, title to which was held by the government of Spain by legal or ecclesiastical right as of the effective day of the Treaty of Paris; and, further, shall include any road, way, trail, bull cart road, easement, or right-of-way, by whatever term known and described, and which has been included by delineation, description, narrative or reference in any map, report, writing, or official document produced by, for or under the supervision of, the United States Naval Government of Guam. The term 'Traditional right-of-way' shall not include any traditional right-of-way herein described which has been the subject of a final adjudication by a court of competent jurisdiction.

Section 13473. Traditional Rights-of-way, Vesting. The Legislature recognizes that over the years the Public has made frequent and uninterrupted use of certain trails and bull cart roads providing access to the ocean shore and recognizes that such use has been legally sufficient to create rights or easements in the public through dedication, prescription, grant, or otherwise, and that it is in the public interest to protect and preserve such public rights or easements as a permanent part of the public domain.

Section 13474. Traditional Rights-of-way, Maintenance. (a) It shall be unlawful for the owner, lessee, or tenant of any lands adjacent to or abutting the ocean shore to block, impede, or interfere with the public use of any traditional right-of-way.

(b) It shall be unlawful for the Territorial Planning Commission to approve or permit any development of land which will result in the blocking, impeding or interfering with the public use of any traditional right-of-way which provides public access to the ocean shore. Nothing in this Section shall prevent the Territorial Planning Commission from approving the development of land where an alternative perpetual right-of-way or easement in favor of the public allowing access to the ocean shore has been duly recorded in the form and manner provided by law.

Section 13475. Rights-of-way, Acquisition. When the provisions of Section 13474 of this Chapter are not applicable, the Department of Parks and Recreation shall purchase land for public rights-of-way between the ocean shore and the nearest public highway.

Section 13476. Criteria for Public Rights-of-way. All rights-of-way established under the provisions of this Chapter shall be two (2) meters in width. A distance at reasonable intervals taking into consideration the topography and physical characteristics of the land the public is desirous of reaching is established as the maximum between public rights-of-way for the purposes of this Chapter.

Section 13477. Transfer of Public Lands, Establishment of Public Rights-of-way. No lands, either presently or in the future, held by the government or any of its agencies or autonomous bodies and situated between the ocean shore and public highway shall be sold, exchanged, leased, or otherwise alienated unless there shall first be deeded and recorded a perpetual public right-of-way through and over the said land and connecting the ocean shore and nearest public highway. Public rights-of-way established under this Section shall conform to the requirements set forth in Section 13476 of this Chapter.

Section 13478. Enforcement. (a) Any person may maintain an action for declaratory and equitable relief to restrain violations, or enforce the provisions, of this Chapter. No bond shall be required for an action brought under this Section.

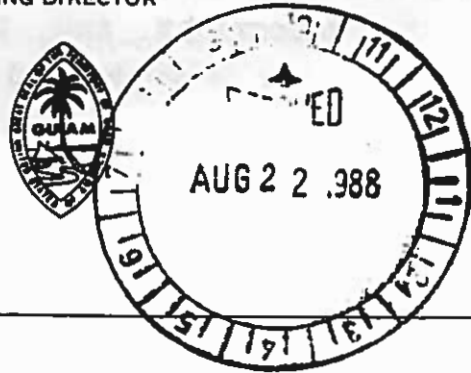
(b) The provisions of this Section shall be in addition to any other remedies available at law.

(c) Any person who prevails in a civil action brought under this Section to enjoin a violation, or enforce the provisions of this Chapter shall be awarded his costs, including reasonable attorney's fees."

Section 113. (a) The sum of One Hundred Thousand Dollars (\$100,000) appropriated from the General Fund to the Department of Administration for use for the Department of Revenue and Taxation collection windows and for Department of Administration collection windows to purchase computer and cash register hardware and software for updated accounting registers.

(b) The sum of One Hundred Sixty Thousand Dollars (\$160,000) is appropriated from the General Fund to the Department of Revenue and Taxation to hire eight (8) revenue officers, which new positions in the classified service are hereby authorized effective immediately.

(c) The sums appropriated and purposes outlined in Subsections (a) and (b) of this Section shall be used to collect money owed the government of Guam in FY 1988 and for years prior to FY 1988.



AGANA, GUAM 96910

Agricultural Development Services 734-3947
 Aquatic & Wildlife Resources 734-3944
 Forestry & Soil Resources 734-3948
 Animal & Plant Industry 734-3940/49

Sales & Permit Info 734-3945
 Administrative Ser. 734-3941/2

August 16, 1988

Memorandum

To: Director, Bureau of Planning
 From: Director of Agriculture
 Subject: Water Use Master Plan

In response to your July 13, 1988 memorandum concerning development of a Water Use Master Plan, the Division of Aquatic and Wildlife Resources submits the following:

The area from Dungca's Beach to Piti Power Plant represents a wide range of fishing methods and participation. Hook and line, gill netting, spearfishing, gleaning and octopus fishing can occur throughout the entire area. Cast netting occurs along most shoreline and reef margin areas, while surround netting occurs from the moat zone to the reef margin areas where the water is deep enough. With the exception of surround netting, all these methods are practiced during both daylight and nighttime periods. Surround netting is conducted only during the day, while drag netting in areas with broad soft bottoms adjacent to shore is done at night.

The specific fishing areas and shoreline habitats that should receive consideration in the Water Use Master Plan are mapped in figures 1 and 2 and discussed in items 1-7 below. All the designated areas are mapped based on creel survey experience and/or data.

1. Manahac

E. Agana is a unique and vital fishing ground for Guam. Attached are harvest and effort values for the May and June 1988 manahac (juvenile rabbitfish) runs. E. Agana represents 20% of the island-wide manahac harvest and over 40% of the island throw net harvest of manahac. This is a valuable traditional fishery and needs special attention as the jet ski operations in this area are interfering with the harvest of these fish and have the potential of adversely impacting the environment (See attached memo dated June 10, 1988).

2. Shore Bird Habitat

The shallow sandbars along Dungca's Beach and sediment deltas adjacent to the two storm drain areas along Marine Drive in E. Agana provide valuable shore bird feeding habitat. The nutrient rich sediments in these areas support a flourishing invertebrate population, which attracts a wide variety of shore birds. There are no other known locations of Guam that support the variety or numbers of shore birds that have been sighted in these areas. The increasing use of mechanized craft in E. Agana is already disturbing these areas, and unless protected in some way the continued unregulated use could destroy these valuable shore bird areas.

3. Fishing In and Around the Agana Boat Basin

The Agana Boat Basin and the surrounding area bounded by the Paseo, the Agana Sewage Treatment Plant, and the treatment plant access road, has long been a area of conflicting regulatory authority and severe user conflict. Many of the problems involve conflicts between the boat owners and operators, the recreational fishermen who use hook and line or cast nets, and the commercial fishermen who periodically use gill nets to harvest mackerel within this area. Any water use planning effort for the Agana Bay area should address the problem of conflicting uses of these waters. Consideration should be given to limiting fishing within this area to hook and line fishing only.

4. Seagrass Beds

There are seagrass beds in both West Agana Bay and in front of the Piti Bomb Holes. These areas are valuable fishery nursery grounds and should be protected from activities that will damage or destroy these plants. The West Agana seagrass area also supports a substantial clam population that is very abundant and that provides a popular family fishery.

5. Tiao Fishery

The shoreline west of Adelup harbors two tiao (juvenile goatfish) fishing areas separated by a rock point. These two areas have been traditionally know for harvesting tiao. The very narrow strip of sand between the reef flat coral beds tends to aggregate the fish along shore, making this location ideal for cast netting. The introduction of nylon gill nets (a non-selective, non-traditional fishing method) to Guam after the war created a commercial fishery for many of the traditional seasonal juveniles. The gill net fishery conflicts with the subsistence throw net harvest of these seasonal juveniles. The area west of Adelup can not be harvested by fine mesh gill nets because of the proximity of the coral to the shoreline. This area will always be a prime throw net area if the coral habitat and shoreline are left undisturbed. Due to the conflict with gill netting in other areas, this area is important to protect and maintain for the traditional throw net fishery.

6. Asan Cut

The Asan cut area is a heavily used hook and line area. The cut provides easy fishing access to deep water beyond the reef. The DAWR feels that any plans for this area should not negatively impact or limit hook and line fishing.

7. Piti Bomb Holes

The Piti Bomb Holes area is a heavily used recreational scuba diving area. Several of the commercial dive tour operations utilize this area extensively. The constant wear of divers traversing the reef flat through the seagrass beds is slowly killing the seagrass in this area. Additionally, the high activity in this area is also causing the suspended sediment load to increase to a level that is clogging the corals, and could eventually kill them. The Water Use Master Plan committee needs to address a means to control the repeated commercial abuse of an area. The abuse is not deliberate but is damaging due to the sheer numbers involved.

If required, the DAWR can determine the fishing effort and harvest within a general area but this would be a labor intensive job and could only be performed with specific needs in mind. This information would also include fishing methods and species caught.

The DAWR is generally opposed to dredging in reef flat areas unless these activities will enhance the environment. The DAWR recommends that dredging be restricted, particularly in the shore bird and fishery areas identified in figures 1 and 2.

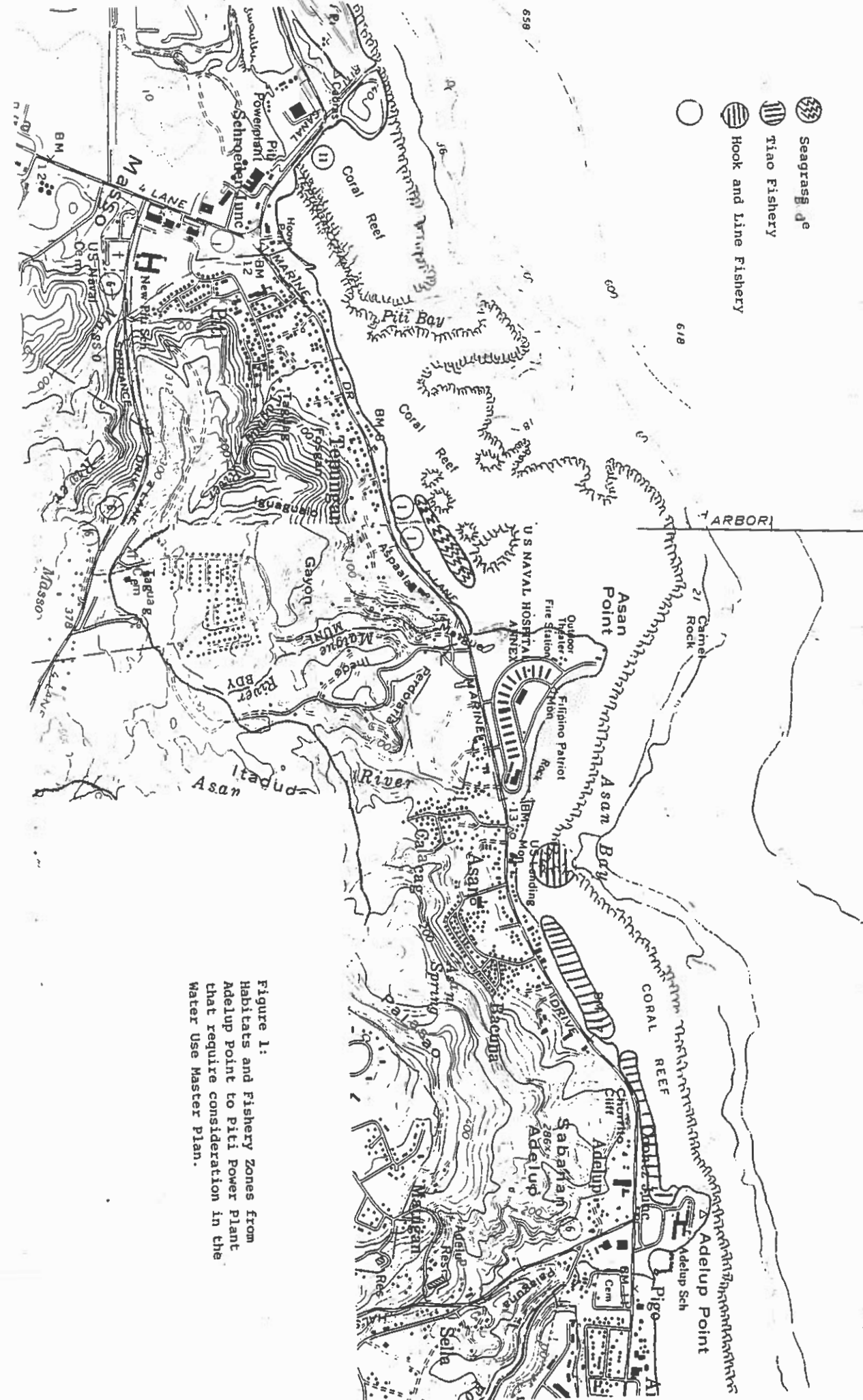
Attached are copies of Guam's current fish and wildlife laws and fishing regulations.

The DAWR supports the tremendous need to establish a Water Use Master Plan for this area.


JOAQUIN N. NAPUTI
 Acting

Attachments

Figure 1:
 Habitats and Fishery Zones from
 Adelup Point to Piti Power Plant
 that require consideration in the
 Water Use Master Plan.



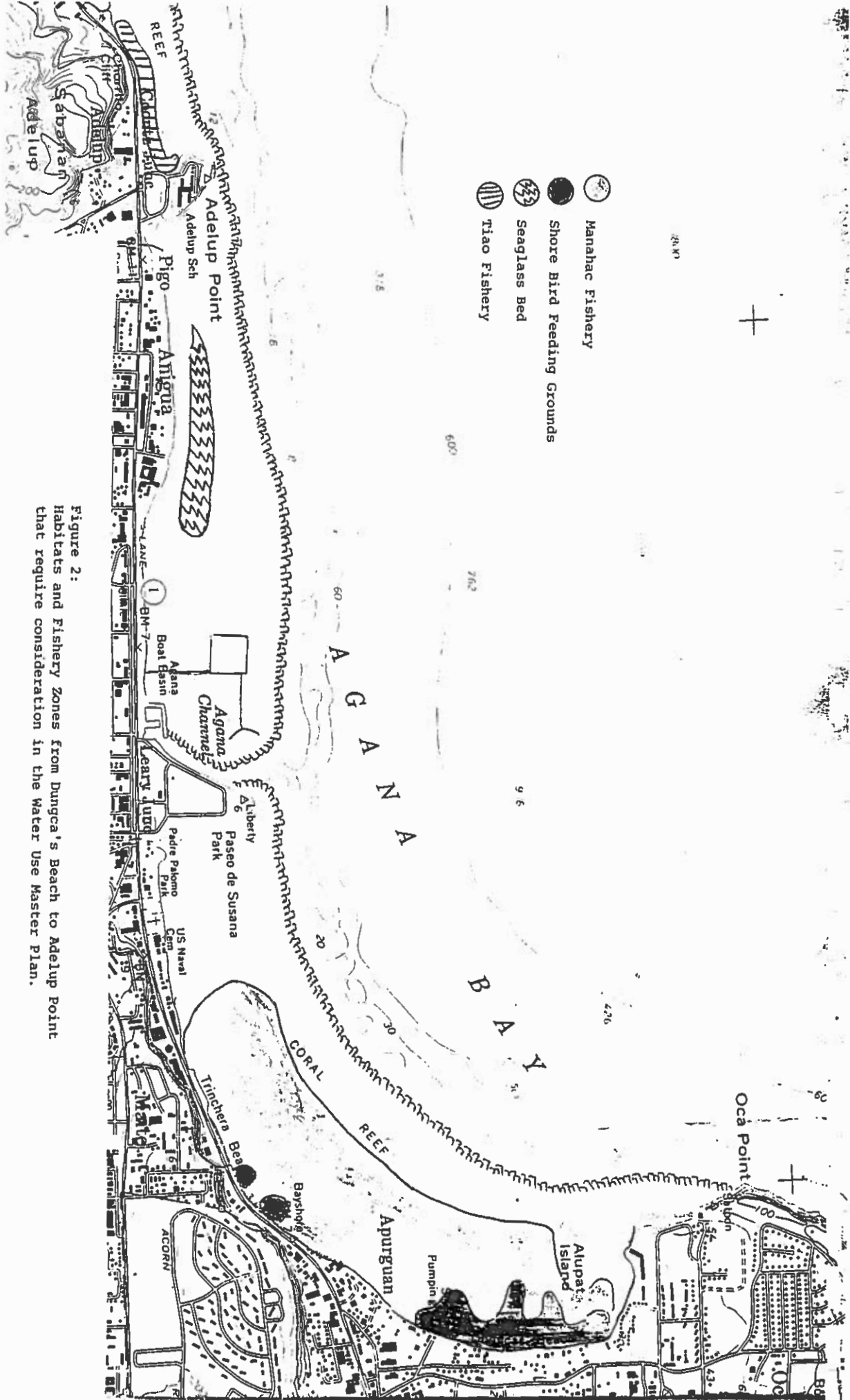


Figure 2:
Habitats and Fishery Zones from Dungca's Beach to Adelup Point
that require consideration in the Water Use Master Plan.

CHAPTER 2

Fishing Regulations

- Subchapter A. Gastropods and Bivalves.
B. Spiny Lobsters.
C. Coconut Crabs, *Birgus Latro*.
D. Introduced Species of Fresh Water Game Fish.
E. Fish Weris Permits.
F. Emergency Netting - Inarajan and Agfayan Bays.
G. Sportsfishing in Masso Reservoir.

SUBCHAPTER A

Gastropods and Bivalves

- §15310. General.
§15310.1. Commercial Harvest of *Trochus* (*Trochus Niloticus*) (Aliling). [1]
§15310.2. Harvest of *Trochus* for Home Consumption Purposes. [2]
§15310.3. Commercial Harvest of Tridacnid Clams (*Tridacna Maxima*, *Tridacna Squamosa* and *Hippopus Hippopus* (Hina)). [3]
§15310.4. Harvest of Tridacnid Clams for Home Consumption. [4]
§15310.5. Harvest of Other Edible Gastropods and Bivalves. [5]
§15310.6. For Purposes of This Regulation. [6]

NOTE: Rule-making authority cited for formulation of regulations for the taking of Gastropods and Bivalves by the Director of Agriculture, §§12321 and 12007, Government Code. These amended Rules were filed with the Legislative Secretary on May 4, 1993.

[Editor's Note: The regulations for the taking of Gastropods and Bivalves are reprinted here in form as exact as possible to those filed with the Legislative Secretary. The substance of the regulations has not been changed. However, for the purpose of uniformity and ease of use, a new system of numbering has been adopted by the Editor. The numerical designation of the originally filed regulations is to be found in brackets [] following the Editor's recommended designation. It is hoped that the revised numerical system will eventually be substituted for that formulated by the Director of Agriculture.]

§15310. General.

Pursuant to the procedures set forth in the Administrative Procedure Act by §§1200-1211, Government Code of Guam, Amendment No. 1 to the Regulations for Taking Gastropods and Bivalves is hereby repealed and the following regulations pertaining

TITLE 16 NATURAL RESOURCES AND RECREATION 1087.1
(Orig. Pub. 2-15-75)
(Rev. 12-31-83)

to the harvesting of gastropods and bivalves are hereby approved. These Regulations supersede the Department of Agriculture Regulation No. 28 "Taking of Trochus Shells."

§15310.1. Commercial Harvest of Trochus (*Trochus Niloticus*) (Aliling).

(a) Season. Commercial harvesting of trochus is allowed only during the months of May, June and July.

(b) Harvest Limit. The total harvest limit of trochus shall be set by the Director of Agriculture before each season. Once this total is attained, the season will be closed for the year.

(c) Size Limit. The commercial harvesting of trochus shall be limited to shells with a base diameter of four (4) inches or greater.

(d) Area. The commercial harvesting of trochus is prohibited shoreward of the outer edge of the fringing reef. This includes the lagoons and channels that extend shoreward from the outer edge of the fringing reef.

(e) License. Each commercial trochus fisherman must obtain a license from the Department of Agriculture. The license fee shall be Twenty-Five Dollars (\$25.00) per person. [1]

[Editor's Note. §15310.1(e) of the Regulations for Taking of Gastropods and Bivalves was amended by Regulations for Taking of Gastropods and Bivalves Amendment No. 1, August 4, 1980 pursuant to §12321(a), Government Code of Guam.]

§15310.2. Harvest of Trochus for Home Consumption Purposes.

(a) Season. For home consumption purposes, the harvesting of trochus shall be allowed all year round.

(b) Size Limit. For home consumption purposes, there will be no size limit except as provided in Subsection (d) [2d] of this Section.

(c) Area. Harvesting of trochus for home consumption is allowed in all areas.

(d) Bag Limit. For home consumption purposes, each person is allowed no more than fifty (50) pounds (shells included) per day; provided that not more than ten (10) pounds of which shall consist of shells with base diameters of less than three (3) inches. Trochus with base diameters less than two (2) inches shall not be harvested. [-]

§15310.3. Commercial Harvest of Tridacnid Clams (*Tridacna Maxima*, *Tridacna Squamosa* and *Hippopus Hippopus* (Hima))

(a) No commercial harvesting of the above-listed species shall be allowed. [3]

TITLE 16 NATURAL RESOURCES AND RECREATION 1087.2
(Orig. Pub. 2-15-75)
(Rev. 12-31-83)

§15310.4. Harvest of Tridacnid Clams for Home Consumption.

(a) Season. For home consumption purposes the harvesting of tridacnid clams is allowed only during the months of April, May, June and July.

(b) Size Limit. For home consumption purposes, the harvesting of tridacnid clams shall be limited to shells having a valve length of no less than one hundred fifty (150) mm but not more than three hundred (300) mm (5.9" to 11.8").

(c) Area. Harvesting of tridacna clam for purposes of home consumption shall be prohibited in the following area:

- (1) Anaa Island, from Nimitz Beach to Facpi Pt.
- (2) Tumon Bay, from Hospital Pt. to Tio Ivers Pt.
- (3) Double Reef, from Falcona Beach to Puguia Pt.

(d) Bag Limit. For home consumption purposes each person is allowed no more than twenty (20) pounds (shells included) per day. [4]

§15310.5. Harvest of Other Edible Gastropods and Bivalves

<i>Turbo argyrostomus</i>	<i>Ctena delicatula</i>
<i>Turbo setosus</i>	<i>Ctena divergens</i>
<i>Strombus luhuanus</i>	<i>Fragum fragum</i>
<i>Lambis lamis</i>	<i>Gafrarium pectinatum</i>
<i>Lambis truncata</i>	<i>Gafrarium tumidum</i>
<i>Nerita albicilla</i>	<i>Modiolus auriculatus</i>
<i>Vasum ceramicum</i>	<i>Periglypta puerpera</i>
<i>Vasum turbinellus</i>	<i>Periglypta reticulata</i>
<i>Anodontia sterniana</i>	<i>Quidnapagus palatum</i>
<i>Asaphis violascens</i>	<i>Scutarcopagia scobinata</i>
<i>Saxostrea glomerata</i>	

(1) No commercial harvesting of the above-listed species shall be allowed.

(b) There are no restrictions on taking the above-listed species for home consumption purposes, so long as they are collected by hand.

(c) No dredging shall be used to harvest clams and no parts of man-made structures shall be cut or broken to harvest clams. Dredging equipment shall be used to harvest clams. The use of a dredge or any other equipment used for digging shall not be considered as dredging equipment. [2]

§15310.6. For Purposes of This Regulation

(a) Commercial harvesting shall be allowed in the harvesting area of the Department of Agriculture. The harvesting area shall be determined by the Department of Agriculture. [1]

TITLE 16 NATURAL RESOURCES AND RECREATION 1087.3
(Orig. Pub. 2-15-75)
(Rev. 12-31-83)

(b) Home Consumption is defined as the harvesting of gastropods bivalves for use as food or other purposes for which no parts thereof are sold. [6]

TITLE 16 NATURAL RESOURCES AND RECREATION 1088
(Orig. Pub. 2-15-75)
(Rev. 12-31-83)

SUBCHAPTER B

Spiny Lobsters

- §15311. Taking of Spiny Lobsters (Panulirus SPP.) - Authorization for Regulations. [Reg. 29]
- §15311.1. Minimum Size. [Reg. 29.1]
- §15311.2. Female Lobsters With Eggs. [Reg. 29.2]
- §15311.3. Violation. [Reg. 29]

NOTE: Rule-making authority cited for formulation of regulations for the taking of spiny lobsters by the Director of Agriculture, §§12007 and 12321, Government Code.

[Editor's Note: The regulations for the taking of spiny lobsters are reprinted here in form as exact as possible to those filed with the Legislative Secretary. The substance of the regulations has not been changed. However, for the purpose of uniformity and ease of use, a new system of numbering has been adopted by the Editor. The numerical designation of the originally filed regulations is to be found in brackets [] following the Editor's recommended designation. It is hoped that the revised numerical system will eventually be substituted for that formulated by the Director of Agriculture.]

§15311. Taking of Spiny Lobsters (Panulirus SPP.) - Authorization for Regulations.

Pursuant to the authority vested in the Director of Agriculture by §§12007 and 12321, Government Code of Guam, the following regulations relating to the harvest of spiny lobsters are hereby approved. [29]

§15311.1. Minimum Size.

It shall be unlawful to capture or have in possession spiny lobsters less than one (1) pound in weight. [29.1]

§15311.2. Female Lobsters With Eggs.

It shall be unlawful to capture or have in possession female spiny lobsters with eggs during the months of May, June and July. [29.2]

§15311.3. Violation.

Evidence of removal of eggs shall be considered as prima facie evidence in violation of this Section of the regulation. [29]

SUBCHAPTER C

Coconut Crabs, Birgus Latro

- § 15312. Taking of coconut crabs, birgus latro — authorization for regulations. [Reg. 35]
§ 15312.1. Minimum size [Reg. 35, 1]

NOTE: Rule making authority cited for formulation of regulations for coconut crabs by the Director of Agriculture, Sections 12007 and 12321, Government Code.

[Editor's Note: The regulations for coconut crabs are reprinted here in form as exact as possible to those filed with the Legislative Secretary. The substance of the regulations has not been changed. However, for the purpose of uniformity and ease of use, a new system of numbering has been adopted by the Editor. The numerical designation of the originally filed regulations is to be found in brackets [] following the Editor's recommended designation. It is hoped that the revised numerical system will eventually be substituted for that formulated by the Director of Agriculture.]

§ 15312. Taking of coconut crabs, birgus latro — authorization for regulations. Pursuant to the authority vested in the Director of Agriculture by Section 12007 and 12321, Government Code of Guam, the following regulation relating to the taking of coconut crabs, Birgus latro is hereby approved.

§ 15312.1. Minimum size. It shall be unlawful to capture or have in possession coconut crabs (Ayuyu) having a carapace width of less than three (3) inches. The carapace width is defined as the greatest width of the shell on the back. [Reg. 35, 1]

SUBCHAPTER D

Introduced Species of Fresh Water Game Fishes

- § 15313. Restriction on taking of introduced species of fresh water game fishes. [Reg. 20]

NOTE: Rule making authority cited for formulation of regulations

for the taking of introduced species of fresh water game fishes, by the Director of Agriculture, Sections 12321 and 12007, Government Code.

[Editor's Note: The regulations for the taking of introduced species of fresh water game fishes are reprinted here in form as exact as possible to those filed with the Legislative Secretary. The substance of the regulations has not been changed. However, for the purpose of uniformity and ease of use, a new system of numbering has been adopted by the Editor. The numerical designation of the originally filed regulations is to be found in brackets [] following the Editor's recommended designation. It is hoped that the revised numerical system will eventually be substituted for that formulated by the Director of Agriculture.]

§ 15313. Restriction on the taking of introduced species of fresh water game fishes. Pursuant to the authority vested in the Director of Agriculture by Section 12321 and 12007, Government Code of Guam, the following regulations regarding the capture of introduced species of fresh water game fishes is hereby submitted.

It shall be unlawful for any person to take, capture, pursue, possess, sell or offer for sale largemouth black bass (Microphorus salmoides), smallmouth black bass (Microphorus delamieu), channel catfish (Ictalurus punctatus), and any other introduced species of fresh water game fishes except during prescribed open seasons. The species of the genus Tilapia which are considered non-game fish are not included in this restriction. [Reg. 20]

SUBCHAPTER E

Fish Weirs Permits

Superseded by Ph 16-39,
Section 12310, Govt Code
of Guam

15314. Authorization [Reg. 1]
15314.1. Government Code provision. [Reg. 1, Sec. 1]
15314.2. Definition of fish weir [Reg. 1, Sec. 2]
15314.3. Limitations and prohibitions. [Reg. 4, Sec. 3]
15314.4. Location of fish weir [Reg. 1, Sec. 1]
15314.5. Application for permit [Reg. 4, Sec. 5]
15314.6. Investigation [Reg. 4, Sec. 6]
15314.7. Issuance of permit transfer. [Reg. 4, Sec. 7]
15314.8. Installation and operation of fish weirs [Reg. 1, Sec. 3]

~~12303 and 12304 shall be punished by a fine of not less than fifty dollars (\$50) no more than 500 hundred dollars (\$500) or by imprisonment for not more than sixty (60) days or by both such fine and imprisonment. [Reg. 4, Sec. 12]~~

SUBCHAPTER F

Emergency Netting Regulations for Inarajan and Agfayan Bays

- § 15315. Authorization. [Reg. 30]
- § 15315.1. Permit required. [Reg. 30, Sec. 1]
- § 15315.2. Permits — limitations. [Reg. 30, Sec. 2 and 3]
- § 15315.3. Chamorro custom. [Reg. 30, Sec. 4]
- § 15315.4. Violation. [Reg. 30, Sec. 5]

NOTE: Rule making authority cited for formulation of emergency atulai netting regulations by the Director of Agriculture Sections 12321 and 12007, Government Code.

[Editor's Note: The regulations for emergency atulai netting at Inarajan and Agfayan Bays are reprinted here in form as exact as possible to those filed with the Legislative Secretary. The substance of the regulations has not been changed. However, for the purpose of uniformity and ease of use, a new system of numbering has been adopted by the Editor. The numerical designation of the originally filed regulations is to be found in brackets [] following the Editor's recommended designation. It is hoped that the revised numerical system will eventually be substituted for that formulated by the Director of Agriculture.]

§ 15315. Authorization. Pursuant to the authority vested in the Director of Agriculture by Section 12321, Title XIII, Chapter 4 of the Government Code of Guam, the following atulai fishing regulation for Inarajan and Agfayan Bays are hereby approved. [Reg. 30]

§ 15315.1. Permit required. Netting for atulai in Inarajan and Agfayan Bays are prohibited; providing, however, that the group first secure a temporary net fishing permit from the Department of Agriculture.

(a) Due to the community nature of the atulai fishing operation in the above-mentioned bays and due to the desire to preserve this old Chamorro custom of sharing in the atulai catches with the community, the applications for the permits shall be coordinated through the Office of the Commissioner of the District of Inarajan. [Reg. 30, Sec. 1]

§ 15315.2. Permits — limitations. (a) Only one (1) permit shall be issued for each day. [Reg. 30, Sec. 2]
(b) Permits will be valid for one (1) day only. [Reg. 30, Sec. 3]

§ 15315.3. Chamorro custom. Permittees will conduct their atulai net fishing operations in Inarajan and Agfayan Bays in the manner of the old Chamorro custom of allowing the community to participate and share in the catch. [Reg. 30, Sec. 4]

§ 15315.4. Violation. Violations of these regulations shall be punished as prescribed in Sections 12322 and 12323, Government Code of Guam. [Reg. 30, Sec. 5]

SUBCHAPTER G

Sportfishing in Masso Reservoir

- §15315. Authority.
- §15315.1. Gear Restrictions. [1]
- §15315.2. Creel Limits. [2]
- §15315.3. License. [3]
- §15315.4. Fishing Hours. [4]
- §15315.5. Penalties. [5]

NOTE: Rule-making authority cited for formulation of regulations for sportfishing in Masso Reservoir by the Department of Agriculture, §§12007 and 12321, Government Code. These Rules were filed with the Legislative Secretary on May 4, 1983.

[Editor's Note: The regulations for sportfishing in Masso Reservoir are reprinted here in form as exact as possible to those filed with the Legislative Secretary. The substance of the regulation has not been changed. However, for the purpose of uniformity and ease of use, a new system of numbering has been adopted by the Editor. The numerical designation of the originally filed regulation is to be found in brackets [] following the Editor's recommended designation. It is hoped that the revised numerical system will eventually be substituted for that formulated by the Director of Agriculture.]

§15315. Authority

Pursuant to the procedures set forth in the Administrative Adjudication Act by §§24-0-24211, Government Code of Guam, the following regulations pertaining to sportfishing in Masso Reservoir are hereby promulgated:

§15315.1 Gear Restrictions. [1]

(a) The use of nets, traps or spears is not permitted. Possession of nets, traps or spears in or near the water shall be construed as use of such.

(b) Fish can only be taken with a single hand-held hook and line per fisherman. Only one (1) baited hook per line or one (1) artificial lure, which may have up to three (3) barbs on the line or common shaft, may be used.

(c) No tucunare or body parts thereof or any freshwater organism that is not already present in the Reservoir may be used as bait.

§15315.2. Creel Limits. [2]

(a) Tilapia

(1) There is no size limit on tilapia.

(2) No more than ten (10) tilapia may be taken per person per day.

(b) Tucunare:

(1) No tucunare under ten inches (10") in total length may be taken. Every effort must be made to return those fish under this size limit to the Reservoir alive and in good condition.

(2) No more than two (2) tucunare of legal size may be taken per person per day.

§15315.3. License. [3]

(a) All persons fishing in Masso Reservoir are required to purchase an annual license from the Division of Aquatic and Wildlife Resources, Department of Agriculture at a cost of Five Dollars (\$5.00) per calendar year.

(b) The fishing license must be in the possession of the holder while fishing at Masso Reservoir.

(c) Persons over sixty (60) years of age are exempt from the license requirement. Children under the age of twelve (12) are not required to have a license but must be accompanied by an adult.

§15315.4. Fishing Hours. [4]

(a) Fishing is permitted only during the daylight hours, between dawn and dusk.

(b) No swimming or boating is permitted in the Reservoir.

§15315.5. Penalties. [5]

(a) Any person violating any of the above regulations is guilty of a misdemeanor and shall be punished as prescribed in §§12322 and 12323 of the Government Code of Guam.

[Promulgated July 16, 1982. Filed August 10, 1982.]

A SUMMARY OF GUAM'S LAWS AND REGULATIONS
PERTAINING TO FISH AND GAME
NOVEMBER, 1981

LAWS AND REGULATIONS RELATIVE TO THE TAKING OF FISH

"Fish" means any aquatic animal life, including but not limited to oysters, clams, mollusks, mussels, crustaceans and other shellfish.

Fishing Methods

A. Fish may not be taken by the following means:

- 1) explosives
- 2) poisonous or intoxicating substances
- 3) electrical devices
- 4) devices such as nets, flails, hooks which may result in damage to the body of the fish.

It is also illegal to buy, sell, transport or possess fish taken in the above manner.

B. Net Regulations:

- 1) It is unlawful to use nets with a stretched mesh of less than $1\frac{1}{2}$ inches with the following exceptions:
 - a) Small mesh hand nets may be used to capture aquarium type fish (permit required)
 - b) Small mesh nets may be used to capture live bait fish for tuna fishing (permit required)
 - c) Small mesh nets may be used for the traditional taking of seasonal juveniles
 - d) Small mesh cast nets (talaya) may be used for the taking of all fish
- 2) It is unlawful to destroy coral for flushing fish or for net fishing
- 3) Net fishing is prohibited on Luminao Barrier Reef
- 4) Gill nets (Tekin)

It is unlawful to:

- (a) abandon or discard a gill net in the waters off Guam
 - (b) leave a gill net (attended or unattended) for more than 6 consecutive hours. After 6 hours, the net must be moved at least 50 yards
 - (c) use a gill net within 100 feet of a fish weir operating under a lawful permit
- 5) Drag Nets, Surround Nets (Chinchulon)
 - (a) Chinchulon must have a stretched mesh size of greater $1\frac{1}{2}$ inches
 - (b) Chinchulon of less than $1\frac{1}{2}$ inch stretched mesh may be used only for the traditional taking of seasonal juveniles such as rabbitfish (manahak), skipjack (i'i'), goatfish (ti'ao), herring (m'nis) and mullet (aguas)

6) Cast Nets (Talaya)

- (a) There are more restrictions on the use of cast nets (talaya) except that they must not be used on Luning Barri Reef, and that they may be used in the Agana Boat Basin only between the hours of 3 a.m. and 7 a.m.

C. Fish Weirs (permit required)

1) Structural Specifications

- a) Main weir: No leader (main entrance) shall exceed 500 feet; no wing (side entrance) shall exceed 300 feet.
- b) Auxiliary weir: No leader shall exceed 250 feet; no wing shall exceed 150 feet.
- c) The mesh size of any weir must be greater than one inch square.

2) Location

- a) No more than one main weir and two auxiliary weirs may be located within a single permit area.
- b) A fish weir cannot be located within:
 - 100' of the mean high water mark
 - 150' of a boat channel
 - 600' of a sewage outlet opening
 - 200' of another fish weir

3) Installation, Operation and Removal of Fish Weirs

- a) A fish weir must be installed within 60 days from the date of issuance of a permit.
- b) A fish weir may not be left unattended for more than 15 days.
- c) The fish weir must be removed within 30 days of expiration of the permit.

D. Hook and Line

- 1) Snagging or any other method that damages the fish externally shall be unlawful.
- 2) When angling in the Agana Boat Basin, no more than three hooks shall be attached to the main line.

Local Regulations Pertaining to the Taking of Specific Fish

- 10) Seasonal juvenile rabbitfish (a small, dark, spiny fish, local name (ti'ao), herring (anis) and mullet (agab).

- a) Seasonal juveniles may be taken only during the 6th year.
- b) There are no mesh size limitations on the taking of seasonal juveniles.
- c) It is unlawful to wilfully destroy coral growth in order to flush fish from their habitat to clear the area for net fishing.
- d) All net fishing, including fish for sea urchin juveniles, is prohibited on Luning Barri Reef.

(2) Mackerel (atulai)

- a) Nets used for the taking of atulai must have a stretched mesh size of not less than 1½ inches.
- b) Netting for atulai in Inarajan and Agfayan Bays requires a temporary net fishing permit from the Department of Agriculture.
- c) Net fishing for atulai in the Agana Boat Basin is prohibited except that the use of talaya is permitted between the hours of 3AM and 7AM.
- d) Angling for atulai in the Agana Boat Basin is permitted at all times provided that no more than three hooks are attached to the main line and no snagging methods are used.

(3) Tuna Baitfish - minnows (Spratelloids), ginyo (Atherinidae), fadya (Engraulidae)

- a) A permit may be obtained from the Director of Agriculture for the use of small mesh nets to capture live bait fish for tuna fishing.

(4) Aquarium Fish

- a) A permit may be obtained from the Director of Agriculture for the use of small mesh hand nets to capture aquarium type fish.

(5) Trochus (Aliling)

- a) Commercial Harvest: A license is required for the commercial harvest of Trochus (\$25.00 per person).
 - Commercial harvesting of trochus is allowable only during the months of May, June and July.
 - Only shells with a base diameter of 4 inches or greater may be harvested.
 - Trochus may only be harvested seaward of the fringing reef.
 - The total allowable harvest will be set by the Director of Agriculture at the beginning of each season.
- b) Home Consumption: The harvesting of trochus for home consumption is allowable during all months of the year and is allowed in all areas provided that the daily harvest does not exceed 50 pounds of shells per day of which no more than 10 pounds consist of shells having a base diameter of less than 3 inches. It is unlawful to harvest trochus with a base diameter of less than 2 inches.

(6) Tridacnid Clams (hira)

- a) The harvesting of tridacnid clams is allowed only for home consumption and is permissible only during the months of April, May, June and July.

- b) Only clams having a valve length between 5.9" and 11.8" (150 mm to 300 mm) may be harvested.
 - c) No more than 20 pounds of shells may be harvested per day.
 - d) Tridacna clams may not be harvested in the following areas:
 - Anne Island, from Nimitz Beach to Fajal Pt. Turok Bay, from Hospital Pt. to Mo Lovers Pt. Double Reef, from Falcona Beach to Rigua Pt.
- (7) Edible Gastropods and Bivalves other Than Trochus and Tridacna
- a) There are no restrictions on the harvesting of shellfish other than trochus and tridacna for home consumption except that they may be harvested only by hand.
 - b) When harvesting oysters, no parts of the mangrove tree may be cut.
- (8) Spiny Lobsters
- a) Spiny lobsters less than one pound in weight may not be taken.
 - b) Berried females (with eggs) may not be taken during the months of May, June and July.
- (9) Coral
- a) No coral may be taken or destroyed shoreward of the 10-fathom (60 feet) contour surrounding Guam
 - b) The taking of coral for any purpose (commercial or otherwise) requires a permit from the Director of Agriculture
- (10) Freshwater Gamefish
- a) Freshwater gamefish such as tucunare or "peacock bass" and any other introduced species (with the exception of tilapia) can be taken only during prescribed open seasons.
- (11) Coconut Crabs (Ayuyu)
- a) It is unlawful to take or possess coconut crabs less than 3 inches in width.

CHAPTER IV

Game and Fish, Forestry and Conservation

ARTICLE I

Game and Fish

- § 12300. Definitions.
- § 12301. Authority of Department.
- § 12302. Chief Conservation Officer: deputies.
- § 12303. Taking fish with explosions.
- § 12304. Use of explosives unlawful.
- § 12305. Taking fish by means of poisonous or intoxicating substance unlawful.
- § 12306. Use of poison or intoxicating substance unlawful.
- § 12306.1 Use of electrical devices.
- § 12307. Possession of dynamite, explosive, poisonous or intoxicating substance.
- § 12307.1 Possession of electric shocking devices.
- § 12308. Fishing equipment and methods.
- § 12308.1 Fishing with gill nets (tekin).
- § 12308.2 Willful destruction of coral.
- § 12309. Illegally taken fish.
- § 12310. Fish weirs.
- § 12311. Taking of fish.
- § 12311.1 Recovery of fish and game.
- § 12312. Unprotected wild animals.
- § 12313. Unprotected wild birds.
- § 12314. Protection of wild birds.
- § 12315. Protection of wild animals.
- § 12316. License to take certain wild animals.
- § 12317. Special license.
- § 12318. Importation: harboring.
- § 12319. (Repealed)
- § 12320. Use of artificial light prohibited.
- § 12321. Regulations.
- § 12322. Confiscation.
- § 12323. Penalty.
- § 12324. Wildlife Conservation Fund.

Section 12300. Definitions. As used in this Article:

- (a) 'Angling' means fishing in a manner which lures the fish to swallow a hook in an attempt to pierce the body of the fish internally;
- (b) 'Firearm' means any weapon, the operating force of which is an explosion. This definition includes pistols, revolvers, rifles, shotguns, machine guns, automatic rifles, noxious gas projectors, mortars, bombs, cannons and submachine guns. The specific mention of certain weapons does not exclude from the definition other weapons operated by explosives;
- (c) 'Fish' means any aquatic animal life, including but not limited to oysters, clams, mollusks, mussels, crustaceans and other shellfish;
- (d) 'Fish Weir' means an apparatus for catching fish, consisting of a pocket or trap, with one or more wings or leaders or both, and remaining in a fixed location. Any reference to 'fish weir' in this Article includes any part or component thereof, including any pole, support, net, brush, wire, mesh, rope or other item or material. For purposes of this Article, there are two (2) types of fish weirs:
 - (1) 'main weir' means the central pocket or trap of any fish weir and its leader (main entrance) and wings (side entrance); and
 - (2) 'auxiliary weir' means any supplementary trap or pocket and its leader or wings which are attached to the leader or wings of a main weir;
- (e) 'Game' means all native or introduced species of wild birds or wild animals;
- (f) 'Snagging' means fishing in a manner with jerking motions with hooks and line in an attempt to pierce the body of the fish externally;
- (g) 'Take' means hunt, pursue, catch, capture, angle, seize, kill, trap, wound, shoot in any way or by any agency or device, every attempt to do such acts or to assist any other person in the doing of or the attempt to do such acts;

(h) 'Traditional Fishing Methods' means subsistence-level cultural fishing practices in which the catch is not marketed, but rather is shared within the family or community for purposes of home consumption. Traditional methods most commonly include, but are not necessarily limited to,

- (1) 'cast net' (talaya,
- (2) 'drag net/seine' (chinchulon mahala),
- (3) 'surround net' (chinchulon umesugon),
- (4) 'trap net' (chinchulon managam),
- (5) 'butterfly net' (chinchulon ababang),

and

- (6) 'lalago'

(i) 'Vehicle' includes every description of carriage or other contrivance used, or capable of being used, as means of transportation on, below, or above the land, including boat trailers, but does not include aircraft;

(j) 'Vessel' includes every description of water-craft or other contrivance used, or capable of being used, as means of transportation in water; and

(k) 'Waters of Guam' means that area of shore and waters seaward of the mean high water line (mark). (Amended by P.L. 16-39, effective September 11, 1981.)

Section 12301. Authority of Department. The control and regulation of fish and game in and about Guam and the administration of this Article shall be vested in the Department.

Section 12302. Chief Conservation Officer: deputies. The provisions of this Article shall be enforced by the Director who shall be ex officio the Chief Conservation Officer, and suitable employees of the Department who he may appoint as Deputy Conservation Officers, as well as by peace officers defined in Section 851, Chapter V, Title II, Part II of the Penal Code of Guam. The acting hereunder shall have the powers of peace officers to carry arms and to make arrests for violations.

Section 12303. Taking fish with explosives. It shall be unlawful to take any fish using dynamite or any other explosive.

Section 12304. Use of explosives unlawful. It shall be unlawful for any person to throw, drop or explode any dynamite or other explosive, or cause to be thrown, dropped or exploded any dynamite or other explosive in any waters of the Territory of Guam whether done for the purpose of taking fish or not, except as may be authorized pursuant to regulations.

Section 12305. Taking fish by means of poisonous or intoxicating substance unlawful. It shall be unlawful for any persons to take any fish by means of any substance which has a poisonous or intoxicating effect upon fish.

Section 12306. Use of poison or intoxicating substance unlawful. It shall be unlawful for any person to deposit, throw, drop or discharge, or cause to be deposited, thrown, dropped or discharged in any manner in the waters of Guam any substance which has a poisonous or intoxicating effect upon fish whether done for the purpose of taking fish or not.

Section 12306.1. Use of electrical devices. It shall be unlawful for any person to take fish by means of any device which operates by shocking with a electric current (either AC or DC). (Added by P.L. 16-39, effective September 11, 1981.)

Section 12307. Possession of dynamite, explosive, poisonous or intoxicating substance. It shall be unlawful for any fisherman, or person in the habit of fishing, or person who is in the water or close by the shore where fish can be taken, to possess, in the absence of satisfactory cause for possession of the same, any dynamite or other explosive, or any substance which has a poisonous or intoxicating effect upon fish.

Section 12307.1. Possession of electric shocking devices. It shall be unlawful for any fisherman, person in the habit of fishing, or person who is in the water or close by the shore where fish can be taken, to possess, in the absence of satisfactory cause, any device capable of emitting an

electric discharge into the water. (Added by P.L. 16-39, effective September 11, 1981.)

Section 12308. Fishing equipment and methods. The use of nets, flails, hooks and other devices and methods which may result in the taking of, or damage to, fish in violation of regulations governing fishing shall be unlawful. (Amended by P.L. 16-39, effective September 11, 1981.)

Section 12308.1. Fishing with fill nets (tekin).

(a) It shall be unlawful to abandon or discard a gill net in the waters of Guam.

(b) It shall be unlawful to leave a gill net, whether attended or unattended, in the waters of Guam for more than six (6) consecutive hours. For the purposes of this Section, the six (6) hour consecutive period continues to run if the gill net is not moved at least fifty (50) yards within a six (6) hour period from the time of its initial placement in the waters of Guam.

(c) It shall be unlawful to use a gill net with a length greater than one thousand (1,000) feet. (Added by P.L. 16-39, effective September 11, 1981.)

Section 12308.2. Willful destruction of coral. It shall be unlawful to willfully destroy coral growth for purposes of flushing fish from their habitat or for clearing an area for net fishing. (Added by P.L. 16-39, effective September 11, 1981.)

Section 12309. Illegally taken fish. It shall be unlawful for any person knowingly to take, buy, sell, transport or possess any fish, or any part thereof, contrary to the provision of this Article or to regulations made under Section 12321.

Section 12310. Fish Weirs.

(a) It shall be unlawful for any person to place or maintain a fish weir in the waters of Guam unless he holds a valid license from the Director of Agriculture, hereinafter referred to as Director. The Director may, at his discretion, issue such a license imposing such conditions on the face thereof as are necessary so as not to unjustly restrict the fishing of others nor result in the violation of provisions of this Article and supporting regulations.

(b) Limitations and Prohibitions

(1) Main Weir: No wing shall exceed three hundred (300) feet in length. No leader shall exceed five hundred (500) feet in length.

(2) Auxiliary Weir: No wing shall exceed one hundred-fifty (150) feet in length. No leader shall exceed two hundred fifty (250) feet in length.

(3) The mesh of the netting used in the construction of fish weirs, main or auxiliary, shall be such as to permit the passage of objects or organisms measuring less than one (1) inch in diameter or one (1) inch square.

(4) No permit shall be issued authorizing more than one (1) main weir and two (2) auxiliary weirs for the area covered by such permit.

(5) The area covered by a single permit shall be contiguous, but this shall not be construed to authorize installations of fish weirs anywhere within such area if otherwise prohibited.

(6) No person shall place, install, construct, maintain or operate any part or component of a fish weir, except as authorized by a permit issued under this Article.

(c) Location of Fish Weirs. No fish weir or any part of thereof shall be located within one hundred (100) feet of the mean high water mark, one hundred-fifty (150) feet of any boat channel, six hundred (600) feet of a sewage outlet opening, or two hundred (200) feet from the fish weir of another permittee, or outside the area covered by the permit. No permit will be issued for the location of a fish weir at any other site determined by the Director to be detrimental to the best interest of the public or responsible fisheries management.

(d) Application for Permit. Any applicant for a permit to place and operate one or more fish weirs in the waters of Guam shall submit complete and signed applications for the placement and operation thereof to the Director in a form prescribed by him. The application shall show (1) the name and address of the applicant; (2) the area

requested to be covered by the permit; and (3) the number of fish weirs (pocket or traps) applied for.

(e) Investigation. Upon receipt of a complete and signed application, the Director shall promptly cause an investigation of all aspects of the application to be made.

(f) Issuance of Permit. When all the requirements set forth in this Section have been met, and the application has been approved by the Director, he shall issue a permit in a form prescribed by him. The original copy shall be given to the permittee and a duplicate copy shall be retained in the Department of Agriculture.

A fee of Twenty-Five Dollars (\$25) shall be paid for each fish weir pocket or trap before the permit is issued. A permit shall be valid for one (1) year from the date of issuance unless otherwise revoked. No permit may be transferred except upon approval by the Director. Upon approval or transfer of a permit, the permittee shall write his signature, and the transferee shall write his signature and address in the appropriate space provided upon the permit. The Director shall then affix his signature of approval.

(g) Installation and Operation of Fish Weir. At least one (1) fish weir must be constructed and placed in operation within sixty (60) days after any subsequent removal or destruction during the term of the permit. No owner of a fish weir shall leave a fish weir in the water unattended for a period of fifteen (15) days or more.

(h) Submission of Monthly Catch Records Report. Each permittee shall be required to submit monthly catch records to the Department of Agriculture, Division of Aquatic and Wildlife Resources, commencing thirty (30) day period until its removal.

(i) Removal of Fish Weirs. The owner of a fish weir must remove such fish weirs from the water within thirty (30) days after notice of expiration of his permit unless such permit is renewed.

(j) Revocation of Permit. The Director may revoke a permit for any violation of this regulation upon the completion of a hearing held for such purposes. Notice of the hearing shall be given to the permittee ten (10) days in advance and shall state the violations charged, and the date, time and place of the hearing. Any order of revocation entered pursuant to such hearing shall be effective thirty (30) days after notice of the order of revocation to the permittee by which time he shall surrender his permit to the Director and remove his fish weir from the water.

(k) Disturbance of Fish Weirs. It shall be unlawful for any person not authorized by the owner to remove fish from a fish weir. It shall be unlawful for any person other than the owner to remove, damage or otherwise wilfully disrupt the operation of a fish weir operating under a lawful permit. It shall also be unlawful to use gill nets within one hundred (100) feet of fish weir operating under a lawful permit. (Amended by P.L. 16-39, effective September 11, 1981.)

Section 12311. Taking of Fish. Fish may be taken by lawful means at any time except as prohibited by regulation made under Section 12321, provided, however, that it shall be unlawful for any person to place or maintain a drag net (Chenchulu or tekini) within Agana Boat Basin proper; and further provided that angling and cast-net (talaya) fishing are the only approved methods of fishing within the Agana Boat Basin proper and within fifty (50) feet of the western edge of the Agana Boat Basin channel on conditions as follows:

(a) When angling, not more than three (3) hooks shall be attached to the mainline and no snagging methods shall be used.

(b) The use of the cast-net (talaya) is prohibited from boat slips in the Agana Boat Basin. Within the channel and mooring area, the talaya may be used only between the hours of 4:00 a.m. and 8:00 a.m. Within the other areas of the Agana Boat Basin, the talaya may be used at any time. (P.L. 16-112)

Section 12311.1. Recovery of fish and game. It shall be unlawful for any person to kill, maim or injure any fish or game without making a reasonable effort to retrieve the fish or game and to include it in his or her daily bag or creel limit. (P.L. 12-163)

Section 12312. Unprotected wild animals. The following wild animals may be taken in the daytime:

- (a) Wild dogs.
- (b) Wild cats.
- (c) Reptiles.
- (d) Rats. (Amended by P.L. 8-43, effective July 30, 1965.)

Section 12313. Unprotected wild birds. The following wild birds may be taken in the daytime:

- (a) Black drongos.
- (b) Rock doves (domestic pigeons).
- (c) Black-headed mannikin.
- (d) European tree sparrow. (Amended by P.L. 16-39, effective September 11, 1981.)

Section 12314. Protection of wild birds. It shall be unlawful for any person to take, buy, sell, transport or possess any wild bird, or any part thereof, or wild bird eggs, except as authorized in this Article or as authorized by regulations made under Section 12321.

Section 12315. Protection of wild animals. It shall be unlawful for any person to take, buy, sell, transport or possess any wild animal, or any part thereof, except as authorized in this Article or as authorized by regulations made under Section 12321.

Section 12316. License to take certain wild animals. Any owner or tenant of land or property that is being damaged or destroyed or is in danger or being damaged or destroyed by any protected wild animal or bird may apply to the Director for a license to take such wild animal or bird. The Director, upon satisfactory evidence of such damage or destruction, actual or threatened, may issue a revocable license for the taking of such wild animal or bird. It shall be unlawful for any person to violate the conditions of any license issued under the provisions of this Section.

Section 12317. Special license. The Director may issue, free of charge, to any qualified person, a license to take and transport fish or game, at any time, for scientific or educational purposes. Such a license shall be valid at the discretion of the Director and shall show upon its face the period of its validity.

Section 12318. Importation:harboring.

(a) It shall be unlawful for any person to import any game without first obtaining a license issued by the Director. The Director may, in his discretion, issue such license imposing such conditions on the face thereof as are necessary for the control of such game.

(b) It shall be unlawful to harbor or maintain any protected game in captivity without first obtaining a license issued by the Director. The Director may, in his discretion, issue such a license imposing such conditions on the face thereof as are necessary for the control of such game.

(c) It shall be unlawful for any person to violate the conditions of any license issued under the provisions of this action.

Section 12319. (Repealed by P.L. 11-217, effective March 17, 1973.)

Section 12320. Use of artificial light prohibited. It shall be unlawful for any person to take any game with a spotlight or any other artificial light of any kind. To be found with any spotlight with any rifle, shotgun or other firearm, and with ammunition, after sunset, in any wooded section or other place where any game may reasonably be expected, shall be prima facie evidence of violation of this Section. Provided, however, that this Section shall not apply to the taking of game pursuant to a permit issued in accordance with regulations issued under Section 12321 of this Article. (Amended by P.L. 10-81, effective August 15, 1969.)

Section 12321. Regulations. Regulations implementing this Article shall be formulated, approved and issued in accordance with the procedures set forth in the Administrative Adjudication Act, which regulations may include but shall not be limited to the following:

- (a) to fix, close, terminate, shorten or divide and open season or make open seasons conditional;
- (b) to prescribe the time of day when taking is permitted;
- (c) to regulate bag or creel limits and possession limits;
- (d) to regulate buying, selling or transporting fish and game;

- (e) to regulate the size and type of any device used for taking and regulate any method of taking;
- (f) to regulate or restrict the places where taking is permitted;
- (g) to provide for the issuance of annual hunting and fishing licenses under this Article;
- (h) to set a fee for any license issued; however, in no event shall such fee exceed the sum of Five Hundred Dollars (\$500); and
- (i) to otherwise implement or carry out the purposes of this Article. (Amended by P.L. 16-39, effective September 11, 1981.)

Section 12322. Illegal use of nets, vessels including engines, motors, and all vessel accessories, traps, firearms, electrical devices, vehicles, seizure, forfeiture proceeding; sale or destruction. Any net, vessel, including engines, motors and all vessel accessories, traps, firearms, electrical devices, and vehicles used for taking or transporting fish or game taken in violation of the provisions of this Article is a public nuisance. Every person authorized to make an arrest for such violations shall seize and keep such net, vessel, including engines, motors and all vessel accessories, trap, firearm, electrical device, or vehicle and report the seizure to the Department of Agriculture.

The Department of Agriculture shall commence proceeding(s) in the Superior Court by petitioning the court for a judgement forfeiting the article or articles seized. Upon the filing of such petition, the clerk of court shall fix a time for a hearing and cause notices to be posted for fourteen (14) days in at least two (2) public places in the place where the court is held and in the Commissioner's Office of the village wherein the person from whom the article or articles were seized resides, setting forth the substance of the petition and the time and place fixed for its hearing. Upon proof that the article or articles seized were used in violation of this Article, the court shall order the article or articles forfeited. Any article so forfeited shall be sold, used or destroyed by the Department of Agriculture. The proceeds from all such sales shall be paid into the Wildlife Conservation Fund. (Amended by P.L. 16-39, effective September 11, 1981.)

Section 12323. Penalty. Any person violating any provisions of this Article and supporting regulations shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than Fifty Dollars (\$50), nor more than Five Hundred Dollars (\$500) or by imprisonment of not more than ninety (90) days or by both such fine and imprisonment. Provided that a person violating Sections 12303, 12304, 12305, 12306 or 12307 of this Article is guilty of a felony punishable by imprisonment for not more than five (5) years, or by a fine of not less than Five Hundred Dollars (\$500), nor more than Five Thousand Dollars (\$5,000), or by both. (Amended by P.L. 16-39, effective September 11, 1981.)

Section 12324. Wildlife Conservation Fund.

(a) There is hereby established a fund to be known as the "Wildlife Conservation Fund" which shall be maintained separate and apart from any other funds of the Government of Guam and independent records and accounts shall be maintained in connection therewith. All license fees collected under this Article shall be deposited in said fund.

(b) The Wildlife Conservation Fund shall be used exclusively for the purposes of the Administration of this Article. Said fund shall be examined and reported upon by the Director of Administration as required by law. (Added by P.L. 7-46, effective July 8, 1963)

(Original Sections 12300-12310, as added by P.L. 3-103, effective August 1, 1956, repealed by P.L. 6-87, effective March 12, 1962. New Sections 12300-12323 added by P.L. 6-87 effective March 12, 1962, and amended as noted herein. New Sections 12306.1, 12307.1, 12308.1 and 12308.2 added by P.L. 16-39, effective September 11, 1981, and amended as noted herein.) ("Director of Finance" changed to "Administration" by editor).

- (1) The present or threatened destruction, modification or curtailment of habitat or range;
- (2) Over-utilization for commercial, sporting, scientific or educational purposes;
- (3) Diseases or predation;
- (4) The inadequacy of existing regulatory mechanisms; or
- (5) Other natural or man-made factors affecting its continued existence.

(d) The Department shall establish priorities for the conservation and protection of resident threatened or endangered species of plants and wildlife and their associated ecosystems.

(e) The Department is authorized to enter into agreements with Federal or other public agencies, private agencies or any person for administration, research or the management of any area, including aquatic, established under this Section or utilized for the conservation, management, enhancement or protection of threatened or endangered resident species of plants and wildlife as defined herein.

(f) The Department shall acquire by purchase, donation or otherwise, lands, aquatic habitats or interests therein for the conservation of resident endangered species or threatened species needed to carry out the programs relating to the intent of this Act; and, to submit to the Governor of Guam plans, programs, remedies or recommendations which will carry out the purposes of this Act.

(g) The Department shall be authorized to conduct investigations to determine the status and requirements for survival of resident species of plants and wildlife.

Section 12325.5. Prohibitions.

With respect to any threatened or endangered species of plants or wildlife of Guam and the United States, it is unlawful, except as provided herein, for any person or organization, subject to the jurisdiction of Guam, to:

- (a) import or export any such species to or from Guam and its territory;
- (b) take any such species within Guam and its territory;
- (c) possess, process, sell or offer sale, deliver, carry, transport or ship, by any means whatsoever, any such species, or wildlife at the time those provisions are enacted into law, may retain, process or otherwise dispose of those plants or wildlife already in his possession;
- (d) violate any regulation or rule pertaining to the conservation, protection, enhancement or management of any designated threatened or endangered species.

Section 12325.6. Permits.

The Department may permit, through licenses, stamps, certificates or agreements, under such terms and conditions as it may prescribe, Section 12325.5 notwithstanding an act for the enhancement, perpetuation, conservation or survival of the affected species in question, provided that such permits are not contrary to the U.S. Endangered Species Act of 1973.

Section 12325.7. Enforcement.

(a) Any authorized officer or agent empowered by the Department with police powers to serve and execute warrants; to arrest offenders; or, to issue citations throughout Guam; or any officer and agent of Guam Customs and Quarantine, or any police officer of Guam shall have the authority to enforce any of the provisions of this Act or any regulation, rule or order promulgated pursuant hereto (Amended by P.L. 15-97).

(b) Any officer or agent authorized pursuant to paragraph (a) shall have the authority to conduct searches, as provided by law, and to seize any equipment, business records, merchandise of any threatened or endangered species of plants and/or wildlife hereunder; and, any of the foregoing to be seized shall be held by the Department, pending disposition by court proceedings, or the Department, prior to the forfeiture, may direct the transfer of plants or wildlife so seized to a qualified zoological, botanical, educational or scientific institution for safekeeping, costs thereof to be paid by the defendant. Upon conviction of the person or persons from whom the seizure was made, the court shall declare the items seized forfeited to the government of Guam. Such items shall be destroyed, or be transferred, or be released into its normal habitat, if possible, by the Department as outlined herein.

(c) Upon proper oath or affirmation showing probable cause, the judges or magistrates of Guam courts, shall issue such warrants or other process as may be required for endorsement of this Act and any regulation, rule or order issued thereunder.

Section 12325.8. Penalties.

(a) Any person or persons who non-commercially knowingly violates any of the provisions of this Act or the provisions of any regulation, rule or order promulgated hereunder, shall be fined not more than Two Hundred Fifty Dollars (\$250).

(b) Any person or person who knowingly violates, or who knowingly commits an act in the course of a commercial activity which violates any provision of any permit, certificate, stamp, agreement, rule, regulation, order or other, issued to implement this Act, may be assessed a civil penalty by the court of not more than Five Thousand Dollars (\$5,000) for each violation or be imprisoned for not more than three (3) years or both. Each violation shall be a separate offense. No penalty may be assessed unless such person is given notice and opportunity for a court hearing with respect to such violations.

(c) The Department shall suspend, for a period of one (1) year, any hunting licenses, fishing permits (including shells, corals, shellfish and other fish weirs) or other stamps, certificates, leases or agreements issued to any person or persons who are convicted of a violation of any provision of this Act or any regulation, rule or order issued hereunder (Amended by P.L. 15-97).

(d) The government of Guam shall not be held liable for the payments of any compensation, reimbursement or damages in connection with the modifications, suspension or revocation of any leases, licenses, permits, stamps, certificates pursuant to the purposes of the Act.

(e) All guns, traps, nets and other equipment, vessels, vehicles, aircraft and other means of transportation used to aid the taking, possessing, selling, purchasing, offering for sale or purchase, transporting, delivering, receiving, carrying, shipping, exporting any plants or wildlife in violation of this Act, any regulation made pursuant thereto or any permit or certificate or agreement made or issued thereunder shall be subject to forfeiture to the government of Guam upon conviction of a criminal violation pursuant to Subsections 12325.4, 12325.5 and 12325.7 (Amended by P.L. 15-97).

(f) The Department may sell forfeited items, the resultant monies to be deposited in the Conservation Fund to promote the welfare of plants and wildlife.

Section 12325.9. Severability.

Should any section, subsection, paragraph, sentence, clause or phrase of this Act or any regulation, rule or order, promulgated pursuant thereby be held invalid for any reason by a competent court of jurisdiction, such decision shall not affect the validity of the remaining portions of this Act or regulation, rule or order promulgated pursuant thereto.

Section 12325.10. Citizen Suits.

(a) Any person may commence a civil suit on his behalf:

(1) to enjoin any person, including the government of Guam, or any other governmental instrumentality or agency (to the limits permitted by the eleventh amendment to the Constitution of the United States), who is alleged to be in violation of any provision of this Act, or regulation, rule or order issued under the authority thereof; or

(2) to compel the Department to apply the prohibitions set forth in or authorized pursuant to this Act with respect to the taking or causing deleterious effects which further jeopardize the continued existence of threatened or endangered species.

(b) The Superior Court shall have jurisdiction to enforce any such provision, regulations, rule or order, whichever the case. In any civil suit commenced under Subparagraph (2), the court shall compel the Department to apply the prohibition sought if the court finds that the allegation that an emergency exists is supported by substantial evidence.

(c) No action may be commenced under Subparagraph (a) or (b) of this Subsection:

(1) prior to sixty (60) days after written notice of violation has been given to the Department, or to any alleged violator of any such regulation, rule or order;

(2) if the Department has commenced action to impose a penalty pursuant to Subsections 12325.4, 12325.5 and 12325.7 of this Act.

(d) The court, in issuing any final order in any suit brought pursuant to this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(e) The injunctive relief provided herein shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of standard or limitation or seek any other relief (including relief against the government of Guam or its agencies).

Article III
Repealed by P.L. 12-209

Article IV
Repealed by P.L. 12-209

ARTICLE II

The Endangered Species Act of Guam (P.L. 15-36, enacted June 18, 1979)

§ 12325	Title.
§ 12325.1	Purposes.
§ 12325.2	Definition.
§ 12325.3	Policy.
§ 12325.4	Authority.
§ 12325.5	Prohibitions.
§ 12325.6	Permits.
§ 12325.7	Enforcement.
§ 12325.8	Penalties.
§ 12325.9	Severability.
§ 12325.10	Citizen suits.

Section 12325. Title.

This act shall be known as "The Endangered Species Act of Guam".

Section 12325.1. Purposes.

The purposes of this Act are to provide authorization whereby the ecosystem upon which resident endangered or threatened species depend, may be protected and conserved; to develop and provide a program for the conservation and management of such endangered and/or threatened species; and, to take such steps and measures as may be appropriate to achieve the purposes of the Endangered Species Act of 1973, U.S. P.L. No. 93-205 U.S. Congress, 28 December 1973.

Section 12325.2. Definition, for the Purposes of This Act.

(a) 'Agent, Employee or Officer' means any Department employee authorized by the Director to carry out any power granted by this Act.

(b) 'Conserve, Conserving and Conservation' mean the use of any and all populations of plants and wildlife declared threatened or endangered and to bring them to the point at which the measures provided pursuant to this Act, are no longer necessary. Such methods and procedures include, but are not limited to censuses, methods and procedures include, but are not limited to censuses, research, law enforcement, habitat acquisition and maintenance, propagation, live trapping, transplantation, regulated taking or confiscation.

(c) 'Department' means the Department of Agriculture, or in the case of changing functions, that agency designated by the government of Guam to be charged with the husbandry of the natural resources of plants and wildlife.

(d) 'Ecosystem' means all natural elements, physical and biological, of the habitat or site in which any plant or wildlife species is found and upon which it is dependent for its well-being.

(e) 'Endangered Species' means any species which is in danger of extinction on Guam and has been so designated pursuant to the provisions of this Article or that has been determined to be an endangered species pursuant to the U.S. Endangered Species Act of 1973.

(f) 'Resident Species' means any plant or wildlife species which spends any part of its life on Guam.

(g) 'Threatened Species' means any species of plant or wildlife which appears likely, within the foreseeable future, to become endangered and which has been so designated by the Department pursuant to this Chapter, or that has been determined to be a threatened species pursuant to the U.S. Endangered Species Act of 1973.

(h) 'Import' means to land on, bring into or introduce into, or attempt to land on, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the custom laws of Guam and the United States.

(i) 'Person' means an individual, corporation, partnership, trust, association or any other private entity, or any officer, employee, agent, department or instrumentality of the Federal government, of any state, territory, commonwealth or political subdivision thereof or of any foreign government.

(j) 'Plants' means any member of the plant kingdom, including seeds, roots, other parts thereof.

(k) 'Secretary' means, except as otherwise herein provided, the U.S. Secretary of the Interior or the U.S. Secretary of Commerce as program responsibilities are vested pursuant to the provisions of the U.S. Reorganization Plan Number 4 of 1970; except that with respect to the enforcement of the provisions of the U.S. P.L. No. 93-205 and the Convention on the International Trade in Endangered Species of Wild Fauna and Flora which pertain to the importation or exportation of terrestrial plants, the term means U.S. Secretary of Agriculture.

(l) 'Species' means and subspecies of plants or wildlife and any other group of plants or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature.

(m) 'Take' means to cut, collect, uproot, destroy, injure or possess threatened or endangered species of plants, or to attempt to engage in any such conduct or to harass, harm, pursue, hunt, shoot, would, kill, trap, capture, snare or collect threatened or endangered species or wildlife.

(n) 'Wildlife' means any resident member of the animal kingdom including without limitation, reared in captivity or not, including any mammal, bird, amphibian, reptile, fish, crustacean, mollusk or other invertebrate; and, includes any parts thereof, except those species of the Class Insecta which have been declared as pests whose protection under the provisions of this Act would present an overwhelming and overriding risk to man, providing this is in conformance with the Federal law.

Section 12325.3. Policy.

It is declared to be the policy of the government of Guam that all departments and agencies shall seek to conserve Guam's resident threatened and endangered species and that they shall utilize their authorities in furtherance of the purposes of this Act by taking such steps as are necessary to insure that action authorized, funded or carried out by them do not jeopardize the continued existence of Guam's threatened or endangered species or those mandated by the United States Government.

Section 12325.4. Authority.

(a) Regulatory power for the purposes of this Act shall be vested in the Department of Agriculture hereinafter referred to as the 'Department' which is responsible for the management and the conservation of plant and wildlife resources of the territory of Guam.

(b) The Department shall conduct all research, investigation and listing of resident threatened or endangered species of plants and wildlife; and all programs for the conservation, management, enhancement or protection of such species; and upon its own recommendation or upon the petition of three persons, shall conduct a review of any listed or unlisted resident species proposed to be on the list published pursuant to the authority herein.

(c) Annually, the Department shall promulgate a list of endangered species. The list of endangered species shall be submitted to each village commissioner for review and comment prior to the hearing on adoption of the list held in accordance with the Administrative Adjudication Act. The list shall be adopted in accordance with the Administrative adjudication Act and then be subject to approval by the Legislature, provided, however, that if the Legislature fails to act on the list of endangered species within twenty (20) legislative days following receipt thereof, then the list of endangered species shall be deemed approved by the Legislature. No additions or deletions may be made to the list without conformance with the procedural requirements for adoption of the list. Each list shall be effective for not more than fourteen (14) months following approval by the Legislature. The Department shall promulgate such rules, regulations or orders in accordance with the Administrative Adjudication Act and any rules or regulations shall be subject to approval by the Legislature, provided, however, that if the Legislature fails to act on the rules or regulations within twenty (20) legislative days following receipt thereof, then the rules or regulations shall be deemed approved by the Legislature. The purpose of the rules, regulations or orders shall be to improve and enhance the welfare of endangered or threatened species after determining on the basis of the best scientific and commercial data available and upon consultation with interested persons, the public, and other appropriate agencies, as to whether or not any species is and endangered or threatened species because of, but not limited to, any of the following factors:

ARTICLE V

Live Coral and Fishing Nets

- § 12380. Taking of live coral: unlawful.
- § 12381. Harvesting of coral.
- § 12382. Commercial permits.
- § 12383. Penalties.
- § 12384. Enforcement.
- § 12385. Mesh size of fishing nets: net, minimum size
- § 12386. Fishing area restrictions.
- § 12387. The use of poisons, electrical devices and mesh nets for scientific purposes.
- § 12388. Penalty.

Section 12380. Taking of live coral: unlawful. It shall be unlawful to remove live coral from that area surrounding the Island of Guam extending from the shore of the island outwards to the ten fathom contour, except in accordance with this Article.

Section 12381. Harvesting of coral.

(a) The commercial harvesting of coral may be conducted by obtaining a license from the Director of Agriculture and the payment of a fee as established by the Director.

(b) For purposes other than the sale of coral, live coral may be taken only by obtaining a license from the Director of Agriculture, such license being limited in time to a maximum of five (5) days at any given time and to a specific location from which the coral is to be taken, and for such license a fee may be charged. The Director may restrict the amount of coral be taken under any license and may impose such other restrictions as may be necessary to insure the conservation of our coral fields.

Section 12382. Commercial permits.

(a) Permits for the Commercial taking of coral may be issued by the Director of Agriculture upon the following conditions:

1. The permit must state the individual or individuals who will be taking the coral;
2. The permit must state the time, date and location from which the coral is to be taken;
3. The Director may limit each permit to a specified amount of coral to be taken, taking into account the location from which the coral is to be taken, the amount of living coral remaining and the likelihood of damage caused to the reef area by the taking of the coral.

(b) The Director of Agriculture may, by regulation, establish a fee schedule based upon the amount of value of the coral to be taken commercially; establish areas on Guam where no coral may be taken, limited coral may be taken or unlimited coral may be taken, and impose any other restrictions necessary for the conservation of our coral reserves, all subject to the permits as required by this Article.

Section 12383. Penalties. Any violation of this Article or the regulations and permits issued pursuant to it shall be a misdemeanor punishable by a fine of not more than five Hundred Dollars (\$500) or by imprisonment of not more than six (6) months or by both such fine and imprisonment for each offense.

Section 12384. Enforcement. This Act shall be enforced primarily by the Director of Agriculture and the Conservation Officers as authorized by Section 12302 of this Title and secondarily by Peace Officers defined in Section 851 of the Penal Code of Guam. (Section 12380-12384 added by P.L. 12-166, effective November 20, 1974.)

Section 12385. Mesh size of fishing nets: net, minimum size. It shall be unlawful for any person to use net (other than small hand nets) with a stretched mesh of less than one and one-half (1½) inches, provided, however, that:

(a) persons catching live fish for aquarium purposes may obtain permits from the Director of Agriculture for the use of small mesh nets to capture aquarium type of fish only. For purposes of this regulation, the manahak, (rabbitfish) ti'ao (juvenile goatfish), i'e' (juvenile carangid), and aguas (juvenile mullet), are not considered aquarium type fishes. A small hand net is defined as a framed net, usually with a handle attached and the greatest frame opening not exceeding twelve (12) inches.

(b) persons engaging in tuna fishing may apply for permits from the Director of Agriculture to capture live bait fish such as minnow (spratelloides), ginyo (atherinidae), fadya (engraulidae), and other suitable bait fish; but will not include the aguas ti'ao, i'e' and manahak.

(c) that the above provisions stipulated in Subsections (a) and (b) are not applicable in any areas designated as conservation areas where the taking of all seasonal fishes are prohibited.

This restriction shall not apply to traditional methods when used for the taking of seasonal juveniles such as rabbitfish (manahak), skipjace (i'e'), goatfish (ti'ao), herring (menis) and mullet (aguas). (Amended by P.L. 16-39, effective September 11, 1981).

Section 12386. Fishing Area Restrictions. No fishing shall be permitted in the Luminao Barrier Reef, on the Philippine Sea side from Cabras Island to the extreme western tip of the Glass Breakwater. The prohibition imposed in this Section shall expire on October 1, 1983 (P.L. 16-114).

Section 12387. The use of poisons, electrical devices and mesh nets for scientific purposes.

(a) The Department of Agriculture shall have the authority to issue permits for the use of poison, electrical devices or small mesh nets for the purposes of bonafide scientific research.

(b) Limitations and Prohibitions.

(1) Each person employing a restricted device or compound shall be required to have a permit in his possession; and

(2) The permit shall specify (i) the name of the permittee, (ii) the device or compound for which the permit was issued, (iii) the area in which the device or compound is used, and (iv) the duration of the permit, which will, in no case, exceed one (1) week, at which time it may be renewed.

(c) Application for Permits. Any applicant of a permit for the use of a restricted device or compound in the waters of Guam shall submit complete and signed applications for the use thereof to the Director of Agriculture (hereinafter referred to as Director) in a form prescribed by him. The applications shall show;

- (1) the name and address of the applicant;
- (2) the device or compound that is to be used;
- (3) the area requested to be covered by the permit;
- (4) the time span for which the permit is to be valid;
- (5) a brief description of the research project; and
- (6) the academic affiliation of the applicant.

(d) Investigation. Upon receipt of a complete and signed application, the Director shall promptly cause an investigation of all aspects of the application to be made, the duration of which shall not exceed three (3) days.

(e) Issuance of Permit. When all the requirements set forth in this Section have been met and the application has been approved by the Director, he shall issue a permit in a form prescribed by him. The original copy shall be given to the permittee and a duplicate copy shall be retained by the Director of Agriculture. The permit shall be non-transferrable.

(f) A duly issued and valid permit shall exempt the holder thereof from violation of sections 12306.1, 12307.1 and, when traditional methods are used, Section 12305 of this Code. (Added by P.L. 16-39, effective September 11, 1981.)

Section 12388. Penalty. Any violation of this Article shall be punished as prescribed in Sections 12322 of the Government Code. (Added by P.L. 16-39, effective September 11, 1981.)

developing and utilizing the soil and water resources of Guam, and controlling and preventing soil erosion.

Section 12392.1. Same: Authorization. In carrying out its responsibilities under this Article, the Department is authorized to:

(a) develop plans for the conservation, development and utilization of soil and water resources, the control and prevention of erosion, and to publish and disseminate such plans for the land owners and occupiers of land in Guam;

(b) conduct surveys, investigations and research, relating to soil and water conservation, the prevention and control of erosion, and to publish and disseminate information concerning such subjects;

(c) conduct demonstrations relative to the conservation of soil and water resources;

(d) prevent and control soil erosion and government land;

(e) cooperate with other land owners and occupiers in the development of soil and water conservation programs; and

(f) construct, improve and maintain any structure necessary for carrying out the purposes of this Article.

Section 12392.2. Compliance with Federal Programs. With the approval of the Governor, the Department shall serve as the appropriate agency for compliance with the terms of any federal programs concerning the conservation, development and utilization of water, forest, and related land resources as well as rural and wildland fire suppression.

ARTICLE IX

Wildland Fire Protection

- § 12393. Definitions.
- § 12393.1 Responsible Agency.
- § 12393.2 Powers and Duties
- § 12393.3 Fire Danger Periods.
- § 12393.4 Burning Permit Officers.
- § 12393.5 Burning Permits.
- § 12393.6 Offenses.
- § 12393.7 Penalties.
- § 12393.8 Remedies.
- § 12393.9 Expunge Record.
- § 12393.10 Wildland Fire Enforcement Officer, Deputies.

Section 5. Effects this Act 30 days after its enactment.

Section 12393. Definitions. 'Wild areas' are those areas designated such by the Director and let undisturbed, except for occasional use or influence by man in their natural condition.

Section 12393.1. Responsible Agency. The Department shall take measures for the prevention, control and extinguishment of wildland fires on government of Guam and private lands. It shall also cooperate with the Department of Public Safety, other government of Guam agencies, and the appropriate federal government agencies in developing plans and programs as well as mutual aid agreements for assistance in the prevention and control of wildland fires.

Section 12393.2. Powers and Duties. The Director shall be responsible for the development and implementation of organizational plans and consequential actions related to this Article. The Director shall designate qualified personnel as Fire Prevention Officers within the Department to:

- (a) zone the territorial lands under the Department's jurisdiction into fire districts;
- (b) take necessary measures for the prevention, control and extinguishment of wildland fires;
- (c) establish procedures, guidelines and conditions for the issuance of burning permits;
- (d) issue fire warning notices during dry periods or other seasons when fire hazards are great;
- (e) close government of Guam lands to public access during dry periods when necessary to reduce fire risk, except it shall be lawful for an owner, a lessor, his agents or other persons regularly engaged in agricultural land preparation, planting of crops or forest seedlings or harvesting, processing or moving farm or forest products to enter the closed area for essential residential or commercial purposes;
- (f) summon, when deemed necessary, additional firefighting assistance, equipment or materials to assist in fire suppression;
- (g) arrest, without warrant, any person committing in his presence any of the offenses prohibited by this Article;
- (h) assume full responsibility for directing the control and extinguishment of any fire on, or threatening government of Guam natural preserves, conservation reserves or territorial parks; and
- (i) conduct education work concerning the protection of forest and grasslands from fires.

Section 12393.3. Fire Danger Periods. During periods of weather when the Director determines that the risk is high, he shall establish a fire danger period by issuing a fire warning, which contains information setting forth the fact. This fire warning along with a designation of areas within which burning is prohibited shall be provided to the news media for presentation as a public service. Notices of the fact may also be posted in public buildings and on public lands. During such periods, no fires other than those within a closed, screened container shall be allowed.

Section 12393.4. Burning Permit Officers. The Director, in cooperation with the Department of Public Safety, shall designate Burning Permit Officers to issue burning permits. The Burning Permit Officers shall be qualified fire prevention personnel from the Department of Agriculture or the ranking officer in charge at each Department of Agriculture Fire Station. The Burning Permit Officer from the Department of Agriculture will be limited to issuing burning permits for wild areas only.

Section 12393.5. Burning Permits. The Department of Agriculture and Public Safety shall be responsible for the issuance of burning permits in wild areas. The issuance of permits shall be at the discretion of the Department of Agriculture, but shall be compatible with the safety. Permit holders shall not start fires during a heavy wind or without sufficient help present to control and extinguish the fires. Permit holders shall also maintain a constant watch over the fires until all fires have been extinguished.

Section 12393.6. Offenses. Any person who discards burning materials or who wilfully, maliciously or negligently sets a fire that burns vegetation on land not owned, leased or controlled by him shall be guilty of incendiarism, which is subject to penalties as described in Section 12393.7. Setting fires, causing them to be set, or allowing them to escape, shall be prima facie evidence of wilfulness, malice or negligence under this Section, provided, that nothing herein contained shall apply to any person who, in good faith, sets a backfire to check an already burning fire or who with a burning permit sets a fire for forest management or land clearing purposes.

Section 12393.7. Penalties. Any person who violates any provision of this Chapter shall be subject to any combination of the following:

(a) a misdemeanor, punishable by a fine of not more than One Thousand Dollars (\$1,000); or

(b) a misdemeanor, punishable by imprisonment of not more than one (1) year; or

(c) a misdemeanor, punishable by service to the Alternative Community Service Program, but only with the consent of that person; or

(d) a civil fine of not more than Ten Thousand Dollars (\$10,000) and, in addition to any other penalties, a civil fine of not more than Five Hundred Dollars (\$500) per day for each day in which the violation persists; or

(e) in lieu of a civil fine, a person may be subject to service in the Alternative Community Service Program, but only with the consent of that person.

Any person who successfully completes service in the Alternative Community Service Program for a violation of this Chapter may have his official record expunged.

Section 12393.8. Remedies.

(a) Any person may maintain an action for declaratory and equitable relief to restrain violations of this Chapter. No bond shall be required of an action under this Subsection.

(b) Any person may maintain an action for the recovery of civil penalties provided in Section 12393.7.

(c) The provisions of this Section shall be, in addition to other remedies, available at law.

(d) Any person prevails in a civil action brought to enforce a violation of this Chapter or to recover civil penalties shall be awarded his costs, including reasonable attorneys fees.

Section 12393.9. Expunge Record. Any person who successfully completes service in the Alternative Community Service Program for a violation of this Chapter and is a first time offender may apply to the court for an order to expunge from all official records other than the non-public records to be retained by the court solely for the purpose of use by the courts in determining whether or not, in subsequent proceedings, such person qualifies under this Section all recordation relating to his arrest, indictment or information, trial, finding of guilty and sentencing pursuant to Subsection 12390.1, 12390.2, 12393.6 and 12393.7. If the court determines after hearing, that such person successfully completed service in the Alternative Community Service Program and was a first time offender, it shall enter such order. The effect of such order shall be to restore such person, in the contemplation of the law, to the status he occupied before such arrest or indictment or information. No

HAWAII ADMINISTRATIVE RULES

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DEPARTMENT OF TRANSPORTATION

SUBTITLE 3

HARBORS DIVISION

PART 5

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Chapter 83	Enforcement, Penalties, Accidents, and Reports
Chapter 84	Registration and Permit Fees
Chapter 85	Local Shore Waters and Shores
Chapter 86	<u>[Reserved] Ocean Recreation Management Rules and Areas</u>
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Chapter 88	(Reserved)
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Chapter 90	(Reserved)

HAWAII ADMINISTRATIVE RULES
TITLE 19
DEPARTMENT OF TRANSPORTATION
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PART 5
SHORE WATERS AND SHORES
CHAPTER 86
OCEAN RECREATION MANAGEMENT RULES AND AREAS

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OCEAN RECREATION MANAGEMENT PLAN

- \$19-86-1 Purpose and Scope
- \$19-86-2 Interpretation
- \$19-86-3 Thrill craft operations
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- \$19-86-22 Permit requirements for commercial operator
- \$19-86-23 Operator experience requirements
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- \$19-86-30 Safety and enforcement
- \$19-86-31 Anini Beach ocean waters
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\$19-86-90
to
\$19-86-95 (Reserved)

SUBCHAPTER 8 SOUTH MAUI OCEAN RECREATION
MANAGEMENT AREA

\$19-86-96 Kihei Commercial Thrill Craft Area
\$19-86-97
to
\$19-86-99 (Reserved)

SUBCHAPTER 9 NORTH SHORE MAUI OCEAN
RECREATION MANAGEMENT AREA

\$19-86-100 Hookipa Restricted Area
\$19-86-101 Paia Beach Park Restricted Area

SUBCHAPTER 9, NORTH SHORE MAUI, CON'T:

\$19-86-102 H. A. Baldwin Park Restricted Area
\$19-86-103 Kanaha Beach Park Restricted Area
\$19-86-104
to
\$19-86-110 (Reserved)

SUBCHAPTER 10 EAST HAWAII ISLAND OCEAN
RECREATION MANAGEMENT AREA

\$19-86-111 Hilo Bay Recreational Thrill Craft
Zone
\$19-86-112 Puhi Bay-Leleiwi Point Restricted
Zones
\$19-86-113
to
\$19-86-115 (Reserved)

SUBCHAPTER 11 WEST HAWAII ISLAND OCEAN
RECREATION MANAGEMENT AREA

\$19-86-116 Honaunau Bay Swimming Zone
\$19-86-117 Kahaluu Bay Swimming Zone
\$19-86-118 Kalaepaakai Point Commercial
Thrill Craft Zone
\$19-86-119 Onea Bay Swimming Zone
\$19-86-120 Kailua Bay Boating Zone
\$19-86-121 Kailua Pier Restricted Zones
\$19-86-122 Honokohau Swimming Zone
\$19-86-123 Kua Bay Swimming Zone
\$19-86-124 Kahuwai Bay Swimming Zone
\$19-86-125 Kiholo Bay Speed Zone
\$19-86-126 Anaehoomalu Bay Swimming Zones
\$19-86-127 Makaiwa Bay Swimming Zones
\$19-86-128 Hapuna Bay Swimming Zone
\$19-86-129 Kaunaoa Beach Swimming Zone
\$19-86-130
to
\$19-86-140 (Reserved)

Historical note. This chapter is based largely on House Resolution No. 298, H.D. 1, Thirteenth Legislature, requesting the department to develop a management plan for the North Shore of Kauai; House Resolution No. 170, Thirteenth Legislature, requesting the department to establish a State-wide ocean recreation watercraft management plan; and Act 247, Session Laws of Hawaii, 1987, which prohibits the operation of thrill craft on the waters of the state after October 1, 1988, except in areas designated by the department.

SUBCHAPTER 1

GENERAL PROVISIONS FOR THE OCEAN RECREATION MANAGEMENT PLAN

§19-86-1 Purpose and Scope. (a) The purpose of these rules is to reduce conflicts among ocean water users, especially in areas of high activity. The Department has designated ten (10) "Ocean Recreation Management Areas", as described in subchapters 2 through 11, of this chapter.

(b) All other waters of the state within three thousand feet seaward of the territorial sea base line are established as non-designated ocean recreational management areas subject to the general provisions of this chapter. [Eff.]
(Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

§19-86-2 Interpretation. If any section of these rules is inconsistent with any act of the Congress of the United States or any rule, or standard established pursuant thereto, the act of Congress shall govern. Nothing contained in these rules shall be construed to limit the powers of any state department or agency. These rules shall be construed liberally and consistent with the purpose stated in section 19-86-1. [Eff.]
(Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

§19-86-3 Thrill craft operations. (a) Age of the operator. No person shall operate a thrill craft unless the person is fifteen years of age or older.

(b) Recreational thrill craft operations.

(1) Ingress and egress of recreational thrill craft to and from ocean waters of the state, which have been designated specifically for recreational thrill craft operations, shall be by the most direct route consistent with safety considerations. Operators shall proceed at a speed of slow-no-wake when within three hundred feet of the shoreline.

(2) In areas outside of the designated ocean recreation management areas specified in this chapter, recreational thrill craft may operate seaward of the outer fringing reef but in no case closer than five hundred feet from the shoreline.

§19-86-3

(3) Recreational thrill craft may gain access to state waters only from launching or harbor facilities or from private beach front property.

(c) Commercial thrill craft operations.

(1) Ingress and egress to and from ocean waters of the state from state owned harbors and ramp facilities to designated commercial thrill craft operating areas are subject to the issuance of a commercial use permit by the department, not to exceed the number of permits authorized for the state-owned facility.

(2) Commercial thrill craft shall proceed at a speed of slow-no-wake via the most direct route to the designated commercial thrill craft area consistent with safety considerations for the area. Thrill craft vessels shall not exceed a speed of slow-no-wake when within three hundred feet of the shoreline.

[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. HRS §§266-2, 266-3)

§19-86-4 Parasailing activities. Parasailing activities shall be conducted in the waters of the state in compliance with rules and regulations promulgated by the U. S. Coast Guard in addition to the following provisions:

(1) Ingress and egress of state owned harbors and ramp facilities to designated parasailing areas shall be by the most direct route. Commercial parasailing vessels using state owned facilities are subject to the issuance of a commercial harbor use permit by the department, not to exceed the number of commercial permits authorized for the state-owned facility.

(2) Parasailing vessels shall not engage in parasailing activities when within three hundred feet of the shoreline or any marked channel entrance.

[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. HRS §§266-2, 266-3)

\$19-86-5: Commercial vessel shoreline access. No commercial vessel shall land, embark or discharge passengers at any state or county beach park, or at other public beaches except for locations at which the owner has been issued an appropriate permit or concession lease by the board of land and natural resources or a county, or within ingress/egress zones established by this chapter. [Eff.]
(Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

\$19-86-6 Operator permit requirements. (a) No person shall offer for a fee any vessel, water craft or water sports equipment unless the person has been issued an operator permit by the department. The applicant for such permit shall comply with the applicable provisions stated in Hawaii Administrative Rules, Shore Waters and Shores, Chapter 82, Subchapter 1 and 2.

(b) The department shall establish and maintain a Recreation Advisory Committee of not less than three members for each recreation management area defined in this Chapter. Each Recreation Advisory Committee shall examine every applicant in its area of responsibility to determine if the applicant is qualified to receive an operator permit. Recommendations of the Committee shall be provided to the department for final determination.
[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. HRS §§266-2, 266-3)

\$19-86-7 Registration requirements for commercial vessels. No person shall operate a vessel, water craft or water sports equipment offered for a fee unless the craft is registered with the department in compliance with provisions stated in Hawaii Administrative Rules, Shore Waters and Shores, Chapter 82, Subchapter 5, Registration. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

\$19-86-8 Fees. (a) Fees required to be paid to the department are described in the Hawaii Administrative Rules, Shore Waters and Shores, Chapter 84 and Small Boat Harbors, Chapter 65 as follows:

- (1) Registration fee. A registration fee payable at time of issuance and renewal shall be as perscribed in \$19-84-1
- (2) Operator permit fee. An operator fee payable at time of issuance and renewal of the permit shall be as perscribed in \$19-84-2,
- (3) Commercial use permit fee. A commercial use permit fee payable at time of issuance and renewal of the permit shall be as perscribed in \$19-65-23.

[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. HRS \$266-2)

\$19-86-9 Windsurfing. (a) Windsurfing activity shall be governed by the provisions of this chapter.

- (1) No person shall engage in windsurfing activity within two hundred feet of a shoreline except in areas used for supervised instruction or when leaving or approaching the beach.
- (2) Ingress/egress to the shoreline shall be made by the most direct route dictated by wind conditions.
- (3) Maneuvering shall be in accordance with rules of the road pertaining to sailing vessels. (Navigation Rules, COMDTINST M16672.2A.)

[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. HRS §§266-2, 266-3)

\$19-86-10 Seaplane and ultralight float equipped aircraft. (a) Seaplane and ultralight float equipped aircraft activities are prohibited on the ocean waters of any ocean recreation management area.

(b) The use of shuttle vessels in support of ultralight float equipped aircraft operations shall be prohibited on the ocean waters of the state.

[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. HRS §§266-2, 266-3)

§19-86-11 Mooring of rafts and platforms. The permanent mooring of rafts and platforms for use in thrill craft, parasailing and other water sports activities is prohibited. Rafts and platforms shall be removed daily from the waters of the state or located in a designated anchorage or harbor in accordance with a valid permit issued by the department. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

§19-86-12 Safety and enforcement. The restrictions cited in this chapter shall not apply in the event of an emergency, to law enforcement or rescue craft, or to vessels participating under a valid ocean waters event permit issued by the department or the U.S. Coast Guard. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

SUBCHAPTER 2

NORTH SHORE KAUAI OCEAN RECREATION MANAGEMENT AREA

§19-86-21	Definition
§19-86-22	Permit requirements for commercial operator
§19-86-23	Operator experience requirements
§19-86-24	Registration requirements
§19-86-25	Owner required to report change in ownership, address and other changes
§19-86-26	Limitations on number of commercial vessels
§19-86-27	Priority and procedures in the issuance of commercial use permits
§19-86-28	Use of commercial vessels at the Hanalei River and Anini Beach launching ramp.
§19-86-29	Fees
§19-86-30	Safety and enforcement
§19-86-31	Anini Beach ocean waters
§19-86-32	Hanalei Bay ocean waters, general restrictions
§19-86-33	Haena ocean waters, general restrictions
§19-86-34	Na Pali Coast ocean waters, general restrictions

Historical note. This subchapter is based primarily upon the final recommendations of the Ad Hoc Committee for a Management Plan for the North Shore of Kauai, developed in response to House Resolution No. 298, H.D. 1, Thirteenth Legislature, Regular Session of 1985.

§19-86-21 Definition. The "North Shore Kauai Ocean Recreation Management Area" means all ocean waters and navigable streams located between eastern boundary of Moloaa Bay and the southernmost boundary of Na Pali Coast State Park extending three thousand feet seaward of the territorial sea baseline as shown on Exhibit "A", dated June 30, 1988, located at the end of this subchapter. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §266-2)

§19-86-22 Permit requirements for commercial operator. (a) All commercial motorboat operators, catamaran captains, canoe captains, canoe second captains, surfboard instructors, sailboard instructors and commercial kayak tour guides shall apply for a permit pursuant to the requirements set forth in Sections 19-82-1 through 19-82-19.

(b) No person shall operate a commercial vessel providing services on a fee basis or offer for rent water sports equipment for use within the North Shore Kauai Ocean Recreation Management Area without a valid operator permit issued by the department.

(c) A permittee may be an individual, corporation, partnership, joint venture or any other business entity. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §266-2)

§19-86-23 Operator experience requirements. (a) No commercial motorboat operator permit shall be issued to operate or navigate within the Na Pali Coast restricted area unless the applicant has a minimum of ninety days experience operating within the Na Pali Coast restricted area attested to by two persons each holding a valid commercial motorboat operator permit issued by the department.

(b) All commercial kayak tour guides shall possess a current Red Cross Advanced Life Saving Certificate, have knowledge of elementary first aid, and be physically qualified to perform as a kayak tour guide the position requires as evidenced by a written report of a physical examination made no earlier than thirty days prior to the effective date of the permit. No commercial kayak tour guide permit shall be issued to operate or navigate within the Na Pali Coast Restricted area unless the applicant demonstrates a satisfactory knowledge of the waters through presentation of a log of ocean kayak trips performed in the Na Pali Coast Restricted area during the preceding six-months period.

(c) The department shall establish an advisory committee of not less than three commercial operators to review applications for commercial operator permits required by this section. The advisory committee shall submit recommendations to the

department regarding the qualifications of the applicants for the permits. Members of the advisory committee shall have not less than five years experience in their operational specialty operating in the North Shore Kauai Ocean Recreation Management Area. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §266-2)

§19-86-24 Registration requirements. (a) The requirements for the registration of commercial vessels, sailboards, surfboards or water sports equipment shall be in accordance with the applicable registration provisions set forth in Sections 19-82-22 through 19-82-36. Commercial use permits issued by the department for commercial vessels operating from state harbors or boating facilities and the Hanalei River or Anini launching ramp shall satisfy the registration requirements of this section.

(b) The registration requirements of this chapter shall be in addition to the State vessel registration requirements set forth in Title 19 or U.S. Coast Guard documentation. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §266-2)

§19-86-25 Owner required to report change in ownership, address and other changes. (a) In addition to the provisions set forth in Section 19-82-30, the owner of any commercial vessel surfboard, sailboard, kayak or any other water sports equipment registered under this chapter shall notify the department in writing within seven days if:

- (1) The owner sells or no longer has possession of the surfboard, sailboard, kayak or water sports equipment.
- (2) Any interest in a commercial vessel is transferred to another person or persons.
- (3) The owner's address or telephone number changes.

(b) "Transfer" as used in this section means transfer of stock in a corporate owner which results in a change of the majority stockholder, or transfer of interest in any other business entity which results in a change of the owner holding the majority interest.

(c) "Interest" as used in this section includes ownership of stock in a corporation, partnership, joint venture or any other business entity that owns a commercial equipment registered under this subchapter. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §266-2)

§19-86-26 Limitations on the number of commercial vessels. (a) No more than thirty-two commercial vessels shall be permitted to operate within the North Shore Kauai Ocean Recreation Management Area. All commercial vessels operating with valid commercial use permits issued by the department in the Hanalei and Anini Beach Restricted area on the effective date of these rules may apply for and be given priority issuance of a commercial use permit.

(b) No more than three commercial kayak tour operators shall be registered and permitted to operate in the Na Pali Coast restricted area. No trip scheduled by a commercial kayak tour operator may include more than four kayaks for customers and two kayaks for guides. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §266-2)

§19-86-27 Priority and procedures in the issuance of commercial use permits. (a) All commercial vessels operating with valid commercial use permits issued by the department in Hanalei and Anini Beach restricted area on the effective date of these rules shall be given priority in the issuance of commercial use permits.

(b) An application for a commercial use permit shall be made in writing to the department on the form provided by the department. The applicant shall indicate in the application the type and characteristics of the vessel, included but not limited to the vessel's length overall, draft, beam, principal source of propulsion, and any secondary or auxiliary source of propulsion, the passenger carrying capacity, and any other pertinent information. The department shall accept the application for consideration by endorsing it and entering the filing time and date on the application form submitted. One copy shall be given to the

applicant. The time and date the application is endorsed by the department shall be the filing date and the effective date of the application for consideration and shall establish such applicant's seniority or priority over later applicants if the application remains valid. No application shall be accepted until the applicant pays the application fee prescribed in these rules.

(c) Commercial vessel permits shall first be offered to those permittees in compliance with section (a). All other vessel permits will be on the basis of the earliest filing date. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §266-2)

§19-86-28 Use of commercial vessels at the Hanalei River and Anini Beach launching ramp. (a) This section is applicable to all commercial vessels providing services on a fee basis, including launching, loading or discharging passengers at the Hanalei River mouth or Anini Beach launching ramp. (b) No commercial vessel operator shall launch, load or discharge passengers or cargo or engage in any other commercial activity unless the owner possesses a valid commercial use permit issued by the department under chapter 19-62.

(c) No more than fifteen commercial use permits shall be issued for use of the Hanalei River mouth, and no more than two commercial use permits shall be issued for use of Anini Beach launching ramp.

(d) No commercial use permit shall be issued for a vessel which exceeds the passenger-carrying capacity of the vessel named in the permit, provided that the department may authorize the substitution of a larger vessel for one or more smaller vessels if the total number of landings and passengers per day as allowed in the existing permit will not be exceeded. Permits shall state the passenger carrying capacity of each vessel operated by the business entity. A limit of four hundred and fifty passenger trips per day for Hanalei is established. In no case shall a commercial use permit be issued for a vessel with a U. S. Coast Guard certified passenger carrying capacity greater than twenty-five, except for vessels holding a valid permit for a vessel of higher capacity on the effective date of these rules.

(e) The department shall not grant a commercial use permit for a vessel unless the gross receipts for the vessel during the twelve-month period, preceeding the date of application, equals or exceeds the following average minimum for its category of vessel:

- (1) Vessels registered by the State or documented by the U.S. Coast Guard to carry six or less passengers.....\$15,000
- (2) Vessels certified by the U.S. Coast Guard to carry between seven and twenty-five passengers.....\$35,000
- (3) Vessels certified by the U.S. Coast Guard to carry between twenty-five and forty-nine passengers.....\$75,000
- (4) Kayak tour operators To be determined on individual basis

(5) The department may waive the minimum gross receipts requirements provided that the owner applies in writing to the department and provides substantive evidence that either the vessel or the owner was incapacitated or otherwise unable to operate for a period in excess of thirty days during the preceding twelve-month period.

(f) A commercial use permit shall be non-transferable. A commercial use permit shall expire when a permittee parts with possession of the vessel or transfers the title or any interest in the vessel.

(g) A commercial use permit issued to a corporation or other business entity shall automatically expire:

- (1) Upon the voluntary or involuntary dissolution of the corporation or business entity;
- (2) If the vessel or vessels operated under the commercial use permit are sold or otherwise transferred and not replaced in accordance with the provisions of subsection 19-62-13(b), or
- (3) If the permittee fails to operate the vessel for which the commercial use permit is issued for a period in excess of sixty days, except as provided in subsection (d).

(h) The insurance requirements shall be not less than \$50,000 for property damage and not less than \$500,000 personal liability for vessels authorized to carry one to twenty-five passengers, and not less

than \$1,000,000 for personal liability for vessels authorized to carry more than twenty-five passengers. The liability insurance shall name the State and Kauai County as additional insureds.

(i) No commercial use permits shall be issued for the purpose of loading or unloading passengers by small craft or lighter from a commercial vessel moored offshore unless that vessel has obtained a commercial use permit for the use of the Hanalei River mouth or Anini Beach.

(j) No vessel fueling is permitted adjacent to Hanalei Pier or fronting Black Pot Park. No direct shore-to-vessel fueling shall be permitted. Refueling shall be accomplished only by safe and approved portable systems.

(k) The department reserves the right to designate landing and loading times for any vessel operating under a valid commercial use permit.

(l) The commercial use permit issued under this section shall not allow the permittee to land, embark or discharge passengers at any location other than that stated in the permit, except in case of emergency.

(m) The permittee shall establish a passenger assembly area elsewhere and transport passengers to and from the landing site. Passengers shall not proceed independently to the landing site. The permittee shall keep the area clean and shall remove all trash for disposal at an appropriate site away from Black Pot Park, the Hanalei launching area and Anini Beach Park. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §266-2)

§19-86-29 Fees. (a) Fees required to be paid to the department are described in the Hawaii Administrative Rules, Shore Waters and Shores, Chapter 84 and Small Boat Harbors, Chapter 65 as follows:

- (1) Registration fee. A registration fee payable at time of issuance and renewal shall be as perscribed in §19-84-1
- (2) Operator permit fee. An operator fee payable at time of issuance and renewal of the permit shall be as perscribed in §19-84-2,

- (3) Commercial use permit fee. A commercial use permit fee payable at time of issuance and renewal of the permit shall be as perscribed in \$19-65-23.

[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. HRS \$266-2)

\$19-86-30 Safety and enforcement. The restrictions cited in this subchapter shall not apply in the event of an emergency, to law enforcement or rescue craft, or to vessels participating under a valid ocean waters event permit issued by the department or the U.S. Coast Guard.

[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. HRS \$266-2)

\$19-86-31 Anini Beach ocean waters. (a) Anini Beach Ocean Waters means all ocean waters confined by the boundaries shown on Exhibit "B", dated June 30, 1988, located at the end of this subchapter and described as follows:

Beginning at a point at the low watermark from Honono Point, thence along a straight line on an azimuth of 142 degrees measured from true south to the inner edge of the reef of the channel, thence clockwise along the outer edge of the reef to the intersection of a line drawn on an azimuth of 197 degrees from a point on the shoreline to 017 degrees to the low water mark of the shore line thence clockwise along the Anini Beach shoreline to the point of beginning.

- (b) Restrictions. Anini Beach ocean waters.
- (1) Anini Beach ocean waters shall be limited to providing commercial sailboard instruction only. No more than sixteen commercially owned sailboards may be employed in instructional use at any one time.
 - (2) Motorized vessels operating within Anini Beach ocean waters shall not exceed a speed of "slow-no-wake" (five miles per hour) within two hundred feet of the shoreline.
 - (3) Motorized vessels and sailboards shall not proceed within one hundred feet of persons engaged in throw net fishing. This restriction shall not apply to vessels transiting the channel to or from the launching ramp.

- (c) Swimming Zone A, Anini Beach ocean waters.
(1) Swimming Zone A, Anini Beach ocean waters means the ocean waters confined by the boundaries shown on Exhibit "B", dated June 30, 1988, located at the end of this subchapter and described as follows:

Beginning at a point on the low water mark fifty feet east of the launching ramp, then proceeding in a straight line perpendicular to the low water mark seaward for a distance of one hundred feet, then proceeding in a straight line to a point on the extended eastern property line of Anini Beach Park located two hundred feet from the low water mark, then along the extended property line to the low water mark, then along the low water mark to the point of beginning.

- (d) Swimming Zone B, Anini Beach ocean waters.
(1) Swimming Zone B, Anini Beach ocean waters means the ocean waters confined by the boundaries shown on Exhibit "B", dated June 30, 1988, located at the end of this subchapter and described as follows:

Beginning at a point on the low water mark on an azimuth measured clockwise from True South of 167 degrees from Honu Point, proceeding in a straight line for a distance of one hundred feet, then proceeding in a straight line to the extended western property line of Anini Beach Park located at a point in the water one hundred feet from the low water mark, then along the extended property line to the low water mark, then along the low water mark to the point of beginning.

- (c) Restrictions. Swimming Zones A and B of Anini Beach ocean waters are designated for swimming and bathing. No person shall operate or moor a vessel or sailboard within these zones.

[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. HRS \$266-2)

\$19-86-32 Hanalei Bay ocean waters, general restrictions. (a) Hanalei Bay ocean waters means all ocean waters and navigable streams confined by the boundaries shown on Exhibit "C" dated June 30, 1988, located at the end of this subchapter and described as follows:

Beginning at a point on the shoreline at the northernmost tip of Makahoa Point on the western end of the bay, thence along a straight line drawn tangent to the shoreline of Puu Poa Point on the eastern end of the bay, thence clockwise along the shoreline, including the banks of all navigable streams to the upper limit of tidal influence, to the point of beginning.

(b) The Hanalei Bay ocean waters are subject to the following restrictions.

- (1) No person shall operate a vessel at a speed in excess of "slow-no-wake" (five miles per hour) within five hundred feet of the shoreline or within the designated mooring area.
- (2) No person shall navigate a motorboat within three-hundred feet of a shoreline, diver's flag, or a designated swimming area. No person shall navigate a commercial motorboat within five-hundred feet of the shoreline, except within the designated ingress/egress corridors. Vessels engaged in fishing are exempt from the three-hundred foot shoreline restriction, except that they may not enter designated swimming areas.
- (3) No person shall anchor or moor a vessel, raft, barge, platform or other contrivance except within the designated mooring area.
- (4) No commercial fishing vessel over fifty feet in length may engage in fishing except by pole and line within Hanalei Bay ocean waters.

(c) Recreational Zone A, Hanalei Bay ocean waters.

- (1) Recreational Zone A mean the ocean waters confined by the boundaries shown on Exhibit "C" dated June 30, 1988, located at the end of this subchapter and described as follows: All ocean waters and navigable streams located mauka of a straight line drawn from the end of Hanalei Pier to Makahoa Point.
- (2) Restrictions. Zone A Hanalei Bay ocean waters is designated for recreation use. No commercial vessel, sailboard, surfboard or other commercial water recreational device may be navigated within Zone A, provided that commercial vessels may be moored within that portion of the designated mooring area located within Zone A.

(d) Swimming Zones B-1 and B-2, Hanalei Bay ocean waters.

- (1) Zones B-1 and B-2 mean the areas confined by the boundaries shown and described in Exhibit "C" dated June 30, 1988, located at the end of this subchapter, as follows: Zone B-1 shall be established only when a sand beach of a minimum width of two feet at high tide is present fronting Black Pot Beach Park.

Zone B-1 swimming area extends three hundred feet seaward of the low water mark for a distance of three hundred feet on each side of Hanalei Pier.

Zone B-2 swimming area extends three hundred feet seaward of the low water mark between the extended boundary lines of the county park containing the beach pavilion.

- (2) Restriction. Zones B-1 and B-2 are designated for bathing and swimming. No person shall operate or moor a vessel, sailboard, or any other recreation device within Zones B-1 and B-2, provided that this restriction shall not apply to:

(A) Vessels engaged in small scale surround net fishing or fishing and crabbing from shore or from non-motorized boats when swimmers are not in the water;

(B) Hawaiian design outrigger canoes engaged in crew training.

(e) Designated mooring area.

- (1) The designated mooring area is established for the mooring or anchoring of transient and locally based vessels, and means the area confined by the boundaries shown on Exhibit "C" dated June 30, 1988, located at the end of this subchapter, and described as follows:

Beginning at a point on the northwest corner of Hanalei Pier by azimuths clockwise from True South, 123 degrees for a distance of three hundred fifty feet; 346 degrees for a distance of one thousand ninety feet; 022 degrees for a distance of five hundred feet; 127 degrees for a distance of three thousand one hundred eight feet; then 270 degrees to the point of beginning.

- (2) All vessels within Hanalei Bay ocean waters shall be moored or anchored within the designated mooring area.

- (3) No person shall navigate, moor, or anchor a commercial vessel, providing services on a fee basis, in a designated mooring area unless the vessel has been registered and the owner has a valid commercial use permit issued by the department.
 - (4) No person shall anchor, moor or stay aboard a vessel except those equipped with an approved marine sanitation device (MSD) in good working condition, or those vessels exempt from MSD requirement in accordance with U.S. Coast Guard regulations.
 - (5) No permanent mooring shall be installed within the designated mooring area except by permit issued by the department.
 - (f) Ingress/Egress zones.
 - (1) Ingress/Egress zones shall be established at intervals along the shoreline to provide beach access for all motorized vessels and non-motorized dinghies and tenders from transient and visiting vessels anchored or moored within the designated mooring area. Zone number one begins at the southern boundary of the County Park pavilion parcel and extends southwest along the shoreline a distance of three hundred feet, then seaward to the designated mooring area. Zone number two begins at the north bank of Hanalei River and extends southward across the Hanalei River mouth to the northern boundary of Black Pot Park, and then extends seaward to the designated mooring area.
 - (2) Zone number one is designated for use by recreational motorized vessels, sailing catamarans and dinghies used as tenders for transient recreational vessels.
 - (3) Zone number two is designated for use by both commercial and recreational vessels.
- [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §266-2)

S19-86-33 Haena ocean waters, general restrictions. (a) Haena ocean waters means all ocean waters confined by the boundaries shown on Exhibit "D" dated June 30, 1988, located at the end of this subchapter and described as follows:

Beginning at the point where the western boundary of Haena Beach Park intersects the shoreline, thence running by azimuths measured clockwise from True South; 200 degrees for a distance of two thousand nine hundred feet; 264 degrees for a distance of eleven hundred feet; 305 degrees for a distance of twelve hundred forty feet; 327 degrees for a distance of four hundred feet; 348 degrees to the shoreline; thence clockwise along the shoreline to the point of beginning.

(b) Haena ocean waters are subject to the following restrictions.

- (1) No commercial motorized vessel shall land, or discharge or load passengers from shore within Haena ocean waters, unless the owner possesses a valid commercial use permit for the use of the beach for this purpose issued by the board of land and natural resources. The total number of vessels operating from this area shall not exceed ten passenger carrying vessels and one support craft.
- (2) No person shall solicit business or offer goods or services for rent, sale or use within Haena ocean waters.
- (3) Non-motorized commercial vessels may be permitted to land at the beach area fronting the western half of the county beach park.
- (4) Vessels may be moored or anchored only during daylight hours.
- (5) Motorized vessels shall not exceed a speed of "slow-no-wake" (five miles per hour) within Haena ocean waters.
- (c) Recreational Zone A, Haena ocean waters.
- (1) Zone A means the area confined by the boundaries shown on Exhibit "D" dated June 30, 1988, located at the end of this subchapter, which boundaries are described as follows:

Beginning at the intersection of the edge of the inner reef and the mean low water mark on the south side of the boat channel, then clockwise along the outer edge of the inner reef to the intersection of the edge of the reef and a straight line drawn between a marker pole on the shoreline and the exposed rock on the southern tip of the outer reef, then along this line to the exposed rock, then along a line drawn at a ninety degree angle to the outer edge of the

reef, then clockwise along the outer edge of the reef to the point where it becomes tangent to the Haena ocean waters boundary line, then clockwise along the boundary line to the mean low water mark to the point of beginning.

- (2) Restrictions. Zone A is designated for recreational use. No commercial motorized vessel shall be permitted within Zone A, provided that customers patronizing commercial vessels anchored or moored within Zone C shall be allowed to enter Zone A for snorkeling or scuba diving activities.

- (3) Notwithstanding the provisions of subsection (b)(2), commercial vessels whose owners possess a valid use permit issued by the department of land and natural resources shall be permitted direct access to the beach area specified in the permit for the purpose of passenger pick-up or discharge.

(d) Swimming and Snorkeling Zone B, Haena ocean waters.

- (1) Haena Zone B means the area confined by the boundaries shown on Exhibit "D" dated June 30, 1988 located at the end of this subchapter, and described as follows:

Beginning at the intersection of the western boundary of Haena ocean waters and the mean low water mark, then along the western boundary of Haena ocean waters for a distance of two hundred feet, then clockwise along a line drawn parallel to the low water mark at a distance of two hundred feet to the outer edge of the inner reef, then along the outer edge of the inner reef to the mean low water mark, then along the mean low water mark to the point of beginning.

- (2) Restrictions. Haena Zone B is designated for swimming and snorkeling activities. No motorized vessel shall be permitted within Zone B.

(e) Snorkeling Zone C, Haena ocean waters.

- (1) Haena Zone C is as shown on Exhibit "D" dated June 30, 1988, located at the end of this subchapter.

Haena Zone C includes those ocean water areas outside Zone A and Zone B.

- (2) Restrictions. Haena Zone C is an area designated for the use of motorized vessels

with passengers engaged in snorkeling and scuba diving activities, Haena ocean waters include those ocean areas outside Zone A and Zone B. No vessel shall moor within Zone C except at three mooring buoys approved for installation by the board of land and natural resources along the outer edge of the inner reef at the locations shown on Exhibit "B" dated June 30, 1988. No more than two vessels may be moored to each buoy at any one time, for a period not exceeding forty-five minutes per vessel.

- (3) Anchoring during daylight hours may be permitted within Zone C except in areas containing coral growth.

[Eff. HRS §266-2] (Auth. HRS §§266-2, 266-3) (Imp. HRS §266-2)

§19-86-34 Na Pali Coast ocean waters, general restrictions. (a) Na Pali Coast ocean waters means all ocean waters and navigable streams confined by the boundaries shown on Exhibit "E" dated June 30, 1988, located at the end of this subchapter and described as follows:

Beginning at the intersection of the southwestern boundary of the Na Pali Coast State Park and the shoreline, thence in a straight line drawn perpendicular to the shoreline to the intersection with the territorial sea base line, then along a straight line drawn perpendicular to the territorial sea base line seaward for a distance of three thousand feet, thence along a line drawn parallel to the territorial sea base line in a clockwise direction to the intersection of the western boundary of Haena ocean waters, thence along this line to the western boundary of Haena ocean waters, thence along the western boundary of Haena ocean waters to the point where it intersects the shoreline, thence along the shoreline to the point of beginning.

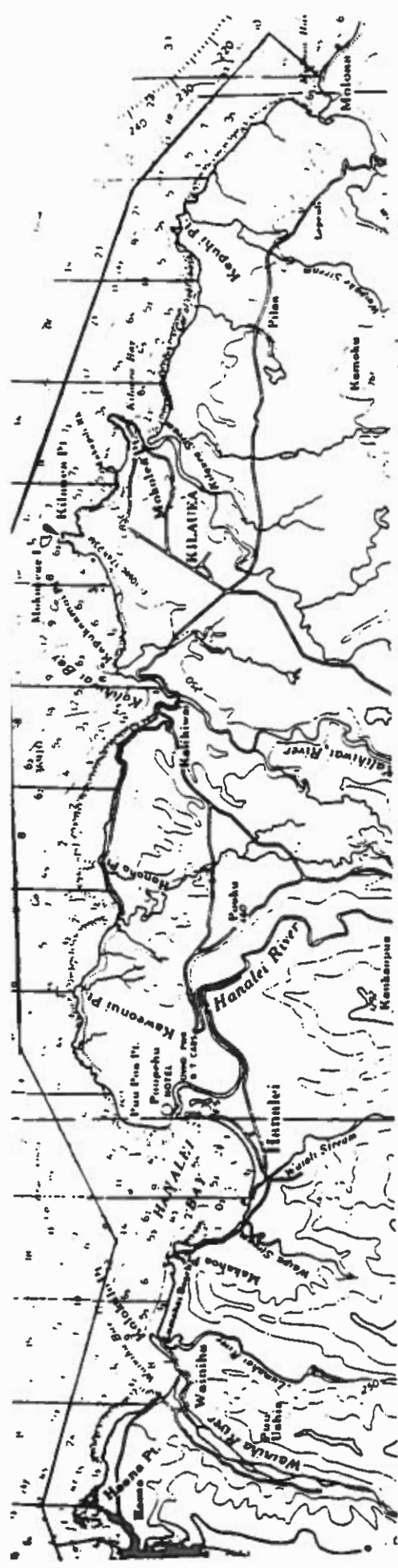
(b) The Na Pali Coast ocean waters are subject to the following restrictions.

- (1) No person shall navigate a commercial motorboat or conduct a commercial kayak tour within Na Pali Coast ocean waters except for persons who have been issued a permit by the department to operate within Na Pali Coast ocean waters in accordance with this subchapter.

- (2) In no case shall a commercial vessel having a passenger carrying capacity of fifty or more passengers be permitted to operate within the Na Pali Coast ocean waters.
- (3) No commercial operator shall embark or disembark passengers along the shoreline within Na Pali Coast ocean waters unless that operator has been issued a permit by the board of land and natural resources for use of the area at the location where passengers are embarked or disembarked.
- (c) Vessel operations within sea caves.
 - (1) Commercial vessel operators shall maintain a listening watch on a radio frequency to be designated by the North Shore Charter Boat Association when operating within three hundred feet of the entrance to a sea cave.
 - (2) Vessel operators intending to enter a sea cave shall ensure that no other vessel traffic is operating within the cave.
 - (3) A vessel exiting a sea cave shall have the right-of-way over vessels preparing to enter a sea cave.
- (d) Nualolo Kai restricted zone.
 - (1) The Nualolo Kai restricted zone means the area confined by the boundaries shown on Exhibit "F" dated June 30, 1988, located at the end of this subchapter, and described as follows:
Beginning at a point on the shoreline at the low water mark of the westernmost tip of Makuaiki Point, then by azimuth measured clockwise from True South; 241 degrees for a distance of two thousand one hundred feet to a point tangent to the outer edge of the reef, then along the outer edge of the reef to the westernmost edge of the shoreline of Alapii Point, then along the shoreline to the point of beginning.
 - (2) Restrictions on commercial use.
 - (A) No more than six commercial vessels may anchor or moor within the Nualolo Kai restricted zone at any one time, none of which may have a passenger carrying capacity exceeding eighteen passengers.
 - (B) No vessel shall anchor or moor on the coral reef. Mooring shall be permitted only at day use moorings approved by the board of land and natural resources.

- (C) The maximum time limit which a commercial vessel may moor within the Nualolo Kai restricted zone shall not exceed forty-five minutes.
- (D) The limitation on commercial vessels provision by this subsection shall not apply to commercial vessels whose owner possesses a valid permit issued by the board of land and natural resources to embark or disembark passengers at this location."

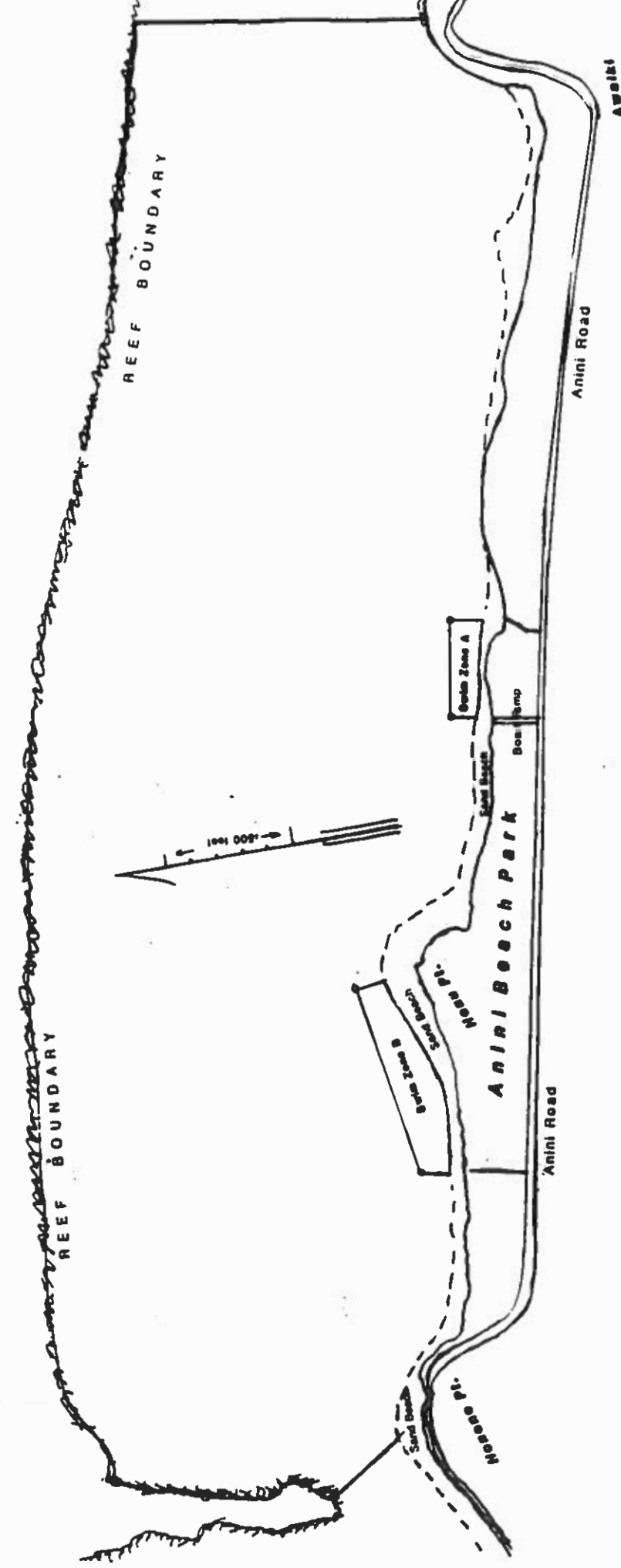
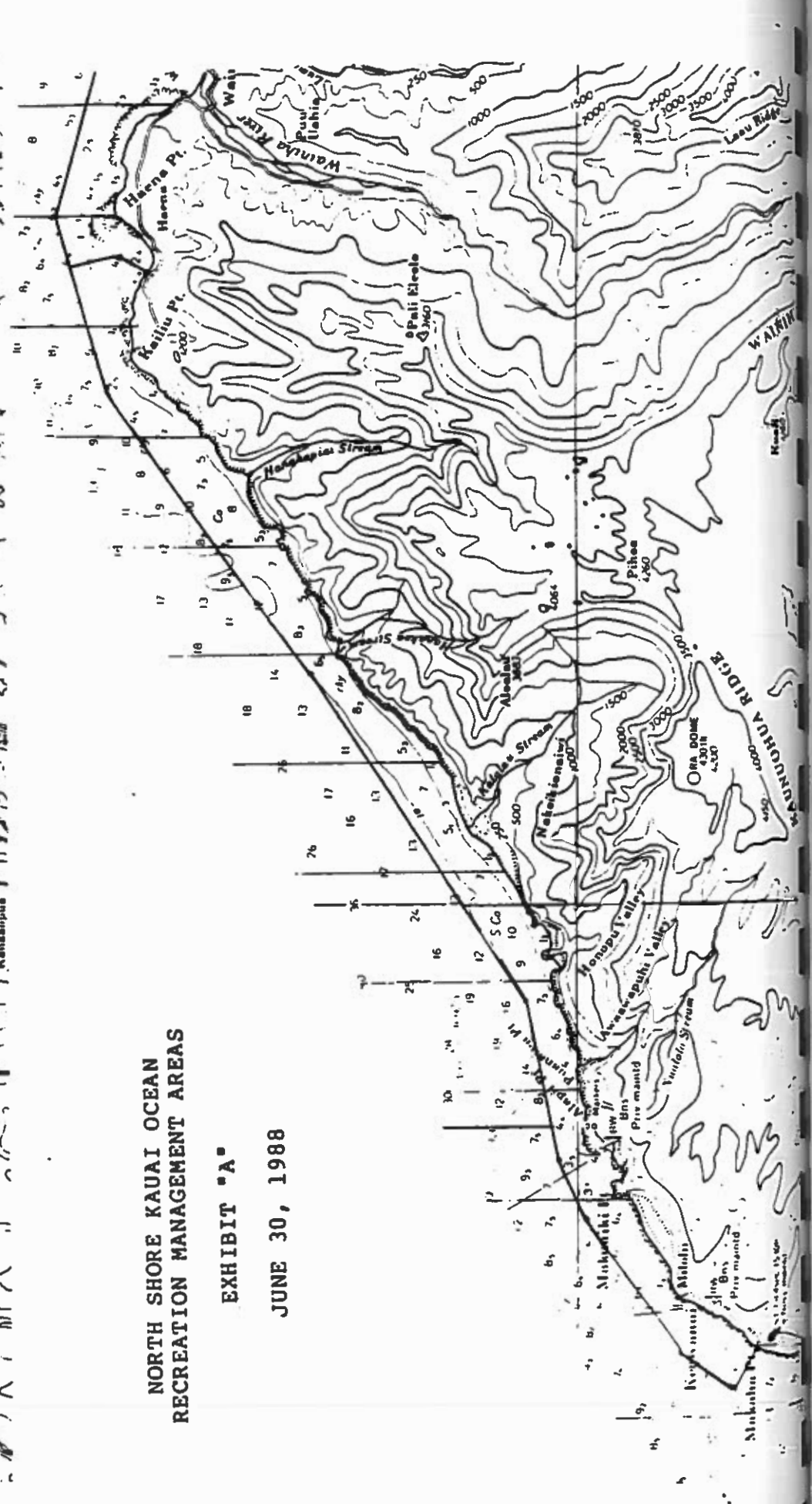
[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. HRS §266-2)



NORTH SHORE KAUAI OCEAN
RECREATION MANAGEMENT AREAS

EXHIBIT "A"

JUNE 30, 1988



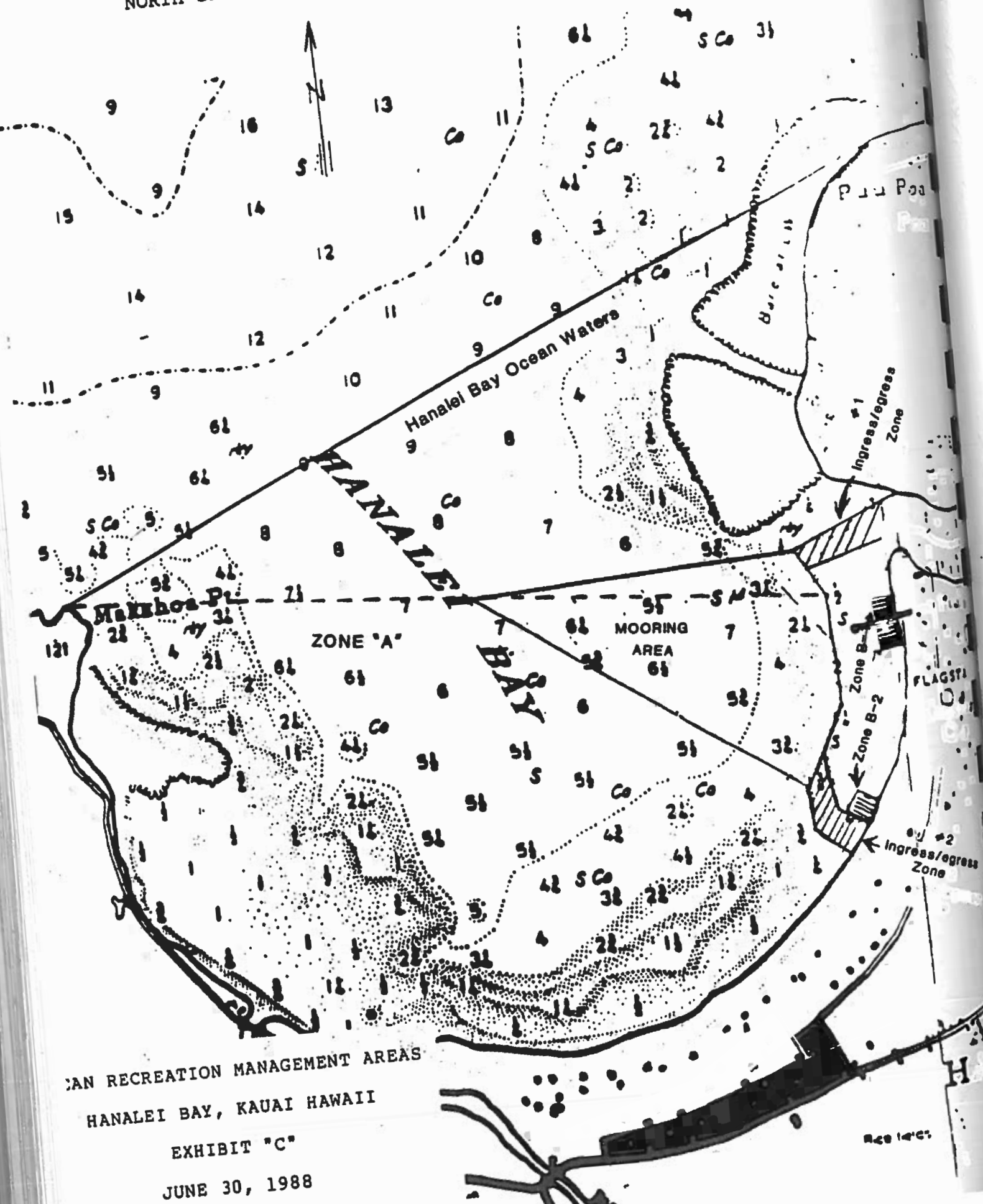
OCEAN RECREATION MANAGEMENT AREAS

ANINI BEACH, KAUAI, OAHU

EXHIBIT "B"

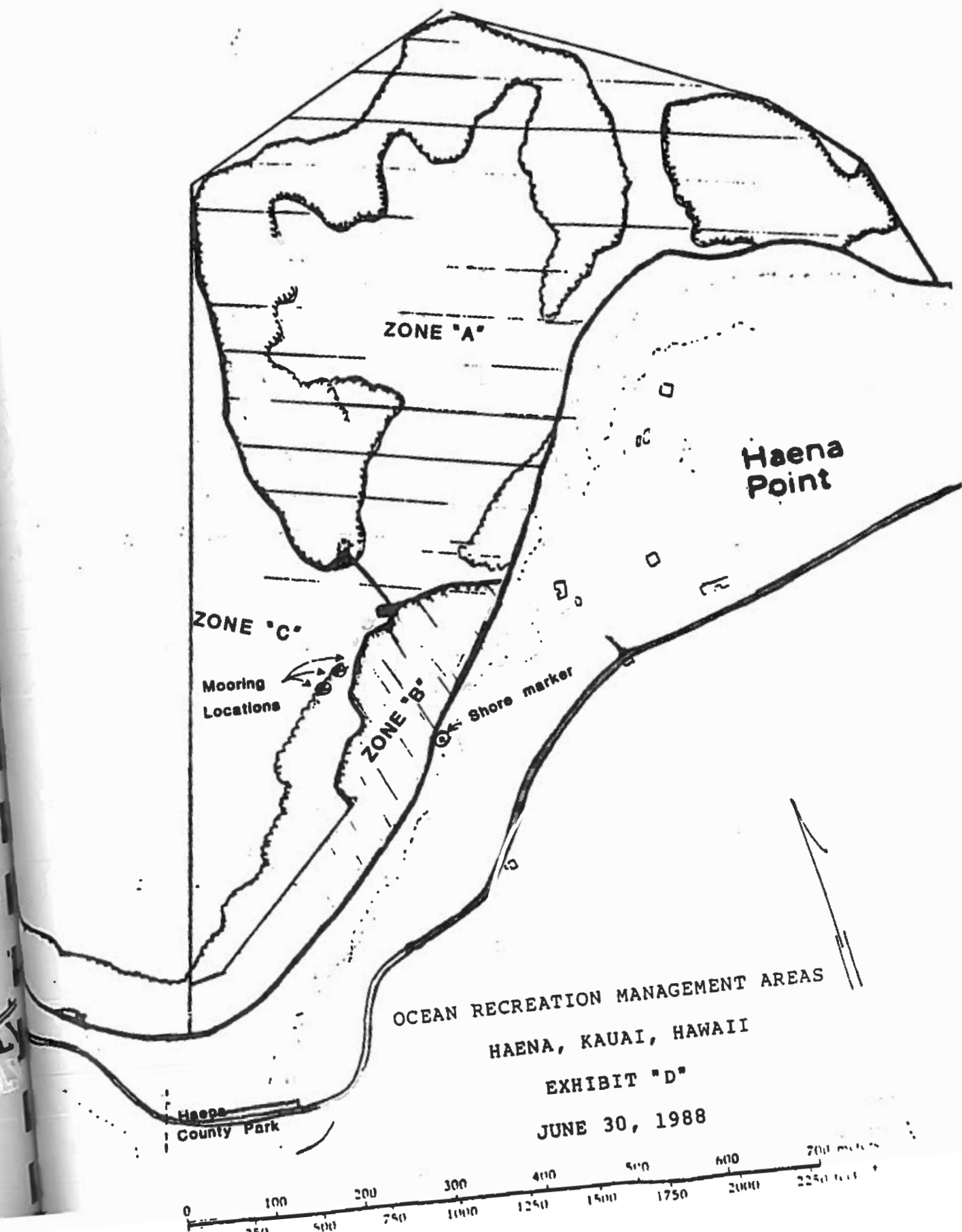
JUNE 30, 1988

NORTH SHORE KAUAI OCEAN RECREATION MANAGMENT AREA

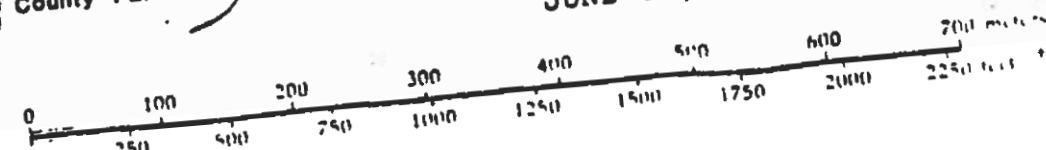


OCEAN RECREATION MANAGEMENT AREAS
HANALEI BAY, KAUAI HAWAII
EXHIBIT "C"
JUNE 30, 1988

NORTH SHORE KAUAI OCEAN RECREATION MANAGMENT AREA



OCEAN RECREATION MANAGEMENT AREAS
HAENA, KAUAI, HAWAII
EXHIBIT "D"
JUNE 30, 1988

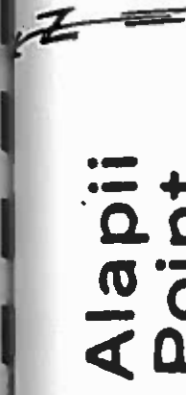
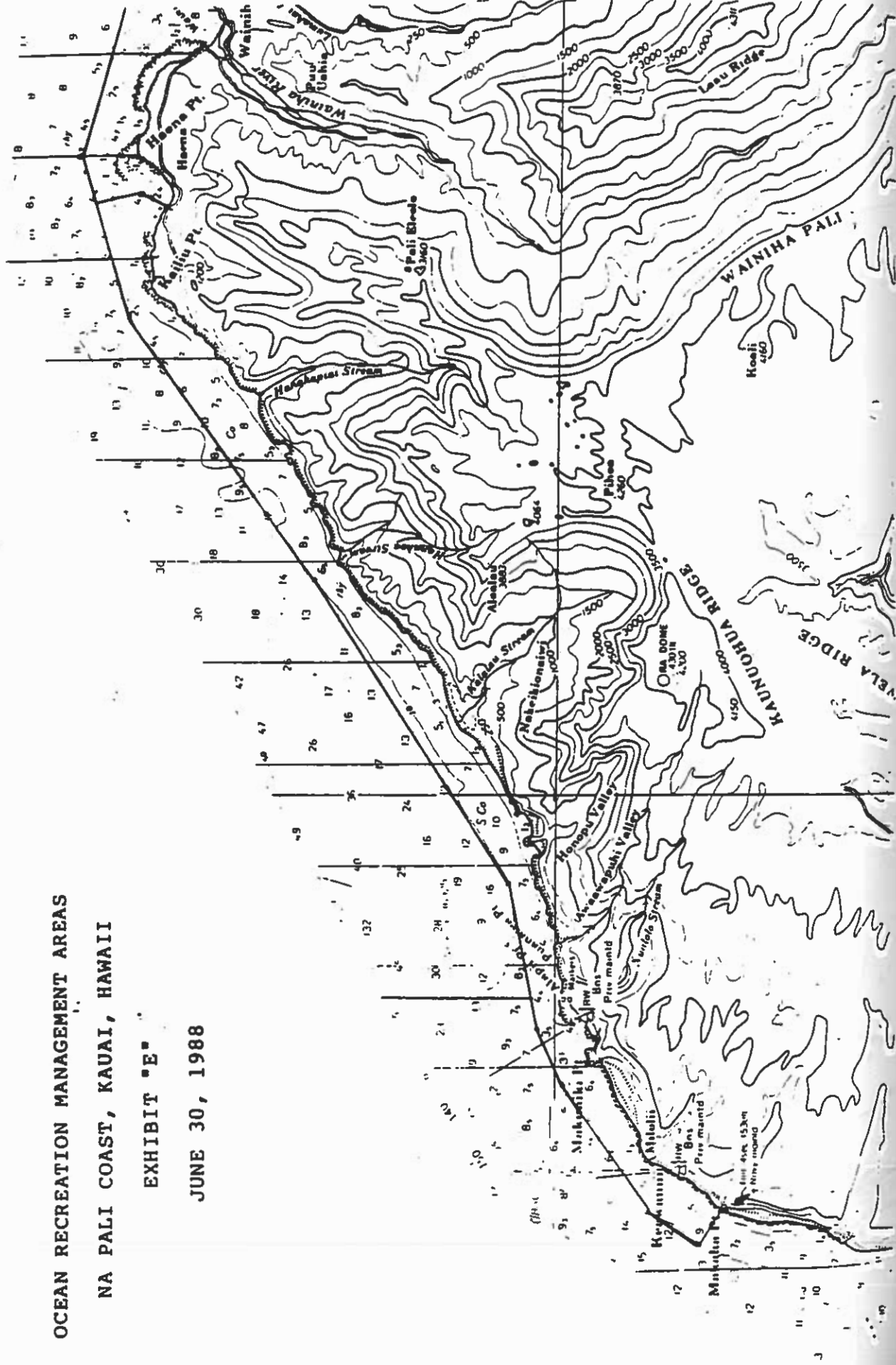


OCEAN RECREATION MANAGEMENT AREAS

NA PALI COAST, KAUAI, HAWAII

EXHIBIT "E"

JUNE 30, 1988



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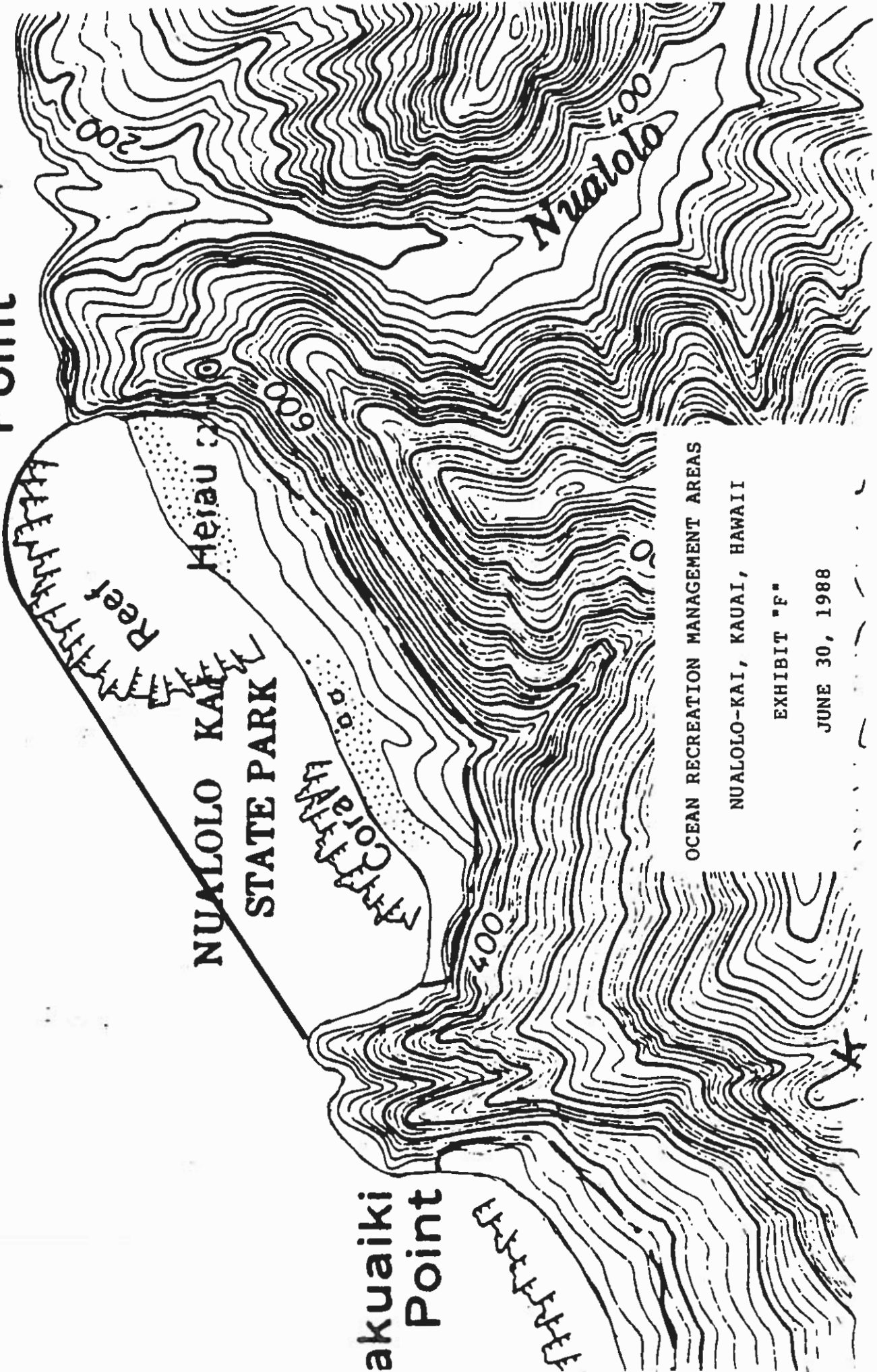
~~NUALOLO KAA
STATE PARK~~

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Coram

**akuaiiki
Point**

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OCEAN RECREATION MANAGEMENT AREAS

NUALOLO-KAI, KAUAI, HAWAII

EXHIBIT "F"

JUNE 30, 1988

SUBCHAPTER 3

SOUTH SHORE KAUAI OCEAN RECREATION RECREATION MANAGEMENT AREAS

- \$19-86-41 Hanamaulu Bay restricted zones
- \$19-86-42 Nawiliwili Bay restricted zones
- \$19-86-43 Nukumoi restricted area
- \$19-86-44 Koloa Landing restricted area
- \$19-86-45 Hanapepe Bay restricted area
- \$19-86-46 Salt Pond Park restricted area

\$19-86-41 Hanamaulu Bay restricted zones.

(a) Zone A, Hanamaulu Bay.

- (1) Zone A, Hanamaulu Bay means the ocean waters confined by the boundaries as shown on Exhibit "G" dated March 1, 1988, located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point on the low water mark at the tip of land which is six hundred feet from the mouth of the Hanamaulu Stream, then by azimuth measured clockwise from True South; 180 degrees to a point on the low water mark of the northern boundary of Hanamaulu Bay; thence along the low water mark of the bay to the point beginning.

- (2) Restrictions. Zone A, Hanamaulu Bay is designated for swimming and bathing. No person shall operate or moor a vessel or sailboard within Zone A.

(b) Zone B, Hanamaulu Bay.

- (1) Zone B, Hanamaulu Bay means the ocean waters confined by the boundaries shown on Exhibit "G" dated March 1, 1988, located at the end of this subchapter. The boundaries of Zone B are as follows:

Beginning at a point on the low water mark on the northern tip of Ahukini State Park; thence by azimuth measured clockwise from True South; 170 degrees to a point on the low water mark on the shoreline; then westward along the low water mark to the northern boundary of

\$19-86-41

Zone A; then southward along the boundary of Zone A to the low water mark on the shoreline; then eastward along the low water mark to the point of beginning.

- (2) Restrictions. Zone B, Hanamaulu Bay is designated as a "slow-no-wake" zone. All watercraft within this zone shall not exceed a speed of slow-no-wake.

[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. HRS §§266-2, 266-3)

\$19-86-42 Nawiliwili Bay restricted zones.

(a) Zone A, Nawiliwili Bay

- (1) Zone A, Nawiliwili Bay means the ocean waters confined by the boundaries shown on Exhibit "H", dated June 30, 1988, located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point at the Nawiliwili Breakwater Light by azimuth measured clockwise from True South; 034 degrees for a distance of one thousand five hundred ninety feet to a point in the water; then on a radius of two hundred feet around that point.

- (2) Restrictions. Zone A, Nawiliwili Bay is designated as a commercial thrillcraft zone. No more than six (6) rented thrill craft shall operate at any one time.

(b) Zone B, Nawiliwili Bay.

- (1) Zone B, Nawiliwili Bay means the ocean waters confined by the boundaries shown on Exhibit "H", dated June 30, 1988, located at the end of this subchapter. The boundaries of Zone B are as follows:

Beginning at a point at the low water mark on the southern tip of Kukii Point then by azimuths measured clockwise from True South; 090 degrees across the bay to a point on the jetty; then proceeding north along the low water mark along the shoreline of Kalapaki Bay to the point of beginning.

- (2) Restrictions. Zone B, Nawiliwili Bay is designated a sailing, windsurfing, boardsurfing, spearfishing, canoeing,

kayaking, SCUBA diving, snorkeling, swimming, bodysurfing, bodyboarding and shoreline fishing zone. No person shall operate or moor a motorized vessel within Zone B.

[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. HRS §§266-2, 266-3)

\$19-86-43 Nukumoi Restricted Area.

(a) Nukumoi restricted area means the ocean waters confined by the boundaries shown on Exhibit "I", dated March 1, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark on the southern tip of the Nukumoi Point, then proceeding on a straight line to the low water mark of the southern point of Kihouna Heiau, then along the low water mark of Nukumoi Beach in an easterly heading to the point of beginning.

(b) Restrictions. Nukumoi restricted area is designated for swimming and bathing. No person shall operate or moor a vessel or other watercraft within this area. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

\$19-86-44 Koloa Landing Restricted Area.

(a) The Koloa Landing restricted area means the ocean waters confined by the boundaries shown on Exhibit "J", dated March 1, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark at the southern tip of Lae O Kohala, thence by azimuth measured clockwise from True South; 130 degrees to a point on the low water mark at the western edge of Keawaloa Bay; then long the low water mark of the shoreline in a northerly direction and then on an easterly heading to the point of beginning.

(b) Restrictions. Koloa Landing restricted area is designated for swimming and bathing. No person shall operate or moor a vessel in this area, except that a vessel may enter or depart the area by a straight line from the boat launching area to the closest seaward boundary line. All vessels transiting the area shall not exceed a speed of slow-no-wake.

[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. HRS §§266-2, 266-3)

§19-86-45 Hanapepe Bay Restricted Area.

(a) Hanapepe Bay restricted area means the ocean waters confined by the boundaries shown on Exhibit "K", dated March 1, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark on the beach, which is four hundred (400) feet from the low water mark of the beach and Port Allen Small Boat Harbor, thence by azimuth measured clockwise from True South; 050 degree for distance of one hundred feet; 140 degrees for a distance of two hundred feet; 230 degrees to a point on the low water mark; then along the low water mark to a point of beginning.

(b) Restrictions. Hanapepe Bay restricted area is designated primarily for swimming and bathing. No person shall operate or moor a vessel within this area. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

§19-86-46 Salt Pond Park Restricted Area.

(a) The Salt Pond Park restricted area means the ocean waters confined by the boundaries shown on Exhibit "L", dated March 1, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark which is five hundred feet east of the centerline extension of Salt Pond Road; then on the low water mark along the beach in a southerly direction for a distance of approximately one thousand two hundred fifty feet; then on a straight line to the point of beginning.

(b) Restrictions. The Salt Pond Park restricted area is designated for swimming and bathing. No person shall operate or moor a vessel within this area. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

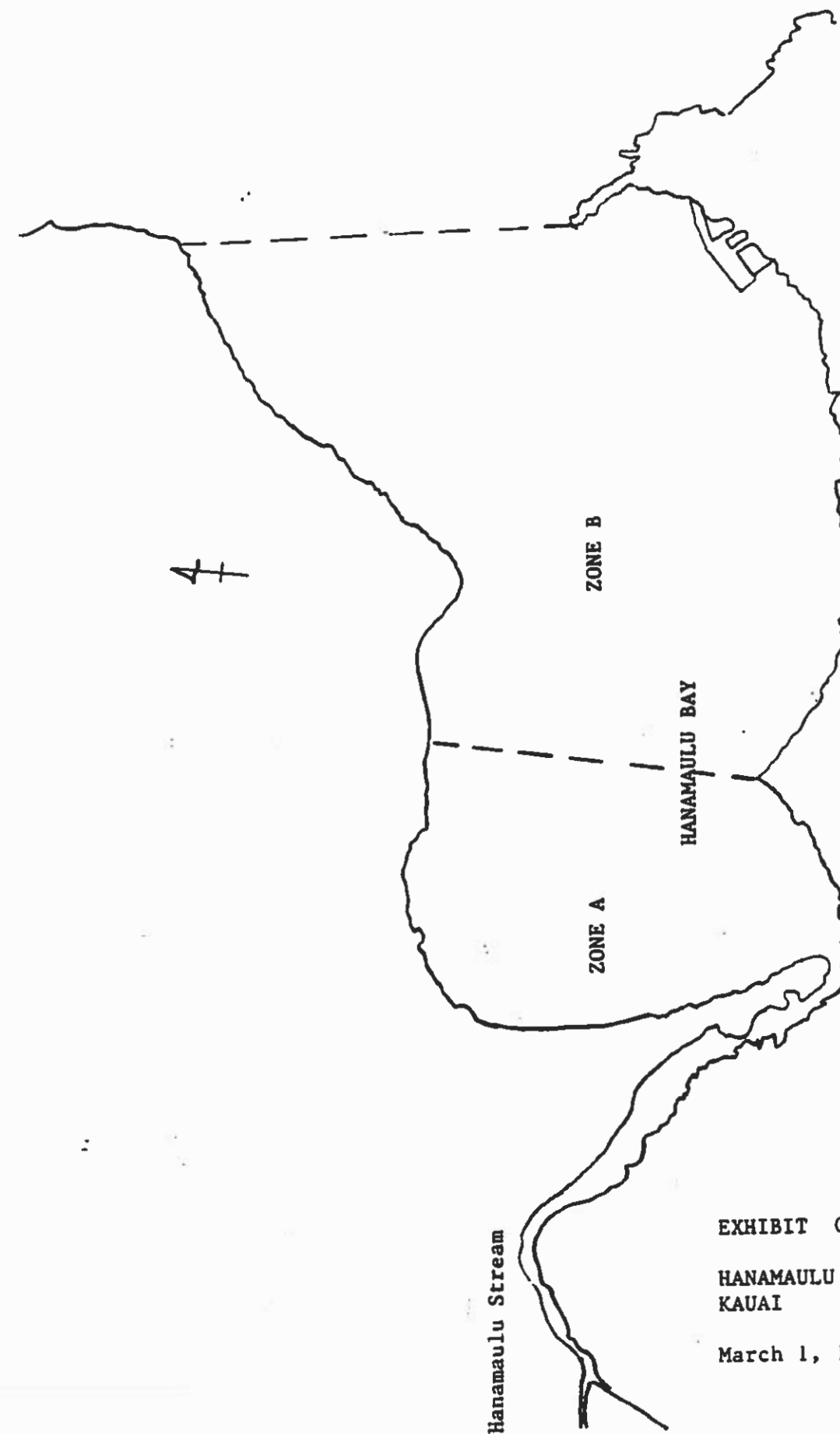
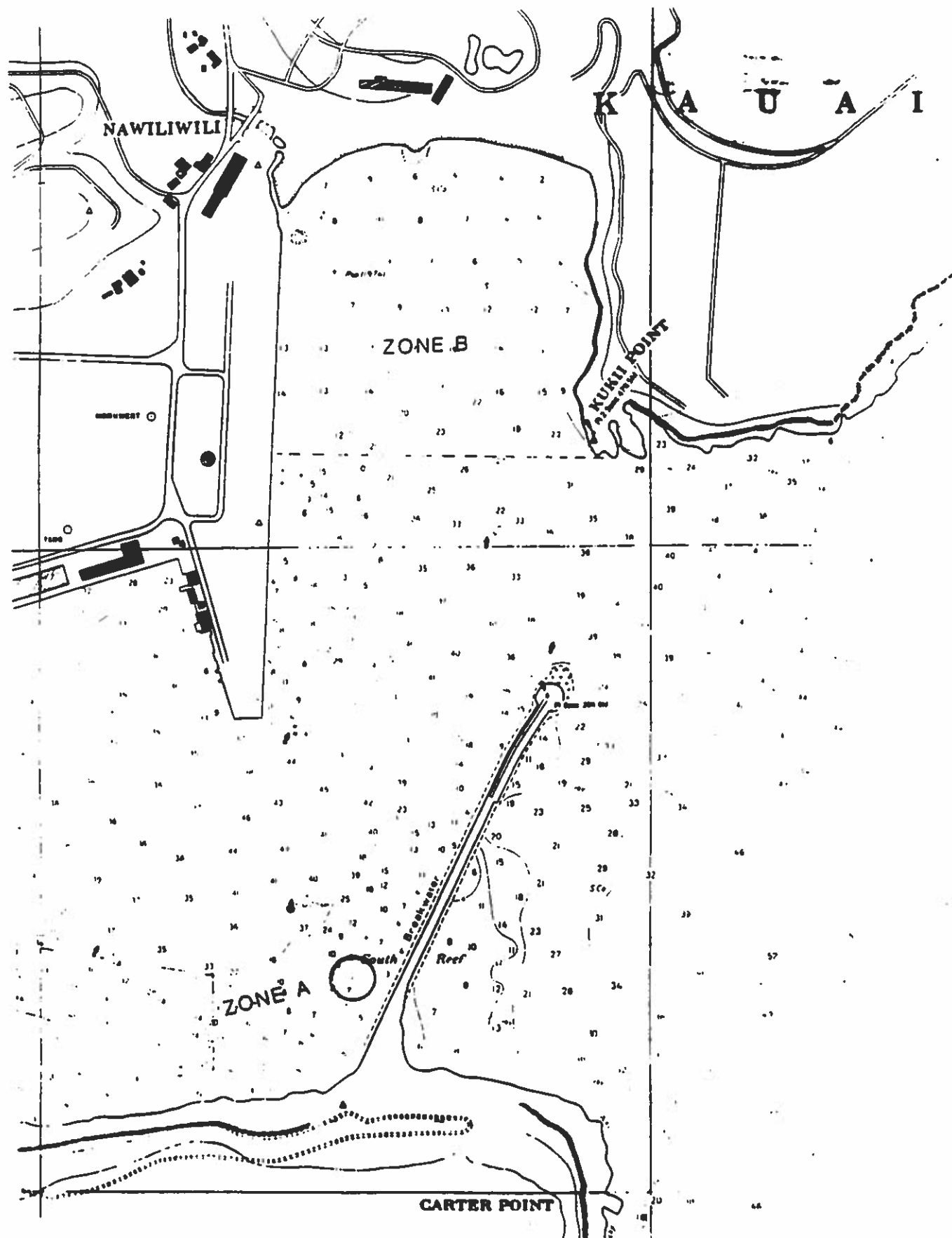


EXHIBIT G

HANAMAULU BAY
KAUAI

March 1, 1988



OCEAN RECREATION MANAGEMENT AREAS

NAWILIWILI BAY, KAUAI, OAHU

EXHIBIT "H"

JUNE 30, 1988

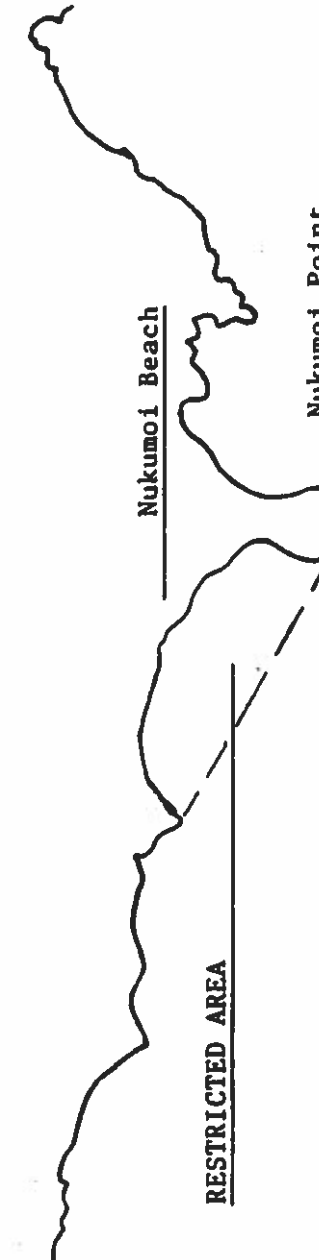


EXHIBIT I

NUKUMOI
KAUAI

March 1, 1988

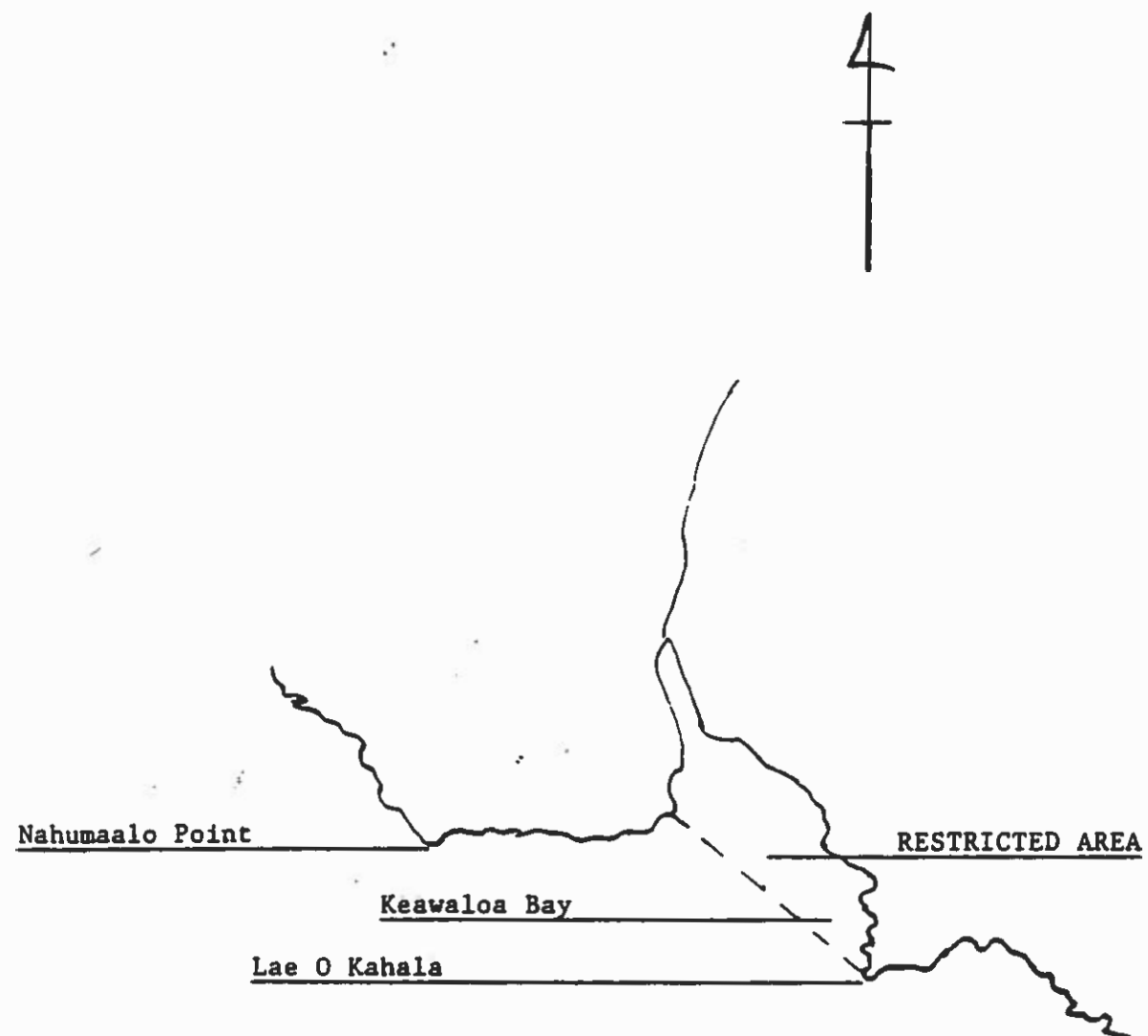


EXHIBIT J
KOLOA LANDING
KAUAI
March 1, 1988

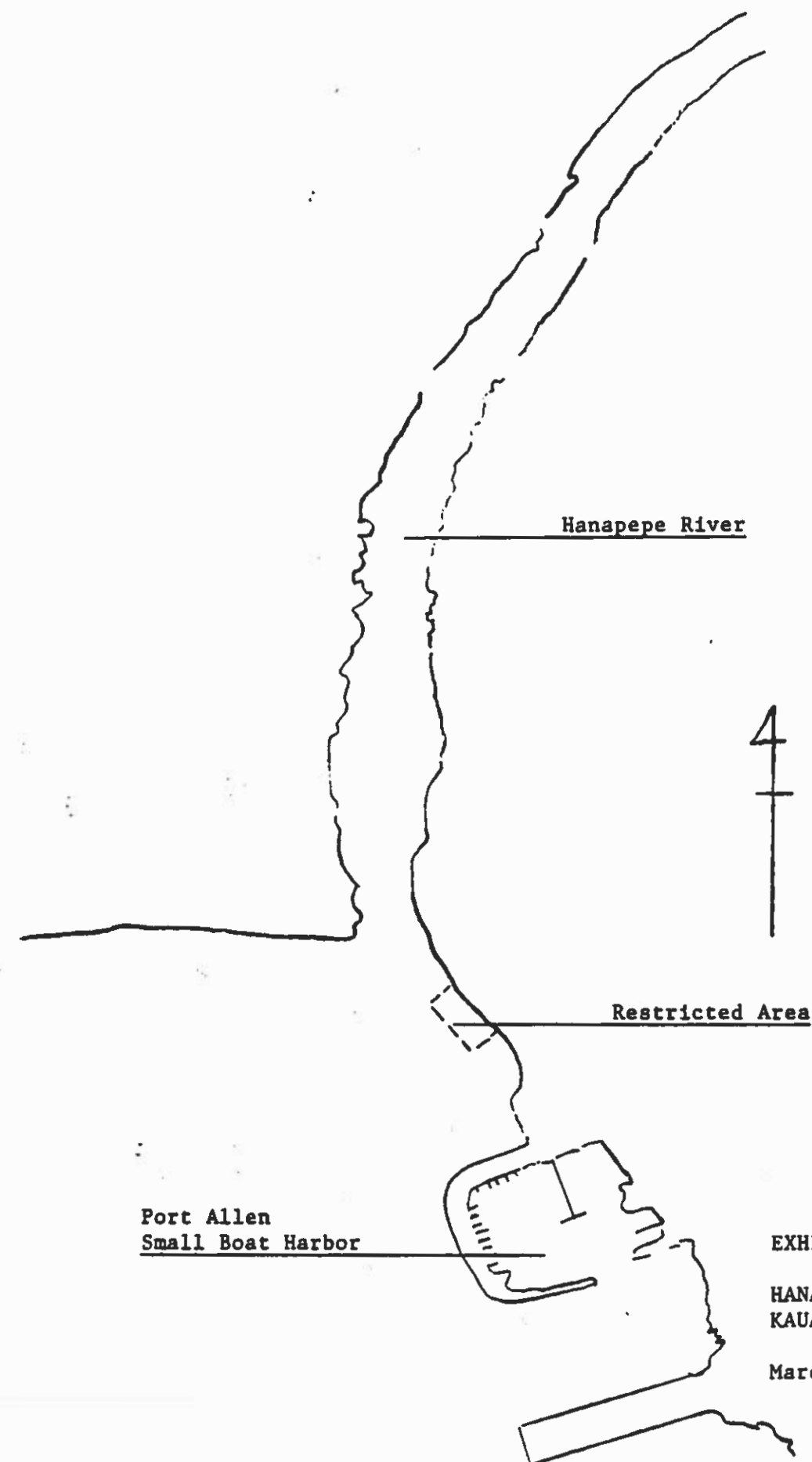


EXHIBIT K
HANAPEPE BAY
KAUAI
March 1, 1988

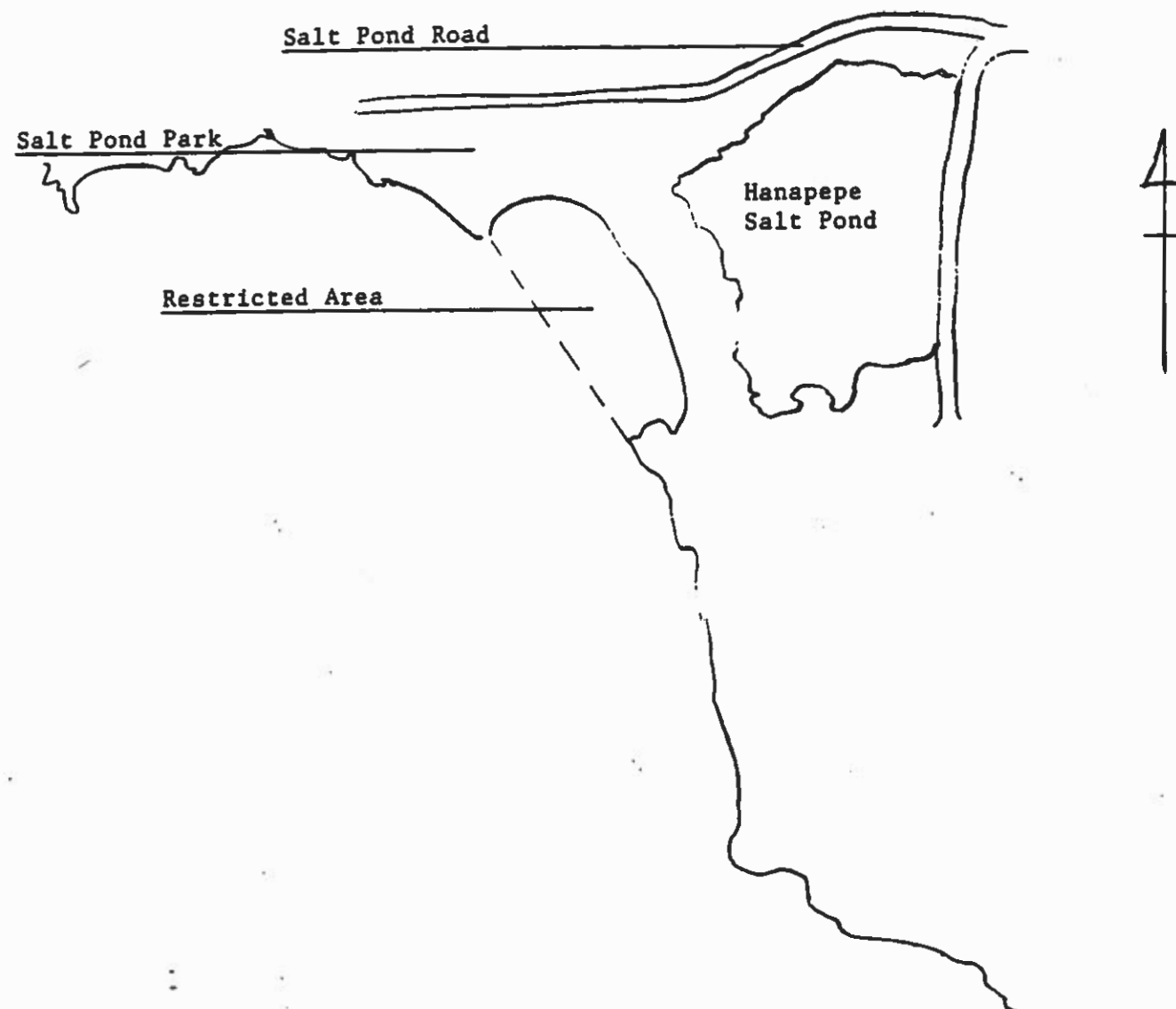


EXHIBIT L

SALT POND PARK
KAUAI

March 1, 1988

SUBCHAPTER 4

NORTH SHORE OAHU OCEAN RECREATION MANAGEMENT AREA

\$19-86-51	Mokuleia Restricted Area
\$19-86-52	Kaiaka Bay Restricted Area
\$19-86-53	Haleiwa Restricted Zones
\$19-86-54	Waimea Bay Restricted Area
\$19-86-55	Three Tables Point/Kulalua Point Restricted Area
\$19-86-56	Ehukai Beach Park Swimming Zone
\$19-86-57	Sunset Beach Restricted Area
\$19-86-58	Kawela Bay Restricted Area

\$19-86-51 Mokuleia Restricted Area. (a) The Mokuleia restricted area means the area confined by the boundaries shown on Exhibit "M", dated, March 1, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point, by azimuth measured clockwise from True South, 180 degrees for a distance of one thousand five hundred feet from the mouth of the Polipoli Stream; 180 degrees for a distance of one thousand five hundred feet; 090 degrees for a distance of one thousand five hundred feet; 360 degrees for a distance of one thousand five hundred feet; then by a straight line to a point of beginning.

(b) Restrictions. The Mokuleia restricted area is designated primarily for recreational thrill craft. No person shall operate a commercial thrill craft within this area. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

\$19-86-52 Kaiaka Bay Restricted Area. (a) The Kaiaka Bay restricted area means the area confined by the boundaries shown on Exhibit "N", dated, March 1, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the beach from the extension of the centerline of Kaumani Place, then by azimuth measured clockwise from True South, 180 degrees for a distance of one

thousand nine hundred feet; then on a straight line to the low water mark of the western edge of Kaiaka State Park; then southward along the low water mark to the east bank of Paukauula Stream; 210 degrees for a distance of five hundred feet; then along the low water mark in a westerly direction to the point of beginning.

(b) Restrictions. The Kaiaka Bay restricted area is designated for fishing and diving. No person shall operate or moor a vessel, sailing vessel, or sailboard within this area, except that fishing vessels, when engaged in fishing, may enter the area with extreme caution. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

§19-86-53 Haleiwa Restricted Zones.

(a) Zone A, Haleiwa Restricted Zone

(1) Zone A, Haleiwa restricted zone means the area confined by the boundaries shown on Exhibit "O", dated, March 1, 1988, located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point on the low water mark at the western edge of Alii Beach Park, then by azimuth measured clockwise from True South, 128 degrees for a distance of four hundred feet; 200 degrees for a distance of one thousand feet; then on a straight line to the low water mark of the corner of the breakwater at Haleiwa Small Boat Harbor; then along the low water mark in a westerly heading to the point of beginning.

(2) Restrictions. Zone A is designated a swimming and bathing area. No person shall operate or moor a vessel, surfboard or sailboard within this zone.

(b) Zone B, Haleiwa Restricted Zone.

(1) Zone B, Haleiwa restricted zone means the area confined by the boundaries shown on Exhibit "O", dated, March 1, 1988, located at the end of this subchapter. The boundaries of Zone B are as follows:

Beginning at a point in the water by azimuth measured clockwise from True South, 040 degrees for a distance of one hundred feet from the low water mark at the end of the breakwater at Haleiwa Small Boat Harbor; 060 degrees for a distance of one thousand

six hundred feet; 175 degrees for distance of one thousand three hundred feet; then on a straight line to a point of beginning.

(2) Restrictions. Zone B is designated a surfing and bodysurfing zone. No person shall operate or moor a vessel, within this zone.

(c) Zone C, Haleiwa Restricted Zone.

(1) Zone C Haleiwa restricted zone means the area confined by the boundaries shown on Exhibit "O", dated, March 1, 1988, located at the end of this subchapter. The boundaries of Zone C are as follows:

Beginning at a point from the low water mark of the western tip of Kawaihoa Beach, on an azimuth measured clockwise from True South, 075 degrees for a distance of three hundred feet; 325 degrees for a distance of eight hundred fifty feet; 350 degrees for distance of four hundred fifty feet; 145 degrees for a distance of eight hundred fifty feet; then on a straight line to a point of beginning.

(2) Restrictions. Zone C is designated a surfing and bodysurfing area. No person shall operate or moor a vessel, within this zone.

(d) Zone D Haleiwa Restricted Zone

(1) Zone D Haleiwa Restricted Zone means the area confined by the boundaries shown on Exhibit "O", dated, March 1, 1988, located at the end of this subchapter. The boundaries of Zone D are as follows:

Beginning at a point from the low water mark of the western tip of Kawaihoa Beach, thence by azimuth measured clockwise from True South, 075 degrees for a distance of one hundred feet; 300 degrees for a distance of eight hundred feet; then on a straight line to the low water mark at the end of the groin located at the southern boundary of Haleiwa Beach Park; then along the low water mark along the groin and beach in a northerly direction to the point of beginning.

(2) Restrictions. Zone D is designated as a swimming and bathing zone. No person shall operate or moor a vessel, surfboard, or sailboard within this zone.

(e) Zone E, Haleiwa Restricted Zone.

- (1) Zone E, Haleiwa restricted zone means the area confined by the boundaries shown on Exhibit "O", dated, March 1, 1988, located at the end of this subchapter. The boundaries of Zone E are as follows:

Beginning at a point in the water by azimuth measured clockwise from True South, 335 degrees for a distance of two hundred feet from a point on the low water mark at the tip of the Haleiwa Beach Park groin; 305 degrees for a distance of three hundred feet; 025 degrees for a distance of three hundred feet; 140 degrees for a distance of three hundred feet; then by a straight line to the point of beginning.

(2) Restrictions:

Zone E is designated as a commercial thrill craft zone. Hours of operation shall be 10:00AM until 3:00PM, Monday through Saturday only. Recreational thrill craft activity is prohibited in this area. Commercial thrill craft operations shall not be permitted when the zone is designated for other use by the department.

(f) Zone F, Restricted Zone.

- (1) Zone F Haleiwa restricted zone means the area confined by the boundaries shown on Exhibit "O", dated, March 1, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point from the low water mark on the tip of the breakwater of Haleiwa Small Boat Harbor, then by azimuth measured clockwise from True South, 110 degrees for a distance of two thousand eight hundred feet; 020 degrees for a distance of two thousand feet; 110 degrees for a distance of one thousand feet; 200 degrees for a distance of two thousand feet; then by a straight line to the point of beginning.

- (2) Restrictions. Zone F is designated as a recreational thrill craft zone. No person shall operate a commercial thrill craft in this zone.

(e) Zone E, Haleiwa Restricted Zone.

- (1) Zone E, Haleiwa restricted zone means the area confined by the boundaries shown on Exhibit "O", dated, March 1, 1988, located at the end of this subchapter. The boundaries of Zone E are as follows:
- Beginning at a point in the water by azimuth measured clockwise from True South, 335 degrees for a distance of two hundred feet from a point on the low water mark at the tip of the Haleiwa Beach Park groin; 305 degrees for a distance of three hundred feet; 025 degrees for a distance of three hundred feet; 140 degrees for a distance of three hundred feet; then by a straight line to the point of beginning.

(2) Restrictions:

Zone E is designated as a commercial thrill craft zone. Hours of operation shall be 10:00AM until 3:00PM, Monday through Saturday only. Recreational thrill craft activity is prohibited in this area. Commercial thrill craft operations shall not be permitted when the zone is designated for other use by the department.

(f) Zone F, Restricted Zone.

- (1) Zone F Haleiwa restricted zone means the area confined by the boundaries shown on Exhibit "O", dated, March 1, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point from the low water mark on the tip of the breakwater of Haleiwa Small Boat Harbor, then by azimuth measured clockwise from True South, 110 degrees for a distance of two thousand eight hundred feet; 020 degrees for a distance of two thousand feet; 110 degrees for a distance of one thousand feet; 200 degrees for a distance of two thousand feet; then by a straight line to the point of beginning.

- (2) Restrictions. Zone F is designated as a recreational thrill craft zone. No person shall operate a commercial thrill craft in this zone.

\$19-86-54 Waimea Bay Restricted Area. (a) Waimea Bay Restricted Area means the area confined by the boundaries shown on Exhibit "P", dated, March 1, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark at Waimea point then by azimuth clockwise from True South of 003 for a distance of one thousand eight hundred thirty-seven feet to the low water mark of the shoreline; then along the shoreline in a northerly direction to the point of beginning.

(b) Restrictions. The Waimea Bay restricted area is designated for bathing, swimming and pole and line fishing. No motorized vessel shall be permitted within the area. The anchoring of other vessels shall not be within 300 feet of the shoreline. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

\$19-86-55 Three Tables Point, Kulalua Point Restricted Area. (a) Three Tables Point/Kulalua point restricted area means the area confined by the boundaries shown on Exhibit "Q", dated, March 1, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark on the tip of Three Tables Point; then by a straight line to the low water mark at the tip of Kulalua Point; then in a southerly direction along the low water mark of the beach to the point of beginning.,

(b) Restrictions. No person shall operate a vessel in the Three Tables Point/Kulalua Point restricted area in excess of "slow-no-wake". [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

\$19-86-56 Ehukai Beach Park Swimming Zone. (a) The Ehukai Beach Park swimming zone means the area confined by the boundaries shown on Exhibit "R", dated, March 1, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark on a line extension from the left side of the comfort station, then by azimuth measured clockwise from True

South; 130 degrees for a distance of one hundred feet; 040 degrees for a distance of six hundred feet; 310 degrees to a point on the low water mark of the beach; then in a northerly direction along the low water mark to the point of beginning.

(b) Restrictions. The Ehukai Beach Park Swimming Zone is designated for swimming and bathing. No person shall operate or moor a vessel, surfboard or sailboard within this area. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

\$19-86-57 Sunset Beach Restricted Area. (a) The Sunset Beach restricted area means the area confined by the boundaries shown on Exhibit "R", dated, March 1, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark on the shoreline located two hundred fifty feet along the low water mark of the shoreline in a northerly direction from the mouth of Kalunawaikaola Stream, then by azimuth measured clockwise from True South, 125 degrees; then 130 degrees for a distance of one thousand feet; 220 degrees for a distance of nine thousand four hundred fifty feet; 310 degrees to a point on the low water mark of the shoreline; then in a southerly direction along the low water mark to Ehukai Beach Park Swimming Zone; then in a southerly direction along the makai boundary of that zone; then along the low water mark of the beach to the point of beginning.

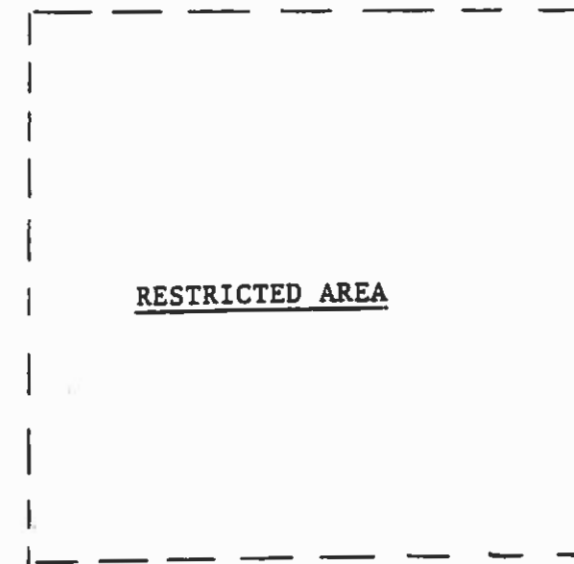
(b) Restrictions. The Sunset Beach restricted area is designated for surfing and kayaking during the months of October 1st through April 30th (winter surf conditions). No person shall operate a motor vessel or sailing vessel in this area during this time of the year. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

\$19-86-58 Kawela Bay Restricted Area. (a) Kawela Bay restricted area means the area confined by the boundaries shown on Exhibit "S", dated, March 1, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark on the tip of the shoreline of the bay, then by straight line to the low water mark on the shoreline of the northern tip of the bay; then in a southerly direction along the low water mark to the point of beginning.

S19-86-58

(b) Restrictions. Kawela Bay is designated a slow-no-wake zone. Thrill craft and water ski activity is prohibited. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)



PoliPoli Stream

Farrington Highway

EXHIBIT M

MOKULEIA
OAHU

March 1, 1988

Kaiaka Point

Kalaka Bay

Cane Haul Road

RESTRICTED AREA

EXHIBIT N
KAIKA BAY
OAHU
March 1, 1988

Pua Ena Point

ZONE C

ZONE D

ZONE E

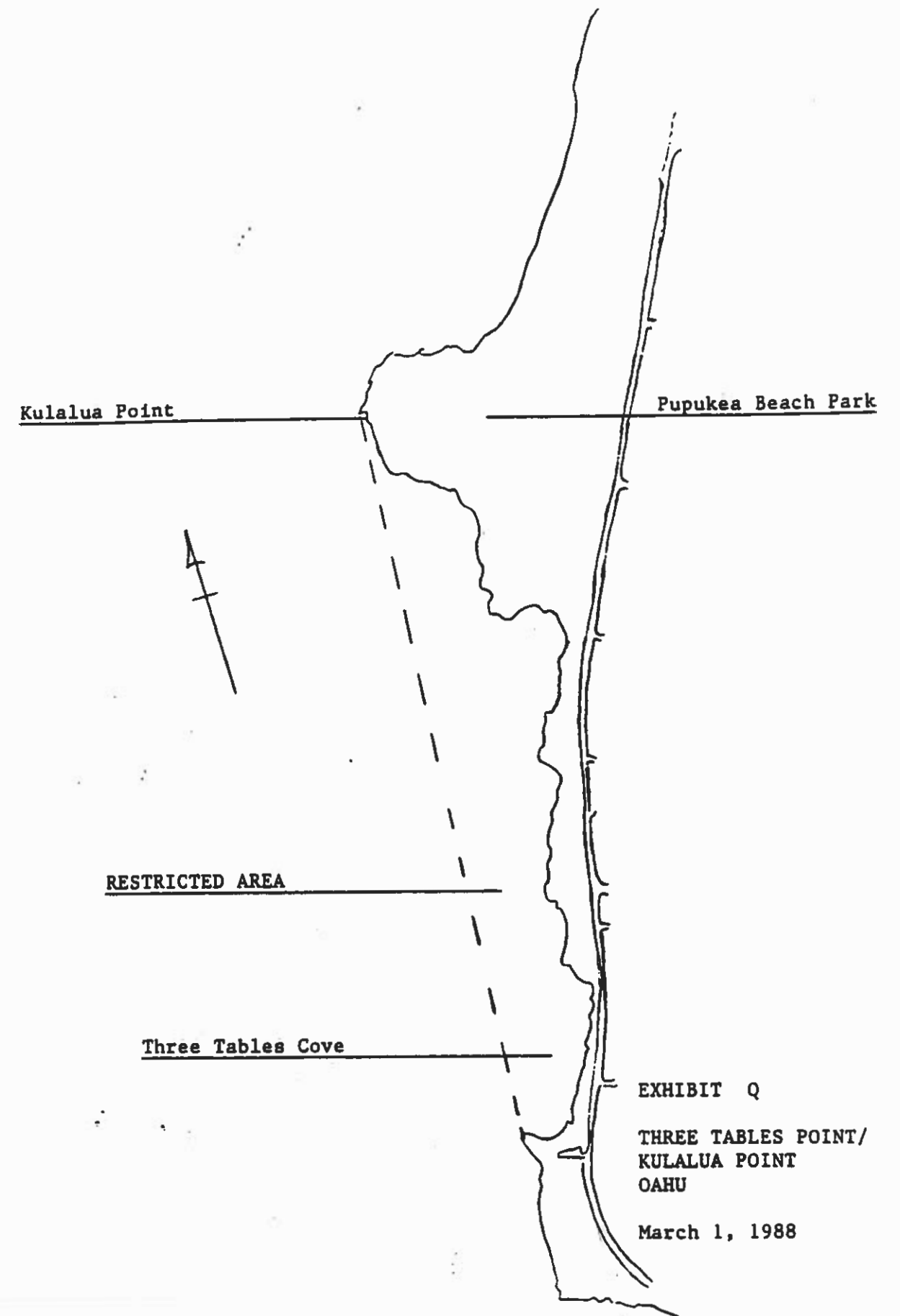
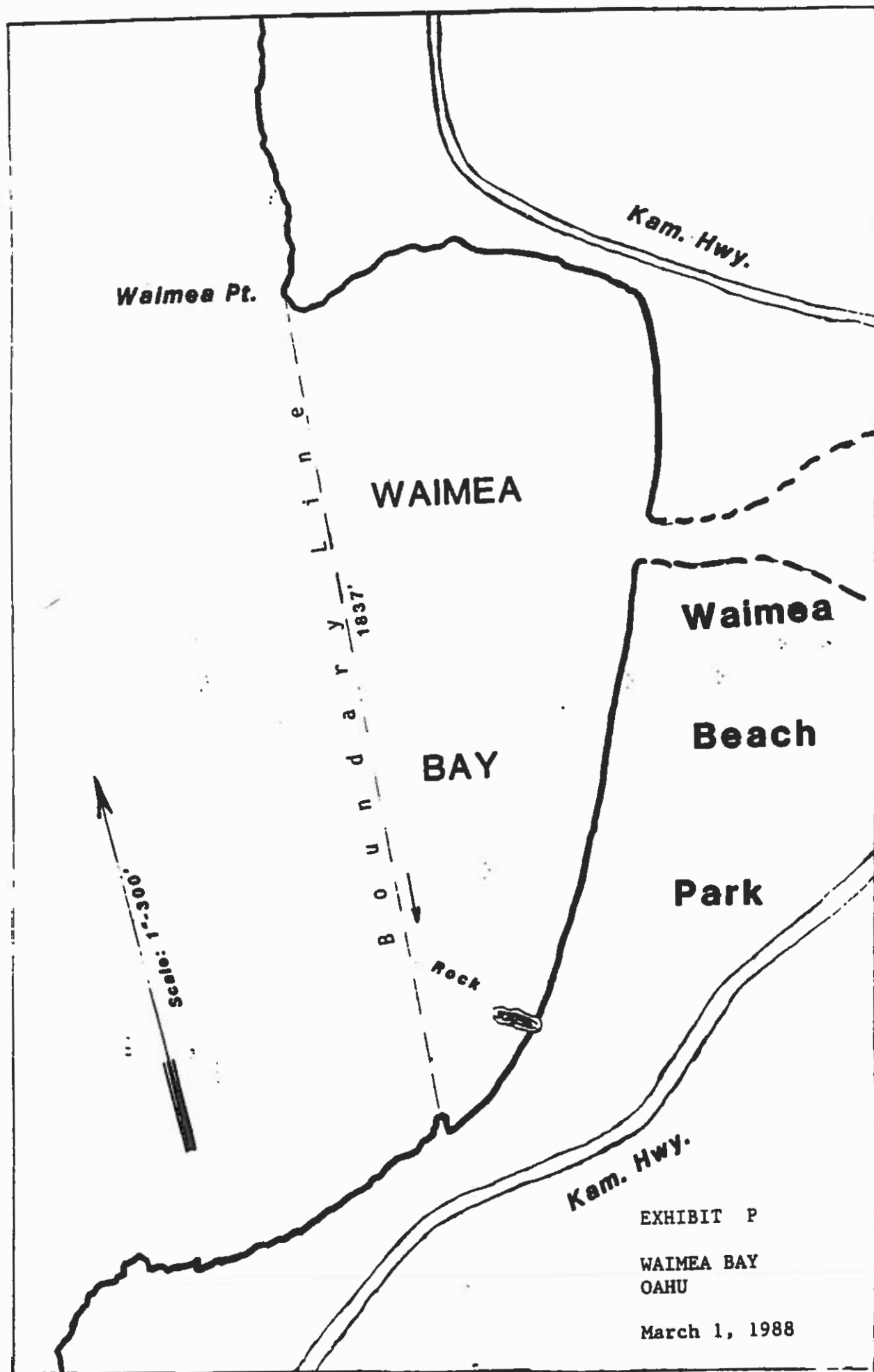
ZONE B

ZONE A

ZONE F

Alii Beach
Park

EXHIBIT O
HALEIWA
OAHU
March 1, 1988



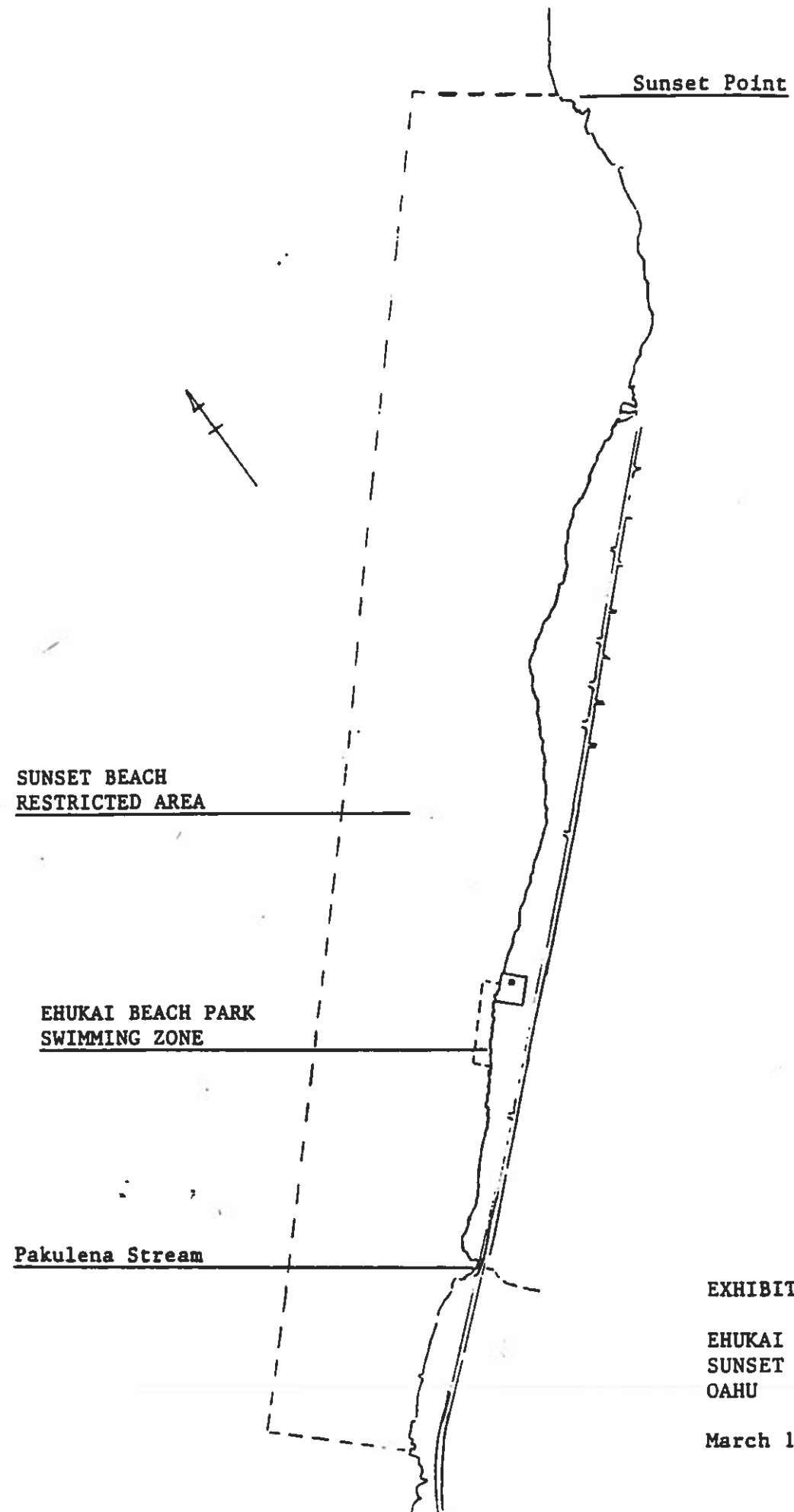


EXHIBIT R

EHUKAI BEACH PARK
SUNSET BEACH
OAHU

March 1, 1988

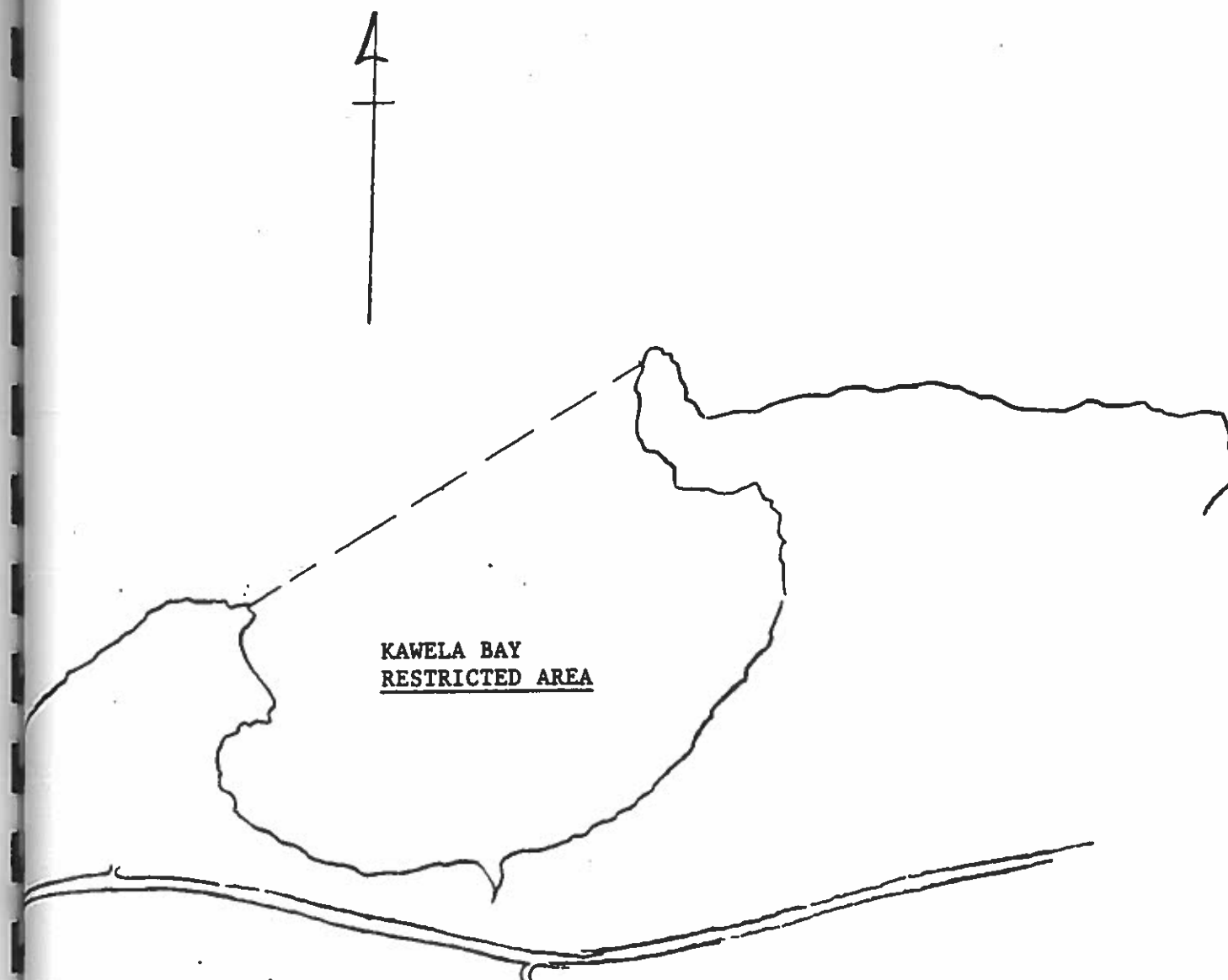


EXHIBIT S

KAWELA BAY
OAHU

March 1, 1988

SUBCHAPTER 5

WINDWARD OAHU OCEAN RECREATION MANAGEMENT AREA

- \$19-86-61 Kualoa Ocean Water Restricted Zones
- \$19-86-62 Kaneohe Bay Waters
- \$19-86-63 Kailua Ocean Waters Restricted Zones
- \$19-86-64 Lanikai Ocean Waters Restricted Zone
- \$19-86-65 Waimanalo Ocean Waters Restricted Zones
- \$19-86-66 Makapuu Ocean Waters Restricted Zones

\$19-86-61 Kualoa Ocean Water Restricted Zones.

(a) Zone A, Kualoa Ocean Waters.

- (1) Zone A, Kualoa Ocean Waters restricted zone means the area confined by the boundaries shown on Exhibit "T", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point on the low water mark of the shoreline which is four hundred seventy-five feet south of the groin across from the sugar mill, then by azimuth measured clockwise from True South, 270 degrees for a distance of eight hundred feet; 360 degrees for a distance of five hundred feet; 090 degrees to a point on the low water mark of the shoreline; then along the low water mark to the point of beginning.

- (2) Restrictions. Zone A is designated as a commercial thrill craft zone. No person shall operate or moor a vessel or sailboard in this zone when in use by commercial thrill craft.

(b) Zone B, Kualoa Ocean Waters restricted zone.

- (1) Zone B restricted zone means the area confined by the boundaries shown on Exhibit "T", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone B are as follows:

Beginning at a point on the low water mark of the shoreline which is two hundred feet north of the boundary of Kualoa Regional Park; then along low water mark of the shoreline in a northerly direction to a point marking the southwest point of Zone A; then by azimuth measured clockwise from True South, 270 degrees for a distance of eight hundred feet; 360 degrees for a distance of

five hundred feet; 270 degrees for a distance of four hundred feet; 360 degrees for a distance of one thousand fifty feet; then by straight line to the point of beginning.

- (2) Zone B Restrictions. Zone B is designated as a commercial zone for sailing, windsurfing and scuba diving. Vessels transiting this zone shall proceed with extreme caution.

[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. HRS §§266-2, 266-3)

§19-86-62 Kaneohe Bay Waters.

- (a) Zone A, Kaneohe Bay restricted zone.
(1) Zone A Kaneohe Bay restricted zone means the area confined by the boundaries shown on Exhibit "U", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone A are described as follows:

Beginning at a point in the water by azimuth measured clockwise from True South, 280 degrees for a distance of five thousand four hundred sixty feet from a point on the low water mark at the southern tip of the mouth of Waiahole Stream; then on a radius of two hundred feet around that point.

- (b) Zone B Kaneohe Bay restricted zone.
(1) Zone B Kaneohe Bay restricted zone means the area confined by the boundaries shown on Exhibit "V", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone B are as follows:

Beginning at a point in the water, by azimuth measured clockwise from True South, 218 degrees for a distance of four thousand six hundred feet from a point on the low water mark on the northern tip of Wailau Point "Kahului Landing"; then on a radius of two hundred feet around that point.

- (c) Zone C restricted zone.
(1) Zone C restricted zone means the area confined by the boundaries shown on Exhibit "V", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone C are as follows:

Beginning at a point in the water, by azimuth measured clockwise from True South, 117 degrees for a distance of one thousand seven hundred ninety feet from a point on the low water mark on the northern tip of Kealahi Point; then on a radius of two hundred feet around that point.

- (d) Restrictions. Zones A, B, and C are designated as commercial thrill craft zones. No person shall operate or moor a vessel or sailboard in these zones when in use by commercial thrill craft.

- (e) Zone D Kaneohe Bay Restricted Zone.

- (1) Zone D restricted zone means the area confined by the boundaries shown on Exhibit "U", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone D are as follows:

Beginning at a point in the water which is located by azimuth measured clockwise from True South, 285 degrees for a distance of five thousand three hundred feet from a point on the shoreline of the southern tip of the mouth of Waiahole Stream; then 165 degrees for a distance of three thousand feet; 255 degrees for a distance of three thousand feet; 345 degrees for a distance of three thousand five hundred feet; then by a straight line to the point of beginning.

- (f) Zone E Kaneohe Bay Restricted Zone.

- (1) Zone E Kaneohe Bay restricted zone means the area confined by the boundaries shown on Exhibit "V", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone E are as follows:

Beginning at a point in the water which is located by azimuth measured clockwise from True South, 212 degrees for a distance of four thousand three hundred feet from the low water mark on the northern tip of Wailau Point "Kahului Landing"; then 240 degrees for a distance of two thousand two hundred feet; 325 degrees for a distance of three thousand seven hundred feet; 055 degrees for a distance of two thousand three hundred feet; 130 degrees for a distance of one thousand eight hundred feet; then by a straight line to the point of beginning.

- (g) Restrictions. Zones D and E are designated as commercial ocean water sports zones. Other vessels entering these zones shall exercise extreme caution while they are occupied by commercial ocean water sports activities.
- (h) Zone F Kaneohe Bay restricted zone.
- (1) Zone F Kaneohe Bay restricted zone means the area confined by the boundaries shown on Exhibit "V", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone F are as follows:
Beginning at a point in the water which is located by azimuth measured clockwise from True South, 280 degrees for a distance of six thousand four hundred feet from the low water mark on the tip of Wailau Point "Kahului Landing"; then 210 degrees for a distance of one thousand feet; 300 degrees for a distance of two thousand three hundred twenty-five feet; 030 degrees for a distance of one thousand feet; then by a straight line to the point of beginning.
- (i) Zone G Kaneohe Bay restricted zone.
- (1) Zone G Kaneohe Bay restricted zone means the area confined by the boundaries shown on Exhibit "V", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone G are as follows:
Beginning at a point in the water which is located by azimuth measured clockwise from True South, 091 degrees for a distance of four thousand one hundred feet from the northeast edge of the main pier at Heeia Kea Small Boat Harbor; then 210 degrees for a distance of one thousand feet; 300 degrees for a distance of two thousand five hundred feet; 030 degrees for a distance of one thousand feet; then by a straight line to the point of beginning.
- (j) Zone F and G Restrictions. Zone F and G are designated as a water ski zones. No person shall moor a vessel within these zones.
- (k) Zone H Kaneohe Bay Restricted Zone.
- (1) Zone H restricted zone means the area confined by the boundaries shown on Exhibit "V", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone H are as follows:

- Beginning at a point in the water which is located by azimuth measured clockwise from True South, 178 degrees for a distance of five thousand seven hundred sixty feet from the low water mark on the tip of Wailau Point "Kahului Landing"; then 140 degrees for a distance of two thousand seventy feet; 212 degrees for a distance of three thousand feet; 290 degrees for a distance of two thousand eight hundred twenty feet; 030 degrees for a distance of five hundred eighty-five feet; 120 degrees to the southeast boundary of Zone F; then along the boundary of Zone F to its northeast point; then by a straight line to the point of beginning.
- (2) Zone H Restrictions. No person shall operate a vessel within Zone H at a speed in excess of slow-no-wake. Commercial vessels and activities are prohibited.
- (m) Kaneohe Bay Recreational Thrill Craft Zone.
- (1) Kaneohe Bay recreational thrill craft zone means the area seaward of the boundaries shown on Exhibit "W", dated June 30, 1988, located at the end of the subchapter. The boundaries are as follows:
Beginning at a point in the water immediately south of buoy "3", which marks the southeast boundary of the northern shipping channel in Kaneohe Bay; then in a southerly direction along the eastern boundary of the channel to the intersection of the Sampan Channel at buoy "K"; then in a northeast direction along the northern boundary of the Sampan Channel to buoy R-2.
- (2) Restrictions. The Kaneohe Bay recreational thrill craft zone is designated for recreational thrill craft. No recreational thrill craft operator shall enter Kaneohe Bay restricted zones F, G or H, or enter zones A through E when these zones are being used in their designated activities.

[Eff. _____] (Auth. HRS §§266-2, 266-3)
(Imp. HRS §§266-2, 266-3)

S19-86-63 Kailua Ocean Waters Restricted Zones.

- (a) Zone A Kailua ocean waters restricted zone.
- (1) Zone A Kailua ocean waters restricted zone means the area confined by the boundaries

shown on Exhibit "X", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

- Beginning at a point on the low water mark of the shoreline at the northern edge of Kailua Beach Park; then along the low water mark of the shoreline in a westerly direction for a distance of three hundred feet; then by azimuth measured clockwise from True South, 180 degrees for a distance of one thousand feet; 270 degrees for a distance of three hundred feet; then by a straight line to the point of beginning.
- (2) Restriction. Zone A Kailua ocean waters restricted zone is designated for windsurfing. No person shall operate a motor vessel and no person shall swim in the zone when used by windsurfers.
- (c) Zone B Kailua ocean waters restricted zone.
- (1) Zone B Kailua ocean waters restricted zone means the area confined by the boundaries shown on Exhibit "X", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the center of the bridge of Kawaihoa Road at the entrance to Kaelepulei Pond; then for fifty feet either side of a line by azimuth measured clockwise from True South, 240 degrees for a distance of one thousand feet.

- (2) Restriction. Zone B Kailua ocean waters restricted zone is designated an ingress/egress zone for manually propelled vessels. Swimming in the zone is prohibited when in use by vessels.

[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. HRS §§266-2, 266-3)

§19-86-64 Lanikai Ocean Waters Restricted

Zone. (a) Lanikai restricted zone.

- (1) Lanikai restricted zone means the area confined by the boundaries shown on Exhibit "Y", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the shoreline on the extension of the centerline of Kuailima Drive; then seaward for one hundred feet along the centerline; then in a southerly direction one hundred feet from the shoreline to a point on the centerline extension of Aala Drive; then toward the shoreline along the centerline to the low water mark in a northerly direction along the low water mark to the point of beginning.

- (2) The Lanikai restricted zone is designated for swimming and bathing. No person shall operate or moor a vessel, surfboard, or sailboard within this zone.

[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. HRS §§266-2, 266-3)

§19-86-65 Waimanalo Ocean Waters Restricted
Zones. (a) Zone A Waimanalo restricted zone.

- (1) Zone A Waimanalo restricted zone means the area confined by the boundaries shown on Exhibit "Z", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point on the low water mark of the shoreline which is six hundred feet south of the south bank of the mouth of Waimanalo Stream; then by azimuth measured clockwise from True South, 265 degrees for a distance of one hundred feet; 355 degrees for a distance of five hundred feet; 085 degrees to a point on the low water mark of the shoreline; then along the low water mark in a northerly direction to the point of beginning.

- (b) Zone B Waimanalo Restricted Zone.

- (1) Zone B Waimanalo restricted zone means the area confined by the boundaries shown on Exhibit "Z", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone B are as follows:

Beginning at a point on the low water mark of the shoreline which measures one thousand four hundred fifty feet in a southerly direction, along the low water mark from the south boundary of Zone A; then by azimuth measured clockwise from True

S19-86-65

South, 255 degrees for a distance of one hundred feet; 340 degrees for a distance of five hundred feet; 075 degrees to a point on the low water mark of the shoreline; then along the low water mark in a northerly direction to the point of beginning.

(c) Zone C Waimanalo Restricted Zone.

- (1) Zone C Waimanalo restricted zone means the area confined by the boundaries shown on Exhibit "Z", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone C are as follows:

Beginning at a point on the low water mark of the shoreline which measures nine hundred fifty feet, along the low water mark of the shoreline in a northerly direction from the extension of Aloiloi Street at the shoreline; then northward along the low water mark for a distance of five hundred feet; then by azimuth measured clockwise from True South, 240 degrees for a distance of one hundred feet; 320 degrees for a distance of five hundred feet; 055 degrees to a point on the low water mark of the shoreline; then by a straight line to the point of beginning.

(d) Zones A, B and C Waimanalo restricted zones are designated for swimming and bathing. No person shall operate or moor a vessel, surfboard, or sailboard within these zones. [Eff.]
(Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

S19-86-66 Makapuu Ocean Waters Restricted Zones. (a) Zone A Makapuu restricted zone.

- (1) Zone A Makapuu restricted zone means the area confined by the boundaries shown on Exhibit "AA", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point on the low water mark of the shoreline south of the Makai Range Pier in line with the channel range lights; then by azimuth measured clockwise from True South, 213 degrees for a distance of one hundred feet; 120 degrees for a distance of five hundred seventy feet; 033 degrees to a point on the low water mark of

the shoreline; then along the low water mark in a northerly direction to the point of beginning.

- (2) Zone A Makapuu Restriction. Zone A Makapuu restricted zone is designated for swimming and bathing. No person shall operate or moor a vessel, surfboard, or sailboard within this zone.

(b) Zone B Makapuu Restricted Zone.

- (1) Zone B Makapuu restricted zone means the area confined by the boundaries shown on Exhibit "AA", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone B are as follows:

Beginning at a point on the low water mark of the eastern tip of Manana Island; then by a straight line to the northeastern tip of Kaohikaipu Island; then along the low water mark in a westerly direction to the western tip of the island; then by a straight line to the low water mark at the western tip of Manana Island; then along the low water mark in a easterly direction to the point of beginning.

- (2) Zone B Makapuu Restriction. No person shall operate a vessel at a speed in excess of slow-no-wake in this zone.

[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. HRS §§266-2, 266-3)

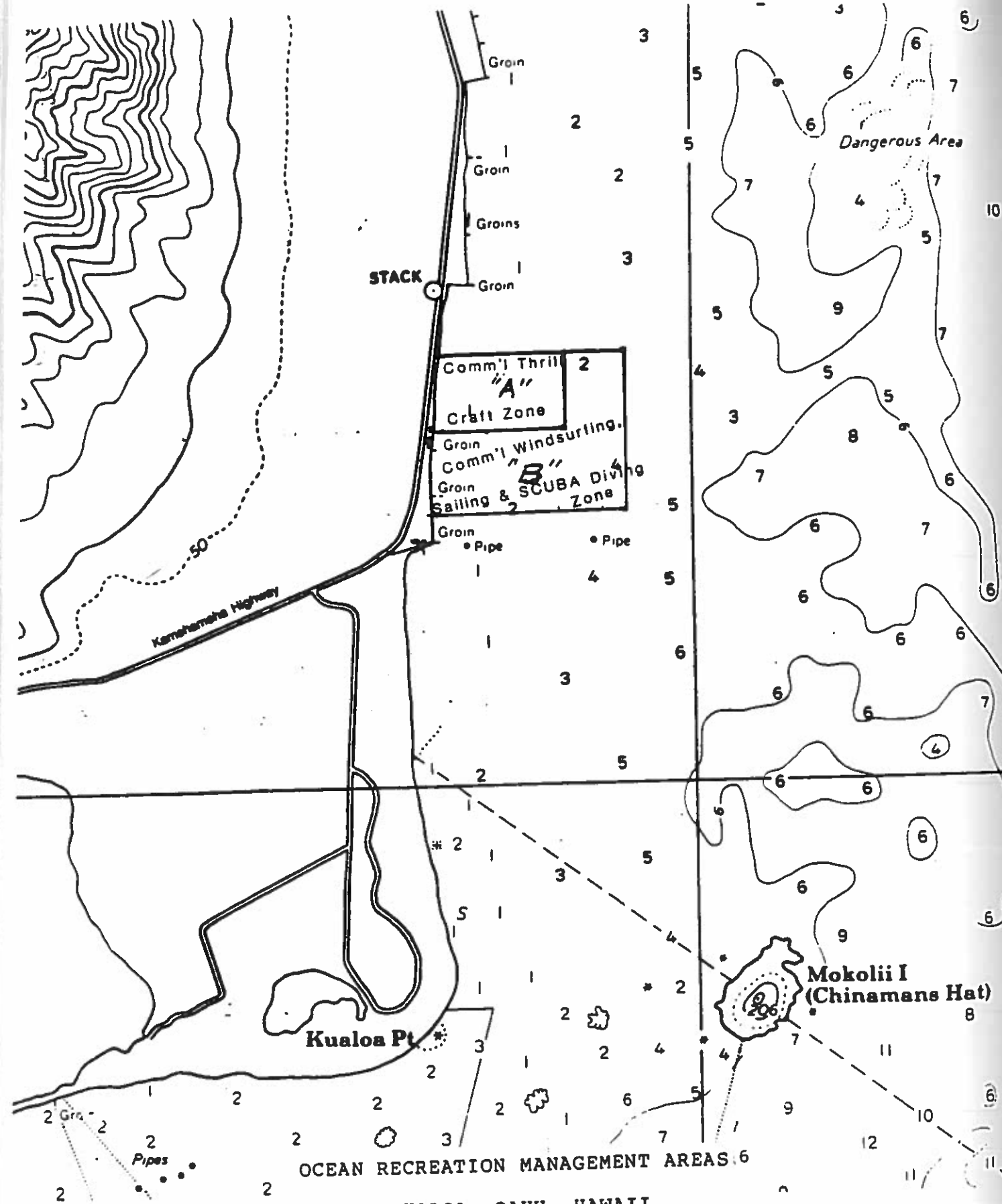


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JUNE 30, 1988

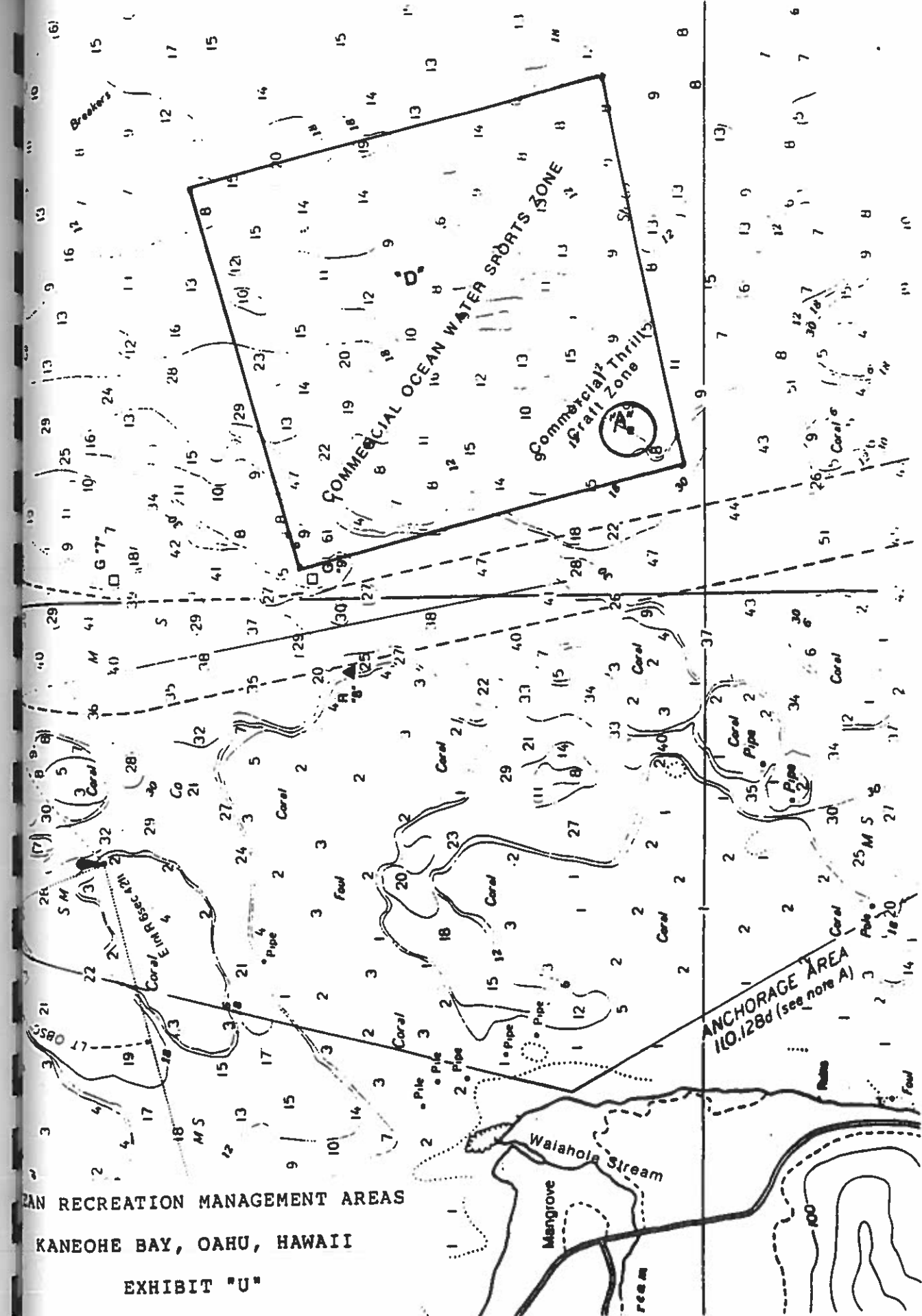
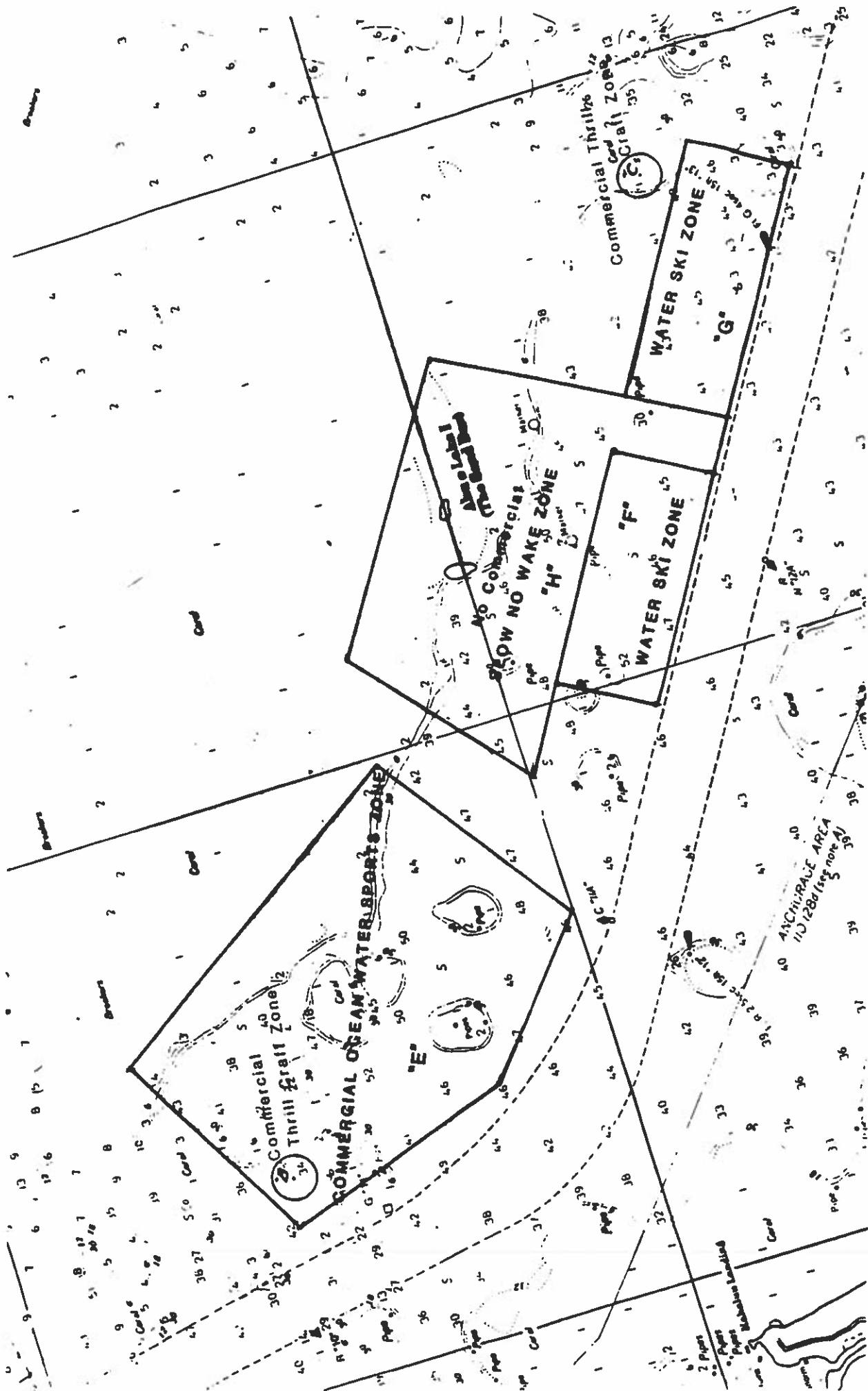


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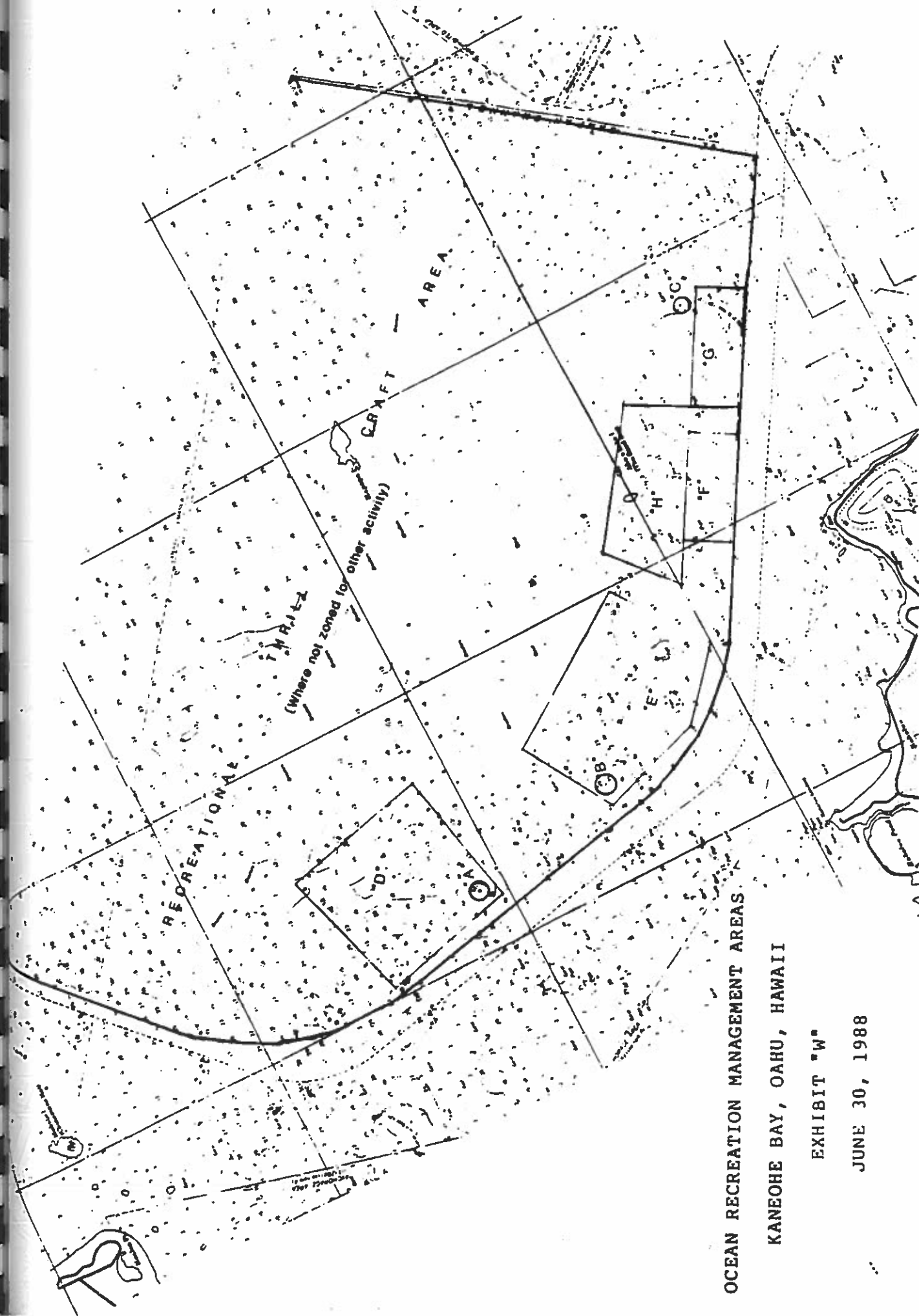


OCEAN RECREATION MANAGEMENT AREAS

KANEOHE BAY, OAHU, HAWAII

EXHIBIT "V"

JUNE 30, 1988



OCEAN RECREATION MANAGEMENT AREAS

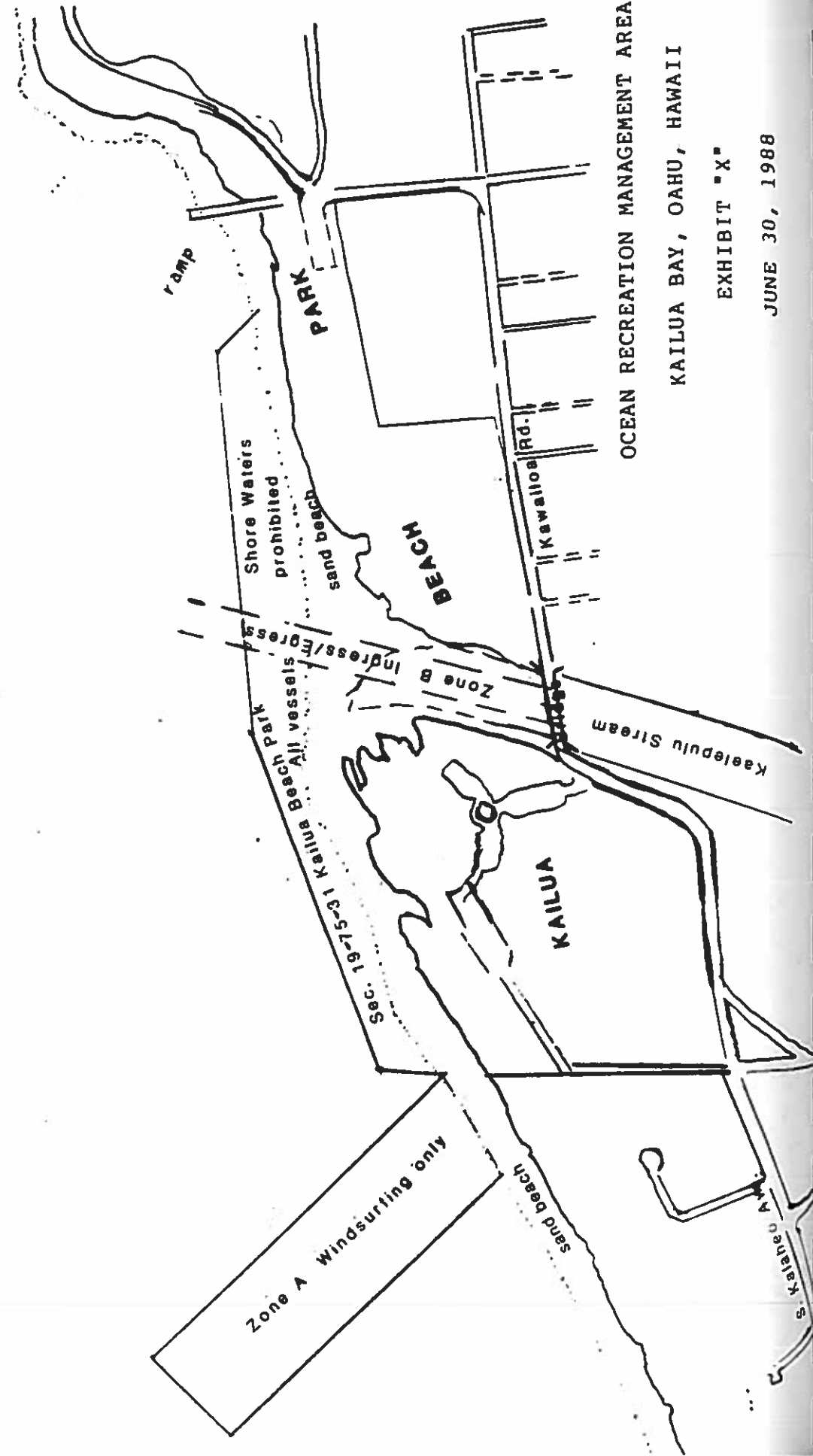
KANEOHE BAY, OAHU, HAWAII

EXHIBIT "W"

JUNE 30, 1988

Popoia (Flat) Is.

500 feet



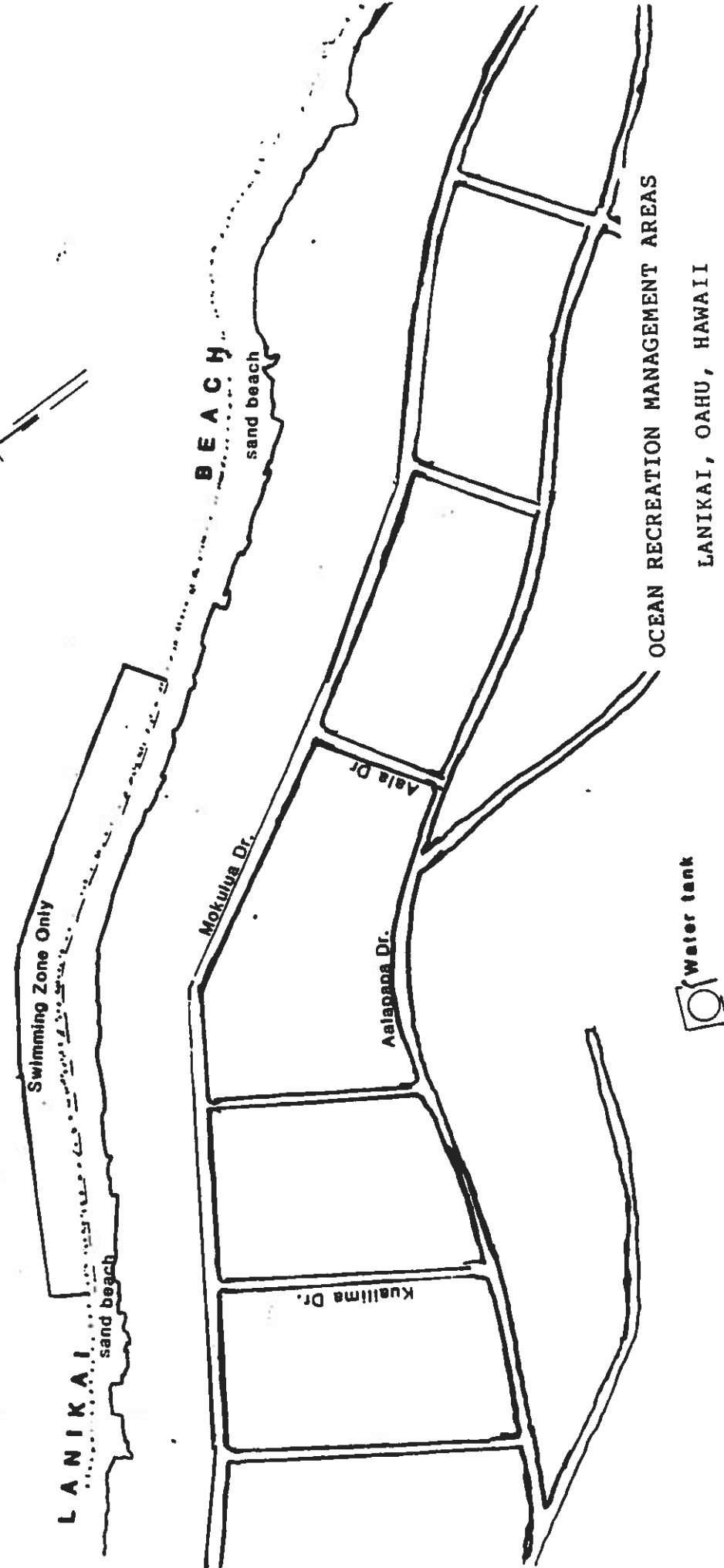
OCEAN RECREATION MANAGEMENT AREAS

KAILUA BAY, OAHU, HAWAII

EXHIBIT "X"

JUNE 30, 1988

500 feet

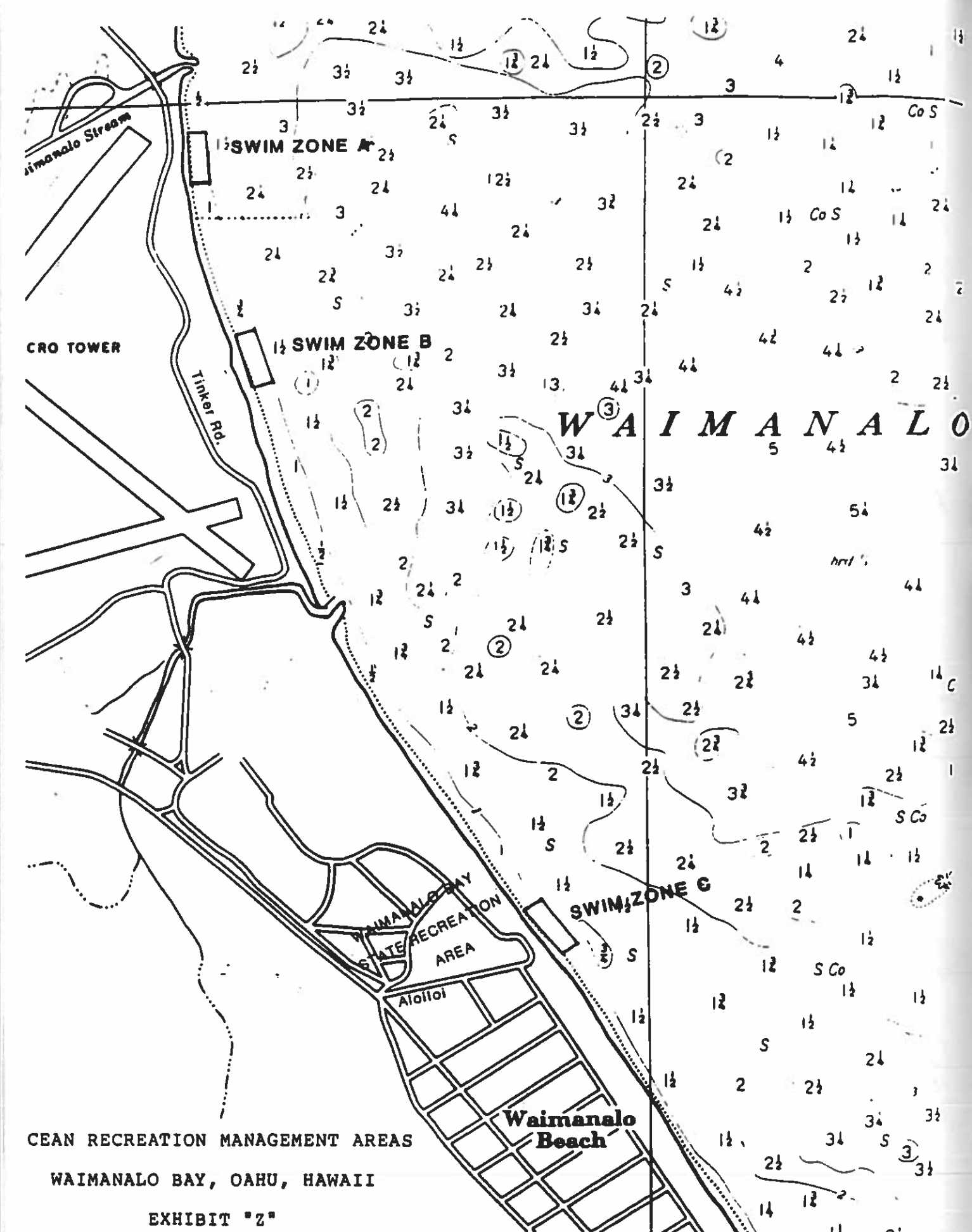


OCEAN RECREATION MANAGEMENT AREAS

LANIKAI, OAHU, HAWAII

EXHIBIT "Y"

JUNE 30, 1988

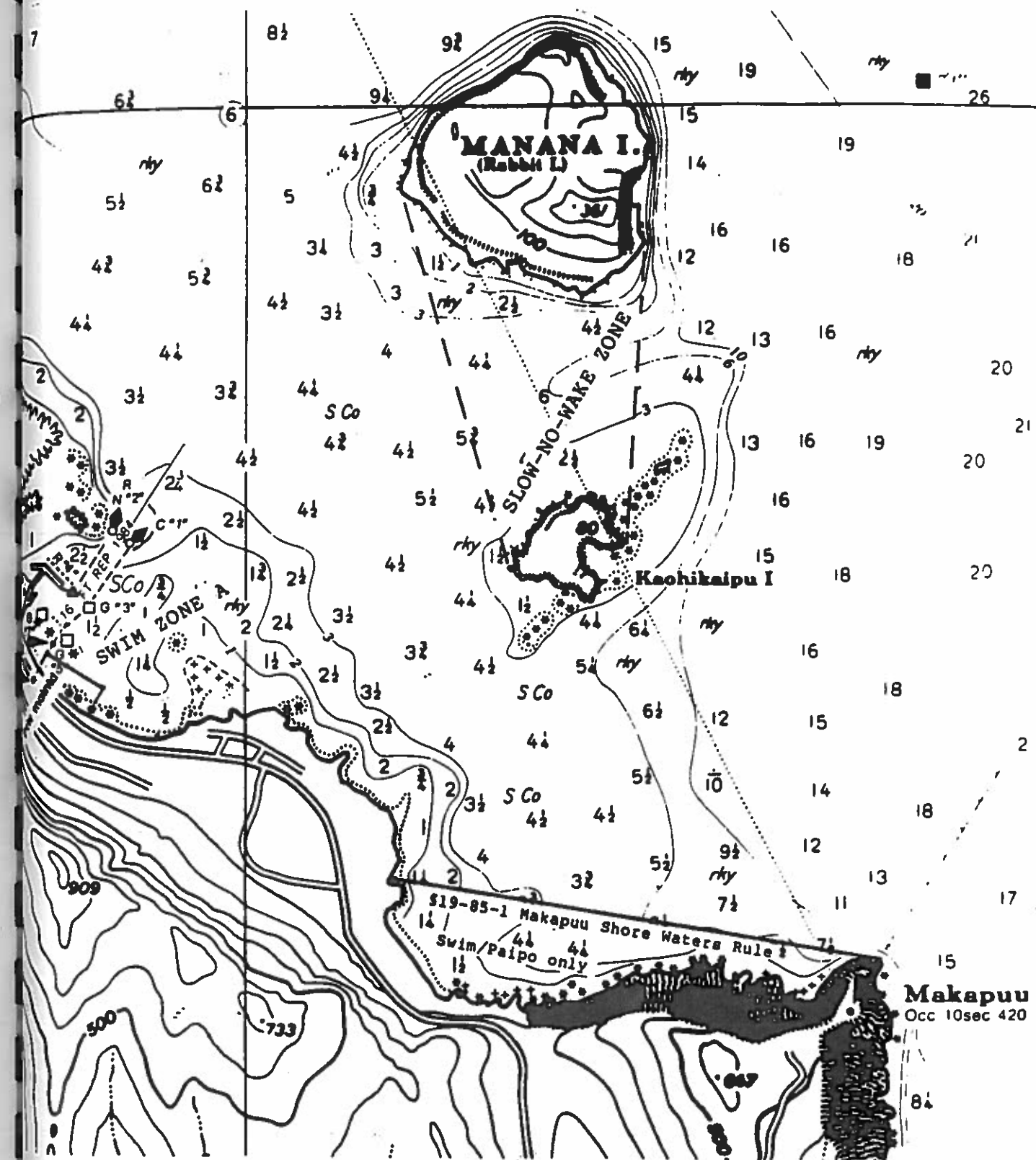


OCEAN RECREATION MANAGEMENT AREAS

WAIMANALO BAY, OAHU, HAWAII

EXHIBIT "Z"

JUNE 30, 1988



OCEAN RECREATION MANAGEMENT AREAS

MAKAPUU, OAHU, HAWAII

EXHIBIT "AA"

JUNE 30, 1988

SUBCHAPTER 6

SOUTH OAHU OCEAN RECREATION MANAGEMENT AREAS

\$19-86-71	Maunalua Bay Restricted Zones
\$19-86-72	Waialae-Kahala Restricted Areas
\$19-86-73	Diamond Head Restricted Area
\$19-86-74	Waikiki Ocean Waters Restricted Zones
\$19-86-75	South Shore Parasail Area
\$19-86-76	Ala Moana Beach Park Thrill Craft Zone
\$19-86-77	Kahakaaulana Islet (Harris Is.) Commercial Zone
\$19-86-78	Reef Runway Zone

\$19-86-71 Maunalua Bay restricted zones.

(a) Zone A Restricted Zone.

- (1) Zone A Restricted Zone means the area confined by the boundaries shown on Exhibit "BB", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point in the water, by azimuth measured clockwise from True South, which is 325 degrees for a distance of one thousand eight hundred feet from a point on the low water mark on the east side of Maunalua Bay boat ramp; then on a radius of two hundred feet around that point.

(b) Zone B Maunalua Bay Restricted Zone.

- (1) Zone B Restricted Zone means the area confined by the boundaries shown on Exhibit "BB", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone B are as follows:

Beginning at a point in the water, by azimuth measured clockwise from True South, which is 330 degrees for a distance of one thousand three hundred fifty feet from a point on the low water mark on the east side of Maunalua Bay boat ramp; then on a radius of two hundred feet around that point.

(c) Zone C Maunalua Bay Restricted Zone.

- (1) Zone C Restricted Zone means the area confined by the boundaries shown on Exhibit "BB", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone C are as follows:

Beginning at a point in the water, by azimuth measured clockwise from True South, which is 340 degrees for a distance of one thousand nine hundred fifty feet from a point on the low water mark on the east side of Maunalua Bay boat ramp; then on a radius of two hundred feet around that point.

(d) Restrictions. Zones A, B and C are designated commercial thrill craft operating zones. No person shall operate more than six rental thrill craft within each area.

(e) Zone D Maunalua Bay Restricted Zone.

- (1) Zone D Restricted Zone means the area confined by the boundaries shown on Exhibit "BB", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone D are as follows:

Beginning at a point in the water, by azimuth measured clockwise from True South, which is 008 degrees for a distance of six hundred feet from a point on the low water mark on the east side of Maunalua Bay boat ramp; then on a radius of two hundred feet around that point.

- (2) Restrictions. Zone D is designated a recreational thrill craft operating zone for use by novice operators only.

(f) Zone E Maunalua Bay Restricted Zone.

- (1) Zone E Restricted Zone means the area confined by the boundaries shown on Exhibit "BB", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone E are as follows:

Beginning at a point in the water, by azimuth measured clockwise from True South, which is 025 degrees for a distance of four thousand nine hundred fifty feet from a point on the low water mark on the east side of Maunalua Bay boat ramp; then 025 degrees for a distance of one thousand feet

coincident with the northwest boundary of Zone F; 293 degrees for a distance of two thousand five hundred feet coincident with the southwest boundary of Zone F; 075 degrees for a distance of nine thousand three hundred feet coincident with the boundary of Zone F; 167 degrees for a distance of three thousand one hundred fifty feet; then in a straight line to the point of beginning.

- (2) Restrictions. Zone E is designated a recreational thrill craft zone. No person shall operate a commercial thrill craft within this area. Other vessels shall use extreme caution when transiting this area

(h) Zone F Restricted Zone.

- (1) Zone F Restricted Zone means the area confined by the boundaries shown on Exhibit "BB" dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone F are as follows:

Beginning at a point in the water, by azimuth measured clockwise from True South, which is 025 degrees for a distance of four thousand nine hundred fifty feet from a point on the low water mark on the east side of Maunalua Bay boat ramp; then 025 degrees for a distance of one thousand feet; 115 degrees for a distance of two thousand five hundred feet; 205 degrees for a distance of one thousand feet; then by a straight line to a point of beginning.

- (2) Restrictions. No person shall operate a vessel within this area at a speed in excess of slow-no-wake.

(i) Zone G Maunalua Bay Parasail Zone.

- (1) Zone G Maunalua Bay Parasail Zone means the area confined by the boundaries shown on Exhibit "CC", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone G are as follows:

Beginning at entrance buoy "1" to the Hawaii-Kai Marina and Maunalua Bay boat launching ramp, establishing the eastern boundary; then by straight line to buoy R-2 off Diamond Head, establishing the western boundary.

- (2) Restrictions. Zone G Maunalua Bay Parasail Zone is designated for operations of parasail vessels. All operating parasail vessels shall remain seaward of the boundary line. No more than two commercial use permits shall be authorized for this zone. No person shall operate within one thousand feet of any buoy when the parasail is aloft. All other vessels using this area shall exercise extreme caution.

(j) Zone H Maunalua Bay Restricted Zone.

- (1) Zone H Restricted Zone means the area confined by the boundaries shown on Exhibit "DD", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone H are as follows:

Beginning at a point on the low water mark of the eastern boundary of Kawaikui Beach Park; then by azimuth measured clockwise from True South, 345 degrees for a distance of one hundred feet; 075 degrees for a distance of eight hundred feet; 165 degrees to a point on the low water mark of the shoreline; then along the low water mark to a point of beginning.

- (2) Restrictions. Zone H is designated for swimming and bathing. No person shall operate or moor a vessel, surfboard, or sailboard within this area.

[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. HRS §§266-2, 266-3)

§19-86-72 Waialae-Kahala Restricted Areas.

(a) The Waialae-Kahala Swimming Area A.

- (1) The Waialae-Kahala swimming area A means the area confined by the boundaries shown on Exhibit "EE", dated, June 30, 1988 located at the end of this subchapter. The boundaries are as follows:

Beginning at the low water mark at the southern tip of the Waialae Nui Stream groin, then by azimuth measured clockwise from True South; 205 degrees for a distance of five hundred fifty feet to a point in the

water; then in a straight line to the southern tip of the rocky peninsula; then along the low water mark in a westerly direction to the point of beginning.

(b) The Waialae-Kahala Swimming Area B.

- (1) The Waialae-Kahala swimming area B means the area confined by the boundaries shown on Exhibit "EE", dated, June 30, 1988 located at the end of this subchapter. The boundaries are as follows:

Beginning at the low water mark at the southern tip of the rocky peninsula then by azimuth measured clockwise from True South; 340 degrees to the north tip of the islet; then along the low water mark on the eastern portion of the islet to the southeast tip; then in a straight line to the southern tip of the groin at the eastern boundary of the Kahala Hilton Hotel; then following the low water mark in a westerly direction to the point of beginning.

- (2) Restrictions. The Waialae-Kahala swimming areas A and B are designated for swimming and bathing and the use of water sports equipment. No person shall operate or moor a vessel, except as defined in subsection (d), a surfboard, or sailboard within this area.

(c) Waialae-Kahala Ingress-Egress Corridor.

- (1) The Waialae-Kahala ingress-egress corridor means the area confined by the boundaries shown on Exhibit "EE", dated, June 30, 1988 located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the shoreline which is the extension of the western boundary of Waialae Beach Park; then by azimuth measured clockwise from True South, 308 degrees to a point seaward of the surf line will establish the western boundary of the ingress-egress corridor.

Beginning at a point on the low water mark of the shoreline which is the extension of the western boundary of Waialae Beach Park; then along the low water mark of the shoreline across the mouth of the Waialae Nui Stream to the southern tip of the Waialae Nui Stream groin; then 308 degrees to a point seaward of the surf line to establish the eastern boundary of the ingress-egress corridor.

§19-86-72

- (2) Restrictions. The Waialae-Kahala ingress-egress corridor is designated for use by windsurfing, manually propelled water sports equipment and commercial vessels operating under contract with the Kahala Hilton Hotel. No other person shall operate a motorized vessel within this area.

(d) Waialae-Kahala Beach Boat Channel.

- (1) The Waialae-Kahala beach boat channel means the area confined by the boundaries shown on Exhibit "EE", dated, June 30, 1988 located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark at the southern tip of the Waialae Nui Stream groin, then by azimuth measured clockwise from True South, 205 degrees for a distance five hundred fifty feet, coincident with Swimming Area A boundary; then in a straight line to the low water mark at the south eastern tip of the rocky peninsula; then along the low water mark of the rocky peninsula and shoreline to a point one hundred twenty-five feet east of the rocky peninsula; then 343 degrees in a straight line to intersect Swimming Area B boundary; then along Swimming Area B boundary to the northern tip of the islet; then 160 degrees for a distance of four hundred twenty-five feet; then 025 degrees for a distance of four hundred seventy-five feet; then in a northwesterly direction to the point of beginning.

- (2) Restrictions. The Waialae-Kahala beach boat channel is designated for use by commercial vessels, operating under contract with the Kahala Hilton Hotel and holding a valid commercial use permit from the department. The operation of any other vessel within this area is prohibited.

[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. HRS §§266-2, 266-3)

§19-86-73 Diamond Head Restricted Area.

- (a) The Diamond Head Restricted area means the area confined by the boundaries shown on Exhibit "FF", dated, June 30, 1988, located at the end of this subchapter, The boundaries are as follows:

Beginning at a point on the low water mark of the shoreline on the western boundary of the Diamond Head Lighthouse; then by azimuth measured clockwise from True South, 355 degrees for a distance of two thousand six hundred forty feet; 260 degrees for a distance of two thousand feet; then to a point at the low water mark at the most eastern boundary of Diamond Head Beach Park; then along the low water mark in a westerly direction to the point of beginning.

- (b) Restrictions. The Diamond Head Restricted Area is designated for sailboards and manually propelled vessels. This area shall be restricted to sailboards when the winds exceed fifteen miles per hour. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

§19-86-74 Waikiki Ocean Waters Restricted Zones.

(a) Waikiki Speed Zone.

- (1) Waikiki speed zone means the area confined by the boundaries shown on Exhibit "GG", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water of the shoreline at the southern tip of Magic Island on a straight line to the Ala Wai Entrance Buoy G "1", then on a straight line to Diamond Head Buoy R "2", then on a straight line toward Diamond Head Lighthouse to intersect the Diamond Head windsurfing zone boundary, then along the boundary to the low water mark at Diamond Head Beach Park, then along the low water mark following the shoreline to the point of beginning.

- (2) Restriction. No person shall operate a vessel or watercraft within the Waikiki speed zone at a speed in excess of slow-no-wake (5-mph per hour).

(b) Waikiki Commercial Thrill Craft Zone A.

- (1) Waikiki Thrill Craft Zone A means the area confined by the boundaries shown on Exhibit "GG", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point in the water by azimuth measured clockwise from True South, 045 degrees for a distance of three thousand six hundred feet from the low water mark of the tip of the groin at the southern boundary of Fort DeRussy Beach Park; then on a radius of two hundred feet around that point.

(c) Waikiki Commercial Thrill Craft Zone B.

(1) Waikiki Commercial Thrill Craft Zone B means the area confined by the boundaries shown on Exhibit "GG", dated, June 30, 1988, located at the end of this subchapter, which boundaries are described as follows:

Beginning at a point in the water by azimuth measured clockwise from True South, 025 degrees for a distance of three thousand eight hundred feet from the low water mark of the tip of the groin at the southern boundary of Fort DeRussy Beach Park; then on a radius of two hundred feet around that point.

(d) Waikiki Commercial Thrill Craft Zone A and Zone B are designated commercial thrill craft areas. No more than six rental thrill craft shall operate in these areas at any one time. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

\$19-86-75 South Shore Parasail Area.

(a) South Shore Parasail Area means the area defined on Exhibit "HH", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at buoy R-2 of Kalihi Channel entrance; then by straight line to buoys G-1 and R-2 of Honolulu Harbor channel entrance; then by straight line to buoys 1 and N-2 of Kewalo Basin channel; then by straight line to buoy G-1 of the Ala Wai channel; then by straight line to buoy R-2 off Diamond Head.

(b) Restrictions. South Shore Parasail Area is designated for the operation of parasail vessels. No more than three commercial parasail permits shall be authorized in this area. All operating parasail vessels shall remain seaward of the boundary line. No person shall operate a parasail aloft within one thousand feet of any channel entrance buoys.

All other vessels using this area shall exercise extreme caution. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

\$19-86-76 Ala Moana Beach Park Thrill Craft Zone.

(a) Ala Moana Beach Park Thrill Craft Zone means the area confined by the boundaries shown on Exhibit "II", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point in the water by azimuth measured clockwise from True South, 010 degrees for a distance of three thousand one hundred feet from a point on the low water mark on the northern boundary of Ala Moana Beach Park; then on a radius of two hundred feet around that point.

(b) Restrictions. The Ala Moana Beach Park thrill craft zone is designated for commercial thrill craft operations. No person shall operate a recreational vessel within this zone. No more than six rental thrill craft shall operate in this zone at any one time. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

\$19-86-77 Kahakaaulana Islet (Harris Is.) Commercial Zone.

(a) Zone A Restricted Area.

(1) Zone A Restricted Area means the area confined by the boundaries shown on Exhibit "JJ", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point in the water, by azimuth measured clockwise from True South, which is 095 degrees for a distance of two thousand two hundred fifty feet from a point on the low water mark on the northern tip of Kahakaaulana Islet (Harris Is.); then on a radius of two hundred forty feet around that point.

(2) Restrictions. Zone A is designated as a commercial thrill craft zone. No more than six rental thrill craft shall operate in this area at any one time.

(b) Zone B Restricted Area.

(1) Zone B Restricted Area means the area confined by the boundaries shown on

Exhibit "JJ", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the northern tip of Kahakaaulana Islet (Harris Is.), then by azimuth measured clockwise from True South, which is 090 degrees for a distance of two thousand feet; 180 degrees for a distance of four hundred feet; 270 degrees for a distance of two thousand feet; then by a straight line to the point of beginning.

- (2) Zone B Restricted Area is designated a commercial sailing, windsurfing and diving zone. Vessels transiting this area shall exercise extreme caution when occupied by commercial activities.

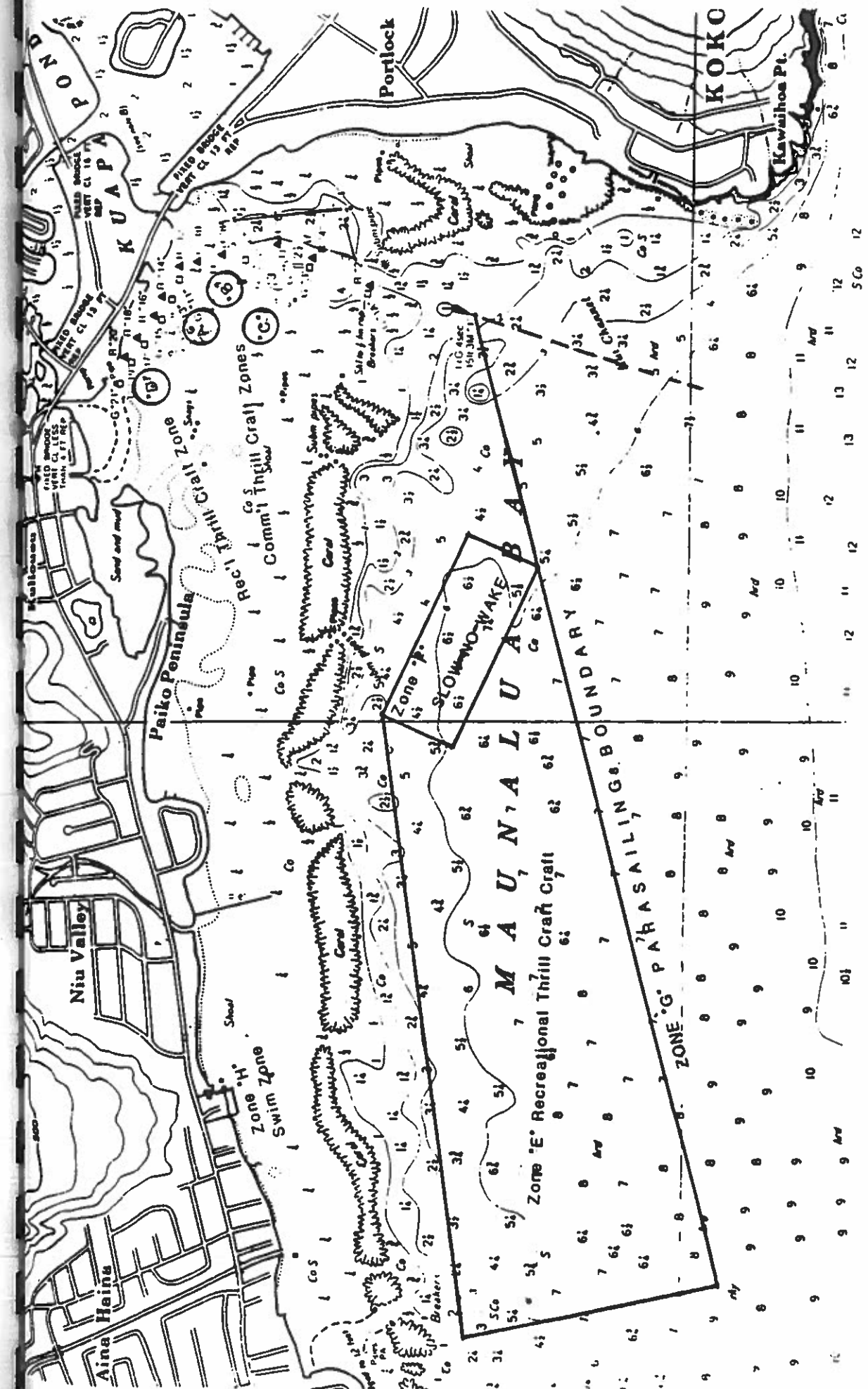
[Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

\$19-86-78 Reef Runway Zone.

(a) The Reef Runway Zone means the area confined by the boundaries shown on Exhibit "JJ", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point in the water by azimuth measured clockwise from True South, 277 degrees for a distance of two thousand two hundred feet from the low water mark of the southern boundary of the Reef Runway 8R; then 357 degrees for a distance of two thousand five hundred feet; 087 degrees for a distance of six thousand five hundred feet; 177 degrees for a distance of two thousand five hundred feet; then by a straight line to the point of beginning.

(b) Restrictions. The Reef Runway Zone is designated for recreational thrill craft operations. No person shall operate a commercial thrill craft within this area. Any vessel transiting this area shall exercise extreme caution when recreational thrill craft are operating. [Eff.]
(Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

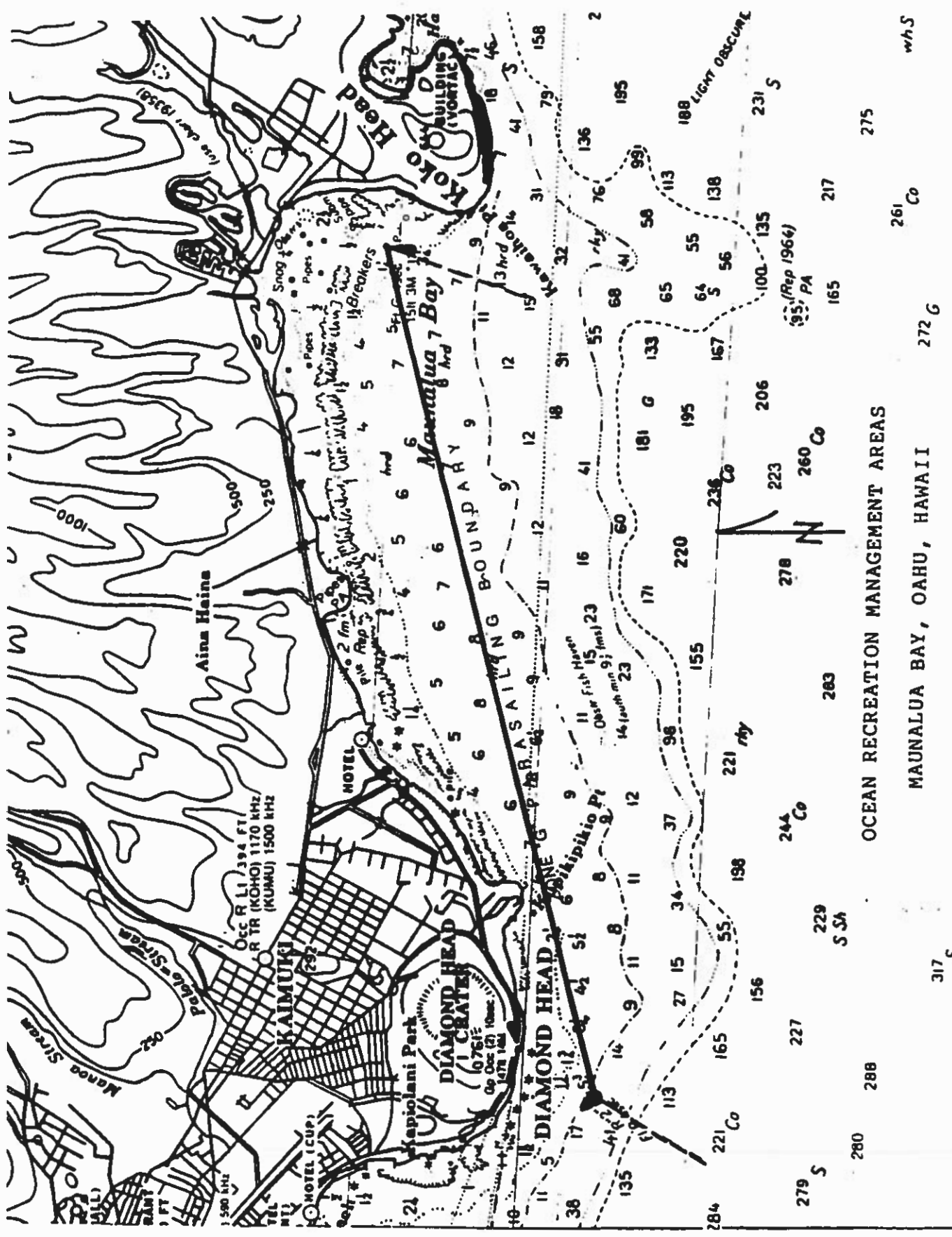


OCEAN RECREATION MANAGEMENT AREAS

MAUNALUA BAY, OAHU, HAWAII

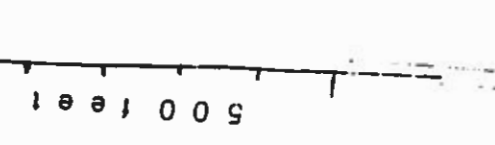
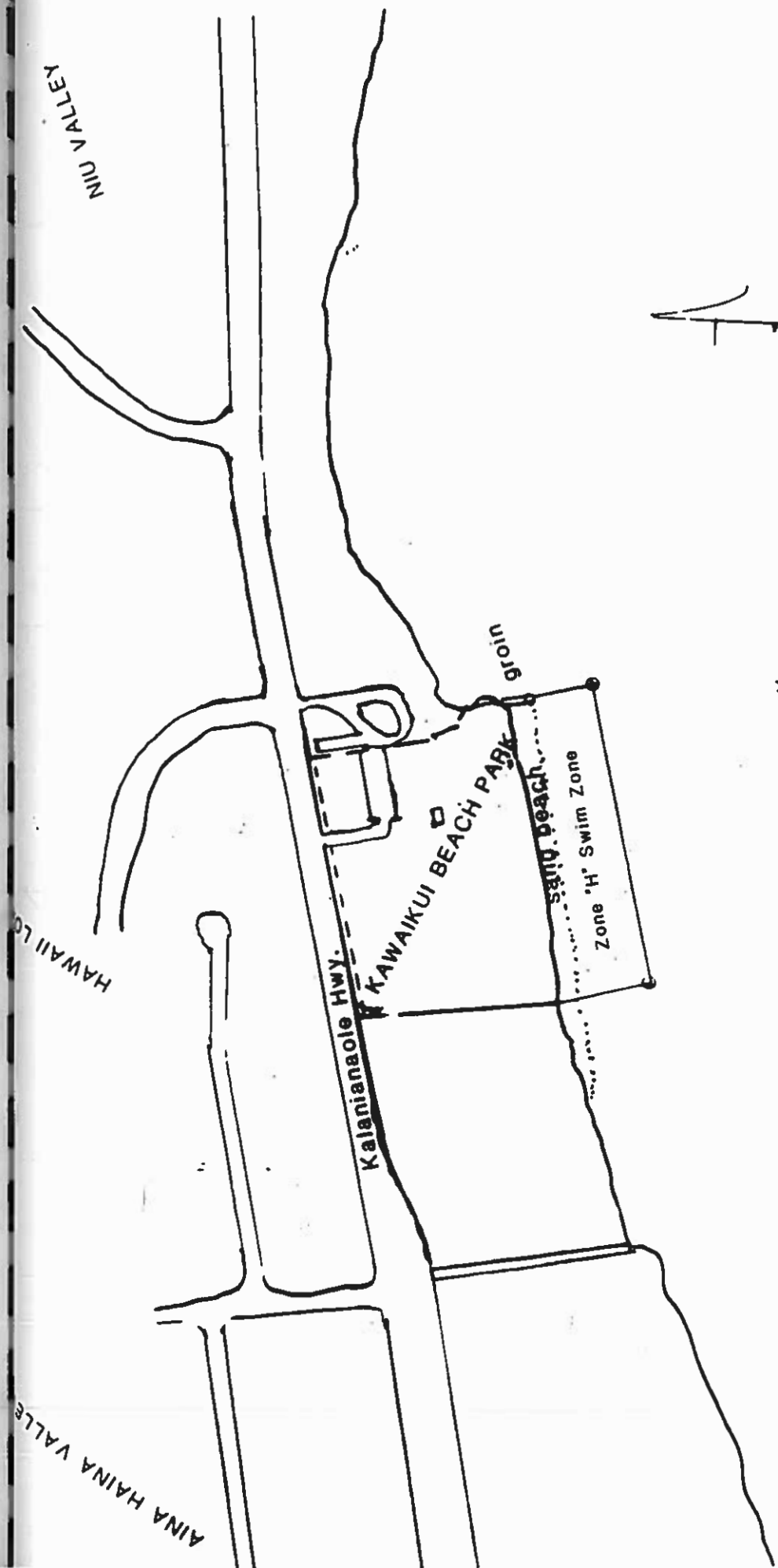
EXHIBIT "BB"

JUNE 30, 1988



OCEAN RECREATION MANAGEMENT AREAS

Area	Maunaloa Bay, Oahu, Hawaii	Exhibit "CC"	Date
Maunaloa Bay, Oahu, Hawaii	272 G	261 Co	whS
Exhibit "CC"	275	217	375



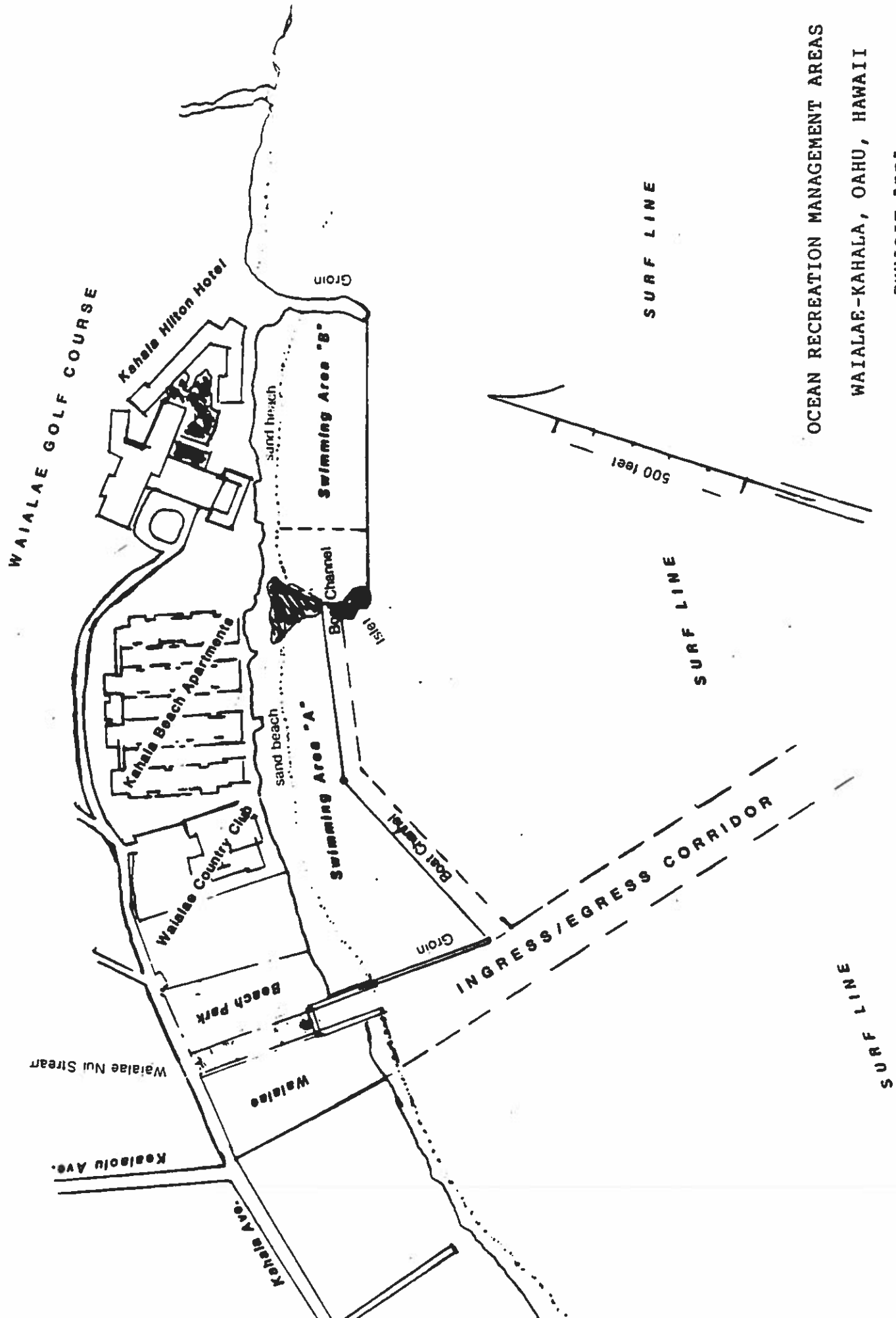
MAUNALOA BAY

OCEAN RECREATION MANAGEMENT AREAS

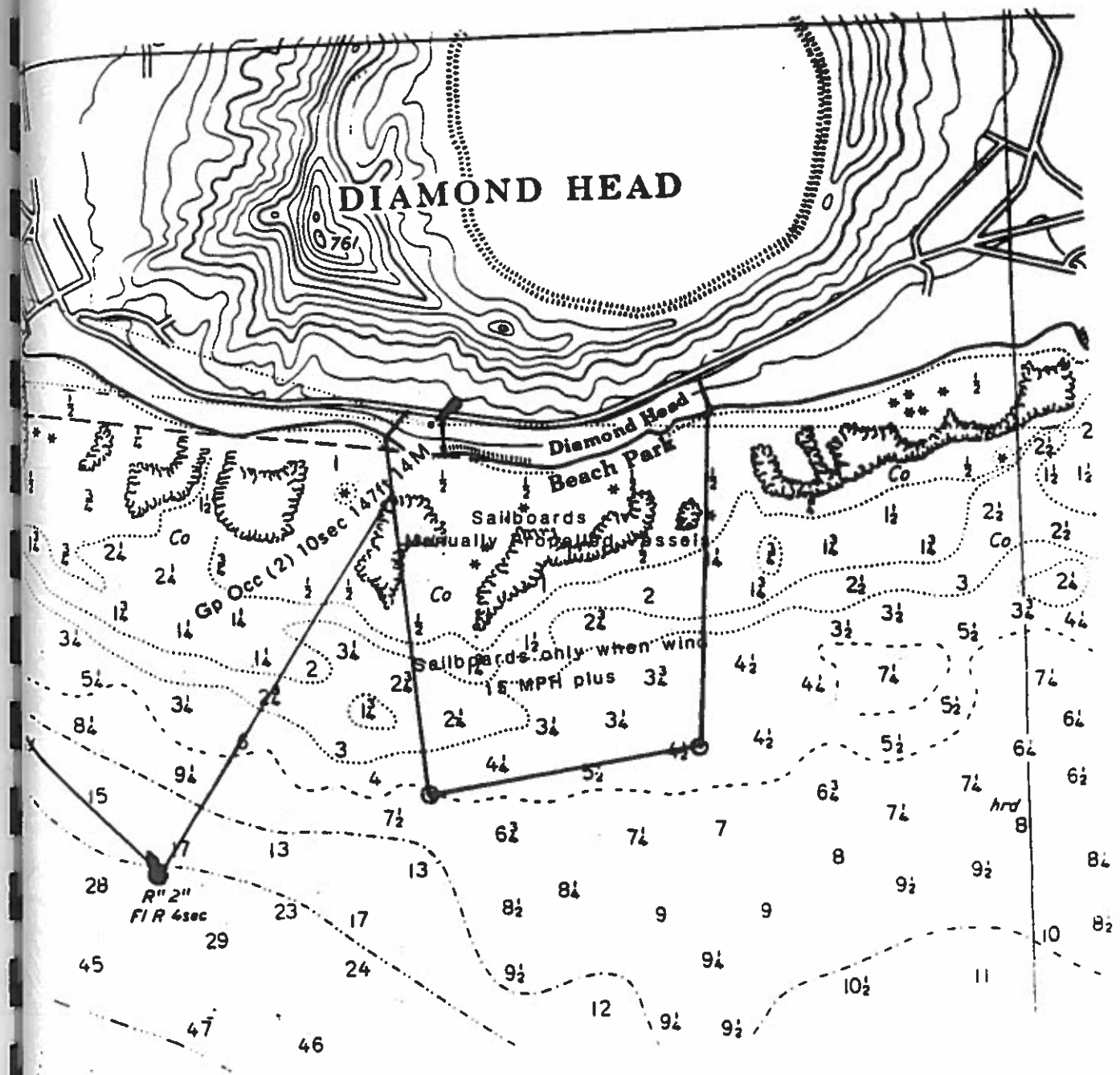
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EXHIBIT "DD"

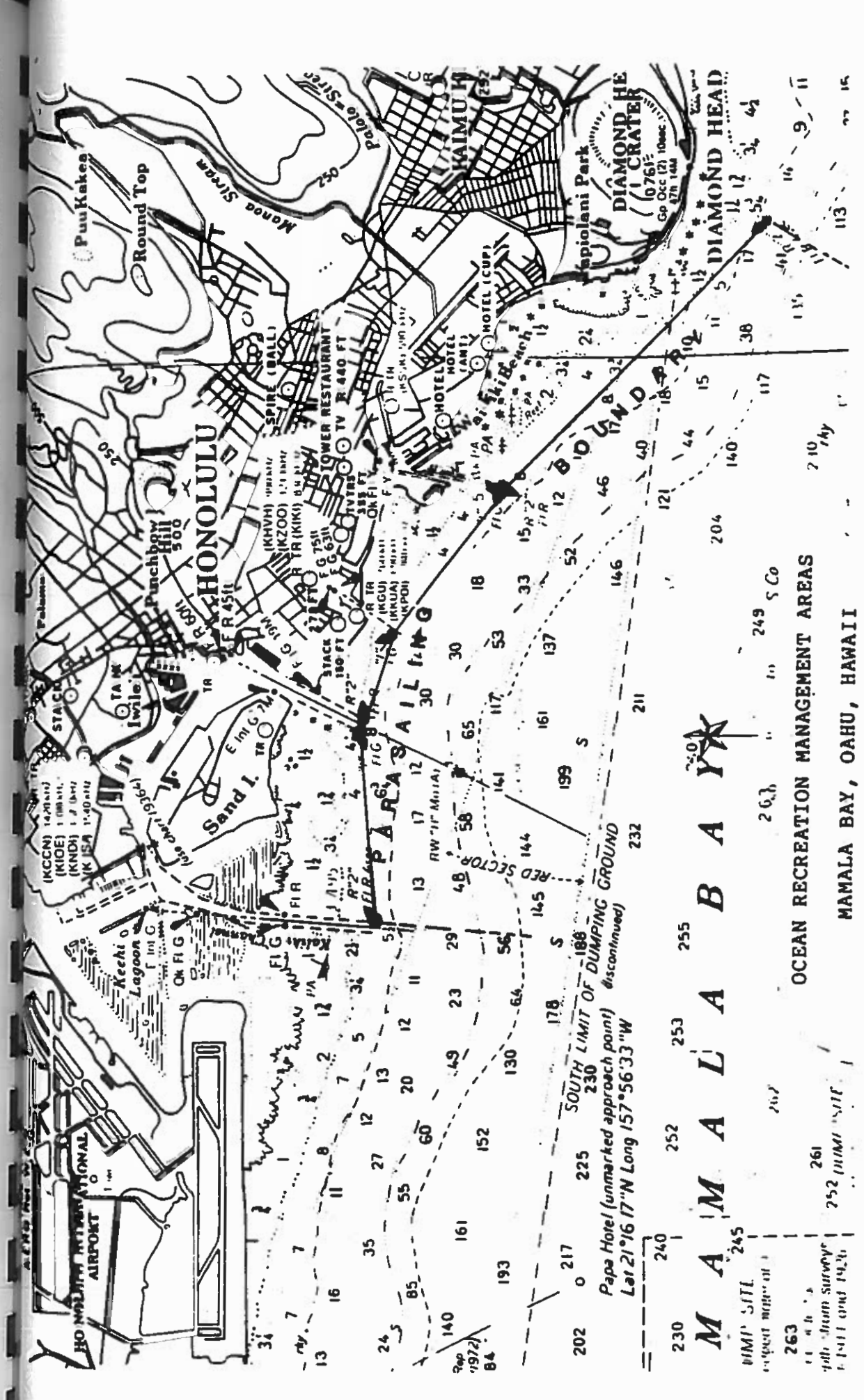
JUNE 30, 1988



OCEAN RECREATION MANAGEMENT AREAS
 WAIALAE-KAHALA, OAHU, HAWAII
 EXHIBIT "EE"
 JUNE 30, 1988



OCEAN RECREATION MANAGEMENT AREAS
 DIAMOND HEAD, OAHU, HAWAII
 EXHIBIT "FF"
 JUNE 30, 1988



SUBCHAPTER 7

WEST MAUI OCEAN RECREATION MANAGEMENT AREAS

- \$19-86-86 Napili Bay Restricted Area
- \$19-86-87 Lahaina-Kaanapali Offshore Restricted Area
- \$19-86-88 Kaanapali Commercial Thrill Craft Areas
- \$19-86-89 Olowalu Beach Restricted Area

\$19-86-86 Napili Bay Restricted Area. (a) The Napili Bay Restricted Area means the area confined by the boundaries shown on Exhibit "KK", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the shoreline at the western tip of Kaelekii Point, then on a straight line across Napili Bay to a point at the low water mark at the north western point of Napili Bay, then along the low water mark of the shoreline in a southerly direction to the point of beginning

(b) Restriction. The Napili Bay restricted area is designated for swimming and surfing. No person shall operate or moor a vessel within this area, except a vessel under contract with the Napili Kai Hotel and holding a valid mooring permit

\$19-86-87 Lahaina-Kaanapali Offshore Restricted Area. (a) The Lahaina-Kaanapali Offshore Restricted Area means the area confined by the boundaries shown on Exhibit "LL", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the shoreline between and in line with the Lahaina Harbor entrance range markers, by azimuth measured clockwise from True South, 045 degrees for a distance of three thousand one hundred twenty feet to a point in the water defining the southeastern boundary of the area; then 140 degrees for a distance of six thousand sixty feet; 180 degrees for a distance of six thousand three hundred

§19-86-87

feet; 167 degrees for a distance of twelve thousand three hundred feet, to a point in the water defining the northern boundary of the area;

(b) Restrictions. The Lahaina-Kaanapali Offshore restricted area is designated as a parasailing area. Parasail activity shall remain seaward of the described boundary when within three miles of the coastline, except when transiting to or from Lahaina Harbor, Mala ramp or a designated mooring area. No more than six commercial use permits are authorized for this area. Persons operating vessels shall exercise due care when transiting this area. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

§19-86-88 Kaanapali Commercial Thrill Craft Areas.

(a) The Kaanapali Commercial Thrill Craft Areas means the areas confined by the boundaries shown on Exhibit "MM", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

- (1) Kaanapali Commercial Thrill Craft Area 1
Beginning at a point at the low water mark on the shoreline at Hanakao Point, thence by azimuth measured clockwise from True South, 079 degrees for a distance of one thousand four hundred fifty-five feet to a point in the water, then on a radius of two hundred feet around that point.
- (2) Kaanapali Commercial Thrill Craft Area 2
Beginning at a point at the low water mark on the shoreline at Hanakao Point, thence by azimuth measured clockwise from True South, 049 degrees for a distance of one thousand six hundred twenty feet to a point in the water, then on a radius of two hundred feet around that point.
- (3) Kaanapali Commercial Thrill Craft Area 3
Beginning at a point at the low water mark on the shoreline at Hanakao Point, thence by azimuth measured clockwise from True South, 025 degrees for a distance of two thousand one hundred feet to a point in the water, then on a radius of two hundred feet around that point.

- (4) Kaanapali Commercial Thrill Craft Area 4
Beginning at a point at the low water mark on the shoreline at Hanakao Point, thence by azimuth measured clockwise from True South, 006 degrees for a distance of two thousand seven hundred feet to a point in the water, then on a radius of two hundred feet around that point.

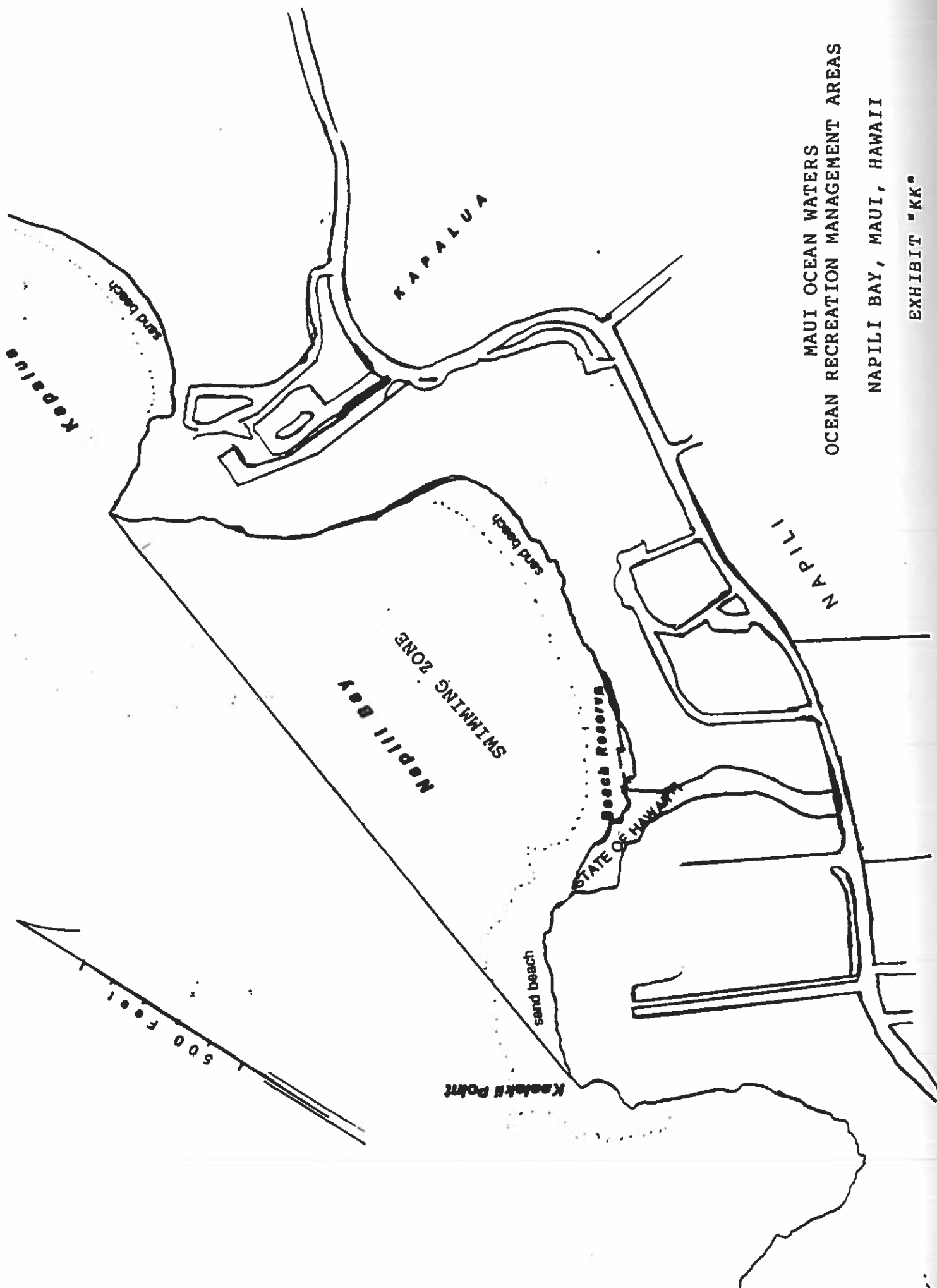
(b) Restrictions. Areas 1, 2, 3 and 4 are designated as commercial thrill craft areas. No more than six rental thrill craft shall operate in any one area at one time. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

§19-86-89 Olowalu Beach Restricted Area. (a)

The Olowalu Beach Restricted Area means the area confined by the boundaries shown on Exhibit "NN", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

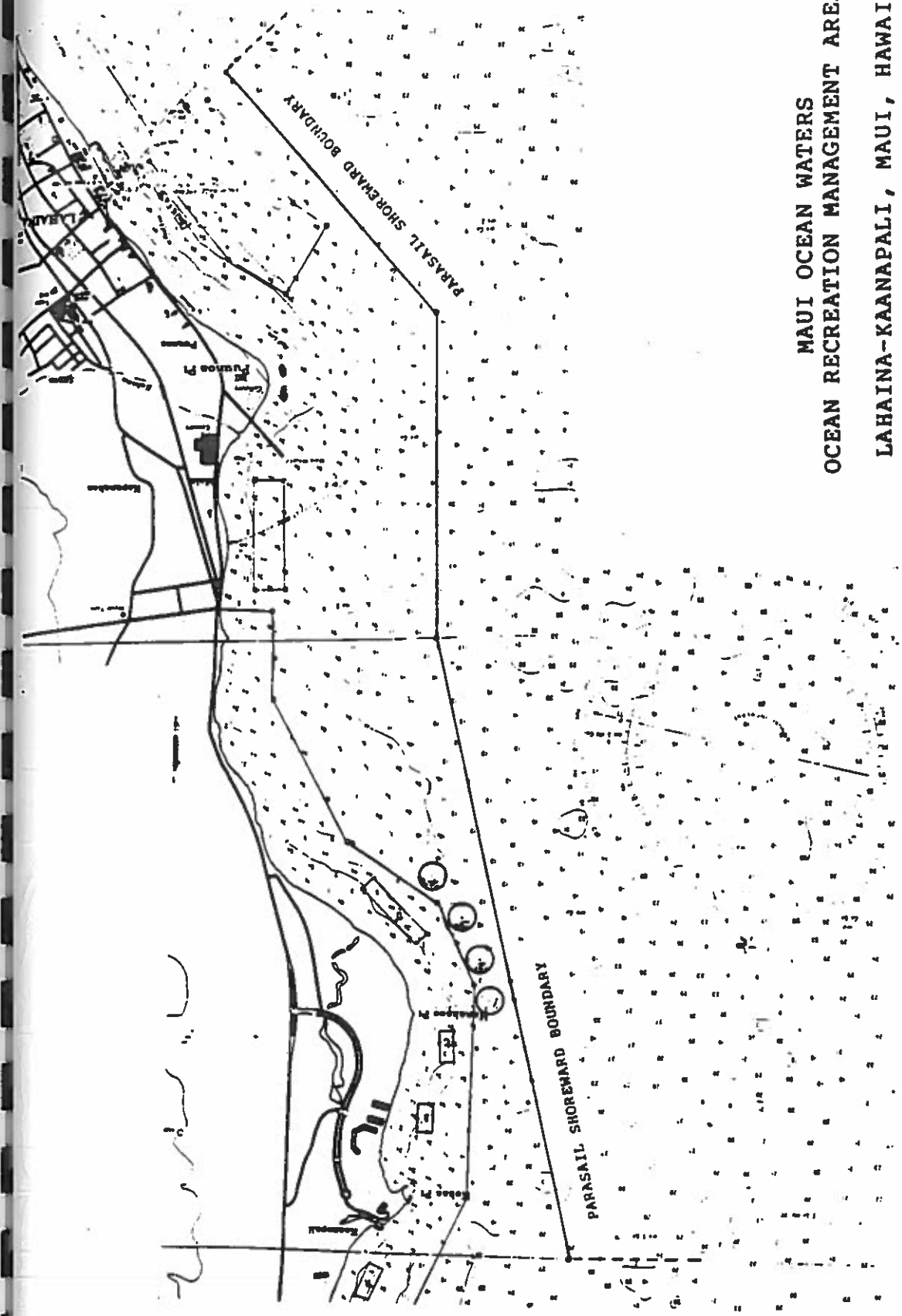
Beginning at a point on the low water mark of Olowalu Beach which is by azimuth measured clockwise from True South, 255 degrees for a distance of three thousand feet from the southern tip of Hekili Point; then 360 degrees for a distance of five hundred feet; 295 degrees for a distance of three thousand feet; then 255 degrees to a point on the shoreline at the low water mark; then along the shoreline in a westerly direction to the point of beginning.

(b) Restrictions. This area is designated for swimming, snorkeling, SCUBA diving and shoreline fishing. No person shall operate or moor a vessel within this area. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)



MAUI OCEAN WATERS
OCEAN RECREATION MANAGEMENT AREAS
NAPILI BAY, MAUI, HAWAII

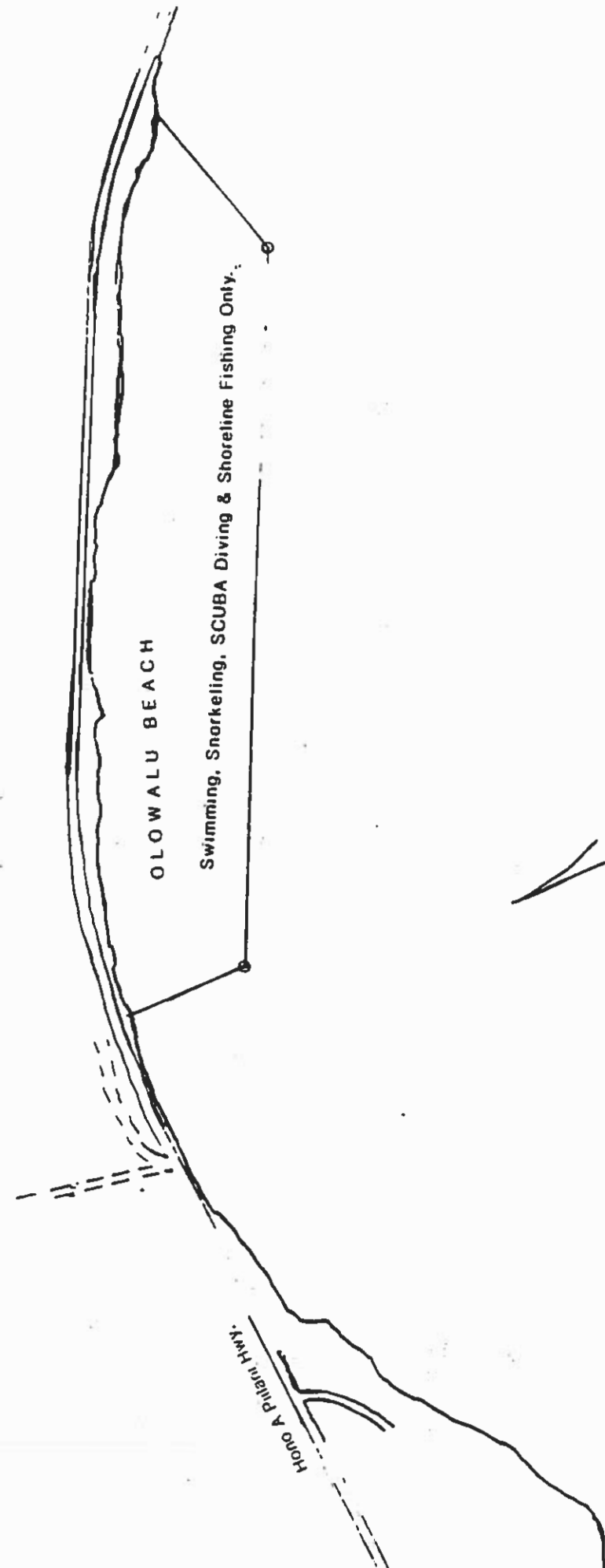
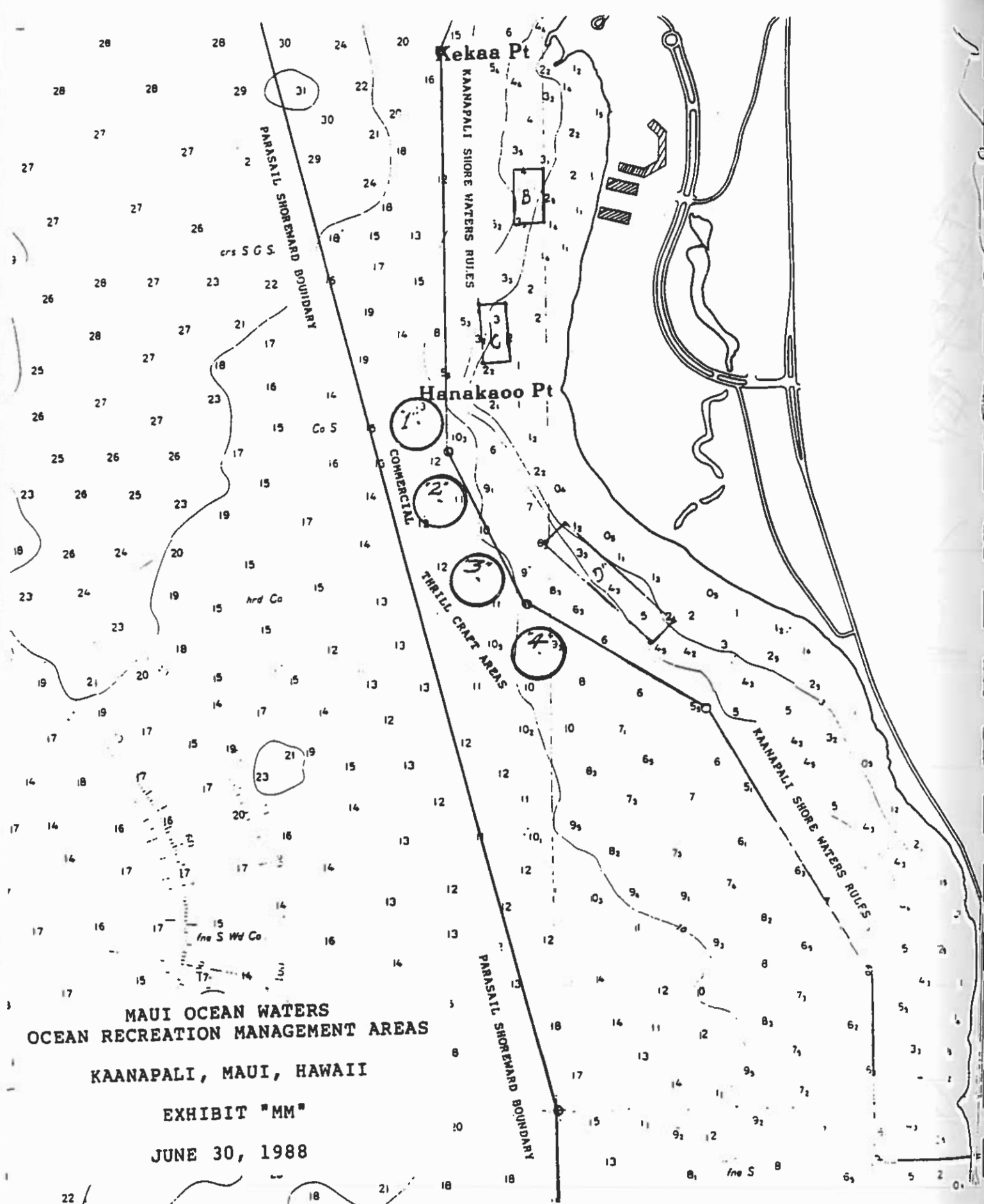
EXHIBIT "KK"
JUNE 30, 1988



MAUI OCEAN WATERS
OCEAN RECREATION MANAGEMENT AREAS
LAHAINA-KAANAPALI, MAUI, HAWAII

EXHIBIT "LL"
JUNE 30, 1988

MAUI OCEAN WATERS
OCEAN RECREATION MANAGEMENT AREAS
KAANAPALI, MAUI, HAWAII
EXHIBIT "MM"
JUNE 30, 1988



MAUI OCEAN WATERS
OCEAN RECREATION MANAGEMENT AREAS
OLOWALU, MAUI, HAWAII
EXHIBIT "NN"
JUNE 30, 1988

SUBCHAPTER 8

SOUTH MAUI OCEAN MANAGEMENT AREA

§19-86-96 Kihei Commercial Thrill Craft Area

§19-86-96 Kihei Commercial Thrill Craft Area.

(a) The Kihei Commercial Thrill Craft Areas means the area confined by the boundaries shown on Exhibit "00", dated: June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low watermark and the south shoreward point of the Kihei pier ruins; thence by azimuth measured clockwise from True South, 000 degrees for a distance of one thousand eight hundred feet to a point in the water, then on a radius of two hundred feet around that point.

(b) Restrictions. This area is designated as a commercial thrill craft area. No more than six rental thrill craft shall operate in this area at any one time. No person shall moor a vessel within this area. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

SUBCHAPTER 9

NORTH MAUI OCEAN RECREATION MANAGEMENT AREA

\$19-86-100	Hookipa Restricted Zone
\$19-86-101	Paia Beach Park Swimming Zone
\$19-86-102	H. A. Baldwin Park Swimming Zone
\$19-86-103	Kanaha Beach Park Swimming Zones

\$19-86-100 Hookipa Restricted Zone. (a) The Hookipa restricted zone means the area confined by the boundaries shown on Exhibit "PP", dated, July 18, 1988, located at the end of this subchapter. The boundaries are as follows:

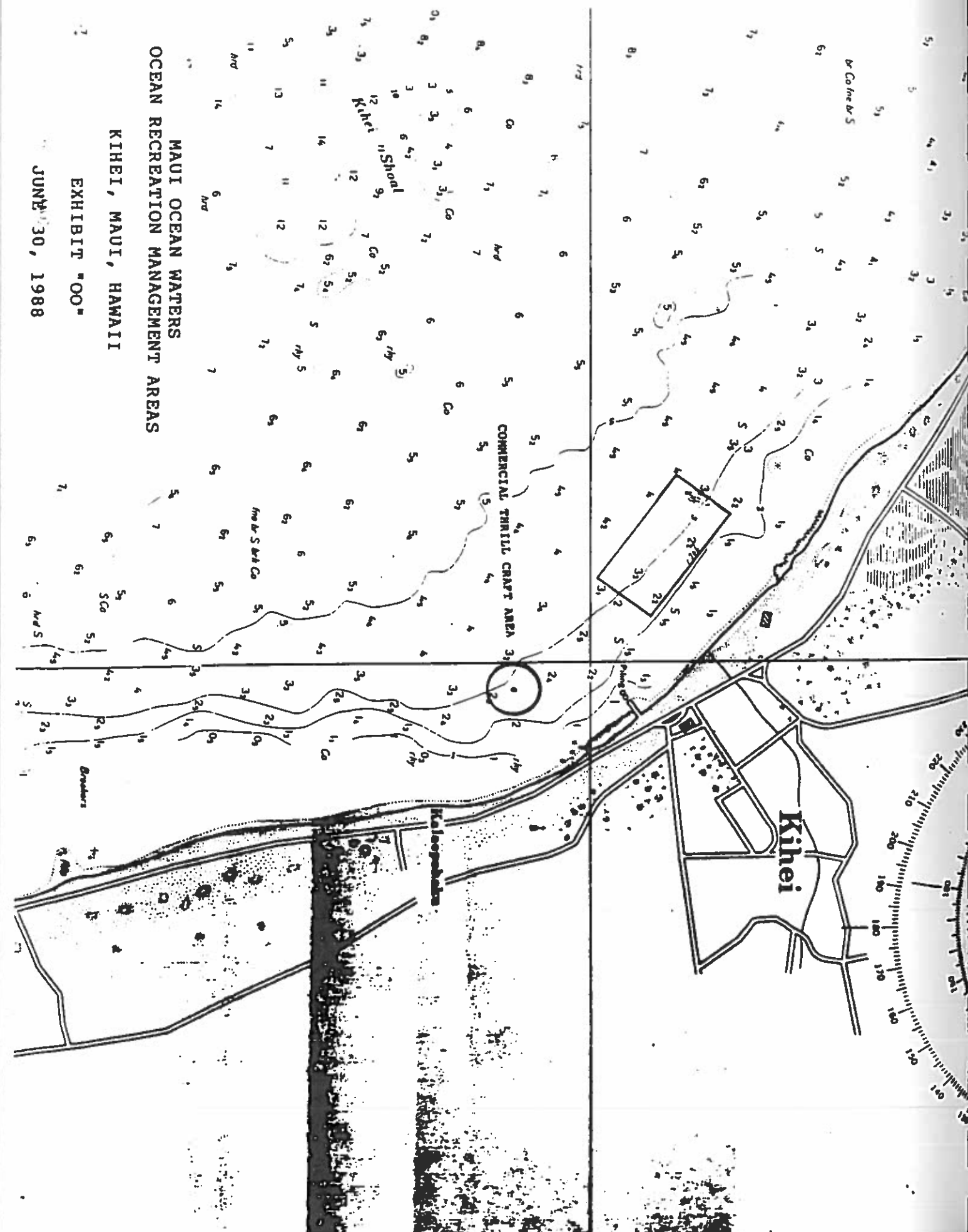
Beginning at a point at the low water mark at the northern tip of Hookipa Point; thence measured clockwise from True South, 078 degrees for a distance of five hundred feet; 005 degrees to the low water mark of the shoreline; then along the low water mark of the shoreline to the point of beginning.

(b) Restrictions. The Hookipa restricted zone is designated for swimming and surfing only. No person shall operate a sailboard or other water craft within this area. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

\$19-86-101 Paia Beach Park Swimming Zone. (a) The Paia Beach Park swimming zone means the area confined by the boundaries shown on Exhibit "QQ", dated, July 18, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark, being the extension of the west boundary of the Paia Beach Park, then by azimuth measured clockwise from True South, 162 degrees for a distance of three hundred feet; 250 degrees for a distance of two hundred twenty feet; 337 degrees to the low water mark of the shoreline; then along the low water mark of the shoreline to the point of beginning.

(b) Restrictions. The Paia Beach Park swimming zone is designated for swimming only. No person shall operate a vessel or water craft within this area. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)



S19-86-102

S19-86-102 H. A. Baldwin Park Swimming Zone.

(a) The H. A. Baldwin Park swimming zone means the area confined by the boundaries shown on Exhibit "RR", dated, July 18, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark at the tip of Kapukaulua Point then along the shoreline in a westerly direction to a point measured clockwise from True South, for a distance of one thousand five hundred feet; 157 degrees for a distance of three hundred seventy feet; 236 degrees for a distance of one thousand five hundred feet; then on a straight line to the point of beginning.

(b) Restrictions. The H. A. Baldwin Park swimming zone is designated for swimming only. No person shall operate a vessel or water craft within this area.
[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. HRS §§266-2, 266-3)

S19-86-103 Kanaha Beach Park Swimming Zones.

(a) Kanaha Beach Park Swimming Zones A, B, C and D mean the areas confined by the boundaries shown on Exhibit "SS", dated, July 18, 1988, located at the end of this subchapter. The boundaries are as follows:

(1) Swimming Zone A.

Beginning at a point at the low water mark in line and being an extension of the east boundary of Kanaha Beach Park; thence by azimuth measured clockwise from True South, 180 degrees for a distance of three hundred feet; 228 degrees for a distance of seven hundred ten feet; 315 degrees to a point at the low water mark at the shoreline; then along the low water mark of the shoreline of Kanaha Beach Park in a westerly direction to the point of beginning.

(2) Swimming Zone B.

Beginning at a point at the low water mark at the tip of the groin located by azimuth measured clockwise from True South, 093 degrees for a distance of four hundred seventy feet from the east boundary of Kanaha Beach Park; 135 degrees for a distance of three hundred ten feet; 047 degrees for a distance of four hundred ten feet; 315 degrees to a point at the low water mark at the shoreline; then along

the low water mark of the shoreline of Kanaha Beach Park in a easterly direction to the point of beginning.

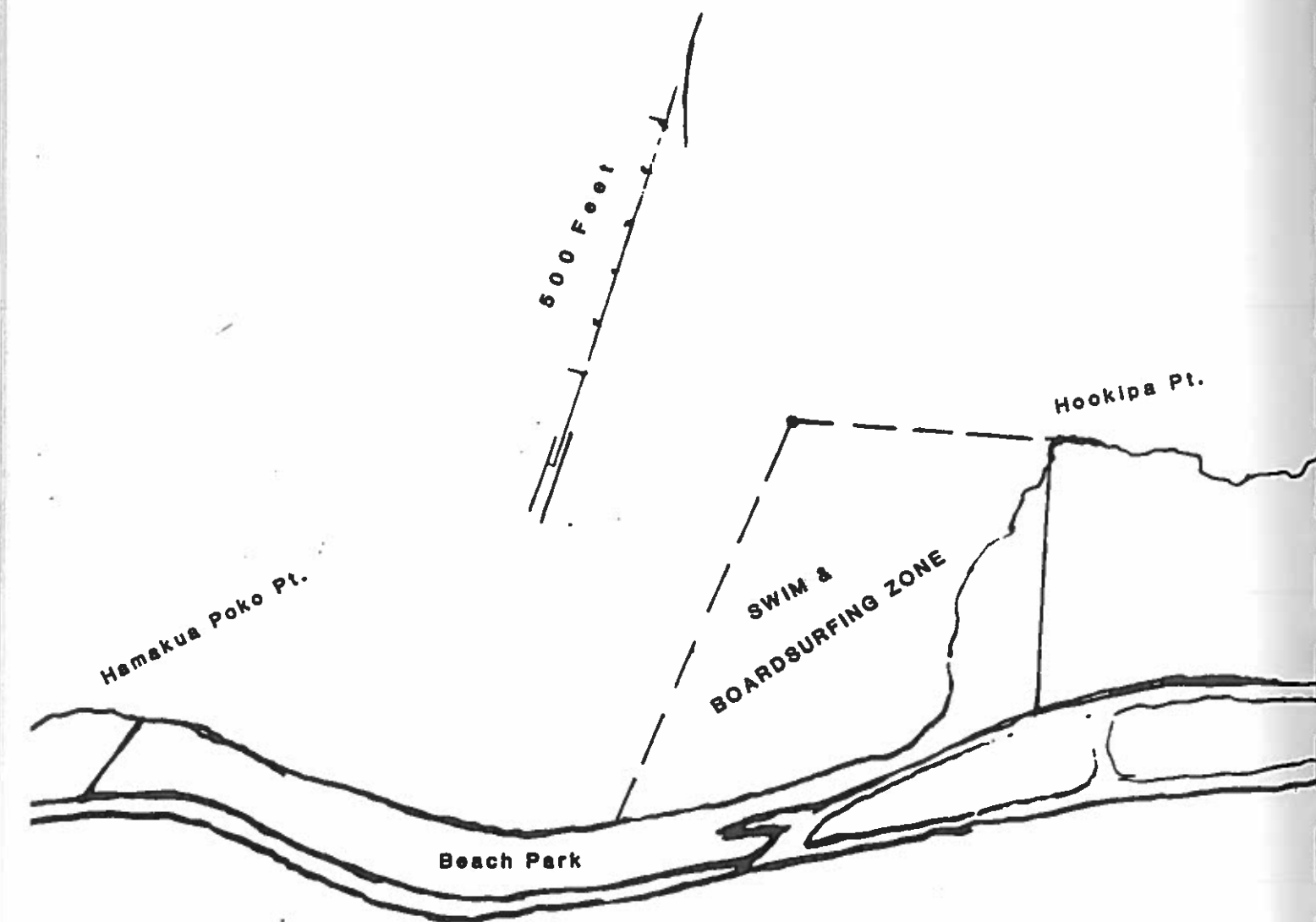
(3) Swimming Zone C.

Beginning at a point at the low water mark at the northeast tip of the groin located six hundred sixty feet from the east boundary of Swimming Zone B, Kanaha Beach Park, thence by azimuth measured clockwise from True South, 135 degrees for a distance of one hundred ten feet; 047 degrees for a distance of five hundred seventy-five feet; 353 degrees to a point at the low water mark at the shoreline; then along the low water mark of the shoreline of Kanaha Beach Park in a easterly direction to the point of beginning.

(4) Swimming Zone D.

Beginning at a point at the low water mark at the northeast tip of the groin located by azimuth measured from True South, 090 degrees for a distance of one hundred fifty feet from the west boundary of Kanaha Beach Park; 180 degrees for a distance of three hundred feet; 248 degrees for a distance of eight hundred thirty feet; 315 degrees to a point at the low water mark at the shoreline; then along the low water mark of the shoreline of Kanaha Beach Park in a westerly direction to the point of beginning.

(b) Restrictions. The Kanaha Beach Park swim zones A, B, C and D are designated for swimming only. No person shall operate a vessel or water craft within these zones. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

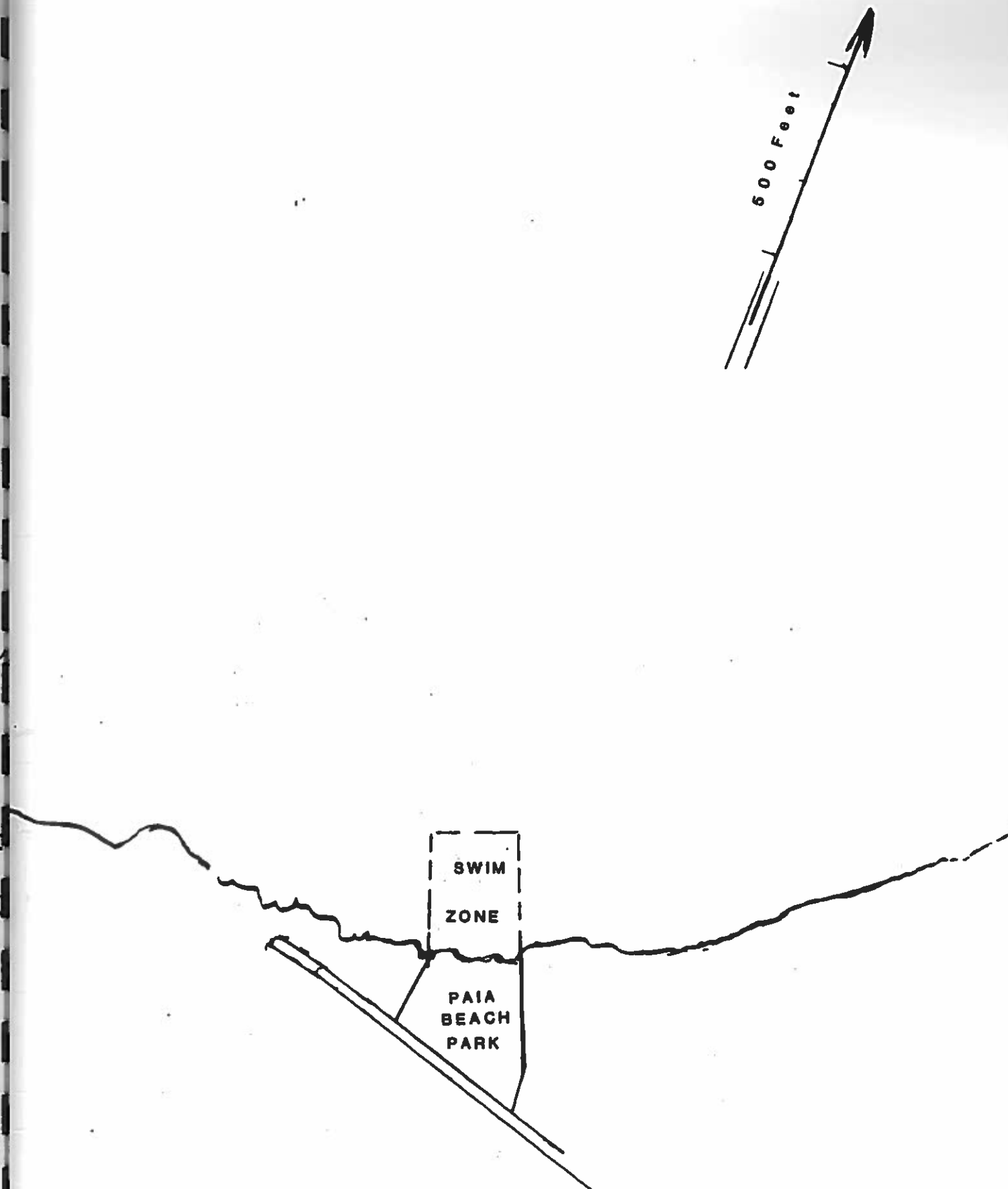


OCEAN RECREATION MANAGEMENT AREAS

HOOKIPA BAY, HAWAII

EXHIBIT "PP"

JULY 18, 1988



OCEAN RECREATION MANAGEMENT AREAS

PAIA BEACH PARK, MAUI, HAWAII

EXHIBIT "QQ"

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SUBCHAPTER 10

EAST HAWAII ISLAND OCEAN RECREATION MANAGEMENT AREA

S19-86-111	Hilo Bay Recreational Thrill Craft Zone
S19-86-112	Puhi Bay-Leleiwi Point Restricted Zones

S19-86-111 Hilo Bay Recreational Thrill Craft Zone.

(a) Hilo Bay recreational thrill craft zone means the area confined by the boundaries shown on exhibit "TT", dated June 30, 1988, located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point at the the low water mark which is three thousand six hundred feet east of the tip of Hilo Breakwater; then by azimuth measured clockwise from True South, 005 degrees for a distance of one thousand one hundred feet; 095 degrees for a distance of one thousand one hundred feet; 185 degrees for a distance of two thousand feet; 275 degrees for a distance of one thousand one hundred feet; 005 degrees to the low water mark on the seaward side of the breakwater; then along the low water mark to the point of beginning.

(b) Restrictions: This area is designated a recreational thrill craft zone. No person shall operate a commercial thrill craft in this area.
(Eff.) (Auth. HRS SS266-2, 266-3)
(Imp. HRS SS266-2, 266-3)

S19-86-112 Puhi Bay - Leleiwi Point Restricted Zones. (a) Zone A.

(1) Zone A means the area confined by the boundaries shown on Exhibit "UU", dated, March 1, 1988, located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point at the low water mark which is an extension of the center line of Pua Avenue; then by azimuth measured clockwise from True South, 220 degrees for a distance of one thousand six hundred feet; 310 degrees to a point on the low water mark of the shoreline; then along the low water mark to the point of beginning.

- (2) Restrictions. Zone A is designated as a swimming area. No person shall operate or moor a vessel within this area.

(b) Zone B.

- (1) Zone B means the area confined by the boundaries shown on Exhibit "UU", dated, March 1, 1988, located at the end of this subchapter. The boundaries of Zone B are as follows:

Beginning at a point at the low water mark on the shoreline which is the northeast boundary of Zone A; then by azimuth measured clockwise from True South, 130 degrees for a distance of two hundred feet; 245 degrees for a distance of five hundred feet; 214 degrees for a distance of one thousand feet; 283 degrees to a point on the low water mark of the shoreline; then along the low water mark to the point of beginning.

(c) Zone C.

- (1) Zone C means the area confined by the boundaries shown on Exhibit "UU", dated, March 1, 1988, located at the end of this subchapter. The boundaries of Zone C are as follows:

Beginning at a point at the low water mark on the shoreline of Keokea Point; then by azimuth measured clockwise from True South, 245 degrees for a distance of five hundred feet; 270 degrees for a distance of one thousand eight hundred feet; 359 degrees to a point on the low water mark of the shoreline; then along the low water mark to the point of beginning.

(d) Zone D.

- (1) Zone D means the area confined by the boundaries shown on Exhibit "UU", dated, March 1, 1988, located at the end of this subchapter. The boundaries of Zone D are as follows:

Beginning at a point at the low water mark of Mahihea Island; then by azimuth measured clockwise from True South, 318 degrees for a distance of four hundred fifty feet; 290 degrees to a point on the low water mark of the shoreline; then along the low water mark to the point of beginning.

- (2) Restrictions. Zones B, C and D are designated as a diving, swimming and surfing zones. No person shall operate or moor a vessel within these zones.

(e) Zone E.

- (1) Zone E means the area confined by the boundaries shown on Exhibit "UU", dated, March 1, 1988, located at the end of this subchapter. The boundaries of Zone E are as follows:

Beginning at a point at the low water mark of the shoreline by azimuth measured clockwise from True South, 054 degrees for a distance of five hundred feet from Richardson's Ocean Center; 045 degrees for a distance of two hundred feet; 074 degrees for a distance of four hundred feet; 177 degrees for a distance of eight hundred feet; 260 degrees to the low water mark on the shoreline; then along the low water mark to the point of beginning.

- (2) Restrictions. Zone E is designated as a surfing, canoeing, kayaking, diving and swimming zone. No person shall operate or moor a vessel within this zone.

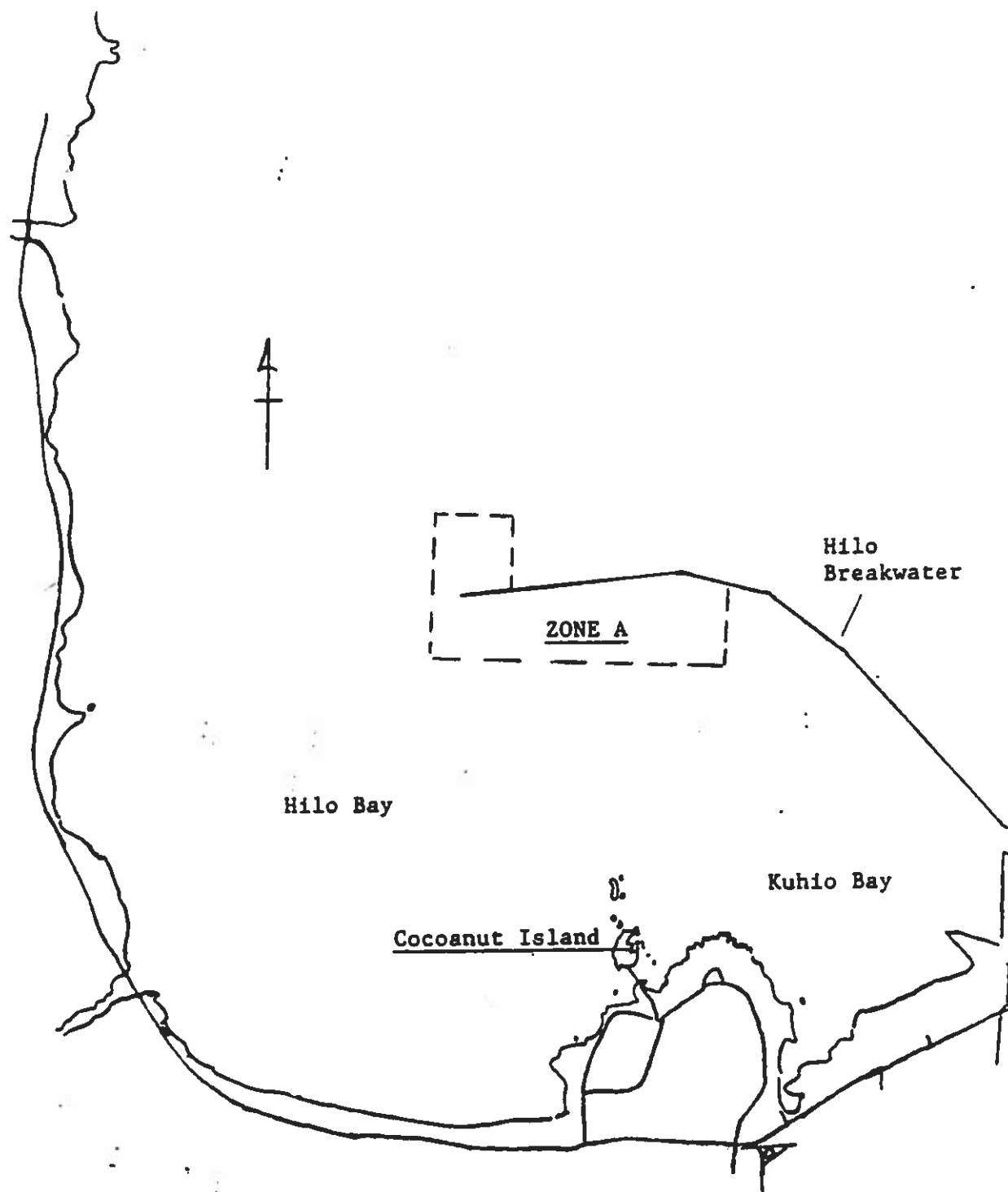
(f) Zone F.

- (1) Zone F means the area confined by the boundaries shown on Exhibit "UU", dated, March 1, 1988, located at the end of this subchapter. The boundaries of Zone F are as follows:

Beginning at a point at the low water mark of the shoreline which is the southeast boundary of Zone E; then along the low water mark to the southwest boundary of Zone E; then along the southern boundary of Zone E to the point of beginning.

- (2) Restrictions. Zone F is designated as a swimming and diving zone. No person shall operate or moor a vessel within this zone.

[Eff. _____] (Auth. HRS §§266-2, 266-3)
(Imp. HRS §§266-2, 266-3)

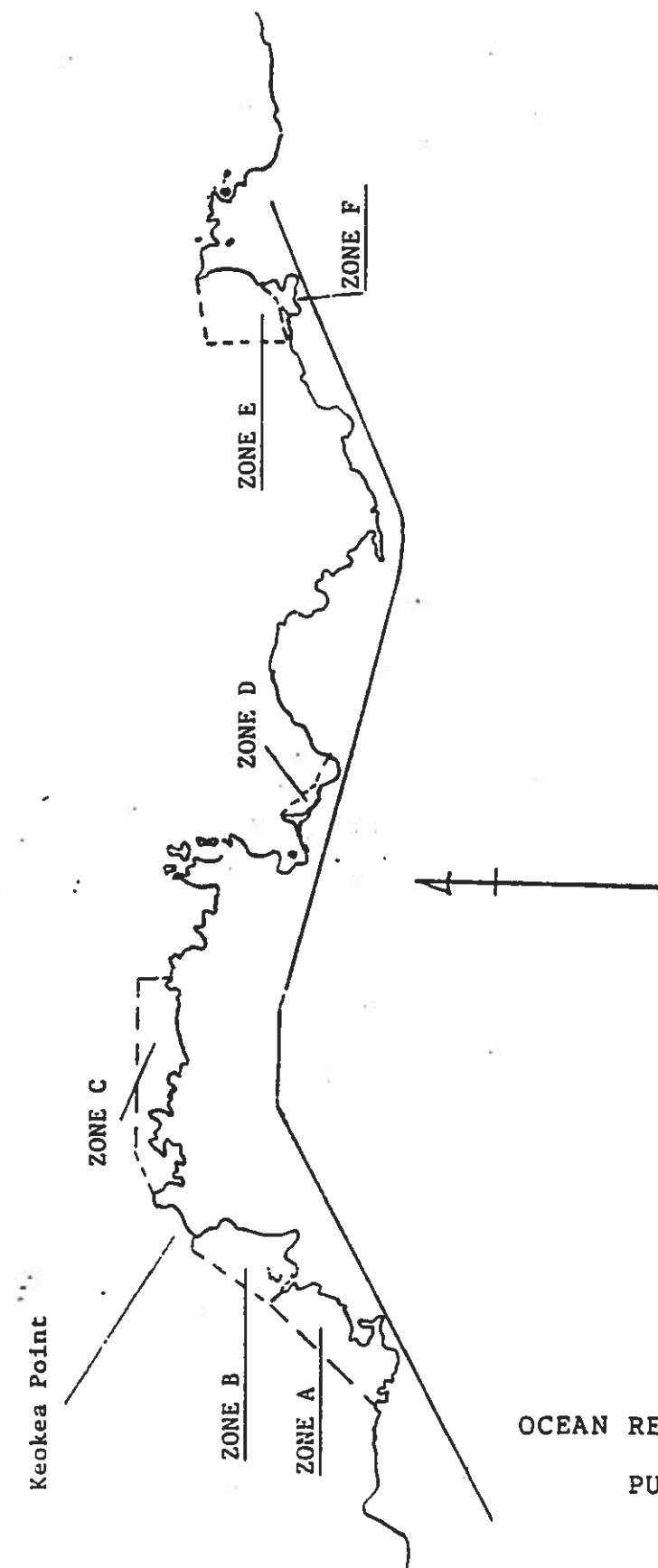


OCEAN RECREATION MANAGEMENT AREAS

HILO BAY, HAWAII, HAWAII

EXHIBIT "TT"

JUNE 30, 1988



OCEAN RECREATION MANAGEMENT AREAS

PUHI BAY/LELEIWI POINT
HAWAII, HAWAII

EXHIBIT "UU"

MARCH 1, 1988

SUBCHAPTER 11

WEST HAWAII ISLAND OCEAN RECREATION MANAGEMENT AREA

- \$19-86-116 Honaunau Bay Swimming Zone
- \$19-86-117 Kahaluu Bay Swimming Zone
- \$19-86-118 Kalaepaakai Point Commercial Thrill Craft Zone
- \$19-86-119 Onea Bay Swimming Zone
- \$19-86-120 Kailua Bay Boating Zone
- \$19-86-121 Kailua Pier Restricted Zones
- \$19-86-122 Honokohau Swimming Zone
- \$19-86-123 Kua Bay Swimming Zone
- \$19-86-124 Kahuwai Bay Swimming Zone
- \$19-86-125 Kiholo Bay Speed Zone
- \$19-86-126 Anaehoomalu Bay Swimming Zones
- \$19-86-127 Makaiwa Bay Swimming Zones
- \$19-86-128 Hapuna Bay Swimming Zone
- \$19-86-129 Kaunaoa Beach Swimming Zone

\$19-86-116 Honaunau Bay Swimming Zone. (a)
Honaunau Bay Swimming Zone means the area confined by the boundaries shown on Exhibit "VV", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark on the shoreline which is four hundred feet east of Mana Point; then by azimuth measured clockwise from True South, 360 degrees for a distance of four hundred feet; 270 degrees for a distance of nine hundred feet; then along the low water mark to the point of beginning.

(b) Restrictions Honaunau Bay Swimming Zone is designated as a swimming and diving zone. No person shall operate or moor a vessel within this zone.
[Eff. _____] (Auth. HRS §§266-2, 266-3)
(Imp. 266-2, 266-3)

\$19-86-117 Kahaluu Bay Swimming Zone. (a)
Kahaluu Bay Swimming Zone means the area confined by the boundaries shown on Exhibit "WW", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark on the southern point of Kahaluu Bay; then by azimuth measured clockwise from True South, 185 degrees to a point on the low water mark; then along the low water mark to the point of beginning.

(b) Restrictions Kahaluu Bay Swimming Zone is designated as a swimming and diving zone. No person shall operate or moor a vessel within this zone. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. 266-2, 266-3)

§19-86-118 Kalaepaakai Point Commercial Thrill Craft Zone. (a) Zone A. Zone A means the area confined by the boundaries shown on Exhibit "WW", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark of Kalaepaakai Point; then by azimuth measured clockwise from True South, 007 degrees for a distance of one thousand three hundred feet; then on a radius of two hundred feet around that point.

(b) Zone B. Zone B means the area confined by the boundaries shown on Exhibit "WW", dated, June 30, 1988 located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark of Kalaepaaki Point; then by azimuth measured clockwise from True South, 078 degrees for a distance of seven hundred feet; then on a radius of two hundred feet around that point.

(c) Zones A and B are designated commercial thrill craft areas. No more than six rental thrill craft shall operate within each of these areas at one time. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. 266-2, 266-3)

§19-86-119 Onea Bay Swimming Zone. (a) Onea Bay Swimming Zone means the area confined by the boundaries shown on Exhibit "WW", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark of Kalaepaakai Point; then by azimuth measured clockwise from True South, 157 degrees to the low water mark of the shoreline; then along the low water mark to the point of beginning.

(b) Restrictions. Onea Bay Swimming Zone is designated as a swimming and diving zone. No person shall operate or moor a vessel within this zone. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. 266-2, 266-3)

§19-86-120 Kailua Bay Boating Zone. (a) Kailua Bay Boating Zone means the area confined by the boundaries shown on Exhibit "WW", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point in the water, by azimuth measured clockwise from True South, 030 degrees for a distance of nine hundred feet from the end of Kailua Pier; 330 degrees for a distance of five thousand two hundred fifty feet; 060 degrees for a distance of one thousand seven hundred feet; 165 degrees for a distance of five thousand one hundred feet; then by a straight line to the point of beginning.

(b) Restrictions. Kailua Bay Boating Zone is designated for recreational thrill craft, parasailing and water skiing. No person shall operate a commercial thrill craft in this zone.

§19-86-121 Kailua Pier Restricted Zones. (a) Kailua Pier Restricted Zones means the areas defined by the boundary lines as shown on Exhibit "XX" dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

(1) Zone A.

Beginning at a point at the low water mark on the east side of Kailua Pier; then by azimuth measured clockwise from True South, 317 degrees for a distance of two hundred twenty feet; 336 degrees for a distance of three hundred twelve feet; 026 degrees 30 minutes for a distance of four hundred sixty-five feet; 158 degrees for a distance of three hundred four feet; 214 degrees for a distance of one hundred eighteen feet to the western seaward edge of Kailua Pier.

(A) Restrictions. This area is designated for boating use only. Swimming is prohibited.

(2) Zone B.

Beginning at a point at the low water mark on the east side of Kailua Pier; then by azimuth measured clockwise from True South; 317 degrees for a distance of two hundred twenty feet; 292 degrees for a distance of six hundred eighty-three feet to intersect with the low water mark fronting the western property line of Hulihee Palace; thence along the low water mark to the beginning.

(A) Restrictions. This area is designated a swimming zone. Boating is prohibited.

[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. 266-2, 266-3)

§19-86-122 Honokohau Swimming Zone. (a)

Honokohau Swimming Zone means the area confined by the boundaries shown on Exhibit "YY", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark of the Hale O Lono Heiau; then by straight line to the low water mark of the southern entrance to Honokohau Harbor; then along the low water mark to the point of beginning.

(b) Restrictions. Honokohau Swimming Zone is designated as a swimming and diving zone. No person shall operate or moor a vessel within this zone.

[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. 266-2, 266-3)

§19-86-123 Kua Bay Swimming Zone. (a) Kua Bay

Swimming Zone means the area confined by the boundaries shown on Exhibit "ZZ", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at the low water mark on the shoreline of Papiha Point; then by straight line to the low water mark at Punalua Point; then along the low water mark to the point of beginning.

(b) Restrictions. Kua Bay Swimming Zone is designated as a swimming zone. No person shall operate or moor a vessel, surfboard, sailboard or other watercraft within this zone.

[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. 266-2, 266-3)

§19-86-124 Kahawai Bay Swimming Zone. (a)

Kahawai Bay Swimming Zone means the area confined by the boundaries shown on Exhibit "ZZ", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at the low water mark on the shoreline of southern boundary of the bay; then by azimuth measured clockwise from True South, 225 degrees to a point on the low water mark of the shoreline; then along the low water mark to the point of beginning.

(b) Restrictions. Kahawai Bay Swimming Zone is designated primarily as a swimming zone. No person shall operate or moor a vessel, surfboard, sailboard or other watercraft within this zone.

[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. 266-2, 266-3)

§19-86-125 Kiholo Bay Speed Zone. (a) Kiholo Bay

Speed Zone means the area confined by the boundaries shown on Exhibit "ZZ", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at the point on the low water mark of Nawaikulua Point; then by azimuth measured clockwise from True South, 065 degrees to a point on the low water mark of the shoreline; then along the low water mark to the point of beginning.

(b) Restrictions. No person shall operate a vessel in excess of a speed of slow-no-wake.

[Eff.] (Auth. HRS §§266-2, 266-3)
(Imp. 266-2, 266-3)

§19-86-126 Anaehoomalu Bay Swimming Zones.

(a) Zone A.

(1) Zone A means the area confined by the boundaries shown on Exhibit "AAA", dated, July 14, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the shoreline by azimuth measured clockwise from True South, 255 degrees for a distance of two hundred ninety feet from the westernmost tip of Lae O Hiiaka Point; then 177 degrees for a distance of six hundred feet; 260 degrees for a distance of three hundred feet;

324 degrees to a point on the low water mark on the shoreline; then along the shoreline in a westerly direction to the point of beginning.

(b) Zone B.

- (1) Zone B means the area confined by the boundaries shown on Exhibit "AAA", dated, July 14, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the shoreline one hundred feet from the westernmost tip of the Kahapapa weir, then by azimuth measured clockwise from True South, 077 degrees for a distance of five hundred seventy-five feet; 155 degrees to a point on the low water mark on the shoreline; then along the shoreline in a southeasterly direction to the point of beginning.

(b) Restrictions. Anaehoomalu Bay Swimming Zones A and B are designated for swimming and diving. No person shall operate or moor a vessel within these zones. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. 266-2, 266-3)

S19-86-127 Makaiwa Bay Swimming Zones.

(a) Zone A.

- (1) Zone A means the area confined by the boundaries shown on Exhibit "BBB", dated, July 10, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at the low water mark of the shoreline on the northwestern tip to the entrance of the boat ramp; then by azimuth measured clockwise from True South, 110 degrees for a distance of seven hundred ten feet to a point of low water of the shoreline; then along the shoreline in a south and easterly direction to the point of beginning.

(b) Zone B.

- (1) Zone B means the area confined by the boundaries shown on Exhibit "BBB", dated, July 10, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at the low water mark of the shoreline on the northeastern tip to the entrance of the boat ramp; then by azimuth measured clockwise from True South, 226

degrees for a distance of five hundred forty feet to a point of low water of the shoreline; then along the shoreline in a south and westerly direction to the point of beginning.

(c) Restrictions. The Makaiwa Bay swimming zones A and B are designated for swimming and diving. No person shall operate or moor a motor vessel within this zone. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. 266-2, 266-3)

S19-86-128 Hapuna Bay Swimming Zone. (a) The Hapuna Bay Swimming Zone means the area confined by the boundaries shown on Exhibit "CCC", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

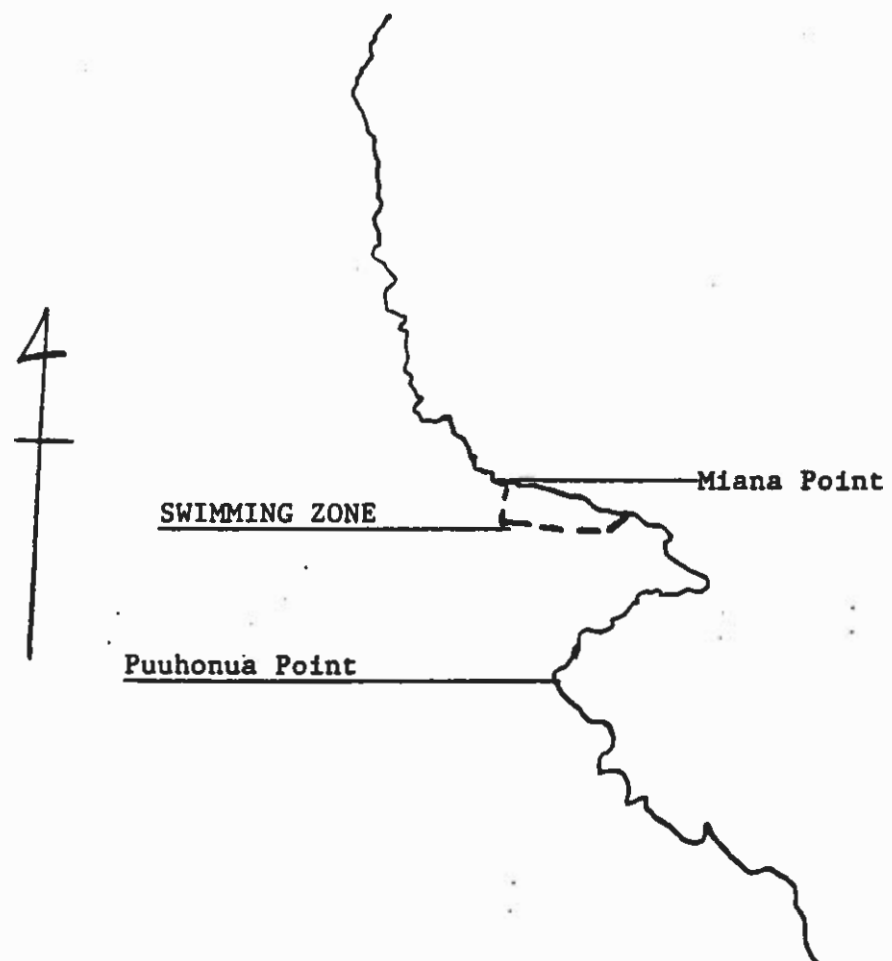
Beginning at a point in the water, by azimuth measured clockwise from True South, 311 degrees for a distance of four hundred feet; 268 degrees to a point on the low water mark of the shoreline; then along the low water mark in a southerly direction for a distance of one thousand three hundred feet; 088 degrees for a distance of one hundred feet; then by a straight line to the point of beginning.

(b) Restrictions. The Hapuna Bay Swimming Zone is designated for swimming and diving. No person shall operate or moor a vessel, within this zone. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. 266-2, 266-3)

S19-86-129 Kaunaoa Beach Swimming Zone. (a) The Kaunaoa Beach Swimming Zone means the area confined by the boundaries shown on Exhibit "CCC", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the water mark of the shoreline which is seven hundred feet from the low water mark of Kaaha Point, then along the low water mark in a southerly direction for nine hundred feet; then in a westerly direction for one hundred feet; then by a straight line to the point of beginning.

(b) Restrictions. The Kaunaoa Beach Swimming Zone is designated as a swimming and diving zone. No person shall operate or moor a vessel within this zone. [Eff.] (Auth. HRS §§266-2, 266-3) (Imp. 266-2, 266-3)

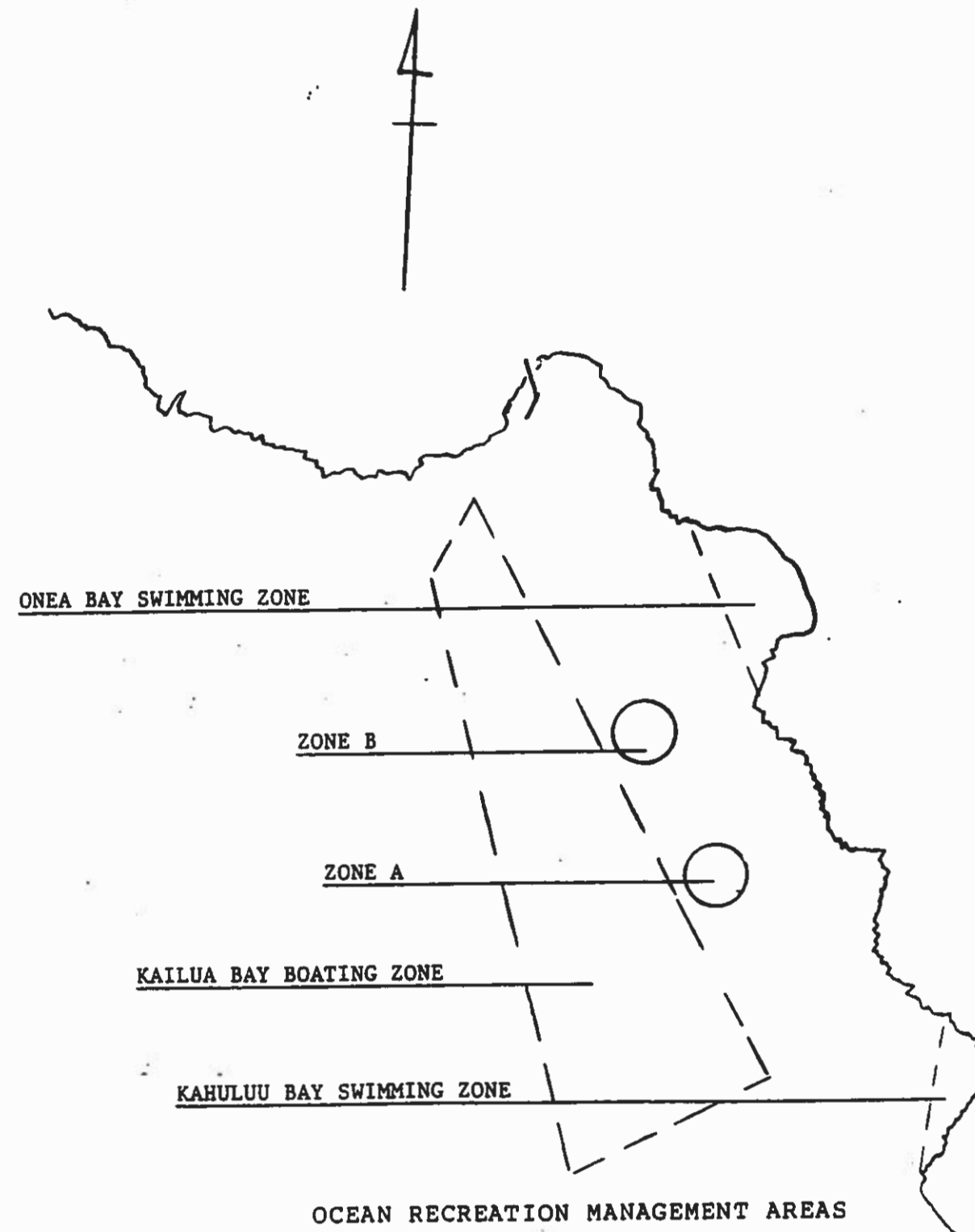


OCEAN RECREATION MANAGEMENT AREAS

HONAUNAU BAY, HAWAII, HAWAII

EXHIBIT "VV"

JUNE 30, 1988

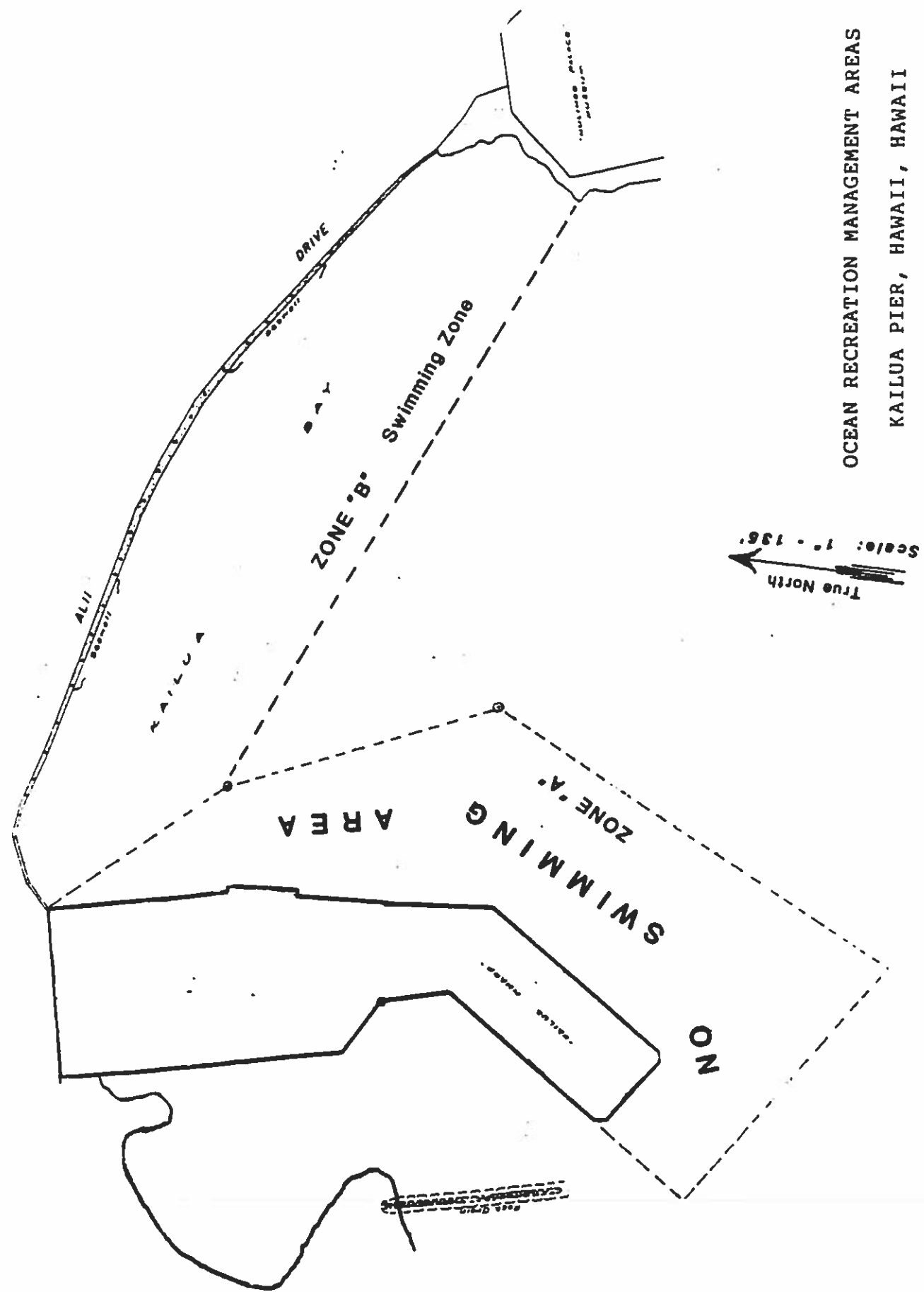


OCEAN RECREATION MANAGEMENT AREAS

KAHULUU BAY
KALAEPAKAI POINT
KAILUA BAY
HAWAII, HAWAII

EXHIBIT WW

JUNE 30, 1988



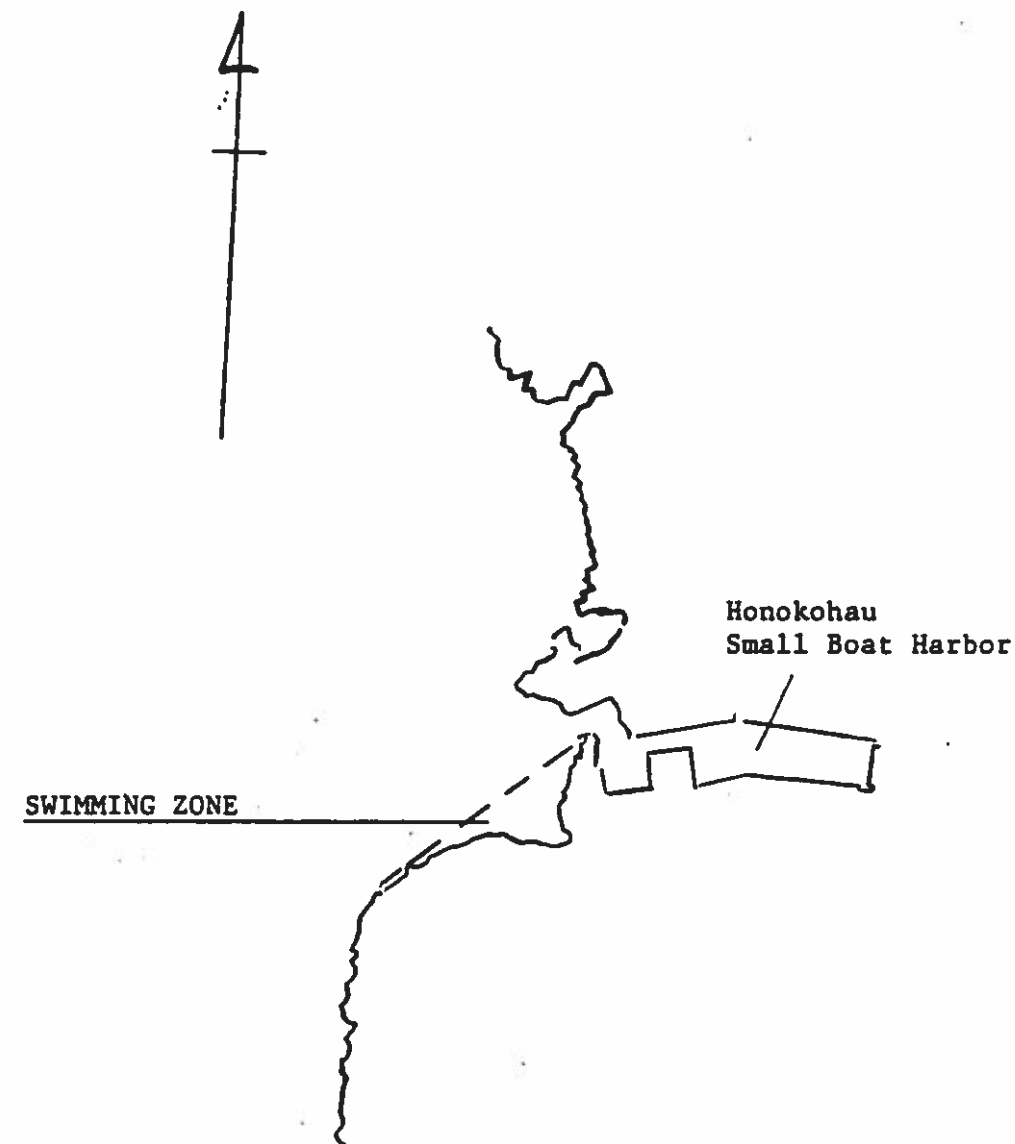
OCEAN RECREATION MANAGEMENT AREAS

KAILUA PIER, HAWAII, HAWAII

EXHIBIT "XX"

JUNE 30, 1988

distances are approximate
Not for navigation purposes

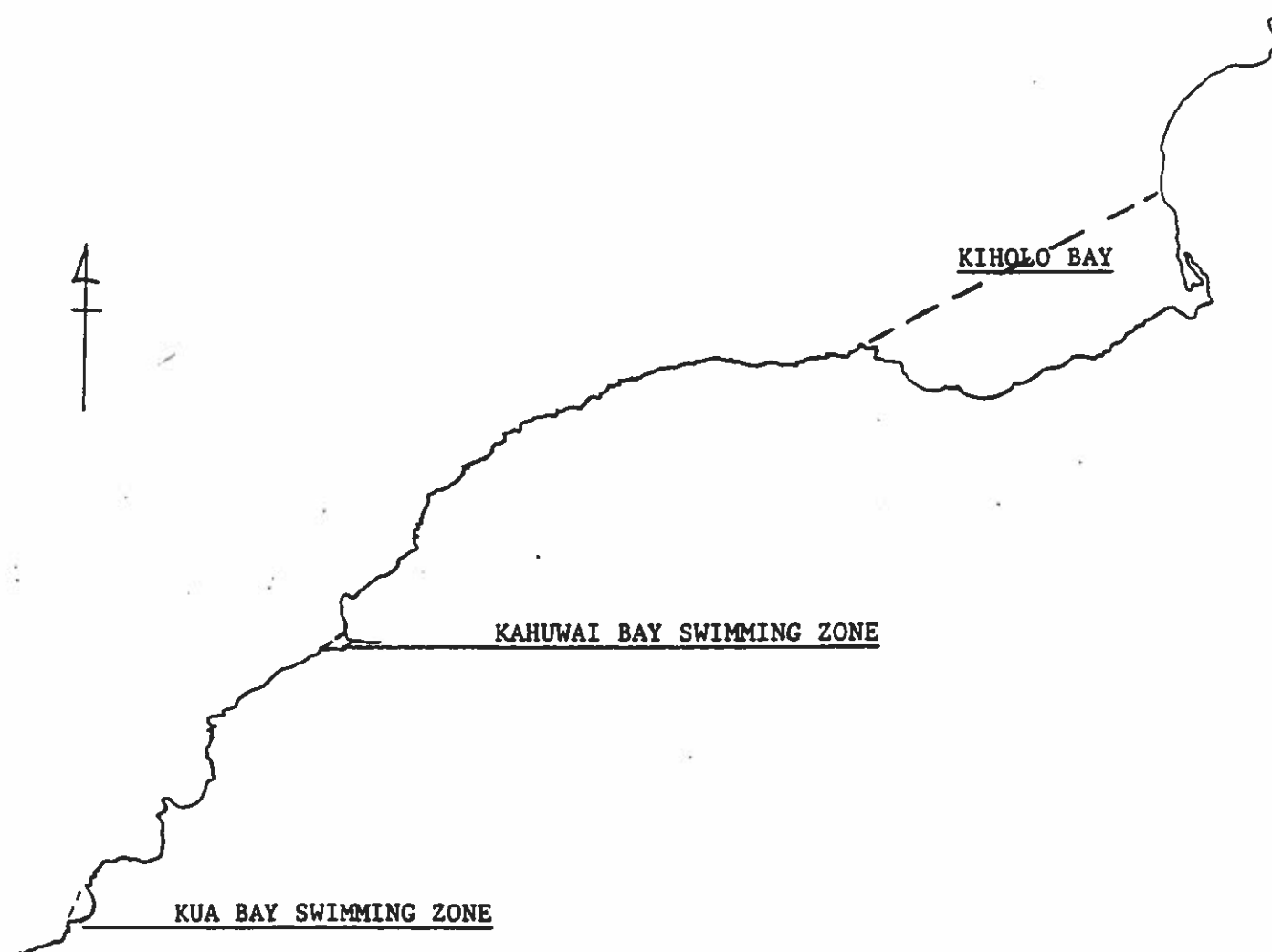


OCEAN RECREATION MANAGEMENT AREAS

HONOKOHAU, HAWAII, HAWAII

EXHIBIT "YY"

JUNE 30, 1988

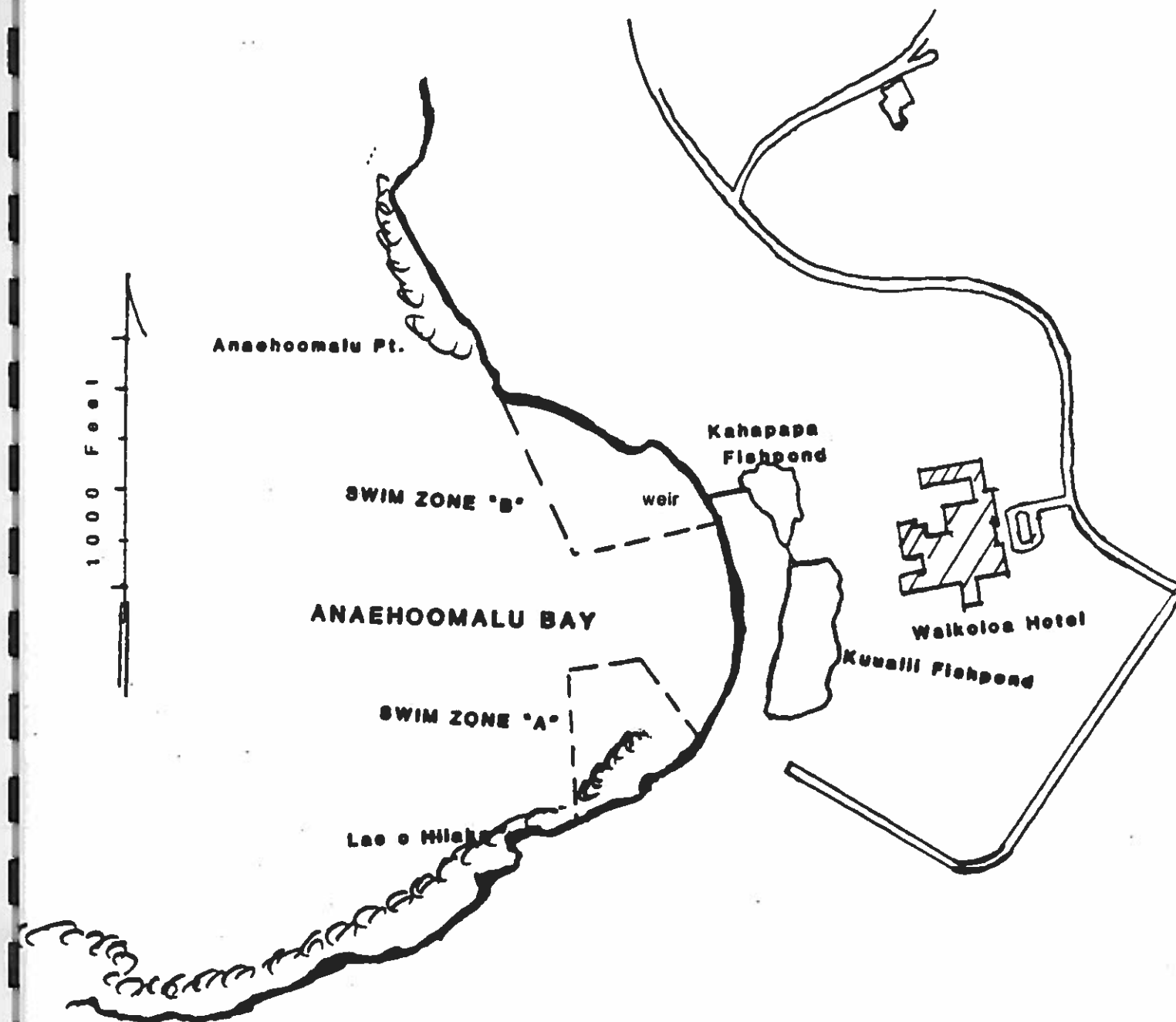


OCEAN RECREATION MANAGEMENT AREAS

KUA BAY
KAHUWAI BAY
KIHULO BAY
HAWAII, HAWAII

EXHIBIT "ZZ"

JUNE 30, 1988

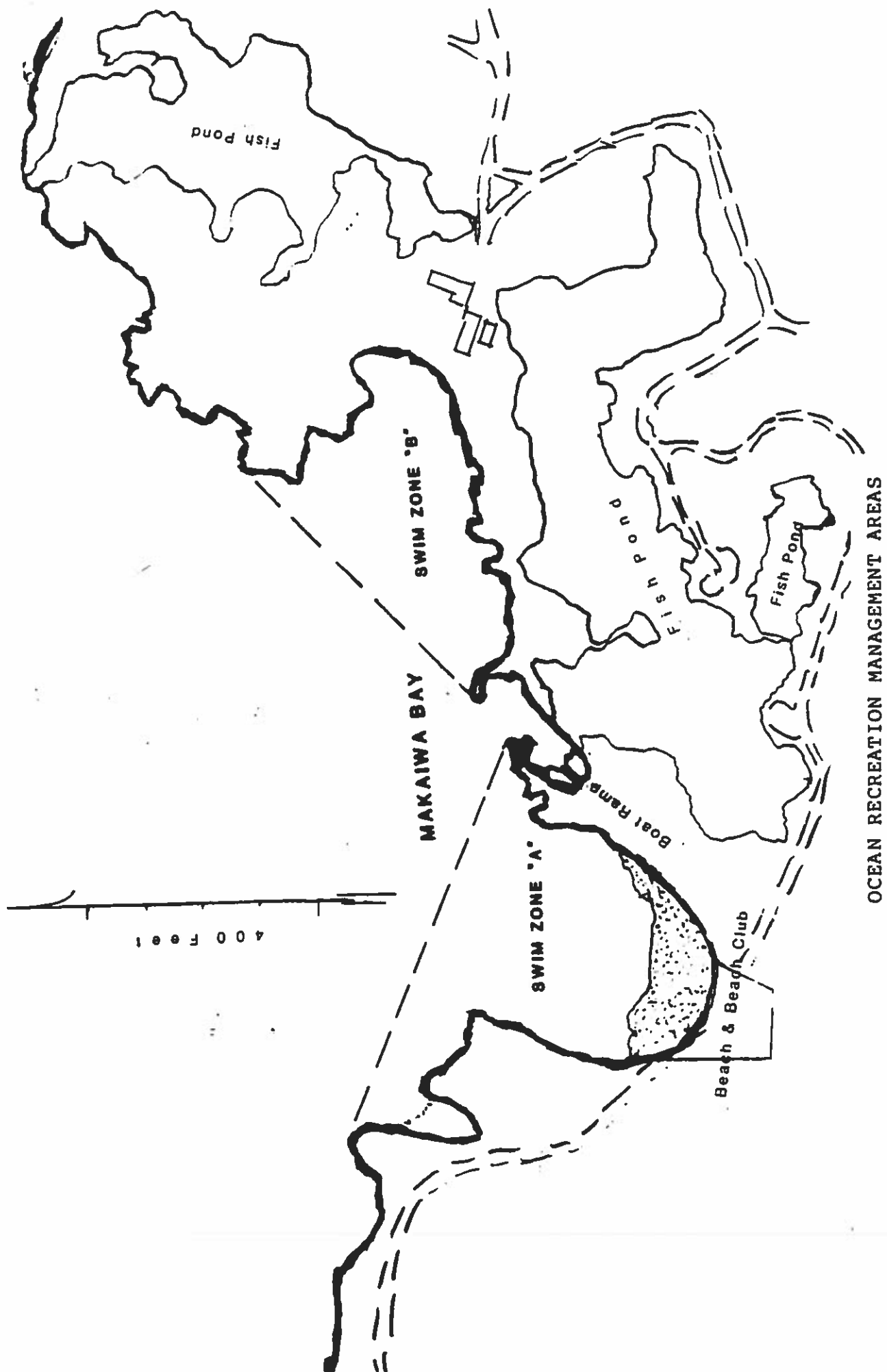


OCEAN RECREATION MANAGEMENT AREAS

ANAEHOOMALU BAY
HAWAII, HAWAII

EXHIBIT "AAA"

JULY 14, 1988

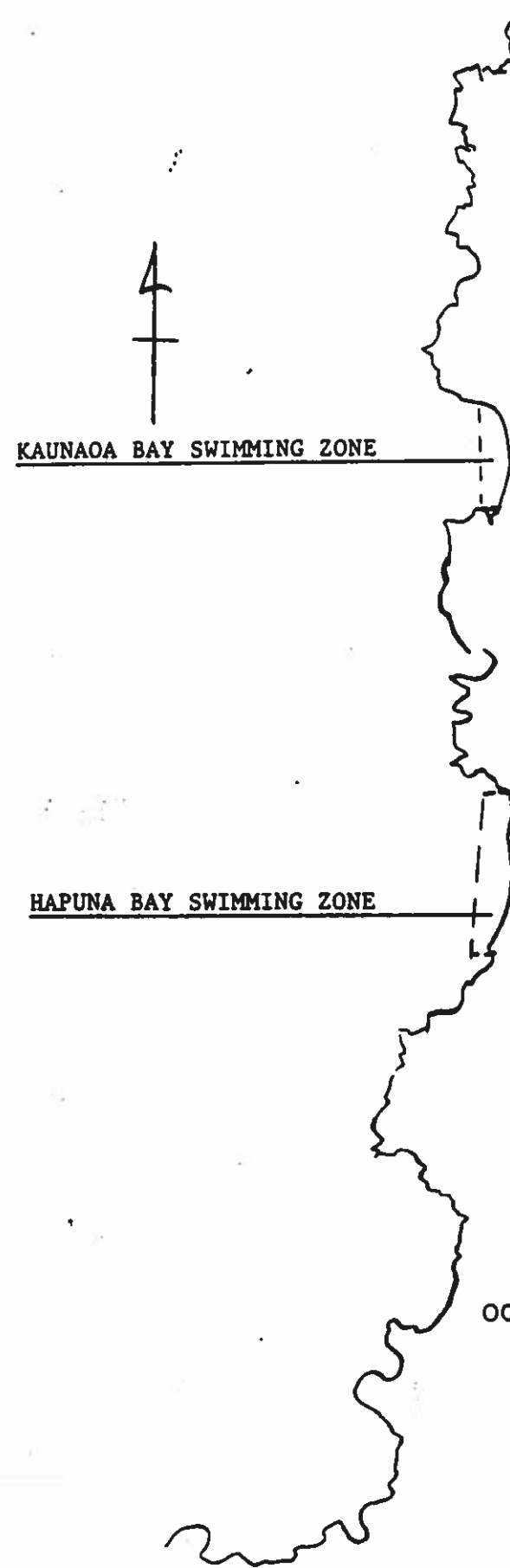


OCEAN RECREATION MANAGEMENT AREAS

MAKAIWA BAY
HAWAII, HAWAII

EXHIBIT "BBB"

JULY 10, 1988



OCEAN RECREATION MANAGEMENT AREAS

HAPUNA BAY
KAUNAOA BAY
HAWAII, HAWAII

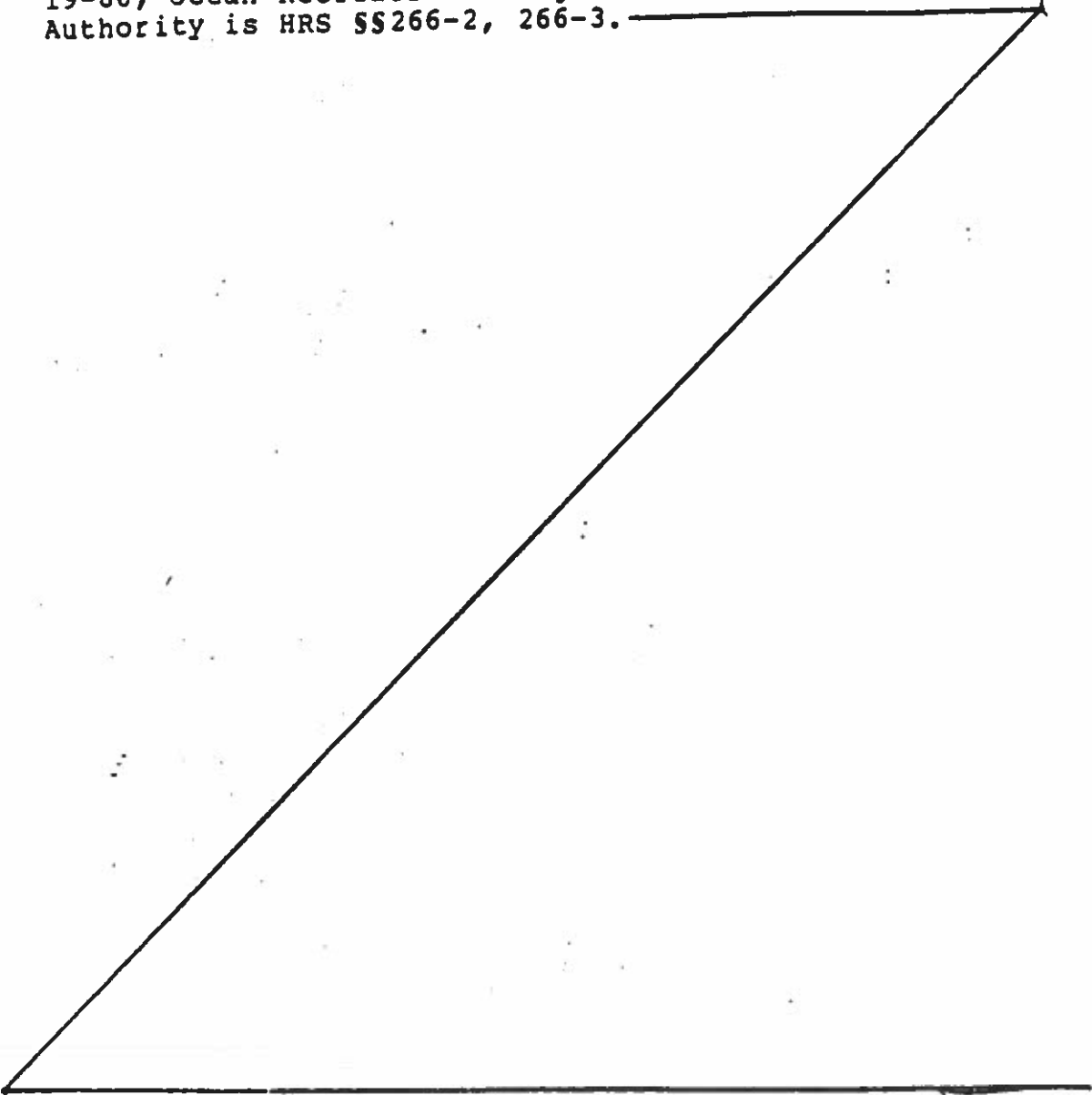
EXHIBIT "CCC"

JUNE 30, 1988

Hawaii Administrative Rules
Shore Waters and Shores

DISCUSSION

1. §19-81-5, Hawaii Administrative Rules is amended by adding terms and definitions from Chapter 19-86, Ocean Recreation Management Rules and Areas. Authority is HRS §§266-2, 266-3.



DEPARTMENT OF TRANSPORTATION

Amendment of Chapter 19-81
Hawaii Administrative Rules

July 7, 1988

1. Section 19-81-5, Hawaii Administrative Rules, as amended by adding new definitions as follows:

"Contrivance" means any man-made object or artificial arrangement not used or intended to be used for transportation which may be floated upon or suspended within the water.

"Kayak" means a portable boat styled like an Eskimo canoe and propelled by use of a double-bladed paddle.

"Navigable streams" means the waters of estuaries and tributaries of the streams of each island of the state, where boating and water related activities, recreational or commercial, may be carried on, whether the mouths of said streams are physically opened or not to ocean waters for intra or interstate commerce or navigation.

"Ocean recreation management area" means ocean waters of the State that have been designated for specific activities as described in Chapter 19-86, Hawaii Administrative Rules, Shore Waters and Shores.

"Ocean Waters" means the waters seaward of the shoreline within the jurisdiction of the State."

2. Section 19-81-5, Hawaii Administrative Rules is amended by amending the definition of "operator permit" to read:

"Operator permit" means the permit issued by the department which [allows the operation] authorizes either the direct operation or the offering for a fee, [of catamarans, canoes,] surfboards and sailboards or any vessel, watercraft or water sports equipment [in Waikiki or Kaanapali shore waters.] on the ocean waters and navigable streams of the state."

3. Section 19-81-5, Hawaii Administrative Rules, is amended by adding new definitions as follows:

"Recreation" means to create anew, restore, refresh, a diversion such as a hobby or other leisure time activities.

"Parasailing" means the activity in which an individual is transported or carried aloft by a parachute, sail, or other material attached to a towline which is towed by a vessel.

"Seaplane" means any aircraft which is able to take off and land on water.

"Slow-no-wake" means as slow as possible without losing steerage way and so as to make the least possible wake. This would almost always mean speeds of less than five miles an hour.

"Territorial sea baseline" means the line from which the territorial sea is measured, which is generally the low water line along the coasts including the coasts of islands and special closing lines drawn tangent to the headlands across the mouths of rivers, bays, inlets and other similar indentations.

"Thrill craft" means any motorized vessel which is generally less than thirteen feet in length as manufactured, is capable of exceeding a speed of twenty miles per hour, and has the capacity to carry not more than the operator and one other person while in operation. The term includes but is not limited to a jet ski, wet bike, surf jet, miniature speed boat, and hovercraft.

"Ultralight float equipped aircraft" means an aircraft of light weight construction and limited range carrying not more than two individuals able to land on water surfaces using floats.

"Watercraft" means every type and description of vessel, device or contrivance used on or in the waters of the state to include commercial and recreational uses."

[Eff: 11/6/81; am: 6/20/86 am] (Auth.
HRS §§266-2, 266-3) (Imp. HRS §§266-2, 266-3)

persons to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge such arrest or indictment or information, or trial in response to any inquiry made of him for any purpose.

Section 12393.10. Wildlife Fire Enforcement Officer: Duties. The provisions of this Article shall be enforced by the Director, who shall be ex-officio, the Wildland Fire Enforcement Officer, and suitable employees of the Department who he may appoint as Deputy Wildland Fire Enforcement Officers, as well as by peace officers defined in 8 CCA Section 5.55. The Wildland Fire Enforcement Officer and the Deputy Wildland Fire Enforcement Officers acting hereunder shall have the powers of peace officers to carry arms and to make arrest for violations.

Section 5. This Act shall take effect thirty (30) days upon enactment.

4. Material, except source notes, to be repealed is bracketed. New material is underscored.

5. These amendments to Chapter 19-81, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the Office of the Lieutenant Governor.

Director of Transportation

APPROVED AS TO FORM:

Deputy Attorney General

Fig. 1 - Piti Bay

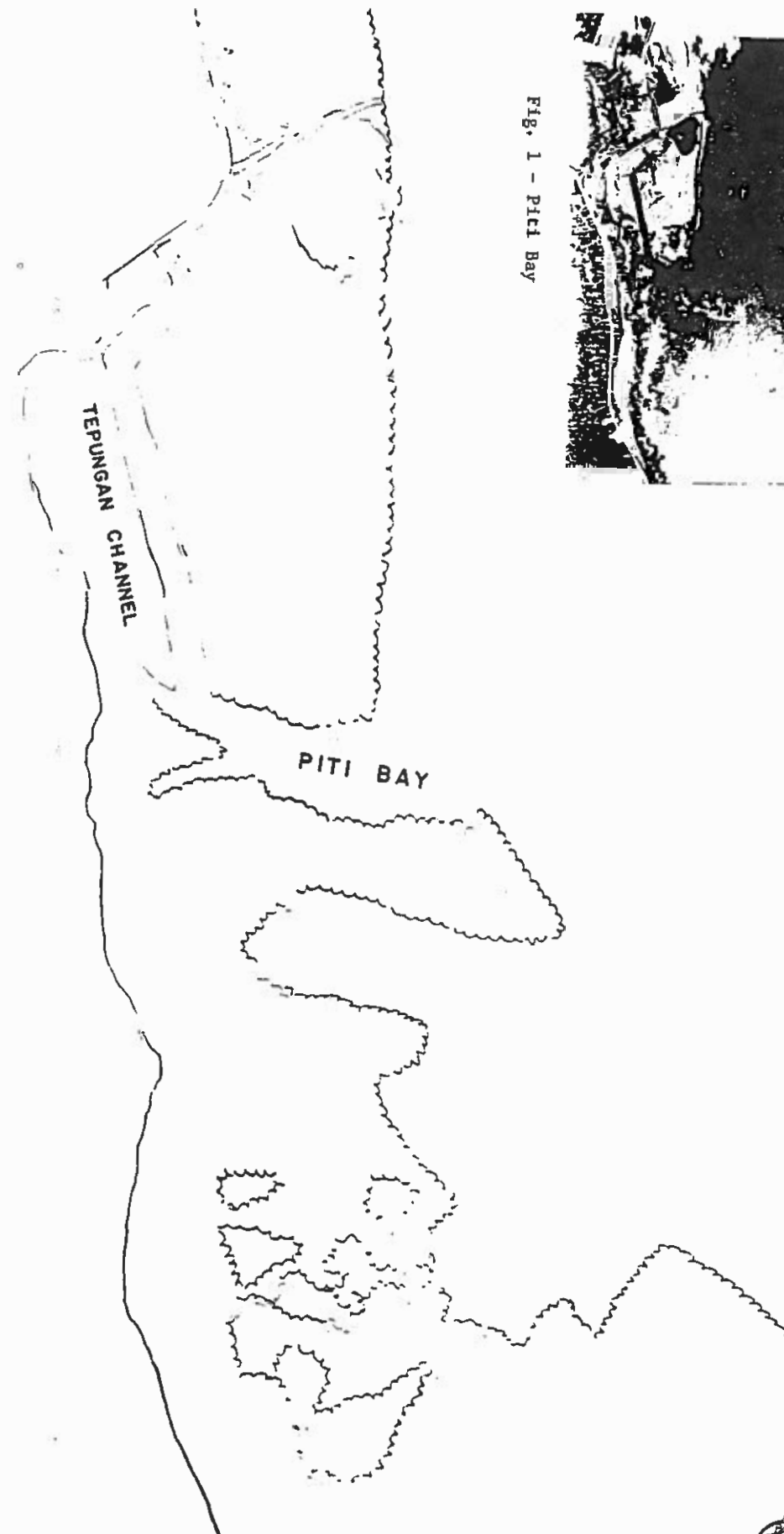




Fig. 3 - Adelup Point

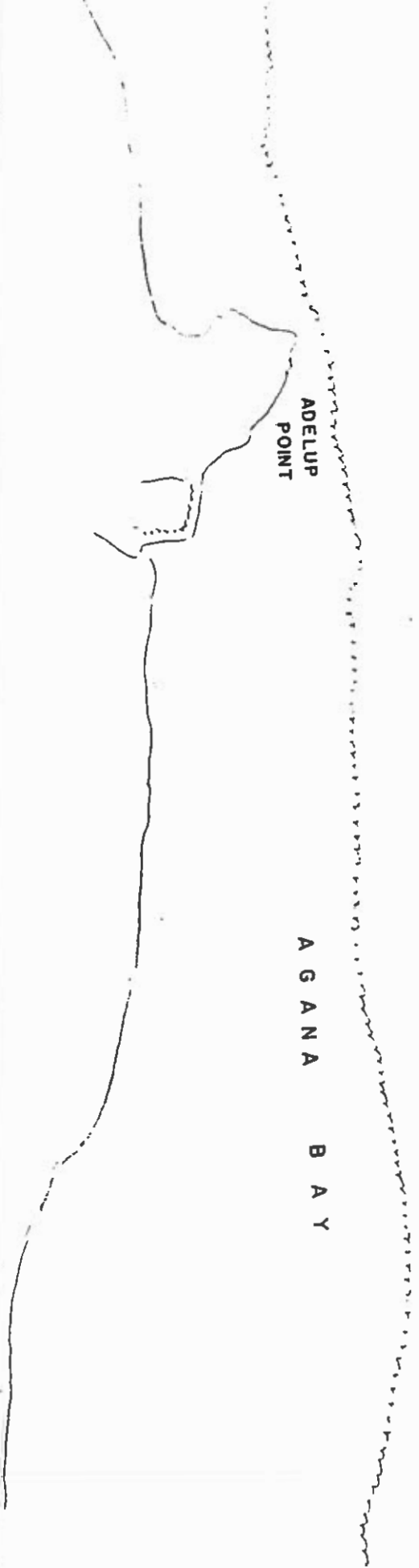


Fig. 2 - Asan Bay

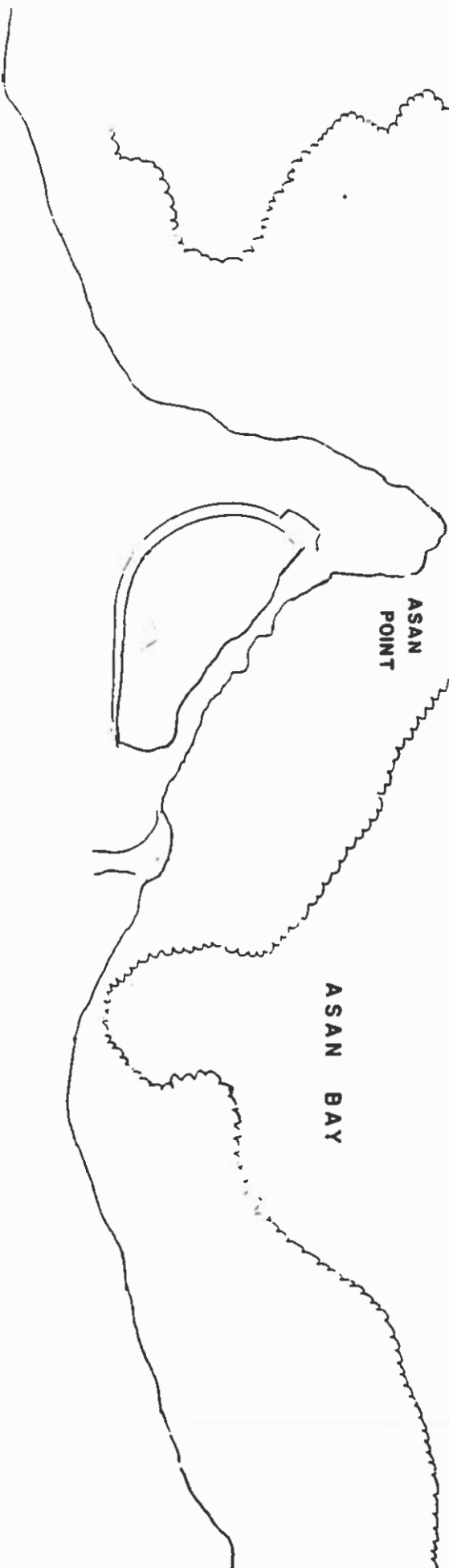




Fig. 5 - Alupat Island

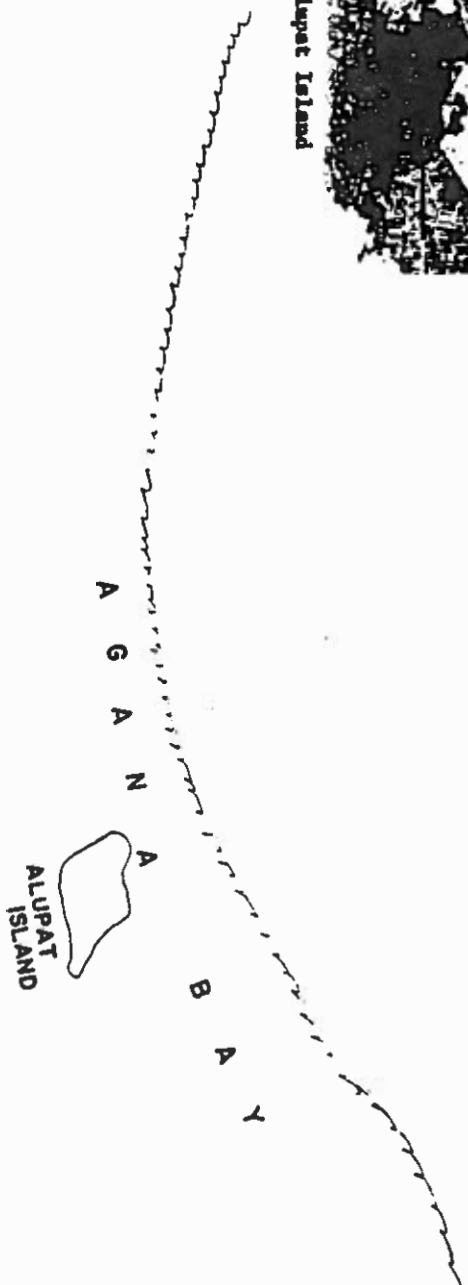
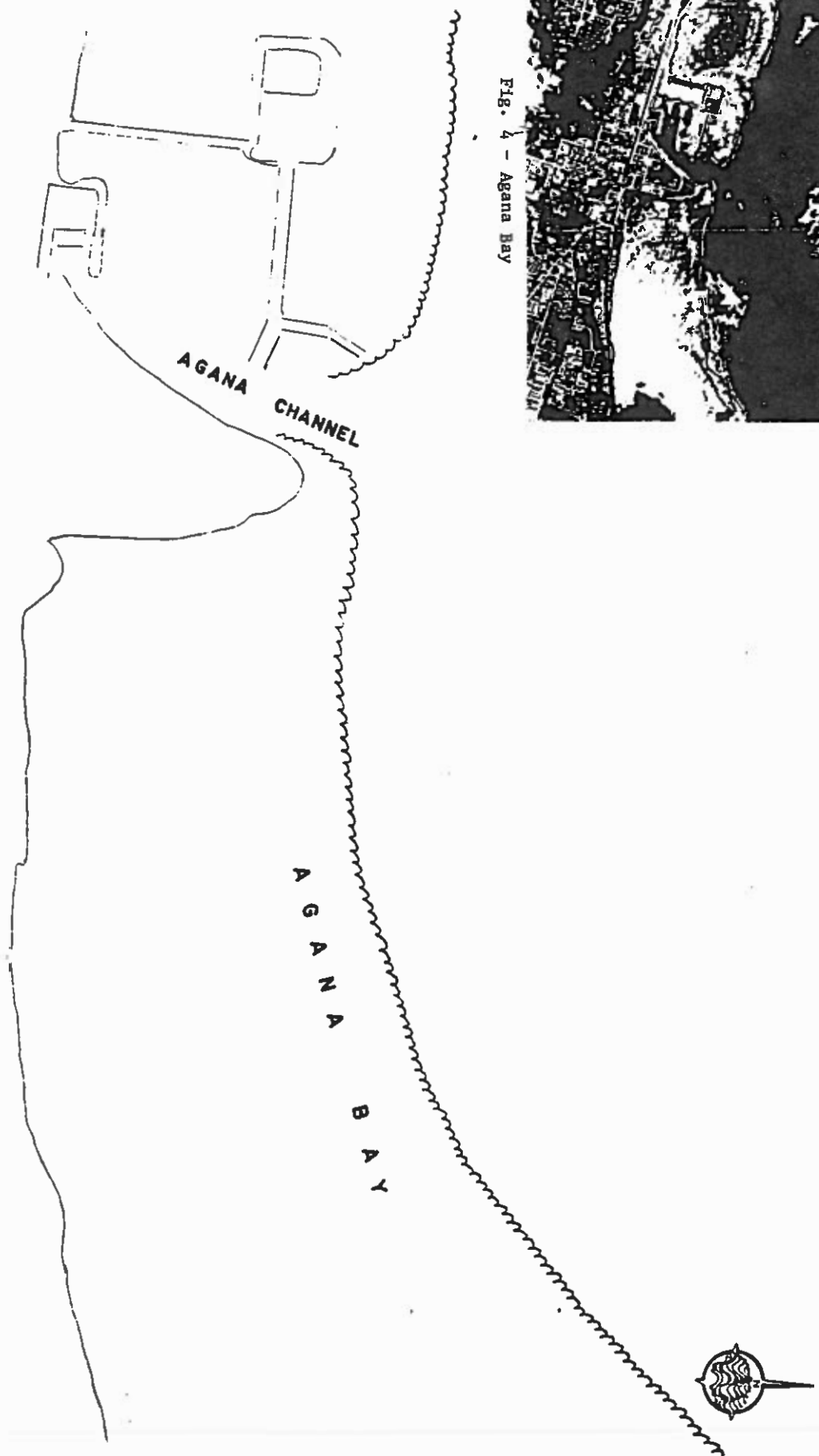
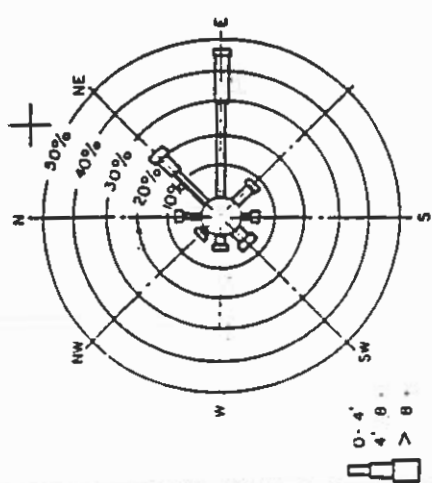
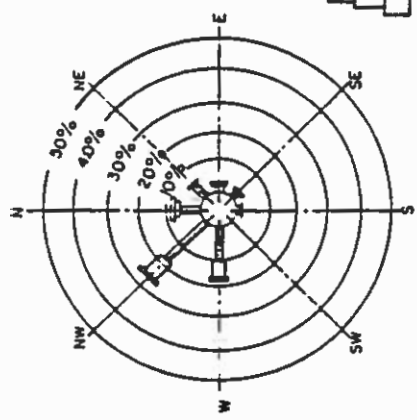


Fig. 4 - Agana Bay



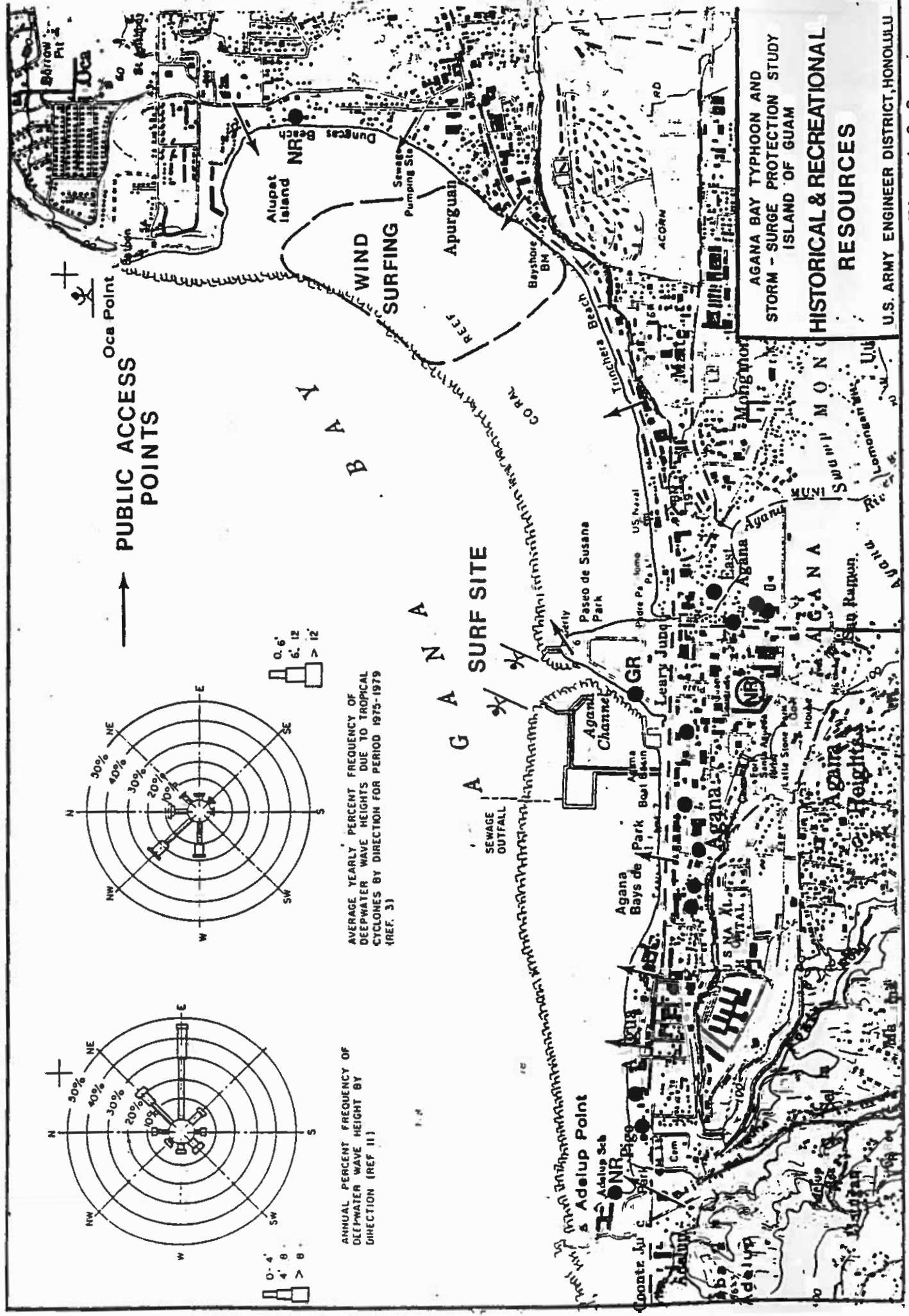


ANNUAL PERCENT FREQUENCY OF DEEPWATER WAVE HEIGHT BY DIRECTION (REF II)



AVERAGE YEARLY PERCENT FREQUENCY OF DEEPWATER WAVE HEIGHTS DUE TO TROPICAL CYCLONES BY DIRECTION FOR PERIOD 1975-1979 (REF. 3)

PUBLIC ACCESS POINTS



AGANA BAY TYPHOON AND STORM - SURGE PROTECTION STUDY ISLAND OF GUAM HISTORICAL & RECREATIONAL RESOURCES



SCENIC SHORELINE VEGETATION

REEF FISHERY

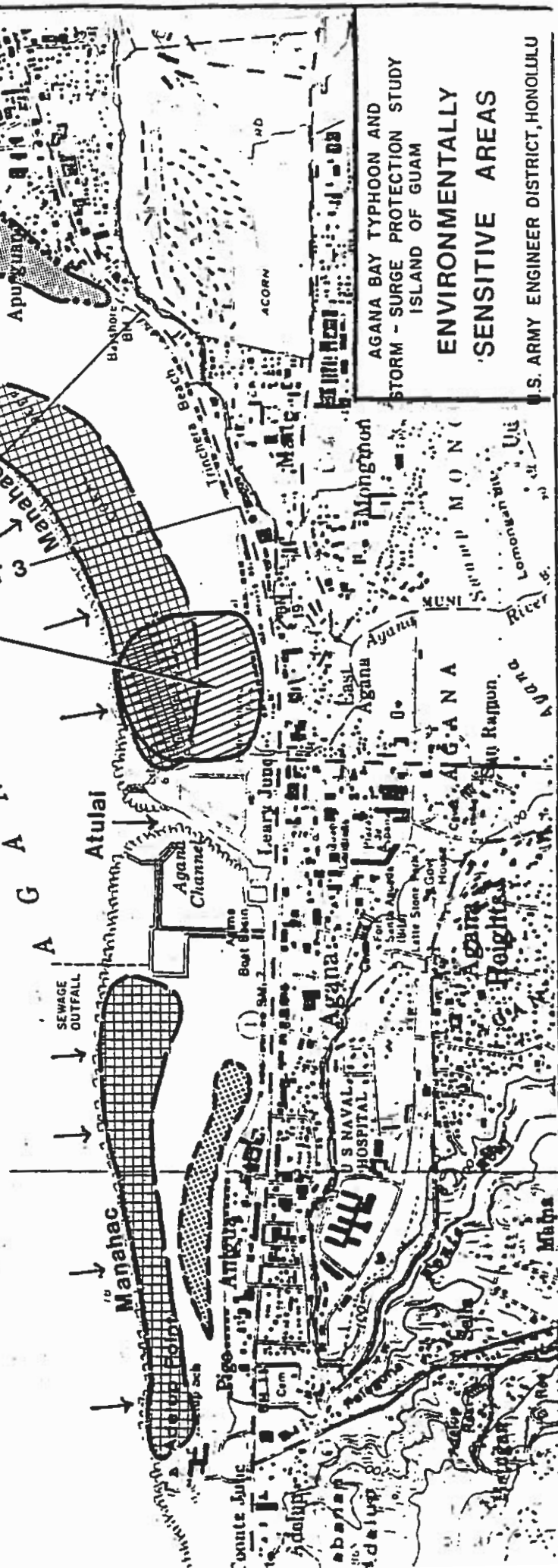
SEAGRASS & MOLLUSKS

SHORE BIRD HABITAT

**Chronic
Poor Water Quality.**

**Intermittent
Poor Water**

Fig. 3c. Vertical profiles of Parameters T_0 , h_0 , and β as shown by drawing each curve and subtracting and the general distribution of wind. The same indicates that some foundation and vertical stress limit and lateral resistance divisions. Vertical magnification is 1/4.



AGANA BAY TYPHOON AND
STORM - SURGE PROTECTION STUDY
ISLAND OF GUAM

ENVIRONMENTALLY SENSITIVE AREAS

U. S. ARMY ENGINEER DISTRICT, HONOLULU