

INCOMING CORRESPONDENCE/MEMORANDA LOG

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DATE RECEIVED	FROM	SUBJECT
1/12/82	Counsel to the Governor	Legislative Bill to Establish a DNR
11-25-81	Agriculture to LRC	" " " Comments
11-27-81	DLM to LRC	" " " Comments
11-27-81	GEPA to LRC	" " " Comments

GOVERNMENT OF GUAM

AGANA

JAN 08 1982



Memorandum

To: Director, Bureau of Planning ✓
Director, Department of Agriculture
Director, Department of Parks and Recreation
Chief Officer, Public Utility Agency of Guam
Director, Department of Land Management
Administrator, Environmental Protection Agency

From: Counsel to the Governor

Subject: Legislative Bill to establish a Department of Natural Resources

Please find attached the latest draft of a Bill to consolidate five existing government of Guam departments and to establish a Department of Natural Resources (DNR). In this draft, we have attempted to streamline the Bill and to address the specific areas of concern mentioned in your comments.

Several of you commented that the Bill fails to address several programs, boards, subdivision and commissions presently operating under the various departments which will be consolidated. This omission was not only intentional but necessary. The organization of the DNR is left up to the Director. The Director may adopt any existing program, board, subdivision, or commission which the Director deems necessary. All others are eliminated. The Director may also create any new program, board, subdivision, or commission which is deemed necessary. *J. W. Wong*

It should be noted that many existing programs are not expressly established by statute but are established pursuant to a general legislative grant of authority to a particular department and its director. This includes programs funded by grants. This form of legislation is preferable to more detailed and rigidly structured legislation. Detail and rigidity are better served by administrative rules and regulations which when properly promulgated have the binding force and effect of law.

We remind you that this bill is still in draft form. Your continued comments are more than just welcome; they are absolutely necessary to the final product. Please submit written comments within 7 days.

Russell Wong
RUSSELL WONG

Attachment

SIXTEENTH GUAM LEGISLATURE
1981 (FIRST) Regular Session

Bill No. _____

Introduced by: _____
At the request of
the Governor

AN ACT TO ESTABLISH
A DEPARTMENT OF NATURAL RESOURCES,
THEREBY CONSOLIDATING AND REVISING
THE LAW RELATING TO NATURAL RESOURCES,
THE CONSERVATION, UTILIZATION AND
SUPERVISION THEREOF, AND MATTERS
INCIDENTAL THERETO AND TO REPEAL
CERTAIN ACTS SPECIFIED HEREIN

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

Section 1. Except as provided in Section 4 of this Act, Title XIII of the Government Code is repealed in its entirety and a new Title XIII is enacted in its place to read as follows:

"TITLE XIII

Department of Natural Resources

Chapter I

General Provisions

Section 12000. Establishment. There is established within the Executive Branch a Department of Natural Resources.

Section 12001. Director. The chief executive officer of the Department of Natural Resources shall bear the title of Director of the Department of Natural Resources. The Director shall be appointed by the Governor with the advice and consent of the Legislature.

Section 12002. Responsibilities and Authority. The Department of Natural Resources shall have the following responsibilities and authority:

(a) The management of all government owned land. This responsibility includes the preservation, sale, lease, exchange, reservation, or other use of government owned land.

(b) The administration and enforcement of laws and regulations relating to the preservation or taking of wild-life and aquatic resources.

(c) The administration and enforcement of laws and regulations relating to the protection of the quality of the air, water, and soil of the territory.

(d) Oversight, coordination, and participation in all planning activities related to land, water, soil, air, and other natural resources of the territory.

(e) The protection and promotion of the agricultural resources and economy of the territory through research, quarantine, control and conservation.

(f) Promulgation of rules and regulations as necessary to carry out its responsibilities.

(g) The Director, with approval of the Governor, may accept on behalf of the Department federal grants for the purposes for which the Department is established.

(h) The Department of Natural Resources has control of the Territorial Park System.

(i) The Director is authorized for the purposes of this Act to purchase, lease, condemn or otherwise acquire private land for public use.

Section 12003. Rules and regulations implementing this Title shall be formulated, approved and issued in accordance with the procedures set forth in the Administrative Adjudication Law.

Section 12004. Natural Resources Board.

(a) There is hereby established a Natural Resources Board, which shall be composed of five (5) members appointed by the Governor with the advice and consent of the Legislature.

(b) The members shall be appointed to terms of two (2) years.

(c) The Natural Resources Board shall perform the following functions:

(i) Serve as an advisory board to the Director.

(ii) Perform such policy-making functions as may be assigned to it by the Director or the Governor.

(iii) Serve as an appeals board as may be required under rules and regulations promulgated by the Director.

Section 12005. Organization of the Department. For the purpose of administration, the Director shall organize the department in the manner he deems necessary to segregate and conduct the work of

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the Department. The Director may create such divisions and sub-divisions as may be necessary and change or abolish them from time to time. The Department of Agriculture, the Bureau of Planning, the Department of Land Management and the Department of Parks and Recreation are hereby abolished and whenever any reference in any code or statute is made to them, it shall be deemed to be a reference to and to mean the Department of Natural Resources.

Section 12006. Definition. As used within this Title, "Department" means the Department of Natural Resources unless otherwise indicated.

Section 12007. Penalties. Except as otherwise provided herein, any violation of any provision of this Title, or of any supporting rule or regulation, shall be a misdemeanor.

Section 12008. Fees. Except as otherwise provided, all fees and charges collected under this Chapter shall be deposited in the Department of Natural Resources Fund, unless otherwise provided.

Section 12009. Injunctions. In case of noncompliance with the provisions of this Title or with the terms and conditions of any license, permit, rule or regulation issued hereunder, the Director in addition to or in lieu of proceeding under §12004 may notify the Attorney General of such noncompliance. The Attorney General, upon receipt of such notification, may institute an appropriate action or proceeding at law or in equity to restrain, correct or remove such noncompliance.

CHAPTER II

Enforcement

Subchapter A

Quarantine and Control; Pesticides

Section 12100. Definitions. The following definitions shall apply to the provisions of this Subchapter and any rules or regulations promulgated thereto:

(1) "Host" means plant or animal or part thereof, soil container, vehicles, or other article known or suspected to be infested or contaminated with agricultural pests.

(2) "Pests" shall mean any insect, rodent, nematode fungus, weed or any other form of terrestrial or aquatic plant

or animal life or virus, bacteria or other micro-organisms or living men or other living animals which the Department declares to be a pest.

(3) "Pesticide" shall mean:

(a) Any substance or mixture of substance which is intended for preventing, destroying, repelling, or mitigating any pests.

(b) Any substance or mixture of substances intended for use as a plant growth regulator, defoliant, or desiccant.

(4) "Regulated Article" means any pest or host designated as such in this Chapter or in any plant and animal quarantine or control regulation.

Section 12101. Destruction. Regulated articles and things exposed to contamination therefrom, which cannot be made pest-free by any treatment approved by the Director, shall be destroyed or shipped out of Guam, as ordered by the Director.

Section 12102. The Director is authorized to perform or participate in pest control or eradication work when such work is of general benefit to Guam agriculture. Any owner may be required to perform control work and to safeguard or destroy designated regulated articles when, in the opinion of the Director, such action is necessary to protect the agricultural economy of Guam.

Section 12103. Indemnities and Cost. No indemnity shall be paid to the owner or any person for property destroyed or damaged by activities authorized by this Subchapter.

Section 12104. Unlawful acts. It shall be unlawful for any person to conceal, plant, harvest, dry or process any pests or hosts which are subject to a department control or eradication program or to fail to safeguard, dispose of, or otherwise handle such pests and hosts as instructed by an agent of the department, in accordance with the provisions of this Subchapter.

Section 12105. Regulations. The Director is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and purposes of this Subchapter. Such rules and regulations shall provide, among other things, for:

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- (1) The issuance of experimental use permits.
- (2) Pesticide registration.
- (3) The grounds for refusal, cancellation, or suspension of registration.
- (4) The issuance of licenses for the sale of pesticides.
- (5) The grounds for denial, suspension, or revocation of licenses for the sale of pesticides.
- (6) Labeling requirements.
- (7) The coloration of certain pesticides.
- (8) Provide for the seizure of any pesticide or device in violation of this Subchapter or regulations promulgated thereto.
- (9) The banning of certain pesticides.
- (10) The establishment of procedures, conditions and standards to certify persons for the use of restricted pesticides.
- (11) The establishment of provisions insuring that certified applicators continue to meet the requirements of certification.
- (12) The denial, suspension, or revocation of certification.
- (13) The protection of Guam agriculture, plants, fish and animals from disease and destructive or injurious pests.
- (14) The establishment of quarantines at the border of or within Guam, prohibiting or restricting the entry and movement of designated pests and hosts.
- (14) The prescribing of methods for inspection, safeguarding, treatment and destruction of regulated articles and for related work.

Section 12106. Penalties. Any person who violates any provision of this Subchapter, or any rule or regulation enforced pursuant thereto, shall be guilty of a misdemeanor. Each day of violation shall constitute a separate offense.

SUBCHAPTER B

Fish and Game

Section 12110. Definitions. As used in this Subchapter:

(a) "Firearm" means any weapon, the operating force of which is an explosive. 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.

(b) "Fish" means any aquatic animal life, including but not limited to oysters, clams, mollusks, mussels, crustaceans, and other shellfish.

(c) "Game" means all native or introduced species of wild birds or wild animals.

(d) "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.

(e) "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.

(f) "Vessel" includes every description of watercraft or other contrivance used, or capable of being used, as means of transportation in water.

(g) "Waters of Guam" means that area of shore and waters seaward of the mean high water line (mark).

Section 12111. Purpose of Subchapter. The control and regulation of fish and game in and about Guam and the administration of this Subchapter shall be vested in the Department.

Section 12112. 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 12113. 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 12114. 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 12115 It shall be unlawful to wilfully destroy coral growth for purposes of flushing fish from their habitat or for clearing an area for net fishing.

Section 12116. 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 provisions of this Subchapter or regulations.

Section 12117. 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.

Section 12118. License to take certain wild animals. Any owner or tenant of land or property that is being damaged or destroyed or is in danger of 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 12119. 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 12120. 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 a 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 section.

Section 12121. 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 authority of this Subchapter.

Section 12122. Regulations. Regulations implementing this Subchapter shall be formulated by the Director, which regulations may include but shall not be limited to the following:

(a) To fix, close, terminate, shorten, or divide an open season or make open seasons conditional.

(b) To prescribe the manner of taking of wild animals and birds.

(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 chapter.

(h) To set a fee for any license issued; however, in no event shall such fee exceed the sum of Five Hundred Dollars (\$500).

(i) To regulate the taking of coral live or otherwise.

(j) To otherwise implement or carry out the purposes of this chapter.

Section 12123. 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 chapter is a public nuisance. Every person authorized to make an arrest for such violation 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.

The Department shall commence proceedings in the Superior Court by petitioning the court for a judgment 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 chapter, the court shall order the article or articles forfeited. Any article so forfeited shall be sold, used, or destroyed by the Department. The proceeds from any sales shall be paid into a Fund established by the

Director for purposes of the preservation of natural soil and water conditions and native plants and animals.

Section 12124. The Director shall have the authority to issue permits for the use of poisonous or intoxicating substances, electrical devices, or small mesh nets for the purpose of bona fide scientific research.

SUBCHAPTER C

Conservation

Section 12130. Reservations. The Department, shall control and manage land and water areas which have been set aside by the government of Guam as Conservation reserves. Such control and management shall have as its objective the preservation of natural soil and water conditions and native plants and animals of the general area. Consistent with this objective, the Director may establish and enforce rules or regulations for the use of conservation areas for recreational, educational, and economic purposes.

Section 12131. Fires: unlawful. It shall be unlawful for any person to start or allow a fire to extend onto government land or the land of another causing damage or destruction to plant or animal life or to any property thereon.

Section 12132. Conservation program: responsibility. The Department shall be responsible for the development of a program for the conservation, development and utilization of water and soil resources, and for the control and prevention of soil erosion.

Section 12133. Same: authorization. In carrying out its responsibilities under this section, the Department is authorized to:

(a) Develop plans for the conservation of soil and water resources and the control and prevention of erosion, and to publish or otherwise bring such plans to the attention of land owners and occupiers of land in Guam.

(b) Conduct surveys, investigations, and research relating to soil and water conservation and 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 and the prevention and control of

erosion, and carry out preventive and control measures on government land.

(d) Cooperate with other land owners and occupiers in the development of erosion control and water resources conservation programs.

Section 12134. 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 program concerning the development of plans for conservation, development, and utilization of water and related land resources.

SUBCHAPTER D

Regulation of Water

Section 12140. Definitions. The following definitions shall apply to the provisions of this Subchapter:

(1) "Water" shall be construed to include ponds, springs, wells, and streams and all other bodies of surface or underground water, natural or artificial, inland or coastal, fresh or salt, public or private.

(2) "Well" shall be construed to mean any hole drilled, dug, or bored with a depth exceeding twenty (20) feet for the purpose of obtaining water or knowledge of water-bearing formations or for the disposal of waste materials.

Section 12141. Well Drillers License. No person shall engage in the business of well drilling on Guam without first obtaining a license from the Director.

Section 12142. Well Drilling Permits. No well may be drilled unless the owner of the land on which the well is to be drilled shall, before the commencement of the drilling, have obtained a permit therefor and filed a preliminary report with the Director.

Section 12143. Well Operating Permits. Within sixty (60) days of the initial promulgation of this Subchapter relating to well operating permits, or in the case of new wells, within thirty (30) days from the date of filing of the completed preliminary report, the owner of every well shall obtain an operating permit therefor.

Section 12144. Completion Report of Well. Within thirty (30) days after the completion or the termination for any reason of the

drilling or any well, whether or not any water is found, a report shall be filed by the driller on forms furnished and prescribed by the Director.

Section 12145. Wasteful Use Prohibited. No owner of a well whether a pumping well or a flowing well, shall discharge from the well or permit the discharge from the well of water that is allowed to run to waste and not put to useful service except in connection with pumping test.

Section 12146. Right of Inspection. The Director shall have the power at reasonable hours to make such inspection and take such inspection and take such samples as may be necessary for proper and effective supervision of the construction, repair, and maintenance of wells and to read the meter attached to each well.

Section 12147. Meters to be Installed: Access to Wells.

(a) The Director shall install meters to all wells wherever necessary for the purpose of recording the amount of water drawn from the wells.

(b) Each well shall have an opening of not less than three-quarters (3/4) inch in diameter for the measurement of water levels in the well by means of a wetted steel tape or any other acceptable means of measurement.

Section 12148. Rules and Regulations. The Director is authorized to adopt, amend and repeal rules and regulations necessary to carry out the general purposes and requirements of this Subchapter, including but not limited to:

(1) Classifying all potable water systems used or intended for use by the public or private individuals and all waste water facilities, whether public or private.

(2) Issuing certification entitling qualified persons to supervise the operation of potable water supplies systems and waste water facilities as per the standards and guidelines approved by the Department.

(3) Studying and investigating the elimination and prevention of water pollution.

(4) Formulating water purity standards.

(5) Promulgating and enforcing drinking water standards.

(6) Establish priority listing for new or additional sewer systems.

(7) Issuing, revoking or denying permits for the collection and discharge of sewage and other wastes.

(8) Promulgating and enforcing standards for cesspools and septic tanks.

Section 12149. Penalties. Any person who violates any provision of this Subchapter, or any rule or regulation enforces pursuant thereto, shall be guilty of a misdemeanor. Each day of violation shall constitute a separate offense.

SUBCHAPTER E

Air Pollution Control

Section 12150. Rules and Regulations. The Department is authorized to adopt, amend and repeal rules and regulations, to:

(1) Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution in this territory.

(2) Establish air quality standards for the territory.

(3) Carry out a program of inspection and testing of all modes of transportation, to enforce compliance with applicable emission standards when necessary and practicable and to control or limit the operation of motor vehicles and other modes of transportation when, in the opinion of the Director, such modes of transportation are producing or pose an immediate danger of producing unacceptable levels of air pollutants.

(4) Establish and operate a territory-wide system under which permits shall be required for the construction and operation of new stationary sources of air pollution and the construction and operation of modifications to existing sources, which system shall be established pursuant to this Subchapter.

Section 12151. Penalties. Any person who violates any provision of this Subchapter, or any rule or regulation promulgated

pursuant thereto, shall be guilty of a misdemeanor. Each day of violation shall constitute a separate offense.

SUBCHAPTER F

Solid Waste Management and Litter Control

Section 12160. Permits. The Director is hereby authorized to issue permits for solid waste management facilities, including design, operation, maintenance, substantial alteration, modification or enlargement.

Section 12161. Inspections. The Director or his authorized agent is hereby authorized to inspect all solid waste management facilities at all reasonable times, to insure compliance with the laws of this territory, the provisions of this Subchapter, and the rules and regulations authorized herein. It shall be unlawful for any person to interfere with such inspection.

Section 12162. Prohibited Activities.

(a) It shall be unlawful for any person to:

(1) Violate any provision of this Subchapter or any rule, regulation, standard or order issued pursuant to this Subchapter.

(2) Own, operate or use a dump for the disposal of solid waste.

(3) Place or allow to be placed, any solid waste upon the highways, public or private property contrary to the provisions of this Subchapter.

(4) Manage solid waste facilities without a permit issued pursuant to this Subchapter.

(5) Collect, transport, process or dispose of solid waste in such a manner as to degrade the environment, create a public nuisance, create a health or safety hazard or contrary to this Subchapter.

(6) Store, collect, transport or dispose of hazardous wastes in such a manner as to degrade the environment, create a public nuisance, create a health or safety hazard as determined by the Director of the Department of Public Health and Social Services or the Director, or contrary to this Subchapter.

(7) Transport any solid waste in any vehicle on any street or highway unless adequate precautions are taken to prevent such solid waste from falling from or being dislodged from such vehicle during such transportation. If any such waste falls from or is dislodged from any such vehicle upon any street, highway or any other public or private property, it shall be the obligation of the operator of such vehicle immediately to pick up and remove such waste.

(8) No person shall destroy or attempt to destroy by burning, except in an incinerator the construction and operation of which is approved by the Director, or as may otherwise be authorized by the Director, any garbage, dead animals or other offensive substances the burning of which may give off foul and noisome odors, in, or within one-fourth (1/4) mile of Agana, any village or any other urban area. Nothing in this Subsection shall preclude the burning of trees, brush, grass and other vegetable matter.

(b) Each day of continued violations of this Subsection or the provisions of this Subchapter or rules and regulations authorized herein may be deemed a separate offense.

Section 12163. Plats. All persons operating a sanitary landfill or other approved disposal site under permits issued pursuant to this Subchapter shall, upon completion of the sanitary landfill, file with the Department a plat of each site, together with a description of the waste placed therein.

Section 12164. Applicability to Government Agencies. Government agencies shall comply with all provisions of this Subchapter including planning, review, and permit requirements. Government agencies may contract with any person to carry out their responsibilities under this Subchapter. Such contractors shall also comply with the provisions of this Subchapter.

CHAPTER III

Public Land Management

SUBCHAPTER A

Territorial Park System

Section 12170. Guam Territorial Park System. There is hereby created the Guam Territorial Park System. The Department of Natural Resources has control of the Territorial Park System.

Section 12171. Classification of Units of Territorial Park System. All units which are or shall become a part of the Guam Territorial Park System shall be classified by the Director into one of the following categories:

(a) Natural Preserves, which consist of distinct areas of outstanding natural or scientific significance established within the boundaries of other Territorial Park System Units. The purpose of natural preserves shall be to preserve such features as rare or endangered plant and animal species and their supporting ecosystems, geological features illustrative of geological processes, significant fossil occurrences or geological features of cultural or economic interest, or topographic features illustrative of representative or unique biogeographical patterns. Areas set aside as natural preserves shall be of sufficient size to allow, where possible, the natural dynamics of ecological interaction to continue without interference, and to provide, in all cases, a practicable management unit. Habitat manipulation shall be permitted only in those areas found by scientific analysis to require manipulation to preserve the species or associations which constitute the basis for the establishment of the natural preserve.

(b) Conservation Reserves. Conservation reserves are areas of land 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. Improvements undertaken within territorial parks or community parks shall be

for the purpose of making the areas available for public enjoyment and education in a manner consistent with the preservation of natural, scenic, cultural and ecological values for present and future generations. Improvements may be undertaken to provide for such recreational activities as, but not limited to, picnicking, sightseeing, nature study and hiking, so long as such improvements involve no major modification of lands or waters. Improvements which do not directly enhance the public's enjoyment of the natural, scenic, cultural or ecological values of the resource, which are attractions in themselves, or which are otherwise available to the public within a reasonable distance outside the park, shall not be undertaken within Territorial Parks.

(d) Territorial Recreation Facilities. Territorial recreation facilities shall consist of areas selected, developed and operated to provide outdoor recreational opportunities. In the planning of improvements to be undertaken within territorial recreation facilities, consideration shall be given to the compatibility of design with the surrounding scenic and environmental characteristics. Improvements may be undertaken to provide for such recreational activities as, but not limited to, picnicking, swimming, hiking, bicycling, boating, water skiing, fishing and hunting.

(e) Territorial Seashores. Territorial seashores shall consist of relatively spacious coastline areas with frontage on the ocean, or on bays open to the ocean, including water areas connected to the ocean, possessing outstanding scenic or natural character and significant recreational, historical, archeological or geological values. Territorial seashores may include underwater areas within them, but may not be established solely in the underwater environment.

The purpose of territorial seashores shall be to preserve outstanding natural, scenic, cultural, ecological and recreational values of the Guam Coastline as an ecological region and to make possible the enjoyment of coastline and related recreational activities consistent with the preservation of the

principle values and which contribute to the public enjoyment, appreciation and understanding of those values.

Improvements undertaken within territorial seashores shall be for the purpose of making the areas available for public enjoyment, recreation and education in a manner consistent with the perpetuation of their natural, scenic, cultural, ecological and recreational value. Improvements which do not directly enhance the public enjoyment of the natural, scenic, cultural, ecological or recreational values of the seashore or which are attractions in themselves, shall not be undertaken.

(f) Historical and Pre-Historic Objects and Sites.

Historical and pre-historic areas are those areas established primarily to preserve objects of historical and scientific interest and places commemorating important persons or historic events. Such areas should be of sufficient size, where possible, to provide a significant proportion of the landscape associated with the historical objects. The only facilities provided are those required for the safety, comfort, and enjoyment of the visitors, such as access, parking, water, sanitation, interpretation and picnicking. Certain agricultural, mercantile, or other commercial activities may be permitted, provided those activities are a part of the history of the individual unit and developments retain or restore historical authenticity. Historical units shall be named to perpetuate the primary historical theme of the individual unit.

Section 12172. Community Parks and Recreation Facilities:

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

Section 12173. Director: Duties. The Director shall have the following duties:

(a) To control, manage, develop and maintain all areas of the Guam Territorial Park System except as provided in Section 12172.

(b) To keep a listing of all areas of the Guam Territorial Park System according to classification, with current, accurate descriptions thereof.

Section 12174. Parks and Recreation Revolving Fund:

Establishment. There is established separate and apart from any other government funds, a "Parks Fund". Money in the fund shall be appropriated by the Legislature for the development, improvement or maintenance of the Guam Territorial Park System or recreational facilities. The Director shall be custodian of the fund.

Section 12174. 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 Guam 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.

Section 12175. 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.

Section 12176. 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 violation.

Section 12177. 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.

SUBCHAPTER B

Historical Objects and Archaeological Conservation

Section 12180. Definitions.

(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 sub-surface 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 archeological data.

(3) "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.

(4) "Landmarks" means any building, structure, object, area, or site that is significant in the history, architecture, archaeology, or culture of Guam or the nation.

(5) "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.

(6) "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.

Section 12181. 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.

Section 12182. 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 as witness. 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.

Section 12183. 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.

Section 12184. 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 location of prehistoric or historic remains, shall submit a cost estimate not to exceed one percent (1%) 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 when it is deemed necessary by the Department.

Section 12185. 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 Director to persons or institutions which he deems properly qualified to conduct such examination, excavation, or gathering, subject to such rules and regulations as the Director 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 Director.

Section 12186. Monuments: Reservation of Land; Relinquishing of Private Claims. Upon the recommendation of the Director, 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 bona fide unperfected claim or held in private ownership, the tract, or so 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.

Section 12187. 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 living 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.

Section 12188. Custody of Underwater Historic Property. The custodian of underwater historic properties 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 of all underwater historic properties.

Section 12189. 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.

Section 12190. Permits. Any qualified persons, firm, or corporation desiring to conduct any type of exploration or recovery operations during 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 Director finds that the granting of such permit is in the best interest of the territory, he may grant such applicant a permit for such a period of time and under such conditions as he 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 Director. 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 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 Director may specify. Holders of permits shall

be responsible for obtaining permission of any federal agencies having jurisdiction prior to conducting any salvaging operations.

Section 12191. 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 any department, bureau, or board may, at the request of the museum be transferred and delivered to the museum or exchanged with the museum, and whereupon, in any such case, the title hereto 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.

Section 12192. Penalties. Any person violating the provisions of this Subchapter or any rules and regulations duly established thereunder shall be guilty of a misdemeanor, and, in addition, shall forfeit to the territory any artifacts or objects collected.

SUBCHAPTER C

Land Acquisition

Section 12200. Definitions. As used in this Subchapter:

(a) "Agency" means any department, agency, or instrumentality of the government.

(b) "Person" means any individual, partnership, corporation, or association.

(c) "Displaced Person" means any person who, on or after the effective date of this Subchapter, moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as a result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by an agency.

(d) "Nonprofit Organization" means a nonprofit organization as defined in Section 501 of the U.S. Internal Revenue Code.

(e) "Business" means any lawful activity, excepting a farm operation, conducted primarily:

(i) For the purchase, sale, lease and rental of personal and real property, and for manufacture, processing, or marketing of products, commodities, or any other personal property.

(ii) For the sale of services to the public.

(iii) By a nonprofit organization.

(f) "Farm Operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities, in sufficient quantity to be capable of contributing materially to operator's support.

Section 12201. Land Acquisition Fund. There is within the government of Guam a special fund known as the "Land Acquisition Fund." The Land Acquisition Fund shall be under the administration of the Director.

The purpose of maintaining a separate fund for land acquisition is to account separately for all costs of acquiring private land for public purposes, expenditures from said fund to be made only in connection with such acquisition. A strict accounting shall be kept of all such expenditures and disbursements from such Fund and an annual report thereof shall be made to the Legislature not later than one (1) month following the close of each fiscal year. The Legislature shall make annual appropriations to the Fund.

Section 12202. Acquisition and Gifts. For the purpose of protecting or preserving any historic property, the Director 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 Subchapter.

Section 12203. Condemnation. In the event that 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 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.

Section 12204. 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 in gross, 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.

CHAPTER IV

Surveying, Mapping, and Recordation

SUBCHAPTER A

Land Records

Section 12210. Recorder. There shall be within the Department the Office of Recorder. The Director shall be ex officio the recorder and shall have and exercise all of the duties, powers and functions of such office, and is authorized to designate one or more

employees of the Department as deputy recorder to perform any and all duties of the recorder in the name of the recorder.

Section 12211. Inspection of Recorder Books, etc.:

Arrangement. All books of record, indices, maps, charts, surveys, instruments, or other papers, and microcopies thereof, filed for record in the recorder's office, shall be open for inspection by any person, without charge, during office hours.

Section 12212. Advance Payment or Tender of Fees. The recorder shall not file or record any instrument, furnish any copy, or render any service connected with his office until the fees prescribed by law are paid or tendered.

Section 12213. Records. The Director shall study and keep records on the use of government real property by other departments and agencies and may make recommendations to the Governor concerning reallocation of land so used for the purpose of securing maximum utilization of such land.

Section 12214. General Indices: Form. The recorder shall keep the following indices:

(a) Two indices for the recording of instruments affecting the title or right of possession of land, labeled respectively: "General Index of Grantors, Land" and "General Index of Grantees, Land." Each page of the General Index of Grantors, Land, shall be divided into nine (9) columns, labeled respectively: "Number," "Date Filed," "Grantors and Defendants," "Grantees and Plaintiffs," "Title," "Book," "Page," "Description," which shall contain a short description of the land if described in the instrument, and "References," which shall contain such references to the numerical index or earlier records as the recorder may determine. Each page of the General Index of Grantees, Land, shall be divided into nine (9) columns, labeled respectively: "Number," "Date Filed," "Grantees and Plaintiffs," "Grantors and Defendants," "Title," "Book," "Page," "Description," and "References."

(b) All other documents or instruments, entitled to public recordation shall be indexed in two (2) indices labeled

respectively: "General Index of Grantors, Miscellaneous" and "General Index of Grantees, Miscellaneous." Each page of the General Index of Grantors, Miscellaneous, shall be divided into seven (7) columns, labeled respectively: "Number," "Date Filed," "Grantors and Defendants," "Grantees and Plaintiffs," "Title," "Book," and "Page." Each page of the General Index of Grantees, Miscellaneous shall be divided into seven (7) columns, labeled respectively: "Number," "Date Filed," "Grantees and Plaintiffs," "Grantors and Defendants," "Title," "Book," and "Page."

(c) A tract or numerical index for each parcel of land by municipality. When the land is located in more than one municipality it shall be indexed in both.

(d) An alphabetical subdivision as part of each of the general indices which shall be not less than one hundred in number and so arranged, as nearly as possible, so that the entries in the indices will be equally apportioned under the several alphabetical subdivisions.

Section 12215. Temporary Indices: Destruction Of. The recorder may maintain temporary indices. Where temporary indices are compiled for the use of the public before the permanent indices are compiled, the recorder may destroy such temporary index cards or sheets when the permanent indices are completed.

Section 12216. Change of Name of Person in whom Title Vested. If the name of the person in whom title to real estate is vested is changed for any cause, the recorder shall index the conveyance in the name by which title was acquired and the name by which it is conveyed.

Section 12217. Instruments not in English Language. When an instrument intended for record is executed or certified in whole or in part in any language other than English, the recorder shall not accept the instrument for record. The person desiring to file for record such an instrument may present the instrument and an English translation to a judge of the Superior Court. Upon verification that the translation is a true translation, the judge shall make certification of the fact under the seal of the court, attach the

certification to the translation, and attach the certified translation the original instrument. The attached instrument and certified translation may be presented to the recorder who shall accept and file for record the instrument and the certified translation. The recording of the certified translation gives notice and is of the same effect as the recording of an original instrument.

SUBCHAPTER B

Survey of Government of Guam Land

Section 12220. Authority. The Director shall establish (a) a uniform system of geodetic triangulation controls through the establishment of primary and secondary triangulation control stations to be known as the "Guam Geodetic Triangulation Net," and (b) uniform procedures for the survey of public and private lands within the territory in conformity with the provisions of this Subchapter.

Section 12221. Personnel. The Director shall be responsible for the carrying out of the provisions of this Subchapter and shall appoint personnel as is necessary for the administration thereof.

Section 12222. Establishment of Triangulation Control Stations. Appropriate monuments shall be erected by the Director, or may be designated by him, at locations determined by him, based upon polyconic method of computation, as primary and secondary triangulation control stations, to be referred to as the "Guam Geodetic Triangulation Net," for use in locating and describing land within the territory which shall conform to standards of accuracy in their placement as follows:

(a) Primary triangulation control stations shall be established by the equivalent to, or better than, First order, Class III, work as specified in the "Manual of Geodetic Triangulation," United States Department of Commerce, Coast and Geodetic Survey, Special Publication No. 247, 1959 revised edition.

(b) Secondary triangulation control stations shall be established by the equivalent to, or better than, Second Order, Class II, work as specified in the "Manual of Geodetic Triangulation," United States Department of Commerce, Coast and

Geodetic Survey, Special Publication No. 247, 1959 revised edition.

Section 12223. Designation of coordinate reference point. The principal reference point for the use of coordinates in connection with the "Guam Geodetic Triangulation Net" is the intersection of East Longitude $144-1/4$ 44' 55.52" and North Latitude $13-1/4$ 20' 20.87".

Section 12224. Identification of Land Markers. In addition to the other requirements established by regulations, a permanent land market shall be set to identify any change of direction of the boundary of any lot, parcel or tract of land, stamped with the letters "L.S." and the certificate of registration number of the surveyor setting the market or, if set by a public officer, stamped with his official title.

Section 12225. Filing of Documents for Records. No document purporting to establish title to land as a result of proceedings under the "Land Title Registration Act," presented to the recorder for recording, shall be filed unless accompanied by a map, plat, sketch, or other plane pictorial representation of the lot, parcel or tract of land involved, made within a one-year period preceding the filing of the petition for land registration if said map were filed therewith, or, with regard to the land taken in condemnation proceedings, made within one year preceding the filing of the action for condemnation, and bearing a certification of the following facts:

(a) That it was prepared as the basis of a field survey by either (1) a surveyor registered by the Guam Board of Engineering and Architectural Examiners under the Professional Engineers, Architects and Land Surveyors Law, Title XLIII, Government Code of Guam, holding a current certificate or registration issued by the Board covering the period that the map, plat, sketch or other pictorial representation of the land was made, or the field work incidental thereto was performed, or (2) a surveyor exempted from registration under the Professional Engineers, Architects and Land Surveyors Law.

(b) That it was based upon data obtained from the use of the "Guam Geodetic Triangulation Net" and, where coordinate

values were used, the relationship of such coordinates to the "Guam Geodetic Triangulation Net" was determined by the use of physically ascertained courses and distances.

Section 12226. Same: Reference to Map. No document purporting to effect the transfer of the fee simple ownership of land, presented to the Department for recording, shall be filed, unless said document bears on it a reference to a map, plat, sketch or other plane pictorial representation of the lot, parcel or tract of land involved, containing a legal metes and bounds description thereof, prepared by the government of Guam, the Naval Government of Guam, or an authorized surveyor, and previously recorded at the present or former Department of Land Management. If no such map, plat, sketch, or other plane pictorial representation is on record at the Department of Land Management, then no such document shall be filed unless accompanied by a map, plat, sketch, or other pictorial representation conforming to the requirements of Section 12316.

Section 12227. Admissibility into evidence. Any map, sketch, plat or other pictorial representation of land conforming to the provisions of Section 12315 and certified by the Director as to such conformity, shall be entitled to admission into evidence in any court of record, as prima facie evidence of the facts represented thereon, without further proof.

Section 12228. Instrument-testing Facilities. For the purpose of insuring accuracy of survey measurements, the Director is authorized to install, in appropriate locations, facilities for the testing and calibration of surveying measurement devices in order to insure the attainment of the degree of accuracy in surveying required under this Subchapter. The Director is authorized to use the facilities established for the purpose of testing and calibration of survey measurement devices used by others than the government of Guam or its agencies, and the fee shall be as established by rule or regulation.

Section 12229. Penalty. It shall be a misdemeanor to wilfully or maliciously damage, destroy or otherwise impair the usefulness of any survey monument established under this Subchapter.

Section 12230. Survey of Government Land: All real property belonging to the government of Guam for which certificates of title

have not been issued, shall be surveyed and mapped in order to accomplish the registration of such property. The Director shall carry out a program, on a continuing basis, to so survey and register government-owned land, and such program shall include, but not necessarily be limited to the following:

(1) Completing the calculation and field traverse necessary to establish the Guam Geodetic Triangulation Net, including the referencing of all markers, the integration of such system with those previously established on Guam, and the restoration of all monuments destroyed since the initiation of said system.

(2) Researching all existing survey records and plans, selecting those surveys that can be utilized, updating such survey by connecting them to the Guam Geodetic Triangulation Net, verifying questionable boundaries, and completing registration proceedings for those lots for which surveys already exist.

(3) Selecting from the remaining parcels of government land those parcels of highest land value and proceeding to survey them in order of value, on a parcel basis, until all government of Guam land is surveyed.

(4) Putting all parcels of government of Guam land on the cadastral maps of the government.

(5) Submitting to the Legislature, prior to any appropriations, a systematic program of planned surveys for the following year, showing the estimated amounts of funds needed for each such separate survey, and the estimated time of completion.

Section 2. Subsection B, Paragraph (1) of Section 4106 of the Government Code is amended as follows:

(a) Delete the following language:

"Director of Agriculture	1	\$34,000
Director of Land Management	1	\$34,000
Director of Bureau of Planning	1	\$34,000

Director of Guam Environmental

Protection Agency

1 \$34,000

Director of Parks and Recreation

1 \$34,000"

(b) Add the following language:

"Director of Natural Resources

1 \$34,000"

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Section 3. All equipment and property under control of the Department of Agriculture to regulate slaughterhouse, slaughtered animals, and chicken eggs may, in the discretion of the Director of Natural Resources, be transferred to the Department of Public Health and Social Services.

Section 4. The Endangered Species Act of Guam, Article II, Chapter V of Title XIII of the Government Code (Public Law 15-36), is not repealed but is renumbered Subchapter G of Chapter II of Title XIII as enacted by this Act. All references in the Endangered Species Act of Guam to the "Department of Agriculture" are amended to read "Department of Natural Resources."

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Section 5. Chapter II of Title LXV of the Government Code relative to Comprehensive Planning is repealed.

Section 6. All references in Public Law 15-132, Section 7 to the "Bureau of Planning" shall be amended to "Department of Natural Resources."

Section 7. Chapter I of Title XXVII of the Government Code is hereby repealed.

Deputies
Deputies
Section 8. Transfer of Officers and Employees. All officers and employees of the Bureau of Planning, Department of Agriculture, Department of Land Management, Guam Environmental Protection Agency, and Department of Parks and Recreation who have performed exclusively the functions transferred to the Department of Natural Resources shall be transferred to the Department of Natural Resources.

Section 9. Transfer of Assets, Records and Operational Appropriations. The balance of all unexpended appropriations and all assets, property and records of the Bureau of Planning, Department of Agriculture, Department of Land Management, Environmental Protection Agency and Department of Parks and Recreation used or to be used for the functions transferred to the Department of Natural Resources shall be transferred to the Department of Natural Resources.

Section 10. Except as provided herein, Title XIV of the Government Code is repealed in its entirety. Chapter IV entitled "Tourism Policy" (P.L. 15-70:1) and Chapter X entitled "Urban Renewal and Low Rent Housing" are reenacted and renumbered Chapter I and Chapter II respectively, both of Title XIV.

Section 11. Title LXI of the Government Code is repealed in its entirety.

Section 12. A new Chapter III-A, Title XXII, of the Government Code is enacted to read as follows:

"CHAPTER III-A

Sewage and Toilet Facilities

Section 21220. Definitions. As used in this Chapter:

- (a) 'Agency' shall mean the Public Utility Agency.
- (b) 'Fund' shall mean the Public Utility Agency Wastewater Fund.
- (c) 'Homeowners' shall mean persons owning private single family residences in which they reside.
- (d) 'Adjacent homeowners' shall mean homeowners whose residences are adjacent to and abut a road, street or other way or easement on which a sewer is installed.
- (e) 'Cesspool' means an excavation which receives or is intended to receive raw liquid sewage and from which liquid seeps or leaches into the surrounding porous soil.
- (f) 'Privy' means a structure and excavation for the disposal of human excreta by non-water carriage methods and includes the term "pit privy", "trench latrine", and "bored-hole" latrine.
- (g) 'Seepage pit' means a covered pit with open-jointed lining through which septic tank effluent or lavatory, kitchen or laundry wastes may seep or leach into the surrounding porous soil.
- (h) 'Septic tank' means a water-tight receptacle which received the discharge of a sewage system or part thereof, designated and constructed so as to retain solids, digest organic matter through a period of detention, and allows the liquids to discharge into the subsoil outside of the tank

through a buried system of open-joint piping or seepage pit. "Septic tank system" means a septic tank as herein defined together with the buried system of open-joint piping or seepage pit.

(i) "Sewage" includes untreated or insufficiently treated human excreta, food wastes disposed of through sewers, wash water, liquid wastes from residences, commercial buildings and industrial establishments and such diluting water as may have entered the waste disposal system.

Section 21221. Toilet and Sewage Facilities Required. No building shall be occupied or used as a dwelling, school, public building, commercial building, industrial building or place of assembly without toilet and sewage facilities of a type required by this Chapter for the disposition of human excreta and other domestic wastes.

Section 21222. Maintenance: Responsibility. Toilet and sewage facilities shall be maintained at all times in good repair and in a clean and sanitary condition. The owner of property is primarily responsible for the structural integrity, good repair and maintenance of toilet and sewage facilities in conformity with the provisions of this Chapter. He is responsible for the replacement of broken or worn-out equipment or parts, and the cleaning of obstructed or broken pipes or drains. The lessee, occupant, or person in possession of property is responsible for keeping such facilities in a clean and sanitary condition.

Section 21223. Types of Toilet and Sewage Facilities.

(a) The following types of toilet facilities are required as hereinafter provided:

Type 1: Toilets flushed with water and connected with public sewer.

Type 2: Toilets flushed with water and connected with septic tank or cesspool or combination of both.

Type 3: Privy type, including pit privy, trench latrine and bored-hole latrine.

(b) When a public sewer is available, all buildings used for human occupancy, employment or recreation and situated

upon lands abutting any road, street, or other way or easement in which a public sewer is located, must have suitable toilet facilities installed and connected to the public sewer, in accordance with the following schedule:

(1) Every such building constructed after the effective date of this Act or after a public sewer becomes available, whichever is later, must include such installation and connection in the construction.

(2) Any such building existing at the time a public sewer first becomes available and being served only by Type 3 facilities must be provided such installation and connection within thirty (30) days after the public sewer becomes available; provided, however, that, upon application, the Chief Officer of the Public Utility Agency may extend the time to not more than six (6) months but only on the basis of his express finding that such extension of time will not be hazardous to health.

(3) Any such building existing at the time a public sewer first becomes available and being served by Type 2 facilities which are entirely adequate and without defect may continue to be served by such existing facilities for a maximum period of six (6) months upon the following conditions:

a. No repairs, replacements or additions of or to such facilities will be permitted.

b. Whenever any such facility becomes defective or inadequate, connection to the public sewer must be made within thirty (30) days after notice given by the Chief Officer, who may, however, upon application, extend the time to not more than six (6) months if he finds that the defect or inadequacy is not hazardous to health.

c. Whenever a public sewer becomes available, the Chief Officer, as soon as possible, shall make or cause to be made an inspection of all Type 2 facilities on lands abutting the road, street, or

other way or easement in which such sewer is located and shall promptly notify the persons concerned of his determination of which such facilities may continue to be used as above provided.

(4) The Chief Officer may inspect or cause to be inspected any toilet facilities at any time and shall make or have made suitable inspections with such frequency as may be necessary to assure compliance with this Section.

(c) Where water is available from the Public Utility Agency, but a public sewer is not available, toilet facilities shall be of Type 2, and shall be connected to an approved cesspool, septic tank, or combination of both. This Subsection shall apply to all buildings constructed after the effective date of this Act. With respect to buildings in existence on the effective date of this Act, this Subsection shall apply to all such buildings, except dwellings, from and after six (6) months after the effective date of this Act, or after water becomes available, whichever is later, except that this Subsection shall not apply to any such existing building where the size of the lot or the soil permeability of the lot, as may be determined by the Chief Officer, is inadequate and unsuitable for the installation and operation of toilet facilities of Type 2.

(d) In all other cases, toilet facilities shall be of Type 2 or Type 3.

Section 21224. Location. No cesspool, septic tank system, seepage pit, or privy shall be so located, constructed, or maintained as to contaminate any potable water supply and in no case shall any such cesspool, septic tank, seepage pit or privy be located within a horizontal distance of fifty (50) feet so that when filled the contents may be covered with a minimum of two (2) feet of earth. During use, fresh deposits of excreta shall be covered with sufficient earth or lime to exclude flies and prevent odors. Pits shall be closed and sealed when the level of excreta reaches within two (2) feet of the earth's surface. A new pit shall be built to replace the old one if

other sewage facilities are not available. The Chief Officer may authorize the proposed location of the new pit and inspect the completed privy prior to use.

Section 21225. Cesspools and Septic Tanks to be Emptied and Cleaned. Cesspools and septic tanks shall be emptied and cleaned when necessary, or when ordered by the Chief Officer in the interests of public health, and the contents disposed of in such place and manner as shall be authorized by the Chief Officer.

Section 21226. Disposition of Excreta Untreated or improperly treated human excreta shall not be deposited into any river, creek, pond, reservoir, stream, well, or spring, or any collection of fresh water, on the surface of the ground, into or upon any public or private sidewalk, path, driveway, alley, street, highway, road, or beach, or any public place.

Section 21227. Sewer Connection for Underprivileged. The Chief Officer of the Public Utility Agency of Guam shall connect or cause to be connected without charge the island-wide sewer system to the residences of all persons or families certified by the Department of Public Health and Social Services to be 'underprivileged' within the guidelines established by the Director of Public Health and Social Services.

Section 21228. Installation of Connecting Lines to Public Sewers. The Public Utility Agency of Guam is hereby authorized to install or cause to be installed connection lines to public sewers from the residences of adjacent homeowners and subject to the provisions of this Chapter to charge therefor on an installment basis.

Any such adjacent homeowner who, pursuant to §21223 of the Government Code, is required to connect toilet facilities to said public sewer, may make application to the Agency for installation of said sewer connection and for repayment of the cost thereof on an installment basis as provided herein.

Section 21229. Installation of Type 2 Facilities. The Public Utility Agency of Guam is hereby authorized to install or cause to be installed for homeowners Type 2 toilet facilities and to charge therefor on an installment basis subject to the provisions of this Chapter.

Any homeowner who, pursuant to §21221 and §21223 of the Government Code of Guam, is required to install Type 2 toilet facilities, may make application to the Agency for installation of said toilet facilities and for repayment of the cost thereof on an installment basis as provided herein.

Section 21230. Notice to homeowners. The Chief Officer of the Agency or his authorized representative shall inform, by written notice, all adjacent homeowners that said homeowner may make application for installation of connecting lines and payment of the cost thereof on an installment basis as provided in this Chapter. This notice shall be given to such homeowners within thirty (30) days from the date the public sewer first becomes available to them and shall contain a form for making application.

Section 21231. Fund.

(a) There is hereby established a fund to be known as the 'Public Utility Agency Wastewater Fund', which fund shall be maintained separate and apart from any other funds of the government of Guam, and independent records shall be maintained in connection therewith.

(b) All monies received by the Agency from homeowners in payment of sewer connection line or Type 2 toilet facilities installation charges shall be deposited with the Treasurer of Guam and credited to the Fund and applied to the account of each homeowner making payment.

(c) All debts, liabilities, obligations, operating expenses, and installation costs and expenses arising from the installation of connecting lines or Type 2 toilet facilities pursuant to the provisions of this Chapter are hereby authorized to be paid from said Fund by the Treasurer of Guam upon vouchers properly certified to by the Certifying Officer of the Agency.

(d) The Chief Officer of the Agency shall quarterly render to the Governor a statement reflecting the financial condition of the Fund.

Section 21232. Repayment of Installments. The cost of the installation of connection lines to the public sewer and of Type 2

toilet facilities shall be borne by each individual homeowner, and the cost thereof shall be repaid to the Fund on an installment basis, in equal installments over a period not to exceed four (4) years from the date the sewer connection or the toilet facility shall have been completed.

Section 21233. Installment Contract. The signature of the homeowner, and acceptance by the Public Utility Agency of the application form shall constitute a contract between the homeowner and the government of Guam. The contract shall provide for the monthly amount of installment payments to be made thereunder.

Section 21234. Powers. The Public Utility Agency shall have the power, duty and responsibility for the operation, administration and enforcement of this Chapter, and shall maintain all necessary records. Such power shall include the authority to make rules and regulations necessary to carry out the provisions contained herein, all in accordance with §21207 of the Government Code of Guam, and the authority to enforce collection of payments to be made by homeowners hereunder. The Agency shall obtain from the Attorney General approval of the general form of installment contract which is to be entered into by homeowners hereunder, and approval of the general form of the assumption agreement to be entered into hereunder by subsequent purchasers.

Section 13. Transition and effective date. The provisions of this Act shall take effect one hundred twenty (120) days after the date of enactment. Notwithstanding the effective date of this Act, the Governor is authorized to immediately appoint, with the advice and consent of the Legislature, the Director of the Department of Natural Resources. The Director, from the date of his or her appointment until the effective date of this Act, shall have the following powers and responsibilities:

(1) General authority over the Department of Land Management, Department of Agriculture, Department of Parks and Recreation, Bureau of Planning, and Guam Environmental Protection Agency.

(2) Coordinate the functions and operations of the departments and agencies listed in Subsection 1 in order to assure an orderly transfer and implementation of this Act.

(3) Promulgate rules and regulations to be utilized by the Department of Natural Resources and which will take effect on the effective date of the provisions of this Act.

Section 14. Any existing provisions of law which are inconsistent with the provisions of this bill are repealed to the extent of such inconsistency.

Section 15. 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 court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Act or any regulation, rule or order promulgated pursuant thereto.



GUAM ENVIRONMENTAL PROTECTION AGENCY

POST OFFICE BOX 2999 AGANA, GUAM 96910 TELEPHONE 646 8863 64 65

NOV 27 1981

INTER-AGENCY MEMORANDUM

TO: Legislative Review Committee

FROM: Administrator

SUBJECT: Testimony Concerning the Proposed
Department of Natural Resources

The proposed legislation to establish a department of natural resources is, in our opinion, poorly conceived and should be rejected for a variety of reasons. It is unfortunate that the Directors of the various departments and agencies affected by this proposal were not consulted prior to the document's preparation. In March of 1979, Governor Calvo appointed a Resources Management Task Force to study and make recommendations concerning current resource management practices. This Task Force spent considerable time and effort in documenting deficiencies and investigating appropriate options to improve the management of our land, water, wildlife and aquatic resources. In its report to the Governor, dated October 19, 1979 (copy of report attached), the Task Force recommended that existing management mechanisms be improved, and that consolidation of the various agencies resource management programs under a single department not be pursued. A similar conclusion was reached in an Environmental Management Study conducted for GEPA in 1978. The recommendations of this study have not been fully implemented.

Since GEPA was not provided the opportunity to participate in the preparation of the present proposed legislation, we are unsure what the actual intent of the effort is. If the intent is cost-savings, we do not believe that the creation of a DNR will save the Government any money, and could result in the loss of significant federal funding. The legislation proposes to repeal Title LXI thereby abolishing the Guam Environmental Protection Agency. It serves no valid or cogent purpose to abolish an agency which is efficiently and effectively implementing a sound environmental program with an absolute minimum of local financial support. In fiscal year 1981, GEPA secured federal funds in the amount of \$1,048,161 for operation and \$2,425,000 for construction. The total local contribution necessary to enable GEPA to obtain this funding was only \$240,000. This federal funding comes to GEPA because our environmental laws, rules and regulations are intact and approved by the U.S.E.P.A. Each of Guam's environmental laws must be as stringent as federal law in order for the federal EPA to delegate its authority to GEPA and provide federal financial support. By dismantling Title LXI, and tampering with federally-approved local legislation which has taken ten years to develop and refine, all U.S.E.P.A. funding to the Territory will be jeopardized.

INTER-AGENCY MEMORANDUM

TO: Legislative Review Committee

Page 2

* If the intent is to improve resources management, we believe that the premise of the proposed legislation is faulty and contradictory and would result in a weakening of Guam's present management efforts. The proposal is to combine natural resources management activities with regulatory and enforcement responsibilities and is patently incompatible with sound management principles. The obvious conflict between the philosophy of using the land versus protecting it would emasculate both efforts if they were combined. The situation is analogous to the old federal Atomic Energy Commission, one branch of which regulated the use of nuclear energy and the other which promoted it. Congress found that such a scheme simply didn't work. The Federal Government has proposed consolidating certain federal activities dealing with managing the nation's soil, wildlife, parks, forests and federal lands. The federal EPA, a regulatory agency, is not included in this reorganization scheme. Since the goals of natural resources development and conservation are obviously contradictory, who would resolve the inevitable issues? Presumably, the proposed DNR would be a line department which would provide for no independent policy determination and little opportunity for public involvement in environmental policy-making. It would appear that the proposed "Natural Resources Board" would function essentially as an advisory board. The concept of our present GEPA Board of Directors, as it now exists, is a good one for reasons stated in Public Law 11-191, to ensure political semi-independence and continuity in establishing environmental regulatory policy.

The proposed legislation is grossly deficient. It lacks specificity as well as substance and would not be implementable as a result. A few of these deficiencies are itemized as follows:

- omitted many parts of the programs to be consolidated*
1. The Safe Drinking Water Act, Water Pollution Control Act, and Water and Wastewater Operators Certification Act are not included.
 2. Promulgated laws regarding pesticide enforcement, air pollution control, solid waste management, litter control, and hazardous waste management are not properly cited nor completely incorporated into the proposal.
 3. There are no penalties specified, therefore the proposed legislation would be unenforceable. Laws without sanctions are meaningless.
 4. The Territory's multi-million dollar sewer construction grant program isn't mentioned. What mechanism or vehicle would be used to obtain sewer construction funds?
 - 5 * The proposed legislation repeals Title XIII which is all of the Department of Agriculture. What happens to the animal and plant industries and the agriculture economics division, which are not incorporated? What happens to the present Conservation Fund, and our Territorial Conservation Officers? Where is the legal enforcement authority for these programs?

INTER-AGENCY MEMORANDUM

TO: Legislative Review Committee

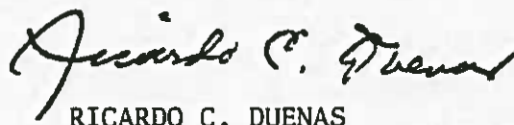
Page 3

6. The proposal lacks sufficient definitions thus rendering most of the sections unenforceable.
7. There are numerous parts of the proposal which are contradictory. An example is the responsibility for permitting sewer connections and septic tanks. In one section, the proposed DNR has the responsibility; in another it's PUAG, and in a third its PH&SS.
8. Cesspools and pit privies are apparently made legal. It's taken 20 years to phase out these polluting and environmentally unacceptable waste disposal methods on Guam. To legalize them would threaten the public health, and Guam's Principal Source Aquifer.
9. The Bureau of Planning is included but there is no authority to conduct or coordinate the Government's planning efforts.

To summarize, we feel that this proposed legislation should be discarded.

- It will not save the Government money, and may result in the loss of federal fundings.
- In its present form, it will not improve resource management.
- It was conceived in closure and as a result it is riddled with errors, omissions, and contradictions.
- It is legally unenforceable, and totally inane.
- It combines both regulatory and management activities and therefore is philosophically unacceptable.

We believe that existing problems with resources management, whether they be real or perceived, can be addressed without requiring changes in the basic structure of the affected agencies and departments.


RICARDO C. DUENAS

Attachment



PLANNING



SURVEY

Department of Land Management

GOVERNMENT OF GUAM

AGANA, GUAM 96910



ADMINISTRATION



RECORDS

Dometrio R. Pablo, Director
Joseph B. Cruz, Deputy Director

Nov. 27, 1981

Memorandum

To: Chairman, Legislative Review Committee

From: Director, Department of Land Management

Subject: Legislative Bill, "An Act to Establish a Department of Natural Resources"

The proposed Bill, consolidating a number of departments and agency into a super department of Natural Resources invasion a number of problems. This is nothing new, the past administration on a number of instances attempted this porposal, even on two departments merging into one department, had failed. Prsonally, I'm not in favor of this gigantic proposal.

The intent and purpose of the above subject Bill is not a PANACEA for curing bureaucratic red tapes, nor a mean to save money. We failed to see the merits of consolidating several departments and agencies of the Government of Guam into one huge Department of Natural Resources with the same identical functions and objectives. The consolidation will put the government into a subservient and choatic situation. Cooperation among units of government at all levels is essential in bringing about a coherent organization of resources needed to combat the proliferation of government services.

The proposed Bill did not mention the disposition of the Territorial Planning Commission, the Territorial Seashore Protection Commission, and the Guam Name Place Commission. These Commissions are under the administration umbrella of the Department of Land Management. Their existence is vital to the harmonious development of the Territory. They all have statutory responsibilities involving land and seashore use controls. They carry out advisory responsibilities to the governor and the legislative body, and adjudicating differences between public interests and private sights.

Dometrio R. Pablo
DOMETOR R. PABLO



BSG
 Agricultural Development Services 734-3947
 Aquatic & Wildlife Resources 734-3945
 Forestry & Soil Resources 734-3948
 Animal Industry 734-3940
 Plant Industry 734-3949

VICTOR T. ARTERO
 Deputy Director

Sales & Permit Info 734-3943
 Administrative Ser. 734-3941/2

AGANA, GUAM 96910

November 25, 1981

Governor of Guam's Legislature
 Review Committee
 Governor's Conference Room
 Agana, Guam 96910

Ref: Comments on a Bill to Establish a Department of
 Natural Resources

Mr. Chairman and Committee Members:

The Department of Agriculture opposes this bill as proposed for several reasons. Primarily, I feel that before a bill of this magnitude, being introduced at the request of the Governor, should have been discussed by agencies involved before its initial draft stage. Also, the enactment of this bill in its present form will be detrimental to the agricultural development of this island. This bill does not address the present functions of our Department.

The short comings of this bill are the following:

1. Does not provide provisions for the essential functions of the Division of Animal and Plant Industry and the Division of Agricultural Development and Services. These Divisions provide the essential support required by the farmers on the island.
2. Only the regulatory functions of Forestry and Fish & Wildlife are provided in this bill. The essential functions of research and developmental aspects of forestry and fish and wildlife programs are completely over-looked. These are the vital functions of these two divisions.
3. The present bill to combine the functions of six separate agencies into a single agency will result in the total breakdown of the essential services that these agencies are not providing to the general public. Even if all of the services

would remain and be transferred to Department of Natural Resources, efficiency would decline because the Department would be too big to accommodate effectively all of its functions. Present division chiefs would be relegated further away from the Director having to work through an intermediary rather than direct with the director thus causing a decline in productivity as well as production.

More than at any time ever, the island needs expansion in the agricultural sector and to eliminate the services of the Department of Agriculture will be a great dis-service to our people. Further, this bill in its present form definitely does not serve in the best interest and welfare of the people of Guam.

ANTONIO S. QUITUGUA

OUTGOING CORRESPONDENCE/MEMORANDA LOG

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[illegible]

BUREAU OF PLANNING

JAN 20 1982

JAN 20 1982

Memorandum

To: Legal Counsel to the Governor

From: Director, Bureau of Planning

Subject: Legislative Bill to Establish the Department of Natural Resources

The Bureau has thoroughly reviewed the third draft of the proposed bill. Our review indicates that the last draft has not adequately addressed our concerns expressed in the position paper dated December 10, 1981 regarding the fate of the existing boards and dissimilar functions of agencies being assumed by a single agency which create a check and balance system in the decisionmaking process.

The proposal to allow the Director of the Department of Natural Resources to create or eliminate any boards and functions in the department appears to give the Director authority over certain functions that should be vested in the Governor or Legislature. Moreover, a combination of agencies with development-oriented and regulatory functions would destroy the check and balance system which constitutes the basic mechanism of a democratic system.

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BETTY S. GUERRERO

Attachment

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cc: Chron
Subject (ek)✓

BUREAU OF PLANNING

DEC 10 1981

Memorandum

To: Legislative Review Committee

From: Director, Bureau of Planning

Subject: Comments on the Bill to Establish a Department of Natural Resources

While we support the basic premise that the Government of Guam would profit from a reorganization, we do not feel that the Department of Natural Resources as proposed would be an appropriate reorganization. Our comments are organized to reflect this point of view, beginning with an examination of the basic concept of the proposal and followed by a discussion of more specific inadequacies.

INADEQUACIES OF BASIC CONCEPT

Check & Balance Function Lost

The functions and purviews of the agencies proposed for inclusion into the Department of Natural Resources is very broad and, we feel, too dissimilar for a single agency. These fall into two very distinct categories, those dealing with physical development of natural resources, and those dealing with protecting the quality of resources such as water, air, and wildlife habitats.

As the agencies now function, each has its own allotted mission and interest. Each agency also has its own director of approximately equal stature to present the position of that department. In this way, the agencies which foster development present a position and the agencies which support an environmental perspective have equal voice and opportunity to present their position. This forum of equality gives each viewpoint an opportunity to be heard and evaluated on their individual merits.

If these two functions were merged, the personal philosophy of the Director of the Department of Natural Resources would color the decisions made by that Department. Thus, if the Director was of a developmental philosophy, environmental concerns would be downplayed or not seriously considered and conversely a Director of an environmental philosophy would be in a position to downplay developmental needs.

No matter what your particular philosophical underpinnings, you have a 50/50 chance that your concerns will be insufficiently considered or overridden. Both these philosophical viewpoints are valid, necessary and deserving of equal presentation. With each position, that of development, and that of

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protection, presented intact and with equal weight, a check and balance effect is created, and that check and balance is the most basic mechanism of democracy. The Department of Natural Resources, as proposed, would destroy that.

Two Agency Concept

After thorough examination of the proposed Department of Natural Resources, we came to the conclusion that it encompasses two dissimilar functions that would be better dealt with as two separate agencies. These would look and function in this manner:

I. LAND ADMINISTRATION DEPARTMENT

Our proposed department would include the following agencies and functions or parts thereof:

- Bureau of Planning
- Department of Land Management
- Department of Public Works (only the zone, tract, variance, sign, and landscaping inspection function, and the various development permitting functions)

This would consolidate "development oriented" functions within the government into a single homogeneous entity. All of the permitting functions would be located within one agency, thus eliminating lack of coordination, ignorance of other agency goals, or cross agency rivalry, all of which now lead to contradicting inefficient decisionmaking and cumbersome coordinative efforts. Advance planning would have an opportunity to have an input at a more basic level in the land use process, thus coordinating Guam's growth for more efficient land use and more efficient infrastructure provisions. Such an agency would also make the inspections for compliance with zoning, setbacks, parking requirements, etc., more meaningful because its scheduling and goals would all come from within the same agency with a single mindedness of aim and purpose.

A single consolidated land development agency would, for the first time, on Guam combine the three elements of land use permitting, future planning, and land use enforcement into a single purpose agency. These are the traditional basic elements in making the most effective use and administration of land and logically, always should have been under a single agency.

II. NATURAL RESOURCE ADMINISTRATION DEPARTMENT

This department would include the following agencies and functions or parts thereof:

- Guam Environmental Protection Agency
- Agriculture's Division of Aquatic & Wildlife Resources & Forestry
- *Department of Parks and Recreation

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These agencies all deal with the concept of preserving or mitigating the effects upon, the natural elements of our resource base. The Environmental Protection Agency has its particular federally mandated purview of water, and air resources and their related facets. The Agriculture departments deal with restoring and protecting our forestry and wildlife resources, and the Department of Parks and Recreation has purview over large pieces of natural wildlands. These agencies' common goals and perspective makes them natural partners. Their legal and moral point of view should have the integrity of its own agency not subject to the directions of a more development oriented super agency, conversely a development oriented agency should have its own perspective presented, unadulterated.

The remaining functions of the above agencies could be merged into other existing agencies. These would be addressed at a later date.

*The Department of Parks and Recreation could conceivably be placed in either department as they both develop sites for recreation and preserve wilderness areas for the benefit of future generations.

In conclusion, we feel that given the basic philosophies and purposes of the agencies proposed for inclusion, they fall into two very discrete categories. Their dissimilar positions are both valid and necessary in their own right and deserve equal and separate status, and representation. To merge them would necessarily cause one or the other not to get its position properly represented. To form them into two homogeneous agencies would streamline the current functioning of the Government of Guam and would still ensure that their separate natures and check and balance functions are preserved. This keeps with the intent of making the government more efficient, but avoids the pitfall of muffling a needed point of view.

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SPECIFIC INADEQUACIES

Now that we have presented our feelings toward the concept inadequacies of the DNR, we move to the holes in the legislation that would make it unworkable in its present form were a decision made that the DNR as proposed should proceed.

Bill Needs Structure

As presented, the legislation does not have sufficient organizational structure. The purview and scope of the proposed department are only given in broad general statements. In our particular case, (d) "Oversight, coordination, and participation in all planning activities related to land, water soil, air, and other natural resources of the territory," we would like a better idea of how we are intended to function within the DNR, especially in view of the uncertainty as to whether there is intended to be any comprehensive planning. How does our function relate to the Department of Land Management's planning section and to the Natural Resources Board. Are there any requirements for the composition of the Board? Such boards should represent a cross section of the governed population. There should be development, environmental, homeowners, and consumer groups represented, in short a cross section. Many current boards are weighted too heavily in favor of a single view point, which skews decision patterns. These things should be written into the organizational structure.

There should be an organizational chart delineating functions, interactions with other parts of the department and the relationship of the department to the Board, Director, and other agencies. This chart should also indicate which current agencies or portions thereof make up the units within the proposed DNR and the fate of assorted boards and agency fragments left unaddressed.

A department could not be constructed from what is written in this Bill. It needs a structural outline. Without that to work from an included agency would not be clear as to its function, its powers, or its relationship is within the hierarchy.

FRAGMENTED PROGRAMS

The Bill fails to address the fragmented programs and functions of agencies not absorbed by DNR. For example, with the proposed transfer of land use planning and cartographic functions to DNR, two Bureau of Planning programs remain unassigned to any agency. While the Planning Information and Social Planning programs do not exclusively perform land and coastal resource planning, both are involved with projects that relate to or support natural resource management. Their fate is not addressed.

Unaddressed by the Bill are the remaining functions of the Recreation Division of the Department of Parks and Recreation. Would this function be phased out, absorbed by another agency, or contracted to the private sector?

The management of public lands are addressed under Chapter III, Public Land Management. However, no reference is made to private land management.

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With the proposed repeal of Title XIII, which deals with the Department of Agriculture, a number of questions are raised and not answered. What would the fate of the agricultural economics division and the animal and plant industries be? What would become of the Conservation Fund? Where would the conservation officers fit into the DNR?

BOARDS NOT ADDRESSED

The proposed legislation does not fully address the fates of the following boards/commissions: Territorial Planning Commission (DLM), Territorial Seashore Protection Commission (DLM), Environmental Protection Agency Board (EPA), Historic Preservation Board (DPR), and the Subdivision Development Review Committee (DLM).

We assume that with the abolition of the titles and sections making the current agencies autonomous, the boards would be abolished as well, but this should be stated somewhere, perhaps, in an organizational structure chart for the DNR.

Assuming that the functions of these boards were absorbed by the DNR Board, the responsibilities would be overwhelming.

In addition to the DNR board's function as an advisory/policy making body, it would be responsible for the review of applications for changes, conditional uses, and variances from laws involving zoning, land subdivision, seashore protection, aquatic and wildlife resource management, historic preservation and environmental protection. The board would also bear responsibility for the review of various Comprehensive Plan elements, providing there is still a comprehensive plan. These responsibilities would pose unreasonable demands in terms of time and expertise, and would in all probability, render an ineffective, unresponsive body.

COMPREHENSIVE PLANNING ELIMINATED

It is stated on Page 38, Section 5, of the Bill that Chapter II of Title LXV of the Government Code relative to Comprehensive Planning is repealed. Does that mean that the Government of Guam intends to no longer plan for the future? There is no mention anywhere else in the Bill that that function is to be resumed. Planning for future development allows a government to predict where it is appropriate for growth to occur, and provide infrastructure to service that specific intensity of development. This is many times more cost effective than trying to follow haphazard development and retrofit infrastructure or upgrade existing under-capacity infrastructure while trying to purchase higher priced right of way. To try to do without future planning leads to unnecessary squandering of natural resources. Given the size of Guam, we cannot afford to waste anything. Also given the supposed reason for forming the DNR, that of efficiency and money saving, to abandon future planning seems to be short sighted.

To abolish planning would be an immediate boon to developers, but a detriment to the rest of the governed population who must live here after inappropriate development is allowed through a lack of adequate planning.

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In conclusion, we congratulate the effort to streamline, consolidate, and make the Government of Guam more cost effective, but feel that the DNR proposal is not the right answer. In the last part of our position paper, we dealt with the inadequacies that would make the department as proposed unworkable. These sorts of details could be corrected were the concept sound. However, we find that the concept as presented includes too many dissimilar parts to work fairly and justly. These parts or some of them should, however, be consolidated into a more efficient configuration. The Director of such a large department as the DNR would also be too powerful and able to impose his personal philosophy too broadly without check. This presents a big potential for abuse or mismanagement. Because this proposal is faulty, it does not mean that the Government of Guam should cease to search for a more efficient and cost effective form, and we do not intend to halt this activity ourselves.

(S) HM

BETTY S. GUERRERO

BUREAU OF PLANNING

DEC 10 1981

Memorandum

To: Legislative Review Committee

From: Director, Bureau of Planning

Subject: Comments on the Bill to Establish a Department of Natural Resources

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The management of public lands are addressed under Chapter III, Public Land Management. However, no reference is made to private land management.

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With the proposed repeal of Title XIII, which deals with the Department of Agriculture, a number of questions are raised and not answered. What would the fate of the agricultural economics division and the animal and plant industries be? What would become of the Conservation Fund? Where would the conservation officers fit into the DNR?

BOARDS NOT ADDRESSED

The proposed legislation does not fully address the fates of the following boards/commissions: Territorial Planning Commission (DLM), Territorial Seashore Protection Commission (DLM), Environmental Protection Agency Board (EPA), Historic Preservation Board (DPR), and the Subdivision Development Review Committee (DLM).

We assume that with the abolition of the titles and sections making the current agencies autonomous, the boards would be abolished as well, but this should be stated somewhere, perhaps, in an organizational structure chart for the DNR.

Assuming that the functions of these boards were absorbed by the DNR Board, the responsibilities would be overwhelming.

In addition to the DNR board's function as an advisory/policy making body, it would be responsible for the review of applications for changes, conditional uses, and variances from laws involving zoning, land subdivision, seashore protection, aquatic and wildlife resource management, historic preservation and environmental protection. The board would also bear responsibility for the review of various Comprehensive Plan elements, providing there is still a comprehensive plan. These responsibilities would pose unreasonable demands in terms of time and expertise, and would in all probability, render an ineffective, unresponsive body.

COMPREHENSIVE PLANNING ELIMINATED

It is stated on Page 38, Section 5, of the Bill that Chapter II of Title LXV of the Government Code relative to Comprehensive Planning is repealed. Does that mean that the Government of Guam intends to no longer plan for the future? There is no mention anywhere else in the Bill that that function is to be resumed. Planning for future development allows a government to predict where it is appropriate for growth to occur, and provide infrastructure to service that specific intensity of development. This is many times more cost effective than trying to follow haphazard development and retrofit infrastructure or upgrade existing under-capacity infrastructure while trying to purchase higher priced right of way. To try to do without future planning leads to unnecessary squandering of natural resources. Given the size of Guam, we cannot afford to waste anything. Also given the supposed reason for forming the DNR, that of efficiency and money saving, to abandon future planning seems to be short sighted.

To abolish planning would be an immediate boon to developers, but a detriment to the rest of the governed population who must live here after inappropriate development is allowed through a lack of adequate planning.

DEC 10 1981

In conclusion, we congratulate the effort to streamline, consolidate, and make the Government of Guam more cost effective, but feel that the DNR proposal is not the right answer. In the last part of our position paper, we dealt with the inadequacies that would make the department as proposed unworkable. These sorts of details could be corrected were the concept sound. However, we find that the concept as presented includes too many dissimilar parts to work fairly and justly. These parts or some of them should, however, be consolidated into a more efficient configuration. The Director of such a large department as the DNR would also be too powerful and able to impose his personal philosophy too broadly without check. This presents a big potential for abuse or mismanagement. Because this proposal is faulty, it does not mean that the Government of Guam should cease to search for a more efficient and cost effective form, and we do not intend to halt this activity ourselves.

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BETTY S. GUERRERO

RMABEN:rpr

cc: Chron

Subject ✓

POSITION PAPER
DEPARTMENT OF NATURAL RESOURCES

Bureau of Planning

The following comments are the result of the Bureau of Planning's analysis of the proposed legislation to create a Department of Natural Resources.

CHECK & BALANCE FUNCTION LOST

The functions and purviews of the agencies proposed for inclusion into the Department of Natural Resources is very broad and we feel too diverse and dissimilar for a single agency. These fall into two very broad categories, and those dealing with protecting the quality of resources such as water, air, and wildlife habitats.

As the agencies now function, each has its own allotted mission and interest. Each agency also has its own director of approximately equal stature to present to the best of his/her ability the position of that department. In this way, the agencies which foster development present a position and the agencies which support an environmental perspective have equal voice and opportunity to present their position. This equal forum situation gives each an opportunity to be heard and evaluated on this individual merits.

If these two functions were merged, the personal philosophy of the Director of the Department of Natural Resources would color the decisions made by that Department.

Thus, if the Director was of a developmental philosophy, environmental concerns would be downplayed or not seriously considered and conversely a Director of an environmental philosophy would be in a position to downplay developmental needs.

Thus, no matter what your particular philosophical under pinnings, you have a 50/50 chance that your concerns will be cavalierly dealt with or overridden. If however, the two necessary perspectives are separately and equally represented, a more just system of Check and Balance is created.

BILL NEEDS STRUCTURE

As presented, the legislation does not have sufficient organizational structure. The purview and scope of the proposed department are only given in broad general statements. In our particular case (d) "Oversight, coordination, and participation in all planning activities related to land, water soil, air, and other natural resources of the territory", we would like a better idea of how we are intended to function within the DNR. How does our function relate to the Department of Land Management's planning section, for instance, and to the Natural Resources Board. Are there any requirements for the composition of the Board? Such boards should represent a cross section of the governed population. There should be development, environmental, homeowners groups, consumer groups, clergy-in short a cross section representation. Current boards are weighted too heavily in favor of a single view point, which skews decision patterns. These things should be written into the organizational enabling legislation.

There should also be an organization chart delineating functions, interactions with other parts of the department and the relationship of the department to the Board, Director, and other agencies. This chart should also indicate which current agencies or portions thereof make up the units within the proposed DNR.

A department could not be constructed from what is written in this Bill. It needs a structural outline. Without that to work from an included agency would not be clear on what its function is, what its powers are, or what its relationship is within the hierarchy.

FRAGMENTED PROGRAMS

The Bill fails to address the fragmented programs and functions of agencies not absorbed by DNR. For example, with the proposed transfer of land use planning and cartographic functions to DNR, two Bureau of Planning programs remain unassigned to any agency. While the Planning Information and Social Planning programs do not exclusively perform land and coastal resource planning, both are involved with projects that relate to or support natural resource management. Their fate is not addressed.

Also unaddressed by the Bill are remaining functions of the Recreation Division of the Department of Parks and Recreation. Would this function be phased out, absorbed by another agency, or contracted to the private sector?

The management of public lands are addressed under Chapter III, Public Land Management. However, no reference is made to private land management, for example, the functions of TPC.

BOARDS NOT ADDRESSED

The proposed legislation does not clearly address the following boards/commissions fate: Territorial Planning Commission (DLM), Territorial Seashore Protection Commission (DLM), Environmental Protection Agency Board (EPA), Historic Preservation Board (DPR) and the Subdivision Development Review Committee (DLM). Assuming that the functions of these boards were absorbed by the DNR board, the responsibilities would be overwhelming. The Comprehensive Development Plan and Central Planning Council are assumed to be abolished, but whether they are or not should be clearly stated.

In addition to this function as an advisory/policy making body, it would be responsible for the review of applications for changes, conditional uses and variances from laws involving zoning, land subdivision, seashore protection, aquatic and wildlife resource management, historic preservation and environmental protection. The board would also bear responsibility for the review of various Comprehensive Plan elements. These responsibilities would pose unreasonable demands in terms of time and expertise, and would in all probability, render an ineffective unresponsive body.

TWO AGENCY CONCEPT

While we whole-heartedly support the need to reorganize the Government of Guam for more efficiency and cost effectiveness, we do not feel that the Department of Natural Resources as proposed is the best approach.

After thorough examination of the proposed Department of Natural Resources, we came to the conclusion that it encompasses two dissimilar functions that would be better dealt with as two separate agencies. These would look and function in this manner:

I. LAND ADMINISTRATION DEPARTMENT

This department would include the following agencies and functions or part thereof:

- Bureau of Planning
- Department of Land Management
- Department of Public Works (PART. . . the zone, tract, variance, sign, landscaping inspection function, and the various development permitting functions)

This would streamline "development oriented" functions within the government into a single homogeneous entity. All of the permitting functions would be consolidated in one agency, thus eliminating lack of coordination, ignorance of other agency goals, or cross agency rivalry, of all which now lead to contradicting goals, inefficient decisionmaking and cumbersome coordinative efforts. It would also give advance planning an opportunity to have an input at a more basic level in the land use process, thus coordinating Guam's growth for more efficient land use and more efficient infrastructure provision. Such an agency would also make the inspection for compliance with zoning, setbacks, parking requirements, etc., more meaningful because its scheduling and goals would all come from within the same agency with the same aim and purpose.

Thus, a single land development agency would for the first time combine the three elements of land use permitting, future planning, and land use enforcement into a single purpose agency. These are the traditional basic elements in making the most effective use of land and administration of land and always should have been under a single agency.

II. NATURAL RESOURCE ADMINISTRATION DEPARTMENT

This department would include the following agencies and functions or parts thereof:

- Guam Environmental Protection Agency
- Agriculture's Division of Aquatic & Wildlife Resources and Forestry
- Department of Parks and Recreation

These agencies all deal with the concept of preserving or mitigating the effects upon, to whatever extent they can, the natural elements of our resource base. The Environmental Protection Agency has its particular Federally mandated purview of water, and air resources and their related facets. The

Agriculture departments deal with restoring and protecting our forestry and wildlife resources, and the Department of Parks and Recreation has purview over large pieces of natural wildlands. These agency's common goal and perspective makes them natural partners. Their legal and moral point of view should have the integrity of its own agency not subject to the directions of a more development oriented super agency, conversely a development oriented agency should have its own perspective presented, unadulterated.

The remaining functions of the above agencies could be merged into other existing agencies. These could be addressed at a later date.

In conclusion, we feel that given the basic psychologies and purpose of the agencies proposed for inclusion, they fall into two very discrete categories. Their dissimilar positions are both valid and necessary in their own right and deserve equal and separate status, and representation. To merge them would, because of their dissimilar needs, necessarily cause one or the other not to get its position properly represented. To form them into two homogeneous agencies would streamline the current functioning of the Government of Guam and would still ensure that their separate natures and check and balance functions are preserved. This keeps with the intent of making the government more efficient, but avoids the pitfall of muffling a needed point of view.

FIFTEENTH GUAM LEGISLATURE
 1979 (FIRST) Regular Session

Bill No. 401

Introduced by

R. F. Taitano
 J. F. Quan
 R. Q. Sudo
 J. T. San Agustin

AN ACT TO AMEND SECTION 4106 OF THE GOVERNMENT CODE OF GUAM, TO REPEAL SECTIONS 5106, 5107 AND 5108 OF SAID CODE, TO ADD A NEW SECTION 5106 TO SAID CODE AND TO ADD A NEW TITLE LI TO SAID CODE TO ABOLISH THE DEPARTMENTS OF LAND MANAGEMENT, AGRICULTURE, AND COMMERCE AND TO CREATE A DEPARTMENT OF RESOURCE DEVELOPMENT OF THE GOVERNMENT OF GUAM, TRANSFERRING THE FUNCTIONS OF THE DEPARTMENTS OF COMMERCE, LAND MANAGEMENT AND AGRICULTURE THERETO, AND TO REPEAL AND REENACT SECTION 53555 OF SAID CODE RELATIVE TO THE ADMINISTRATOR OF THE GUAM ECONOMIC DEVELOPMENT ADMINISTRATION.

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

Section 1. Section 5106 of the Government Code of Guam is hereby amended, where pertinent, to read as follows:

"Section 4106. Unclassified Service"

<u>Title</u>	<u>No. of Positions</u>	<u>Salary</u>
Director-of-Agriculture	1	\$-27,500
Director-of-Commerce	1	\$-27,500
Director-of-Land-Management	1	\$ 27,300
<u>Director of Resource Development</u>	<u>1</u>	<u>\$ 35,000"</u>

Section 2. Sections 5106, 5107 and 5108 of the Government Code of Guam are hereby repealed.

Section 3. A new Section 5106 is hereby added to the Government Code of Guam to read as follows:

"Section 5106. Department of Resource Development.

There is within the Executive Branch of the government of Guam a Department of Resource Development. The Director of Resource Development is the head of the Department of Resource Development. The Director of Resource Development is appointed by the Governor with the advice and consent of the Legislature."

Section 4. A new Title LI is hereby added to the Government Code of Guam, to read as follows:

" TITLE LI

Department of Resource Development

Chapter 1

Section 51000. Title. This Chapter may be cited as the 'Department of Resource Development Act.'

Section 51001. Definitions. As used in this Title.

(a) 'Director' means the Director of Resource Development.

(b) 'Department' means the Department of Resource and Development.

Section 51002. Purpose of Department. The purpose of the Department shall be to conserve, protect and wisely utilize all the resources of the territory for the good of the people of Guam.

Section 51003. Land. The Department shall be responsible for and have control over all real property belonging to the government of Guam except land entrusted to the Chamorro Land Trust Commission pursuant to the provisions of Chapter VI, Title XIV of the Government Code of Guam.

Section 51004. Agriculture. The Department shall protect and promote the agricultural resources and economy of Guam.

Section 51005. Commerce. The Department shall promote and support the prosperous development of business, industry and commerce in Guam.

Section 51006. Transfer of functions. Except as otherwise specifically provided herein, the Department shall assume all the powers, duties and responsibilities of the Department of Land Management as set out in Title XIV of this Code, the Department of Agriculture as set out in Title XIII of this Code and the Department of Commerce as set out in Title XLIV of this Code.

1 Section 51007. Effect of Transfer. The Department
2 shall for the purpose of succession to all rights, powers,
3 duties and obligations of the former Departments of
4 Agriculture, Land Management and Commerce, be deemed and
5 held to constitute a continuation of the former Depart-
6 ments with the same force and effect as if the functions,
7 powers and duties had not been assigned or transferred.
8 Whenever the Department of Land Management, the Department
9 of Agriculture or the Department of Commerce are referred
10 to by law, contract, Executive Order, rule or regulation
11 or document, such reference shall be deemed to mean the
12 Department of Resource Development. All references to
13 the Director of Land Management, Director of Agriculture
14 or Director of Commerce in law, contract, rule or
15 regulation, Executive Order or document shall be deemed
16 to mean the Director of Resource Development.

17 Section 51008. Organization and Personnel. (a) The
18 Director may establish such divisions or other organizational
19 units as he may determine to be necessary for the efficient
20 and effective administration and operation of the Depart-
21 ment. Each such division or organizational unit shall be
22 subject to the supervision and direction of the Director
23 and shall have jurisdiction of such matters, exercise such
24 powers; and perform such duties as may be assigned to it
25 by the Director or otherwise by applicable law. (b) The
26 Director may appoint and remove officers and other employees
27 within the Department in accordance with the provisions
28 of the Personnel and Compensation Laws, Title V, Government
29 Code of Guam. (c) The Director may delegate authority
30 for the performance of any of his powers or duties to any
31 officer or employee under his direction and supervision.

1 Section 51009. General powers and duties of Director.

2 As head of the Department, the Director:

3 (a) Shall administer the Department.

4 (b) Shall exercise and discharge the powers
5 and duties of the Department through such divi-
6 sions, or other organizational unit as he may
7 establish pursuant to this Title or as otherwise
8 provided by law.

9 (c) Shall enforce the provisions of this Title
10 and of any other laws imposing any power, duty or
11 other function upon the Department.

12 (d) May, subject to the provisions of the
13 Administrative Adjudication Act, formulate and
14 adopt rules necessary or proper for the internal
15 administration of the Department, subject to
16 approval by the Governor of Guam.

17 Section 51010. Transfer of records and equipment.

18 Upon the transfer of functions as provided in this Chapter
19 all contracts, books, records, papers, maps, plans,
20 documents, property and pending business heretofore
21 made, used and acquired or conducted by the Departments
22 of Agriculture, Land Management or Commerce in the
23 exercise of the functions transferred shall be transferred
24 to the Department of Resource Development.

25 Section 51011. Transfer of officers and employees.

26 All officers and employees of the Departments of
27 Agriculture, Land Management or Commerce, upon the
28 transfer of the functions, shall be transferred to the
29 Department of Resource Development. The Director of
30 Resource Development, in the interest of improved
31 departmental management and subject to the approval
32 of the Civil Service Commission, shall have the power

1 to abolish unnecessary offices and positions, to transfer
2 officers and employees between positions, and to change
3 duties and titles of existing offices and positions.

4 Any employee who may be laid-off or otherwise removed
5 as a result of this Act shall have the first preference
6 in the filing of any vacant position within the Executive
7 Branch, including vacant positions in independent in-
8 strumentalities and agencies provided such employee has
9 the minimum qualifications to fill such vacant position.

10 Section 51012. Effective date. This Chapter shall
11 take effect upon its passage and approval, but in order
12 that there be no interruption of the administrative
13 business of the government, the Governor may, for a
14 period not to exceed six (6) months, postpone the actual
15 transfer of all or a portion of the functions here in-
16 volved until such time as the organization herein provided
17 for can be put into full force and effect. Except as
18 otherwise provided, all officers, their subordinates
19 and employees whose functions are preserved by this
20 Chapter shall continue to perform the same from the time
21 this Chapter takes effect in like manner as though they
22 had been appointed or employed after the passage of this
23 Chapter until successors to said functions and duties
24 are appointed and qualified."

25 Section 5. All unexpended appropriations heretofore made
26 for the operations of the Departments of Agriculture, Land Manage-
27 ment and/or Commerce shall be transferred to the Department of
28 Resource Development as this Act is implemented by the Governor.

29 Section 6. The costs for the internal reorganization of
30 the Department of Resource Development established by this

1 Act shall be paid for from an appropriation to be made by the
2 Guam Legislature upon the submission of an estimate thereof
3 by the Governor of Guam. It is the intent of the Guam
4 Legislature that such costs shall not be paid from the
5 approved regular operating budget of the Executive Branch.

6 Section 7. Section 53555 of the Government Code of Guam
7 is hereby repealed and reenacted to read as follows:

8 "Section 53555. Administrator. The Administrator of
9 the Guam Economic Development Administration shall be the
10 Director of Resource Development appointed pursuant to
11 Section 5106 of this Code. The Administrator shall be
12 directly responsible to the Board for the day-to-day
13 operations of the Corporation and shall administer its
14 programs and policies. The Administrator shall be an
15 ex-officio member of the Board, without the right to vote
16 therein.

DEPARTMENT OF NATURAL RESOURCES

Prepared by: Bureau of Planning

Introduction

Previous audits, both federal and local, have repeatedly pointed to the problem of management of our natural resources. Scattered, cumbersome and wasteful, the existing organization is no longer effective in overseeing the use and development of our land, water, wildlife and aquatic resources. The present system has not been able to keep pace with the increasing population, technology and standard of living which have inevitably placed growing pressure on our resources. In many instances, the Government has failed in its role of meeting Guam's economic needs while ensuring the continued availability of its resources.

In his State of the Territory Address, Governor Paul Calvo affirmed his interest in exploring the feasibility of consolidating some of the agencies, departments, and functions related to the management of the island's natural resources. Through Circular No. 79-26, a Resource Management Task Force was created to examine the administration of existing laws and regulations and provide recommendations for improvement in this area of government activity. One option considered was the consolidation of natural resource programs under a Department of Natural Resources. This report outlines an alternative under that option, conducive to more efficient management and reduced bureaucratic red tape and administrative costs in managing the Territory's resources.

Background

Initially, the Government of Guam utilized only three departments and one commission to manage the Territory's land and water resources. Public Law 1-88, enacted in 1952, provided for the creation of the Territorial Planning Commission, the Department of Land Management, the Department of Public Works, and the Public Utility Agency of Guam. Considering the limited number of functions and personnel under the departments and public demand placed on our natural resources at that time, these agencies were relatively manageable and effective.

As the number of functions of government grew and as the public's demand on natural resources increased, the gap was filled by the creation of additional departments or agencies. The resultant pattern has been single-function entities developing into multi-function departments with divisions eventually spinning off to form new departments. Although this pattern of expansion has facilitated the management of our resources from different perspectives, the evolved structure appears to have weakened, in certain respects, in its ability to effectively manage Guam's limited land and water resources.

Administration of existing laws and regulations has never been completely adequate. Coordination difficulties have created significant confusion among some enforcement agencies as to the extent of their jurisdiction. Inadequate analysis of current laws have led to a proliferation of proposed bills which conflict with provisions in existing legislation. Considerable overlapping and duplication of agency functions, funding problems, and staffing difficulties are among the plethora of problems that have plagued management of our limited resources.

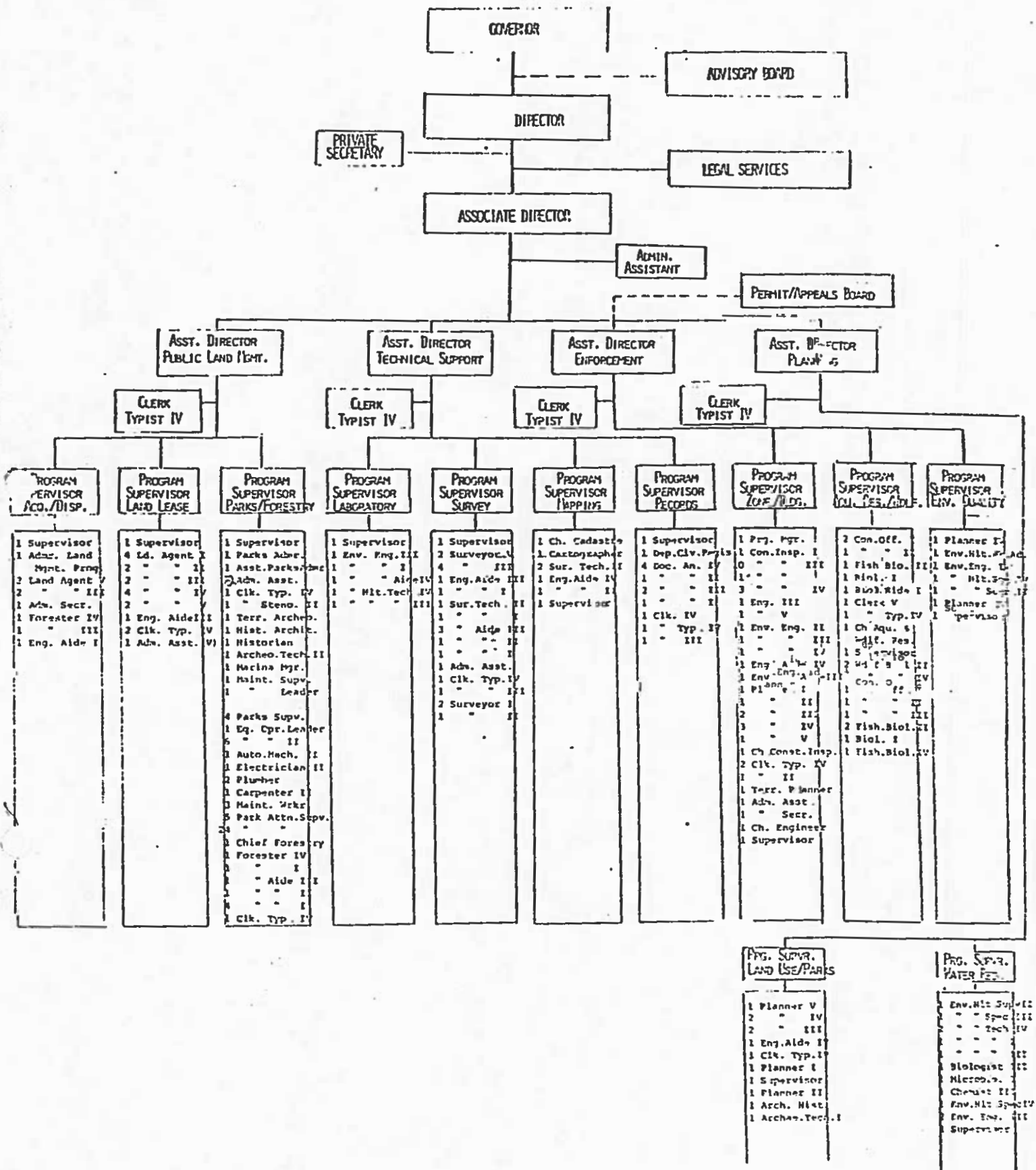
Objective/Purposes

The objective of this report is to show how various government functions may be consolidated under a single department for increased efficiency and effectiveness in managing Guam's water, land, air, aquatic, and wildlife resources.

Although a multitude of dimensions is involved in the use of the Territory's resources, the focus of this reorganization is in management rather than the operations aspect of our natural resources. Operational functions, such as the Solid Waste Division of Public Works, are not considered for inclusion in the Department of Natural Resources.

The organization, functions, and impacts of a Department of Natural Resources are outlined in this report. Costs for staffing will be based on the current Government of Guam Civil Service classification system and consider the existing staffing levels of the government's natural resource programs. Funding requirements for physical space needs are undetermined. It is suggested, however, that related agency functions, such as those requiring extensive contact with the public, will be housed in one existing building.

DEPARTMENT OF NATURAL RESOURCES



BUDGET SUMMARY FOR THE
DEPARTMENT OF NATURAL RESOURCES

	No. of Positions	110	170	120	130	140	150	160	190	TOTAL
Administrative Director	7	147,928	16,393	16,000	10,000	5,000	6,000	2,800	7,200	211,321
Land Management Director	2	34,028	4,016	1,500	4,000	600	2,000	1,500	-0-	47,644
Land Management Director	10	148,288	17,833	670	2,510	3,031	2,307	-0-	-0-	174,639
Land Management Director	19	251,040	29,564	750	1,812	1,569	7,838	-0-	-0-	292,573
Land Management Director	72	747,515	90,225	5,306	55,611	40,827	56,502	51,923	-0-	1,047,909
Technical Support Director	2	34,028	4,016	1,500	4,000	600	2,000	1,500	-0-	47,644
Technical Support Director	6	80,442	8,333	180	1,067	1,723	281	-0-	-0-	92,026
Technical Support Director	23	273,671	33,277	-0-	1,285	4,528	7,923	-0-	-0-	320,684
Technical Support Director	7	100,204	12,272	2,420	60,005	1,979	2,231	73	2,640	181,824
Technical Support Director	13	169,076	19,327	8,625	29,880	36,479	11,754	7,300	4,350	286,791
Management Director	2	34,028	4,016	1,500	4,000	600	2,000	1,500	-0-	47,644
Management Director	40	569,603	67,604	3,310	42,268	3,376	2,380	-0-	4,320	692,861
Management Director	20	254,357	30,639	13,250	86,528	44,317	74,428	-0-	-0-	503,519
Management Director	7	107,459	13,057	180	1,067	1,723	281	-0-	-0-	123,767
Management Director	2	34,028	4,016	1,500	4,000	600	2,000	1,500	-0-	47,644
Management Director	12	166,929	19,572	7,667	189,690	3,705	4,425	-0-	8,040	400,028
Management Director	13	182,881	19,776	200	45,812	20,851	400	-0-	-0-	269,920
TOTAL	257	3,335,505	393,936	64,558	543,535	171,508	184,750	68,096	26,550	4,788,438

Department of Natural Resources

As proposed, the Department of Natural Resources (DNR) is a line agency administered by a Director who is appointed by the governor with the legislature's advice and consent. Serving the DNR is an advisory board that replaces functions of currently existing policy-making boards, such as the Environmental Protection Agency Board, Historic Preservation Review Board and Parks and Recreation Commission. Also part of this organization is a permit/appeals board which conducts hearings for citizens that may request certain consideration from an administrative action or agency policy. Members of both boards are composed of citizens appointed by the Governor with the approval of the legislature. Legal counsel and representation from a staff of attorneys, separate from the Attorney General's Office, is available to the various divisions. The estimated staff and budget level of Administration is outlined on Attachment A.

The Department of Natural Resources is composed of four major divisions: Public Land Management, Technical Support, Enforcement, and Planning. Such grouping results in a management program based on function, responsive to the island's current needs and development trends. Following is a summary outline of the four divisions, noting their proposed functions, relationship to current management programs, and estimated budget and staffing levels.

A. Public Land Management (PLM)

Drawing from the current Departments of Land Management, Agriculture, and Parks and Recreation, the PLM Division would be responsible for managing that 30% of the Territory's land area under local government ownership. Currently, oversight of the public's land is divided primarily amongst the above three agencies.

Coordinative difficulties pervade the current management of public land. Leasing of such land for ostensibly agricultural use is overseen, in part, by both the Departments of Agriculture and Land Management. The Chamorro Land Trust Commission, charged with allocation of available public lands to Chamorros, has never been implemented. Management of the Territory's "conservation" areas is handled, again in part, by portions of the above-mentioned three agencies.

As proposed, the PLM Division would consolidate all management responsibilities into three sections: Acquisition and Disposition (A&D), Land Leasing, and

ATTACHMENT A

DEPARTMENT OF NATURAL RESOURCES
FY 1980 BUDGET BREAKDOWN

Administration

Director's Office

110 Salaries	\$147,928
170 Benefits	16,393
120 Travel	
Off-Island	4,000
Recruitment	12,000
130 Contractual	10,000
140 Supplies	5,000
150 Equipment	6,000
160 Utilities	2,800
190 Miscellaneous	<u>7,200</u>
Total	\$211,321

No. of Positions: 7

the PLM Division's A&D section. The mechanics of leasing government land, whether it be for residential, agricultural, or commercial purposes would be the responsibility of the Land Lease section. Those lands, such as parks, conservation areas, and beaches, held solely for public use and utilized for both resource management and recreational purposes, would be administered under the PLM Division's Parks and Forestry Section. Assuming such consolidation occurs physically, as well as administratively, the management of Government of Guam's major fiscal asset, its land, would be handled by one division, rather than the current Agana, Mongmong-Toto-Maite, Mangilao triad.

The estimated staff and budget of the DLM Divisions are outlined in Attachment B (1-5).

B. Technical Support

The DNR's Technical Support Division would house the government's surveying, mapping, land recordation, and water-related laboratory services. Currently, surveying is performed by both the Department of Public Works and the Department of Land Management. Various mapping efforts are carried out by the Bureau of Planning, Department of Land Management, and the Department of Public Works. Land Records is currently a division within the Department of Land Management.

As in the case of Public Land Management, dispersal of the government's surveying and mapping programs amongst several agencies results in duplication, lack of coordination, and added costs or time delays. The government's available surveying resources required for highway construction, land lease programs, park development, and various other land management programs could be better allocated and more efficiently utilized were they housed within one Technical Support Division.

The government's mapping resources are currently spread throughout a number of agencies. No central file of maps is maintained, though most are required to be recorded. Highway, land-use, and zoning maps should be available in one central location--easily available to other DNR Divisions, as well as the general public. Their preparation, revision, and updating should be overseen by one section manager--ensuring that new place names, zoning designations, roadways, and plans are reflected accurately and promptly.

ATTACHMENT B-1

DEPARTMENT OF NATURAL RESOURCES
FY 1980 BUDGET BREAKDOWN

Public Land Management

Divisional Summary

110 Salaries	\$1,180,871
170 Benefits	141,638
120 Travel	8,226
130 Contractual	63,933
140 Supplies	46,027
150 Equipment	68,647
160 Utilities	53,423
190 Miscellaneous	<u> -- </u>
Total	\$1,562,765

No. of Positions: 103

DEPARTMENT OF NATURAL RESOURCES
FY 1980 BUDGET BREAKDOWN

Public Land Management

Ass't. Director's Office

110 Salaries	\$34,028
170 Benefits	4,016
120 Travel	1,500
130 Contractual	4,000
140 Supplies	600
150 Equipment	2,000
160 Utilities	1,500
190 Miscellaneous	<u> </u>
Total	\$47,644

No. of Positions: 2

ATTACHMENT B-3

DEPARTMENT OF NATURAL RESOURCES
FY 1980 BUDGET BREAKDOWN

Public Land Management

Land Lease

110 Salaries	\$251,040
170 Benefits	29,564
120 Travel	750
130 Contractual	1,812
140 Supplies	1,569
150 Equipment	7,838
160 Utilities	-
190 Miscellaneous	-
Total	\$292,573

No. of Positions: 19

ATTACHMENT B-4

DEPARTMENT OF NATURAL RESOURCES
FY 1980 BUDGET BREAKDOWN

Public Land Management

Acquisition/Disposition

110 Salaries	\$148,288
170 Benefits	17,833
120 Travel	670
130 Contractual	2,510
140 Supplies	3,031
150 Equipment	2,307
160 Utilities	-
190 Miscellaneous	-
Total	\$174,639

No. of Positions: 10

DEPARTMENT OF NATURAL RESOURCES
FY 1980 BUDGET BREAKDOWN

Public Land Management

Parks/Forestry

110 Salaries	\$747,515
170 Benefits	90,225
120 Travel	5,306
130 Contractual	55,611
140 Supplies	40,827
150 Equipment	56,502
160 Utilities	51,923
190 Miscellaneous	
Total	\$1,047,909

No. of Positions: 72

The filing and recording of land transactions and titles, closely related to the survey and mapping programs, would constitute the remaining Technical Support Division Section. Use of microfilm and introduction of the numerical index program, a necessity under Guam's unique Torrens System, will further aid in this section's operational efficiency.

Also included within the Technical Support Division are the laboratory facilities of the current Guam Environmental Protection Agency.

The estimated staffing level and budget for the Technical Support Division is outlined in Attachment C (1-6).

C. Enforcement

Perhaps one of the weakest links in the Government's management of its natural resources is its enforcement mechanism. Plagued by unclear and conflicting laws, insufficient staff, meager finances, and an understandably confused citizenry, an overhaul of the government's regulatory machinery is long overdue.

The DNR's Enforcement Division would consolidate regulation and enforcement of the government's resource-related laws, rules and regulations into three sections: Building and Zoning, Aquatic Resource and Wildlife, and Environmental Quality.

The Building and Zoning Section, which combines functions of the Department of Public Works' current Building Permit Section and the Department of Land Management's Planning Division, would consolidate two closely related sections with heavy public exposure. Enforcement of the Building, Zoning, and Subdivision laws would occur through this one section, improving permit processing, evaluation, issuance, and monitoring. Permits for development along the Seashore Reserve, in submerged lands, wetlands, and flood hazard areas would also be issued by this section.

Enforcement of laws and regulations relating to the taking of fish, coral, shellfish and game would be the responsibility of the Aquatic Resources and Wildlife Enforcement Section. Though currently the task of the Department of Agriculture's Aquatic and Wildlife Resources Division, existing staff levels are far short of those necessary to effectively enforce and protect these resources. As in the case of all enforcement officers, this staff would also serve as agents, advising the Ministry of Agriculture on laws

ATTACHMENT C-1

DEPARTMENT OF NATURAL RESOURCES
FY 1980 BUDGET BREAKDOWN

Technical Support

Divisional Summary

110 Salaries	\$657,421
170 Benefits	77,225
120 Travel	12,725
130 Contractual	96,237
140 Supplies	45,309
150 Equipment	24,189
160 Utilities	8,873
190 Miscellaneous	<u>6,990</u>
Total	\$928,269

No. of Positions: 51

ATTACHMENT C-2

DEPARTMENT OF NATURAL RESOURCES
FY 1980 BUDGET BREAKDOWN

Technical Support

Assistant Director's Office

110 Salaries	\$34,028
170 Benefits	4,016
120 Travel	1,500
130 Contractual	4,000
140 Supplies	600
150 Equipment	2,000
160 Utilities	1,500
190 Miscellaneous	<u>-0-</u>
Total	\$47,644

No. of Positions: 2

ATTACHMENT C-3

DEPARTMENT OF NATURAL RESOURCES
FY 1980 BUDGET BREAKDOWN

Technical Support

Survey

110 Salaries	\$273,671
170 Benefits	33,277
120 Travel	-0-
130 Contractual	1,285
140 Supplies	4,528
150 Equipment	7,923
160 Utilities	-0-
190 Miscellaneous	<u>-0-</u>
Total	\$320,684

No. of Positions: 23

ATTACHMENT C-4

DEPARTMENT OF NATURAL RESOURCES
FY 1980 BUDGET BREAKDOWN

Technical Support

Mapping

110 Salaries	\$100,204
170 Benefits	12,272
120 Travel	2,420
130 Contractual	60,005
140 Supplies	1,979
150 Equipment	2,231
160 Utilities	73
190 Miscellaneous	<u>2,640</u>
Total	\$181,824

No. of Positions: 7

ATTACHMENT C-5

DEPARTMENT OF NATURAL RESOURCES
FY 1980 BUDGET BREAKDOWN

Technical Support

Records

110 Salaries	\$169,076
170 Benefits	19,327
120 Travel	8,625
130 Contractual	29,880
140 Supplies	36,479
150 Equipment	11,754
160 Utilities	7,300
190 Miscellaneous	<u>4,350</u>
Total	\$286,791

No. of Positions: 13

ATTACHMENT C-6

DEPARTMENT OF NATURAL RESOURCES
FY 1980 BUDGET BREAKDOWN

Technical Support

Laboratory

110 Salaries	\$80,442
170 Benefits	8,333
120 Travel	180
130 Contractual	1,067
140 Supplies	1,723
150 Equipment	281
160 Utilities	-0-
190 Miscellaneous	<u>-0-</u>
Total	\$92,026

No. of Positions: 6

Recognizing the importance of our air, water, and soil to our livelihood and well being, it is appropriate to dedicate the remaining DNR Enforcement Division Section to the protection of these resources. This Environmental Quality Section would essentially consist of the current Guam Environmental Protection Agency, without its Section 201 and 208 planning programs. Included within this section would be the Safe Drinking Water, Community Wastewater, Individual Wastewater, Air Pollution Control, Pesticide Control, and Solid Waste Management programs. Again, recognizing dependency of the island's game, fish, and human populations on clean water resources, close coordination with the Aquatic Resources and Wildlife Section's enforcement staff would be essential. Housed under one division, evaluation of grading permit applications, as to their potential effect on soil resources, could be more easily conducted and coordinated.

The current array of permit and appellate functions performed by the Territorial Planning Commission, Seashore Protection Commission, and GEPA Board of Directors would be combined into one Permit/Appeals Board, appointed by the governor, with the legislature's advice and consent. The Enforcement Division's Assistant Director would serve as staff to the Board, coordinating presentation of the applications and appeals through the three section managers.

The estimated staffing and budget for the DNR Enforcement Division are outlined on Attachment D (1-5).

D. Planning

Much remains to be accomplished in properly planning use of the two-thirds of the Territory not under federal control. Development of the Coastal Management Program, 201 and 208 Wastewater and Water Quality Management Plan, Territorial Highway, and Parks and Recreation Plans, provide the basis for the future development and management of our related resources.

However, constant update and periodic revision of these plans, as well as development of new or more site-specific or detailed plans requires a continual coordinated planning effort. The DNR's Planning Division would house all resource-related planning programs, ensuring a level of coordination not exercised under current administrative mechanisms.

ATTACHMENT D-1

DEPARTMENT OF NATURAL RESOURCES
FY 1980 BUDGET BREAKDOWN

- Enforcement

- Assistant Director's Office

110 - Salaries	\$34,028
170 - Benefits	4,016
120 - Travel	1,500
130 - Contractual	4,000
140 - Supplies	600
150 - Equipment	2,000
160 - Utilities	1,500
190 - Miscellaneous	<u>-0-</u>
TOTAL	\$47,644

No. of Positions: 2

ATTACHMENT D-2

DEPARTMENT OF NATURAL RESOURCES
FY 1980 BUDGET BREAKDOWN

- Enforcement

- Divisional Summary

110 - Salaries	\$965,447
170 - Benefits	115,316
120 - Travel	18,240
130 - Contractual	133,863
140 - Supplies	50,016
150 - Equipment	79,089
160 - Utilities	1,500
190 - Miscellaneous	<u>4,320</u>
TOTAL	\$1,367,791

No. of Positions: 69

ATTACHMENT D-3
DEPARTMENT OF NATURAL RESOURCES
FY 1980 BUDGET BREAKDOWN

- Enforcement

- Aquatic Resources & Wildlife

110 - Salaries	\$254,357
170 - Benefits	30,639
120 - Travel	13,250
130 - Contractual	86,528
140 - Supplies	44,317
150 - Equipment	74,428
160 - Utilities	-
190 - Miscellaneous	-
TOTAL	503,519

No. of Positions: 20

ATTACHMENT D-4

DEPARTMENT OF NATURAL RESOURCES
FY 1980 BUDGET BREAKDOWN

Enforcement

Zoning/Building

110 Salaries	\$569,603
170 Benefits	67,604
120 Travel	3,310
130 Contractual	42,268
140 Supplies	3,376
150 Equipment	2,380
160 Utilities	-
190 Miscellaneous	<u>4,320</u>
Total	\$692,861

No. of Positions: 40

ATTACHMENT D- 5
DEPARTMENT OF NATURAL RESOURCES
FY 1980 BUDGET BREAKDOWN

- Enforcement

- Environmental Quality

110 - Salaries	\$107,459
170 - Benefits	13,057
120 - Travel	180
130 - Contractual	1,067
140 - Supplies	1,723
150 - Equipment	281
160 - Utilities	-
190 - Miscellaneous	-
TOTAL	\$123,767

No. of Positions: 7

Currently, planning for parks, highways, subdivisions, and long-term land and water resource uses is divided among the Departments of Parks and Recreation, Public Works, Land Management, and Agriculture, the Bureau of Planning, and the Guam Environmental Protection Agency. Because of the close inter-relationship of land, water, fish, and wildlife resource planning, the Planning Division is not as easily divided into distinct sections, as are the other DNR Divisions.

However, several general subject areas can be identified. A land-use planning function, including that performed currently by the Bureau of Planning under its Coastal Management Program, subdivision design by the DLM's Planning Division, and park planning conducted by the Department of Parks and Recreation would be one of this Division's major responsibilities.

The current 201 and 208 water-related planning programs, in addition to the aquatic resource planning activities of the Department of Aquatic and Wildlife Resources Division would comprise a water-related planning section. The Planning Division would require the supportive services of the DNR's technical support staff and close coordination with the PLM Division. The Bureau of Planning, within the Governor's Office, would retain a much reduced physical planning staff for the purpose of overall coordination and policy development, consistent with its enabling legislation.

The estimated staff and budget of the DNR Planning Division is outlined on Attachment E (1-4).

DEPARTMENT OF NATURAL RESOURCES
FY 1980 BUDGET BREAKDOWN

- Planning

- Divisional Summary

110 - Salaries	\$383,838
170 - Benefits	43,364
120 - Travel	9,367
130 - Contractual	239,502
140 - Supplies	25,156
150 - Equipment	6,825
160 - Utilities	1,500
190 - Miscellaneous	<u>8,040</u>
TOTAL	\$717,592

No. of Positions: 27

DEPARTMENT OF NATURAL RESOURCES
FY 1980 BUDGET BREAKDOWN

- Planning
- Assistant Director's Office

110 - Salaries	\$34,028
170 - Benefits	4,016
120 - Travel (Off-Island)	1,500
130 - Contractual	4,000
140 - Supplies	600
150 - Equipment	2,000
160 - Utilities	1,500
190 - -0-	<u>-0-</u>
TOTAL	\$47,644

No. of Positions: 2

DEPARTMENT OF NATURAL RESOURCES
FY 1980 BUDGET BREAKDOWN

- Planning

- Water Resources

110 - Salaries	\$182,881
170 - Benefits	19,776
120 - Travel	200
130 - Contractual	45,812
140 - Supplies	20,851
150 - Equipment	400
160 - Utilities	-
190 - Miscellaneous	-
TOTAL	\$269,920

No. of Positions:	13
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ATTACHMENT 2
DEPARTMENT OF NATURAL RESOURCES
FY 1980 BUDGET BREAKDOWN

- Planning

- Land Use / Parks

110 - Salaries	\$166,929
170 - Benefits	19,572
120 - Travel	7,667
130 - Contractual	189,690
140 - Supplies	3,705
150 - Equipment	4,425
160 - Utilities	-
190 - Miscellaneous	<u>8,040</u>
TOTAL	\$400,028

No. of Positions: 12

Summary

Departments created and charged with resources management in the past 30 years have not been able to effectively oversee the use of our land, water, aquatic and wildlife resources. Policy and management conflicts between agencies have resulted in the misuse of the Territory's resources. Although problems of administration exist and are recognized within a single agency's programs, the overall organization of agencies involved in resources management has not been conducive to efficient management and reduced bureaucratic red tape.

The Department of Natural Resources is an agency with functions of all or parts of the following agencies: Departments of Land Management, Parks and Recreation, Agriculture, Public Works, Guam Environmental Protection Agency and Bureau of Planning. As proposed, the DNR is a line agency administered by a Director and an Associate Director, served by an advisory board and a permit/appeals board. A legal section, separate from the Attorney General's Office serves the boards, directors and the four major divisions: Public Land Management, Technical Support, Enforcement and Planning.

Positive impacts of a DNR include the following:

- 1) Improved management through greater utilization of personnel will result from grouping functions and responsibilities currently scattered throughout a number of government agencies. Better planning and programming of human resources toward continued resources management will be realized:

- . Consolidated planning functions will result in more comprehensive, coordinated planning for land, water, air, wildlife and aquatic resources.
- . Combined technical support functions will accelerate survey mapping and registration of government and private land.
- . Land administration programs housed under one division of DNR will facilitate increased coordination in the management of our Territory's land resources.
- . More effective enforcement (citation and prosecution) will result by keeping natural resources enforcement programs and legal support under one department. This will help facilitate an improved permit system not only in

- 2) Program conflicts will be more easily resolved within a single department as opposed to several. Uniform natural resource policies would be established to better guide management.
- 3) Public convenience will be served by locating various programs, especially those involved in permit issuing, in one centrally located building. Reorganization, as proposed, will preclude the existing confusion of inter-agency coordination problems, resulting delays and added costs.
- 4) Consolidation of programs from several agencies, such as survey, will facilitate improved utilization of local and federal funds. Programs currently supported by the general fund will be able to accomplish more through supplemental federal funding possible by reorganization.
- 5) Administrative costs (manpower, equipment and supplies) will be higher than any one of several agencies, but less than the sum of all involved departments. Although initial costs will be required for the implementation of this organization, cost savings will be realized in terms of functions, such as permit processing, regulation enforcement and planning through a reduction of units involved. The DNR cost analysis is outlined on Attachment F (1-3).

ATTACHMENT F-1
DEPARTMENT OF NATURAL RESOURCES
COST ANALYSIS

<u>Items Transferred to Dept. of Natural Resources</u>	<u>FY'80 Total Dept. Budget</u>	<u>Total Department of Natural Resources Budget</u>	<u>Variance</u>
Land Management	\$ 986,660	\$ 871,903	\$ 114,757
Guam Environmental Protection Agency	753,289	503,771	249,518
Agriculture	1,317,582	600,253	717,329
Parks and Recreation	1,651,600	955,090	696,510
Public Works			
- Right-of Way	289,148		
- Building Permits and Inspection	318,825	607,973	-0-
Bureau of Planning			
- Local BOP	304,139		
- Coastal Zone Management	470,000	486,842	287,297
Sub-Total	6,091,243	4,025,832	2,065,411
Newly created offices and Administrative Services		667,769	(667,769)
TOTAL	<u>\$6,091,243</u>	<u>\$4,693,601</u>	<u>\$1,397,642</u>

Figures for centralizing facilities are not included.

DEPARTMENT OF NATURAL RESOURCES

FY'80 Budget Transferred
to Dept. of Natural Res.Transferred to DNRItRecords
Administration

\$184,613

227,154

187,845

272,291\$871,903Director's Office
Permits & Inspection

289,148

318,825607,973Director's OfficeCity Manager
Public Works
Drinking Water
Waste Management
Pollution Control
Wildlife Management
Fire Services

95,849

53,531

99,961

42,567

38,074

29,755

144,034503,771nniBOP
Administration

16,842

470,000486,842Dept.'s Remaining BudgetRemaining Dept./SectionLand Management

Director's Office

\$114,757

\$114,757Guam Environmental Protection Agency

Administrative Services

249,518

Bureau of Planning

Local BOP

287,297

287,297

ATTACHMENT F-3

Natural Resources

<u>Transferred to DNR</u>	<u>FY'80 Budget Transferred to Dept. of Natural Res.</u>	<u>Remaining Dept./Section</u>	<u>Dept.'s Remaining Budget</u>
<u>Parks & Recreation</u>			
	\$955,090	. Director's Office	\$148,697
		. Recreation Division	547,813
	<u>955,090</u>		<u>696,510</u>
<u>Agriculture</u>			
	99,579	. Director's Office	111,479
	47,390	. Consumer Marketing	108,359
	270,582	. Equipment & Maintenance	113,876
	182,694	. Poultry & Livestock	170,122
		. Quarantine	87,295
		. Plant Nursery	119,199
	<u>600,253</u>		<u>717,321</u>
<u>TOTAL:</u>	<u>\$4,025,832</u>		<u>\$2,065,411</u>

Introduction

In his State of the Territory address and in his memorandum creating the Natural Resources Management Task Force (NRMTF), Governor Paul Calvo reaffirmed his interest in exploring the feasibility of consolidating some of the agencies and functions related to the management of the island's resources. Formed in an effort towards more efficient, coordinated, and effective management of Guam's resources, the Task Force was to identify and document current management deficiencies and provide to the Governor a list of recommendations for improvement of current resources programs and systems. Appointed to the Task Force were representatives from the following agencies and departments:

- . Bureau of Planning (Chairperson)
- . Bureau of Budget and Management Research
- . Department of Agriculture
- . Department of Land Management
- . Department of Public Works
- . Guam Environmental Protection Agency
- . Office of the Attorney General
- . Department of Parks and Recreation

Methodology

Various problem areas in resources management were identified through meetings of the NRMTF and interviews with agencies, such as the Department of Commerce and the Guam Housing and Urban Renewal Authority, who were not members of the Task Force but whose agency functions involve natural resources. Following an assessment and analysis of these problems by the Task Force, two basic options were then considered. One was based on the assumption that existing problems with resources management could be addressed without requiring changes in the current structure of agencies and departments. Recommendations made under this option include the modification of existing statutes and revision of rules and regulations to improve the existing system. The second option, under which several alternatives were discussed, include the consolidation of various natural resource management programs under a single Department of Natural Resources (DNR). The following report discusses both options and provides the recommendations of the Task Force to improve the management of natural resources.

IMPROVING THE EXISTING SYSTEM

The Task Force recommends that the following changes be made to the existing system of managing natural resources. Specific recommendations are presented in four general categories: Legislation, Enforcement, Administration and Planning.

Legislation

1. Chamorro Land Trust Act

This law gives the responsibility of allocating available public lands to the Chamorro Land Trust Commission, the members of which have never been appointed. Numerous questions regarding the constitutionality of this law as well as questions regarding its effectiveness have been raised. The Task Force recommends that the Chamorro Land Trust Act be repealed and be replaced by a comprehensive land use law. It further recommends that the function of public land allocation should remain with the Department of Land Management.

2. Seashore Protection Act

This law provides for the establishment of a Seashore Reserve, from the mean high-water mark inland to 100 meters and seaward to a depth of 60 feet (10 fathoms). Shortly after Typhoon Pamela, the boundary was reduced to 10 meters to allow for the restoration of damaged shoreline homes and now requires that permits be sought for only those developments within the 10 meter boundary. Numerous private citizens have requested to lease lands or renew leases within the 100 meter boundary. However, in an opinion prepared by the Attorney General, it was emphasized that if public use of the seashore reserve can be shown, then there has been complete and effective dedication of the government-owned property lying between the high water mark and the one hundred meter line. The Task Force recommends that the Attorney General's opinion be supported and used in the review of development on public lands located within the 100 meter seashore reserve.

3. Conservation Area Management

Under the present arrangement, various agencies are responsible for managing conservation areas. The Task Force recommends that a Department of Natural Resources be established which would consolidate the Department of Parks and Recreation with the Forestry and Soil Resources Division, the Authorized Wildlife Resources Managing Agency

The Department of Parks and Recreation's Youth Center program should be transferred to the Department of Youth Affairs, while the Department of Agriculture's Commercial Fisheries program should remain within DAG. Although the Task Force considered the inclusion of the UOG's Water Resources Research Center and DYA's Youth Conservation Corps in the DNR, federal regulations and program emphasis warranted their exclusion. The organizational chart of this proposed consolidation is shown on page 4.

4. Zoning

The current process involves the Department of Land Management interpreting the zoning and subdivision law while the responsibility for actual enforcement rests with the Department of Public Works. This practice has resulted in the problem of the Department of Public Works not being aware of the Department of Land Management's interpretation. To resolve this problem, the Task Force recommends that the Department of Land Management and Department of Public Works retain their responsibilities while ensuring that the Department of Land Management immediately inform Department of Public Works of any zoning interpretation.

Enforcement

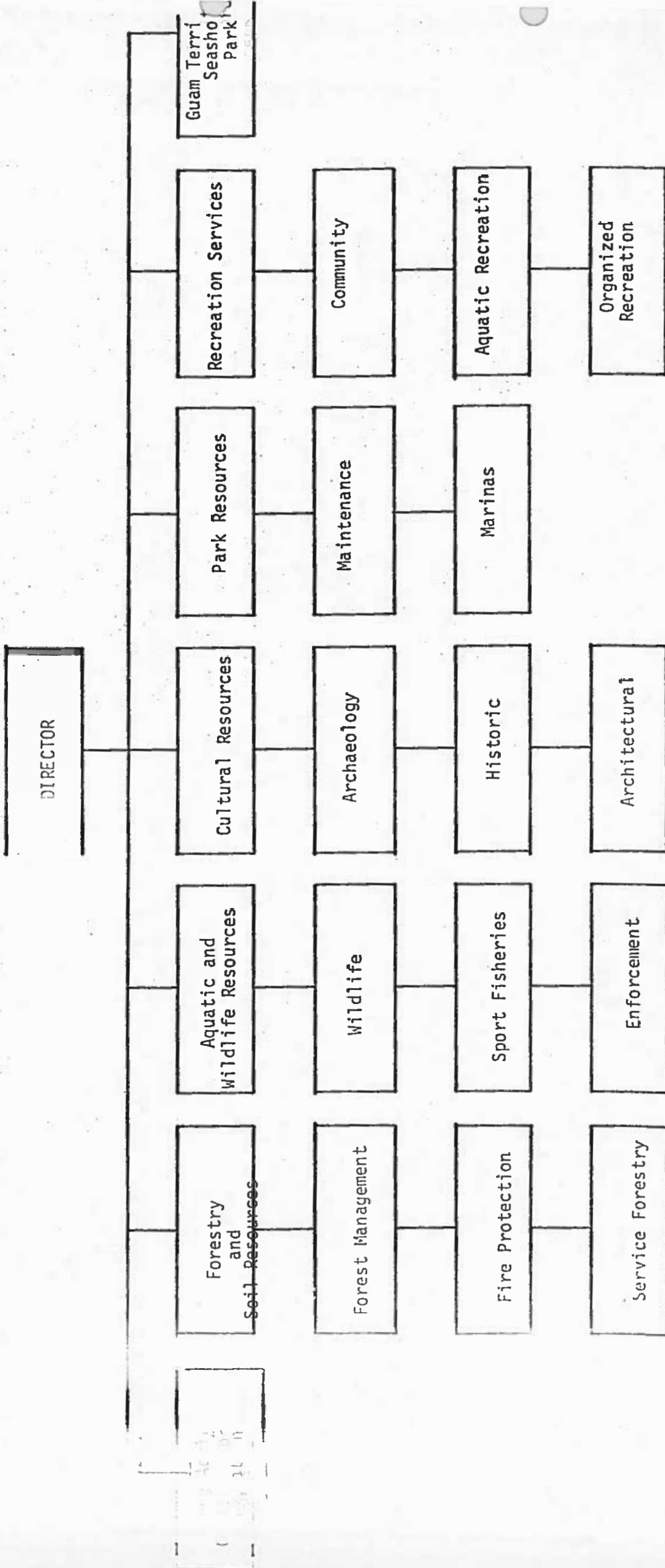
1. Legal Support

In numerous cases in the past, agencies responsible for enforcement of building, zoning, wildlife, and environmental laws have encountered a low level of voluntary compliance by the public. Violators were continuously cited but were rarely prosecuted due to the low priority of these types of violations in relation to all other government problems requiring the Attorney General's attention. The Task Force recommends that increased legal support, which is required to effectively prosecute violators and provide consultation services, be obtained by identifying a corps of attorneys within the Attorney General's Office to handle all natural resources matters. The government should commit additional funds toward necessary legal support and enforcement programs within the various agencies.

2. Enforcement Programs

Often applicants granted licenses from the state are not checked on a basis to determine when the proposed activities adhere to special conditions set by various agencies and commissions, such as the

Proposed Department of Natural Resources



conditions, the Task Force emphasized that each agency that possesses enforcement responsibilities should place greater priority in this area.

Administration

1. Land Records

Although by law the Department of Land Management is responsible for recording all real estate transactions, various agencies have not been forwarding contracts, leases, and documents of a similar nature to the Department of Land Management. This is particularly important in order to establish ownership and use of all government property. The Task Force recommends that all agencies forward all real estate documents to Department of Land Management. It is further recommended that additional funding and expertise be concentrated in reorganization of the land recordation system.

2. Land Survey and Mapping

Dispersal of the government's surveying and mapping programs among several agencies results in duplication, lack of coordination, added costs and delays. These problems are compounded by an even larger problem--government land has never been completely surveyed. As a result, the public continues to lose much of its land to private landowners who include government land in the survey of their property. The Task Force recommends that those agencies that possess survey and mapping personnel and funds be transferred to the Department of Land Management. However, the Department of Land Management must assure that surveying priorities of other agencies not be neglected in the Department of Land Management's survey of public land.

3. Solid Waste Planning and Management

Problems associated with solid waste programs involve two agencies: Guam Environmental Protection Agency, which is responsible for planning; and Department of Public Works, which is responsible for management. The basic problem identified by members of the Task Force is that solid waste management personnel are not trained in efficient landfill operations. In a Task Force meeting, the Guam Environmental Protection Agency has indicated that funds are available to train the Department of Public Works personnel regarding landfill operations. The Task Force recommends that this approach be pursued.

4. Land Administration Program

The major problem associated with the land administration program involves the lack of guidelines for acquisition and disposition of government lands. Without criteria by which these land-use decisions can be made, projects requiring specific real estate do not receive adequate review. It is recommended that comprehensive land-use policies and guidelines be established to facilitate timely, uniform, and equitable review of property use considered by the program.

5. Agricultural Lease Program

The problems with the Agricultural Lease Program include the lack of monitoring to ensure that leasees are utilizing the land for agricultural purposes and confusion among the agencies regarding who is actually responsible for surveying, recording, establishing eligibility criteria, and selecting applicants. The Task Force recommends that the Department of Land Management be responsible for surveying lands. To be included within this program is the recording of all lease agreements and establishing eligibility criteria. It is further recommended that the Department of Agriculture evaluate applications regarding the type of farming to be permitted while GEPA provides clearance on the types of pesticides that are allowable in the area.

6. Clearing and Grading Permits

Currently, Department of Public Works is responsible for issuing the above permits. However, the Task Force noted that other agencies such as Guam Environmental Protection Agency and Department of Parks and Recreation are not contacted for their comments prior to granting a permit, especially in cases that involve clearing or grading near or within historic sites or environmentally sensitive areas. The Task Force recommends that the Department of Public Works issues clearing and grading permits only after the appropriate agencies are contacted.

7. Federal Grant Coordination

By federal law, certain agencies of the Government of Guam, such as Department of Parks and Recreation and Guam Environmental Protection Agency, are required to review and approve applications submitted for federal funding for construction. In the past, these agencies were unaware that funding was being sought for the construction of a project within a historic site or over the aquifer. Consequently, the Task Force recommends that the Guam State Clearinghouse provide copies of all construction grant applications to the relevant agencies. Moreover, the Task Force encourages that the Clearinghouse notify these agencies regarding the availability of federal funds in the agencies' areas of concern.

8. Subdivision Development and Review Committee (SDRC)

The SDRC is responsible for reviewing all applications prior to action by the Territorial Planning Commission. However, the SDRC has never been responsible for reviewing other actions which deal with the development of public or private lands such as Corps of Engineers permit applications, submerged land permits, etc. It is the recommendation of the Task Force that the responsibilities of SDRC be expanded, such that SDRC will become the clearinghouse for all land-related activities. Major responsibilities of the SDRC should include: reviewing all permits (submerged lands, wetlands, seashore protection, Corps of Engineers); entertaining rezoning, variance, subdivision, and conditional use requests and Environmental Impact Statements; and serving as the focal point for the Government of Guam's official position on all matters relating to the use of land.

Planning

1. Physical Planning

At the present time, numerous agencies are responsible for land use planning. Consequently, there exist numerous maps which designate areas for uses that are erroneous, contradictory, and confusing to the public. Given this situation, the Task Force recommends that the Bureau of Planning be the sole agency responsible for designating land use in cooperation with the input from watershed agencies, while the Department of Land Management be responsible for regulating the types of development

SUMMARY

The above discussion provided specific recommendations toward the solution of problems to improve the existing system. Not reflected in the above discussion is probably the greatest contribution that the number of meetings of the Task Force provided--the meetings provided a forum in which those agencies involved in planning, administration, and enforcement were able to come together to discuss common problems.

DEPARTMENT OF NATURAL RESOURCES

The following is a discussion of the option to consolidate all natural resources programs under one agency. After this discussion is a summary of the comments from the Task Force members regarding this option. It must be noted that the Resources Management Task Force does not recommend pursuing this option. It is included only to round out the discussion of the management of natural resources.

As proposed, the Department of Natural Resources (DNR) is a line agency administered by a Director who is appointed by the Governor with the Legislature's advice and consent. Serving the DNR is an advisory board that replaces functions of currently existing policy-making boards, such as the Environmental Protection Agency Board, Historic Preservation Review Board and Parks and Recreation Commission. Also part of this organization is a permit/appeals board which conduct hearings for citizens that may request certain considerations from an administrative action or agency policy. Members of both boards are composed of citizens appointed by the Governor with the approval of the Legislature. Legal counsel and representation from a staff of attorneys, separate from the Attorney General's Office, is available to the various divisions.

The Department of Natural Resources is composed of four major divisions: Public Land Management, Technical Support, Enforcement and Planning. Such grouping results in a management program based on function, responsive to the island's current needs and development trends.

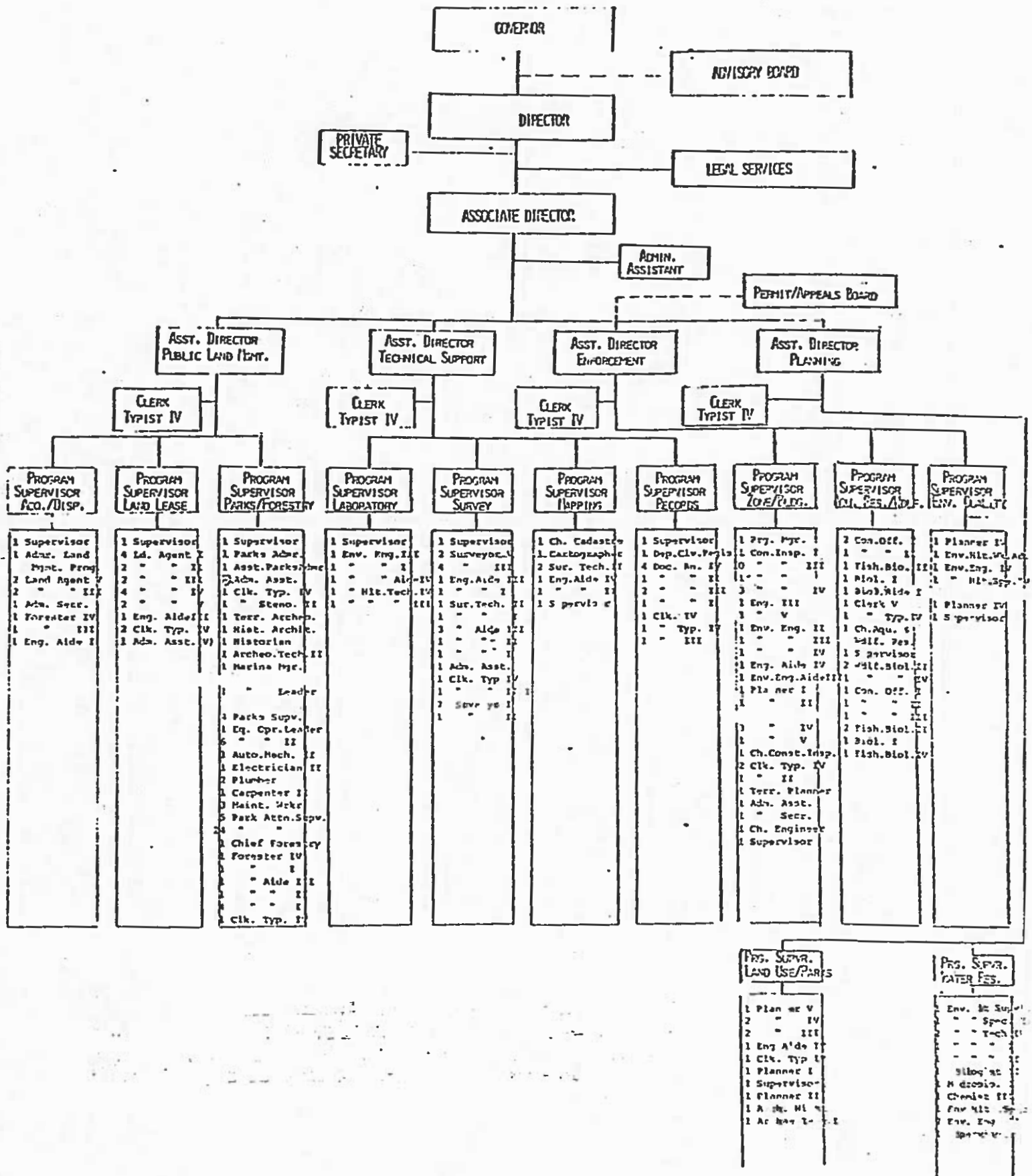
A. Public Land Management (PLM)

Drawing from the current Departments of Land Management, Agriculture, and Parks and Recreation, the PLM Division would be responsible for managing that 30% of the Territory's land area under local government ownership. Currently, oversight of the public's land is divided primarily among the above three agencies.

Coordinative difficulties pervade the current management of public land. Leasing of such land for ostensibly agricultural use is overseen, in part, by both the Departments of Agriculture and Land Management. The Chamorro Land Trust Commission, charged with allocation of available public lands to Chamorros, has never been implemented. Management of the Territory's conservation areas is handled, again in part, by portions of the above-mentioned three agencies.

As proposed, the PLM Division would consolidate such management responsibilities into three sections: Acquisition and Disposition (A&D), Land Leasing and Parks and Forestry. All purchasing, including the types of acquisition of land from the Government of the United States, would be handled through

DEPARTMENT OF NATURAL RESOURCES



BUDGET SUMMARY FOR THE
DEPARTMENT OF NATURAL RESOURCES

	No. of Positions	110	170	120	130	140	150	160	190	TOTAL
Director	7	147,928	16,393	16,000	10,000	5,000	6,000	2,800	7,200	211,321
Asst. Dir. Mgmt.	2	34,028	4,016	1,500	4,000	600	2,000	1,500	-0-	47,644
Director	10	150,315	17,833	400	2,837	2,961	1,704	-0-	-0-	176,050
Asst. Dir. Disp.	19	251,536	29,647	650	1,791	1,549	7,313	-0-	-0-	292,486
Asst. Dir. Lease	71	746,343	88,038	4,917	52,051	40,526	55,943	51,923	-0-	1,039,741
Asst. Dir. Forestry	2	34,028	4,016	1,500	4,000	600	2,000	1,500	-0-	47,644
Asst. Dir. Support	6	80,441	8,333	200	1,186	1,914	313	-0-	5,366	97,753
Director	23	263,291	32,600	300	1,336	4,480	8,794	-0-	-0-	310,801
Asst. Dir. Inventory	7	132,052	17,814	1,335	34,287	1,928	1,804	327	1,333	190,880
Asst. Dir. Wildlife	13	169,076	19,237	-0-	10,177	8,279	-0-	-0-	-0-	206,769
Asst. Dir. Wildlife	2	34,028	4,016	1,500	4,000	600	2,000	1,500	-0-	47,644
Asst. Dir. Wildlife	39	569,603	66,595	4,422	45,233	3,416	2,420	-0-	13,970	721,260
Asst. Dir. Wildlife	20	254,357	30,647	11,250	57,474	30,337	53,696	-0-	-0-	439,715
Asst. Dir. Wildlife	6	107,459	10,788	200	1,186	1,904	313	-0-	5,366	110,486
Director	2	34,028	4,016	1,500	4,000	600	2,000	1,500	-0-	47,644
Asst. Dir. Wildlife	12	166,929	19,435	10,139	222,063	4,773	5,752	-0-	9,334	439,612
Asst. Dir. Wildlife	13	182,881	19,776	200	45,812	7,833	400	-0-	9,249	266,151
TOTAL	254	3,360,325	393,200	56,613	501,433	117,310	154,452	61,050	51,818	4,693,061

the PLM Division's Parks and Forestry Section. The mechanics of any government lands, whether it be for residential, agricultural, or commercial purposes would be the responsibility of the Land Lease Section. Those lands, such as parks, conservation areas, and beaches, held solely for public use and utilized for both resource management and recreational purposes, would be administered under the PLM Division's Parks and Forestry Section. Assuming such consolidation occurs physically, as well as administratively, the management of Government of Guam's major fiscal asset, its land, would be handled by one division, rather than the current Agana, Mongmong-Toto-Maite, Mangilao triad.

B. Technical Support

The DNR's Technical Support Division would house the government's surveying, mapping, land recordation, and water-related laboratory services. Currently, surveying is performed by both the Department of Public Works and the Department of Land Management. Various mapping efforts are carried out by the Bureau of Planning, Department of Land Management, and the Department of Public Works. Land Records is currently a division within the Department of Land Management.

As in the case of Public Land Management, dispersal of the government's surveying and mapping programs among several agencies results in duplication, lack of coordination, and added costs or time delays. The government's available surveying resources required for highway construction, land lease programs, park development, and various other land management programs could be better allocated and more efficiently utilized were they housed within one Technical Support Division.

The government's mapping resources are currently spread throughout a number of agencies. No central file of maps is maintained, though most are required to be recorded. Highway, land-use, and zoning maps should be available in one central location--easily available to other DNR Divisions, as well as the general public. Their preparation, revision, and updating should be overseen by one section manager--assuring that new place names, zoning designations, roadways, and plans are reflected accurately and promptly.

The filing and management of land transactions and titles, closely related to the DNR's land management functions, would be the responsibility of the Technical Support Division Section. Use of microfilm and introduction of the numerical

Also included with the Technical Support Division are the laboratory facilities of the current Guam Environmental Protection Agency.

C. Enforcement

Perhaps one of the weakest links in the Government's management of its natural resources is its enforcement mechanism. Plagued by unclear and conflicting laws, insufficient staff, meager finances, and an understandably confused citizenry, an overhaul of the government's regulatory machinery is long overdue.

The DNR's Enforcement Division would consolidate regulation and enforcement of the government's resource-related laws, rules and regulations into three sections: Building and Zoning, Aquatic Resources and Wildlife, and Environmental Quality.

The Building and Zoning Section, which combines functions of the Department of Public Works' current Building Permit Section and the Department of Land Management's Planning Division, would consolidate two closely related sections with heavy public exposure. Enforcement of the Building, Zoning, and Subdivision laws would occur through this one section, improving permit processing, evaluation, issuance, and monitoring. Permits for development along the Seashore Reserve, in submerged lands, wetlands, and flood hazard areas would also be issued by this section.

Enforcement of laws and regulations relating to the taking of fish, coral, shellfish and game would be the responsibility of the Aquatic Resources and Wildlife Enforcement Section. Though currently the task of the Department of Agriculture's Aquatic and Wildlife Resources Division, existing staff levels are far short of those necessary to effectively enforce and protect these resources. As in the case of all enforcement officers, this staff would also serve in part as extension agents, advising the citizenry of applicable laws and proper harvesting techniques.

Recognizing the importance of our air, water, and soil to our livelihood and well being, it is appropriate to dedicate the remaining DNR Enforcement Division Section to the protection of these resources. This Environmental Quality Section would essentially consist of the current Guam Environmental Protection Agency, without its Section 201 and 202 planning programs. Included within this section would be the Safe Drinking Water, Community Wastewater, Individual Wastewater, Air Pollution Control, Pesticide Control, and Solid Waste Management programs. Again, recognizing the quality of life, island

game, fish, and human populations on clean water resources, close coordination with the Aquatic Resources and Wildlife Section's enforcement staff would be essential. Housed under one division, evaluation of grading permit applications, as to their potential effect on soil resources, could be more easily conducted and coordinated.

The current array of permit and appellate functions performed by the Territorial Planning Commission, Territorial Seashore Protection Commission, and GEPA Board of Directors would be combined into one Permit/Appeals Board, appointed by the Governor, with the Legislature's advice and consent. The Enforcement Division's Assistant Director would serve as staff to the Board, coordinating presentation of the applications and appeals through the three section managers.

D. Planning

Much remains to be accomplished in properly planning use of the two-thirds of the Territory not under federal control. Development of the Coastal Management Program, 201 and 208 Wastewater and Water Quality Management Plan, Territorial Highway, and Parks and Recreation Plans, provide the basis for the future development and management of our related resources.

However, constant update and periodic revision of these plans, as well as development of new or more site-specific or detailed plans requires a continual coordinated planning effort. The DNR's Planning Division would house all resource-related planning programs, ensuring a level of coordination not exercised under current administrative mechanisms.

Currently, planning for parks, highways, subdivisions, and long-term land and water resource uses is divided among the Departments of Parks and Recreation, Public Works, Land Management, and Agriculture, the Bureau of Planning, and the Guam Environmental Protection Agency. Because of the close inter-relationship of land, water, fish, and wildlife resources planning, the Planning Division is not as easily divided into distinct sections, as are the other DNR Divisions.

However, several general subject areas can be identified. A land-use planning function, including that performed currently by the Bureau of Planning under Coastal Management Program, subdivision design by the Planning Division, and park planning currently by the Department of Parks and Recreation, would be one of this Division's major responsibilities.

The current 201 and 208 water-related planning programs, in addition to the aquatic resources planning activities of the Department of Aquatic and Wildlife Resources Division would comprise a water-related planning section.

The Planning Division would require the supportive services of the DNR's technical support staff and close coordination with the PLM Division. The Bureau of Planning, within the Governor's Office, would retain a much reduced physical planning staff for the purpose of overall coordination and policy development, consistent with its enabling legislation.

Summary

Departments created and charged with resources management in the past 30 years have not been able to effectively oversee the use of our land, water, aquatic and wildlife resources. Policy and management conflicts between agencies have resulted in the misuse of the Territory's resources. Although problems of administration exist and are recognized within a single agency's programs, the overall organization of agencies involved in resources management has not been conducive to efficient management and reduced bureaucratic red tape.

The Department of Natural Resources is an agency with functions of all or parts of the following agencies: Departments of Land Management, Parks and Recreation, Agriculture, Public Works, Guam Environmental Protection Agency and Bureau of Planning. As proposed, the DNR is a line agency administered by a Director and an Associate Director, served by an advisory board and a permit/appeals board. A legal section, separate from the Attorney General's Office serves the boards, directors and the four major divisions: Public Land Management, Technical Support, Enforcement and Planning.

Positive impacts of a DNR include the following:

- 1) Improved management through greater utilization of personnel will result from grouping functions and responsibilities currently scattered throughout a number of government agencies. Better planning and programming of human resources toward continued resources management will be realized.
 - . Consolidated planning functions will result in more comprehensive, coordinated planning for land, water, air, wildlife and aquatic resources.
 - . Combined technical support functions will accelerate survey mapping and registration of government and private land.
 - . Land administration programs housed under one division of DNR will facilitate increased coordination in the management of our Territory's land resources.
 - . More effective enforcement (citation and prosecution) will result by keeping natural resource enforcement programs and technical support under one management. This will help facilitate an improved permit system not only in

- 2) Program conflicts will be more easily resolved within a single department as opposed to several. Uniform natural resource policies would be established to better guide management.
- 3) Public convenience will be served by locating various programs, especially those involved in permit issuing, in one centrally located building. Reorganization, as proposed, will preclude the existing confusion of inter-agency coordination problems, resulting delays and added costs.
- 4) Consolidation of programs from several agencies, such as survey, will facilitate improved utilization of local and federal funds. Programs currently supported by the general fund will be able to accomplish more through supplemental federal funding possible by reorganization.
- 5) Administrative costs (manpower, equipment and supplies) will be higher than any one of several agencies, but less than the sum of all involved departments. Although initial costs will be required for the implementation of this organization, cost savings will be realized in terms of functions, such as permit processing, regulation enforcement and planning through a reduction of units involved. The DNR cost analysis is outlined on Attachment F (1-3).

Negative impacts of DNR include the following:

- 1) Disruption and loss of momentum would be expected in the initial phase of consolidating various programs under one department.
- 2) Division heads may require additional training to resume the broader scope of responsibilities entailed by program consolidation.
- 3) Personnel morale problems may occur as agencies may be reluctant to relinquish their authority in managing certain programs. The tendency of agencies to be most interested in their own programs could produce shortcomings in program services.
- 4) Implementation of such a department would require a substantial initial investment.

ATTACHMENT F-1 -
DEPARTMENT OF NATURAL RESOURCES
COST ANALYSIS

<u>Items Transferred to Dept. of Natural Resources</u>	<u>Total Department of Natural Resources Budget</u>	<u>FY '80 Total Dept. Budget</u>	<u>Variance</u>
Land Management	\$ 871,903	\$ 986,660	\$ (114,757)
Guam Environmental Protection Agency	503,771	753,289	(249,518)
Agriculture	600,253	1,317,582	(717,329)
Parks and Recreation	955,090	1,651,600	(696,510)
Public Safety			
- Bureau of May		289,148	
- Building Permits and Inspection	607,973	318,825	-0-
Bureau of Planning			
- Bureau of BOP		304,139	
- Coastal Zone Management	480,842	470,000	(287,297)
Sub-Total	4,025,832	6,091,243	(2,065,411)
Newly created offices and Administrative Services	667,769		667,769
TOTAL	<u>\$4,693,601</u>	<u>\$6,091,243</u>	<u>(\$1,397,642)**</u>

Figures for centralizing facilities are not included.

This figure does not represent a "savings" since the remaining programs, staff, and administrative personnel may or may not be absorbed.

DEPARTMENT OF NATURAL RESOURCES

FY'80 Budget Transferred
to Dept. of Natural Res.

Dept.'s Remaining Budget

Remaining Dept./Section

Land Management

Director's Office

\$184,613
227,154
187,845
272,291
\$871,903

\$114,757

\$114,757

289,148
318,825
607,973

of p omies & Inspection

enta' Protection Agency

Guam Environmental Protection Agency

Administrative Services

249,518

95,849
53,531
99,961
42,567
38,074
29,755
144,034
503,771

Bureau of Planning

Local BOP

287,297

287,297

16,842
470,000
486,842

BOP
Management

ATTACHMENT F-3

Natural Resources

FY'80 Budget Transferred
to Dept. of Natural Res.

Transferred to DNR

7

Remaining Dept./Section

Parks & Recreation

Director's Office
Recreation Division

\$148,697
547,813
696,510

Dept.'s Remaining Budget

Agriculture

Director's Office
Consumer Marketing
Equipment & Maintenance
Poultry & Livestock
Quarantine
Plant Nursery

111,479
108,359
113,876
170,122
87,295
119,198
717,329

99,579
47,390
270,582
182,694

600,253

\$2,065,411

\$4,025,832

TOTAL:

Guam Environmental Protection Agency

The Guam Environmental Protection Agency notes that the proposed DNR sets up a dichotomy of two basic functions, i.e., one that develops and manages natural resources and the other that regulates and enforces the protection of the environment (natural resources). This inherent conflict of interest not only negates the interest for the establishment of a single DNR, but also is indefensible in that under one umbrella it lumps together two distinct and incompatible functions.

The GEPA funded "Environmental Management Study" has identified 26 major recommendations for improved environmental management within the present organizational structure. These should be considered in improving the management of our resources.

Department of Agriculture

The Department of Agriculture feels that the proposal is top heavy and, as such would not be efficiently run thereby limiting its effectiveness to manage our natural resources.

We support the concept of a Department of Natural Resources but also feel that too many levels between the professionals and the director is counterproductive. Furthermore, to combine Parks with Forestry within a division, and Fish and Wildlife under the Enforcement umbrella may very well jeopardize Federal funding. If each remain separate entities such as divisions there should be no problem.

Department of Parks and Recreation

First, the proposal would abolish the Guam Review Board for Historic Preservation. This board must remain a separate entity as required by 36 CFR 61.4, the Federal regulations concerning historic preservation.

We have also noted that the Recreation Division would not remain with the Department of Natural Resources. The facilities used by the present Recreation Division are maintained by the Parks Division. Therefore, Parks Division and Recreation Division must remain in the same department.

We also noted the separation of the Architectural Historian and Archaeologist from the Planning Division. They must remain in the same section with the other Historic Preservation Personnel.

It is noted that a large proposed department will have some serious problems in

Department of Land Management

The creation of a Department of Natural Resources through the consolidation of all or parts of various agency functions does not necessarily constitute an effective or an efficient means of managing the island's resources. The Department of Land Management is opposed to the creation of a DNR.

Attorney General

As far as the concept itself, this office is in support of the proposed creation of a Department of Natural Resources in that presently, this office seems to spend a great deal of time trying to interpret the relationships and authority of the various departments within the present Government of Guam handling areas which the Department Natural Resources will have jurisdiction.

It should be realized that a significant amount of money and expertise should be immediately concentrated in the reorganization of the land recordation system, regardless of whether or not the proposed DNR is established. Moreover, the Office of Attorney General opposes the creation of a legal staff within the DNR since enforcement of violations of Guam law are required to be undertaken by the Attorney General. Past experience has shown that legal staff hired by individual agencies tend to perform only administrative as opposed to legal services.

Bill No. _____

Introduced by: _____
At the request of
the Governor

AN ACT TO ESTABLISH
A DEPARTMENT OF NATURAL RESOURCES

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

Section 1. Except as provided in Section 4 of this Act, Title XIII of the Government Code is repealed in its entirety and a new Title XIII is enacted in its place to read as follows:

"TITLE XIII

Department of Natural Resources

Chapter I

General Provisions

Section 12000. Establishment. There is within the Executive Branch a Department of Natural Resources.

Section 12001. Director. The chief executive officer of the Department of Natural Resources shall bear the title of Director of the Department of Natural Resources. The Director shall be appointed by the Governor with the advice and consent of the Legislature.

Section 12002. Responsibilities and Authority. The Department of Natural Resources shall have the following responsibilities and authority:

(a) The management of all government owned land. This responsibility includes the preservation, sale, lease, exchange, reservation, or other use of government owned land.

(b) The administration and enforcement of laws and regulations relating to the preservation or taking of wildlife and aquatic resources.

(c) The administration and enforcement of laws and regulations relating to the protection of the quality of the air, water, and soil of the territory.

(d) Oversight, coordination, and participation in all planning activities related to land, water, soil, air, and other natural resources of the territory.

(e) The protection and promotion of the agricultural resources and economy of the territory through research, quarantine, control and conservation.

(f) Promulgation of rules and regulations as necessary to carry out its responsibilities.

Section 12003. Natural Resources Board.

(a) There is hereby established a Natural Resources Board, which shall be composed of five (5) members appointed by the Governor with the advice and consent of the Legislature.

(b) The members shall be appointed to terms of two (2) years.

(c) The Natural Resources Board shall perform the following functions:

(i) Serve as an advisory board to the Director.

(ii) Perform such policy-making functions as may be assigned to it by the Director or the Governor.

(iii) Serve as an appeals board as may be required under rules and regulations promulgated by the Director.

Section 12004. Penalties. Except as otherwise provided herein, any violation of any provision of this Title, or of any supporting rule or regulation, shall be a misdemeanor.

Section 12005. Fees. Except as otherwise provided, all fees and charges collected under this Chapter shall be deposited in the Department of Natural Resources Fund, unless otherwise provided.

Section 12006. Injunctions. In case of noncompliance with the provisions of this Title or with the terms and conditions of any license, permit, rule or regulation issued hereunder, the Director in addition to or in lieu of proceeding under §12004 may notify the Attorney General of such noncompliance. The Attorney General, upon receipt of such notification, may institute an appropriate action or proceeding at law in equity to restrain, correct or remove such noncompliance.

CHAPTER II

Enforcement

Subchapter A

Quarantine and Control; Pesticides

Section 12100. Definitions. The following definitions shall apply to the provisions of this Subchapter and any rules or regulations promulgated thereto:

(1) "Active Ingredients" shall mean:

(a) In the case of a pesticide other than a plant growth regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel or mitigate any pest

(b) In the case of a plant growth regulator, defoliant, or desiccant, an ingredient which, for physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plant or the procedure thereof.

(2) "Adulterated" shall apply to any pesticide if its strength or purity falls below the professed standard of quality as expressed on its labeling under which it is sold.

(3) "Certified Pesticide Applicator" shall mean any individual who is certified to use and/or supervise the use of any restricted pesticide.

(4) "Crop" means plants and plant products collectively grown or cared for and used for food and other useful purpose

(5) "Defoliant" shall mean any substance or mixture of substances intended to cause defoliation to drop from a plant, with or without causing abscission.

(6) "Desiccant" shall mean any substance or mixture of substances intended to artificially accelerating the drying of plant tissues.

(7) "Device" shall mean any instrument or contrivance other than a fly-arm) intended for trapping, destroying, repelling, or mitigating pests or any other form of plant or

(8) "FIFRA" shall mean the Federal Insecticide, Fungicide, Rodenticide Act and its amendments.

(9) "Host" means plant or animal or part thereof, soil, container, vehicles, or other article known or suspected to be infested or contaminated with agricultural pests.

(10) "Insect" shall mean invertebrate animals belonging to the class Insects including beetles, bugs, bees, flies, and other allied classes of arthropods, including spiders, mice, ticks, centipedes, and woodlice.

(11) "Label" shall mean the written, printed, or graphic matter on or attached to the pesticide or device, or any of its containers or wrappings.

(12) "Labeling" means all labels and other written, printed, or graphic matter accompanying the pesticide or device at any time or to its references made on the label or in literature accompanying the pesticide or device, except for current official publications of the U.S. Environmental Protection Agency, United States Department of Agriculture, United States Department of Interior, United States Department of Health and Human Services, State Experiment Stations, State or Agricultural Colleges, or other similar federal, state or territorial institutions or agencies authorized by law to conduct research in the field of pesticides.

(13) "Misbranded" shall mean any pesticide or device if

(a) Its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular period.

(b) It is contained in a package or other container or wrapping which does not conform to the standards established by this Department.

(c) It is an imitation of and is offered for sale under the name of another pesticide or device.

(d) Its labeling does not bear the Federal Registration number.

(e) Any advertisement by means of newspapers, leafslip, radio or television is false or misleading in any particular period.

(f) The labeling accompanying it does not contain instructions for use which are necessary, proper, and adequate for the protection of the public.

(g) The label does not contain warning or caution statements which may be necessary and if complied with together with any requirements imposed under Section 3 FIFRA is adequate to protect health and the environment.

(h) The label does not bear an ingredient statement on the immediate container.

(i) Any word, statement, or other information required by this Subchapter to appear on the label is prominently placed thereon with such conspicuousness as in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(j) In the case of plant growth regulator, defoliant, or desiccant when used as directed it is injurious to living men or other vertebrates, animals, vegetation to which it is applied, or to the person applying such pesticides; provided that physical or physiological effects on plants or parts thereof shall not be deemed to be injurious when this is the purpose for which the plant growth regulator, defoliant or desiccant is applied, in accordance with the label claims and recommendations.

(14) "Pests" shall mean any insect, rodent, nematode, fungus, weed or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other micro-organisms or living men or other living animals which the Department declares to be a pest.

(15) "Pesticide" shall mean:

any substance or mixture of substances which is intended for use as a plant growth regulator, defoliant, or desiccant.

mitigating any pests.

(b) Any substance or mixture of substances intended for use as a plant growth regulator, defoliant or desiccant.

(16) "Plant Growth Regulator" shall mean any substance or mixture of substances intended for physiological action, f accelerating or retarding the rate of growth or rate of maturing, or otherwise altering the behavior of plants or the produce thereof, but not including substances that are intend as plant nutrients, trace elements, nutritional chemicals, plant innoculants and soil amendments.

(17) "Regulated Article" means any pest or host designated as such in this Chapter or in any plant and animal quarantine or control regulation.

Section 12101. Regulations. The Director shall promulgate regulations to protect Guam agriculture, plants, fish, and animals from plant diseases, and destructive and injurious pests. Such regulations may establish quarantines at the border of or within Guam, prohibiting or restricting the entry and movement of designated pests and hosts and prescribing methods for inspection, safeguard, treatment and destruction of such regulated articles, and for related work.

Section 12102. Destruction. Regulated articles and things exposed to contamination therefrom, which cannot be made pest-free by any treatment approved by the Director, shall be destroyed or shipped out of Guam, as ordered by the Director.

Section 12103. The Director is authorized to perform or participate in pest control or eradication work when such work is of general benefit to Guam agriculture. Any owner may be required to perform control work and to safeguard or destroy designated regulated articles when, in the opinion of the Director, such action is necessary to protect the agricultural economy of Guam.

Section 12104. Indemnities and Cost. No indemnity shall be paid to the owner or any person for property destroyed or damaged by

Section 12105. Unlawful acts. It shall be unlawful for any person to conceal, plant, harvest, dry or process any pests or host which are subject to a department control or eradication program or to fail to safeguard, dispose of, or otherwise handle such pests and hosts as instructed by an agent of the department, in accordance with the provisions of this Subchapter.

Section 12106. Regulations. The Director shall promulgate rules and regulations to carry out the provisions of this Subchapter. Such rules and regulations shall provide, among other things, for:

- (1) The issuance of experimental use permits.
- (2) Pesticide registration.
- (3) The grounds for refusal, cancellation, or suspension of registration.
- (4) The issuance of licenses for the sale of pesticides.
- (5) The grounds for denial, suspension, or revocation of licenses for the sale of pesticides.
- (6) Labeling requirements.
- (7) The coloration of certain pesticides.
- (8) Provide for the seizure of any pesticide or device in violation of this Subchapter.
- (9) The banning of certain pesticides.
- (10) The establishment of procedures, conditions and standards to certify persons for the use of restricted pesticides.
- (11) The establishment of provisions insuring that certified applicators continue to meet the requirements of certification.
- (12) The denial, suspension, or revocation of certification.

Section 12107. Penalties. Any person who violates any provision of this Subchapter, or any rule or regulation enforced pursuant thereto, shall be guilty of a misdemeanor. Each day of violation shall constitute a separate offense.

SUBCHAPTER B

Fish and Game

Section 12110. Definitions. As used in this Subchapter:

(a) "Firearm" means any weapon, the operating force of which is an explosive. 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.

(b) "Fish" means any aquatic animal life, including but not limited to oysters, clams, mollusks, mussels, crustaceans and other shellfish.

(c) "Game" means all native or introduced species of wild birds or wild animals.

(d) "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.

(e) "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.

(f) "Vessel" includes every description of watercraft or other contrivance used, or capable of being used, as means of transportation in water.

(g) "Waters of Guam" means that area of shore and waters seaward of the mean high water line (mark).

Section 12111. Authority of Department. The control and regulation of fish and game in and about Guam and the administration of this Subchapter shall be vested in the Department.

Section 12112. Taking fish with explosives. It shall be unlawful to take any fish using dynamite or any other explosive.

Section 12113. Use of explosives inland. It shall be unlawful for any Person to throw, drop, or explode any dynamite or other explosive on land.

whether done for the purpose of taking fish or not, except as may be authorized pursuant to regulations.

Section 12114. Taking fish by means of poisonous or intoxicating substance unlawful. It shall be unlawful for any person to take any fish by means of any substance which has a poisonous or intoxicating effect upon fish.

Section 12115. 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 12115.1. Use of electrical devices. It shall be unlawful for any person to take fish by means of any device which operated by shocking with an electric current (either AC or DC).

Section 12116. 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 12116.1. 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.

Section 12117. 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.

Section 12118. It shall be unlawful to wilfully destroy coral growth for purposes of flushing fish from their haunts or to clearing an area for net fishing.

Section 12119. Fish taken from the water shall be returned to the water.

Section 12120. Any person who violates any of the provisions of this chapter shall be fined not more than \$1000 or imprisoned not more than 6 months or both.

any fish, or any part thereof, contrary to the provisions of this Subchapter or regulations.

Section 12120. 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.

Section 12121. Unprotected wild animals. The following wild animals may be taken in the daytime:

- (a) Wild dogs.
- (b) Wild cats.
- (c) Reptiles.
- (d) Rats.

Section 12122. Unprotected wild birds. The following wild birds may be taken in the daytime:

- (a) Black dronogos.
- (b) Rock doves (domestic pigeons).
- (c) Black-headed mannikin.
- (d) European tree sparrow.

Section 12123. 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 Subchapter or as authorized by regulations.

Section 12124. 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 Subchapter or as authorized by regulations.

Section 12125. License to take certain wild animals. Any owner or tenant of land or property that is being damaged or destroyed or is in danger of 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 license for the taking of such wild animal or bird. It shall be unlawful for any person to violate the conditions of any

Section 12126. 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 12127. 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 a 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 section.

Section 12128. 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 authority of this Subchapter.

Section 12129. Regulations. Regulations implementing this Subchapter shall be formulated, approved and issued in accordance with the procedures set forth in the Administration Adjudication Law, which regulations may include but shall not be limited to the following:

(a) To fix, close, terminate, shorten, or divide an

OPEN SEASON OF HUNT FOR SEASONS OF HUNTING

(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 chapter.

(h) To set a fee for any license issued; however, in no event shall such fee exceed the sum of Five Hundred Dollar (\$500).

(i) To otherwise implement or carry out the purposes of this chapter.

Section 12130. 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 vehicle used for taking or transporting fish or game taken in violation of the provisions of this chapter is a public nuisance. Every person authorized to make an arrest for such violation 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.

The Department shall commence proceedings in the Superior Court by petitioning the court for a judgment 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) places in the place where the court is held and in the Commissioner's Office of the

time and place fixed for its hearing. Upon proof that the article articles seized were used in violation of this chapter, the court shall order the article or articles forfeited. Any article so forfeited shall be sold, used, or destroyed by the Department. The proceeds from any sales shall be paid into a Fund established by the Director for purposes of the preservation of natural soil and water conditions and native plants and animals.

Section 12131. 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 chapter.

Section 12132. Commercial permits.

(a) Permits for the commercial taking of coral may be issued by the Director through procedures and subject to conditions established by rule or regulation.

(b) The Director 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 Subchapter.

Section 12133. The Director shall have the authority to issue permits for the use of poisonous or intoxicating substances, electrical devices, or small mesh nets for the purpose of bona fide scientific research.

SUBCHAPTER C

Forestry

Section 12140. Improving resources: responsibility. The promotion of improved planting, protection, and cutting of forest trees as a means of developing and conserving the forest resources of Guam shall be a responsibility of the Department. At the discretion of the Director, tree seeds and seedlings may be made available by the Department for planting on private as well as public lands, either on a free distribution basis or at a price to be determined by the Director.

Section 12141. Unlicensed tree-cutting on public lands prohibited. The cutting of trees on unassigned public lands without a license is prohibited. All applicants for such license shall make written request to the Director designating the kind and amount of timber to be cut, and the use to be made thereof. When the Director is of the opinion that such cutting will not materially injure the forest resources of Guam, he shall issue a license stating the conditions of cutting, any required planting of trees, and provisions for inspection of the operation.

SUBCHAPTER D

Conservation and Regulation of Water

Section 12150. Reservations. The Department, shall control and manage land and water areas which have been set aside by the government of Guam as conservation areas. Such control and management shall have as its objective the preservation of natural soil and water conditions and native plants and animals of the general area. Consistent with this objective, the Director may establish and enforce rules or regulations for the use of conservation areas for recreational, educational, and economic purposes.

Section 12151. Fires: unlawful. It shall be unlawful for any person to start or allow a fire to extend onto government land or the land of another causing damage or destruction to plant or animal life or to any property thereon.

Section 12152. Conservation program: responsibility. The Department shall be responsible for the development of a program for the conservation, development and utilization of water and soil resources, and for the control and prevention of soil erosion.

Section 12153. Same: authorization. In carrying out its responsibilities under this section, the Department is authorized to

(a) Develop plans for the conservation of soil and water resources and the control and prevention of erosion, and to publish or otherwise bring such plans to the attention of land owners and occupiers of land in Guam.

(b) Conduct surveys, investigations, and research relating to soil and water conservation and 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 and the prevention and control of erosion, and carry out preventive and control measures on government land.

(d) Cooperate with other land owners and occupiers in the development of erosion control and water resources conservation programs.

Section 12154. 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 program concerning the development of plans for conservation, development, and utilization of water and related land resources.

Section 12155. Definitions. The following definitions shall apply to the provisions of this Subchapter:

(1) "Water" shall be construed to include ponds, springs, wells, and streams and all other bodies of surface or underground water, natural or artificial, inland or coastal, fresh or salt, public or private.

(2) "Well" shall be construed to mean any hole drilled, dug, or bored with a depth exceeding twenty (20) feet for the purpose of obtaining water or knowledge of water-bearing formations or for the disposal of waste materials.

Section 12156. Well Drillers License. No person shall engage in the business of well drilling on Guam without first obtaining a license from the Director.

Section 12157. Well Drilling Permits. No well may be drilled unless the owner of the land on which the well is to be drilled shall, before the commencement of the drilling, have obtained a permit therefor and filed a preliminary report with the Director.

Section 12158. Well Operating Permits. Within sixty (60) days of the initial promulgation of this Subchapter relating to well operating permits, or in the case of new wells, within thirty (30) days from the date of filing of the completed preliminary report, the owner of every well shall obtain an operating permit therefor.

Section 12159. Completion Report of Well. Within thirty (30) days after the completion or the termination for any reason of the drilling of any well, whether or not any water is found, a report shall be filed by the driller on forms furnished and prescribed by the Director.

Section 12160. Wasteful Use Prohibited. No owner of a well whether a pumping well or a flowing well, shall discharge from the well or permit the discharge from the well of water that is allowed to run to waste and not put to useful service except in connection with pumping test.

Section 12161. Right of Inspection. The Director shall have the power at reasonable hours to make such inspection and take such inspection and take such samples as may be necessary for proper and effective supervision of the construction, repair, and maintenance of wells and to read the meter attached to each well.

Section 12162. Meters to be Installed: Access to Wells.

(a) The Director shall install meters to all wells wherever necessary for the purpose of recording the amount of water drawn from the wells.

(b) Each well shall have an opening of not less than three-quarters (3/4) inch in diameter for the measurement of water levels in the well by means of a wetted steel tape. *OR any other acceptable means of measurement.*

Section 12163. Rules and Regulations. The Director shall promulgate rules and regulations necessary to carry out the general purposes and requirements of this Subchapter, including but not limited to:

(1) Classifying all potable water systems used or intended for use by the public or private individuals and all waste water facilities, whether public or private.

(2) Issuing certification entitling qualified persons to supervise the operation of potable water supplies systems and waste water facilities as per the standards and guidelines approved by the Department.

(3) Studying and investigating the elimination and prevention of water pollution.

(4) Formulating water purity standards.

(5) Promulgating and enforcing drinking water standards.

(6) Approving or disapproving plans for new sewers.

(7) Issuing, revoking or denying permits for the collection and discharge of sewage and other wastes.

(8) Promulgating and enforcing standards for cesspool and septic tanks.

Section 12164. Penalties. Any person who violates any provision of this Subchapter, or any rule or regulation enforces pursuant thereto, shall be guilty of a misdemeanor. Each day of violation shall constitute a separate offense.

SUBCHAPTER E

Air Pollution Control

Section 12180. Rules and Regulations. The Department is herein authorized, by rules and regulations, to:

(1) Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution in this territory.

(2) Establish air quality standards for the territory

(3) Carry out a program of inspection and testing of all modes of transportation, to enforce compliance with applicable emission standards when necessary and practicable and to control or limit the operation of motor vehicles and other modes of transportation when, in the opinion of the Director, such modes of transportation are producing or pose an immediate danger of producing unacceptable levels of air pollutants.

(4) Establish and operate a territory-wide system under which permits shall be required for the construction and operation of new stationary sources of air pollution and the construction and operation of modifications to existing sources, which system shall be established pursuant to this Subchapter.

Section 12181. Penalties. Any person who violates any provision of this Subchapter, or any rule or regulation enforced pursuant thereto, shall be guilty of a misdemeanor. Each day of violation shall constitute a separate offense.

SUBCHAPTER H

Solid Waste Management and Litter Control

Section 12190. Permits. The Director is hereby authorized to issue permits for solid waste management facilities, including design, operation, maintenance, substantial alteration, modification or enlargement.

Section 12191. Inspections. The Director or his authorized agent is hereby authorized to inspect all solid waste management facilities at all reasonable times, to insure compliance with the laws of this territory, the provisions of this Subchapter, and the rules and regulations authorized herein. It shall be unlawful for any person to interfere with such inspection.

Section 12192. Prohibited Activities.

(a) It shall be unlawful for any person to:

(1) Violate any provision of this Subchapter or any rule, regulation, standard or order issued pursuant to this Subchapter.

(2) Own, operate or use a dump for the disposal of solid waste.

(3) Place or allow to be placed, any solid waste upon the highways, public or private property contrary to the provisions of this Subchapter.

(4) Manage solid waste facilities without a permit issued pursuant to this Subchapter.

(5) Collect, transport, process or dispose of solid waste in such a manner as to degrade the environment, create a public nuisance, create a health or safety hazard or contrary to this Subchapter.

(6) Store, collect, transport or dispose of hazardous wastes in such a manner as to degrade the environment, create a public nuisance, create a health or safety hazard as determined by the Director of the Department of Public Health and Social Services or the Director, or contrary to this Subchapter.

(7) Transport any solid waste in any vehicle on any street or highway unless adequate precautions are

taken to prevent such solid waste from falling from or being dislodged from such vehicle during such transportation. If any such waste falls from or is dislodged from any such vehicle upon any street, highway or any other public or private property, it shall be the obligation of the operator of such vehicle immediately to pick up and remove such waste.

(8) No person shall destroy or attempt to destroy by burning, except in an incinerator the construction and operation of which is approved by the Director, or may otherwise be authorized by the Director, any garbage, dead animals or other offensive substances the burning of which may give off foul and noisome odors, in, or within one-fourth (1/4) mile of Agana, any village or any other urban area. Nothing in this Subsection shall preclude the burning of trees, brush, grass and other vegetable matter.

(b) - Each day of continued violations of this Subsection or the provisions of this Subchapter or rules and regulations authorized herein may be deemed a separate offense.

Section 12192. Injunction. The Department shall maintain an action to restrain the continued violation of the provisions of this Subchapter or the rules and regulations authorized herein. Such right to injunctive relief is in addition to any other powers or penalties conferred by this Subchapter.

Section 12193. Plats. All persons operating a sanitary landfill or other approved disposal site under permits issued pursuant to this Subchapter shall, upon completion of the sanitary landfill, file with the Department a plat of each site, together with a description of the waste placed therein.

Section 12194. Applicability to Government Agencies. Government agencies shall comply with all provisions of this Subchapter including planning, review, and permit requirements. Government agencies may contract with any person to carry out their responsibilities under this Subchapter. Such contractors shall also comply with the provisions of this Subchapter.

CHAPTER III

Public Land Management

SUBCHAPTER A

Territorial Park System

Section 12200. Guam Territorial Park System. There is hereby created the Guam Territorial Park System. The Director shall inventory all properties belonging to the government of Guam and, with the approval of the Governor, determine which properties shall be included therein.

Section 12200.1. Same: Classification. The Director shall classify, and may subsequently reclassify, each area of the Guam Territorial Park System according to (a) through (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 Parks", which may be improved for the purpose of providing public recreation facilities.

(e) "Historical and Pre-Historic Objects and Sites".

Section 12201. 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.

Section 12202. Director: Duties. The Director shall have the following duties:

(a) To control, manage, develop and maintain all areas of the Guam Territorial Park System except as provided in Section 12201.

(b) To keep a listing of all areas of the Guam Territorial Park System according to classification, with current, accurate descriptions thereof.

Section 12202. Parks and Recreation Revolving Fund:

Establishment. There is established separate and apart from any other government funds, a "Parks Fund". Money in the fund shall be appropriated by the Legislature for the development, improvement or maintenance of the Guam Territorial Park System or recreational facilities. The Director shall be custodian of the fund.

Section 12202.1. 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 Guam 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.

Section 12202.2. 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, any part thereof shall be held in trust by the Director, and may be used for such purposes only upon authorization by the Legislature.

Section 12203. 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.

Section 12204. 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 violation.

Section 12205. 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."

SUBCHAPTER B

Historical Objects and Archaeological Conservation

Section 12220. Definitions.

(1) "Field investigation" means the study of the trace 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 archeological data.

(3) "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.

(4) "Historic property" means any building, structure, object, area, or site that is significant in the history, architecture, archaeology, or culture of Guam or the nation.

(5) "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.

(6) "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.

Section 1222. 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.

Section 12223. 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 as witness. 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.

Section 12224. 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.

Section 12225. 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 location of prehistoric or historic remains, ^{THE TERRITORY'S OWNERS' RESOURCES} ~~one percent (1%)~~ ^{NOT TO EXCEED} 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 when it is deemed necessary by the Department.

Section 12226. 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 Director to persons or institutions which he deems properly qualified to conduct such examination, excavation, or gathering, subject to such rules and regulations as the Director 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 Director.

Section 12227. Monuments: Reservation of Land; Relinquishing of Private Claims. Upon the recommendation of the Director, 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 bona fide unperfected claim or held in private ownership, the tract, or so 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.

Section 12228. 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.

Section 12229. Custody of Underwater Historic Property. The custodian of underwater historic properties 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 of all underwater historic properties.

Section 12230. 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.

Section 12231. Permits. Any qualified persons, firm, or corporation desiring to conduct any type of exploration or recovery operations during 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 Director finds that the granting of such permit is in the best interest of the territory, he may grant such application a permit for such a period of time and under such conditions as he 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 Director. 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 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 Director may specify. Holders of permits shall

be responsible for obtaining permission of any federal agencies having jurisdiction prior to conducting any salvaging operations.

Section 12232. Guam Museum as a Depository for Certain Specimens and Objects. Any specimen and object of natural history and botanical, ethnological, or archaeological value or interest, and 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 any department, bureau, or board may, at the request of the museum be transferred and delivered to the museum or exchanged with the museum, and whereupon, in any such case, the title hereto 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.

Section 12233. Penalties. Any person violating the provisions of this Subchapter or any rules and regulations duly established thereunder shall be guilty of a misdemeanor, and, in addition, shall forfeit to the territory any artifacts or objects collected.

SUBCHAPTER C

Land Acquisition and Relocation Assistance

Section 12210. Definitions. As used in this Subchapter:

- (a) "Agency" means any department, agency, or instrumentality of the government.
- (b) "Person" means any individual, partnership, corporation, or association.
- (c) "Displaced Person" means any person who, on or after the effective date of this Subchapter, moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as a result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by an agency.

(d) "Nonprofit Organization" means a nonprofit organization as defined in Section 501 of the U.S. Internal Revenue Code.

(e) "Business" means any lawful activity, excepting a farm operation, conducted primarily:

(i) For the purchase, sale, lease and rental of personal and real property, and for manufacture, processing, or marketing of products, commodities, or any other personal property.

(ii) For the sale of services to the public.

(iii) By a nonprofit organization.

(f) "Farm Operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities, in sufficient quantity to be capable of contributing materially to operator's support.

Section 12211. Land Acquisition Fund. There is within the government of Guam a special fund known as the "Land Acquisition Fund." The Land Acquisition Fund shall be under the administration of the Governor.

The purpose of maintaining a separate fund for land acquisition is to account separately for all costs of acquiring private land for public purposes, expenditures from said fund to be made only in connection with such acquisition. A strict accounting shall be kept of all such expenditures and disbursements from such Fund and an annual report thereof shall be made to the Legislature not later than one (1) month following the close of each fiscal year. The Legislature shall make annual appropriations to the Fund.

Section 12212. Acquisition 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 an

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 Subchapter.

Section 12213. Condemnation. In the event that 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 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.

Section 12214. 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 in gross, 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.

Section 12215. Moving and Related Expenses.

(a) If any agency acquires real property for public use, it shall make fair and reasonable relocation payments to displaced persons and businesses as required by this Chapter, for:

(1) Actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property.

(2) Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount

equal to the reasonable expenses that would have been required to relocate such property, as determined by the agency.

(3) Actual reasonable expenses in searching for a replacement business or farm.

(b) Any displaced person eligible for payments under Subsection (a) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this Subsection in lieu of the payments authorized by Subsection (a) of this section may receive a moving expense allowance determined according to a schedule established by the agency, not to exceed Three Hundred Dollars (\$300); and a dislocation allowance of Two Hundred Dollars (\$200).

(c) Any displaced person eligible for payments under Subsection (a) of this section who is displaced from his place of business or from his farm operation and who elects to accept the payment authorized by Subsection (a) of this section, may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall not be less than Twenty-Five Hundred Dollars (\$2,500) nor more than Ten Thousand Dollars (\$10,000). In the case of a business, no payment shall be made under this Subsection unless the agency is satisfied that the business (1) cannot be relocated without a substantial loss of its existing patronage, and (2) is not a part of a commercial enterprise having at least one other establishment not being acquired by the agency, which is engaged in the same or similar business. For purposes of this Subsection, the term "average annual net earnings" means one-half (1/2) of any net earnings of the business or farm operation before income taxes during the next two (2) taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property acquired for such project, or during such other period as the agency determines to be more equitable for establishing such earnings, and includes any compensation

paid by the business or farm operation to the owner, his spouse, or his dependents during such period.

Section 12216. Relocation Assistance Advisory Programs.

(a) Whenever the acquisition of real property for a program or project undertaken by an agency will result in the displacement of any person on or after the effective date of this section, the agency shall provide a relocation assistance advisory program for displaced persons which shall offer the services prescribed in Subsection (b) of this section. If the agency determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, it may offer the person relocation advisory services under the program.

(b) Each relocation assistance program required by Subsection (a) shall include such measures, facilities, or services as may be necessary or appropriate in order (1) to determine the needs of displaced persons, business concerns, and nonprofit organizations for relocation assistance; (2) to assist owners of displaced businesses and farm operations in obtaining and becoming established in suitable business locations or replacement farms; (3) to supply information concerning programs of the Federal Government and the government of Guam offering assistance to displaced persons and business concerns; (4) to assist in minimizing hardships to displaced persons in adjusting to relocation; and (5) to secure, to the greatest extent practicable, the coordination of relocation activities with other project activities and other planned or proposed governmental actions in the community or nearby areas which may affect the carrying out of the relocation program.

Section 12218. Assurance of Availability of Standard Housing.

Whenever the acquisition of real property for a program or project undertaken by an agency will result in the displacement of any person on or after the effective date of this Subchapter, the agency shall assure that, within a reasonable period of time prior to displacement, there will be available in areas not generally less desirable

in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe and sanitary dwellings equal in number to the number of and available to displaced persons who require dwellings and reasonably accessible to their places of employment.

CHAPTER IV

Surveying, Mapping, and Recordation

SUBCHAPTER A

Land Records

Section 12300. Recorder. There shall be within the Department the Office of Recorder. The Director shall be ex officio the recorder and shall have and exercise all of the duties, powers and functions of such office, and is authorized to designate one or more employees of the Department as deputy recorder to perform any and all duties of the recorder in the name of the recorder.

Section 12301. Inspection of Recorder Books, etc.: Arrangement. All books of record, indices, maps, charts, surveys, instruments, or other papers, and microcopies thereof, filed for record in the recorder's office, shall be open for inspection by any person, without charge, during office hours.

Section 12302. Advance Payment or Tender of Fees. The recorder shall not file or record any instrument, furnish any copy, or render any service connected with his office until the fees prescribed by law are paid or tendered.

Section 12303. Records. The Director shall study and keep records on the use of government real property by other departments and agencies and may make recommendations to the Governor concerning reallocation of land so used for the purpose of securing maximum utilization of such land.

Section 12304. General Indices: Form. The recorder shall keep the following indices:

- (a) Two indices for the recording of instruments affecting the title or right of possession of land, labeled respectively: "General Index of Grantors, Land" and "General Index of Grantees, Land." Each page of the General Index of

Grantors, Land, shall be divided into nine (9) columns, labeled respectively: "Number," "Date Filed," "Grantors and Defendants," "Grantees and Plaintiffs," "Title," "Book," "Page," "Description," which shall contain a short description of the land if described in the instrument, and "References," which shall contain such references to the numerical index or earlier records as the recorder may determine. Each page of the General Index of Grantees, Land, shall be divided into nine (9) columns, labeled respectively: "Number," "Date Filed," "Grantees and Plaintiffs," "Grantors and Defendants," "Title," "Book," "Page," "Description," and "References."

(b) All other documents or instruments, entitled to public recordation shall be indexed in two (2) indices labeled respectively: "General Index of Grantors, Miscellaneous" and "General Index of Grantees, Miscellaneous." Each page of the General Index of Grantors, Miscellaneous, shall be divided into seven (7) columns, labeled respectively: "Number," "Date Filed," "Grantors and Defendants," "Grantees and Plaintiffs," "Title," "Book," and "Page." Each page of the General Index of Grantees, Miscellaneous shall be divided into seven (7) columns, labeled respectively: "Number," "Date Filed," "Grantees and Plaintiffs," "Grantors and Defendants," "Title," "Book," and "Page."

(c) A tract or numerical index for each parcel of land by municipality. When the land is located in more than one municipality it shall be indexed in both.

(d) An alphabetical subdivision as part of each of the general indices which shall be not less than one hundred in number and so arranged, as nearly as possible, so that the entries in the indices will be equally apportioned under the several alphabetical subdivisions.

Section 12305. Temporary Indices: Destruction Of. The recorder may maintain temporary indices. Where temporary indices are compiled for the use of the public before the permanent indices

are compiled, the recorder may destroy such temporary index cards or sheets when the permanent indices are completed.

Section 12306. Change of Name of Person in whom Title Vested. If the name of the person in whom title to real estate is vested is changed for any cause, the recorder shall index the conveyance in the name by which title was acquired and the name by which it is conveyed.

Section 12307. Instruments not in English Language. When an instrument intended for record is executed or certified in whole or in part in any language other than English, the recorder shall not accept the instrument for record. The person desiring to file for record such an instrument may present the instrument and an English translation to a judge of the Superior Court. Upon verification that the translation is a true translation, the judge shall make certification of the fact under the seal of the court, attach the certification to the translation, and attach the certified translation to the original instrument. The attached instrument and certified translation may be presented to the recorder who shall accept and file for record the instrument and the certified translation. The recording of the certified translation gives notice and is of the same effect as the recording of an original instrument.

SUBCHAPTER B

Survey of Government of Guam Land

Section 12310. Authority. The Director shall establish (a) a uniform system of geodetic triangulation controls through the establishment of primary and secondary triangulation control stations to be known as the "Guam Geodetic Triangulation Net," and (b) uniform procedures for the survey of public and private lands within the territory in conformity with the provisions of this Subchapter.

Section 12311. Personnel. The Director shall be responsible for the carrying out of the provisions of this Subchapter and shall appoint a Territorial Surveyor and such additional personnel as it is necessary for the administration thereof. In addition, he shall have the authority to contract with private professional land surveyors for surveying services under such terms and conditions as the Governor may approve; provided, however, any such surveyor shall

be either (1) registered by the Guam Board of Engineering and Architectural Examiners under the Professional Engineers, Architects and Land Surveyors Law, Title XLIII, Government Code of Guam, and holds a current certificate of registration issued by the Board covering the contract period, or (2) a surveyor exempted from registration under the Professional Engineers, Architects and Land Surveyors Law.

Section 12312. Establishment of Triangulation Control Stations. Appropriate monuments shall be erected by the Director, may be designated by him, at locations determined by him, based upon polyconic method of computation, as primary and secondary triangulation control stations, to be referred to as the "Guam Geodetic Triangulation Net," for use in locating and describing land within the territory which shall conform to standards of accuracy in their placement as follows:

(a) Primary triangulation control stations shall be established by the equivalent to, or better than, First order Class III, work as specified in the "Manual of Geodetic Triangulation," United States Department of Commerce, Coast and Geodetic Survey, Special Publication No. 247, 1959 revised edition.

(b) Secondary triangulation control stations shall be established by the equivalent to, or better than, Second Order Class II, work as specified in the "Manual of Geodetic Triangulation," United States Department of Commerce, Coast and Geodetic Survey, Special Publication No. 247, 1959 revised edition.

Section 12313. Designation of coordinate reference point. The principal reference point for the use of coordinates in connection with the "Guam Geodetic Triangulation Net" is the intersection of East Longitude $144-1/4$ $44'$ $55.52''$ and North Latitude $13-1/4$ $20'$ $20.87''$.

Section 12314. Identification of Land Markers. In addition to the other requirements established by regulations, a permanent land marker shall be set to identify any change of direction of the boundary of any lot, parcel or tract of land, stamped with the

letters "L.S." and the certificate of registration number of the surveyor setting the market or, if set by a public officer, stamped with his official title.

Section 12315. Filing of Documents for Records. No document purporting to establish title to land as a result of proceedings under the "Land Title Registration Act," presented to the recorder for recording, shall be filed unless accompanied by a map, plat, sketch, or other plane pictorial representation of the lot, parcel, tract of land involved, made within a one-year period preceding the filing of the petition for land registration if said map were filed therewith, or, with regard to the land taken in condemnation proceedings, made within one year preceding the filing of the action for condemnation, and bearing a certification of the following facts:

(a) That it was prepared as the basis of a field survey by either (1) a surveyor registered by the Guam Board of Engineering and Architectural Examiners under the Professional Engineers, Architects and Land Surveyors Law, Title XLIII, Government Code of Guam, holding a current certificate or registration issued by the Board covering the period that the map, plat, sketch or other pictorial representation of the land was made, or the field work incidental thereto was performed, or (2) a surveyor exempted from registration under the Professional Engineers, Architects and Land Surveyors Law.

(b) That it was based upon data obtained from the use of the "Guam Geodetic Triangulation Net" and, where coordinate values were used, the relationship of such coordinates to the "Guam Geodetic Triangulation Net" was determined by the use of physically ascertained courses and distances.

Section 12316. Same: Reference to Map. No document purporting to effect the transfer of the fee simple ownership of land, presented to the Department for recording, shall be filed, unless said document bears on it a reference to a map, plat, sketch or other plane pictorial representation of the lot, parcel or tract of land involved, containing a legal metes and bounds description thereof, prepared by the government of Guam, the Naval Government of Guam, or an authorized surveyor, and previously recorded at the present or former

Department of Land Management. If no such map, plat, sketch, or other plane pictorial representation is on record at the Department of Land Management, then no such document shall be filed unless accompanied by a map, plat, sketch, or other pictorial representation conforming to the requirements of Section 12316.

Section 12317. Admissibility into evidence. Any map, sketch, plat or other pictorial representation of land conforming to the provisions of Section 12315 and certified by the Director as to such conformity, shall be entitled to admission into evidence in any court of record, as prima facie evidence of the facts represented thereon without further proof.

Section 12318. Instrument-testing Facilities. For the purpose of insuring accuracy of survey measurements, the Director is authorized to install, in appropriate locations, facilities for the testing and calibration of surveying measurement devices in order to insure the attainment of the degree of accuracy in surveying required under this Subchapter. The Director is authorized to use the facilities established for the purpose of testing and calibration of survey measurement devices used by others than the government of Guam or its agencies, and the fee shall be as established by rule or regulation.

Section 12319. Penalty. It shall be a misdemeanor to wilfully or maliciously damage, destroy or otherwise impair the usefulness of any survey monument established under this Subchapter.

Section 12320. Survey of Government Land: Duty of Territorial Surveyor. All real property belonging to the government of Guam for which certificates of title have not been issued, shall be surveyed and mapped in order to accomplish the registration of such property. The Territorial Surveyor shall carry out a program, on a continuing basis, to so survey and register government-owned land, and such program shall include, but not necessarily be limited to the following:

- (1) Completing the calculation and field traverse necessary to establish the Guam Geodetic Triangulation Net, including the referencing of all markers, the integration of such system with those previously established on Guam, and the

restoration of all monuments destroyed since the initiation of said system.

(2) Researching all existing survey records and plans selecting those surveys that can be utilized, updating such survey by connecting them to the Guam Geodetic Triangulation Net, verifying questionable boundaries, and completing registration proceedings for those lots for which surveys already exist.

(3) Selecting from the remaining parcels of government land those parcels of highest land value and proceeding to survey them in order of value, on a parcel basis, until all government of Guam land is surveyed.

(4) Putting all parcels of government of Guam land on the cadastral maps of the government.

(5) Submitting to the Legislature, prior to any appropriations, a systematic program of planned surveys for the following year, showing the estimated amounts of funds needed for each such separate survey, and the estimated time of completion.

Section 2. Subsection B, Paragraph (1) of Section 4106 of the Government Code is amended as follows:

(a) Delete the following language:

"Director of Agriculture	1	\$34,000
Director of Land Management	1	\$34,000
Director of Bureau of Planning	1	\$34,000
Director of Guam Environmental Protection Agency	1	\$34,000
Director of Parks and Recreation	1	\$34,000

(b) Add the following language:

"Director of Natural Resources	1	\$34,000
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Section 3. All equipment and property under control of the Department of Agriculture to regulate slaughterhouse, slaughtered animals, and chicken eggs may, in the discretion of the Director of Natural Resources, be transferred to the Department of Public Health and Social Services.

Section 4. The Endangered Species Act of Guam, Article II, Chapter V of Title XIII of the Government Code (Public Law 15-36), not repealed but is renumbered Subchapter E of Chapter II of Title XIII as enacted by this Act. All references in the Endangered Species Act of Guam to the "Department of Agriculture" are amended to read "Department of Natural Resources."

Section 5. Chapter II of Title LXV of the Government Code relative to Comprehensive Planning is repealed.

Section 6. All references in Public Law 15-132, Section 7 to the "Bureau of Planning" shall be amended to "Department of Natural Resources."

Section 7. Chapter I of Title XXVII of the Government Code is hereby repealed.

Section 8. Transfer of Officers and Employees. All officers and employees of the Bureau of Planning, Department of Agriculture, Department of Land Management, Environmental Protection Agency, and Department of Parks and Recreation who have performed exclusively the functions transferred to the Department of Natural Resources shall be transferred to the Department of Natural Resources.

Section 9. Transfer of Assets, Records and Operational Appropriations. The balance of all unexpended appropriations and all assets, property and records of the Bureau of Planning, Department of Agriculture, Department of Land Management, Environmental Protection Agency and Department of Parks and Recreation used or to be used for the functions transferred to the Department of Natural Resources shall be transferred to the Department of Natural Resources.

Section 10. Except as provided herein, Title XIV of the Government Code is repealed in its entirety. Chapter IV entitled "Tourism Policy" (P.L. 15-70:1) and Chapter X entitled "Urban Renewal and Low Rent Housing" are reenacted and renumbered Chapter I and Chapter II respectively, both of Title XIV.

Section 11. Title LXI of the Government Code is repealed in its entirety.

Section 12. A new Chapter III-A, Title XXII, of the Government Code is enacted to read as follows:

"CHAPTER III-A

Sewage and Toilet Facilities

Section 21220. Definitions. As used in this Chapter:

- (a) 'Agency' shall mean the Public Utility Agency.
- (b) 'Fund' shall mean the Public Utility Agency Waste water Fund.
- (c) 'Homeowners' shall mean persons owning private single family residences in which they reside.
- (d) 'Adjacent homeowners' shall mean homeowners whose residences are adjacent to and abut a road, street or other way or easement on which a sewer is installed.
- (e) 'Cesspool' means an excavation which receives or intended to receive raw liquid sewage and from which liquid seeps or leaches into the surrounding porous soil.
- (f) 'Privy' means a structure and excavation for the disposal of human excreta by non-water carriage methods and includes the term "pit privy", "trench latrine", and "bored-hole" latrine.
- (g) 'Seepage pit' means a covered pit with open-joint lining through which septic tank effluent or lavatory, kitchen or laundry wastes may seep or leach into the surrounding porous soil.
- (h) 'Septic tank' means a water-tight receptacle which received the discharge of a sewage system or part thereof, designated and constructed so as to retain solids, digest organic matter through a period of detention, and allows the liquids to discharge into the subsoil outside of the tank through a buried system of open-joint piping or seepage pit. "Septic tank system" means a septic tank as herein defined together with the buried system of open-joint piping or seepage pit.
- (i) "Sewage" includes untreated or insufficiently treated human excreta, food wastes disposed of through sewers, wash water, liquid wastes from residences, commercial buildings

and industrial establishments and such diluting water as may have entered the waste disposal system.

Section 21221. Toilet and Sewage Facilities Required. No building shall be occupied or used as a dwelling, school, public building, commercial building, industrial building or place of assembly without toilet and sewage facilities of a type required by this Chapter for the disposition of human excreta and other domestic wastes.

Section 21222. Maintenance: Responsibility. Toilet and sewage facilities shall be maintained at all times in good repair and in a clean and sanitary condition. The owner of property is primarily responsible for the structural integrity, good repair and maintenance of toilet and sewage facilities in conformity with the provisions of this Chapter. He is responsible for the replacement of broken or worn-out equipment or parts, and the cleaning of obstructed or broken pipes or drains. The lessee, occupant, or person in possession of property is responsible for keeping such facilities in a clean and sanitary condition.

Section 21223. Types of Toilet and Sewage Facilities.

(a) The following types of toilet facilities are required as hereinafter provided:

Type 1: Toilets flushed with water and connected with public sewer.

Type 2: Toilets flushed with water and connected with septic tank or cesspool or combination of both.

Type 3: Privy type, including pit privy, trench latrine and bored-hole latrine.

(b) When a public sewer is available, all buildings used for human occupancy, employment or recreation and situated upon lands abutting any road, street, or other way or easement in which a public sewer is located, must have suitable toilet facilities installed and connected to the public sewer, in accordance with the following schedule:

(1) Every such building constructed after the effective date of this Act or after a public sewer becomes available, whichever is later, must include such

installation and connection in the construction.

(2) Any such building existing at the time a public sewer first becomes available and being served only by Type 3 facilities must be provided such installation and connection within thirty (30) days after the public sewer becomes available; provided, however, that upon application, the Chief Officer of the Public Utility Agency may extend the time to not more than six (6) months but only on the basis of his express finding that such extension of time will not be hazardous to health.

(3) Any such building existing at the time a public sewer first becomes available and being served by Type 2 facilities which are entirely adequate and without defect may continue to be served by such existing facilities for a maximum period of five (5) years upon the following conditions:

a. No repairs, replacements or additions of or to such facilities will be permitted.

b. Whenever any such facility becomes defective or inadequate, connection to the public sewer must be made within thirty (30) days after notice given by the Chief Officer, who may, however, upon application, extend the time to not more than six (6) months if he finds that the defect or inadequacy is not hazardous to health.

c. Whenever a public sewer becomes available the Chief Officer, as soon as possible, shall make or cause to be made an inspection of all Type 2 facilities on lands abutting the road, street, or other way or easement in which such sewer is located and shall promptly notify the persons concerned of his determination of which such facilities may continue to be used as above provided.

(4) The Chief Officer may inspect or cause to be inspected any toilet facilities at any time and shall

make or have made suitable inspections with such frequency as may be necessary to assure compliance with this Section.

(c) Where water is available from the Public Utility Agency, but a public sewer is not available, toilet facilities shall be of Type 2, and shall be connected to an approved cesspool, septic tank, or combination of both. This Subsection shall apply to all buildings constructed after the effective date of this Act. With respect to buildings in existence on the effective date of this Act, this Subsection shall apply to all such buildings, except dwellings, from and after six (6) months after the effective date of this Act, or after water becomes available, whichever is later, except that this Subsection shall not apply to any such existing building where the size of the lot or the soil permeability of the lot, as may be determined by the Chief Officer, is inadequate and unsuitable for the installation and operation of toilet facilities of Type 2.

(d) In all other cases, toilet facilities shall be of Type 2 or Type 3.

Section 21224. Location. No cesspool, septic tank system, seepage pit, or privy shall be so located, constructed, or maintained as to contaminate any potable water supply and in no case shall any such cesspool, septic tank, seepage pit or privy be located within a horizontal distance of fifty (50) feet so that when filled the contents may be covered with a minimum of two (2) feet of earth. During use, fresh deposits of excreta shall be covered with sufficient earth or lime to exclude flies and prevent odors. Pits shall be closed and sealed when the level of excreta reaches within two (2) feet of the earth's surface. A new pit shall be built to replace the old one if other sewage facilities are not available. The Chief Officer may authorize the proposed location of the new pit and inspect the completed privy prior to use.

Section 21225. Cesspools and Septic Tanks to be Emptied and Cleaned. Cesspools and septic tanks shall be emptied and cleaned when necessary, or when ordered by the Chief Officer in the interest

of public health, and the contents disposed of in such place and manner as shall be authorized by the Chief Officer.

Section 21226. Disposition of Excreta Untreated or improperly treated human excreta shall not be deposited into any river, creek, pond, reservoir, stream, well, or spring, or any collection of fresh water, on the surface of the ground, into or upon any public or private sidewalk, path, driveway, alley, street, highway, road, or beach, or any public place.

Section 21227. Sewer Connection for Underprivileged. The Chief Officer of the Public Utility Agency of Guam shall connect or cause to be connected without charge the island-wide sewer system the residences of all persons or families certified by the Department of Public Health and Social Services to be 'underprivileged' within the guidelines established by the Director of Public Health and Social Services.

Section 21228. Installation of Connecting Lines to Public Sewers. The Public Utility Agency of Guam is hereby authorized to install or cause to be installed connection lines to public sewers from the residences of adjacent homeowners and subject to the provisions of this Chapter to charge therefor on an installment basis.

Any such adjacent homeowner who, pursuant to §57063 of the Government Code, is required to connect toilet facilities to said public sewer, may make application to the Agency for installation of said sewer connection and for repayment of the cost thereof on an installment basis as provided herein.

Section 21229. Installation of Type 2 Facilities. The Public Utility Agency of Guam is hereby authorized to install or cause to be installed for homeowners Type 2 toilet facilities and to charge therefor on an installment basis subject to the provisions of this Chapter.

Any homeowner who, pursuant to §57061 and §57063 of the Government Code of Guam, is required to install Type 2 toilet facilities, may make application to the Agency for installation of said toilet facilities and for repayment of the cost thereof on an installment basis as provided herein.

Section 21230. Notice to homeowners. The Chief Officer of the Agency or his authorized representative shall inform, by written notice, all adjacent homeowners that said homeowner may make application for installation of connecting lines and payment of the cost thereof on an installment basis as provided in this Chapter. This notice shall be given to such homeowners within thirty (30) days from the date the public sewer first becomes available to them and shall contain a form for making application.

Within ninety (90) days from the effective date of this Act the Public Utility Agency shall give the notice provided herein to all such persons who presently own homes abutting a road, street or other way or easement in which a public sewer is currently located, and who have not yet connected their toilet facilities to the sewer.

The Chief Officer of the Agency or his authorized representatives shall also inform, by publication of a notice at least once each month for a period of six (6) months in a newspaper of general circulation, all homeowners that they make application for installation and connection of Type 2 toilet facilities and payment of the cost thereof on an installment basis as provided in this Chapter.

Section 21231. Application of Homeowners. The adjacent homeowners desiring to have connecting sewerlines installed by the Public Utility Agency and to pay therefor on the installment basis shall, within thirty (30) days from receipt of the notice specified in this Chapter file application for connection and installment payment with the Agency upon forms provided by the Agency.

Section 21232. Installation of Connecting Lines. The Agency shall install or cause to be installed connections from the residence of each such adjacent homeowner to the public sewer and shall commence such installation as soon as possible in order to comply with the time provisions of this Chapter. This work may be done by contractors on public bid pursuant to the provisions of §10001.6 of the Government Code.

Section 21233. Installation of Type 2 Toilet Facilities. After the homeowner obtains a permit from the Department of Public Health and Social Services, the Agency shall install or cause to be installed and connected Type 2 toilet facilities as soon as possible.

after execution of the installment contract provided in this Chapter. This work may be done by contractors on public bid pursuant to the provisions of §10001.6 of the Government Code.

Section 21234. Fund.

(a) There is hereby established a fund to be known as the 'Public Utility Agency Wastewater Fund', which fund shall be maintained separate and apart from any other funds of the government of Guam, and independent records shall be maintained in connection therewith.

(b) All monies received by the Agency from homeowners in payment of sewer connection line or Type 2 toilet facility installation charges shall be deposited with the Treasurer of Guam and credited to the Fund and applied to the account of each homeowner making payment.

(c) All debts, liabilities, obligations, operating expenses, and installation costs and expenses arising from the installation of connecting lines or Type 2 toilet facilities pursuant to the provisions of this Chapter are hereby authorized to be paid from said Fund by the Treasurer of Guam upon vouchers properly certified to by the Certifying Officer of the Agency.

(d) The Chief Officer of the Agency shall quarterly render to the Governor a statement reflecting the financial condition of the Fund.

Section 21235. Repayment of Installments. The cost of the installation of connection lines to the public sewer and of Type 2 toilet facilities shall be borne by each individual homeowner, and the cost thereof shall be repaid to the Fund on an installment basis in equal installments over a period not to exceed four (4) years from the date the sewer connection or the toilet facility shall have been completed.

Section 21236. Installment Contract. The signature of the homeowner, and acceptance by the Public Utility Agency of the application form shall constitute a contract between the homeowner and the government of Guam. The contract shall provide for the monthly amount of installment payments to be made thereunder. Payments shall

commence within sixty (60) days from the date of completion of the installation and connection of the connecting line or of the Type 2 toilet facilities.

Such contract shall provide for payment of interest to be at the rate of six percent (6%) per annum on the installment amounts due and payable. Such contract shall further provide that the entire balance shall become immediately due and payment upon default in the payment of any installment of more than sixty (60) days. If during the duration of any installment contract a single family residence converted into income producing property or a multiple family dwelling, all unpaid installments shall become immediately due and payable. All unpaid installments shall constitute a lien upon the property for which the installation and connection was made. Upon sale of the property by the contracting homeowner, all unpaid installments shall immediately become due and payable, unless the buyer of the property shall, by written agreement with the Agency, assume such installment contract.

Section 21237. Powers. The Public Utility Agency shall have the power, duty and responsibility for the operation, administration and enforcement of this Chapter, and shall maintain all necessary records. Such power shall include the authority to make rules and regulations necessary to carry out the provisions contained herein, all in accordance with §21207 of the Government Code of Guam, and the authority to enforce collection of payments to be made by homeowner hereunder. The Agency shall obtain from the Attorney General approval of the general form of installment contract which is to be entered into by homeowners hereunder, and approval of the general form of the assumption agreement to be entered into hereunder by subsequent purchasers.

Section 13. Transition and effective date. The provisions of this Act shall take effect one hundred twenty (120) days after the date of enactment. Notwithstanding the effective date of this Act, the Governor is authorized to immediately appoint, with the advice and consent of the Legislature, the Director of the Department of Natural Resources. The Director, from the date of his or her

appointment until the effective date of this Act, shall have the following powers and responsibilities:

(1) General authority over the Department of Land Management, Department of Agriculture, Department of Parks and Recreation, Bureau of Planning, and Guam Environmental Protection Agency.

(2) Coordinate the functions and operations of the departments and agencies listed in Subsection 1 in order to assure an orderly transfer and implementation of this Act.

(3) Promulgate rules and regulations to be utilized by the Department of Natural Resources and which will take effect on the effective date of the provisions of this Act.

Section 14. Any existing provisions of law which are inconsistent with the provisions of this bill are repealed to the extent of such inconsistency.

Section 15. 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 court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Act or any regulation, rule or order promulgated pursuant thereto.