



HOUSE OF REPRESENTATIVES

TWENTY-SECOND LEGISLATURE

COMMONWEALTH OF THE NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE

P.O. BOX 500586 SAIPAN, MP 96950

SHEILA J. BABAUTA
CHAIRPERSON
NATURAL RESOURCES COMMITTEE

STANDING COMMITTEE REPORT NO. Q2.24
DATE: July 12, 2021
RE: H.B. No. 22-31

The Honorable Edmund S. Villagomez
Speaker of the House of Representatives
Twenty-Second Northern Marianas
Commonwealth Legislature
Capitol Hill
Saipan, MP 96950

Dear Mr. Speaker:

Your Committee on Natural Resources to which was referred:

H. B. No. 22-31:

“To authorize the Department of Public Lands to issue encroachment permits and charge fees for the use of the public lands located within 150 feet of the high water mark.”

begs leave to report as follows:

I. RECOMMENDATION:

After considerable discussion, your Committee recommends that H. B. No. 22-31 be passed by the House in the form of House Substitute 1.

II. ANALYSIS:

A. Purpose:

The purpose of House Bill No. 22-31 is to authorize the Department of Public Lands to issue encroachment permits and charge fees for the use of the public lands located within 150 feet of the high water mark.

B. Committee Findings:

Your Committee finds that the Department of Public Lands (DPL) does not have the statutory authority to charge fees for the use of public lands located within 150 feet of the high water mark. Article XI, Sec. 5(e) of the Constitution provided that “the corporation may not transfer an interest, and may prohibit the erection of any permanent structure, in public lands located within one hundred fifty feet of the high water mark of a sandy beach, except that the corporation may authorize construction of facilities for public purposes.” The Supreme Court ruled that Article XI, Sec. 5 does not apply to the Department of Public Lands (DPL v. Commonwealth, 2010 MP 14) and that 1 CMC §2806(e) enacts substantially the same language that was in the Constitution “the Department may not transfer an interest, and may prohibit the erection of any permanent structure, in public lands located within 150 feet of the high water mark of a sandy beach, except that the Department may authorize the construction of facilities for public purposes.” Under 1 CMC §2803(a) it states that “...the Department’s authority does not extend to the issuance of land use permits and licenses, except as specifically provided for in this Act...” Although DPL has the authority to prohibit the erection of permanent structures within 150 feet, it does not have the authority to regulate activities within 150.

Although, your Committee wholeheartedly agrees with the original intent of the bill, the Committee as a whole felt that there were some deficiencies within the bill, thus, making some substitutes that were in line to address the concerns of all interested parties. Your Committee felt that the intent of the bill is to address the existing encroachment issues facing the Department of Public Lands (DPL). Your Committee agreed and made the necessary changes to the bill to make it reflect that DPL can issue encroachment permits and charge fees for the use of public lands located within 150 feet of the high water mark. In addition, your Committee also addressed issues with the constructing of facilities, such as allowing for DPL to have the authority to grant the construction of facilities for public purposes as well as addressing encroachment issues with adjoining properties. Your Committee felt that by putting language in the bill that gives DPL the power to issue encroachment permits to persons who have a legal interest in adjoining property and who are currently maintaining an encroachment structure, improvement, or other item, some form of fee or compensation was necessary. Your Committee, also felt that by adding an annual fee to the language of the bill of not less than one percent (1%) or no more than four percent (4%) of the fair market value of the public land on which the encroachment structure, improvement, or other item sits is deemed fair and reasonable for all interested parties.

C. Public Comments/Public Hearing:

Your Committee held public hearings on the islands of Rota, Tinian, and Saipan. The dates that your Committee held these public hearings are: one on the island of Saipan on April 21, 2021, one on the island of Rota on May 07, 2021, and one on the island of Tinian on June 25, 2021.

Your Committee solicited comments from the following agencies:

- Marianas Public Land Trust (MPLT)
- Saipan Municipal Council
- Indigenous Affairs Office (IAO)
- Department of Finance (DOF)
- Bureau of Environmental and Coastal Quality (BECQ)
- 500 sails (Guma Sakman)
- Office of Planning and Development (OPD)
- Western Pacific Fishery Council
- Office of Zoning
- Department of Commerce Saipan
- The Hotel Association of the Northern Mariana Islands (HANMI)
- Pacific Development Incorporated (PDI)
- Office of U.S. Congressman Gregorio "Killili" Camacho Sablan
- Department of Public Works (DPW)
- Department of Coastal Resource Management (DCRM)
- Department of Community and Cultural Affairs (DCCA)
- Office of Planning and Development (OPD)
- National Oceanic and Atmospheric Administration (NOAA)
- Matua Council for Chamorro Advancement
- Department of Public Lands (DPL)
- Office of the Mayor (Saipan)
- Friends of the Mariana Trench
- Marianas Visitors Authority (MVA)
- Department of Fish and Wildlife (DFW)
- Office of the Attorney General (AG)
- Mariana Islands Nature Alliance (MINA)
- Our Common Wealth 670
- Woman's Affairs
- Tinian Municipal Council
- Tinian Mayors Office
- Rota Municipal Council
- Rota Mayors Office
- Department of Commerce Rota

Comment(s) were received from:

- Angelo Villagomez, Friends of the Mariana Trench
- Honorable Efraim M. Atalig, Mayor of Rota, Office of the Mayor
- Joseph P. Deleon Guerrero, Secretary, Department of Community and Cultural Affairs
- James A. Ada, Secretary, Department of Public Works

- Roman M. Tudela, Jr, Resident Executive, Indigenous Affairs Office
- Roberta Guerrero, Executive Director, Mariana Islands Nature Alliance
- Jim M. Atalig, Jonovan H. Lizama, & William A. Taitano, Councilman, 18th Rota Municipal Council Members
- Priscilla M. Iakopo, Managing Director, Marianas Visitors Authority
- Anthony T. Benavente, Secretary, Department of Lands and Natural Resources
- Dr. Theresa (Isa) Arriola, Our Common Wealth 670
- David DLG. Atalig, Secretary, Department of Finance
- Dean Reynold A. Manglona, Resident Director, Department of Commerce, Rota
- Janice Castro, Director, Division of Coastal Resource Management
- Gregory P. Deleon Guerrero, Director, Compliance Division, Department of Public Lands
- Marianne Concepcion-Teregeyo, Secretary, Department of Public Lands
- James F. Fleming, Acting Director, Compliance Division, Department of Public Lands
- Robert H. Jones, Chairman & CEO, Triple J
- Gloria Cavanagh, Chairwoman, Hotel Association of the Northern Mariana Islands
- Martin B. Ada, Chairman, Marianas Public Land Trust
- Maxine Laszlo, Executive Director, Saipan Chamber of Commerce
- Robbie Greene, Program Manager, Pacific Coastal Research & Planning
- Sean E. Frink, Attorney, Marianas Legal Strategy Group, LLC.

D. Legislative History:

House Bill No. 22-31 was introduced by Representative Joseph Leepan T. Guerrero on March 16, 2021 to the full body of the House and was referred to the House Standing Committee on Natural Resources. A similar legislation was also introduced by Representative Joseph Leepan T. Guerrero in the 21st House of Representatives on March 12, 2019, namely House Bill No. 21-25, which was referred to the House Standing Committee on Natural Resources where no further action was taken.

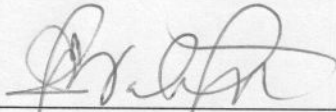
E. Cost Benefit:

The enactment of House Bill No. 22-31 will not result in additional cost to the CNMI Government but will generate additional revenue from persons or businesses in violation of the said statutes.

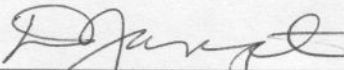
III. CONCLUSION:

The Committee is in accord with the intent and purpose of H. B. NO. 22-31, and recommends its passage in the form of House Substitute 1.

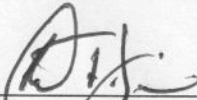
Respectfully submitted,



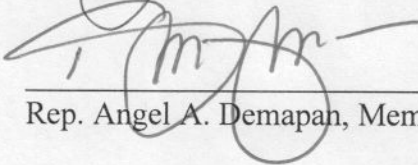
Rep. Sheila J. Babauta, Chairperson



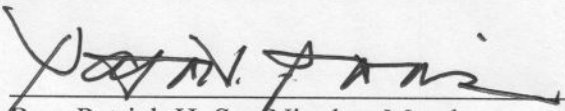
Rep. Denita K. Yangetmai, Vice Chair



Rep. Richard F. Lizama, Member

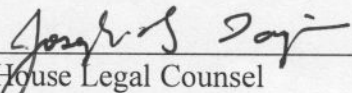


Rep. Angel A. Demapan, Member



Rep. Patrick H. San Nicolas, Member

Reviewed by:



House Legal Counsel

Attachments:

- Letter dated March 31, 2021, Robbie Greene, Program Manager, Pacific Coastal Research & Planning
- Letter dated April 12, 2021, Maxine Laszlo, Executive Director, Saipan Chamber of Commerce
- Letter dated April 13, 2021, Angelo Villagomez, Friends of the Mariana Trench
- Letter dated April 13, 2021, Janice E. Castro, Director, Division of Coastal Resource Management
- Letter dated April 14, 2021, Martin B. Ada, Chairman, Marianas Public Land Trust
- Letter dated April 14, 2021, Honorable Efraim M. Atalig, Mayor, Municipality of Rota
- Letter dated April 15, 2021, Gloria Cavanagh, Chairwoman, Hotel Association of the Northern Mariana Islands
- Letter dated April 15, 2021, Joseph P. Deleon Guerrero, Secretary, Department of Community and Cultural Affairs
- Letter dated April 16, 2021, Roberta Guerrero, Executive Director, Mariana Islands Nature Alliance
- Letter dated April 16, 2021, Priscilla M. Iakopo, Managing Director, Marianas Visitors Authority
- Letter dated April 16, 2021, Marianne Concepcion-Teregeyo, Secretary, Department of Public Lands

- Letter dated April 16, 2021, Jim M. Atalig, Jonovan H. Lizama, & William A. Taitano, Councilman, 18th Rota Municipal Council Members
- Letter dated April 16, 2021, Roman M. Tudela, Jr., Resident Executive, Indigenous Affairs Office
- Letter dated April 19, 2021, Anthony T. Benavente, Secretary, Department of Lands and Natural Resources
- Letter dated April 19, 2021, Dr. Theresa (Isa) Arriola, Our Common Wealth 670
- Letter dated April 20, 2021, David DLG. Atalig, Secretary, Department of Finance
- Letter dated May 07, 2021, Dean Reynold A. Manglona, Resident Director, Department of Commerce, Rota
- Letter dated July 08, 2021, Sean E. Frink, Attorney, Marianas Legal Strategy Group, LLC.



Office of Rep Sheila J. Babauta <rep.sbabauta@gmail.com>

NR_Committee_Comment_Request

Robbie Greene <robbie.greene@pacificcrp.org>
To: sheila babauta <rep.sbabauta@gmail.com>

Wed, Mar 31, 2021 at 12:08 PM

Hi Sheila,

Since I'll be leaving the NOAA position in a month and moving over to PCRCP full time lets go ahead and remove my NOAA address from your mailing list and add this one (robbie.greene@pacificcrp.org).

I'll add some more organized thoughts in a composed letter, but I have some *huge* concerns about the DPL fee bill (22-031). Note that I need to re-read this more thoroughly in case I'm misinterpreting something... feel free to share with your colleagues in the meantime.

This bill raises the same level of suspicion that I get when I see proposals to "take back American Memorial Park". Obviously DPL wants some more money from use of public lands... nothing wrong with that **as long as they're not charging residents/the public without some explicit guidance on exempt activities** (that would be an entirely new can of worms).

What's concerning to me is that DPL will now have incentive to essentially invite commercial interests to the table and unofficially "lease out" the most valuable portion of the CNMI's public domain to tourism operations and commercial interests. The bill language just says "charge fees" and "construct for public purposes", but every beach activity has a defined space. I'm envisioning Pau Pau littered with Kayak and SUP vendors, snorkel tours feeding the fish, etc... basically the application of the Managaha model to other spaces. This could be an issue when tourist populations re-establish.

If DPL wants to charge folks money for having a garage sale on Sunday morning at a Beach Rd. pala pala, fine. But I don't think this bill would have emerged if someone didn't have a vision for bringing in a larger pot of \$\$\$\$. Our beaches are, for the most part, one of the few publicly accessible spaces that maintain a sense of place and hold intrinsic, cultural, and natural value. That is largely because they have been spared (in most instances) from development and overcrowding, and remain a resource for all residents to enjoy. While this bill may not lead to mass construction at the high tide line, there will be incentive moving forward for DPL to encourage widespread proliferation of vendor *activities* - ultimately having a detrimental impact on the public/community's experience. If fees are somehow extended to the public's use then I would expect an immense backlash and complete non-compliance from residents.

The other big issue here is that the "150 ft. inland from high water mark" is **the exact language that defines DCRM's federally-backed Shoreline Area of Particular Concern**. This feels like an inter-agency regulatory capture, and a big fight or ongoing jurisdictional feud, with NOAA potentially getting involved as the Shoreline APC permitting is funded through the National Coastal Zone Management Act. Currently the Shoreline APC (150' Inland from highwater mark) is managed and regulated by DCRM based on tiered, priority uses that incentivize conservation and discourage alteration of the natural environment. I'll pull explicit language from the regs in a formal letter, but basically this bill would create a scenario in which the DCRM/NOAA priorities and regulations for the Shoreline APC are in direct contradiction to DPL's \$\$\$ agenda.

More articulate thoughts later, but that's my immediate 2 cents.

Also, with HB 22-044 - I'm a bit confused. Does this just apply to public lands and spaces managed by DLNR? Or would residents and/or developers be charged for every tree or stand of tangan tangan that gets removed? If the latter, DLNR's gonna be rolling in it with 0.5 Billion dollars in projects coming in!

RG

On Wed, Mar 31, 2021 at 11:15 AM Robbie Greene - NOAA Affiliate <robbie.greene@noaa.gov> wrote:

[Quoted text hidden]

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Robbie Greene**Coral/Coastal Management Liaison - CNMI**

Contractor in support of NOAA Office for Coastal Management

7/8/2021

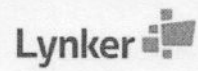
Gmail - NR_ Committee_ Comment_ Request

Beach Road, Saipan MP 96950

Office: (670) 234-0005

Mobile: (670) 989-1619

robbie.greene@noaa.gov



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Robbie Greene

Program Manager

Pacific Coastal Research & Planning

670-989-1619 (mobile)

robbie.greene@pacificcrp.org



Office of Rep Sheila J. Babauta <rep.sbabauta@gmail.com>

NR_ Committee_ Comment_Request

Maxine Laszlo <executive@saipanchamber.com>
Reply-To: executive@saipanchamber.com
To: "Office of Rep Sheila J. Babauta" <rep.sbabauta@gmail.com>

Mon, Apr 12, 2021 at 1:28 PM

Hafa Adai Ms. Rideb,

Thank you for reaching out to the Saipan Chamber of Commerce for our comments:

- SCC currently has a position on **HB 22-32** sent to Chair Babauta on Friday via email (please see attached).
- For **HB 22-22**, **HB 22-43**, and **HB 22-44**, the Chamber does not presently have comment.
- Our members and committees are still reviewing **HB 22-31**, as this bill greatly impacts the Chamber membership. We intend to seek guidance from the AG, as DPL has already been granting these permits for the last few decades, and the businesses are unclear on how this will impact their current permits. If the Chair would consider giving more time to address this bill between the businesses, AG, and DPL, the Chamber would greatly appreciate it.

Thank you again for seeking our comments. If you could kindly update the email address for Maxine Laszlo to executive@saipanchamber.com, I'd greatly appreciate it.

With gratitude,

Maxine

Maxine Laszlo

Executive Director



Saipan Chamber of Commerce

P.O. Box 500806 Saipan, MP 96950

Marianas Business Plaza, 4th floor, Suite 413

Ph: (670) 234-7150; Fax: (670) 234-7151

Email: executive@saipanchamber.com

Website: www.saipanchamber.com

From: Maxine Laszlo <maxine.laszlo@gmail.com>
Sent: Monday, April 12, 2021 1:16 PM
To: Maxine Laszlo <executive@saipanchamber.com>
Subject: Fwd: NR_ Committee_ Comment_ Request

----- Forwarded message -----

From: Office of Rep Sheila J. Babauta <rep.sbabauta@gmail.com>
Date: Mon, Apr 12, 2021, 12:21 PM
Subject: Re: NR_ Committee_ Comment_ Request
To: Sheila Therese Babauta <rep.sbabauta@gmail.com>

Hafa Adai,

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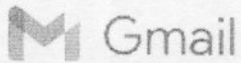
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2021-04-09 SCC Position on HB 22-32 (Guerrero) NR - Final.pdf
117K



NR_ Committee_ Comment_ Request

Angelo Villagomez <avillagomez@pewtrusts.org>

Tue, Apr 13, 2021 at 11:27 PM

To: Friends of the Mariana Trench MNM <marianamonument@gmail.com>, "Office of Rep Sheila J. Babauta" <rep.sbabauta@gmail.com>

The House Standing Committee on Natural Resources is respectfully requesting your recommendations, concerns, questions, and/or comments pertaining to the legislation below (also attached):

- *H.B. 22-22 " To establish laws to regulate bioprospecting activities within the Commonwealth of the Northern Marianas Island in order to ensure prior, informed consent and equitable sharing of benefits."*

This is a great idea, but I imagine you only have jurisdiction out to 3 miles. I think FSM passed a similar law about 7 years ago?? This is kind of a niche issue, did someone bring the idea to the CNMI? Mae Adams from Chuuk was working on this in FSM (I think).

- *H.B. 22-31 " To authorize the Department of Public Lands to issue licenses and use permits and charge fees for the use of the public lands located within 150 feet of the high watermark."*

Use of public lands? Is this commercial use? I don't know enough to have a comment. I support more user fees for our protected areas.

- *H.B. 22-32 " To amend the Litter Control Act to prohibit the possession of glass containers while on public beaches, and for other purposes."*

The externality of this is that folks would be required to use more plastic. Is there a pandemic of broken glass on our beaches?

- *H.B. 22-43 " To create an anti-littering incentive program by providing a reward for persons reporting violations of the Litter Control Act; and for other purposes."*

There is no shortage of littering fines to be handed out! With this also incentivize local officials to give out more tickets? Maybe a better incentive would be for littering fines to go to the office that issues them? This could literally fund the mayor's office. I also wonder if littering tickets still have to go to the courts? If that's the case, this could really gum up the courts. Is there a way to issue fines without

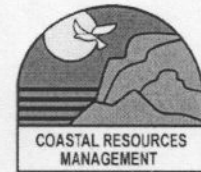
- *H.B. 22-44 " To conserve, protect, and enhance the CNMI's native plants and trees for generations to come and for other purposes.'*

Sorry, I don't have the legislation. If you'll forward it to me, I'll give it a quick read.



Eli D. Cabrera
Administrator

Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Bureau of Environmental and Coastal Quality
Division of Coastal Resources Management
P.O. Box 501304, Saipan, MP 96950
Tel: (670) 664-8300; Fax: (670) 664-8315
www.dcrm.gov.mp



Janice E. Castro
Director, DCRM

April 13, 2021

Ref No. ADM21-024

Representative Sheila Jack Babauta
Chairwoman
House Committee on Natural & Cultural Resources
P.O. Box 500586
Saipan, MP 96950

Re: DCRM Comments on House Bill 22-031

Dear Chairwoman Babauta,

In response to your March 30, 2021 email soliciting for recommendations, concerns, questions, and/or comments pertaining to the subject legislation, the Division of Coastal Resources Management (DCRM) has reviewed House Bill 22-031, "[t]o authorize the Department of Public Lands to issue licenses and use permits and charge fees for the use of the public lands located within 150 feet of the high water mark." DCRM thanks you for the opportunity to consider this bill and would like to provide the following comments and suggestions:

Definition of "licenses and use permits"

HB 21-25 does not provide a definition of "licenses" or "use permits." Since no definition of was provided, it is unclear as to what exactly will need to undergo permitting and/or licensing in the shoreline area under DPL. Many existing pavilions (pala-palas) stand within 150-feet of the high tide line, so *would that require beach-goers to secure permits from both DPL and the Department of Lands and Natural Resource's Division of Parks and Recreation in order to utilize a pavilion or erect a tent on the shoreline?*

How does DPL's authority to issue "licenses and use permits" within 150-feet of the high water mark differ from their ability and present use of a "Temporary Occupancy Agreement?" As you may be aware, DCRM permits and regulates all marine sports operators. There are a number of marine sports operators that operate beach concessions where they offer their services to hotel guests and other beach users. In order to be permitted by DCRM, these operators must provide proof of authorization/permit to hold a beach concession on public land. These concessionaires must apply for and pay a fee for a TOA from DPL. A copy of a DPL compliance review of a beach concession and its associated TOA/permit has been attached hereto for your reference. This particular concession is located within 150-feet of the "high water mark."

Definition of "high water mark"

HB 21-25 does not provide a definition of "high water mark" nor does it reference a specific definition that would be used. Typically, a high water mark considers the maximum rise of water

over land, such as a result of a flood or highest point of storm surge. This would mean that in some of the lower-lying areas of Saipan, such as San Antonio, the high water mark would be past Route 30/Beach Road and into residential property.

DCRM defines the “high tide line” as “a mark left upon tide flats, beach, or along shore objects indicating the elevation of the intrusion of high water. The mark may be a line of oil or scum on along shore objects, or a more or less continuous deposit of fine shell or debris on the fore shore or berm. This mark is physical evidence of the general height reached by wave run up at recent high waters.”¹ DCRM conducts bi-annual beach profile surveys to collect data on beach erosion and accretion to measure shoreline gains and losses. To-date, DCRM has observed that Saipan’s shorelines mimic the ebbs and flows of the natural movement of our waters. However, drastic changes have been observed post-storm events. *This poses the question of whether or not DPL will map the high tide line to use for its permitting process, or if they will rely on manual measurements on a case-by-case basis.*

DCRM suggests the term “high water mark” be replaced with “high tide line.” The definition of “high tide line” shall be interpreted to ensure consistency with Coastal Resource Management regulations governing activities within 150 feet inland of the high tide line.

DCRM’s Policies, Powers, Functions, and Duties

It is the Coastal Resources Management policy of the CNMI to “plan for and manage any use or activity with the potential for causing a direct and significant impact on coastal resources. Significant adverse impacts shall be mitigated to the extent practicable;”² and “maintain or improve coastal water quality through control of erosion, sedimentation, runoff, siltation, sewage and other discharges.”³ Moreover, the DCRM has the duty to review and monitor Commonwealth government activities for their consistency with the coastal resources management policies.⁴

Coastal Resources Management Rules and Regulations & Permitting Consistency

With that said, the area between the high tide line and 150 feet inland is a geographic delineated area known as the Shoreline Area of Particular Concern (APC) under DCRM. Projects and activities occurring within the Shoreline APC are subject to special management requirements in order to minimize potential impacts a project or activity may have on the environment and must be permitted by DCRM prior to activity execution. *Should DPL be granted the authority to issue “license and use permits” within this area, it would impose additional permitting requirements and fees upon any person or entity wishing to conduct an activity on the shoreline.*

However, should DPL be authorized to proceed with issuing “license and use permits” within this area, *DCRM strongly recommends that DPL mirror DCRM’s definitions, management standards, considerations, and use priorities to provide consistency to potential permit seekers.* This suggestion is intended to avoid any given activity from being permitted from one entity and denied from the other. For your convenience, NMIAC § 15-10-335 Specific Criteria, Areas of

¹ NMIAC § 15-10-020(II) Definition of “High Tide Line”

² PL3-47 § 3(a)(4), as amended

³ PL3-47 § 3(a)(10), as amended

⁴ PL3-47 § 4(b), as amended

Particular Concern; Shorelines has been attached hereto for your perusal. *DCRM strongly recommends incorporating specific language referencing these management standards into HB 21-25 to ensure consistency amongst regulatory agencies and limit any regulatory overlap.*

If DPL does not reflect or incorporate DCRM regulations in its permitting and licensing process, DCRM would like to stress the importance of proper evaluation of permit applications in order to provide best management practice recommendations for activities or projects in this environmentally sensitive area, including shoreline stabilization controls. *Should DPL and DCRM come to different determinations for proposed projects/activities in this overlapping jurisdiction, which agency regulations will assume authority?* DCRM recommends that any license or use permit issued hereunder shall not excuse compliance with or supersede any other applicable permitting requirements.

In summary, for the reasons above, DCRM requests that this bill not be approved as written and instead, be revised to provide further clarification and provide consistency among overlapping jurisdictions. Thank you for your consideration and should you have any questions, please do not hesitate to contact me directly at jcastro@dcrm.gov.mp or at (670) 664-8319.

Sincerely,



JANICE E. CASTRO
Director
Division of Coastal Resources Management

Attachment: DPL's January 24, 2019 Letter re: Temporary Permit (Beachfront Concession)
No. 09-90S ("Permit") NOTICE OF COMPLIANCE
NMIAC § 15-10-335 Specific Criteria, Areas of Particular Concern; Shorelines

cc: BECQ Administrator
DEQ Director



Commonwealth of the Northern Mariana Islands
Office of the Governor
DEPARTMENT OF PUBLIC LANDS

January 24, 2019

CD19-020

Mr. Bandha Baidya Banga
President/Secretary
USBC International, Inc.
d.b.a. Sakura Marine Sports
P. O. Box 506100
Saipan, MP 96950



BECQ
DIVISION OF CRM

RECEIVED
franvina
01/29/2019



Subject: **Temporary Permit (Beachfront Concession) No. 09-90S ("Permit")**
NOTICE OF COMPLIANCE

Dear Mr. Banga:

The Compliance Division of the Department of Public Lands ("DPL") has completed its review and inspection of USBC International Inc. d.b.a. Sakura Marine Sports records and permitted premises, and revealed that Sakura Marine Sports is in compliance with the terms and conditions of the above-subject Permit.

Thus, the DPL conditionally approves Sakura Marine Sports' request to renew its Permit for another year. This approval is condition upon the issuance of a Temporary Occupancy Agreement ("TOA") under DPL's newly instituted regulation.

Therefore our Real Estate Division will prepare a TOA and will contact you as soon as it is ready for your signature and payment. Please call our Real Estate Division at the numbers listed below, if you have any questions.

Please call us if you have any questions.

Sincerely,

Gregory P. Deleon Guerrero
Director, Compliance Division

cc: Secretary, DPL
Compliance Division, DPL
Finance Division, DPL
Real Estate Division, DPL
Coastal Resources Management Office, BECQ

P.O. Box 500380, Saipan, MP 96950 • 2nd Floor, Joeten Dandan Commercial Building
Website: www.dpl.gov.mp • E-mail: dpl@dpl.gov.mp
Tel: (670) 234-3751/52/53/54/56 • Fax: (670) 234-3755

§ 15-10-335 Specific Criteria, Areas of Particular Concern; Shorelines

TITLE 15: COASTAL RESOURCES MANAGEMENT

- (a) **Area Defined.** The geographic area of particular concern consisting of the area between the high tide line or the edge of a shoreline cliff and 150 feet inland on the islands of the Northern Mariana Islands chain.
- (b) **Management Standards.** Any project proposed for location within the shoreline APC shall be evaluated to determine its compatibility with the following standards:
- (1) The impact of onshore activities upon wildlife, coastal and marine systems, or aesthetic resources, as well as natural coastal processes shall be minimized;
 - (2) The effects of shoreline development on natural beach processes shall be minimized;
 - (3) The effects of onshore and nearshore activities or development shall minimize changes to existing shoreline morphology and vegetation;
 - (4) The unpermitted taking of sand, gravel, or other aggregates and minerals from the beach and near shore areas shall not be allowed including sand, gravel, or other aggregates and minerals within the APC; and
 - (5) Where possible, public landholding along the shore shall be maintained and increased, for the purpose of access and hazard mitigation, through land trades with the Department of Public Land, or its successor agency, land purchases, creation of easements, and where no practicable alternative exists, through the constitutional authority of eminent domain.
- (c) **Additional Considerations for permits on shorelines.** In addition to deciding whether the proposed project is consistent with the above standards, CRM agency officials shall consider the following in their review of coastal permit applications:
- (1) Whether the proposed project is water-dependent or water-oriented in nature;
 - (2) Whether the proposed project is to facilitate or enhance coastal recreational, subsistence, or cultural opportunities (i.e., docking, *utt*, fishing, swimming, picnicking, navigation devices);
 - (3) Whether the existing land use, including the existence of roadways, has irreversibly committed the area to uses compatible with the proposed project, particularly water oriented uses, and provided that the proposed project does not create adverse cumulative impacts;
 - (4) Whether the proposed project is a single-family dwelling in an existing residential area and would occur on private property owned by the same owner as of the effective date of the program, of which all or a significant portion is located in the shoreline APC, or no reasonable alternative is open to the property owner to trade land, relocate or sell to the government;
 - (5) Whether the proposed project would be safely located on a rocky shoreline and would cause significant adverse impacts to wildlife, vegetation, marine or scenic resources;
 - (6) Whether the proposed project is designed to prevent or mitigate shoreline erosion; and
 - (7) Whether the proposed project would be more appropriately located in the port and industrial APC.

TITLE 15: COASTAL RESOURCES MANAGEMENT

(d) Evaluation of marina and small boat harbor project permits. In addition to deciding whether the proposed project is consistent with the above standards, marina and small boat harbor projects shall be evaluated for consistency with the following performance standards and goals:

- (1) Effective runoff control shall be implemented which includes the use of pollution prevention activities and the proper design of hull maintenance areas;
- (2) Shoreline stabilization shall be implemented has contributed to nonpoint source pollution or where erosive forces are contributing to chronic shoreline retreat.* Wherever possible, soft stabilization using re-vegetation measures, green infrastructure, and other “living shoreline” alternatives should be implemented instead of hard stabilization and shoreline armoring;
- (3) Effective fuel station design shall be implemented to prevent spills and leaks and allow for efficient and effective cleanup of spills;
- (4) Effective sewage management facilities shall be installed where needed to reduce the release of sewage to surface waters. Facilities shall be designed to allow for efficient and effective maintenance and signage shall be posted to facilitate the public’s use of the facility;
- (5) Effective fish waste management shall be implemented through restrictions, public education, and/or facilities for proper disposal of fish waste;
- (6) Petroleum control shall be implemented to reduce the amount of fuel and oil from boat bilges and fuel tank air vents and other vessel activities from entering marina and surface waters;
- (7) Boat cleaning operations shall minimize, to the extent practicable, the release of harmful cleaners and solvents as well as paint from in-water hull cleaning;
- (8) Public education management, outreach, and training shall promote marina activities that minimize environmental impact; and
- (9) Boating activities within marina areas shall conform to the Department of Public Safety Boating Safety Regulations (NMIAC, Title 150, Chapter 20).

(e) Use Priorities. Activities listed within a use priority category are neither priority ranked nor exhaustive. Use priority categories for the shoreline APCs of the entire Northern Mariana Islands chain are as follows:

- (1) Highest:
 - (i) Public recreational uses of beach area, including resource conservation, the creation of public shoreline parks, and construction of permittable structures enhancing access and use in the shoreline setback area, such as barbecue grills, picnic tables, or shelters;
 - (ii) Compatible water-dependent development which cannot be reasonably accommodated in other locations;
 - (iii) Traditional cultural and historical practices;
 - (iv) Preservation of fish and wildlife habitat;
 - (v) Preservation of natural open areas of high scenic beauty and scientific value;
 - (vi) Activities related to the prevention of beach erosion through non-structural means;

TITLE 15: COASTAL RESOURCES MANAGEMENT

- (vii) Floating, non-permanent docks or boardwalks that are designed to withstand long-term impacts of natural coastal processes and that are compatible with other relevant regulations; or
 - (viii) Beach habitat enhancement and removal of debris. Removal of debris such as unexploded ordinance, marine and other debris from beaches and coastal areas in consultation with DCRM to mitigate unavoidable impacts.
- (2) Moderate:
 - (i) Single-family dwellings in existing residential areas;
 - (ii) Agriculture/aquaculture which requires or is enhanced by conditions inherent in this APC;
 - (iii) Improvements to or expansion of existing water-oriented structures which are compatible with designated land uses and do not otherwise conflict with or obstruct public recreational use of coastal areas or other water-dependent or water-related uses; or
 - (iv) Projects that result in enhancements of existing structures that may include upgraded building standards or on-site hazard mitigation or adaptation projects.
 - (3) Lowest:
 - (i) Projects which result in growth of existing commercial, non-recreational, or multi-unit residential uses; or
 - (ii) Water related and new water-oriented development compatible with designated land uses, which cannot be accommodated in other locations and which neither conflicts with recreational uses nor restricts access to or along the shoreline.
 - (4) Unacceptable:
 - (i) New commercial structures, industrial structures, or non-recreational public structures which are not water-dependent, water-oriented or water-related;
 - (ii) Disposal of litter and refuse; or
 - (iii) The taking of sand for other than cultural usage, and mining of gravel and extraction of minerals, oil and gas, or other extractive uses.

* So in original.

Modified, 1 CMC § 3806(a), (g).

History: Admts Adopted 40 Com. Reg. 40514 (Jan. 28, 2018); Admts Proposed 39 Com. Reg. 40093 (Sept. 28, 2017); Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Proposed 36 Com. Reg. 35505 (Sept. 28, 2014).

Prior to the 2014 amendments, criteria for shorelines were located at § 15-10-310(e) and (f).



MARIANAS PUBLIC LAND TRUST
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

April 14, 2021

Rep Sheila J. Babauta
The Office of Representative Sheila Jack Babauta
Chairwoman, House Committee on Natural & Cultural Resources
22nd CNMI House of Representatives
Hon. Jesus P. Mafnas Legislature Building
Capitol Hill
Saipan, MP 96950

*Via e mail rep.sbabauta@gmail.com
& Hand Delivery*

Subject: Comments by the Marianas Public Land Trust regarding H.B. 22-31
"To authorize the Department of Public Lands to issue licenses and use permits and charge fees for the use of the public lands located within 150 feet of the high watermark."

Dear Representative Babauta,

On behalf of the Trustees of the Marianas Public Land Trust ("MPLT") thank you for your request for submission of any comments, questions or concerns regarding H.B. 22-31. As you know the proposed legislation seeks to authorize the Department of Public Lands ("DPL") to authorize the use of and issue permits for the use of public beach-front areas within the 150 feet area of the high watermark.

MPLT is charged under Article XI Section 6 with the investment of all public land lease funds received from DPL and predecessor agencies. The Trustees are charged with the strict fiduciary duty for the prudent investment of millions of dollars of public land lease funds and to remit the interest income to the General Fund for appropriation by the Legislature. While MPLT appreciates the opportunity to comment the Trustees are investment fiduciaries and it is not generally within our purview to comment on matters not within MPLT's interests much less policy concerns.

As proposed H.B. 22-31 seeks to amend P.L. 15-2 which established DPL to grant statutory authority for the agency to grant licenses and permits and charge fees for such licenses and permits. The main thrust of the legislation is to allow DPL to grant such permits within the restricted 150 feet area of the high watermark. Article XI Section 5(c) of our CNMI Constitution restricts DPL from transferring any interest in public lands within the 150 feet high watermark. The proposed legislation does not express the reason why DPL would be needing such authorization through permits and licenses much less the anticipated income from such leases or licenses.

The Section-by-Section Analysis of the Constitution does provide your Committee with the context for the restrictions prohibiting the transfer of any interest in public lands within the 150-foot high watermark area as follows:

Section 5(e). This section prohibits the transfers of an interest in any public lands that are within one hundred fifty feet of the high water mark of any sandy beach within the Commonwealth. It is intended that the corporation maintain the sandy beaches for use by the people of the Commonwealth. This includes maintaining sufficient public access to these beaches and maintaining them in a way suitable for recreational uses. The corporation is free to arrange for the assistance in this regards of the appropriate Commonwealth agency if that appears useful to achieve the objective of this section.

The intent of Section 5(e) of Article XI is to ensure that DPL (as the agency charged with implementing the fundamental policies of the Constitution) "maintain the sandy beaches for use by the people of the Commonwealth. This includes maintaining sufficient public access to these beaches and maintaining them in a way suitable for recreational uses." The Constitution authorizes DPL to arrange for the assistance of this purpose with any CNMI agency in order to achieve the objective of the section.

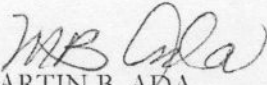
MPLT stands ready to receive the public land lease income from DPL from any amount in excess of the annual fiscal year budget amount authorized by the Legislature under the Planning and Budgeting Act. Indeed, the Trustees recently received \$4.5 million dollars from DPL following the audit of DPL funds for FY 2019, which MPLT has invested and which we expect would earn a reasonable rate of return for the CNMI.

However, the Trustees are concerned that authorizing DPL, by statute, to issue "licenses and permits" even if not a transfer of interest such as a lease, runs afoul of a Constitutional prohibition. Section 5(e) of Article XI is explicit in its intended history that all public land areas in the 150-foot high watermark area are reserved for recreational use and enjoyment by our residents. Indeed, important in this reservation is the mandate that there be access to these beaches at all times. It is for this reason, for example, that public land tenants such as Fiesta Resort, PIC and other hotels must provide the easement/access to the beach area and the hotels are restricted from restricting access to residents who use the beaches for recreational use.

While it is laudable that DPL is seeking to issue permits and licenses for commercial entities presumably for beach concessions or other marine sports or activities, it may be that authorizing DPL to do so is constitutionally prohibited. MPLT reads the Constitution as reserving our beach areas in the 150-foot high watermark area for the direct benefit of our residents for nothing other than recreational enjoyment. To allow permits and licenses would result in the denial of access and enjoyment to those areas which would be a great disappointment for our residents even if granting such permits results in substantial income to DPL and the Commonwealth.

The Trustees submit the foregoing comments for your Committee's consideration. As with all public land lease income MPLT continue its best to prudently invest those funds to generate interest income for appropriation by the Legislature for the benefit of our persons of Northern Marianas Descent.

Sincerely,


MARTIN B. ADA
MPLT Chairman

Cc: MPLT Trustees
Governor Ralph Dlg. Torres
Lt. Governor Arnold I. Palacios
Attorney General Edward Manibusan
File: DPL.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE MAYOR



THE HONORABLE EFRAIM M. ATALIG

Mayor of the Municipality of Rota

Mailing Address: Post Office Box 537 Rota, MP 96951

Phone: 670.532.9451/9452 * Fax No.: 670.532.9454 * Email: mayorefrimatalig@gmail.com

April 14, 2021

Representative Sheila J. Babauta
Chairwoman, Committee on Natural Resources
22nd Northern Mariana Commonwealth Legislature
Capitol Hill, Saipan, MP 96950

Reference: H.B. 22-31

Dear Chairwoman Babauta:

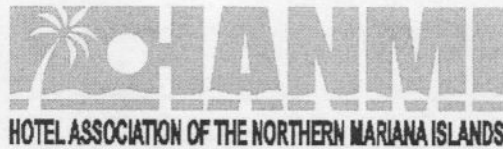
The CNMI is in a dire financial strait and we need to use our resources to increase government revenue, as our people need a myriad of services. The above-referenced Bill is in the right direction toward that end. Thus, 1CMC Section 280(e) needs to be amended so that the Department of Public Land would be able to charge the usage of the high water mark. I am sure that many individuals and entities would take advantage of this authorization, especially those engaged in tourism related activities. While I strongly support passage of this Bill, there may be a need to examine the authority of the Army Corps of Engineers with respect to usage of the high water mark. We would not want to create a conflict with this Federal agency.

Reference: H.B. 22-22

With the ever-evolving advancement in technology, harnessing of bioprospecting is not a science fiction, but a great potential, especially those having medicinal properties. Thus, we in the CNMI need to create the atmosphere and encourage the scientific community to establish operation in our islands. Bioprospecting may be likened to cybernetics which deals with information processing which makes it possible for billions of people to be able to access information in micro-seconds. More importantly the economic effect of cybernetics is global. Bioprospecting may have the same effect. I recommend passage of this Bill.

Reference: H.B. 22-32

I strongly support the prohibition of bringing glass containers to the beaches because such objects, if broken, can be very sharp and may injure someone walking or even lying down on the beach. Further, having these object lying around on the beaches shows that our people are not environmentally conscious when we tout our islands' beauty.



P.O. Box 501983
Saipan, MP 96950
April 15, 2021

Chairwoman Sheila J. Babauta
Committee on Natural & Cultural Resources
House of Representatives
Northern Marianas Commonwealth Legislature
P.O. Box 500129
Saipan, MP 96950

RE: HB 22-31

Dear Chairwoman Babauta:

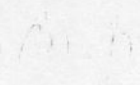
Hafa adai yan tirow from Hotel Association of the Northern Mariana Islands (HANMI).

Thank you for the opportunity to comment on HB 22-31, "to authorize the Department of Public Lands to issue licenses and use permits and charge fees for the use of the public lands located within 150 feet of the high water mark."

We are not opposed to the provision that "the Department may grant a non-exclusive license or permit provided the use does not interfere with the public's access to the property." However, several hotels and other allied HANMI members have facilities, structures, or concessions within the prescribed area covered by this bill. We request that the legislation grandfather in these existing businesses and facilities. We also note that the highwater mark continues to change on many shorelines in Saipan due to beach erosion and new sand deposits; this should also be taken into consideration with this proposed law and any future regulations.

Should you have any questions, please do not hesitate to contact me at 1.670.989.7075 or gloria.cavanagh@picsaipan.com.

Sincerely,


Gloria Cavanagh
Chairwoman, Board of Directors



Commonwealth of the Northern Mariana Islands
Department of Community and Cultural Affairs

Caller Box 10007
Saipan, Mariana Islands 96950
Tel. (670) 664-2587 Fax (670) 664-2571



April 15, 2021

Serial: 0002

The Honorable Sheila Jack Babauta
Chairwoman,
Natural and Cultural Resources Committee
22nd CNMI House of Representatives
Capitol Hill
P.O. Box 500586
Saipan, MP 96950

Re: Comments on H.B. 22-22, H.B. 22-31, H.B. 22-32, H.B. 22-43, H.B. 22-44

Dear Chairwoman Babauta:

Thank you for providing me with the opportunity to comment on the above referenced House Bills.

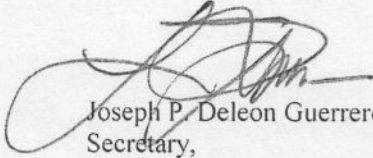
H.B. 22-22, HB 22-31, H.B. 22-32: We support the intent and do not have any specific concerns or comments to add.

H.B. 22-43: The bill intends to create an incentive by rewarding persons \$150 if the information they provide leads to the assessment of a civil penalty. If the intent is to prevent littering public areas, parks and beaches, there are simple, less costly and more effective ways to do so. A good first step would be installing properly sized trash bins on all public beaches and parks that have benches, picnic tables or rest areas. Most of the trash in our public areas can be found in areas where there are no trash bins or the bins are overflowing because they are not adequately sized or have not been collected regularly. Public funds are better spent investing in adequate resources (trash bins) and personnel to collect and dispose it regularly.

H.B. 22-44: The bill intends to protect native plants and trees as defined by the rules and regulations set forth by D.L.N.R. I support the intention of the bill however there is very little guidance to effectively implement the intent. It does not clarify the parameters for protection i.e.. What exactly does it mean to protect native plants and trees? What are the prohibitions and what constitutes a violation? Are the prohibitions applicable to public lands or private lands as well? Will landowners be prohibited from clearing their property to farm or build a house if the land is entirely vegetated with native plants. What remedies will be in place if landowners violate this Act? These are just a few thoughts that needs to be considered before this bill is passed. Without clear guidance, the Department (DLNR) may promulgate rules and regulations that may be (1) overly restrictive (2) unenforceable (3) not consistent with the intent of the Legislature.

Thank you for giving me the opportunity to comment on the proposed bills. Please let me know if you have any further questions or comments.

Respectfully,



Joseph P. Deleon Guerrero
Secretary,
Department of Community and Cultural Affairs
P.O. Box 501000
Saipan MP 96950
Office: (670) 664-2584
Cell: (670) 287-1010
Email: repdlguerreroj@gmail.com



Empowering Communities for Conservation

P.O. Box 506645, Gualo Rai Center Ste #103, Saipan MP 96950 (670)233-7333

April 16, 2021

The Honorable Sheila Jack Babauta
Chairwoman, Natural & Cultural Resources Committee
22nd CNMI House of Representatives
Saipan MP 96950

Dear Representative Babauta:

Thank you for this opportunity to comment on several bills currently under review.

As evidenced by MINA's efforts in combating the litter problem over the past fifteen years, littering and illegal dumping is a growing concern and threat to our coastal resources. However, we would like to submit that H.B.22-32 and HB-42, while certainly well-intentioned, will not address the underlying issues that cause littering along public beaches and elsewhere. Rather than initiating more punitive measures that will ultimately fail due to lack of enforcement, we strongly recommend that a universal garbage collection and sustainable recycling program be created. This type of program, coupled with an aggressive public awareness campaign, will assist and inform community members who may not have access or resources to dispose of their trash responsibly, and also create a clean and healthy environment for all.

MINA certainly agrees with the intent of H.B. 22-44, but perhaps more attention and resources be dedicated to the control of invasive species that will ultimately destroy many native plants and trees that are already identified.

Relative to H.B. 22-31 on requiring licensure from DPL for activities within the 150ft high watermark, this proposed legislation isn't specific in detailing the types of activities subject to licensure and permits, and may also be inconsistent with the current law regarding public lands. We have no comment on H.B. 22-22 relative to bioprospecting in the CNMI.

MINA continues to dedicate our efforts to fulfil the mission statement of "Empowering Communities for Conservation" and look forward to continuing dialogue with you and the members of the Natural Resources Committee.

Sincerely,

Roberta Guerrero

Roberta Guerrero
Executive Director



MARIANAS
VISITORS AUTHORITY

P.O. BOX 500861 CK
SAIPAN, MP 96950
TEL: (670) 664-3200/1
FAX: (670) 664-3237
E-mail: info@mymarianas.com
www.mymarianas.com



April 16, 2021

Sheila J. Babauta
Chairwoman
Committee on Natural & Cultural Resources
22nd Northern Marianas Commonwealth Legislature
Capitol Hill
Saipan, MP 96950

RE: House Bill 22-31

Hafa Adai and Tirow Chairwoman Babauta:

Thank you for giving the Marianas Visitors Authority (MVA) an opportunity to comment on H.B. 22-31 "to authorize the Department of Public Lands to issue licenses and use permits and charge fees for the use of the public lands within 150 feet of the high water mark."

The MVA is not opposed to the provision that "the Department may grant a non-exclusive license or permit provided the use does not interfere with the public's access to the property." But we are concerned that HANMI members and other businesses occupy the area prescribed in the bill. The MVA request that the legislation grandfather in these existing businesses and facilities.

As the MVA and our partners are gearing up to jumpstart our tourism market, it is imperative that all of us do our utmost towards ensuring its success. We know that our legislators are well aware of the crisis the pandemic has wrecked on all of us including our tourism partners and sincerely request that all consideration be extended to them.

Thank you.

Respectfully,

Priscilla M. Iakopo
Managing Director



Commonwealth of the Northern Mariana Islands
Office of the Governor
DEPARTMENT OF PUBLIC LANDS



April 16, 2021

AD21-0137

Honorable Representative Sheila Babauta
Chairwoman, Natural Resources Committee
House of Representatives, 22nd Northern Marianas Commonwealth Legislature
P.O. Box 500586
Saipan MP 96950

Dear Honorable Chairwoman Babauta:

Thank you for the opportunity to comment on H.B. 22-31, *"To authorize the Department of Public Lands to issue license and use permits and charge fees for the use of the public lands located within 150 feet of the high water mark."*

The Department of Public Lands (DPL) is in strong support of this bill. As you are aware, on February 4, 2021, your Committee held a public meeting for DPL to discuss and testify pending public land matters and priorities. Among the items discussed was the restrictions of 1 CMC Section 2806(e) which DPL expressed and brought its concerns to the Twentieth Legislature seeking guidance for the ability to collect fees for encroachments within the 150 feet mean high-water mark (mhw). We were pleased to know it was a bill for discussion during our Zoom meeting with you on March 29, 2021. I have attached copies of DPL's letters in 2017 to then Senate President (now LT Governor) Arnold I. Palacios and then Speaker of the House Rafael Demapan. DPL also sent a similar letter to the Attorney General requesting for assistance. We have always advocated and requested our Department be allowed to "grandfather" existing encroachments.

We applaud the author's intent and the Legislature's efforts in addressing DPL's concern. For many years, business establishments that encroached onto public land within 150' of the mean high-water mark profited from these primary beachfront areas, which DPL has been unable to collect from because of the statutory restriction, even if the businesses were willing to pay for such use.

However, DPL reviewed the proposed language under section 2 (e)(2) which states, *"The Department may grant a non-exclusive license or permit provided the use does not interfere with the public's access to the property"* and we are concerned that that it may cause future legal restrictions or complications. Existing public land encroachments within the 150' mhw are for "exclusive use" such as Surf Club, Pacific Island Club, World Resort (Cabana's), Oleai Beach Bar (pls refer to attachments for additional details). Also, we would like to add public land leases that are situated along the beachfront areas. Most public land hotels were leased during the Trust Territory of the Pacific Islands Government era **prior to the constitutional and statutory restriction**. Public land

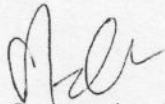
hotel leases such as Saipan Portopia Hotel Corporation dba Hyatt Regency Saipan, Asia Pacific Hotels, Inc., dba Kanoa Resort, and Consultant Int'l. Ltd. dba Pacific Islands Club will be expiring in 2021, 2025, and 2027, respectively. Some portions of the hotels are located on beachfront public lands, and portions of the leased boundary premises are inward within the 150' mhw. Overtime, inclement weather and erosion caused the mean high-water mark to shift further inland. With that said, DPL is concerned of the effect if the "non-exclusive" use is not addressed in this bill. It may also hamper our efforts in collecting the best lease rental offer for our beneficiaries during the negotiation period if not addressed.

To ensure compatibility with shoreline aesthetics and to ensure continuity of public access while protecting our precious sandy beaches, we ask that the bill address these concerns and allow DPL to issue exclusive use within the 150' mhw strictly to existing encroachments and grandfather existing leases and future unintended encroachments, caused by erosions and inclement weather that forces the mean high-water mark to move further inland. Non-exclusive use can remain provided that the prosed activity is temporary and its use of the public land is for non-permanent structures.

I have attached several correspondences between DPL and Surf Club whom has built a portion of their restaurant within 150' of the mhw of a public land. Unfortunately, despite the Company's willingness to pay for the use of the encroachment, DPL received legal advise that we are unable to collect for an unallowed use.

Moreover, DPL supports this bill and request that our suggestions be considered for ease of implementation and enforcement. If you have any questions, please feel free to contact me at mariannet@dpl.gov.mp or (670) 234-3751.

Respectfully,



Marianne Concepcion-Teregeyo
Secretary, DPL

Attach.

/ddc/mct/gdlg

cc: Hon. Governor
Hon. Lt. Governor
Hon. Senate President
Chairman – Senate Committee on REDP
DPL Compliance Division
DPL Real Estate Division
DPL Finance Division



Commonwealth of the Northern Mariana Islands
Office of the Governor
DEPARTMENT OF PUBLIC LANDS

January 13, 2017

CD17-0020

Mr. Robert H. Jones, Chairman/CEO
Triple J Saipan, Inc.
P.O. Box 500487
Saipan, MP 96950

**Subject: Temporary Permit (Encroachment & Maintenance) No. 13-012S
NOTICE OF CANCELLATION**

Dear Mr. Jones:

As previously discussed, part of your "Surf Club" facility in Chalan Kanoa is encroaching upon Public Land. Mike Sablan indicated to DPL in June of 2015 that he had confirmed with CRM that the project was outside of the 150 feet high water mark of the beach.

DPL conducted a survey of this area on October 12, 2016, and has confirmed that a portion of the Surf Club containing approximately 243.09 square meters is on Public Land seaward of Lot No. 008 H 33, and is within 150 feet of the high water mark of a sandy beach. Attached, please find a copy of DPL's as-built survey map and photo pictures for your easy reference. Accordingly this land cannot be leased by DPL. Neither can DPL authorize the use on a temporary basis, because Commonwealth Law allows DPL to permit permanent structures within this zone only if they are for a public purpose. See attached Public Law 15-2, Section 105(e). For this reason any permit you may have been given for fence encroachments in the past was granted in error and is void.

Please be reminded that as developer you must ensure that your projects are constructed within the bounds of your own property. Because your commercial facility is encroaching upon public land within the 150 feet of the high water mark DPL must demand that you remove the encroachments within ninety (90) days from the date of this notice.

Sincerely,

Marianne Concepcion-Teregeyo
Secretary, DPL

Attachment as stated above

/ct/gpdlg

cc: Compliance Division, DPL
Finance Division, DPL
Legal Counsel, DPL
Real Estate Division, DPL
Coastal Resources Management
P.O. Box 500380, Saipan, MP 96950 • 2nd Floor, Joeten Dandan Commercial Building
Website: www.dpl.gov.mp - E-mail: dplsaipan@dpl.gov.mp
Tel.: (670) 234-3751/3752/3757 • Fax (670) 234-3755

Customers First



March 8, 2017

Ms. Marianne Concepcion-Teregeyo
Commonwealth Department of Public Lands
P.O. Box 500380
Saipan, MP 96950

Dear Marianne,

Thank you for meeting with me and discussing Surf Club encroachment issue. We agree that we have erred in our construction of the facility with respect to the boundary of the 150 foot setback. I appreciate you confirming that there were errors in action in both organizations. I believe you mentioned that your findings in the files was that the fence and gazebos was the issue that was discussed between Mike Sablan and Greg Deleon Guerrero. For your files, I'm forwarding herewith a copy of their email exchange dated June 26, 2015 which quote Temporary Permit No. 13-012S and states that "the Secretary has conditionally approved Triple J to proceed with its on-going construction of the proposed Surf Club and Gazebos within the temporary permit site in Chalan Kanoa". This also confirms that this site was acquired by Triple J from CDA as a result of their foreclosure on the previous owners. It is not private property.

The adjacent lot is owned by Dr. Dela Cruz where my house and Pala-Pala is situated. The Pala-Pala was built in 1993 by me and when I built it I was not aware that it was encroaching within the 150 feet reserve, but now I am aware and no one is at fault but me so I will raise it completely as soon as instructed to do so.

I understand that you as Secretary of Land are legally not authorized to lease the encroached land to us at the Surf Club. If you could lease it, we would be willing to pay a fair lease fee monthly. As an alternative Triple J is willing to repair, develop or construct a project that would serve the interest of the public as a penalty for the encroachment. It could be constructing a needed sidewalk or school playground equipment, renovate the burned Chamorro hut or any project that would have cost to

TRIPLE J SAIPAN, INC.

P.O. BOX 500487 SAIPAN, MP 96950 TEL (670) 234-1795 • FAX: (670) 234-7347

Triple J that is comparable to the value of the encroachment land. We have some flexibility to solve this issue in a way that is in the best interest of the Public and NMLC.

The last issue discussed was the Bubba Gump's terrace. Our architect recommended that this end be blocked due to the parking lot automobile traffic arriving from the blind corner, as a safety precaution. We will remove this fence and planter plus install a needed step on that end for the public if you so direct.

I'm here for at least for a few days each week and would be willing to discuss the above issues anytime at your convenience

Sincerely yours,

A handwritten signature in black ink, appearing to read 'R. Jones', written in a cursive style.

Robert H. Jones
Chairman & CEO



Commonwealth of the Northern Mariana Islands
Office of the Governor

DEPARTMENT OF PUBLIC LANDS

June 8, 2018

SA18-0405

Honorable Edward Manibusan
Attorney General
Office of the Attorney General
Caller Box 10007, Capitol Hill
Saipan, MP 96950

Re: Encroachments within 150 Feet High Water Mark

Dear Attorney General Manibusan:

As Secretary of Department of Public Lands (DPL), it is my fiduciary duty to ensure all public land uses are consistent with PL 15-2 and DPL's rules and regulations. During my tenure at DPL, when we discovered non-compliance, we have ensured collections, demanded evictions, and even initiated legal proceedings. However, DPL is at a standstill in addressing public land encroachments within 150 feet of the high water mark. As you may know, DPL is restricted from issuing an interest in public lands that fall within this category and therefore, DPL is prohibited from collecting fees from business establishment in violation of this provision in PL 15-2. As an example, DPL discovered World Resort, Pacific Islands Club, Surf Club, and Oleai Beach Bar & Grill, to name a few, to be encroaching on public land. Surf Club even proposed a public benefit to mitigate the encroachment, but DPL cannot negotiate such arrangement in the absence of any legal authority. The business establishments enjoy using public lands and are profiting from public lands and yet DPL is prohibited from collecting, leaving no benefit to the rightful owners of public lands, the people of Northern Marianas descent.

On April 18 and June 1, 2017, I reached out to the legislature as seen in the attached documents, wherein I requested for their guidance in resolving these matters. I, too, am seeking your guidance in exploring solutions to address these matters in a fair and sensible manner. DPL proposes to charge and collect for encroachments and seeks your approval to do so. Currently, we have been unable to collect on any encroachment within 150 feet of the high water mark.

I will remain available to discuss this matter further. Please reach me at mariannet@dpl.gov.mp or (670)234-3751. *Si Yu'us Ma'ase.*

Respectfully,

Marianne Concepcion-Teregeyo
Secretary, DPL 08 JUN 2018

/mca

Attch.

cc: Honorable Ralph DLG Torres, Governor
Rafael S. Demapan, Speaker of the House
Real Estate Division, DPL

Arnold Palacios, Senate President
Compliance Division, DPL
Legal Counsel, DPL

D.P.L./PLANNING DIVISION

AS-BUILT SURVEY

OF

LOT 008 H 33

CHALAN KANOA, SAIPAN

DATE SURVEYED: 10/07-12/16

GRID, 1966



SHORELINE

SANDY BEACH

TOTAL AREA OF ENCROACHMENT AREA = 243.09 SQ.M.

008 H 25
DOC. 699

008 H 34
DOC. 699

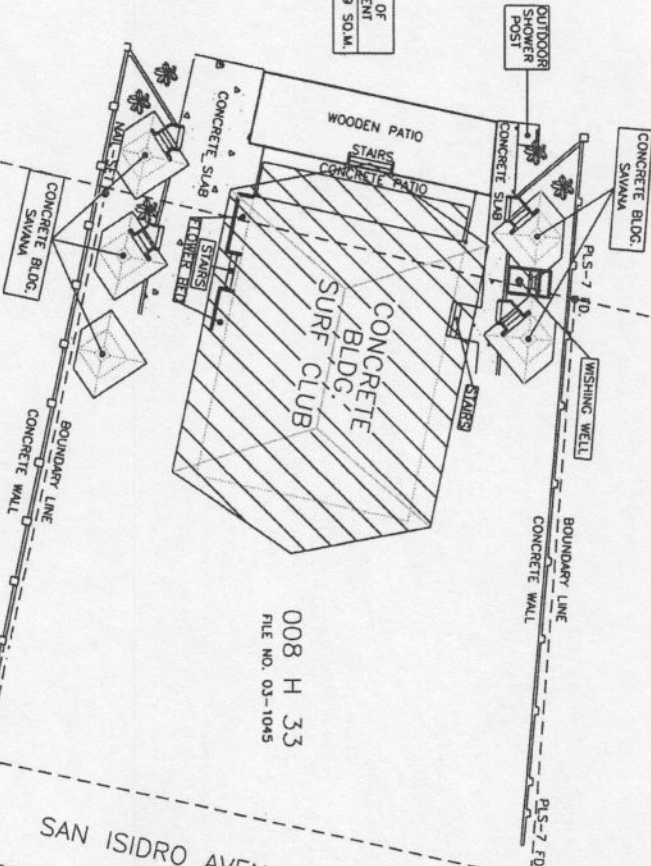
008 H 33
FILE NO. 03-1045

008 H 31
DOC. 699

008 H 36
FILE NO. 03-1045

008 H 29
DOC. 699

SAN ISIDRO AVENUE



CHARD POST
SIGN POST

CHARD SIGN FENCE

004 | 37

FILE NO. 87-0207

P. I. C.
004 | 36

29,861 SQ.M.
FILE NO. 86-1301

VOLLEYBALL NET

EDGE OF VEGETATION AREA

O.H.W.L.

150 ft.

P. I. C.
TR. 21653
H-305

BEACH VOLLEYBALL



SYMBOLS:

P. I. C.
LOT 588NEW-1

D.P.L./PLANNING DIVISION

AS-BUILT SURVEY

OF
PUBLIC LAND, BEACH AREA OF P.I.C.
SAN ANTONIO, SAIPAN

DATE SURVEYED: 8/04/10

CHAINLINK FENCE

004 | 37

FILE NO. 87-0207

VEGETATION

PLS 4 FD.

SANDY BEACH

SANDY COURT

PUBLIC LAND

VOLLEYBALL NET

PACIFIC ISLANDS CLUB

004 | 36

FILE NO. 86-1321

ORDINARY HIGH WATER LEVEL
EDGE OF VEGETATION

ENCROACHMENT
THATCH ROOF/
WOODEN PAVILLION

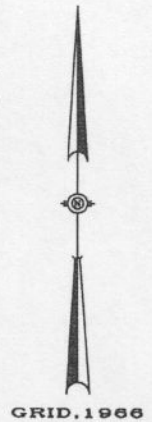
AREA= 163.125 SQ.M.

BRICK LAYERED
PATHWAY

PUBLIC
LAND

PATHWAY

CONCRETE PATHWAY

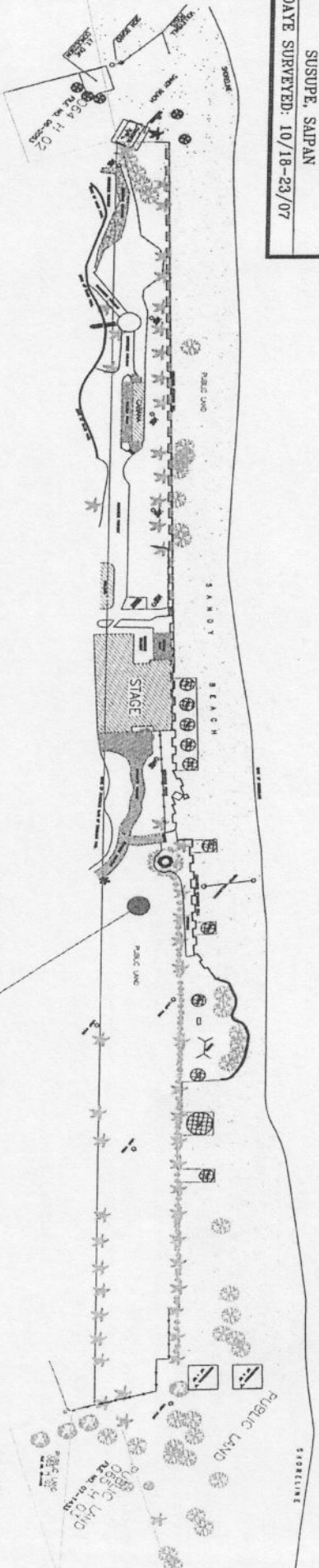


PACIFIC ISLANDS CLUB

TR. 21653

DOC. NO. 7939

EXHIBIT "A"



TOTAL AREA = 5,098 SQ.M.

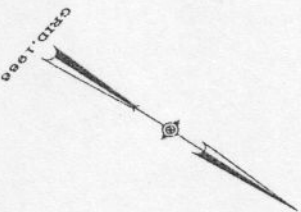
NOTE: SEE EXHIBIT "B" FOR ENLARGEMENT

WORLD RESORT HOTEL

064 H 04

FILE NO. 06-2053

064 H 03
FILE NO. 06-2053



PUBLIC LAND
SUSUPE STREET
064 H 01

022 H 02
BEACH ROAD

030 H 01
FILE NO. 06-2053

030 H 02
FILE NO. 06-2053

030 H 03
FILE NO. 06-2053

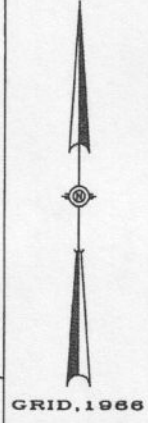
D.P.L./PLANNING DIVISION

AS-BUILT SURVEY

OF
PUBLIC R/W ADJOINING
LOT 330 A-1

SAN JOSE, SAIPAN

DATE SURVEYED: 8/04/17



PUBLIC LAND
033 F 01
FILE NO. 94-393

ENCROACHMENT
AREA- 61.364 SQ.M.

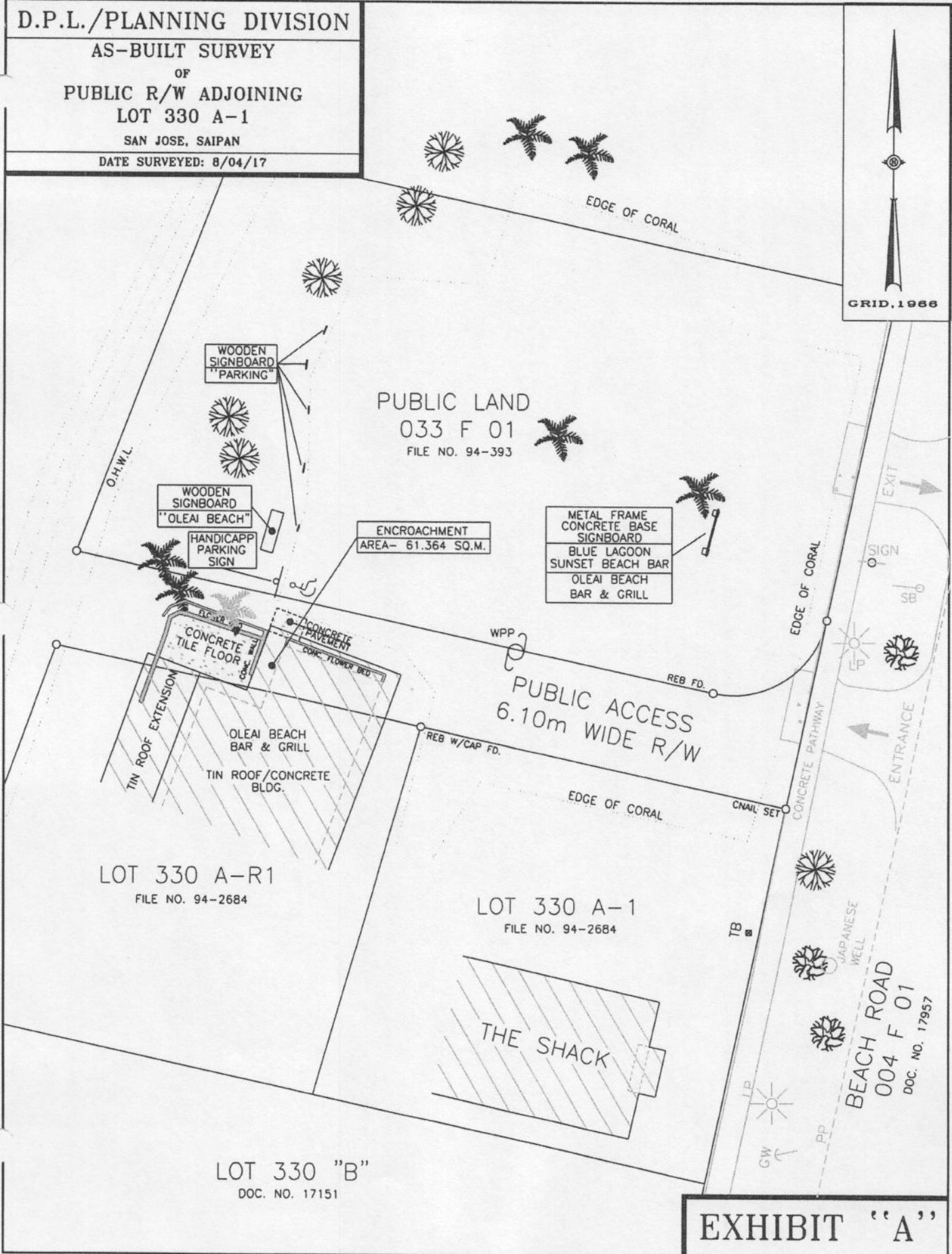
METAL FRAME
CONCRETE BASE
SIGNBOARD
BLUE LAGOON
SUNSET BEACH BAR
OLEAI BEACH
BAR & GRILL

LOT 330 A-R1
FILE NO. 94-2684

LOT 330 A-1
FILE NO. 94-2684

LOT 330 "B"
DOC. NO. 17151

EXHIBIT "A"



D.P.L./PLANNING DIVISION

AS-BUILTSURVEY

OF
TR. 24-6 (PUBLIC LAND)
BEACH AREA

GARAPAN, SAIPAN

DATE SURVEYED: 2/07/14

CHAINLINKED FENCE

PLS 1 FD.

SURF-RACK
AREA= 26.92 SQ.M.

ENCROACHMENT
AREA= 3.88 SQ.M.

WOODEN
THATCH ROOF
MARINE WATER SPORTS

WOODEN
OUTDOOR BAR STAND

CONCRETE SLAB

HYATT REGENCY
TR. 21662

PUBLIC LAND
TR. 24-6

BEACH
VOLLEYBALL

ICHIBAN
MARINE
SPORTS
CONCESSION

BOBOY
MARINE
SPORTS
CONCESSION

AREA= 1,152 SQ.M.

MASS
CONCESSION

AMIGO
CONCESSION

CONCRETE
BATHROOM

WOODEN
THATCH ROOF
CONCESSION

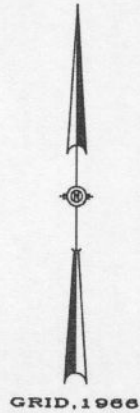
CONCRETE
WATER TANK

CAP FD.

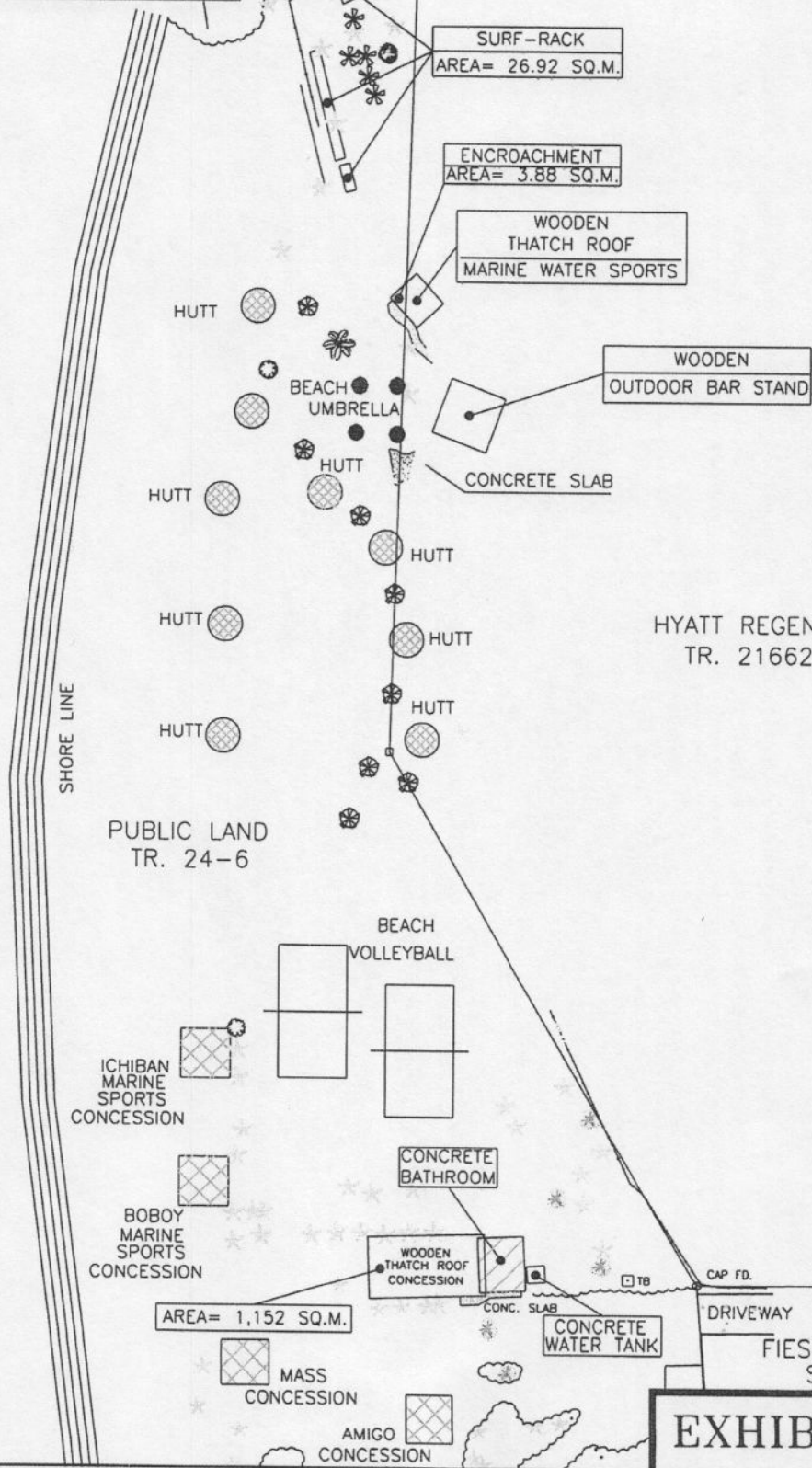
DRIVEWAY

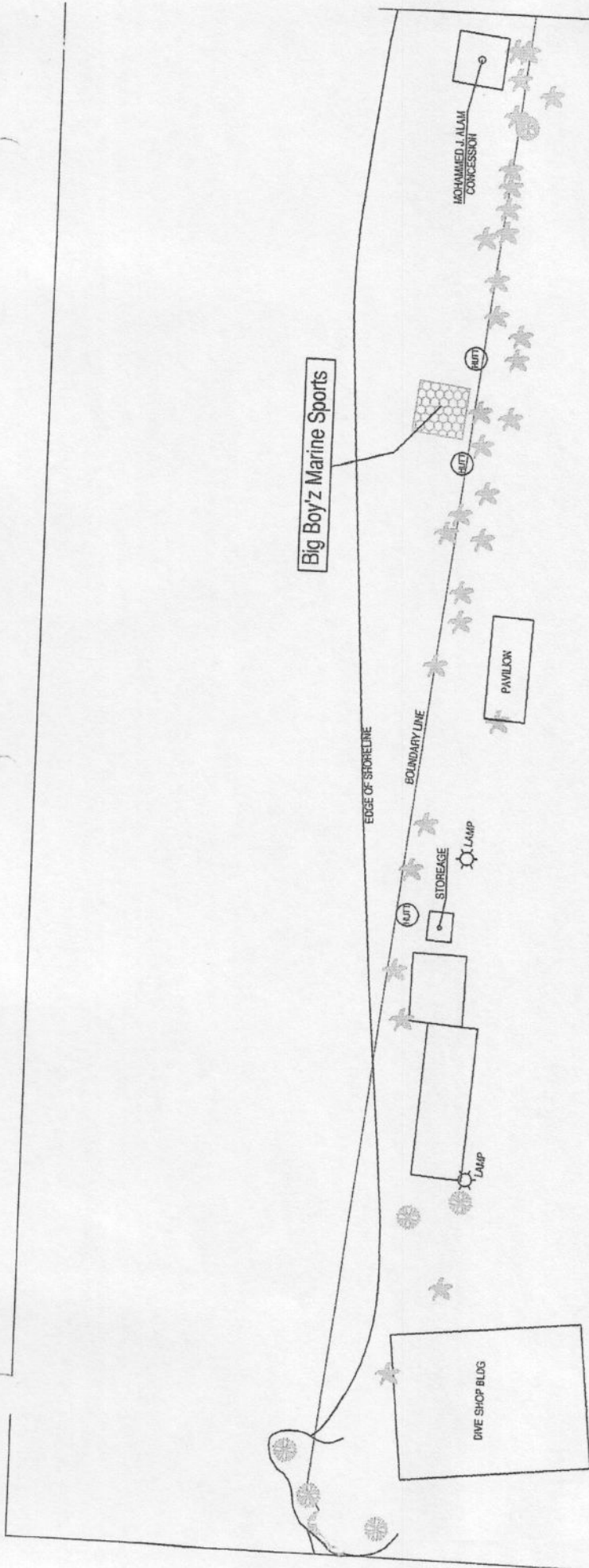
FIESTA RESORT &
SPA SAIPAN

EXHIBIT "A"



SHORE LINE





GRAND HOTEL
TR. 21868



SYMBOLS:

	LAMP POST
	COCONUT
	IRON WOOD
	KALASKAS

EXHIBIT "A"



Commonwealth of the Northern Mariana Islands
Office of the Governor
DEPARTMENT OF PUBLIC LANDS

June 5, 2019

CD19-129

Mr. Robert H. Jones, Chairman/CEO
Triple J Saipan, Inc.
P.O. Box 500487
Saipan, MP 96950

Subject: Notice to Vacate Public Land in Chalan Kanoa

Dear Mr. Jones:

On January 13, 2017, the Department of Public Lands (DPL) issued Triple J Saipan Inc. d.b.a. "Surf Club" a Notice of Cancellation letter and gave ninety (90) days notice to remove the encroachments.

A follow-up site inspection conducted by DPL's Compliance Division staff reveals that Surf Club failed to remove the encroachments on public land.

We are in the process of forwarding this matter to our legal counsel to initiate legal action against Triple J Saipan Inc. But before we do that, we hereby give you this final opportunity to vacate the public land by completely removing within fifteen (15) days from the date of this notice, all encroachments, personal belongings and cease using the public land.

If you do not comply with our Notice **within the given 15-day deadline**, we will have no alternative but to have said items removed by other methods, with the cost of such removal being billed to you, including court cost and attorney fees for trespass and eviction proceedings. It is our hope this will not be necessary as a last resort in addressing this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Fleming".

James F. Fleming
Acting Director, Compliance Division

/jqr

cc: Secretary, DPL
Compliance Division, DPL
Finance Division, DPL
Legal Counsel, DPL



Commonwealth of the Northern Mariana Islands
OFFICE OF THE 18TH ROTA MUNICIPAL COUNCIL

P.O. Box 1374, Rota MP 96951
Phone: (670) 532-4046 /email: rotamunicipalcouncil@gmail.com



Jim M. Atalig
Chairman

Jonovan H. Lizama
Vice-Chairman

William A. Taitano
Secretary

MEMORANDUM

DATE : April 16, 2021
TO : Rep. Sheila J. Babauta
FROM : 18th Rota Municipal Council Members
SUBJECT : **H.B. 22-22, H.B. 22-31, H.B. 22-32, H.B. 22-43, H.B. 22-44**

Hafa Adai Yan Tirow,

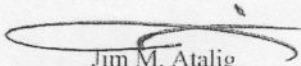
The 18th Rota Municipal Council Members are pleased to submit your request and would like to thank you for the opportunity for solicitation of comments from our office.


A BILL FOR AN ACT

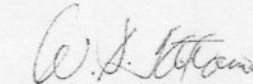
- **H.B. 22-22:** The 18th RMC Members are in full support "To establish laws to regulate bioprospecting within the Commonwealth of the Northern Marianas Island in order to ensure prior, informed consent and equitable sharing of benefits."
- **H.B. 22-31:** The 18th RMC Members are in full support of this bill "To authorize Department of Public Lands to issue licenses and use permits and charge fees for the use of public lands located within 150 feet of the high water mark."
- **H.B. 22-32:** The 18th RMC Members are in full support "To amend the Litter Control Act to prohibit the possession of glass containers while on public beaches, and for other purposes."
- **H.B. 22-43:** The 18th RMC Members are in full support "To create anti-littering incentive program by providing a reward for persons reporting violations of the Litter Control Act; and for other purposes."
- **H.B. 22-44:** The 18th RMC Members are in full support "To conserve, protect, and enhance the CNMI's native plants and trees for generations to come and for other purposes."

If you have any questions please feel free to contact our office thru email or telephone number listed above thank you.

Sincerely,


Jim M. Atalig
Chairman, 18th RMC


Joovan H. Lizama
Vice-Chairman


William A. Taitano
Secretary



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

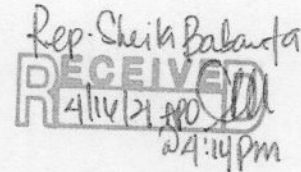
Indigenous Affairs Office

Office of the Governor
Bldg. #1213, Capitol Hill Road
Tel/Fax: (670) 664-2664 (CNMI)



April 16, 2021

Honorable Sheila Babauta
House of Representative
22nd CNMI Legislature
Saipan, MPO 96950



Dear Representative Babauta,

Greetings from the Indigenous Affairs Office. I would like to share my appreciation to the Standing Committee on Natural Resources for the opportunity to comment on the following House Bills

1. **House Bill 22-31** Section 2(e)(2), I strongly agree to establish a law for the Department of Public Lands to grant a non-exclusive license or permit on public land at a reasonable fee for commercial use as deemed applicable pursuant to Article XI Section 5 of the CNMI Constitution. However, such fees should not apply to Northern Marianas Descend. Furthermore, on Page 2 line 7 on the amendment, include the following fee at a reasonable market value at taking between the word "permit" and the word "provided",

2. **House Bill 22-22**, *Korason gualak, potpuput, nengkanu' ayuyu, pao de 'du', batbena* and other rare plant species used by our Chamorro healers. The Bill is extremely important and requires strict rules and regulation on data collection as specified in Section 4(c). This section requires one-on-one monitoring during the entire prospecting period. Section 4(d) must require a 90 days turn around for each specimen being prospected.

Section 105 requires an in-depth study of the value of each rare species being prospected upon negotiation for economic gain. For example, Pfizer, Maybelline, or Johnson and Johnson all major corporations coming to the CNMI for bioprospecting.

3. **House Bill 22-43**, Section 3418 - Reward. This amendment provides an award of \$150 for any individual who supplies information about littering. The keywords are "any individual who supplies information". Let's consider the following.

1. should there be a set of criteria necessary to become eligible to receive the \$150 as an informant
2. will there be a protection clause for the individual reporting or providing information
3. will the informant receive the \$150 even if the litterer doesn't admit guilt to the crime
4. will conviction the only way to receive the \$150 or any individual who supplies information
5. does the informant have to go to court and become a government witness to the crime. If so, then is \$150 sufficient to take leave of absence for court hearings, backlash from the criminal or his/her family as an informant for the government, and most importantly stress, fear of retaliation, and harassments for only \$150
6. If an individual sits in his or her vehicle at the beachside for a day to monitor anyone littering and calls authority to inform them about littering, will that individual receive

\$150 per call at different reporting times on the same day of reporting? Will this become rewarding for this individual?

7. Are the offender's name and picture to be published at the litter control website's "Wall of Shame"?

We have to be careful on how we consider getting people involved with the word "reward" without considering the aftermath of becoming an informant and using the reward system as a form of employment. I will support this bill if the following are in place.

1. informant shall remain anonymous and does not have to appear in any hearings or court of justice
2. reward is no less than \$500. We have to consider the fear factor, stress and harassment that an individual may experience as an informant
3. Include a sub-section for the following
 - a. protection clause for the rewarded individual

Note: *A task force unit needs to be established and placed in a single department from the following departments:*

Pursuant to the Litter Control Act, the following government agencies are mandated to enforce the Litter Control Law: Bureau of Environmental & Coastal Quality (BECQ), Department of Lands & Natural Resources (DLNR), Department of Public Health (BEH), Department of Public Works (DPW), Commonwealth Zoning Office, Department of Public Lands (DPL), and Department of Public Safety (DPS).

4. **House Bill 22-32** I would like the committee to consider the following.

1. section 3(b), an individual cannot bring a bowl of pickled papaya or fruit salad using a glass bowl, which any individual may prefer to make the table look presentable. Presentation at a beach gathering and a proper food container for a certain food is necessary. Now, the legislature is going to dictate what foodware I need to present to a beach gathering. Furthermore, if an individual decides to bring a glass beverage container, then it's the person's prerogative to choose what beverage container that individual desires. If the legislature has a concern about broken glasses, then it's the responsibility of the government agency in charge to ensure the safety of the public beaches. I do not agree with this section.
2. This Bill shall be filed.

5. **House Bill 22-44**, Bill is good for the protection of native plants. However, subsection 102(b), fines and penalties collected shall go to the enforcement division to enforce more penalties and fines.

Again, I truly appreciate your committee for providing me the opportunity to share my thoughts on the House Bills. I can be reached at 664-CNMI or email to roman.tudcla@gov.mp.

Respectfully,



Roman M. Tudela, Jr.
Resident Executive



Commonwealth of the Northern Mariana Islands
Department of Lands and Natural Resources

Lower Base, Caller Box 10007
Saipan, MP 96950
Tel: 670-322-9830/34 Fax: 670-322-2633



April 19, 2021

Hon. Sheila Jack Babauta
Chairperson
HOUSE COMMITTEE ON NATURAL &
CULTURAL RESOURCES
22ND Commonwealth Legislature
P.O. Box 500586
Saipan, MP 96950

Dear Representative Babauta:

Thank you for requesting the Department of Lands and Natural Resources (DLNR) comments on H.B. No. 22-22, H.B. No. 22-23, H.B. No. 22-32, H.B. 22-43, and H.B. 22-44. The following are our comments based on the order of the legislations:

1. ***HB-22-22, Richard B. Seman Bioprospecting Act of 2021.*** DLNR supports this legislation and would request the inclusion of two items. The first is the inclusion of a sentence under Section 104, Registration for bioprospecting. Specifically, including subsection (c) under (3) to read, "(c) DLNR will retain not less than 50 percent of the fee to cover its expenses in developing the regulations and monitoring for compliance any registered bioprospecting activity in the CNMI. In addition to the fees collected from registrations, DLNR should also be entitled to collect funds from restitutions mentioned in subsection (2) under Section 106. Economic benefits of bioprospecting denied. The funds will again support DLNR activities for the implementation of this law. We have to protect what's ours and our rights to use them. The proposed legislation will ensure that, especially when our Commonwealth lives in a complicated and sophisticated environment, not to mention the many ambiguities and our relationship with the federal government.

2. ***H.B. 22-31, To authorize the Department of Public Lands to issue licenses and use permits and charge fees for the use of the public lands located within 150 feet of the high-water mark.*** DLNR supports this proposed legislation. The Department of Public Lands is the rightful authority in managing public lands and, in doing so, should have the final say on the disposition of such properties. The legislation should include a provision to ensure that regulatory agencies be involved or consulted if there's a request to construct any structure.

3. ***H.B. 22-32, to amend the litter control act to prohibit the possession of glass containers while on public beaches; and for other purposes.*** DLNR feels that more public education on littering would be a better strategy for the safety of the people at our beaches than a regulation

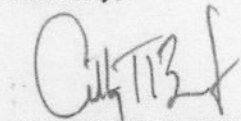
prohibiting an activity that is both unfriendly and intrusive. Rather than condemning the entire community, the main focus should be based on deterring vandalism or unacceptable behavior on public beaches. This Department's concern also lies in the continued installation of garbage containers in public beaches with no funding to support DLNR in ensuring that these containers are properly emptied on a daily basis. I suggest that 50% of fees collected be deposited in the DLNR-Division of Parks and Recreation (*Account No. 6012*) to go towards the upkeep of all public beach parks and facilities.

4. ***H.B. 22-043, known as the anti-littering incentive act of 2021.*** The Department is not supporting this legislation because the islands stand by the code of building bridges between its residents to entice cooperation through peace and harmony. Thus, issuing reward money to people to report on others will only lead to hatred and hostility. The government should designate disposal centers within villages where the people can dispose of their garbage at minimal to no cost. These places should be accessible twenty-four seven. If people are given the incentive to do good and properly dispose of their waste, the government or volunteer groups do not have to spend more time and money cleaning up illegal dumpsites for years to come. Furthermore, the \$150 being proposed to pay people who report on others should be given to volunteer groups who participate in island-wide clean ups and work with fellow residents to properly dispose of their trash.

5. ***H.B. 22-44, the CNMI Native Plant Protection Act of 2021.*** DLNR asks that the Division of Agriculture be the recipient of funds generated from fines and fees mentioned in Subsection 102 (B) under Section 3 of the proposed legislation. The inclusion of the Division of Agriculture will allow proper funding for its forestry program. Currently, the forestry program receives limited federal funds. Acquiring additional funds through fines will be very helpful to the Division of Agriculture's role in conserving and protecting the CNMI's native plants and trees.

The native plants and trees are slowly disappearing and dying due to different factors, especially by human activities. Fire is the most significant cause by humans when they clear their lands, deer hunt, and the list goes on. These plants and trees beautify our environment and provide medicinal and other benefits to our people for years to come.

Sincerely,



ANTHONY T. BENAVENTE
Secretary

XC: Jack T. Ogumoro, Director, Division of Agriculture

Comments re: Bills

1 message

Isa A <theresaarriola@gmail.com>
To: sheila babauta <rep.sbabauta@gmail.com>

Mon, Apr 19, 2021 at 5:04 PM

Hafa Adai Rep-please see my comments below. Thank you for the patience and all your hard work.

H.B. 22-22 " To establish laws to regulate bioprospecting activities within the Commonwealth of the Northern Marianas Island in order to ensure prior, informed consent and equitable sharing of benefits."

YES-I believe this is a necessary bill to protect our resources. My main concern centers around who will have the power to engage in bioprospecting in CNMI waters and how these regulations will be upheld if any interested party violates the bill. Also, how can the NMD's benefit from the data and information about our resources? In recent years, the Pacific has become an increasingly important site for the acquisition of resources and territory amidst geopolitical tensions in the region. It is essential that we protect local sovereignty over marine spaces and prioritize sustainable economic practices rooted in our cultural traditions in the midst of this competition. I am also concerned about the possible interference of federalization and militarization regarding these resources. Will this legislation protect against these types of encroachments?

H.B. 22-31 " To authorize the Department of Public Lands to issue licenses and use permits and charge fees for the use of the public lands located within 150 feet of the high watermark."

NO - It is unclear how these fees will be used and I believe that this type of regulation creates a culture of fear rather than respect for the public lands that we enjoy. This increased regulation alienates NMDs for their own public spaces and fees are an inappropriate way to protect the land.

• H.B. 22-32 " To amend the Litter Control Act to prohibit the possession of glass containers while on public beaches, and for other purposes."

NEITHER YES OR NO-Although I agree that glass is a problem on public beaches, it is unclear how this bill would be regulated. I believe that if we want individuals to comply with these regulations, our government needs to make it as easy as possible to comply. For example, making recycling bins more readily available on island sends a message of sustainability and care for our beaches without being over regulatory.

• H.B. 22-43 " To create an anti-littering incentive program by providing a reward for persons reporting violations of the Litter Control Act; and for other purposes."

NO - I feel that this bill would create a culture of blame rather than responsibility. Anti-littering policies cannot be left to the general public to receive rewards. I believe that this bill would incentivize individuals seeking the reward rather than embodying the anti-littering mentality and practices.

• H.B. 22-44 " To conserve, protect, and enhance the CNMI's native plants and trees for generations to come and for other purposes."

YES-It is always the best policy to conserve and protect the CNMI's native plants, but this bill reads very broadly. Who is exempt from this bill and who will be regulated? If the application of the bill is uneven, it has the potential to produce irreparable damage to the natural environment and our island communities. Conservation must be defined at all times. Without a clear plan as to how conservation is implemented and when, there will always be loopholes that may encourage the very behavior that this bill seeks to address. For example, there are many areas in the CNMI that are deemed "conservation areas" that the U.S. Military is able to use for training and testing. These types of contradictory practices have a long history in the CNMI and must be addressed whenever environmental regulations are being assessed and implemented. As with the previous bills, I believe that the environment must be approached holistically and take into account the historical accounts of increased militarism and federalization.

Theresa (Isa) Arriola, PhD



Office of the Secretary
Department of Finance



P. O. Box 5234 CHRBSAIPAN, MP 96950

TEL.: (670) 664-1100 FAX: (670) 664-1115

April 20, 2021

SFL 2021-104

Rep. Sheila Jack Babauta
Chairwoman
Committee on Natural Resources
22nd CNMI House of Representative
Tel: (670) 664-8928
Fax: (670) 664-8849

Subject: Department of Finance Comments and Recommendations on House Bill 22-31, "To authorize the Department of Public Lands to issue licenses and use permits and charge fees for the use of the public lands located within 150 feet of the high-water mark."

Dear Chairwoman Babauta:

On behalf of the Commonwealth of the Northern Mariana Islands (CNMI) Department of Finance, I thank you for the opportunity to provide our comments and recommendation on House Bill 22-31, "To authorize the Department of Public Lands to issue licenses and use permits and charge fees for the use of the public lands located within 150 feet of the high-water mark."

In an effort to provide our comments and recommendations on this worthwhile legislation, we sought to understand the impact of this bill with respect to the maintenance of proper government accounting, use of funds, and accountability to safeguard government resources for the continued administration of government services.

The Department of Finance is in support of this bill to extend authority to the Department of Public Lands to issue licenses and use of permits and charge fees for the use of public lands located within the 150 feet of the high-water mark. However, as the Secretary of Finance, I am obligated to communicate the need to include the establishment of an account, identification expenditure authority, and guidelines for the use of funds to be available from the collected fees within this legislation. I believe the inclusion of these accounting procedures will further continue our efforts towards the prudent and efficient management of government resources.

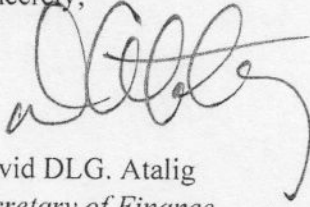
Additionally, I encourage legislative collaboration with the Office of Zoning and the Division of Coastal Resource Management who currently have established guidelines and/or regulations pertaining to the use of land within the 150ft high-water mark and to mitigate repeat in available policy.

SFL 2021-104 | 1

Handwritten signature/initials

If you have any questions or need additional information regarding this comments and recommendations, please do not hesitate to contact me at 664-1100 or email me at david.atalig@dof.gov.mp.

Sincerely,

A handwritten signature in black ink, appearing to read 'Atalig', with a long, sweeping underline that extends to the right.

David DLG. Atalig
Secretary of Finance



Fwd: Committee on Natural Resources: Bill Comments

1 message

Sheila Babauta <sheilababauta@gmail.com>
To: Sheila Jack Babauta <rep.sbabauta@gmail.com>

Fri, Apr 23, 2021 at 4:47 AM

----- Forwarded message -----

From: **David Dlg. Atalig** <david.atalig@dof.gov.mp>
Date: Tue, Apr 20, 2021, 5:06 PM
Subject: Fwd: Committee on Natural Resources: Bill Comments
To: Sheila Babauta <sheilababauta@gmail.com>, Sheila Therese Jack Babauta <rep.babautas@cnmi.net>
Cc: David Dlg. Atalig <david.atalig@dof.gov.mp>

Hafa Adai, Honorable Chairwoman Babauta:

Please find attached Bill Comments on the following:

SFL 2021-103:

HB 22-22: To establish laws to regulate bioprospecting activities within the CNMI in order to ensure prior, informed consent, and equitable sharing of benefits.

SFL 2021-104:

HB 22-31: To authorize DPL to issue licenses and use permits and charge fees for the use of public lands located with 150 ft. of the high water mark.

SFL 2021-105:

HB 22-44: To conserve, protect, and enhance the CNMI's native plants and trees for generations to come and for other purposes.

SFL 2021-106:

HB 22-43: To create an anti-littering incentive program by providing a reward for persons reporting violations of the Litter Control Act; and for other purposes.

SFL 2021-107:

HB 22-32: To amend the Litter Control Act to prohibit the possession of glass containers while on public beaches; and for other purposes.

Best Regards,

David Dlg. Atalig
Secretary of Finance
Email: david.atalig@dof.gov.mp
Phone: 670-664-1100
Fax: 670-664-1115



DEAN REYNOLD MANGLONA
Resident Department Head, Commerce Rota

DEPARTMENT OF COMMERCE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
MUNICIPALITY OF ROTA,
P.O. BOX 511676, ROTA, MP 96951
TELEPHONE (670) 532-9478 FAX (670) 532-9510

May 7, 2021

Sheila Babauta
Chairwoman of the Committee on Natural & Cultural Resources
22nd CNMI House of Representatives
Saipan, MP 96951

Dear Representative Babauta:

On behalf of the Department of Commerce, Rota, I am pleased to express my full support for H.B. 22-31 "To authorize the Department of Public Lands to issue licenses and use permits and charge fees for the use of the public lands located within the 150 feet of the high-water mark.

The Department of Public Lands are the trustees of our public lands and by allowing them the statutory authority to grant non-exclusive licenses and permits will result in new investment opportunities for businesses looking to invest here in the CNMI.

Sincerely,

DEAN REYNOLD A. MANGLONA
Resident Department Head
Dept. of Commerce, Rota

cc: Mayor Efraim M. Atalig
DOC Acting Secretary, Edward Deleon Guerrero



HB 22-31 Proposed Amendments

1 message

sfrink@mlsg.law <sfrink@mlsg.law>

Thu, Jul 8, 2021 at 2:12 PM

To: "Office of Rep Sheila J. Babauta" <rep.sbabauta@gmail.com>

Hello Representative Babauta:

Thank you for meeting with me yesterday and sharing a copy of the CRM Director's comments re. HB 22-31. I tried to call just now to discuss the following with you:

1. CRM Director Castro is evidently off island on leave for at least another week. It was my intent to sit down and talk with her about the intent of HB 22-31 and the following in order to try to persuade her to agree to the amendment that World Resort is proposing;
2. I checked with Alfred Pangelinan of Meridian Surveyors as to what the terms "high water mark" vs. "high tide line" mean. He assured me that the terms are interchangeable in the CNMI. As a result, we propose to change the language as CRM Director Castro proposes in her letter (please see attached updated draft HB 22-31 with proposed amendments. The only change that I made to the prior version I provided you was to change the 150 foot language as the CRM Director proposes in her letter);
3. As to CRM Director Castro's other substantive comment, that CRM permitting needs to be considered in the encroachment permitting process as anticipated by HB 22-31, I believe that CRM's comment misses an important point about the proposed encroachment permitting process. While World Resort certainly agrees that construction activities within the 150 foot zone need to first be permitted by CRM, among other permitting, it needs to be remembered that what we are talking about here is improvements that were already constructed. In other words, HB 22-31's permitting scheme is intended to allow adjacent land owners/lessees and their invitees to continue to use the land and improvements within the 150 foot zone that were constructed long ago, not to authorize new construction. Only new construction requires CRM permitting and there is nothing contained within the proposed amended HB 22-31 that in any way reduces anyone's obligation to comply with CRM permitting requirements.

Thank you for your attention to this important matter. Please do not hesitate to contact me should you or anyone else have any questions or concerns.

Best regards,
Sean

Sean E. Frink

Attorney | **Marianas Legal Strategy Group, LLC**



Marianas Legal Strategy Group LLC

MEMBER OF
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BY DESIGN

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From: Office of Rep Sheila J. Babauta <rep.sbabauta@gmail.com>
Sent: Thursday, April 15, 2021 6:05 PM
To: sfrink@mlsg.law
Subject: NR Public Hearing 04.21.2021

Hafa Adai,

The House Standing Committee on Natural Resources would like to announce that there will be a Public Hearing on April 21, 2021, at 10:30 a.m in the House Chamber.

Please see attached Agenda for legislation that will be discussed at this public hearing.

1. *H.B. 22-22 " To establish laws to regulate bioprospecting activities within the Commonwealth of the Northern Marianas Island in order to ensure prior, informed consent and equitable sharing of benefits.'*
2. *H.B. 22-31 " To authorize the Department of Public Lands to issue licenses and use permits and charge fees for the use of the public lands located within 150 feet of the high watermark.'*
3. *H.B. 22-32 " To amend the Litter Control Act to prohibit the possession of glass containers while on public beaches, and for other purposes.'*
4. *H.B. 22-43 " To create an anti-littering incentive program by providing a reward for persons reporting violations of the Litter Control Act; and for other purposes."*
5. *H.B. 22-44 " To conserve, protect, and enhance the CNMI's native plants and trees for generations to come and for other purposes.'*

The following witnesses are requested to be present and/or provide written testimony:

1. Secretary of Dept. of Public Lands

2. Secretary of Dept. of Lands and Natural Resources
3. Saipan Chamber of Commerce
4. Micronesia Islands Nature Alliance (MINA)
5. Hotel Association of the Northern Marianas Islands (HANMI)
6. Office of the Mayor- Saipan, Tinian, Rota, and Northern Islands
7. Bureau of Environmental and Coastal Quality (BECQ)
8. Division of Coastal Resources Management (DCRM)
9. Division of Forestry
10. Dept. of Agriculture

Should you need further time/information, please feel free to contact me at 664-8928/287-8151 or Email: Rep.sbabauta@gmail.com. Thank you for your time and I look forward to receiving your comments.

With gratitude,

Rep Sheila J. Babauta



The Office of Representative Sheila Jack Babauta
22nd CNMI House of Representatives

Committees: Chairwoman, Natural & Cultural Resources | Vice-Chairwoman, Education |
Member, Health & Welfare | Member, Ways & Means
SNILD: Floor Leader

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Mission: "To inspire positive change in Precinct 4 through responsible leadership; enhance and conserve the natural beauty of our environment, develop a vibrant and diverse economy, and provide a safe and healthy community for all."

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EXHIBIT "A"

H.B. 22-31 Proposed amendment (07-08-2021)

(e) Except as provided in the subsections below, ~~the~~ Department may not transfer an interest, and may prohibit the erection of any permanent structure, in public lands located within 150 feet of the ~~high water mark~~ high tide line of a sandy beach:

(1) ~~, except that~~ The Department may authorize the construction of facilities for public purposes.:

(2) ~~the~~ The Department may grant encroachment ~~a non-exclusive, license, lease or~~ permits, provided the use does not interfere with the public's access to ~~the public lands~~ property.

(3) Encroachment permits may be issued to persons who have a legal interest in adjoining property, and who are currently maintaining an encroaching structure, improvement, or other item, in exchange for a fee. The encroachment must have been in place prior to the effective date of this legislation. Any such permit may have a term of up to five year and may be renewed at the discretion of the Department. The annual fee for any such permit shall not be greater than four percent (4%) of the fair market value of the public land on which the structure, improvement, or other item sits. If the Department issued permits for encroachments prior to the effective date of this amendment, such prior permits, and the consideration paid for such prior permits, are ratified and deemed sufficient. The Department may promulgate regulations consistent with this provision.

Black = existing law

Blue = HB 22-31 proposed amendments

Red = Our proposed amendments.

TWENTY-SECOND NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 2021

First Regular Session, 2021

H. B. 22-31, HS1

A BILL FOR AN ACT

To authorize the Department of Public Lands to issue encroachment permits and charge fees for the use of the public lands located within 150 feet of the high water mark.

**BE IT ENACTED BY THE 22ND NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

1 **Section 1. Findings.** The Department of Public Lands does not have the
2 statutory authority to charge for the use of the public lands located within 150 feet
3 of the high water mark. The department only has the authority to prohibit the
4 erection of permanent structures. Under 1 CMC §2803(a), “The Department’s
5 authority does not extend to the issuance of land use permits and licenses, except
6 as specifically provided for in this Act.” The purpose of this Bill is to specifically
7 authorize the Department to issue licenses and use permits and charge fees for the
8 use of the public lands located within 150 feet of the high water mark.

9 **Section 2. Amendment.** 1 CMC Section 2806(e) of the Commonwealth
10 Code is amended as follows:

11 “(e) Except as provided in the subsections below, the Department may not
12 transfer an interest, and may prohibit the erection of any permanent

1 structure, in public lands located within 150 feet of the high water mark of
2 a sandy beach:

3 (1) except that the Department may authorize the construction of facilities
4 for public purposes;

5 (2) the Department may grant encroachment permits, provided the use
6 does not interfere with the public's access to the public lands;

7 (3) Encroachment permits may be issued to persons who have a legal
8 interest in adjoining property, and who are currently maintaining an encroaching
9 structure, improvement, or other item, in exchange for a fee. The encroachment
10 must have been in place prior to the effective date of this legislation Act. Any
11 such permit may have a term of up to five years and may be renewed at the
12 discretion of the Department. The annual fee for any such permit shall not be less
13 than one percent (1%) or not be greater than four percent (4%) of the fair market
14 value of the public land on which the encroaching structure, improvement, or
15 other item sits. If the Department issued permits for encroachments prior to the
16 effective date of this amendment, such prior permits, and the consideration paid
17 for such prior permits, are ratified and deemed sufficient. The Department may
18 promulgate regulations consistent with this provision."

19 **Section 3. Severability.** If any provisions of this Act or the application of
20 any such provision to any person or circumstance should be held invalid by a court
21 of competent jurisdiction, the remainder of this Act or the application of its

1 provisions to persons or circumstances other than those to which it is held invalid
2 shall not be affected thereby.

3 **Section 4. Savings Clause.** This Act and any repealer contained herein
4 shall not be construed as affecting any existing right acquired under contract or
5 acquired under statutes repealed or under any rule, regulation, or order adopted
6 under the statutes. Repealers contained in this Act shall not affect any proceeding
7 instituted under or pursuant to prior law. The enactment of the Act shall not have
8 the effect of terminating, or in any way modifying, any liability, civil or criminal,
9 which shall already be in existence on the date this Act becomes effective.

10 **Section 5. Effective Date.** This Act shall take effect upon its approval by
11 the Governor, or its becoming law without such approval.

Prefiled: 3/11/2021

Date: 3/11/2021

Introduced by: /s/ Rep. Joseph Leepan T. Guerrero
/s/ Rep. Blas Jonathan "BJ" T. Attao
/s/ Rep. Angel A. Demapan
/s/ Rep. Joseph A. Flores

Reviewed for Legal Sufficiency by:

/s/ Joseph L.G. Taijeron, Jr.
House Legal Counsel