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DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

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Proceedings of the
**Hawaii
Coastal
Zone
Management
Program**

"ZNA" PROGRAM SUBMISSION WORKSHOP

GB
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1977

1-27, 1977

Sheraton-Waikiki Hotel

Honolulu, Hawaii

12695

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PROCEEDINGS
OF THE
HAWAII COASTAL ZONE MANAGEMENT PROGRAM
"306" PROGRAM SUBMISSION WORKSHOP

August 26-27, 1977

Sheraton-Waikiki Hotel
Honolulu, Hawaii

U. S. DEPARTMENT OF COMMERCE NOAA
COASTAL SERVICES CENTER
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INTRODUCTION

The Hawaii Coastal Zone Management "306" Program Submission Workshop held August 26 and 27, 1977, at the Sheraton-Waikiki Hotel, was a major development in planning for the State of Hawaii. The participants, representing the Hawaii CZM Program's 10 advisory groups, engaged in spirited dialogue, discussion, and debate of major issues related to the "306" Program Submission Draft Document which was prepared for local and Federal review.

This Proceedings volume includes a transcript of the panel presentations and the subsequent question-and-answer sessions. A summary of the luncheon presentation -- on the development of Hawaii's Coastal Studies Program -- by Dr. Francis M. Pottenger, III, of the University of Hawaii Curriculum Research and Development Group, is also published herein, along with a list of persons attending this Workshop.

The Workshop enabled Federal, State and County agency representatives State legislators, members of special interest groups, and citizens from throughout the State to arrive at a reasonable understanding of what should constitute the best possible CZM program for Hawaii's unique geographic, political, and socio-economic characteristics.

Our special gratitude goes to the representatives of the Office of Coastal Zone Management, U.S. Department of Commerce, who participated in the Workshop. Carol Sondheimer, Jim Lawless and Ben Mieremet presented clear and concise responses to questions regarding the Federal role, expectations, and minimum requirements of our Hawaii CZM Program.

This Workshop has resulted in a convergence of views which will enable us to formally transmit, in the near future, the Hawaii "306" Program Submission Document for Federal review and approval by the U.S. Department of Commerce. This achievement would have been much more difficult without the exceptional dedication of those who debated, deliberated, and advised our Department on the critical and sometimes controversial CZM Program issues over the past two and a half years. Their participation in the "306" Program Submission Workshop and in the other aspects of our program planning is sincerely appreciated.

The mutual efforts of all who have contributed to development of the State of Hawaii Coastal Zone Management Program will, I am sure, result in an implementation program acceptable to all concerned with the beneficial use, protection and orderly development of Hawaii's coastal resources.

Hideto Kono, Director
Department of Planning and Economic
Development

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AGENDA

HAWAII COASTAL ZONE MANAGEMENT PROGRAM WORKSHOP

SHERATON WAIKIKI HOTEL

Friday, August 26, 1977

WAIANA E ROOM

6:30 - 8:30 Registration and Reception

Saturday, August 27, 1977

HONOLULU-KAHUKU ROOM

8:00 - 8:30 Late Registration

8:30 - 8:45 Welcome
Frank Skrivanek, Deputy Director, DPED
Workshop Chairman and Panel Moderator

8:45 - 9:30 Review of Revised Submission Document
Key Policy Issues
Hideto Kono, Director, DPED
Other Revisions
Richard Poirier, Hawaii CZM Program Manager, DPED

9:30 - 10:00 OCZM Representatives - General Comments
Carol Sondheimer, Program Development Officer
Ben Mieremet, Acting Regional Manager, Pacific Region
Jim Lawless, Assistant General Counsel

10:00 - 10:30 Question and Answer Session

10:30 - 10:45 Break

10:45 - 11:30 Federal Agency Panel
John W. Bedish, State Resource Conservationist
U.S. Soil Conservation Service
John E. Crawford, Regional Office Representative
Federal Energy Administration
Nevin Holmberg, Senior Biologist
U.S. Fish and Wildlife Service
LCDR Michael J. Jacobs, District Legal Officer
14th Coast Guard District
U.S. Coast Guard
Bob MacLauchlin, Chief, Project Formulation Section,
Planning Branch, U.S. Army Corps of Engineer
John Naughton, Fishery Biologist
National Marine Fisheries Service
Captain R.P. Nystedt, District Civil Engineer
14th Naval District, U.S. Navy

11:30 - 11:45 Question and Answer Session

12:00 - 1:15 Luncheon - WAIKIKI HISTORIC ROOM

"Not For Just a Day..."
 Dr. Francis M. Pottenger, III
 Co-Director
 Coastal Studies Curriculum Research
 and Development Project
 University of Hawaii

1:15 - 2:00 Advisory Group Panel

Jackie Parnell, Chairman
 Policy Advisory Committee
 Dave Raney, Vice-Chairman
 Statewide Citizens Forum
 Hannibal Tavares, Chairman
 Maui Citizens Advisory Committee
 Clara Sabas, Chairman
 Molokai Citizens Advisory Committee
 Lawrence Okinaga, Member
 Honolulu Citizens Advisory Committee
 Elaine Taira, Member
 Kauai Citizens Advisory Committee
 Ken Griffin, Chairman
 East Hawaii Citizens Advisory Committee
 Pete L'Orange, Chairman
 West Hawaii Citizens Advisory Committee

2:00 - 2:30 Question and Answer Session

2:30 - 2:45 Break

2:45 - 3:00 OCZM Summary
 Carol Sondheimer

3:00 - 3:30 Workshop Summary
 Frank Skrivanek

Please have parking tickets validated at registration desk.

WELCOME

Frank Skrivanek: As the program indicates, I am Frank Skrivanek, and I will try to be your "cool headed" moderator all day long. I hope from the information session last night most of you got to meet each other and were able to discuss informally a number of the things that we will be presenting today and on which we will seek your opinions. With us in addition to our staff, I think most of you know the members of our staff, I would like to introduce some of our consultants. Tom Dinell and Kem Lowry of the Pacific Urban Studies and Planning Program, John Holmstrom, Dan Mandelker's representative. Tony Catanese, Pat Stanley and Alan Steiss of A.J. Catanese and Associates. Ray Tabata, who is responsible for our Coastal Zone newsletter and Debbie Lee, the new editor of the newsletter. Larry Chime of E.S.L. (Electromagnetic Systems Laboratories, Inc.). Also I would like to introduce Ralph Field, who is a consultant to the Office of Coastal Zone Management in Washington. Ralph is the Ocean Islands Coordinating Project Manager.

I think most of you recall our session last year in which we discussed and discussed the program which has gone through quite a number of revisions and changes. I think we have seen part of the history of the past year and a half to two years of our efforts at some planning in the Coastal Zone. The legislation got through and we are now working on the so-called "306 document" which we expect to submit to the Federal Office of Coastal Zone Management as soon as we can. The one that was mailed to you, I hope all of you have copies of it, is a rather large document, we have passed out to you a brief summary of what was included in that.

I would like to call on Mr. Hideto Kono, DPED Director, who will give the highlights of the changes and the key issues in this particular submission. Mr. Kono.

REVIEW OF REVISED SUBMISSION DOCUMENT

Hideto Kono: Good morning. It has been almost a year since we last got together as a group to discuss key issues facing our Hawaii Coastal Zone Management Program. On behalf of the Department of Planning and Economic Development I want to extend a warm welcome to all of you.

Since our last workshop, we have made substantial progress after much debate and deliberation and with your fine assistance and support, we were successful in convincing the 1977 Hawaii State Legislature of the efficacy of our Coastal Zone Management

efforts resulting in the notable passage of Act 188. We are now nearing the end of our program development phase and hope to submit very soon our program submission document to the Federal government for their review and approval. It is this important task on which we once again seek your counsel and guidance.

Before proceeding, however, I want to extend my hearty appreciation to all of you who have helped to bring the Hawaii Coastal Zone Management Program to this stage of development. To our legislators who were instrumental in the passage of our CZM enabling legislation, to all our Federal friends who have been so generous in their assistance, to all those in our State and County agencies who have contributed time and talent, to all our County associates who have worked so closely with us in hours and hours of effort, and to all in the private sector who have so generously and wholeheartedly donated their valuable time and skills to the CZM effort, I express our deepest appreciation.

As you know, we have been working over the past several months on a draft 306 submission document. You received in the mail just this past week a revised draft of the document which contains numerous changes and modifications. The purpose of this workshop is to discuss the latest draft as a basis for finalizing an appropriate document for official submission to the U.S. Department of Commerce. Through this process, we hope to reach a consensus on the specifics of the program for the optimum management of Hawaii's coastal resources.

The development of our management program document is a dynamic process and continued evaluation and revision are considered to be an ongoing component of extreme importance to both its validity and acceptability. Your future input on the draft as well as the environmental impact statement as yet to be developed, I'm sure, will result in additional modifications during the Federal review process.

In achieving the purpose of this workshop, we are most fortunate indeed to have with us today, three representatives of the Office of Coastal Zone Management, whom Frank Skrivanek will introduce later in the program. They are here to assist in understanding how Hawaii's unique needs and concerns can best be met within the framework of the provisions of the National Coastal Zone Management Act of 1972. We, in turn, should work toward understanding how the requirements of the Federal program can be optimally interfaced with the many concerns we have addressed as part of our ongoing Hawaii CZM program development activities. I am sure their perspectives on the issues at hand will be most enlightening and useful in our deliberations. I want to add a warm aloha and mahalo for their responsiveness and for visiting

with us at a time when the Washington workload and the end of the year fiscal constraints are most pronounced.

The most important policy issue or change in the draft before you concerns the designation of an appropriate interim Coastal Zone Management boundary. The initial draft, as you recall, stipulated that the entire State to its territorial seaward limits would be included in the definition of the interim Hawaii Coastal Zone, and that the objectives and policies and cause of action provision contained in Act 188 would apply throughout the State and its territorial waters.

After intensive discussion with our several advisory committees, the Policy Advisory Committee, and our Attorney General, we have redefined the interim Coastal Zone boundary to include the territorial waters and those lands incorporated as part of the existing special management areas. You will note that the revised draft also stipulates the objective and policies and cause of action provision as applicable to this new boundary definition. You should also note, however, that the network of existing laws outlined in the document applies throughout the State and the territorial waters. Dick Poirier will detail this and the other changes for you shortly.

In conclusion, I want to express my appreciation for the contributions you have made in the development of the Hawaii CZM Program, the cooperation and spirit of KOKUA demonstrated in the past should prevail today to enhance the success of our efforts to finalize a submission document that will lead to the beneficial use, protection and development of Hawaii's coastal resources. Thank you for your participation and support.

Skrivanek: Our project director, Dick Poirier, has been struggling with many, many revisions, so have other members of the staff, and Dick, perhaps at this time you would like to go into a few more details on the changes that have been made in this particular draft.

Dick Poirier: Thank you, Frank, Before I begin, you should have received a packet when you came in which contains the following materials: an agenda for today's conference; pages 174 and 175 which are two maps of Federal lands held in fee which we failed to include as part of our second draft; and a series of five pages that are punched in the left hand margin which reflects some additional revisions which were done by Mr. Kono during his reading of the draft. We would like you to substitute these pages for those in your documents. The final piece is

something called "major changes in revised 306 submission draft."

I would like to go through these changes fairly quickly with you. The purpose of this piece is to essentially show you highlights of the technical and substantive changes between the June and the August Drafts. With respect to technical changes, you will see under item one here that we revised the preface to the document and added a conclusion section. Secondly, we put all of these components dealing with Federal concern into a separate chapter. On the first draft, it was sort of scattered throughout the document. So now it is a separate chapter which deals with Federal coordination, consultation, Federal consistency and national interest.

We also added an index which tries to relate the program components to the various Federal requirements. This is to aid those Federal reviewers who will have to go through the document. That is table nine on page 72.

We have also added a listing of permits and licenses subject to the Federal consistency provision. This is something that we did not do in the first draft. In addition, we had a previous appendix that essentially listed programs subject to the A-95 review process. We took that out because we found, based on some Federal comments, that it wasn't particularly accurate. We also made corrections to the excluded Federal lands citations. I think we will be getting more of these as the program goes on as that particular definition changes over time. We also have a reference to a technical appendix which you do not have which is a compilation of existing State laws. We have a limited number of copies of these and they will be used primarily by the Federal reviewers to look up laws cited in the submission document. If any of you would like to see this appendix, we can make it available. Most of you however, have probably seen these laws previously.

With respect to substantive changes, as Mr. Kono stated, we have revised the boundary section in its entirety. If you will look at the blackboard, you will see that it reflects diagrammatically what that means. With respect to the June draft, as you recall, we posited the whole State as a coastal zone. This essentially meant that the objective and policies and cause of action and the network of existing laws essentially apply statewide. The draft you have before you is different in the sense that it now limits the objective and policies and the cause of action to the water and the existing SMAs. The network, however, still applies to the entire State. We added a new chapter on implementing actions which is Chapter Six.

The reason for this is that some people felt that the document itself is too process-oriented. In essence, there was very little relationship of the policies in the document to specific actions that could be undertaken to carry out the management program. What we did therefore, was to look at our policies plan. We updated that and essentially took those implementing actions which we cited as examples of those "306" activities which would be undertaken to carry out the program over time; we added a little more specificity to the Federal consistency section in the sense of breaking down distinctions between permits and licenses and Federal activities and development projects, etc. We modified the uses of regional benefits section by making more reference to the policies within Act 188. With respect to the areas of particular concern section, we added some potential APCs, to show that it is part of an ongoing process. In other words, the existing systems we are using in terms of meeting this particular requirement, not only has areas of particular concern as they exist here and now, but there is also provision in those statutes that additional APCs can be added over time. We rewrote the Permissible Uses Section by including the water side of the coastal zone. We did not have that in our first draft. With respect to priority of uses, we included the notion of performance standards. In this respect, we included the Interim Land Use Guidance Policies which are part of the Land Use Law. And finally, we certified the network of existing laws as being adequate. Here we tried to make the case that additional guidelines probably would not be necessary assuming that the network is adequate.

Those are essentially the major changes in terms of the first and second drafts. Before I close, I would like to point out one more thing. As you know, we are doing a lot of work in terms of streamlining, refining, and coordinating the permit approval process as part of the legal component of the Hawaii CZM program. In this regard, our legal consultant just completed something called "The Register of Development Permits" which I have here in draft form. This document is intended to serve as a quick reference guide to all development permits currently in force within the State of Hawaii. It is accompanied by an explanatory text. While this register does not include all the details of the statutes, rules or regulations, it does provide the citations and the administering agency to contact. This is a draft and what we are now doing is mailing this to Federal, State and County agencies for confirmation as to its accuracy and completeness. The Chairperson of each CZM advisory committee has been sent a copy for their review and comment. After the comments come back, we hope essentially to get this out to you as a final document probably in October of this year. This is the first phase of this particular aspect of the Coastal Zone Project which is geared to finding out what we have here

and now. The next phase will be to essentially try and analyze these various systems in terms of what we can do to eliminate permits, coordinate them, etc. We hope to be able to have a report on this matter before the next legislative session. Thank you.

Skrivanek: Thank you, Richard. Our Federal representatives got a copy of this draft, I believe it was last week, we sent it off by courier hoping they would get it in time for their review before they came out here. Hopefully they have had an opportunity to review it. Also yesterday, they had several meetings to discuss the draft. They met with some representatives of Federal agencies here. They also met with our staff people late yesterday afternoon, though some of our reviews and discussions were interrupted by a bomb scare in our building, but it was rather pleasant because we met out on the lawn at Iolani Palace, and continued the meeting. Then we arranged for a meeting with the County planning agencies, including two of the County Planning Directors and Carl Smith who represented the Department of Land Utilization, City and County of Honolulu, where the City Council is the administering agency of the SMA. I don't know if they are here today or not. So the OCZM representatives did have the opportunity of looking at some of the maps and discussing with the County people their concerns about the 306 document as it has been passed out. I would like to introduce first, Carol Sondheimer who is the Program Development Officer and I think has been very helpful in her very careful review of this particular draft. Also Ben Mieremet, who has been out here previously, I think a number of you may have met him. Ben is the acting Regional Manager for the Pacific Region; and then Jim Lawless, the Assistant General Counsel. I don't know quite how you want to start this, Carol? Would you care to start off with comments? I think they were contemplating last night how best to speak for their group and maybe Carol can do this at the start and then pass the ball to her co-workers.

GENERAL COMMENTS
OFFICE OF COASTAL ZONE MANAGEMENT

Carol Sondheimer: Frank, thank you. I do want to indicate that we decided that it would be easiest all around if, in order to insure we spoke with one voice, one person make the introductory comments this morning, but both Ben and Jim are available and here to answer any questions that might arise either here in this session or throughout the day. You should feel free to talk to any of us.

By way of introduction, I suppose you hear constantly from people who come over, what a spectacular environment this is. I sincerely hope that you never get tired of hearing this. I understand, the best in terms of some of the undeveloped natural areas are to be found on the other islands, and that this is just a small reflection of what the islands consist of. But it is because of the uniqueness and the value of these coastal resources and because of the pressures that these resources are subject to, that the job of coastal management is worth doing and needs to be done. I think that is something that you all have recognized in your efforts to date and have worked very hard to achieve and this is reflected in the Act 188 that you passed recently. We hope that you will find it worthwhile to develop and institute a comprehensive Coastal Management Program, supported with funding from our office, that pulls together and focuses all the disparate authorities and actors who affect your coastal resources. I think it is also worth indicating that we think that it is a testament to your dedication and your level of interest, that so many of you have come here today on Saturday and are willing to sit indoors the entire day to discuss and evaluate these coastal management issues that have been raised in your program document. You should take a large measure of satisfaction in knowing that our office believes that Hawaii has one of the outstanding public participation efforts throughout the nation. I think that is reflected in the number of you who are here today representing the various different coastal interests and various levels of government. I think that is enough in the way of an introduction; and I meant what I said.

I would like to get down to the heart of the issues which we are here to discuss today. I would like to indicate to you that we are here to listen as much as to talk and to get a better understanding of what are the critical issues and problems you have with this coastal management effort. But I also understand that you are particularly interested in our views on the program document and we will be glad to provide them.

I might indicate that we would anticipate some general changes to be made to the recent document version we have received, based on the fact that we have revised our approval requirements which will appear in the Federal Register on Monday. This will, therefore, lead to some changes in this document in and of themselves. I don't think they are significant to the issues we are discussing here although one of the main purposes in our change in our approval requirements is to assure that there is greater specificity and clarity in state programs. To the extent there may be some question about that in this document, hopefully our changed requirements will correct that problem.

I think the basic issue that has been presented as having undergone considerable debate and change is the boundary issue and therefore I will spend some time on that. The present boundary suggested in this most recent document which is proposed for the 306 boundary, specifically the existing SMA, does not appear to us to meet our approval criteria as it does not include all those shore lands, uses of which have or potentially would have direct and significant impact on coastal waters. Based on your own recently enacted legislation, the Coastal Zone Management Act of 1977, it appears that the minimum coastal management area must include those land and water areas although the water areas are not in contention, but particularly those land areas that will be necessary to achieve the legislative objectives and policies included in Act 188. We think those policies and objectives are good ones. They are reasonable and they reflect what we understand are the basic coastal issues in this state. Act 188, therefore, talks about such areas as a "valuable coastal ecosystems", "valuable scenic resources", "area appropriate for coastal dependant development" and "coastal hazard areas", which include "areas subject to storm wave, tsunami, flood, erosion and subsidence hazards." While many of these areas may in fact be found within existing SMA boundaries, our examination of what maps have been available to us indicate that particularly coastal hazard areas, and especially flood plains, are not contained in the SMAs in many cases. You should also note that with respect to the prior draft that was submitted to us that included the entire State, it does not appear that the entire State must be the coastal zone although we believe the argument can be made, and has been made, that it could be, if that were the option that the State decided it wanted to pursue.

While it seems to us that many of the areas mentioned in Act 188 such as the coastal ecosystems and the areas appropriate for coastal dependent development and the coastal hazard areas would probably fall within the areas subject to floods, and there may be some exceptions in terms of particular scenic resources, it seems that flood plains would represent the appropriate minimum management area in undeveloped or sparsely developed areas throughout the State. In urban areas, and I use that term as distinct from your term urban districts, and I mean by urban areas, highly developed areas, lands that are already developed or severely altered, a more limited coastal zone may be appropriate given the nature and extent of shoreline alteration. However, in undeveloped portions of urban districts, again it would appear that the flood area would be the appropriate minimum management area. I assume that this assessment on our part can indeed be questioned, but if we can leave that aside for a minute and hypothetically agree to the flood area

as a minimum management area, at least an undeveloped area, that then raises the question of how is that area determined. I understand that it is something of considerable debate hereto, whether or not the information exists and to what level of detail that information needs to be gathered. I think our advice on this is that we understand there is in fact information available from a number of Federal and County sources. If indeed you want to proceed with a coastal management program at the earliest opportunity, this information could be used to approximate the general flood area and that the boundary could be determined or articulated on the basis of a topo line or on the basis of the nearest road or other easily recognizable feature, that that would create greater ease of administration of the coastal management purposes under the terms of our Act.

I think another major issue, and separate issue, although I understand it has been considered as one issue here, is the question of once having defined what constitutes the Coastal Management Area, who has primary management responsibility in that area. As far as we are concerned, that is a separate issue. It's an issue for the State and I use that term in its largest sense to include State agencies, County agencies, local citizens, government, the legislature as appropriate, - that is an issue for the State to decide. Our concern is to assure that irrespective of who is doing the management, it is done in accordance with appropriate management policies and authorities appropriate to the nature of the problems which require attention on the part of the State. We might also indicate that by defining the coastal zone, the purposes of our program, the Federal program, to include a flood area or an area beyond what are the present existing special management areas, we are not necessarily requiring the SMAs to be extended immediately or at any point if that is not appropriate, or that the SMA permit requirements must be applied in this larger area. The State has made the case, and we are fairly well convinced because there are good arguments, that in fact outside the SMAs, there are an array of existing State authorities that can be coordinated to focus on the particular management issues that need attention beyond the SMA area.

An argument has been made to us that it is not necessary to include any areas identified in your Act such as valuable coastal ecosystems, or coastal hazard areas, as part of the management boundary that would be submitted to us as part of the program that we would approve, since there are enough State management controls and other controls to handle direct and significant impact on lands that are not included in the Coastal Management Program. I am not talking about the Coastal Management Program. I am talking about that document which is under discussion which would be submitted to us in the long run and approved by us.

The argument has been made that you don't really have to include the areas identified in your Act because you have the authorities anyway. Frankly, we find this line of reasoning a little hard to understand, and we can't accept it. Based on this logic it would appear that Hawaii would not need to participate in the National Coastal Management Program because it already has management controls for the areas being proposed in this document. Yet, we really don't believe that you believe or that we would want to see such a limited interpretation of what a coastal management program is. We think, in fact, that there is merit in receiving Federal funds and in using State funds to better administer in a coherent manner all your coastal resources and all those lands and waters that have direct and significant impacts on those resources. Further, our approval requirements do not allow us to find the program adequate if it does not include the appropriate land areas and the necessary authorities to insure proper management of these areas. Thus, the determination of the adequacy of the state's program rests on what is included as part of the program and not on what is posited to exist outside of the program.

Finally, there is another reason that it is desirable to include those areas and those authorities that are beyond the existing SMA and that rationale relates to the Federal consistency provision of the National Act. These provisions provide that once a state's management program is approved, Federal actions must be consistent with the state's management program to the maximum extent practicable. To apply these provisions requires a clear statement of what constitutes the coastal zone and what enforceable policies are applicable therein. Accordingly, to the extent the state wishes to apply some of the policies and authorities that they have in other laws beyond Act 188, it would be important to include them in the coastal management program.

I think that this in a very outline and summary form provides you with an indication of our reaction to the basic issues that have been presented in the draft. I think we believe that you have the guts of a good management program here if you can resolve the boundary issue, that the nature of the problems that need to be addressed and how to address them is already developed, it's a matter of putting it together in a coherent fashion to insure that all those who will be participants in the management program will in fact act in accordance with the policies of that program. We are willing to help in any way that we can. We look forward to your reaction and I think I'd like to stop there.

Skrivanek: O.K. Carol. Thank you very much. Would you, Ben or Jim, like to add any additional comments?

Jim Lawless: I think Carol has spoken for us.

Skrivanek: Perhaps at this point I am sure some of you have questions on some of the comments Carol has made. Questions dealing with specificity and some of the areas covered by comments we have received in writing, are welcome. So why don't we open up the floor for questions at this time and what I would prefer is that as you do speak, if you would identify yourself for the members in the audience and indicate your question or concern and who you might want to direct it to. It doesn't always have to be questions. It could also be comments, observations, or something of that nature. Why don't we go ahead and start with the discussion from the floor at this point. We do have a microphone in the center aisle if you could use that, we are trying to record all the discussions so that we can use it as we further refine this draft.

Pete L'Orange: My name is Pete L'Orange and I represent the West Hawaii Committee. One question one of my colleagues posed was whether you are all from Washington or from the West Coast office. You can answer that later, but the point that I don't understand, when you talk about including the flood plain areas in the coastal zone, I don't know how you handle the mainland United States, but when I think of the Mississippi River, I think of large flood plains that cover thousands and thousands of square miles and it seems to me inconsistent if you are going to tell us that our flood plains have to be included in our coastal zone, versus the whole United States river basin. For example, the Colorado River that comes into California. Is that part of California's Coastal Zone? To me it is an inconsistent position.

Sondheimer: We don't think it is an inconsistent position and I'll answer that in a minute. First, we are all from Washington. We do not have regional offices although we have specific staff who deal with the West Coast states. The basis of talking about the flood management area is not something that we manufactured without reference to what you have identified here. We have taken a position that it is up to the states to determine what all the coastal issues are which must be dealt with. We think that Act 188 has done a really fine job in laying out what those issues are. What they specifically say is that coastal hazards are a major problem in this state and that one of the

objectives of the Act is to control development in tsunami areas, areas subject to storm waves, erosion, flooding and subsidence. This is something which has been identified by you. We respect that. When we were asked "Is the boundary we propose adequate?", our reaction was "no". In terms of what you yourselves have identified it is not adequate. And from that we have tried to extract from your Act what are the things that were mentioned in there which would seem not to be incorporated in the SMAs. These are the things that we have projected in this discussion today.

Skrivanek: Mr. Tavares. You have a question or comment?

Hannibal Tavares: Both. I am Hannibal Tavares. I am Chairman of the Maui Citizens Advisory Committee. As I sat here this morning listening to the lovely lady's remarks, I kind of felt like I was listening to a replay of a summer television movie. It seems to me that we have heard this all before. Apparently the many arguments and discussions we have had here have not had the kind of impact that we had hoped it would have. I think, in speaking for Maui in particular, we strongly feel that the Act 188 plus all of the other myriad of laws and rules and regulations that we have, adequately protect the coastal zone. I think that, if I understand the legislature properly and as some of you here know, I have worked around that legislature for many many years, I do believe that they too feel that we have adequate laws and rules and regulations to protect the coastal zone management areas as we in Hawaii want to see it protected. If it means in order to comply with the Federal Act in order to get federal funds, we have got to greatly extend this beyond what we see the coastal zone is, I have a feeling that Hawaii is just about ready to say thank you very much, but no thank you. My question is - by complying with your standards and your Act, what do you see as advantages to Hawaii and how much money are we talking about so that we can determine whether the price tag is worth the effort?

Sondheimer: First let me comment on something you said and that is the implication that what we are requiring is an addition of new authorities. If that is what I said or if that is what you implied, that is not what is intended. I think we agree, that there is in fact, an array of existing authorities at both the State and County level that if, taken together and focused in an appropriate manner, would represent an adequate coastal program. I think we agree with you on that. I think the issue still is what shall be included in that coastal program and what areas shall be encompassed in it. As far as we are concerned, it is up to the State and that means the Counties, the Governor,

State agencies and the general citizenry, to determine what are the benefits and that in fact the benefits are great enough to participate in the program.

We think that the advantages are manifold. In part, it comes now, during the program development process, in that you focused on what the issues are and that you are focusing on ways to resolve those issues. It is our belief that participation in the program provides you with the funds to carry out some of your management objectives. If the issue is, as you have identified in your legislation, the need for greater recreational opportunities and access to them, there are sections of the Act that can provide funds for access to shorefronts. If there is need for personnel to administer your existing permit authorities, there is funding in the Act to provide for that personnel. And finally, we think the Federal consistency provisions are an incentive to states to participate in the program because it means that while there is, I hope normally, a great deal of cooperation between Federal agencies and states, this is a further assurance of that. There are specific provisions written in requiring consistency on the part of Federal agencies, which is a new concept in legislation at the Federal level. We think it is advantageous and desirable. And finally, I cannot answer the question as to how much money is available right now, for Hawaii per se. I can tell you that in the coming fiscal year \$18,000,000.00 is available for coastal management purposes for those states that would have approved 306 programs.

Tavares: Getting back to the Federal consistency point, isn't it a fact that there is a clause in there that says they will comply if practicable?

Sondheimer: No, there is a clause in there, (in the National Act).. There are three main aspects of Federal consistency requirements, and I don't want to get into a lot of detail because it is rather complex. Basically, Federal actions and development activities must be consistent to the maximum extent practicable, not if but to the maximum extent practicable. That is defined primarily in terms of national defense considerations. Then, Federal permits and Federal funding assistance must be consistent. Period. There are some provisions in that the Secretary of Commerce has the ability to override if there is an overriding national interest, but it is really not qualified with the same phrase.

Tavares: We are concerned about that little loophole that I think is there.

Skrivanek: Doug.

Douglas Meller: I am Douglas Meller representing the Shoreline Protection Alliance. I am a member of the Statewide Citizen's Forum. I am here to comment briefly on what our previous speakers have said and ask a question too.

They have implied that our existing network of laws and regulations and permits is sufficient to control shoreline development to deal with our problems. I would differ with them slightly. Maui County does not have an adequate system of flood insurance maps. They have an ordinance but are very selective when enforcing this to comply with flood insurance requirements. This island (Oahu) also does not have a Federal flood insurance program. Selectively, they do impose 100 year requirements or 50 year requirements. In this fashion, if we had a stronger boundary, would we have more ability to see that developments are not put in flood plains or tsunami hazard areas? Regularly every year our north shore is washed away and houses are washed into the ocean. There are fights over it. It is not adequately controlled at all. People get to rebuild. That is my comment. My question is, am I correct in my assumption that the objectives and policies of our program must be legally binding on public agencies throughout our coastal zone management area, whatever we designate it as?

Lawless: Yes, that is correct.

Meller: The reason I ask that question is that our Act 188 specifically says that its objectives and policies are binding only within the shoreline management area. They are not legally binding below the high-water mark and are not legally binding inland, nor is there a cause of action section outside of the shoreline management area.

Lawless: A preliminary analysis of the existing laws at the State level indicates that there are adequate laws to address these policies in the program and if these laws exist, they can be essentially self effectuating. There has also been displayed in the program document here, a general provision

applying to all State laws and any ordinances and so forth which provides for injunctive action against anyone violating these laws. We feel that it is possible, as has been done with some other state programs that are being developed, to take existing laws and apply them adequately to coastal management areas. Once we can be satisfied that the states can demonstrate that the laws in fact address the policies that they have developed for their coastal areas.

Meller: The reason I ask this question specifically is that we have two agencies which control lands below the high-water mark, our Department of Transportation and our Department of Land and Natural Resources. They have laws which allow them to issue permits, but they do not have any criteria for the permits. Nor can we get illegal structures in the waters removed by suing them because we do not have a cause of action provision.

Lawless: I believe this other general provision that I referenced, would probably be applicable for those authorities. Again, there is some work that would have to be done to develop the mechanics of this networking concept using existing State laws and that would be one of the benefits of a coastal management program - the efforts devoted to drawing these all together and focusing them. Even though they are already on the books, at the present time they probably are administered in a less coordinated fashion. That would be one of the benefits - focusing these existing authorities and using them to the maximum.

Skrivanek: Dave.

Dave Raney: My name is Dave Raney and I represent the Sierra Club on the Statewide Citizen's Forum. I am also the Vice-Chairman of that group. I think Carol did an excellent job of highlighting the debate over the central issue which is the boundary. However, I think it bears repeating so that people here understand exactly what the issue is and exactly what the Federal people are proposing as what I consider to be a quite reasonable accommodation to our problem of determining an interim landward boundary.

I think what causes confusion in the minds of many people here in this State is the fact that we do have an extensive network of laws and agency actions for managing our coastal related problems. The August draft proposal as shown on the blackboard,

shows this as a large network area. Now, I think the point that has to be understood is that unless the areas that are covered by that network of laws are part of this State's program boundary, then as far as the Federal government is concerned, the fact that they exist is irrelevant. By law, OCZM can only consider those land areas that are within Hawaii's program boundary. I think that's the kernel of the issue and right now our program submission says that Hawaii's inland area is the current SMA area. So the fact that areas inland of that, may or may not be protected by existing laws, is irrelevant as far as OCZM's legal constraints on accepting our program is concerned. Is that a fair statement of the situation?

Sondheimer: Yes.

Raney: What I hear being proposed then, is that the State come back with a best approximation of what our final boundaries might be based upon the objectives and policies that we ourselves have articulated and you are suggesting that perhaps the coastal hazard areas as approximated by flood plains, or our best guess at what a flood plain map would look like, that that appears to you to be an acceptable approach. I would estimate that in terms of the percentage of land area of the State that would be included by increasing those boundaries further inland would be rather small. I would say off the top of my head in the neighborhood of one or two percent of the land area of the State. At any rate, from what I hear, you are saying, "Give us your best estimate of what your final boundaries would look like", that they can be substantially less than the entire State, but also that you can only consider those land areas within our program submission and the extent to which our network of laws applies in those areas. I think that's pretty much the issue that we face and that's my understanding of what you are coming back with as a counter proposal. The only other statement I would make is that I don't think that any single individual, me included, can speak for an entire County or the entire State of Hawaii as far as what we feel about participating or not participating in this program. Thank you.

Skrivanek: Do any of you want to comment on the boundary question in relation to what Dave has said?

Sondheimer: I think that generally it is a good statement of what we are trying to convey.

Skrivanek: Valerie.

Valerie Humphries: I want to thank you for your very fine presentation as well. I am Valerie Humphries and represent the Windward Action Group, which has a membership of close to 1,000 on the windward side (of Oahu) where we have one of our big natural resources, Kaneohe Bay, and of course what is left of our scenic beauty on this island. I too, want to reiterate and comment because I think it is very important that there are differences of opinion and I think that Mr. Raney clarified for me what you feel acceptable, but I was surprised that you did feel that you could accept it as it is rather than with the coastal zone being the entire State which is what we set out to do. I think you need to be aware that there is also the political connotations, like counties' home rule versus whether the State comes in. I don't want to get into that, but this is a very big factor. There are many here who actually would have opted that the entire State go into coastal zone. Now, in saying that we can then designate and include an expanded area, perhaps this can be agreeable and worked out. We have been given something that we call the APCs, the areas of particular concern. Would you then, my question is, call these areas of particular concern by bringing in the specific places that you designate?

Sondheimer: First, you made a statement that seems to indicate that we had said that we could accept the boundary as it is in the present draft and that is not what we have said. We cannot accept the existing SMAs without some adjustments. The boundary could be drawn to include what you have already identified as areas of particular concern. Or it may be that some of those that have been identified now, would no longer fall within the coastal management boundary, and therefore would not be eligible for special management attention and funding under this particular program. But as we understand your areas of particular concern, they are based on and derived from existing State authorities such as the Marine Sanctuary Program and the Natural Area Reserve provisions and to the extent that those that are designated under those procedures would fall into this revised boundary, they could be considered APCs. I don't think you have to change that section.

Humphries: I would like to just ask one question further. We do have existing rules but obviously something was wrong or we wouldn't be here today. This County (Honolulu) was very negligent and people here, such as the previous speaker from the

Shoreline (Protection Alliance), Mr. Meller, myself and various other persons obviously went for this (the Coastal Zone Management Program). I would like to ask this question which may put you on the spot, but do you not feel that one overhead authority throughout the entire State (as the coastal zone) would then have the sanction to step in when necessary? It doesn't mean that the Counties can't continue to do their thing, but then when it becomes necessary, you have that opportunity to get in there and do what is necessary because sometimes some Counties don't move unless you prod them.

Sondheimer: I'm afraid my answer isn't going to satisfy you but, as I indicated I think there is justification if you want to find it to include the entire State in the coastal zone. I also think there is justification to include less than the State in your coastal zone and we're not going to make that determination for you. I think that's up to you, and is a function of what are the issues you want to address and those which you feel need to be addressed, and can fruitfully be addressed through this program. So that's a decision for you to make. What I have tried to indicate here today is what is the minimum area that would have to be included and not what is the maximum. I think that's up to you.

Skrivanek: Jim.

Jim Shon: My name is Jim Shon and I am also on the Statewide Citizens' Forum. I have one comment and then a question about the boundary. One particular experience that we had with County compliance with State laws might be in the park dedication law which was passed several years ago. It took six or seven years for any County to get around to actually complying with the Act to pass the park dedication law. As I understand, there may be still some Counties that have not done that such as Hawaii County. Therefore, there is an element of shall we say, uncertainty when we say that the Counties will promise to do one thing or another. So my question is, if you were to accept the best approximation of an SMA or a coastal zone based on flood plains, would that mean that the cause of action and the objectives and policies would then be applied to the best approximation of that, the potentially amended area, or that simply would not apply until the amendment actually came at the County level?

Lawless: Are you talking about the boundary amendment? Under Act 188?

Skrivanek: I think what you are referring to is an interim boundary before the final adjustment in the two year period, is that it?

Shon: Well, we have the existing SMA and if you submit the document, you are saying the SMA plus these flood areas which probably will be included. Right now cause of action and the objectives and policies definitely apply to the SMA. Would they apply to the approximated boundary also?

Lawless: Yes, part of the review that we would go through on this concept of networking of existing State authorities would be verifying the fact that the policies reflected in these other State statutes also reflect in one way or another the policies that are expressed in Act 188. We feel that, as Carol indicated, it appears that this case can be made, that in fact when you conduct this analysis you can find statutes to meet these different policies that are expressed in Act 188 and that analysis would be completed before program approval so that in fact through the operation of these other statutes, the policies expressed in Act 188 would apply in flood areas as well as the SMA.

Shon: How about the cause of action?

Lawless: There is that general cause of action authority that I referred to earlier in today's program.

Sondheimer: Also, I think there is some confusion. It seems to us that the SMA may or may not be extended in the long run after this two year period to what would be defined by the State as its administrative coastal boundary, if we can use that term to distinguish between the SMA boundary. To the extent those boundaries would be amended to incorporate this coastal hazard area, then yes, the cause of action would apply. But if it were not extended or until such time as it were extended, then the cause of action that is specifically provided for in Act 188 would not apply, but as Jim indicated, this other statutory provision that you have seems to provide a similar type of insurance and authority to achieve compliance with the policies of the program.

Lawless: Again, in some of the other state programs, they have discovered that there are equivalent sorts of statewide cause of action authorities like this and they are relying on those in other states without having to enact a special authority as we find in Act 188. I think in this case you end up with two different sources of cause of action. But that is not to say that because there are two sources that one is necessarily inadequate.

Dorothy Marsh: Dorothy Marsh of the League of Women Voters and the Statewide Citizens' Forum. Id'd like to ask a question about the guidelines. We were under the impression that the guidelines should give greater specificity to the objectives and policies. Do you feel that the guidelines as they are outlined in the 306 draft are adequate?

Sondheimer: As we understand it, the guidelines are in a technical appendix and we have not had a chance to review the appendix. One of the things we will have to do before we can accept and determine the approvability of the program is to review what the State contends are existing guidelines and the specificity there, so I can't really answer that question.

Skrivanek: Dorothy, may I ask one question of you? I know this is doing it in reverse. You live in one of the areas that frequently is subject to some of the coastal hazards that we have defined. Do you have any feelings on including or excluding them?

Marsh: Yes, I think they definitely should be included. I live in an area that is a hazard area, but it is not in the SMA which is across the street from my home. Our home is subject to tsunamis and I think it should be included. Very definitely.

Donald Hanson: My name is Donald Hanson and I am a member of the Honolulu Citizens Advisory Committee. I too, would like to congratulate Carol on her excellent summary. I feel that one of the most significant statements made was the inclusion of the territorial waters in the boundary. I think most persons who have had reservations about expanding the boundary from the SMA have not carefully analyzed the importance of the territorial waters. Now, while it could be said, although many of us agree that there are adequate laws to cover coastal zone management on land and that we have laws that perhaps adequately

cover coastal zone management on water, but what we don't have are laws that tie the two together. In other words, the relationship of land to water is where I feel the CZM law will be most effective. Question: You mentioned the possibility of not including urban areas as an expanded part of the coastal zone management area. Could you give a little elaboration on this?

Skrivanek: Let me see if I understand your question clearly. This is in relation to say the flood hazard areas in urban areas which are already developed?

Hanson: That would be a specific example. In general I think the statement was made, if I heard correctly, that there may be less merit in expanding the boundary in urban areas beyond the SMA than in areas which were less densely populated. I wonder why.

Sondheimer: We think there is some justification for limiting the boundary in developed portions of an urban area, because the distinct ecological relationships are often blurred or destroyed. For example, in urban areas, where seawalls are built up is where the water ends and you have very little interplay between the land and the water. Because basically the definition of the coastal zone in the Act is geared toward undeveloped areas, it is very difficult to draw those ecological boundaries in an urban area. We accepted the theory that you could draw the boundaries in a developed area on a somewhat different basis and that could be a function of possibly visual relationships. If in fact visual access of the water, visual ability to see the water, is something that is important in an urban area, then the boundary may be drawn so as to insure that visual access. It may be that within a certain area there are distinctly water dependant uses and then inland beyond that area the uses become blurred, these areas may or may not be considered water dependant. That may form one basis for defining the boundary.

Hanson: The basis of my question is the fact that I live in Waikiki and I would like to find many many arguments for expanding the boundary beyond the SMA including visual access, urban design, hazards and so on.

Kathy Benjamin: I am Kathy Benjamin from the Pacific OCS office of BLM (Bureau of Land Management). My question also relates to boundaries and it has to do with the seaward limits of state

jurisdiction. There is presently some discrepancy between the U.S. Government and the State of Hawaii on the seaward limits of your jurisdiction and I would like to know how the Department of Planning and Economic Development is presently defining those limits?

Skrivanek: Mr. Kono, I'll toss that one to you.

Kono: As you know, we derive our present status from the time when we had the Kingdom when the waters between the islands were considered part of the Hawaiian Kingdom. The Federal claim, of course, is that the State's jurisdiction is only three miles out, since that is the distance in the old days, that a cannon shot traveled. But the State contends otherwise and has made claims to the Federal government that our territorial boundaries extend beyond the three miles. Now, that has yet to be worked out with the Federal government, so at this stage it is still hazy. We didn't want to say just three miles for the CZM Program but rather, I thought it was wise for us to claim our territorial limits and that is the definition and term which we are using for our waters. So, I can't answer your question definitely by meets and bounds but this is the basis for setting forth the term "territorial waters".

Benjamin: I understand your claim between the islands, but what about the most southerly island, the Big Island. How far beyond those limits would you go, say south and north?

Kono: To the extent that we finally determine what our territorial waters are which will probably have to be determined by the courts.

Benjamin: Thank you.

Nevin Holmberg: I am Nevin Holmberg with the U.S. Fish and Wildlife Service. I have a couple of questions. I believe you stated earlier that all Federal permits were required to be consistent with the CZM program and I wanted to know: 1) Does that mean that all Federal permits, regardless of issuing agency, whether its Army Corps or whatever, have to be consistent? 2) I wondered if Federally funded projects as opposed to those projects Federally permitted have to be consistent and 3) I wonder if we could get a copy of your remarks?

Sondheimer: No. No. And No. (Laughter).

I am willing to get into a detailed discussion of the 307 requirements although I don't think this is the appropriate forum. But let me say, there are distinctions with respect to the consistency requirements for permits depending on whether or not the applicant is a Federal agency or is someone else and there are somewhat different requirements. If you are a Federal agency applying for a permit, you are subject to the requirements of Section 307 (c) (1) and (2) whereas all other applicants are subject to the 307 (c) (3) requirements. I won't go into details or the fine points. On Federally funded. . . what was the phrase you used?

Holmberg: "Federally funded projects". For example, HUD projects and that sort of thing.

Sondheimer: Now there is a distinction to be made. Federally funded or assisted projects that go to State or local governments would be subject to the 307 (d) requirements, whereas Federal development projects on Federal lands would be subject to the 307(c) (1) and (2) requirements. I would mention that our Federal consistency regulations to which your questions refer are being published in the Federal Register on Monday. You might want to take a look at them. As to obtaining a copy of my remarks, yes, if I get around to writing them up I'd be glad to make them available to you.

Kono: They will be reported in the proceedings of the workshop.

Charles Ota: My name is Charles Ota from Maui. Earlier the Maui delegation sent our offensive lineman out (laughter) to carry our mandate, but I don't think I got the answer quite correctly so that's the reason I'm here. I share the same thought that Mr. Tavares had expressed earlier simply in terms of money. I think aside from our climate the so-called scenic and open spaces are some of the areas that we still can salvage in our Hawaii. Yet these things require money. You mentioned \$18 million dollars. There are two questions I want to ask, one whether the open space would be the least costly. In our policy here if we talk about recreation development, recreational facilities or the hazard areas, these are areas which would cost millions of dollars for development but in open space I think they may be less costly. Some years ago we developed a beautification plan on Maui under a Federal program. It cost us \$35,000.00 as I recall, because I was the Chairman then. But then Lady Bird flew the coop (laughter) before

we could get the implementation money. We had developed the plan, spent our County money and Lady Bird wasn't there any more so we couldn't get any more money for our plan and we became a laughing stock.

I want to carry the same analogy over to what you people are proposing. We go through this document and from what I heard you want to revise it again. Sure, we are using some of your money, or most of your money, but when you think of all these people and the resources and time involved, it certainly involved a lot of money on our part too. And again, my question is would you actually anticipate in the future some of the hazard money, beautification money, open space money, recreation money would be tied in provided the State or a respective State has a plan like this so proposed?

Skrivanek: Can I ask about your question on acquisition. Were you asking if CZM funds would be available to purchase land for open space as one element?

Ota: I'm concerned about the future, if a State by legislation had say some flood control money or there is open space money or recreation money, if in order to get that money, would be contingent on the state adopting a plan like this.

Skrivanek: Carol, I think this is going to be a little difficult to answer because there is a complex network of programs that could be brought into play. The CZM funds, as I understand, have a definite limitation on acquisition of lands. This would relate to shoreline access, off-shore islands, things of that nature. But there is no reason why you couldn't use say BOR (Bureau of Outdoor Recreation) funds for beach parks, acquisition of lands and so forth. So, you might want to go into that a little further. Ben, Carol. . . .

Sondheimer: I am not sure I understood the question correctly, but I think there are a number of points you made there that we might address. One is what is the availability of funds to address the specific issue that we are concerned about. As Frank indicated, there are certain limitations in our laws on how the funds can be used. Program implementation funds per se cannot be used to acquire land. However, there is a section of our act, Section 315(2), that provides with an approved program, one can acquire shorefront lands for access purposes, to preserve

islands for greater recreational opportunities. As Frank also indicated, one of the purposes of this program is to indicate to the Federal agencies your priorities for use of your funds, and that includes Bureau of Outdoor Recreation land acquisition funds, as well as some of the Department of Housing and Urban Development activities.

Another point I think I heard was what assurance do you have that we are not going to fly the coop? There is no guarantee and I'll be quite frank about it. Our legislation requires us to go through oversight hearings and to have our basic program authorization renewed every several years, but that is true of almost every Federal program. So no one can give you the guarantee we are always going to be here.

The other point is that in fact we may all accomplish the job we set out to do and coastal management practices may become so institutionalized with State and local governments that it becomes a responsibility that is assumed totally by them so that our job is completed at the Federal level and we may not have to continue this particular program. It may be one of those that eventually fades away and rightfully so.

Let me assure you that as long as there appears to be a need for this program and Federal funding to support it, we are certainly going to work for its continuation. We do have reauthorization coming up in 1980 and we are fully confident that the program will be continued. More than that, we can't guarantee.

Skrivanek: Senator King.

Jean King: Jean King, Chairman of the Senate Committee on Ecology, Environment and Recreation. The Maui speaker referred to my friend Hannibal as an offensive lineman from Maui. I don't find Hannibal offensive at all; I think he is charming, congenial, and eloquent. (laughter).

But Hannibal did say that the Legislature viewed the array of legislation that exists as sufficient and as Chairperson of one of the two committees which handled this legislation in the Senate, I would like to say that that is not really accurate, from my point of view anyway, since you will be looking at the network to see if these laws do meet the requirements of the Federal Act. In fact we weren't at all sure that the existing network was accurate which is why we put into Act 188 specific reference to the preparation of guidelines if, in order to comply with

the Federal Act are necessary. We said for instance that DPED in consultation with the Counties and the general public, should prepare guidelines in furtherance of the objective and policies of the Act which are to be submitted 20 days prior to our next session in 1978. We have the requirement that any agency is to comply with the objectives and policies of this Chapter (205A) and the guidelines enacted by the Legislature. In the implementation section, we talk about implementation of objectives, policies and guidelines. We say the objectives and policies of this Chapter and the guidelines enacted by the Legislature shall be binding on all actions. Under the compliance section, we say that within two years of the effective date of this Chapter, all agencies shall amend their regulations to comply with the objectives and policies of this Chapter and the guidelines enacted by the Legislature. There is a reason why we did this. My time with the Legislature, both in the House as Chairman of the Environmental Protection Committee and in the Senate, has been a really learning process and one of the messages I have gotten loud and clear from people who are involved in development as well as environmentalists, if you can categorize people that way, has been that they would really like to know what the rules are. What's existed has been kind of broad and they put up their front money, they move into a scene, but they don't really know what the existing statutes say. They are afraid they may be subject to suit part way along the line. One thing I really heard them saying loud and clear is please make it very specific so we know right from the beginning where we are, and I think that is how we all feel. This is why I was very encouraged to hear you say that new requirements will be published in the Federal Register in terms of specificity and clarity and maybe you would like to comment more about them.

The second point I would like to make is that the non-offensive Maui delegation has two times now talked about this in terms of money. In my view, both the Shoreline Protection Act which we first adopted in 1975 and Act 188 which we adopted last session, have the intent and purpose not to get money, but to manage our coastal zone in a way that would be beneficial to us now and in the long range for the State of Hawaii. That's the purpose. If in carrying out this purpose, we can get additional Federal funds - super, we are that much ahead. If in carrying out these purposes, we can get Federal consistency to the maximum extent possible in terms of national defense, absolutely in other areas - great, we are that much ahead. That is why we are doing it - for our coastal zone, not for the money. These are helping things.

The third point, which is really a question, is in terms of cause of action. In Act 188, the cause of action in the coastal zone

management area is a cause of action only against the agency involved not against the private applicant or developer or any individual. It is only against the State or County agency which has violated the provisions of the Act. Am I hearing you say, Mr. Lawless, that there will then be two kinds of cause of action? - one against the agency within whatever we determine as our coastal zone and another based on a general kind of right of the citizen to sue anyone for violation of State or County statutes and ordinances in the area outside the coastal zone management area?

Lawless: The general enforcement authority that I refer to as cited in the program document here, provides for injunctive relief against violators of State laws and County ordinances and so forth. Again, we have just received this document and looked at it in a preliminary sense, but I see no reason why the existence of a cause of action provision in Act 188 would preclude the applicability of this other general authority which applies to all State laws and County ordinances.

Skrivanek: Jean, the earlier section that you referred to is Section 602 - 23 in which the Attorney General and the County Attorneys are authorized to bring injunctive relief by court action if some of the laws are not being carried out. Now, the cause of action thing I interpret a little differently. This is where the individual citizen may sue. But there the law is stated so that they bring suit only against the public agencies. And as I understand, the Federal requirement is that the State or the administering agency, must have the powers to enforce the policies.

Lawless: I think we take an even more flexible viewpoint than that. There have been cases in which if the state can make an adequate showing, for instance, of citizen standing, for citizen suit, and if it can be sufficiently tied into the purposes of the program, that is acceptable.

Skrivanek: Jackie.

Jackie Parnell: My name is Jackie Parnell and I am the Chairman of the Policy Advisory Committee and what I really wanted was a clarification to be sure I heard right. If I understood correctly, what you said was that in changing the boundary to include the coastal hazard area beyond the existing SMA that it

was not necessary that that boundary have the permanent requirements that are in the SMA right now. Is that true?

Sondheimer: Yes. I think that there are a number of options available to you. One is that the SMA could be extended to incorporate the coastal hazard areas and I understand that therefore the permits would also be extended. However, that may not occur, I mean the SMA may stay where it is or be amended according to whatever criteria the Counties come up with. And yet the State's existing provisions would be the applicable management provisions in the area beyond the SMA and therefore there would not be additional permit requirements except those that already exist.

Parnell: Does everybody get that, because that is important?

One of the big problems in terms of the conflict between the Counties and the State and all the arguments going on, has been the notion that when the boundaries extend further inland, then you have all of these permit requirements and you may not really want to have them to the extent that you would in the narrow coastal zone. But what I hear the Federal people saying is that although you must extend this administrative program boundary into this whole coastal hazard area, it does not mean that you have to extend the SMA boundary with all its permit requirements that deep. So what is being asked to me seems extremely reasonable. They are saying, if you are having a deeper administrative program consideration zone which may or may not be coterminous with the SMA boundary line and that is totally our decision to make. If we want to have it coincident with the SMA or extending the SMA boundary in some parts of the State because of particularly sensitive waters or for whatever reason, then great, we do that. But we don't have to extend that SMA boundary and all the permitting requirements into that coastal hazard line unless it is our choice to do so and as long as this is a program boundary. I want to be very sure that that is what I heard you say because it seems to me that that should resolve some of the opposition if everybody is quite clear on what the rule is.

Skrivanek: Let me pose another question on the extension to include the hazard areas, Jackie, I am directing this back to you. Does this in your mind imply that this would be an administrative decision, a determination by the administering agency, or should

we seek legislative authorization to do that? Also, consider the two year time frame involved.

Parnell: I think it is an option and I think it should be discussed more today, but we obviously are going back to the Legislature in January in terms of the guideline question, either to say that we don't need any more guidelines or we do need some more guidelines, and that may be the context in which we wish to address the subject. But in considering Act 188, which is sort of up for amendment, you may wish to clarify in the legislation that this is an SMA boundary within which there is a permit and this is the second tier so to speak in which we don't have a permitting requirement but the objectives and policies apply. Which is what it amounts to.

Skrivanek: You would have an existing network of laws applied in there?

Parnell: Well the existing network of laws apply where they apply regardless of what we do here, but I do believe the issue would be in terms of objectives, policies and these sorts of things. To me, one of the considerations about having a deeper SMA boundary is that you may be extending a permit requirement. Well, you really don't want to do it because a permit requirement is a pain in the neck, let's face it. For a fairly minor kind of a development procedure, even if a permit isn't required you have to go through a procedure to find out that a permit isn't required. That is one of the things that the City's Department of Land Utilization is concerned about. You have to go through all the administrative stuff to find out you don't need a permit, because it is very hard to write into the law the exclusions. There is always some edgy thing about does this really apply to me or not?

So I don't want to see the special SMA permit any place except where it really makes sense to have it. But I definitely want to have objectives and policies applied to some more inland boundary because that is what the law says and its a good law and its a good thing to do. So it would be good if we could clearly distinguish in our program, and I think also in the law, where permits are required as opposed to where objectives and policies apply. In some places I think the boundary would be the same and in some places it would be considerably different. If you do it legislatively as Jean says, then everybody is clear exactly where they stand. I think that is one of the really important things that we want to get out of this

program - more clarity on where we all stand.

Skrivanek: Right. I would also like to look forward to the day where we really don't have separate issuance of an SMA permit, but that this be an element in the checklist of issuing a building permit or grading ordinance. If they conform to the policies and the objectives, well fine, they get approval rather than going through the long tedious process of a hearing and separate permit and that this must be a priority permit before you can do anything else and so forth. This I think as it exists now is an added complication in trying to simplify our permit procedure. Jim or Ben or Carol, would any of you care to comment on that? Did you understand what Jackie was saying and would you generally agree that this might be possible and should we explore it further?

Sondheimer: I definitely think the distinction that you pointed out concerning what we were saying is a valid and important distinction. Also if I heard you correctly, I thought you were suggesting the potential desirability of going back in as part of your guideline amendment procedure in the coming session to clarify that the goals and objective of the Act, which are good ones, would apply to the entire coastal zone that would be defined for the purposes of the management program you would submit to us; and distinguish that in fact the permit requirements need not apply in that whole area. I think that would help to make clear to everyone what the requirements are and would extend what are some very good goals and objectives throughout that area.

Saul Price: My name is Saul Price. I am with the National Weather Service and I want to congratulate my colleagues on the clarity of their presentation and responses. My question turns out to be a kind of generalization of what Jackie was asking and speaking about and I am addressing it to the DPED representatives. I want to ask first, do you see any reason why it might not be possible for this state to comply with the objections raised in the present draft by Ms. Sondheimer? And secondly, in order to do so, would it entail merely another round of draft revisions, coordination with various government agencies, citizen groups and so on or would more than that be entailed?

Skrivanek: After our brief caucus, Dick is going to try to answer that question, Saul. (laughter) Basically, yes, I think it can be done and we'll try to explain how we visualize it.

Poirier: Rank has its privileges (laughter). Based on what we are hearing, I think there are at least two things that can be done. One would be to extend the SMA to include the areas we've been talking about. The second thing we could do would be to do it administratively. In other words, designate it by taking an elevation which approximates most of these hazard areas. We could do that as part of the next revision of the document. And, I guess the third option's probably doing that plus going back to the Legislature at some point for further clarification. I think Carol made the point previously, that the coastal zone management program as they view it is not confined strictly to Act 188. It can include other elements that are part of your network of State law. Perhaps Carol can comment on that because I think this is somewhat of a confusing point.

Skrivanek: That's known as passing the buck, (laughter).

Sondheimer: We understand there has been some discussion here, about whether Act 188 restricts the state to the Act for purposes of our program, the Coastal Management Program. It is our interpretation that the State need not be restricted to that Act in order to meet the terms of our program. There are other states that have passed comprehensive coastal legislation that says this shall be the legislation for coastal management purposes. But in fact there are other state authorities or local authorities that need to be included and referenced to adequately address all the issues the coastal management program is designed to address and to meet all approval requirements, therefore, we have held that a state program may be more than a single piece of legislation, even though that legislation is coastal management specific. But what that entire package should be, I think is up to you to decide. We will examine it in light of what Act 188 has identified as some of the goals and objectives and issues that need to be addressed.

Skrivanek: Valerie, one quick question and then we'll take our coffee break so we can stay on schedule.

Humphries: Thank you. I just want to come back to the issue of eliminating the urban areas, if I may. I mentioned earlier Kaneohe Bay, which is a very sensitive area where we have a Federal dam and a park going in and where we have had loss of life in urban areas actually because they are urbanized. If we do eliminate the urban areas, then the development that takes place on the hillsides and the erosion that goes on into the water and into the bay and so on, will constantly continue. If we cannot include all the urban area, then we need to have APCs. Somehow we have to have something, either designated areas or the urban areas to some extent included. Would you please comment further on that and try to reconsider this area.

Skrivanek: Carol, let me explain the situation a little better, when she is talking about dams, she is not cursing the Corps of Engineers for putting up the dam. It is one proposed for a flood control measure up against the Pali on the windward side. The affected stream goes through the Keapuka subdivision where we did have a bad flood several years ago which resulted in some lost houses, and I think a couple of lives. It is this kind of a concern where in some areas we do have these fairly fast run-offs in the areas designated urban. This occurs, I guess, primarily in those areas that have been built up or where perhaps the drainage channels aren't wide enough. She is expressing such a concern because these do in fact impact on the coastal areas. Maybe you are looking at some kind of guidelines for where we might draw the line between all the way up to the tops of the mountains and somewhere closer to the shoreline.

Sondheimer: One of the problems when you try to express some general principle is that there are always specific exceptions and in fact you may have identified one. All I was trying to do was indicate that it may in fact be reasonable and justifiable in developed urban areas to draw the line on a somewhat different basis, on different criteria, than you would in undeveloped areas. That is not to say though, that the type of problems that you have identified for that specific area are not real and have these direct and significant impacts. Perhaps they should not then by virtue of being in an urban district, per se, be excluded.

I think that we don't want to really sit up here and try and determine for you what is that appropriate boundary. I think that is what you have all been trying to do for a considerable amount of time. But we have indicated what may be some of the problems and considerations in drawing that line.

Skrivanek: O.K. In case you've been tired of sitting, let's take our coffee break and get back in time for our next panel.

FEDERAL AGENCY PANEL

Skrivanek: We now have up here representatives from several Federal agencies. Their names are on the program except one and that is Phil Macias, at my extreme left, who arrived this morning. We weren't sure that he was going to be here. He is the Pacific Southwest Planning Officer from the Secretary's office of the Department of the Interior. We have lettered a name plate very quickly so he is identified for you. The things we would like to cover very briefly with this particular panel are the role of each of these agencies in Hawaii and their comments on the 306 document. I know that in discussions yesterday with Carol, Ben and Jim, they were suggesting that some areas in which the Federal programs are involved need a little more specificity and perhaps each of the panelists here will make these kinds of comments too. I know we have received a number of comments in writing and we are trying to address these stated concerns. Maybe we can start out with the Navy first.

Captain Nystedt has attended a number of our meetings with the Federal contact representatives at the Department and I think he has attended every one of them since he has been here. Captain, would you like to start out with your comments. We did receive comments from the Navy, as I recall, it was Monday of this week when they came in, so perhaps you can review those.

Captain R.P. Nystedt: I might comment in opening that obviously the Navy's interest here is not just a local one. The Coastal Zone Management Act is a national program and the Navy has submitted from the Washington level, Chief of Naval Operations, the guidance that we use in trying to compare state interest and Navy interest. With regard to that, we submitted our comments to the State during the earlier part of this week. I think I can probably sum up our interest in two or three very general areas.

The first one was in the development or specifying of the CZM boundaries. Our concern here is that the boundaries be very definitely defined in the program itself, in the document so that we have an opportunity to see how it impacts on the Navy. As you well know, the Navy is coastal oriented and as a result, would be very interested in how the coastal zone is developed and how it impacts on us as far as the interrelationship is concerned. I think that particular point was discussed at some length earlier and is on the right path in terms of solution.

The exclusion of Federal lands was of concern to the Navy and, in fact, I am sure all the Federal agencies will probably be making comments on that as we pass down the line.

The consistency provisions, of course, are important to us too. I might comment here that the Navy views the idea of consistency as a very important element in our relationship with the State. We know that our actions are very important in terms of how the Navy works or interacts with the State as far as the coastal zone is concerned. As a result, I think the Federal program within the Department of Defense have been very strong in trying to insure that all the Department of Defense agencies comply and in fact cooperate with regard to the requirements of Federal programs. The cleanup of Pearl Harbor is one example of that. If you were to look at Pearl Harbor over the last six or seven years, you would see a tremendous improvement in the general quality of the waters. Over the next two or three years we intend to make a significant leap even beyond what it is today as a result of about a 20-25 million dollar program for cleanup of the waters in Pearl Harbor. Anyway, the point I am trying to make here is that even though our lands may be officially excluded, we are extremely interested in cooperating with the State in insuring that we have a clear understanding of the bill and the program from the very beginning and from that point on we are as consistent as is practicable in our future efforts.

One of the things that produces problems in our view of the submission document was permissible land and water uses. Based on the criteria we received down the line, we see a requirement for a very specific identification of permissible uses in the coastal zone. The State of Hawaii is trying to use existing laws and regulations to round out their program which I think is very commendable but at the same time it is a little bit inconsistent with the guidance that we have received from the Washington level. However, we see that we can live with that, if the document also is very specific in terms of defining national interest and the importance of national defense as far as that element within the section discussing national interest. By a different packaging of the bill, or the program, we feel that the essential requirements of the Navy can be met within the content of the program.

I think that really completes a run down of what our general concerns are as far as the U.S. Navy is concerned.

Skrivanek: Thank you, Captain. Next is John Naughton. John has also attended just about all our meetings at the Department with Federal people so he's familiar with this program in great detail.

John Naughton: First I would briefly like to indicate what our responsibilities are in the coastal zone. The National Marine Fisheries Service has legislatively mandated responsibilities involving the review and evaluation of the effects of all types of water resource development activities - that is, the effects they may have on the living marine, estuarine, and anadromous resources and the habitats of each. During our review process, various measures to mitigate damage or to prevent adverse impacts or to possibly enhance the fishery are recommended. Essential field work and interagency coordination are conducted which enable reasoned, scientifically sound recommendations to be made on project situations. These proposed projects would include but not be limited to the review of federal environmental impact statements; comprehensive studies and progress reports; Corps of Engineers permits (and there are a variety of these); Environmental Protection Agency effluent discharge permits; and U.S. Coast Guard permits for construction of bridges and deepwater ports. In addition, we have responsibility for certain marine mammals under the Marine Mammal Protection Act of 1972 and for certain endangered species under the Endangered Species Act of 1973. When considering the coastal zone, in essence, we are strictly a fisheries resource review and evaluation agency with the exception of our permitting responsibilities for specific marine mammals and endangered species. In reviewing the submission document, (and, unfortunately our CZM expert coordinator for the Western area is based in California and he couldn't make the meeting so I am filling in for him), basically, the concerns we have had all along and which remain, are that this submission lacks sufficient specific guidelines and criteria to assure consistent program development. We also remain somewhat apprehensive about proceeding to the plan and implementation phase before finalizing the boundary of the coastal management area. We can't help think when considering the resources for which we are responsible, that the entire State should be included in the boundary. That is basically it.

Skrivanek: Thank you John. Next, let's listen to the comments from John Bedish who is with the U.S. Soil Conservation Service.

John Bedish: I think to start out I would have to say that of the Federal agencies represented here we probably see it in a little different perspective. When I say this I mean first of all, we do not own land. Secondly, we are not a regulatory type agency or anything like that. We are strictly a technical assistance agency to private landowners, to units of government and so forth. Keeping that in mind, some of my comments are out

of necessity going to have to be of a technical nature because when you deal with something as complex as the program that we are dealing with, you also have to take a look at the State of Hawaii and its technical problems, from the erosion, from the flooding standpoint and this type of thing.

Probably, in a very small land area as compared to any mainland state, we have more complex problems than any other state I can think of on the mainland. We have a myriad of conditions - climatic, land use, soils and this type of thing. For example, let's take a look at one of the comments that was made earlier this morning in connection possibly with our flood plains. There is a possibility of adding on to the coastal zone management boundary. First of all, we have to take a look at what kind of a flood we are talking about, because if you go over this state in various areas, when you talk about a flood plain, you are talking about the whole side of a mountain. We do not have the defined flood plains, for example, as they do on the mainland, where you can draw a line at the edge of a river bottom or something like that and say this is the flood plain. To cite a specific example, we have a flood control project that was installed on the Kona side of the Big Island. They did have flooding problems there. But when I talked about complexity in climate - after the project was installed, the town that it was protecting still had a flooding problem in that they has a very severe storm a few years later and it didn't rain in the watershed area, it rained right on the town that was being protected by the watershed area above. This is an example of what I mean by complexity.

I would like to make another comment too, just to more or less state my views as far as the comment that Jackie Parnell made earlier, because I think it is a key issue and one of the most important that I have heard this morning. From the standpoint that when we look at whether that boundary is adjusted or not adjusted, this does not necessarily imply that the special management permit requirements have to move with that boundary line and I think that this is something that really has to be looked at. I think I can speak also for the Soil Water Conservation District people in this state because we are actually working for them. The only reason we are organized as an agency is because local citizens got together and formed Soil Water Conservation Districts and their directors asked the Department of Agriculture for technical assistance from us. In other words, if these District directors walked up to us tomorrow and said leave, we don't want you any more, good bye Soil Conservation Service. What I would like to comment on here, and this is one of the comments that we initiated in our letter to DPED, is let's not get ourselves bogged down in more permit requirements than we absolutely have to have. In other words, let's not

re-invent the wheel as a friend of mine from the Department of Health would say. Right now, the average landowner in a lot of cases, if he is going to undertake some simple little project, he has got a permit process that he has to go through that is just totally foreign to him. He does not know where he has to go, who he has to talk to, what he has to comply with and this type of thing. This is one of the key issues we have to look at. What I am saying here is let's not penalize the guy who is voluntarily solving his erosion problem, solving his flooding problems and so forth.

Another comment that I think is appropriate to this is if we are talking about a program that is going to effectively solve some of the problems that we are dealing with here, we can't just look at that - in other words, the coastal zone area per se. We have got to look at the land and we have got to look at the water and what are those interrelationships. If we talk about the coastal zone per se, there are things going on on the land above that are definitely affecting that coastal zone area and as has been brought out this morning, there are definitely things coming from the ocean that are affecting that coastal zone area. I guess my main comment here is the issue of whether the whole State is a coastal zone or whether it is something else, to me is not the key issue. The thing that probably to me is the most important is that whatever this boundary is, is that some thought be given to what are the permit requirements, because as Jackie Parnell indicated this is probably the most important issue of the whole thing. As far as the feeling of the Soil Conservation Service, we deal with private landowners primarily on a voluntary basis and we would be quite concerned to see them restricted when they are trying to do some positive improvement as far as erosion control and this type of thing, we would not like to see them further restricted in this type of work.

Skriyanek: Thank you John, I would like to make one comment on the problems that you cited, this is on where the private landowner can go to find out what kinds of permits are required. The legislature, this past session, did make an attempt in this direction and passed a law mandating the Counties to set up a central coordinating agency in this respect. I expect it will probably be the responsibility of the planning departments in the neighbor island Counties. In the City and County of Honolulu, the assignment has been given to the Department of Land Utilization and effort is under way on that. The City Council is also having an advisory group assisting them. I think a meeting of that group is scheduled for next week or the week after. In the meantime, they have their ordinance which has already been

adopted for the designation of DLU as the responsible agency. This kind of an effort is underway, and I think more of it needs to be done. This is where we have been using Dan Mandelker to review the whole permit procedure. There is also an effort of this nature underway by the Federal Executive Board, as General Roush has been very interested in this as has the Council on Housing and Construction. So we are trying to get all of these together and hopefully the Counties will have a central information agency of this nature dealing with the County permits. Later on, hopefully, we can get the State and Federal permits coordinated better. It is a real problem and one that we have heard a number of comments on.

Next let's hear from Bob MacLauchlin. We've worked with Bob for a good number of years on a number of projects. Our latest involvement has been with the Kaneohe Bay watershed. I think Bob certainly is familiar with the kinds of efforts we are trying to do in the coastal zone. Some of the efforts they are involved in are not only the Kaneohe Urban Study but they are also undertaking a similar study in the Hilo area now. Bob, can you give us your comments on the draft "306" document?

Also, do you want to proceed with what your agency's role is in Hawaii as you visualize it.

Bob MacLauchlin: Thank you, Frank. The Corps as I think most of you know has a rather wide and diverse role as far as the State is concerned and that includes both the civil works function - flood control, navigation, beach erosion and so on; military construction for most of the Army and part of the Air Force in the State; and also the permitting responsibilities that we have through Section 10 regarding structures in navigable waters, and Section 404 regarding fill material deposited in wetland areas. We also coordinate through the facilities engineer agencies in Hawaii and we are speaking for them at this time as well. As Frank has pointed out, and I will go right to the heart of the Corps' real interest in this area, and that is the permitting role. We have a rather wide responsibility in this area handling a vast number of permit requests. As it has been pointed out, we find that the permitting process is really not well understood by a lot of people. The Corps takes a lot of heat from the standpoint that our judgment is questioned in the permitting process whereas many times the Corps is the last stop on what has been many permit requests, or stops, at State and County levels and the buck is passed around. And it really is not clear as to what an individual has to go through when he has a plan to do work in the coastal zone area.

As Frank has indicated, General Roush, the Division Engineer of the Pacific Ocean Division who heads the Corps of Engineers in this area, has been the Chairman of the Environmental Committee of the Federal Executive Board for the last year. He has made it one of his highest items on the agenda to attempt to streamline and get some discussion going on streamlining this permit process. We are at the point right now, combined with that effort and also the extensive work we have been doing in the Kaneohe Bay Urban Water Resources Study, where we are about to propose a streamlining of the permit process whereby all of the agencies - State, County and Federal - that are involved in the permit process, are approachable through one source. This would mean that if an individual feels that he has a development that is affecting the coastal zone or is a permit oriented development, he can go and get the correct information from one source and not have to speculate as to whether or not he has satisfied all his requirements like coming to the Corps whereas in fact he may have missed some aspects important to the Health Department or the County Department of Land Utilization or any other aspect with a permitting responsibility. Now, to get specifically to the "306" submission, and this has already been pointed out so it is not a new criticism, but we feel that it has not specifically addressed this problem. We are hoping that through this vehicle, with the broad coverage that it has - Federal, State, County and local - that the permit process can be addressed and made more effective and streamlined if you will, so that everybody that has to be involved understands really what their responsibilities are. It works both sides of the street, that is, from the permit requestor as well as the granting agencies, so that we have some cross-communication. I think that many times we have talked informally with the State or the County as to what their views are on a permitting action but it's a real hot potato issue. Well, if it's your responsibility, you make the statement. And with the number of factions that are involved in every permitting issue, I think it is important that the public as well as the agencies which have the legal responsibility get into the act so that that maximum amount of participation, like in everything else now-a-days, can be achieved.

As far as the permitting question is concerned, it's inseparable from the boundary issue. We in our twelve pages of comments on the "306" document, quite heavily stressed the concern that we had with the SMA boundary decision. We were more comfortable with the statewide definition than we are with the present flexible SMA approach. Certainly, as John Bedish has said and what others have said here, we must reiterate the importance of the upland areas on the coastal zone. They are virtually inseparable. As many of you know, the Corps has worked closely with the Federal Insurance Agency on developing the flood plain definitions through mapping and survey processes both for the

coastal area as well as the inland areas. When you get a state as compact as Hawaii is, you find that virtually upland and coastal areas are inseparable from the standpoint of relatable impacts.

The other area, of course, that all Federal agencies are addressing is the consistency aspect. This is the one that concerns us from the standpoint that as long as we are in business in the State, this is our agreement - once we approve the program and agree to act consistently with that program as finally approved, we must be prepared to meet all the requirements in the program. We feel that as it is written now, the "306" submission leaves many areas vague and unspecified. I don't want to go into the detail of those now. I have a two page list here of what we thought were the deficiencies. I think most of them have been covered and I don't think I need to reiterate them from the Corps' standpoint. One that I would like to mention, I think that was brought up by one of the other Federal contact members, is that the guidelines as presented do not address the specific CZM resources and they do not prioritize the uses, nor has an adequate inventory of the CZM resources been conducted. We feel that this initially is paramount to understanding from both the Federal consistency standpoint as well as the goals of the Act that there must be some more specific definitions in the submission before we can determine to the extent that Federal consistency is appropriate. That's all I have right now.

Skrivanek: O.K. Thank you, Bob. Let's go on to Mr. Crawford now. He covers an area that is of concern to us as our Department also has the overall responsibility for energy resources coordination in the State. So I am sure he will have some comments on how we might handle that portion of it. John.

John Crawford: Thank you, Frank. As a geologist I work in the lesser developed islands of the South Pacific and I can appreciate the concern that you people here in Hawaii have of maintaining the environment that you have and not letting it become degraded. We at the Department of Energy, and it used to be the Federal Energy Administration as you can see from my card, we now incorporate the Energy Research and Development Administration, the FEA, the Federal Power Commission, and parts of other agencies of the Federal government that were concerned with energy. We recognize the need for environmental protection. It is important and the Coastal Zone Management Act does a great job of providing for that protection. But we also recognize that energy is equally important to our existence. Each of you have a car, I am sure, and you want to go out and start that car and you want to go somewhere. You want to turn on

your lights at night and without the importation of oil, Hawaii would be in a very critical situation. It is our desire to see that the coastal zone management program of Hawaii will provide adequately for energy facilities in the coastal zone. We would like to see more specificity in the program. If it is at all possible, we would like to see spelled out the areas where energy facilities now exist in your coastal zone; whether "reasonable" expansion, (I say "reasonable" in quotes) of those facilities will be allowed, and if there are new areas where energy development might be allowed in the coastal zone. The need for oil, as I say is vital to you. You are now looking at alternate sources of energy - OTEC (Ocean Thermal Energy Conversion), solar energy, wind, and geothermal. Some of these might indeed affect - and I say affect because under the Coastal Zone Management Act, energy facilities that affect the coastal zone, no matter where they are located, are of importance and are under the jurisdiction of your coastal zone's wing - so we look at this whether the plant be located at the top of the highest mountain, or be located at the lowest point on your beach, as being a facility or a problem that is involved in coastal zone management. As I say, the word "affecting" the coastal zone has been brought to our attention as one of the features of the Coastal Zone Management Act regarding energy. What we would like to see then is a better definition of areas. We refer you to the Bay Area Conservation Development Commission program of San Francisco in which they have indeed defined areas in which energy may be developed in the coastal zone and have made allowances for deepwater tanker facilities in their program and actually stated many general areas where those facilities might be located in the San Francisco Bay. Also under the California program, which you might want to consider, there is an allowance for a liquefied natural gas (LNG) facility in the coastal zone. It advises where tanker terminals should be - off-shore tanker terminals rather than on-shore pier type facilities. It allows for reasonable expansion of existing electrical generating facilities. These are parts of their program - not highly specific, not in exacting detail, but they are mentioned as being important to the energy future of the State of California. They provide for the study to define the location of where electrical energy facilities may not be located in the coastal zone and this is an ongoing study under the California Management Program.

I would say again that we recommend that alternate energy sources be looked at very seriously in Hawaii. If we have another oil embargo, you would certainly be seriously affected. We think that with due consideration to ocean thermal, solar, geothermal, you have excellent potential for alternate sources. We look at this as a matter of trade-offs. You want to protect your

environment but you still have to have the ability to start your car, turn on the lights, flush the john. You can't do that without energy. You might see it as a trade-off in your energy. You've got it in your coastal programs. Where there is a necessity for it, try and consider it.

I know that you have plans for expansion of electrical facilities at Barber's Point and Maui and at this point if I look at the program I would not know whether such expansion of those facilities would be allowable under the existing Hawaii program. Don't wait until you have site specific problems. If you can, try to define what might be allowable in your program so that you don't get down to the permit application stage and begin to squabble about what does the management program really say about energy facilities. I was advised during the break that much of this is indeed covered by your local permit procedure, and if it is indeed, that is fine, we would like to see that then stated in your program, that local laws do cover energy facilities. Spell it out so that we would know that.

In closing, I would say that perhaps if we coordinated better, if we in federal government talked with you more frequently about these problems, then we wouldn't reach the point of coming to a meeting every six months and finding so much fault with each other's statements. I think that as the gentleman from Maui pointed out, how long can this go on? The sooner we reach a satisfactory program the sooner everyone goes back to doing what they would rather do, and that is not spending time on bureaucracy. We feel that perhaps if we would talk to you more often and spoke more freely about what we see as to the possibilities of energy and how it relates to the coastal zone, that we would have a better understanding of each other's position.

Skriivanek: Thank you, John. Your concern on the energy there was also discussed and mentioned by Carol yesterday. We have done a lot of work in this area but perhaps it is not adequately reflected in the "306" draft. Certainly in the area of alternate energy and so forth, we have been working rather extensively so I think that this is one of the comments we will have to review again and see where we need to beef up our "306" draft as it now stands.

Next, LCDR. Jacobs, has attended some of our meetings in the DPED conference room. The Coast Guard is certainly involved in a number of activities here in Hawaii so that perhaps at the beginning, you might give us just an overview of the Coast Guard functions, and in particular, the permit procedures that you get involved in as well as your comments on the draft as it now stands.

LCDR. Jacobs: Thank you. I haven't had the pleasure of attending the meetings in the past. I just came from San Francisco about three months ago so let me assure you I won't be bashful in making comments now or in the future. I did have the advantage of working with the development of the California plan over the past two or three years and many of the issues in the Federal consistency area are issues that we faced there. As I am sure that many of you in Hawaii know, the Coast Guard has a very direct relationship and partnership with the State and local governments in the coastal environment. Our Federal responsibilities for protection of the marine environment, the prevention and mitigation of spills of oil and hazardous substances, the safety of life and property at sea including the maintenance of safe boating practices, continuing the nation's aid to navigation program, directly relate to the preservation and enhancement of the use and development of the coastal areas. We view, therefore, like I'm sure our colleagues here on the panel do, our relationship with the coastal zone plan in the State of Hawaii as one of direct partnership and cooperation. I think that the existing procedures such as the OMB A-95 Circular and the NEPA assessment program should continue and be enhanced. We are very favorably disposed toward this.

Having just come to Hawaii, I really haven't had a chance to get a full grasp of the coastal zone plan as being proposed under 306. Our initial review however, indicates that there seems to be little specific problems. Certainly, many of those we faced in California are not present in the Hawaii plan. There are some minor technical points and we will submit some written comments to you, Frank, to raise these issues. For example, Carol mentioned in her question and answer comments the distinction between the Federal applicant for a Federal permit and other applicants under 307(c)(3) of the Act. There is an ambiguity in Hawaii's plan which we would like to see clarified on that particular point. Additionally such things as the site specific permits that we administer in the Coast Guard, including private aides to navigation, are something that might be enhanced and clarified. But these are rather minor points.

I would like to raise one issue if for no other reason than to get Jim Lawless and people who know who are thinking about it and that is the distinction that is made here in the State of Hawaii with regard to the Federal lands exclusion. Hawaii is very different from the mainland in the sense of the nature of title held by owners of property. You may recall by the development of the Attorney General's position on the Federal

lands exclusion that the question asked and the question answered was "Are Federally owned lands excluded?" Here in Hawaii there are agencies that do hold long-term leasehold interest just as private parties do and we develop them with permanent improvements which normally would not be done on the mainland. I doubt that this will be a real problem for the Coast Guard. Our long term leasehold interests are not of such consequence that I think that it would become an issue, but it is something that you might keep in mind in the development of the Hawaii plan.

The primary concern of the Coast Guard is the same as those of other Federal agencies that the guidelines in the plan have to be sufficiently clear for the Federal agencies to be able to identify the responsibility and comply with it. We are very much in favor of the development of rational coastline development and support it 100% and we want to know exactly where our responsibilities are. We will be taking a look at those guidelines more specifically during the next two or three weeks, as I say Frank, offering you some specific comments. Thank you.

Skrivanek: O.K. Michael. Thanks a lot. With regard to the land holdings, we have them identified where they have leases. I think that Hitoshi Mogi and his firm worked on that portion of it. For example, I think your Red Hill housing is leased land, if I remember correctly. I don't know the length of the lease. Also I think some land exchanges were made there too. But this is an example of what we perhaps should be looking at again. Jim, do you care to comment on that.

Lawless: We had some discussion on this yesterday, Mike. But to answer your question, this is being clarified in the proposed regulations on Federal consistency coming out on Monday, the same day as the program approval regulations. Federally owned and Federally leased land are treated the same.

Skrivanek: Also let me ask, is the Federal Register coming out on Monday with those as proposed guidelines or are they the final ones?

Lawless: They are proposed for both sets.

Skrivanek: And there is a 30 day review period?

Lawless: It is going to be 60 days. The reason they are being issued on the same day is because they are somewhat interrelated. We thought it would be easier for people to review them at the same time.

Skriivanek: Now, let's go on to Nevin Holmberg. He asked a couple of questions earlier as I recall and Carol said No. No. No. (laughter). Perhaps now he'll get a chance to respond in the positive and let us know what his agency does in Hawaii and the kinds of comments they had on the draft "306" document.

Holmberg: The Fish and Wildlife Service has a number of responsibilities as mandated by a number of Federal laws that relate to the protection, preservation, and enhancement of the nation's fish and wildlife resources. In order to carry out the objectives of these responsibilities, the Service is broken into a number of divisions. The three divisions which are most active in the State of Hawaii are the Division of Ecological Services of which I am a member, the Division of Endangered Species, and the Division of Wildlife Refuges. The Division of Ecological Services' responsibility is to recommend protective measures for fish and wildlife resources that may be impacted by projects that are either Federally constructed, Federally funded, or Federally permitted as well as others backed by other Federal programs. In this regard, we act in an advisory capacity to the lead agency. We do not have the power to deny permits or to stop projects that may adversely affect fish and wildlife resources. The Office of Endangered Species is primarily concerned with the protection of endangered species both in the State of Hawaii, Trust Territories and throughout the continental United States. Our Division of Wildlife Refuges, the only land controlling division within the Agency, administers those lands for the protection, propagation and so forth, of various types of fish and wildlife. The only area of our involvement that would come under the Federal consistency clauses would be Federal refuge lands. Quite frankly, we do not view the consistency requirements as being any kind of problem in our operation since the nature of the refuges here in Hawaii are such that little management is required. It is mostly a protective type thing, such as protecting the sea bird nesting colonies on the Leeward Islands.

Regarding the comments, concerns and so forth that we have with the "306" document, our concerns are similar to those voiced earlier by other individuals in that we are concerned with the changes of the boundary area. Biologically speaking, the

uplands in Hawaii are immeasurably tied to the lowlands and the coastal areas as witnessed by the impacts that upland development has had for example, in the Kaneohe Bay area. Upland areas that are subjected to urbanization result in increased sediment and pollution loads entering the tributary rivers and streams and eventually wind up in the Bay and actually can go out into the areas beyond the Bay. We are concerned that adequate consideration be given to the protection of not only the areas directly associated with the coastline, but also those upland areas which can very seriously affect these coastal areas.

Skrivanek: Thank you very much. Now lets go on to Phil Macias. As I said, we weren't expecting Phil. Fortunately he was able to make it over. The end-of-the-year fiscal constraints create this problem with a number of Federal agencies. I think our OCZM people had some difficulty on this too. So we appreciate your coming over to join us, Phil.

Phil Macias: Thank you, Frank. My name is Phil Macias and I am the Pacific Southwest Region Planning Officer in the Office of the Secretary of the Department of the Interior in San Francisco. There are disadvantages and advantages in being the last speaker. The disadvantage is because everybody stole your thunder and mentioned all the things that should be mentioned from the Federal standpoint anyway, regarding consistency requirements, Federal land exclusions, and many of those things. There are advantages because you don't have to repeat all those things and generally by the time they get to the last speaker, you run out of time, so you don't have to do very much. But I guess there are a few minutes to make a few comments so I will use this opportunity to do so.

Under the National Coastal Zone Management Act, of course, the Department of Commerce has not only the responsibility for administering this Act, but also to consult with all of the various Federal departments for the review of coastal zone management programs in the draft stage as well as in the final stage. The departments, likewise, under that Act, have got the responsibility to work with the states to provide whatever input they can that is of national interest so that these concerns and this information can be made part of or be used in the formulation of coastal zone management programs. The Department of Interior has taken this responsibility very seriously and I think, was one of the first departments to set up procedures, guidelines and rules on how this coordination and input must be done and to furnish the states with this information as well

as with contact people within the Department with whom they could work to obtain this information. It also set up two coordination groups, one at the headquarters office in Washington and several field coastal zone groups in each of the various regions of the United States. The one that I am operating within is the Pacific Southwest Field Coastal Zone Group, Region IX, which as far as coastal states are concerned includes California and Hawaii. We are also providing assistance in this coordination on Guam and if American Samoa chooses to enter into the Coastal Zone Management program, we will also work with American Samoa.

We have at various points along the line submitted comments to the Department of Planning and Economic Development regarding various documents that have been submitted to us for review. We have relied, as far as the Department of Interior is concerned, heavily on the three resident Interior agency offices - the Fish and Wildlife Services, the National Park Service and the Geological Survey. One or more representatives from these offices have attended meetings to contribute information, comments, ask questions, they have also served as our liaison people because of the distances involved between the mainland and the Islands to get some of this information back to our office there in San Francisco. We have commented in the past regarding the boundary question and during the early review of some of the documents indicated that it seemed to us like it might be a good idea to include the whole State in the coastal zone. That doesn't mean that there aren't other ways such as have been discussed here today to accomplish the objectives of the Coastal Zone Management Act, the National Act as well as the State Act. There are a number of ways which you can skin a cat. But whatever it is that is developed, I think we should do everything that we can to insure that it will accomplish those objectives that have been set out in the National Coastal Zone Management Act in order to comply with that and receive the benefits that you can derive from that, as well as your own Coastal Zone Management Act and I hope more so as a result of the discussion that has taken place here today, which I think has been excellent both on the part of the representatives of the Office of Coastal Zone Management and the State Department of Planning and Economic Development and other citizens from the Counties and these various citizen groups. It is this interaction, I believe, that will result in at least an agreed to program and I am sure a better program, because the democratic process has been used in arriving at whatever the final program will be.

There are some other items that we have commented on that I

think should be mentioned and that is coral resources. We felt that the Coastal Zone Management program should include within its provisions the safeguarding of this resource to make sure that it is not destroyed. We have commented on sand and gravel aspects that I think are important. You are an isolated state and I think that if you were not to protect and use these resources effectively, and for example, deplete them or destroy the means by which they can be exploited for beneficial use, it would result in very costly importation of these materials from the mainland or other areas. The manganese nodules, I think although these are not located within the coastal zone as could be defined by the territorial water and the land boundary, nevertheless this resource is located close to your state and probably the nation at some point and time will be looking towards the development of this resource and probably will need to site some kind of facilities in the State of Hawaii along the coast somewhere to either process this resource or this mineral or at least serve as a transfer station to get it from the sea to the State and to some other point on the mainland. We had commented on the conflict of uses of water in the coastal zone for recreation of all kinds for fishing or for just sight-seeing, and we think there ought to be some thought given to how you would manage these various conflicting uses so that you get the maximum benefit of the use of the coastal ocean waters.

We have not commented on this aspect that I am just going to mention, but it is my understanding that there has been excellent coordination between the Department of Planning and Economic Development and the office that is set up to do the level B study for water resources, I guess it is called the Hawaii Water Resources Regional Study, and this study is being conducted under the sponsorship of the Water Resources Council of which the Department of Interior is a member and in fact the Secretary of the Interior is the Chairman of the Water Resources Council. I am happy to see this and I hope that it will continue because especially if the coastal zone boundary is not extended beyond where its been discussed here today and your State being such a small state and no area within the State being more than 29 miles or so, any water resource or development could have an impact. I think there should be consideration given to how any development of this kind can be minimized so that it does not impact adversely upon the coastal zone resource.

We have a Bureau of Reclamation project that is on Molokai, a water project; I would hope that in your coastal zone management program, the management aspects of it would not infringe upon the purposes of that project, and its repayment responsibilities as far as the contracts with the Bureau of Reclamation.

Some mention was made earlier about monies that might be used for acquisition of land and I think it was mentioned that the Bureau of Outdoor Recreation which is another Interior agency, administers the Land and Water Conservation Fund that could be used for this purpose but of course they would look before they would approve that kind of funding to make sure that it would be for example, for the acquisition of land for which a plan had been set up that would be in conformance with the National Coastal Zone Management Act and I would imagine some other requirements that the Bureau of Outdoor Recreation has to carry out.

Perhaps in closing, I would just like to note that we have with us here today, Kathy Benjamin from our BLM-OCS office in Los Angeles which is one of the Interior agencies and of course, Mr. Holmberg here on my right with the Fish and Wildlife Service. I think some of you may know Frank Hidaka of the Geological Survey. He is here in the State and Mr. Barrel who is the Director of the National Park Service in the State. These people have been attending some of your Federal contacts meetings. I think maybe that is all I have to say at this time.

Skriyanek: Thank you very much, Phil. With respect to your comments on the manganese nodules, I might mention that we are doing a separate report on that and it should be completed at the end of the year. It is one of the areas that we have been monitoring quite closely. We're running just a little bit late. We'll take about five to six minutes for questions and then we'll break for lunch. Dave.

Dave Raney: I am Dave Raney of the Sierra Club and Statewide Citizens' Forum. I will address my question to Mr. Bedish initially but perhaps some of the other panelists would like to respond. I think the major reason why we don't have a statewide boundary or a second tier that includes the remainder of the inland portions has been very strenuous opposition by the Counties to this concept. Much of the opposition as I can understand, centers about a fear that if the program boundary goes inland then along with that comes the opportunity for Federal intervention which does not presently exist. The Planning Director of Maui on many occasions has cited an example, that the farmer in Kula on the upland slopes of Maui, if the coastal zone boundary, our program boundary, not the SMA, but the program boundary, extended into that area, he might very well be faced with the need for a Federal permit each time he plowed his field or that the Federal agencies would require the Counties to require of him a permit each time he plows his field.

This naturally arouses anxieties of people in Kula and elsewhere as to the possible impact of extending the program boundary. Mr. Bedish, do you consider this to be a realistic fear, specifically on that and then the panel in general, what is your response to the fear that where the program boundary goes inland, that it will give all you gentlemen the opportunity to exercise more power over the Counties than is presently exercised either directly or through your insistence that the State require the Counties to do things not now required?

Bedish: To begin with, Dave, the Federal permit aspect I cannot directly answer on because I am not familiar with what agency would be involved. There is a mechanism presently in existence right now that adequately takes care of this and really the farmer in Kula or wherever he may be should not have any fears, and this is through County grading ordinances as brought about by Chapter 37 B and administered by the State Health Department. Under this setup there is an agricultural exclusion clause in the County grading ordinance and it's worded a little differently in the various Counties, but basically what it says is that if that particular land user is implementing an acceptable conservation program on his land, which is acceptable to the Soil and Water Conservation District directors, he is excluded from the permit requirements. This is one of the aspects I think where when some people say there are adequate laws on the books and so forth, this I think would be a good example. This again is why I put so much emphasis on one of the points that has been brought out here today, that if that boundary is extended inland, as long as the special permit requirements in the coastal zone are not extended with it, this should not cause any particular problem to the landowners.

Lawrence Okinaga: I am Larry Okinaga, Honolulu City and County, Honolulu Citizens Advisory Committee. I think that there is a problem in making that distinction on the local basis. The cause of action section in the statute may preclude County agencies from deciding on building permits if it affects CZM boundary areas. A good example is where someone is in the CZM boundary and his view plain is obstructed. There is a potential development, a highrise and the County official will have to make a determination at that point whether he will be in violation by granting the building permit. So, I think that the distinction between a program boundary and an SMA boundary should be carefully looked at to see whether there is in fact a distinction primarily because the State Legislature has insured a cause of action provision which could be used against

particular County agencies. In other words, the County agency just before it grants this building permit could be faced with a law suit because of, as I said, the view plain problem with a particular building in the SMA which normally would not be subject to the program boundary requirements. But I think this is an issue that should be considered in light of the considerations that were raised this morning.

Raney: Before I yield the microphone, I would like responses from other Federal panelists as to the potential implications from the Federal standpoint rather than perhaps the cause of action on a County body.

MacLauchlin: I would like to make one comment regarding your question. When Public Law 92-500 was passed and Section 404 became part of it, there were many who felt that the Corps was responsible for that concern that you expressed. I think that at the outset, the Corps kind of resisted in dealing with and in vying with EPA as to who is going to administer that unpopular Act, and I know some of the district engineers on the mainland were reportedly talking to their constituents in this manner saying maybe it is an over-generalization that a farmer would have to get a permit every time he plowed up his soil every year if his property happened to be in a wetland area. I think that in the spirit in which we have accepted the administration of the Section 404 program, I think those fears are overstated in the sense that for example in the upland areas in Hawaii, there are probably very few areas that would actually meet the definition of a permanent wetland area because of the slopes involved. So from that standpoint, we have not had any permit problems in terms of beyond the coastal wetland areas as to this point. And I think the Coastal Zone program in our consistency could, if they were specific enough, give us the guidance that we need in defining what is a bonafide wetland. We have has some cooperation with Frank's office in doing surveys through the joint Corps 404 program administration and the Coastal Zone Management "306" program preparation in coming up with these surveys for definition of these wetland areas and I think we have made a lot of progress in this area. I think that from a citizen's standpoint which you are representing and from the Counties' and State's standpoint, what could come out of the Coastal Zone Management program would be an agreed upon, across the board, government-private definition as to what is a wetland area, which would make it a lot simpler for us to administer the program because right now, it's subjective. You could swing both sides of the street if you want to get

real strict in the area that gets 35 inches of rain a year for you could say at the time it is a wetland area and should come under the permit program. In reality, I think there are practicalities here. We are looking for the CZM program to support us in terms of coming up with the widespread involvement and understanding that will lead us to a good implemental definition for the 404 upland permit area program. I think we are probably the principal agency that would have jurisdiction if for example, we took a real tight definition of the 404 upland area. And that is what I am saying, we would like to avoid this from a practicality standpoint.

Skrivanek: Ben, would you like to offer a comment?

Mieremet: I would like to ask a question. Mr. Bedish, you left me kind of hanging there with a question which I think is relevant to the boundary determination. You said that we do not have to define flood plains in the areas, and I am not sure whether you were referring to a specific place but, to me it sounds more like a catchment basin or a watershed rather than a flood plain. Could you define this a little more?

Bedish: It will vary around the State, but there are certain areas such as the Kona area on the Big Island, for example, on the west side of that island. Here your flood plain is wherever the storm happens to hit. In other words, the water hits the side of the mountain and it just goes down in a sheet flow. One of our problems as an agency, for example, in Kona we don't have an erosion problem there to speak of, but the flooding problem is horrendous and that flood plain moves. I mean that the example that I cited, where we did have a small flood control project in one particular area to protect the small town; well, the next severe storm that hit, did not fall in that watershed area, it fell right on the town that was below it and they had the same flooding problem that they had before.

Skrivanek: There is no defined course or pathway because a lot of this is fairly new lava flow.

Bedish: One other comment, and I don't make it facetiously, I mean it very sincerely, a lot of the things that I give our own agency people at the Washington level heck about all the time, and one of the things that we always ask our people

that come in and say, well here is this particular memorandum that you have to operate under and you have got to do it - my comment to them every time that they come out is will you people please go home and tell everybody else that we are a little bit different over here. I don't mean that facetiously, we definitely are.

I would like, if I could Frank, address one more comment to kind of back up what Bob was saying on this wetlands issue here. Wetlands are no stranger to me. My previous assignment for nine years before I came to Hawaii was in Minnesota and if you want to talk about a state where wetlands are an explosive issue that's it. My assignment happened to be the Soil Conservation Service biologist there. I know what wetlands are. Just to reinforce what I was saying about the County grading ordinance for example, and also what Bob was commenting on the 404 permit, if we are talking about agricultural lands in this State, there are very very few areas that I can think of that wetlands would become an issue in this particular aspect. Most of the wetlands are in the undeveloped areas and this type of thing where agriculture is not a big thing. I might add also that one of the responsibilities that our people in the field have in regard to wetlands, if they are into one and they are working with a cooperator, they have got to make sure that he is well aware of what that is and what the repercussions could be from that. Thank you.

Skriwanek: Why don't we take a break and let me make a couple of quick announcements. For those of you who have parking tickets, if you need them validated, be sure you do that at the registration desk and the Waikiki Historical Room is out to your right and a second right as I understand and lunch is ready now.

ADVISORY GROUP PANEL

Skrivanek: Our advisory group panel is here, but I still think we have one more member missing, Elaine Taira. Maybe she will be in shortly. These people on this panel are generally the chairmen of the advisory committees that we have had assisting us. You have the list of names on your program. I would like to announce there are a couple of changes. For the Honolulu Citizens Advisory Committee, instead of Lawrence Okinaga, who is a member, we have Scotty Bowman, who is the Chairman. For East Hawaii Citizens Advisory Committee, Ken Griffin was going to be here but he couldn't make it so Mr. Ernest Bouvet is representing East Hawaii Citizens Advisory Committee. He is a member of that committee. Otherwise, all the other names are the same. Here is Elaine so we now have a full panel.

What we would like to get from each of you representing your committee is at least your impression of the draft document as it is now and maybe also consider the comments that have been made earlier by both the Federal panel and the CZM staff members from Washington. I would also like to point out that at the back of the room near the door we do have posted a sample copy of one of the boundary maps; this is for a portion of Oahu. Carl Smith, who is with the Department of Land Utilization is here and brought his maps back with him; we were using them late yesterday afternoon in discussions with the Counties.

Let's start off with the panel in order in which they are listed. I might also suggest that instead of having a break here as indicated, that we skip the break and as you want, go help yourself to cokes, sodas, whatever, which are back on the table where the coffee was this morning. So rather than having a formal break, just wander back whenever you feel like it. Jackie, would you do your usual good job and start off the panel here.

Parnell: Thank you, Frank. I am glad that you made it very clear that this ordering is just the order of the program and of the seating and not the order of importance. Because I certainly don't think that the Policy Advisory Committee can be considered the primary committee in any way. If there is any ordering of importance it should go to the citizen committees.

I would first like to compliment our Federal guests in terms

of their presentation and particularly in terms of their clarity. I have some ex-colleagues at the EPA if you are giving any lessons, you could give them some advice and counsel in terms of presenting things clearly so people can understand it. The Policy Advisory Committee, as I am sure you are all aware, are the County and State agencies with regulatory powers in the coastal zone and it is hard for me to say that I speak for the committee since the committee as you are probably quite aware is divided on a number of issues. We have scheduled a meeting for Thursday and on the agenda is decision making. The committee is planning to make a recommendation to the Department of Planning and Economic Development on the submission on next Thursday. It was deliberately scheduled after this workshop and after the Federal OCZM officials were here so we would have a basis for reviewing the submission. I can just give my personal viewpoint at this time as the committee hasn't met to take a formal position.

I am quite optimistic, because I see the grounds for a compromise from what came out of the meeting this morning. What I want to mention on this issue of the two tiers is the permits; I think that the basis for a compromise is there because if you do not have to have required permits entirely in this coastal zone area, I think you have removed one of the heavy considerations that has caused a great division between the State and County representatives on the committee and there is an opportunity for compromise there. If you can have an intermediate, second tier that does not include the whole State and in which permits are not required, that makes it a lot more palatable.

There is another issue though that that really doesn't address and you cannot ever avoid it, and that is not only are County officials concerned about this boundary for that reason, but even in the program boundary, as I understand it, objectives and policies of the coastal zone management act would still apply and the key critical issue of State review of County actions. I think that that is the single issue we haven't totally tackled yet and I am sure we will but that one won't have to be resolved and faced I guess you might say, not so much as resolved and that is the degree and extent to which the State exercised its overview role over County activities. And I also think that that is possible too, because if we can clearly define and specify what the role may be, we may find out we have more agreement than we think we have. Clarity and specificity is probably the critical point.

I would like to make one third point and that is that there is a lot of concern expressed here particularly from citizen

representatives that it is great and terrific, and from the Federal representatives too, that it may be terrific that the State and Counties are working out their problems in terms of the narrow coastal zone, but that they really did want the whole state to be a coastal zone and they feel that something is going down the tube on this in terms of controls and everything else. I very personally and frankly was in favor of the whole State to be a coastal zone myself. I would like to remind everybody that the Coastal Zone Management program is very important and is critical but it is not the only program. There are a lot of other programs that exercise a lot of controls and I speak very personally as the manager of the "208" Water Quality Management planning project in the State. "208" is going to be there and they don't care where your boundary is. It would be very convenient if the coastal zone management boundaries were set to coincide with watershed drainage areas but as long as water drops on the tops of the mountains and runs down to the sea, and there are erosion problems as John Bedish points out, the "208" program is going to have to address them regardless of the coastal zone management boundaries. In one sense, there is a lot of great concern that if the coastal zone management boundary is not deep enough, that there may be some problems, but they are not problems we can't handle. They are mostly administrative, institutional problems and it will make it a little more difficult, but we are not going to let the water quality suffer just because the coastal zone management boundary does not reach the mountain tops. I want to make that very very clear; we are going to handle it through that other program. It will be handled.

On a final note, I would just like to say that I feel there are grounds for optimism if we can work out some compromises; that we can have a viable Coastal Zone Management Program that we have been working on over the last couple of years; and I encourage you between now and Thursday, to communicate your concerns and interest to your County representatives on the Policy Advisory Committee, and County committees so when we do make our decision-making and recommendations that they have the benefit of your feelings too because not all the Counties are here.

Skrivanek: Thank you, Jackie. Dave Raney is the Vice-Chairman of the Statewide Citizens' Forum. He and Aaron Levine, the Chairman, have spent many many hours as have other groups in examining, re-examining and deliberating on various aspects of the coastal zone program. I believe Aaron is in Boston and Dave is going to speak for the Forum.

Raney: I was going to point out that as you can see from my positioning at the table, I am also Hannibal's right hand man. (Laughter). I also assume that if I misrepresent the Forum the right hand will come down on me, so for my own preservation, I'll attempt to be balanced. I thought the document that was passed out at lunchtime, the picture of all the things in the coastal zone, was intriguing but entirely missed the point and was very deficient. Although it had city limits on it, it did not have a city hall and a State capitol within the same area and in fact that is what we have been debating about our coastal zone for the last year or so at least from the Citizens' Forum standpoint, and I think again today, we are honing in more and more on the central issue of home rule and what are the implications of being involved in a Federal program as far as the possible encroachments upon home rule both by Federal layering of authority if you will, and the State. I think that within the Citizens' Forum, there is kind of a division that is mirrored in a lot of the audience here, between some sympathies with the County position and the State. I find by and large, that the concerns the Counties have are shared by many of the business interests including their concerns over additional layering of permits and regulatory mechanisms and added bureaucracy. On the other hand, there is an environmental element and citizens that are concerned about the environment. I think that perhaps at this stage, there might be some concern that the preoccupation on the political aspects may have caused us to drift a little bit from some of the original environmental concerns of the legislation. But I think what has been intriguing about the process of the Forum has been the dialogue that has developed between the environmental and development interests and the amount of substantive product that has come out of the Forum in addition to the increased level of awareness and communication between these groups that traditionally have been opposed. Much of the substance in Act 188 did come about as a result of the Forum looking at objectives and policies, beginning to worry about the water and the fish and everything, while the State and County agencies were trying to settle the political issues.

As far as my reaction to the draft document and the Forum's reaction and to the hearings we have had so far, I also am encouraged since I think one of the shoes that had not dropped up until now was what is the Federal position. What are they going to require or not require. I think they have made that pretty clear. I think that now the choices are layed out before the State and the County players a lot more clearly than they were before. I think what they have set out is a framework within which a solution could be reached and I think we could move

ahead with program approval. I think it is also possible that we could decide not to move ahead with Federal program approval. That is another option if the players choose to have it come out that way. I think as has been true for many months, the final solution to the dilemma that we find ourselves in really rests with the State and County governmental officials. There is just more and more definitiveness now as to what agreements have to be reached, but I think that the ultimate decision rests with them and our role as a Forum is to urge them to examine critically the differences that separate themselves and try to move toward something that is for the best interest of all the citizens of the State and to help through our questioning to try to narrow down the issues as much as possible and remove what may be artificial issues that are more obstruction than are points from a sincere desire to clarify.

I think the question has been what did the "Feds" really want. I think they told us pretty clearly that our boundary should be consistent with the objectives and policies that we ourselves have set forth. They also have said that our guidelines should be adequate. I think that from what I have heard, their position is reasonable.

I think the other new impression that I have had today has been that for the first time I felt the presence of the other participating Federal agencies. I'm awed for one thing about the array of power that was up here including the Navy and the Coast Guard. Even if they didn't bring their cannons I still knew that they were around. (Laughter). What was impressive to me was that these agencies that would be affected by our State program by and large were urging a wider boundary even though it would impose upon them an additional layer, if you will, and would subject their actions to more scrutiny. They seem to be willing to take that chance. Maybe that is because they have their own Navy. If Maui doesn't already have their own Navy, and if they did, then maybe they would feel a little bit more secure about giving the Federal agencies a wider boundary. (Laughter). I was interested in that and I think it does point out yet another positive aspect of the program - money aside - that it has provided an opportunity for these agencies to come together as a group and begin to iron out the working arrangements that we could all benefit from.

I would say that if we did not proceed with the program, it is well that we keep in mind that probably most of the coastal zone problems that we are concerned with will still persist. Also the Federal agencies and the State agencies will also still be here and what we might be losing if we don't continue the momentum of this program is the opportunity to make all of

these agencies that are going to still be here work to solve the problems that would be here if we didn't have the program. You can see that I have given a very well balanced objective presentation of the Forum's position. (Laughter).

Skriivanek: Now we will pass it from the right hand man to THE man, Hannibal.

Tavares: Thank you very much. First of all I want to clear up a few things. My colleagues refer to me as the offensive person on the team and my good friend Senator King, one of my favorite Senators set that straight, but the real truth is I am the defensive linebacker and it is my job to prevent any play from coming through that line. (Laughter).

Also I want to clarify another point, when I got up to speak this morning, for those of you who know me well, know that I did that on purpose. I wanted to kind of shock the participants as well as the audience a little bit so we could get down to some real good problem discussion, which I think we did. I think we have come a heck of a long way in the last three years. We have all been wondering about when the time would arrive for us to discuss things and maybe tangle a little bit with our friends from the Federal government. We have done that several times in the past and almost every time we have done it, we have been confronted with new actors and so we just didn't know how to handle these new personalities. Then, this morning we walked in here and there was three more new actors that we hadn't seen before. But I would like to say that they are the best ones that we have had so far. (Applause). I was especially impressed with Carol. I think she did a marvelous job and Carol, don't take seriously what I said this morning.

I feel confident that we will end up with a program that we can all live with. As Dave pointed out, the Counties have been very jealous about their home rule authority and have fought very hard for it. We are interested in the environmental aspects of this thing also. We don't want to see our beaches and our shorelines devastated and raped. Even though we all consider environmental protection motherhood issues, we want to see that motherhood comes about as a result of planned parenthood and not rape. (Laughter). Even though we have had our many, many differences, we have to consider the number of things that we have agreed upon and in the very final analysis when they ended up before the Legislature, before Senator King and her colleagues, we had agreed on most of the issues and there were just one or two areas that were very sticky and we had decided

to take those differences directly to the Legislature and to say that this is how we feel and this is how they feel and the Legislature gave us a heck of a good day in court. In fact, it was the first time in my experience in hanging around the Legislature that we were invited right up to the table in a pro and con debate with the proponents and opponents of particular issues. It was good for us and I think it was good for the Senators too because I think they got the point and the counterpoint, the debate, the rebuttal right then and there and that same night they went into a decision-making meeting with us present and I think that was excellent and I hope that that becomes a format on some of these ticklish issues.

I think it becomes very very close on how we feel about the Federal position and it is my honest opinion that we can work out a reasonable compromise. I think that this will be desirable. What I did want to point out is that as Senator King said this morning that without doing all of this to get some money from the Federal government, my attitude is and the attitude of our Maui committee is, that we want to come out with a program which is good for Hawaii, that will protect this invaluable resource that we have and if in the process we get some Federal funding, fine. But our ultimate goal is to come out with a good workable program. At the same time we want to say to the Federal people that we don't want them to be pickiunish. We don't want them to invoke unnecessary controls over us. We are a very proud people out here in Hawaii and we feel that we have come of age so that we can handle our own problems at the State and local level. We believe that if mistakes are made, those mistakes are easy to correct through the legislative processes both at the State as well as on the County levels. It is easy to change a County ordinance. It is fairly easy to change a State law if there is good grounds for the change. Our Legislature meets every year. Our County Councils meet twice a month. So we have got the framework to adjust as the need arises. So all I can say to the Federal people is please be kind and understanding and to recognize our strong desire to kind of do our own thing here and we would love to do that in concert with you.

I cannot speak for my committee so far as the "306" draft is concerned because we have not sat together to really discuss it, pro and con, but I can only say my own observation, that I think that draft has come a long long way in meeting the kind of things that we believe are here and hopefully it becomes a very sound foundation on which we can start our final agreements with the Federal government. For those of you who don't know Maui, Maui has been a kind of headache to the Forum I guess in more ways than one, and I have been kind of a headache to my

friend Clara who is part of Maui County but she is from the Island of Molokai and she reminds me about that all the time. She says you don't speak for me Hannibal, you just speak for Maui. (Laughter). She has got some strong opinions which I respect but we have had this real strong discourse that has been a wonderful experience in democracy in action. As Dave pointed out, to see the different factions coming together and arguing and fighting and yet in the end agreeing to most of the issues, I think this has been a wonderful thing. I can assure you that as far as Maui Island is concerned you will continue to have that kind of cooperation from us, sometimes with a little loud noise but the cooperation will be there, the intent will be there. Thank you.

Skrivanek: I think Clara has been a very good counterbalance. (Laughter). I have always watched her as she has come over here such as to our workshop last year. She has always listened. I think she has listened to both sides, three sides, four sides, five sides of each issue and. . . .

Tavares: One more thing about Clara. . . I thought I would have no trouble with Clara because you see her husband was on the Police Department and I am the Chairman of the Police Commission, so if Clara gets out of hand I planned to go talk to her husband, but the dog-gone guy gets up and retires! (Laughter).

Skrivanek: Like I said, I think we have all appreciated the fact that she has sort of stepped back, looked at these issues and she has formed her own opinion. This we respect her for. So Clara, give us your observations again. As I say, you haven't done much talking but I know you have a number of observations you would like to pass on to us.

Sabas: Well I know if there is one thing I have accomplished, I have taught Hannibal that Maui and Molokai are not the same. (Laughter). I am happy with that. (Laughter). I am happy for this program too, because in so many instances, the citizens of Molokai have never been able to get their input in directly and it has always had to go through Hannibal. (Laughter). We have always had to go through Maui. In this program we are able to get it in directly and that will really be a help to us as we feel that we are really a part of the whole program and we are not just being treated as "just a part of Maui County". This program has been frustrating to be involved in,

and yet in fact, it has had many things that have been a benefit to me and to the people of Molokai. Our committee has not had a chance to review the "306" document so I am making my own personal comments. I have come to the point where I am a pretty confused resident of this State. We keep hearing about the State of Hawaii and I can't help but wonder who exactly is running the State of Hawaii. Perhaps we should be referred to as the Counties of Hawaii because the Counties seem to have so much power and influence in every program that comes up. But I feel that the presentations made by the Federal people here this morning helped clear up a lot of things and if we don't come up with a good program it is really because we don't want a good program. Coming from a small island like Molokai where you can sit in one area and still see the mountain and the sea and not get lost, we are really concerned. Using Oahu as an example, we don't want those same things happening to us on Molokai. Whenever I have left Molokai and gone home, I look out of the plane and look down and I see more and more of our island sinking to the ocean. It is just being washed down into the ocean. Erosion and siltation and such are the kinds of problems that we are concerned about and we'd like to be sure that we continue making the decisions that affect Molokai. I am sure that funds will be appropriated to the County and we would like to be able to say to the County how these funds are to be spent on Molokai.

I was told that I wouldn't have to say anything and that I would just have to listen. (Laughter). Another concern I have is that we are supposed to accept the SMA boundary and we don't know what the problems have been in administering and managing the SMA. We don't know what kinds of developments have been approved in the SMA and what kinds have not been approved and sometimes I have wondered why there wasn't in the beginning a complete inventory of our resources and a listing of the areas that we are especially concerned about. Sometimes I have felt that we were going backwards, instead of having all of these things available and working from there and deciding what to do next.

But I would like to say that I appreciate being involved in this program and I would just like to remind all who are involved that Molokai wants to continue to be a part of the decision-making process. Thank you.

Skriwanek: Thank you very much, Clara. Scotty, I think has been involved from the beginning of the appointment of the Honolulu Citizens' Advisory Committee and I know they have been meeting quite regularly because Joan has generally been attending all

their meetings and taking notes and so forth, so I think Scotty can give us a good overview of the concerns of this island as compared to some of the other islands. I know that the problems are a little different, the magnitude of the population is different and this I think has in some ways been reflected in some of their decision-making also. Scotty, will you reflect on that?

Bowman: Thank you, Frank. Our committee is a little different than all the other advisory committees in that there was no County support per se, so far as appointments went. This committee was not appointed by the County. We represent geographic areas on the island of Oahu and our approach to the whole program was to get as much information as we possibly could first. We invited all the advisors and everybody that we could possibly get a hold of to come in and explain to us basically what coastal zone management was. After we had gotten as much information as we possibly could, we then evaluated our island, the island that you are now on. As a result of that evaluation, we concluded three things. We concluded, number one, that we should have the entire island included in the Coastal Zone Management program. We concluded that we should have areas of particular concern and that the concept that was originally brought forth should be a very practical part of the program. And we also concluded that there should be State overview. The reason for these decisions was what you see around you right now. One report that we got a hold of said that 85% of the Island of Oahu has been re-configured - 85% of this island. We are very much concerned with what has happened here and we are very much concerned about trying to keep that from happening in the future. We think that this is not an attempt to override the Counties' control of their respective islands but it is an attempt to insure that what has happened here is not going to continue.

Our committee has met regularly and we try to stand by these conclusions but we have had to modify them. We have had to modify them because we knew that without modification, no bill would have been passed this year. It was most encouraging to hear five of the eight Federal representatives say that they would lean towards the entire State being included in the Coastal Zone Management program. Clara and I have felt a kinship in the Forum meetings because it was two against six basically. All of the other advisory committees lined up with the County planners and basically put forth a united front. I am sure that Hannibal's expertise in the Legislature was most beneficial to his side and I wish that I had that expertise. (Laughter).

The luncheon speaker today talked about getting caught up in the game. I think we were caught up in the game and the issue was not one of a good Coastal Zone Management program for Hawaii. The issue is what has been brought up earlier - who is going to have control - the State or the Counties. I submit that that is not the issue. The issue is what do you and I want for the State of Hawaii. It is not a matter of who is running the ball game, it is a matter of how the game is going to be played. I am hoping that the discussion that we had today and the clarification that we have had from the Federal people will help us get to a working solution. I envision that perhaps we are not going to end up with the whole State, but I can see perhaps that we are going to get an expansion over the SMA. On the "306" submission, revision two, I think that I can speak for our committee and say that we are not satisfied with the SMAs being the boundary and we look forward to an expansion of that boundary. Thank you.

Skrivanek: Thank you, Scotty. Let's move on to Kauai. Again Kauai over the years has expressed different kinds of concerns reflecting their unique needs and perhaps Elaine can give us some idea of how her committee views this program.

Taira: Thank you. First of all perhaps I can talk a little about Elaine the person and how does a person like me get involved in stuff like this. I guess it is because like any big planning, they like to look at you and say well, we've got to get somebody from big business and we have got to get this, and we have got to get that, somebody from the plantation and somebody from here and a couple of women too. (Laughter). I can say that as involved as I am in community activities it always comes the time when you are asked and you say that you don't have time. When I was asked to serve on this county committee, I thought, like all of the complaints that most constituents have, we complain about our leaders and the people we elect but then I always turn around and tell them, so tough, get involved and do something and then if you don't like it, well, at least you did something. And the reason I am here is because I feel that if something comes about out of this coastal zone stuff that I don't like, if I hadn't done anything then I had just better shut-up. Me, the person, was very strongly in favor of the entire State being a coastal zone and was very well put on Kauai and I understand that in the State meeting, I think they held true, but like in all instances we go along with the majority.

The Kauai County Advisory Committee has been a very active committee and we have had wonderful assistance and cooperation from the DPED staff. They have worked very, very well with us. We have been a very hard working active committee. We had picked out every area of particular concern, discussed every area all in writing. Now the committee itself felt that the SMA should be the CZM boundary. Now remember, I am talking about the committee and we were all for home rule. While we felt that there should be a lead agency, we felt that the Counties should have the right and the privilege of saying exactly what we felt was right for the County. And I think that we like to be called, not the outer islanders, or outside islanders or the other or neighbor islands, but we are a very unique State. We are just completely surrounded by water. Everybody knows that. We are always telling the people in the Federal government that we are different. But it seems that they like to dictate to us what they do for all of the other states. For this we strongly disagree and I think all of the islands are in agreement with this. Now on Kauai, when it comes to the flood areas, most of the areas that are flood areas are agriculture. The concerns of the committee is this, pertaining to the "306" and the idea now, it seems to me after I came here, it was a good thing I was seated because I was surprised to be told that we needed to be more explicit as far as identifying exactly what the SMAs were because originally we had already picked out all of the APCs. You see, I get the feeling that I have got to go back and do some more work and bring out all of this stuff again and I am sure it can be done but how much time do we have? I wonder how many of us have the kind of money to carry out the plans that we already have working. We talk about money, Federal money, State money and so forth. We know what we would like to have for the Counties which we represent. We more or less have our ideas about what we want to do for the County to make Hawaii a better place. What are we going to do without the dollars? We can have plans, we can have meetings, we can have all kinds of things, but we certainly need funds. And what I am saying is I agree with the Maui people. We need money in order to carry out the plans and isn't this what this is all about, trying to justify all of this so that we get the dollars? I would like to see Kauai get better. We are supposed to be living in a very unique place, the wettest spot in the world, but we certainly don't have all of that water available to us. We may have the only navigable river, but already I see some pollution. What I am saying is we need assistance. The State certainly doesn't have all the money that we need. I would certainly like to see improvements on our County. Surely we can compromise. Every island says we don't want to be another Waikiki. We have heard that. But let's face it, we need some development. But like

Hannibal has said, we would like our Counties without having to re-beach it again, and our beaches to be beautiful. The areas that can be developed, certainly be developed and the areas that can be kept open, be kept open. I am sure that we are in agreement with that. As far as "306", I can't speak for the members of the committee, we have not yet had the chance to meet regarding that.

Skrivanek: Thank you very much Elaine. Now I would like to call on Mr. Bouvet. I noticed he was out caucusing with some of his committee members, maybe he can give us some of the ideas or reactions that they have developed to the comments that have been made and also give us if you can, your overview of the "306" document. I think each of you has been reflecting that they had not met separately yet but you will have this opportunity and certainly we would like to get your comments as you can give them at this time without necessarily reflecting the whole committee's reaction.

Bouvet: Our committee in East Hawaii has been extremely active over the last two and a half or three years. It is interesting when I think back to realize that in the beginning there was some wide divergence of opinion among the members but by a give and take process, I guess, and willingness on the part of the members to listen to others and so forth, I can say that today I am able to speak for this committee as one voice as there has been a consensus of opinion.

The problems and concerns of East Hawaii are totally different from those of Oahu. Unfortunately, Oahu has the majority of the population and after all we only represent 10% of the population of Oahu and yet we are seven times bigger. For that reason, we feel that local home rule, the County government, should have a preponderant position regarding what is going to be done in the coastal management program. Hence, we back the County people to the hilt. Yet on Oahu, as it has been said before, it was really a kind of confrontation between the environmentalists and the developers. On East Hawaii this condition does not exist at all.

East Hawaii is characterized by an almost continuous belt of sugar cane from Waipio Valley, way south of Hilo and this belt varies in width mauka and makai, from the ocean to the mountains, about three or four miles. This area is under good management and landowners there have worked extremely closely with the Soil Conservation Service of the USDA. Moreover, we are under very strict control by EPA regarding point source and now non-

point source discharges. Above the cane fields are usually found ranching areas or State forests. These State forests are Conservation area and that is all the way to the top of the mountain. Hence we felt that there was no necessity for the whole island of Hawaii to be included in the coastal management program. We felt very strongly that by doing so, though the intent would have been different in the beginning, I guess, but inevitably this would lead to more bureaucracy, more permit and more hassles. We all know that us businessmen these days have to confront the Federal agencies, every day of our lives, with EPA and OSHA and all that, we felt that we didn't want any more of that burden. Besides, we can't afford it. However, we will go along therefore, with the idea of a special management area with perhaps the idea that some areas of particular concern, that should be identified by the local people of Hawaii, should be included in that area as well as areas of danger of tsunami, flood or whatever, I think should be included. But we feel very strongly that this should be the extent of the control. This really is our position. I think that the whole committee, I have caucused with those members who are here and there are five of us here today, we really have been impressed with the excellent presentation of Carol Sondheimer and of the comments of Jackie Parnell and I think these were excellent remarks and personally we are very happy to hear somebody from the Federal agency talk that language, I think we like it. Thank you, Carol,

Regarding the "306", first of all I was on vacation. I have just come back and on coming back among some of the mile high stack of papers on my desk there was this quarter mile high document. (Laughter). Frankly, it was coming here on the plane and the plane only takes a half an hour to get here, that I tried to skim through that, so I can say that I am not very conversent with its contents. But from skimming through it and from hearing what has been said so far, I think that basically we are in accord with this. There might be some area of course that will have to be changed a bit to satisfy us completely but this is the extent of my remarks.

Skriyanek: Thank you very much, Ernest. I think as you can tell from our committee structure, the Big Island is really big and this is the only one that has two committees representing it. This is not only due to size but geographical and environmental conditions are considerably different around the island and also with the distance, if you were to have one committee, the travel time in distance would have been a handicap in getting people to the committee meetings or moved from one side to the

other. So for that reason, we decided it would be better to have two committees for the Big Island. Mr. L'Orange is the new Chairman, I understand he has succeeded Bill Thompson, who was the Chairman earlier. Bill is now the Director of the Department of Land and Natural Resources and Mr. L'Orange was the Vice-Chairman previously and I think has been there throughout the life of the committee and through its discussions so could we get your overview and comments.

L'Orange: Most of the things that of course were on my mind mind have been said. I would like to say that I think this is the first CZM meeting that I have attended that I am not leaving frustrated. The last two and a half years at least on the West Hawaii Committee and I would like to correct something Scotty said. Scotty said the committees lined up with the planning directors. The West Hawaii Committee certainly didn't line up with the Planning Director. We fought it out among ourselves and our position is completely independent. If you want to talk to Doug Tom and Duane Kanuha we gave them so much hassle and so much "run around" and questions and arguments I am surprised they came back smiling to our meetings. Matter of fact, I think I talked the most and argued the most. We had some very strong feelings. Maybe one of the things that was interesting, as most of the committees are, we are a very diverse group; there are landowners, developers, private citizens, conservation groups represented. I think after the first six months of meetings it was very surprising that we agreed on most things and our disagreements are relatively minor.

I can't speak for our group on "306" because we purposely didn't review it because we wanted to come to this workshop first and review it after having the benefit of all the information given here.

I think the reason I am not leaving here frustrated is because I can finally see some light at the end of the corridor. I can see a plan that can meet the objectives of the State, of the Federal government and the citizens committee being worked out. Remember, a plan is just a beginning. It is not the end and I think this meeting today has been very productive. I would just like to close with one thought, for those of you that haven't been involved with oh let's say agricultural land use problems and all the permits and regulations and stuff that you have got to go through. I work for a large landowner and I know what it is all about. It takes an awful lot of time and it is very expensive, that is why we want as much control on the local and the County levels so that we can do things by a telephone call instead of a \$50.00 plane

trip down here or whatever.

I would just like to close with this one thought for all of you that I have been thinking about as this program has been developing, that this program, I think in some people's minds, CZM is going to cure everything. Well, that is not true. Laws, regulations and permits don't do that; it is only private citizens, government and business working together and if we can do that then I think we can meet the objectives of our program. Thank you.

Skrivanek: Thank you very much, Pete. I think you have gotten a good overview of the impressions from the different citizens' groups so why don't we now open it up for questions. Does anyone have any questions, and please also try to indicate who you might direct your question to.

Ota: Any member of the panel can answer this question. I think the member from Oahu mentioned that Oahu was strong for the whole island being under management. We are kind of bragging from Maui County that we have I think, the most land under SMA management. It seems like the concerns of all the thinking came out with the minimum behind this 100 yards but then it wasn't a cut and hard rule. And I just want to ask why can't Oahu be the whole island as they want it. And the Big Island people say they want it down to the very minimum, well fine.

Skrivanek: You are suggesting to have some flexibility by island.

Ota: I am just directing this question to the panel; how did you like the idea that one island can't get more than the next or whatever.

Skrivanek: I don't know, that might be a good question we ought to pose whether it is possible.

Tavares: I think that under the rules and regs where the Counties have the authority to set the coastal zone management area, and will be able to amend it at any time, there is no reason why Oahu cannot take their management line all the way up to the top of Tantalus if they so desire. That is a County prerogative, as it is right now in existing law. All the existing

law says, as I see it is that the existing SMA is the SMA we are working on now in the interim, but that the SMA can be amended by the Counties through the County Council at any time. So if Scotty can convince the Mayor of Oahu and the County Council to do so, there is no reason why this entire island couldn't be SMA. And if Molokai wants to do that with Maui County and can convince the Councilmen, then I think that the Councilmen could go that way also. I don't think, Clara, you'd find me opposing it. I think I would be helping you if that is what Molokai wants.

Hanson: I wonder if we could have an interpretation here because we asked this very same question several months ago and we were given an answer at that time that it may not be possible.

Skrivanek: Carl Smith, do you have any comments about say one island maybe totally being included in the coastal zone and others perhaps having a narrower one. What might be your Department's view of this kind of a situation and what about Oahu in particular?

Smith: Under 205A, Part II, as was adopted in 1975 by the State Legislature and under Act 188 as 205A has been amended, certainly the County has always had the option to set the SMA boundary line at any place that they could justify the boundary line as long as that boundary line was a minimum of 100 yards from the shoreline. On this island, with the SMA which we now have, and I refer to the maps, we are all over the place. We certainly did not stick to 100 yards. There were a lot of other considerations. Certainly, I agree with Hannibal that if the City Council had been convinced that a permanent system as set up under 205A, Part II, should be applicable to the entire island of Oahu, then the Council would enact that permanent system. I think we would resist that from a Departmental point of view because I don't think we really want to have a special permit authority throughout this island considering the fact that we do have all types of other controls which are there through special use permits, conditional use permits, temporary use permits, you name them. We have 21 permits that we administer in our Department alone relating to land development, not counting any State permits, so I think we would resist adding more and more island-wide.

Skrivanek: What about cutting out that one and working it into one of your other permits? Does that offer another possibility?

Smith: I think that is something that would have to be worked out in the State Legislature.

Skrivanek: You probably couldn't do it unless the law was amended.

Smith: We cannot do anything. The law is as is right now.

Bowman: In response to the question, I think one thing that should be considered is why does the Oahu committee want the entire island and I think that if you think about it, you might realize that what's happened here could very well possibly happen on other islands. So the reasoning that because it has already happened here, make the whole island included, and because it hasn't happened someplace else don't, doesn't seem logical to me.

Tavares: That is not really what we are saying. We are saying that each County right now has the power to set that line wherever that County wants it to be. The setting of that line will depend a lot on what the sentiments of the citizens of that County happen to be and convincing the Council and the Mayor to go along with it. You guys could do on Oahu whatever you want to do. If you want to make the whole island an SMA, fine. Let Maui do its own thing and let Molokai convince the Council to do their thing.

Parnell: I would like to go back to that other point again which was cleared up this morning. You can have more than the SMA in your coastal zone. It became very clear today, you can extend. Perhaps what would be appropriate on Oahu is to have the coastal zone management area extend further inland but not necessarily the SMA and the program extend further inland. I can particularly think in an area like Kaneohe Bay, you may want to have your coastal zone boundary go further inland there than it is now because of coastal hazards and other considerations but not the SMA and again the same for Maui. I have seen nothing anywhere where anybody has ever told me that it had to be the same on every island, It is what is appropriate in terms of those significant impacts.

Tavares: Frank, I have to go catch a plane, so if anybody has a question for me, let me have it now.

Skrivanek: Hannibal, thanks a lot. We always enjoy having you here. (applause). Don.

Hanson: I want to emphasize again, we were told eight months ago that this wasn't possible. The question I have in my mind is, is this a Federal law or is this a County law?

Skrivanek: I don't know. Dave.

Raney: I have one hypothesis as to how that contradiction might have come up. It seems to me that there was this discussion and I think it was with the Federal people and I think what they said was that you had to have a consistent set of criteria for setting the boundaries. So you couldn't have a real skinny one one place and a wide one some place else. However, I think that under the concept of a minimum area, that if criteria is set for a minimum acceptable boundary, which I think has been set, I would be surprised if there were a Federal objection to something beyond that minimum acceptable. In other words, if administratively an island say found that they want to declare their whole island to be within that, certainly that covers the minimum and then some. I think what it was at that time was a fear that there would not be uniform criteria and that some islands might in fact come up with less than acceptable boundaries.

Skrivanek: I wonder if Jim or Carol might want to comment on that.

Sondheimer: I'd like to reaffirm what Dave has just posited and that the fact that as long as there is established a minimum coastal area, particularly in terms of your own Act, then how far beyond it you go is up to you to determine.

Skrivanek: Thank you Carol. Phil.

Macias: I would like to make a comment that possibly could help this issue which has been controversial and perhaps might continue to be controversial which I hope not, and that is why I want to make this comment. There could be apprehension and fear of setting coastal boundary beyond what you here in the State and on each of the islands have agreed it should be and also through legislation, the SMA boundaries, and when the

mention is made of anything beyond that, all this apprehension and fear begins but possibly it is based on the fact that it is a "forever thing". It is my understanding that this program is a dynamic program. It will be a continuing program which is subject to modification when the need arises. On that basis, even though today you may agree to set the boundary in one location, it is my understanding that it might be possible later on if the need arises to expand it to include additional area if the people of the State and each of the Counties and on each of the islands decide that in order to achieve the objectives of the Coastal Zone Management program, this is necessary. Maybe this will help to make it possible under the guidelines set, to have different boundaries on each of the islands. On Oahu I can see a more critical situation perhaps requiring a much larger coastal zone than on some of the islands because the pressure is there for management of the resources.

Skrivanek: Thank you. Any other comments? Yes, Doug.

Meller: When are you going to get down to compromising?

Skrivanek: Do you mean, are the games over now and are we getting down to the final goal line? I think the next step is and Dick you'll have to help me on this, the next step is we certainly would like all of the committees to review the draft, get their comments into us. The Policy Advisory Committee is meeting this Thursday, the Statewide Forum is also meeting Thursday, September 1, 1977. As for the County committees, I don't know if you have yet scheduled your meeting times, but hopefully you will be able to do so fairly early so those comments can all come in. I think we have new opportunities and new hopes now and this certainly I think is very good and very refreshing. So if you can get those committee meetings scheduled as soon as possible, review them formally and get your comments into us, I think it will be very helpful. So Doug, hopefully, we can move a little faster. I think one of the reasons for trying to schedule the workshop ahead was so that the representatives of the different committees or however many are here can work intelligently with their groups in explaining to them the various sections of the submission for those who were not able to come to the workshop.

L'Orange: Wouldn't it make sense to postpone that Statewide Citizens' Forum so all the advisory committees can meet?

There is no way we can have meetings by September 1st and there is not sense in my coming to the meeting to represent a committee that hasn't instructed me what to say.

Skrivanek: That's very true. I think there are several alternatives. Number one, I think the committee has already formally announced that meeting September 1st. Whether we can cancel this late or whether the committee would want to cancel that late is questionable but I think that as far as the County committees reporting simply say that you haven't yet scheduled your meeting and in the case of your committee you may not even want to come to the meeting, I don't know. Dave.

Raney: Unfortunately I don't have the agenda before me to answer precisely what we were going to be talking about at that session.

Skrivanek: Fred.

Fred Gross: I have a question. We have heard from the Federal people that they do not feel that the program as outlined in the text that we have is acceptable. We've also heard that there is an area of compromise. Let's say that the information gets up to Jackie's committee that an area of compromise can be reached by the Counties, that the Counties have changed their position. Is there any legislative action by the Counties or by the State required before the position which is requested in the "306" manual can be amended so that it is acceptable to the Federal people?

Skrivanek: Dick, Maybe you can respond to that.

Poirier: Basically we have the two choices we had explained this morning. One would be to rely on the expansion of the SMA in which case the various Councils would make that determination. The second way to do it would be on an administrative basis. In other words, we could redraft the document and come up with another type of boundary - something more than the SMA but certainly less than the whole State. We can do that on an administrative basis. We don't need to go back either to the Legislature or to the County Council. In terms of the process, we have not yet finished talking to the Federal people regarding the draft itself and I think that there are

quite a few other changes that will have to be incorporated which are going to take time. So what we are asking now is to get feedback from you as soon as possible, but I don't see the document going out that quickly. In other words, it is not going to go out September 2nd. Let's put it that way. I think the quicker we can get the input the better. As to how the final decision is worked out, we are not quite sure at this particular point. There are quite a few other actors who are not here today who will have to be consulted first.

Skrivanek: Jim Shon, you had a comment?

Shon: I was wondering if it would be possible for DPED to prepare a kind of checklist of the kinds of decisions and compromises that each group is going to be asked to comment on. There are a lot of things in the document I could comment on and it really would not pertain to what is going to happen in the future. A lot of things having to do with the laws and statements in regards to the laws, and whether or not they're adequate. What I would like to know as a member of the Statewide Citizens' Forum is just what is the most meaningful kind of input that is needed at this one point and how to review the document in light of those so that we have something to say that is relevant and not spend a lot of time on little details. I am wondering if DPED could provide a kind of guidance as to just what kinds of decisions need to be made between now and the next submission.

Skrivanek: Between now and the next draft? I would hope yes, that we can take all these comments and maybe group them into subject areas of things that have to be looked at. I think in terms of the boundary issue, we would probably have to develop two or three alternatives, two of which Dick suggested. I don't know how quickly we can assimilate all the comments and get this to the various committees so that when they do meet there is a possibility of directing their attention and focusing in on these specific areas. I think that is a good suggestion, Jim. Dick, do you think we can do that fairly soon after further consultation with our friends from Washington? We'll try it. Valerie.

Humphries: I have a question. Are the comments that were made by everyone today on tape and will it be available to us?

Skrivanek: Are you thinking of summary transcription, not verbatim?

Humphries: It would be nice to have a transcript of what everybody said.

Skrivanek: Dick what is our plan on transcribing the tapes?

Poirier: We'll explore the possibility of having verbatim transcription. I don't know how long that would take, I think it is probably a question of time.

Skrivanek: O.K. We'll try it. Any other questions?

Okinaga: Are the Federal guidelines in written form or could they be in written form so they could give us some guideline as to what is minimally acceptable, not only with respect to the boundary issue but for any other issue by which they may determine if they will accept the program?

Skrivanek: These I think are the ones that were published in the Federal Register earlier but some of the language is not going to give you the kind of answer you want. For example, significant impact on the coastal waters. Now what is the minimum? That basically I think has to be a local determination.

Okinaga: This morning was very helpful in the sense that I think the Federal people enunciated their interpretation of what the regulation says and I think if this is the case and this seems to be the case for many of these regulations, then the interpreting official or officials will be able to set forth the guidelines for a particular project. In this case I think we have said something about Hawaii and I think it would be terrifically helpful to get it in writing so that we know and can avoid going through this exercise again and then we are told that it is not acceptable perhaps not on the boundary issue but some other issue. I think it may expedite matters if we did have those guidelines.

Skrivanek: We are trying to get a complete review of the whole draft with the Federal people while they are here, so hopefully we will have I think, reasonably good answers on all those questions.

Poirier: I probably should add in regard to Larry's question, that the new "306" guidelines are to come out on August 28, Monday, and I think this reflects the type of guidance that Carol gave us.

Skrivanek: This again will help. Sometimes it takes us 30 days before we get it.

Sondheimer: We'll send it airmail.

Skrivanek: Some of the other agencies in the State get theirs a little bit faster. We can find out who got theirs and might be able to xerox copies. This I think will shed more light on these details.

Bert Matsumoto: From what I hear, the Counties are willing to compromise. My question is are they (the Federal people) also willing to compromise?

Skrivanek: Less than the flood hazard areas? Well I think that as it was discussed this morning, it was not only just the flood hazard but coastal hazards which were defined in our Act 188.

Parnell: I would like to add to that. Bert, it is my understanding that coastal hazard is not equal to flood plain. Those are not necessarily the same thing because if you're defining flood plains in the Corps' terms you are defining it in terms of some other considerations in areas that are much deeper than the coastal hazard one. But the key definition is in our legislation - the coastal hazards as described in Act 188. The key way to look at it is not all the other definitions of flood plains floating around in the world including some of the Corps of Engineers' ones. The key words are in Act 188 on coastal hazards. That makes a real difference. It is my preception in terms of where we go from here, that the boundary issue is the key issue politically and that by the Thursday PAC meeting of the Counties and agencies and such we will pretty well know how we stand. If that works out that everybody can agree like it looks like we can agree, then we proceed to know off all the other areas of this revision that we have to make changes in. Is that a right preception?

Okinaga: I'd like to comment on that. The boundary issue is inevitably tied in with the legislation that we have on our books. In the last few days, the Counties have insisted that the statute that we have governs whatever type of new program that we can get - that we have to operate within that guideline in trying to get our program off before the next session of the Legislature. I raised this morning the question of the concept of the cause of action and it's difficult I think to separate the CZM boundary from the SMA boundary. I think that someone, perhaps the State of Hawaii, should have this particular question researched and if in fact legally this cannot be done without violating the State law, I don't think the various Counties should get into the question. Perhaps the legal issue with respect to the boundary issue should be resolved first so that we could have a meaningful discussion of the boundary issue at least concurrently with the program discussion.

Skrivanek: Larry, I think one point I would like to make is that you said that we could not change that boundary because it is controlled by the legislation, but what I was also hearing was that we could have an administrative boundary, broader than the SMA. Was that the general feeling of other people? Well, I see some heads shaking yes and some no. John.

Bedish: Just one comment I would like to offer. I made the comment this morning that a lot of my comments would have to be from a technical standpoint and this one I feel is. But before I make the comment, I would like to reiterate what I have heard today in regard to this adjusting of the boundary. I think all of the Counties made it very clear that they do have the authority to do this, that there is a set minimum and that they can if they feel a need, go ahead and do this. Now my comment related to this goes right back to a land use, land management standpoint. What is going to work on Molokai is not going to work on Hamakua Coast. What is going to work on Kauai is not going to work on the east side of the Big Island or on the Kona Coast. To me it just makes sense from a technical standpoint that in order to get the right kind of a thing done, each particular committee is going to have to do their own thing. I am not a legal expert but at the same time from what I have heard here today, the law is there to do all this. That is the only comment I have.

Okinaga: I think that when I mentioned the law I agree that the County Councils in this case would amend because that is what

the legislature says, that they are to amend the SMAs. It seems to me that some legislative or other compromise is required and yet not endanger the program, particularly after the Attorney General's office I understand has stated the position that the SMA is the boundary. I personally would like to see the boundary expanded. However, I can't see going through the exercise to find that we can't do it is all I'm saying. Perhaps concurrently with citizens' advisory groups discussions we could have this legal issue determined as much as possible. I think that would be helpful.

Skrivanek: Larry, I don't think the A.G. told us orally that this is the boundary. The question we posed to him orally was does the cause of action apply in the SMA, the territorial waters and whatever interim boundary. As I recall, his position was that it did not apply in an interim administrative boundary as best they could interpret the law now and I think Senator King posed a similar question with the Attorney General's office. So I say orally we got this kind of a response.

Mike Kilian: I am Mike Kilian and I'm speaking on behalf of myself. I think the legal issue that perhaps you were speaking of there is something I think should be resolved. I guess the point earlier was that under the cause of action, a building permit application would have the same effect as a SMA permit application in this expanded boundary, so that the County permit controls would be the same in either case if the cause of action provision affects any new boundaries. I think the question was has this legal issue been decided?

Skrivanek: I don't think it has been posed or cast in that light before. I am not an attorney and I am not practicing law right now, but my impression would be that if the SMA is expanded, the cause of action would apply in that expanded boundary. Yes, very definitely.

Kilian: So I think for the Counties to accept this kind of two tier boundary, if there is though in fact a two tier effect through the separate boundaries, that creates a different set of problems for the Counties.

Skrivanek: Are you talking about an administrative interim boundary or are you talking about the existing SMA when you were talking about the two tiers?

Kilian: I am talking about the expanded boundary that the OCZM will accept for the "306" submission. That expanded boundary which is acceptable for Federal approval, will the cause of action provision be required and if so, will the Counties accept this. I think that is the issue faced.

Skrivanek: Presently the cause of action brought by a citizen against some of the public agencies applies only in the SMA and presumably the territorial waters. Your question is if we have an administrative boundary wider, will the cause of action apply in that one and I guess that is Larry's concern also. This thing I think we will have to check back further with our legal help.

Poirier: It would not apply because the cause of action goes with the objectives and policies which are applicable to the water and SMAs. As such, cause of action provision of Act 188 would not apply to inland areas outside of the existing SMAs.

Skrivanek: You can see where our legal confusion arises. Jim and then Carl. Could you use the mike because we are trying to record this.

Shon: Not to throw any cold water on the thought of a compromise, but it seems as though, at least the way I read the bill, that the coastal zone management area is completely a permit area where there are permits given. There is nothing in the bill as far as I can see that allows a two tier approach. So let's assume just for argument that that is correct, that we cannot administratively create another tier. Is the promise or the hope that the hazard areas will be included by the Counties, is that enough to satisfy the Federal requirements or do we have to somehow legally find a way to create the second administrative tier?

Skrivanek: Carol.

Sondheimer: There seems to be some confusion developing. What we tried to indicate this morning was that it seems to us that the boundary defined right now is inadequate in terms of your own Act. That it looks like the coastal hazard area probably encompasses most of those areas that are defined in your Act as

being important. It further looks to us that within the purposes of our Act, you can, if you have the legal authority or the ability, that is, if you are not constrained by Act 188, you can administratively designate an area beyond the SMA that does not have to be amended by the Counties to include that coastal hazard area at this point in time. That in fact, while the cause of action and the policies and objectives in Act 188 apply only in the SMA area, but the State would have to demonstrate to us short of having the SMA as a negative, that there are sufficient existing State authorities that have the same policies and objectives as those articulated in Act 188 and that in fact there is a means of assuring compliance with those goals and objectives that exist outside of Act 188. We have been involved in discussions with the State regarding other legal tools that they have available to them particularly with respect to court actions, that could be used to insure compliance with the basic objectives of your coastal management program. I think that maybe it is a subtle distinction but as far as we're concerned the SMA need not be amended at this point in time if you administratively designate a wider boundary.

Skrivanek: This is the networking, Jim.

Shon: But we cannot according to our Act designate a different boundary because the boundary is the same as the SMA.

Sondheimer: That may be your interpretation but I am suggesting, and it may be when it comes down, that your Attorney General may say that is in fact a valid interpretation, and if that were the case then we could not accept a wider administratively designated boundary. What I am saying to you is as far as we are concerned, we legally could accept a program that includes a boundary that is beyond that defined in Act 188. We do not feel that we are constrained to accepting a program that relies on a single act, that there can be other acts incorporated and other areas designated administratively as long as the policies are enforceable and binding.

Skrivanek: Thank you, Carol. Carl.

Smith: It seems to me that this all brings up an area where I am not going to have too much of a problem. If what we are saying is that the existing legal structure of land use control for the State of Hawaii (Act 205) and all of the rest of it including

the various ordinances and controls locally, if there is no requirement for a change in the legal authorities as they now exist, that it simply can be demonstrated that with those legal authorities the goals, objectives, and purposes of the Coastal Zone Management program can be carried out, I don't think we have a problem here on Oahu with going along with the "306" program defined within those terms. However, we have a definite problem when we start trying to pick up interim boundaries. I just have an awful problem with the boundary as a line drawn on a map. We have got all kinds of those lines now. An interim boundary to me, actually I guess what I am saying is that, from my point of view, we can then say Oahu is a coastal zone, there is no problem there because we are not disrupting the balance, if you will, between the State and the County, between all the rest of it.

Skrivanek: This is the networking. (Applause).

Smith: Right.

Skrivanek: See, compromises can be achieved. I would also like to make one other comment. The great concern about the cause of action. Carol, help me on this one. The Federal law does not require provision for citizen suit. It requires that administering agency or the State have the right to enforce those policies. This, I am sure strikes different people in different ways ranging from Doug Meller to Hannibal as an example. Doug is an environmentalist, he is very concerned with the citizen's right to sue. I think Senator King is also. On the other hand I think that we already have on the books, at least we hope we have, those kinds of tools whereby the State can enforce these policies through the networking system and more specifically, under that same section 602.23 within the SMA as well as through the cause of action for the citizen. I don't know if this difference is understood by all of you. One is a governmental action, the other is a private citizen action against a governmental agency. Doug, if I use you for an example, forgive me.

Meller: Briefly, what this fight is over, is whether or not one really trusts government agencies to do what they are charged by law with doing. My contention, and I think there is evidence to support it, is that merely having guidelines for government agencies to operate by are not sufficient unless you can appeal the decisions to another body. I think as an example, we have

a law which was passed in 1970 requiring all Counties to pass ordinances to require subdividers to dedicate lands for parks. It was a mandatory law. As of this date, Hawaii County has yet to implement that order. Seven years later. Complaints have been made to the Attorney General as long as two years ago. We still do not have an ordinance in Hawaii County in effect.

Skrivanek: I think that's a good point, Doug. At this point we should ask Carol if she would care to give us some closing remarks because she will be winging back either Monday night or Tuesday and we won't have an opportunity to meet with her again so she might want to leave some final comments with us.

SUMMARY
OFFICE OF COASTAL ZONE MANAGEMENT

Sondheimer: Frank, I want to say to everyone that I am really and truly impressed with your efforts and your interest today, and the depth of your perception and your concern about the issues that are being raised. The statement I made earlier about the extent of your public participation efforts is really reaffirmed by what went on here today. Another thing I would like to indicate is I don't want to get into the details of the issues we discussed today because I think they are many and complex and you are going to have to mull over everything that was laid out today. I would like to just indicate that what we discussed today is really what we consider, having looked at your Act and your issues, to be a minimum management area and that we certainly see the ability to be flexible beyond that in terms of how you define that management area, how far inland it goes and what it states. We certainly encourage also the Counties when they all are going through the SMA amendment process over the course of the next two years, to take into consideration those aspects of the Act 188 goals and objectives that will make a management area the most viable for achieving your objectives. And finally, I want to say that while I think there is still a lot of hard work that remains to be done here, it appears that there is certainly a unity of purpose in achieving a coastal zone management program here, that it is worth working on further and worth getting it together and I think you all are there and that we certainly are ready to work with you in as constructive a fashion as we can. In that regard, I would like to respond to one of the comments Hannibal made, to which I think we are particularly sensitive and that is the fact that you seem to see a lot of faces from our office. That is unfortunately a fact of life with government. People come and go. However, those of us who are here today have

have been with the office a number of years; we just haven't been out here. I can assure you that the guidance we have given you is office policy. It will not be changed on you. I will turn the program over here now in just a minute to Mr. Ben Mieremet who is the acting Regional Manager here and who is the gentleman who works most directly with the State people and will be working with you to give you some insight as to how we will continue to work with you. Thank you all very much. (Applause).

Mieremet: I am going to do my best to see that the story of the Hawaiian program development is made to the Congress perhaps through our annual report to them and to let them know what really has occurred here. I think it is a measure of success to the Federal Act. We know that you will work out your problems even without the Coastal Zone Management Act. It is quite clear in Act 188 that it has been done to meet the requirements of the Federal Act and then it goes on and says however, we want to work on Hawaii's problems if it doesn't work. So we're aware of that.

Just a comment with regard to the Federal role in this. We realize that this is a voluntary program. We are very happy that Hawaii has participated. We've followed it very closely for the last three or four years and a lot of things are going to occur in the next couple of months and I just want to assure you that our office is prepared to provide as much of the resources as we can to see you develop your "306" program document now so that it meets our requirements and can get through the Federal agency and public review process along with an appropriate environmental impact statement of the Federal action we will take. We are hoping that the financial resources, the consistency provisions and many other provisions of the Federal Act will continue to be an incentive for you to participate. And of course we always like to come here and visit you. Thank you very much. (Applause).

WORKSHOP SUMMARY

Skrivanek: The role of moderator and Chairman always gets to be a little bit of a drudgery at the end. I have been taking notes practically all day on the different comments. I hope we also have them recorded. But rather than going over those in any great detail, what I would like to do is perhaps give some of my impressions with my appraisal of the discussion today. I think we have reached the point, as I mentioned

earlier, where we are through with the give and take and now we're ready for serious compromise. I think it has been a long and arduous task. The meetings have certainly been time consuming, certainly on the part of DPED, I think this has been the most extensive citizen committee participation effort that we have undertaken in the 19 years that I have been here. It is a slower process, more time consuming, even more costly, but I think in the end, we will reach solutions that all of us can agree on and that we can say we have consensus as we go before the County Councils and before the Legislature. This I think is important. It is to me what planning is all about. I think that from here on that we should view the program not in terms of the Federal carrot that may be dangling before us and not in terms of the question of home rule. That won't be settled in this particular program. It will be settled in the halls of Legislature or at the Constitutional Convention or some other place. But let's base our effort on good, sound, sensible planning. Some of us have been unhappy with the way development has occurred. There are degrees of sentiment about this. So I think the clearest course of action for us to take is to move together now basing our comments and review of all the comments we have had today, on the basis of doing the best planning job we can, I think then we will all be satisfied. So why don't we adjourn the meeting now and hopefully you will have enough ideas in your brains for discussion with your committees and get us back your comments. I am very delighted about the progress and the spirit of cooperation that was enunciated here and I think it was Pete who said it earlier, he can see the light at the end of the corridor and I think we can too. Thank you very much. (Applause).

Not For Just A Day

Francis M. Pottenger, III

**Summary of presentation made at the
Hawaii Coastal Zone Management Program Workshop
held at the Waikiki Sheraton Hotel on
August 26th and 27th, 1977**

**Curriculum Research and Development Group
College of Education
University of Hawaii**

NOT FOR JUST A DAY

In the early days of my teaching, a seasoned and much respected educator of my acquaintance commenting on a flimsy lesson plan built around the morning's headline said: "Remember, you are teaching these kids for their lifetime, not just for a day. Until you learn to discriminate between the ephemeral and the substantive, use the text. Its content at least has the popular seal of enduring worth." In undertaking the development of any program, it is the stamp of enduring worth that we seek to mark on our product.

With the development of Hawaii's Coastal Studies program for the high school, the study of coastal problems has been transformed from a passing topic in current events to a full-semester course. There is a growing group of educators, both local and national, who concur that understanding of the problems and techniques of coastal management offers an exciting vehicle for the study of political, legal, and social dimensions of public resource management. Further, the problem of coastal regions have special characteristics deserving study by students who will be members of the voting citizenry of coastal states such as Hawaii.

HISTORY OF COASTAL STUDIES

Coastal Studies is a product of the Curriculum Research and Development Group (CRDG) of the College of Education of the University of Hawaii. It is being developed under contract with the Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

The Coastal Studies project has its roots in a series of events going back to the early 1970s. Under the stimulus of Hawaii's then new Sea Grant program CRDG began to explore with the Department of Education of the State of Hawaii

the need for programs in the area of marine education. After a year of intensive assessment, the researching body known as the Hawaii Marine Education Council published its findings in the document Marine Education for Hawaii: A Prospectus. The Council's conclusion was that with the rapid expansion of Hawaii's marine frontier, a K-12 program should be developed to prepare students for their citizenship role in caring for their vast oceanic legacy.

As a result of the findings of the Council, three curricular material development programs were launched in the fall of 1975: Reef and Shore, a nature studies program for the elementary school, and Hawaii Marine Science Studies and Hawaii Marine Studies in Social Science for the high school. The elementary program has since been completed and is presently being disseminated. The Hawaii Marine Science Studies program is now in pilot testing.

The social studies project was the forerunner of the present Coastal Studies project. In its original form, the program undertook to study a highly localized area of the island of Oahu, Kaneohe Bay, with the idea of giving students insight into coastal management issues in their immediate geographic area. This was an exploratory project which met with considerable success, but its extreme local character limited its statewide use. Lessons learned in the Kaneohe experience led to the design for the present Coastal Studies project.

It was during the development of the Shoreline Management* materials, however, that the project came to the attention of people involved with the CZM program in the state both at the Department of Planning and Economic Development and to members of the CZM Statewide Citizen's Forum. Subsequently, Grant Dehart and Dallas Miner of OCZM learned of the project and instituted the negotiations with CRDG which led to the funding of the present

*High school title.

project.

Development of the materials for the Coastal Studies program is being done under the co-directorship of Ronald Mitchell and myself. Other project writers and training staff include Greg Rhodes, Faith G. Paul, Ray Conrad, and Norman H. Okamura.

Monitoring the program for substantive accuracy and adequacy of coverage, the project has had a Steering Committee on which the following people have served: John Craven, Marine Programs, University of Hawaii; G. Kem Lowry, Pacific Urban Studies and Planning Program; Richard Poirier, DPED CZM Program; Ray Tabata, Sea Grant Marine Advisory Program; and George Kent, Department of Political Science, University of Hawaii.

LONG-TERM PROSPECTS

Coastal Studies is now being pilot tested on Oahu and the island of Hawaii. After undergoing revision in the spring of 1978, the materials will be ready for dissemination throughout the state during the academic year 1978-79.

Since it has been designed to allow translation into its basic structure the issues, topics, and problems of any coastal region in the United States, the program has strong potential for dissemination outside Hawaii. CRDG is presently in negotiation with CZM to find funding to support the translation of the materials for use in dissemination centers in coastal regions of the mainland.

GOALS AND RATIONALE

In a curriculum already crowded with innumerable courses, it may seem presumptuous that a new program is being shaped for inclusion. However, in looking at both the local and national scenes, the area of marine education has been woefully neglected. This deficiency comes at a time when America's economic frontiers have been extended to a new 200-mile fishing zone and at a time when

great national and international effort is being expended on finding techniques for reaping the riches of the ocean.

In the light of this, it becomes important that students of today gain some understanding of the political, social, economic, and scientific dimensions of the coastal and marine worlds. Coastal Studies sets as a goal the achievement of this end.

But there is another need addressed by the Coastal Studies program. Over the past decade, a new system of comprehensive planning and management of public resources has emerged nationally. Central to its structure is the participation of the informed citizen acting in an advisory role. Though direct citizen participation in government has a long history of successful exemplification, participation within bureaucratic agencies is an innovation of immense potential. It is a fragile innovation which if not nurtured and responsibly embraced by a wide spectrum of our citizenry can in a short time erode to a dysfunctional anachronism, marking only a passing period in history.

Those of you gathered here know the frustrations of participating in this new endeavor, the hard task of learning the particular intricacies of government and public interaction while still forging the mechanisms of citizen participation. There is a thankless side to participation, requiring a special courage and commitment. Only those who hold a deep conviction in the ultimate strength of a representative process can long survive the blows of rejected positions and the antagonisms of the ill informed.

As I look at this group, I am struck by the realization that there are very few members of these citizen committees who are not in their middle years. I worry about passing on the idealism which has made the new venture in citizen participation possible. To survive, it will be necessary that the idealism and the logic for its existence be passed on to those who are presently in our schools.

It is only through the vehicle of curriculum that we can formally undertake such a task.

In selecting management as the organizing theme, Coastal Studies has focussed upon an emerging field of practical social technology. The field of management is sufficiently mature so that its structures can be described and operations analyzed. At the same time, it is sufficiently young to be dynamic and offer study of its developmental processes.

By selecting a management area that reaches into the community of students living in a coastal region, it is possible to encompass issues and problems that have the vitality of currency and immediate significance. There are people involved in coastal management issues in both the governmental and private sectors upon whom students can call to gain deeper insight into operational processes. It is hoped that in years to come the participants sitting here will share their experience and insights with students taking the Coastal Studies program. The only method of instruction that carries more learning impact than the account of personal participation is to become a participant. With models of participation to relate to, students will be far more likely to be drawn into the citizen participation role.

Further, coastal environments are the incubators of issues that have a high probability of being of enduring importance in the lives of today's students. Finally, the arena of coastal management will provide students with a general understanding of models of resource management.

THE STRUCTURE OF THE PROGRAM

There are two strands to the Coastal Studies program which reflect the dual role of citizens as members of both the national and local electorates. The national strand provides a general perspective of management issues while the local strand particularizes some of the issues and events more immediately

accessible to students.

In practice, a general overview is developed in the national strand. Exemplifications of generalizations are developed in the local strand. For example, materials developed for Hawaii's schools include examples taken from most of the other islands of the state.

In preparing for dissemination of the materials to the mainland, specifications are being written for the selection and translation of local case studies into the format of the program.

THE CONTENT OF THE PROGRAM

Coastal Studies is breaking new ground. It is undertaking to study the accidental and intentional actions that have brought about a need for comprehensive planning and management of our coastal resources. To give students an understanding of issues and a sense of commitment to and belief in the worthwhileness of public management of resources, it is necessary to provide a wide range of contexts of study.

First, there is a strong aesthetic component to Coastal Studies. Through analytical study, audiovisuals, and site visitation, an attempt is made to heighten students' appreciation of the beauty, fragility, and interconnective character of the coastal environment. Amenities are studied from both an economic and a personal point of view. Amenity values are presented as a counterweight to utilitarian values.

Second, to gain an understanding of the ecological aspects of coastal environments, students are introduced to general biological and physical cycles. Included is consideration of the disruption of pristine natural systems by technological intervention.

Third, to understand the processes of human alteration of coastal regions, a historical view of economic, political, legal, ethical, environmental, and

technological changes is undertaken. This is paralleled with study of the changing role of American government in resource regulation.

Fourth, there is an in-depth study of the functions of bureaucratic agencies with resource management responsibilities. This includes their planning, regulatory, and enforcement functions and their external control through the political and judicial processes.

Fifth, to fix firmly the importance of management in a modern social system, there is a futuristic component which deals with projected issues of tomorrow.

PRESENTATION MODE

Over and above the usual textual materials, Coastal Studies employs a series of techniques that bring realism to the classroom. These include role-playing exercises, simulation games, community surveys, and interviews of community experts. The teacher is provided with a step-by-step lesson plan, including scripted discussions, audiovisuals in the form of film strips with sound tracks, and overhead transparencies.

TEACHER TRAINING

Because of the new and emerging nature of the content of the Coastal Studies program, an intensive teacher-training program has been designed. Few teachers have sufficient academic or experiential background to deal with the materials without program-specific training. The first test of the training design was made this past week with pilot teachers from Oahu and the island of Hawaii.

In conclusion, Coastal Studies has opened a new chapter in curriculum design by offering a systematic study of resource management. There is a new imperative that the students of today understand and appreciate the logic and purpose of government planning and management and, most important, their citizen responsibility in these processes. The content of the Coastal Studies program surely meets the requirement of enduring worth. It is a program not for just a day but for the lifetime of our students.

NOTES

Included within the context of the talk was a report by Norman H. Okamura covering the status of marine education nationally. Norman, who recently returned from the National Marine Educators Association meeting in Delaware, reported that a joint agreement has been reached between the Office of Education, Sea Grant, and NOAA to pool their resources in the promoting of marine education nationally. He sees this as a positive step, hoping well for the national dissemination of the Coastal Studies program.

Gregg Rhodes described the use of simulation techniques in the program by presenting a portion of a citizen participation task force activity. Faith G. Paul led the group through an exercise of the program involving the identification of coastal resources and coastal hazards through the use of a pictorial evaluation instrument.

COASTAL STUDIES



COASTAL STUDIES is a new course for secondary schools being developed as part of the Marine Social Studies Project of the Curriculum Research and Development Group, College of Education, University of Hawaii.

The program involves students in the ever-increasing concern for the wise management of the coastal areas. COASTAL STUDIES is a one-semester, five unit course. When completed, the course will acquaint students with both national and local perspectives of coastal areas, their problems and prospects, management systems and structures, and challenges of the future.

COASTAL STUDIES confronts students with a wide range of coastal management issues such as the conservation of coastal and marine ecosystems; the enhancement of coastal recreational opportunities; the preservation of scenic and aesthetic resources; the management of waste water; incremental vs. comprehensive planning; and the uncertain, ever-changing relationship between private and public rights.

The most innovative and important feature of the program is its implementation strategy. In addition to the general, national treatment of the subject matter presently being developed, curriculum developers from coastal regions throughout the United States will be charged with the task of developing materials from their own area. These materials will localize many of the important issues and will be utilized in the COASTAL STUDIES course at pre-designated points. About one-half of the course will be case-specific, involving students in the real, here-and-now problems of their own communities. Thus, students will be confronted with broad national topics and specific local sections, allowing for the study of both general principles and topical issues.

COASTAL STUDIES will begin pilot testing during the fall semester, 1977. Inquiries about the program may be addressed to Dr. Francis M. Pottenger and Ronald L. Mitchell, project co-directors. Course developers include Greg Rhodes, Faith Paul, Ray Conrad and Norman Okamura.

The COASTAL STUDIES curriculum research and development program is funded by the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration.

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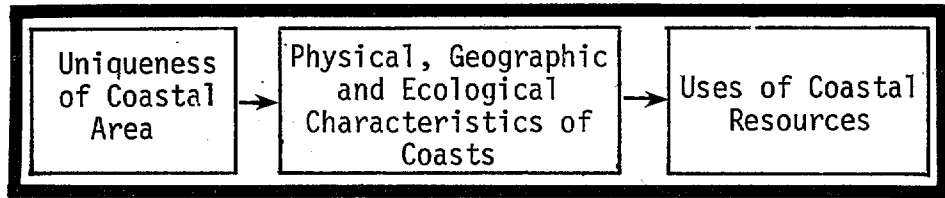
May 2, 1977

COASTAL STUDIES

A Marine Social Studies Course

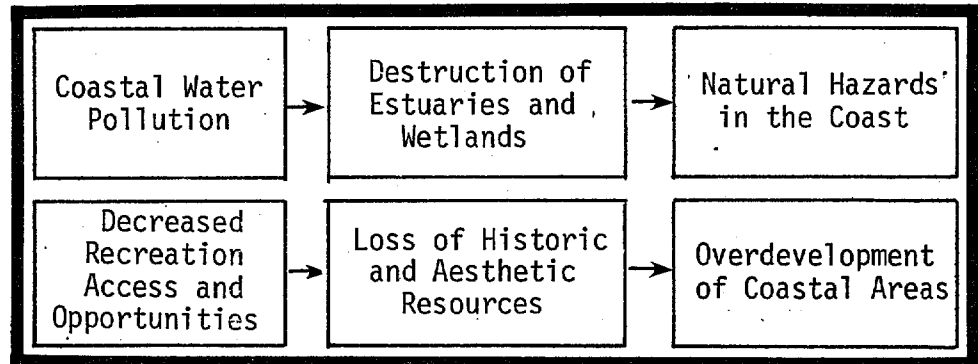
Unit 1: Exploring Coastal Areas

INTRODUCING
COASTAL ECOLOGY
RESOURCES AND
USES



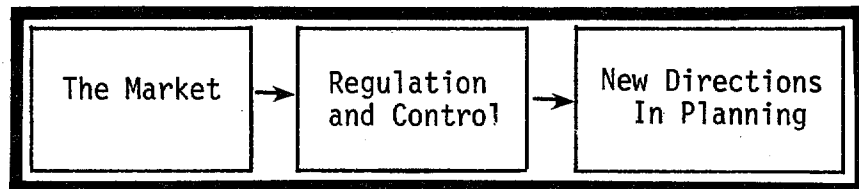
Unit 2: Coastal Problems

IDENTIFYING
THREATS TO
COASTAL
RESOURCES



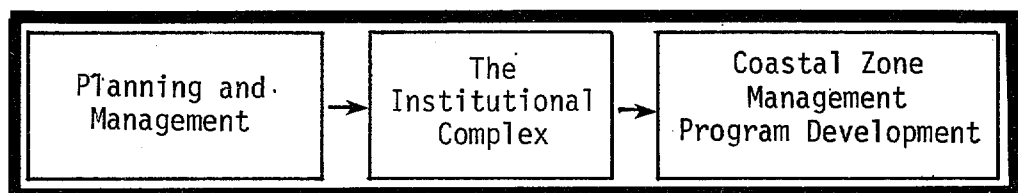
Unit 3: Systems for Allocating Coastal Resources

DESCRIBING
COASTAL
ALLOCATION
SYSTEMS



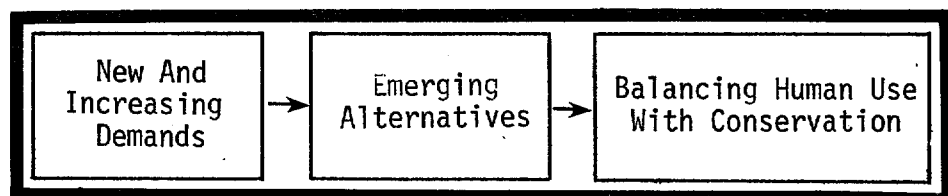
Unit 4: Institutional Processes in Coastal Management

EXAMINING THE
POLITICS OF
PLANNING AND
MANAGEMENT



Unit 5: The Future of the Coastal Areas

ANALYZING
FUTURE
PROBLEMS AND
PROSPECTS



COASTAL STUDIES

I. Exploring Coastal Areas

In the opening unit students are introduced to major features of coastal areas. Among topics briefly explored are: (1) the geographic extent of coastal regions; (2) their major physical features; (3) representative ecological systems; and (4) human use of coastal resources. Attention is also focused on the natural beauty and uniqueness of coastal areas, and the fragility of many of their ecosystems. The treatment throughout attempts to increase student interest in coastal areas, and deepen their concern for their future use and development.

II. Critical Problems in Coastal Areas

The second unit explores problems that have arisen in coastal areas. Man has not always used coastal resources wisely. As a result they have often been depleted, polluted and destroyed. Six categories of problems are considered: (1) coastal water pollution; (2) destruction of estuaries and wetlands; (3) natural hazards in the coast; (4) decreased recreation access and opportunities; (5) loss of historic and aesthetic resources; and (6) overdevelopment of coastal areas. Students investigate recent cases in their own locality and across the United States which illustrate some of these problems. The purpose of the unit is to alert students to kinds of problems prevalent in coastal areas today and their implications.

III. Approaches to Allocating Coastal Resources

Are coastal resources being allocated equitably and in the best interests of society? Who decides? In the third unit students explore some of the ways coastal resources have been allocated over the years. In particular, they consider how the market system has allocated resources, look at early efforts of government to regulate the functioning of the market system, and examine current pressures for a more balanced, long-range approach to coastal resource allocation.

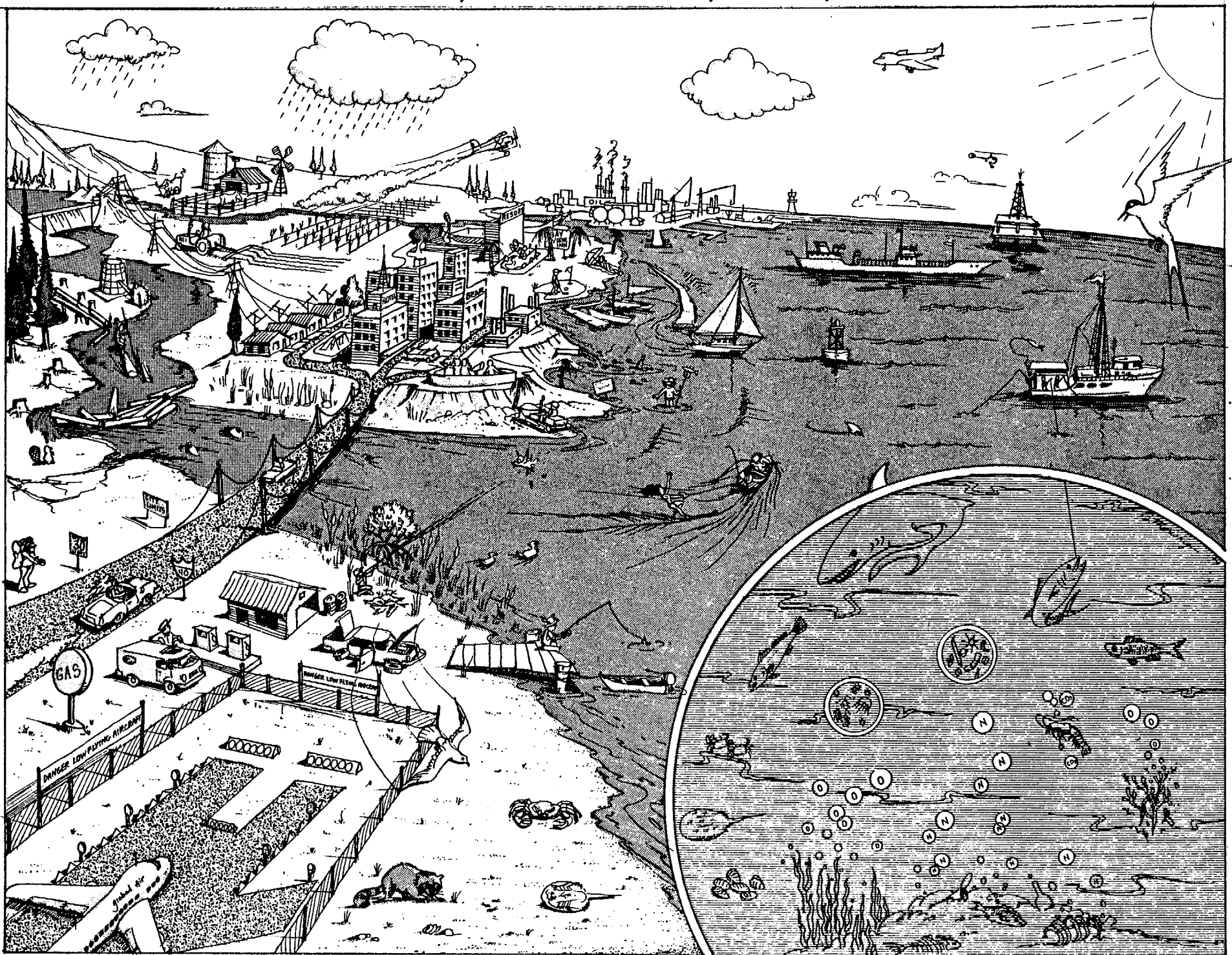
IV. Institutional Processes in Coastal Management

Current efforts to protect coastal resources are focusing on comprehensive planning and management for coastal areas. In this unit students are introduced to some of the basic functions of planning and management. Among those considered are: (1) goal setting; (2) identification of coastal boundaries; (3) designation of permissible uses; (4) agency coordination; and (5) streamlining of permit processes. Special consideration is given to the way institutions interact and the need to understand and coordinate their actions. Emphasized throughout is the potential of comprehensive planning and management for solving coastal problems and preserving and protecting coastal areas.

V. The Future of Coastal Areas

In this concluding unit of the course, projections for new and increasing demands on coastal areas in the foreseeable future are explored. Energy demands and the need for minerals are highlighted. Emphasis is placed on the importance of present decisions for the long term availability of coastal resources. The basic issue of how to balance use with conservation underlies the entire study.

How many coastal zone uses can you identify?



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ATTENDANCE LIST

HAWAII COASTAL ZONE MANAGEMENT PROGRAM
"306" PROGRAM SUBMISSION WORKSHOP

August 26-27, 1977

Sheraton-Waikiki Hotel
Honolulu, Hawaii

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Danielle Fellows	Yukio Shiigi
Dorothy Hirowatari	

WEST HAWAII CITIZENS ADVISORY COMMITTEE

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Kela Holt	Elizabeth Von Beck

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