

FINAL Evaluation Findings
Hawaii Coastal Zone Management Program

September 2004 – July 2008

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Office of Ocean and Coastal Resource Management
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I. EXECUTIVE SUMMARY

Section 312 of the Coastal Zone Management Act of 1972, as amended (CZMA), requires the National Oceanic and Atmospheric Administration's (NOAA) Office of Ocean and Coastal Resource Management (OCRM) to conduct periodic evaluations of the performance of states and territories with federally approved coastal management programs. This review examined the operation and management of the Hawaii Coastal Zone Management Program (HICZMP or Coastal Program) by the Department of Business, Economic Development and Tourism (DBEDT), the designated lead agency, for the period from September 2004 to July 2008.

This document describes the evaluation findings of the Director of OCRM with respect to the HICZMP during the review period. These evaluation findings include discussions of major accomplishments as well as recommendations for program improvement. This evaluation concludes that the DBEDT is satisfactorily implementing and enforcing its federally approved coastal program, adhering to the terms of the Federal financial assistance awards, and addressing the coastal management needs identified in section 303(2)(A) through (K) of the CZMA.

The evaluation team documented a number of HICZMP accomplishments during this review period. A key accomplishment was the development of a new Ocean Resources Management Plan in partnership with other state agencies and stakeholders, and statewide implementation through the Executive Policy Group and Working Group. Other important accomplishments include: streamlining of Hawaii's federal consistency process; support of many key hazard mitigation projects; and contributions toward the development and implementation of the national Performance Measurement System. In addition, the HICZMP created a Special Management Area (SMA) Permit Coordinator Position to improve implementation of the SMA Permit System. The SMA Coordinator has increased information sharing between the state, counties, and public and facilitated resolution of permitting issues.

The evaluation team also identified areas where the implementation of the HICZMP could be strengthened. The recommendations for the HICZMP are in the form of Program Suggestions and describe actions that OCRM believes DBEDT should consider to improve the program, but that are not mandatory. A key program suggestion is the need to ensure that state budget planning and funding levels support the essential components of the program necessary to maintain approvability of the HICZMP under the CZMA. Opportunities identified for strengthening the HICZMP include: providing leadership for climate change adaptation planning; consideration of how MACZAC and the HICZMP might more effectively work together to address coastal management issues; and finalizing Hawaii's draft Coastal and Estuarine Land Conservation Program Plan.

II. PROGRAM REVIEW PROCEDURES

A. OVERVIEW

NOAA began its review of the HICZMP in May 2008. The §312 evaluation process involves four distinct components:

- An initial document review and identification of specific issues of concern;
- A site visit to Hawaii, including interviews and a public meeting;
- Development of draft evaluation findings; and
- Preparation of the final evaluation findings, partly based on comments from the State regarding the content and timetables of recommendations specified in the draft document.

Accomplishments and recommendations made by this evaluation appear in boxes and **bold** type and follow the findings section where facts relevant to the recommendation are discussed. The recommendations may be of two types:

Necessary Actions address programmatic requirements of the CZMA's implementing regulations and of the HICZMP approved by NOAA. These must be carried out by the date(s) specified;

Program Suggestions denote actions that OCRM believes would improve the program, but which are not mandatory at this time. If no dates are indicated, the State is expected to have considered these Program Suggestions by the time of the next CZMA §312 evaluation.

A complete summary of accomplishments and recommendations is outlined in Appendix A. Failure to address Necessary Actions may result in a future finding of non-adherence and the invoking of interim sanctions, as specified in CZMA §312(c). Program Suggestions that must be reiterated in consecutive evaluations to address continuing problems may be elevated to Necessary Actions. The findings in this evaluation document will be considered by NOAA in making future financial award decisions relative to the HICZMP.

B. DOCUMENT REVIEW AND ISSUE DEVELOPMENT

The evaluation team reviewed a wide variety of documents prior to the site visit, including: (1) the 2004 Hawaii CZMP §312 evaluation findings; (2) the federally-approved Environmental Impact Statement and program documents for the Hawaii CZMP approved in 1978; (3) draft of a new program document that was submitted to OCRM for informal review in May of 2008. (4) federal financial assistance awards and work products; (5) semi-annual performance reports; (6) official correspondence; (7) Ocean Resources Management Plan; and (8) relevant publications on coastal management issues in Hawaii.

Based on this review and discussions with NOAA’s OCRM, the evaluation team identified the following priority issues prior to the site visit:

- Program accomplishments since the last evaluation;
- Changes to the core statutory and regulatory provisions of the Hawaii CZMP;
- Ocean resource management planning;
- Management of coastal hazards;
- Public access;
- Special Management Area permitting process;
- Implementation of federal and state consistency authority;
- Performance measures;
- Effectiveness of interagency and intergovernmental coordination and cooperation at local, regional, state, and federal levels;
- Public participation and outreach efforts;
- The Coastal Nonpoint Pollution Control Program;
- The manner in which the Hawaii CZMP has addressed the recommendations contained in the §312 evaluation findings released in 2005.

C. SITE VISIT TO HAWAII

Notification of the scheduled evaluation was sent to the Hawaii Department of Business, Economic Development and Tourism, Office of Planning, relevant environmental agencies, members of Hawaii’s congressional delegation, and regional newspapers. In addition, a notice of NOAA’s “Intent to Evaluate” was published in the *Federal Register* on June 18, 2008.

The site visit to Hawaii was conducted from July 23 – August 4, 2008. The evaluation team consisted of Carrie Hall, Evaluation Team Leader and Kate Barba, Chief, OCRM, National Policy and Evaluation Division; John Parks, Coastal Program Specialist, OCRM, Coastal Programs Division; and Paul Klarin, Policy Specialist, Oregon Coastal Program.

During the site visit, the evaluation team met with HICZMP staff, the Hawaii State Office Planning Director, and other state officials, federal agency representatives, county representatives, nongovernmental representatives, and private citizens. Appendix C lists individuals and institutions contacted during this period.

As required by the CZMA, NOAA held an advertised public meeting on Wednesday, July 30th, 2008, at 7:00 p.m. in the Hilo State Office Building, Conference Rooms A, B, and C, 75 Aupuni Street, Hilo, Hawaii. The public meeting was an opportunity for members of the general public to express their opinions about the overall operation and management of the HICZMP. Appendix D lists persons who registered at the public meeting. OCRM’s response to written comments submitted during this review is summarized in Appendix E.

The support of the HICZMP staff were crucial in setting up meetings and arranging logistics for the evaluation site visit. Their support is most gratefully acknowledged.

III. COASTAL MANAGEMENT PROGRAM DESCRIPTION

NOAA approved the Hawaii Coastal Zone Management Program (HICZMP or Coastal Program) in 1978. The lead agency is the Department of Business, Economic Development and Tourism (DBEDT) and the HICZMP is located within the State Office of Planning (OP). The HICZMP is a framework for designing and carrying out permitted land and water uses and activities while respecting the resources and values expressed by the Coastal Program's objectives and policies.

The Hawaiian Island archipelago spans the distance of 1,523 miles (2,451 km) from the Big Island of Hawaii in the southeast to Kure Atoll in the northwest. This makes Hawaii the world's longest island chain. Hawaii is situated approximately 3,200 km (1,988 miles) southwest of the North American mainland, and is the southernmost state of the United States and the second westernmost state after Alaska. Hawaii's total coastline is 1052 miles, with a total population of 1,211,537 people (2000 Census). As an island archipelago, the 'coastal zone' in Hawaii is inclusive of all land area.

The primary authority of the HICZMP, Chapter 205A, Hawaii Revised Statutes (HRS), was enacted in 1977. The Coastal Program provides a coordinated perspective for government and the private sector in the use and protection of coastal resources. In building on existing authorities rather than creating new ones, the HICZMP relies on a network of authorities and partnerships for implementation. The planning departments of the Counties of Hawaii, Kauai, Maui, and the City and County of Honolulu play a crucial role in implementing the regulations outlined under Chapter 205A, HRS. In particular, the counties implement the Special Management Area (SMA) permit system and shoreline certifications that manage development in the shoreline areas of the coastal zone.

Annual Coastal Zone Management (CZM) funding provides ongoing support of coastal zone management functions such as policy analysis and legislative review, State and County Agency compliance, federal consistency, public education and outreach, public participation through the Marine and Coastal Zone Advocacy Council, County implementation of the special management area permit, coastal hazards preparedness planning, and development of a coastal nonpoint pollution control program. Funding also supports newly strengthened initiatives such as County-wide implementation of the legislatively-approved (in 2007) Ocean Resources Management Plan, including the initiation of several culturally-appropriate and community- and place-based ocean resource management projects in coordination with local non-government organizations and community groups.

IV. REVIEW FINDINGS, ACCOMPLISHMENTS, AND RECOMMENDATIONS

A. OPERATIONS AND MANAGEMENT

Overall, OCRM finds that the Hawaii Department of Business, Economic Development and Tourism, State Office of Planning, is satisfactorily implementing the Hawaii Coastal Zone Management Program as approved by NOAA in 1978.

1. Organization and Administration

The HICZMP was built upon existing authorities and is a network of authorities and partnerships collectively implementing the objectives and policies of Chapter 205A, HRS. State agencies are required to ensure that their statutes, ordinances, rules, and actions comply with the coastal zone management objectives and policies in Chapter 205A, HRS.

The Department of Business, Economic Development and Tourism (DBEDT) is the lead agency for the HICZMP which is housed within the State Office of Planning (OP). DBEDT has the primary administrative responsibility for a range of services including: promoting economic diversification and high technology industries; increasing foreign trade; economic research and analysis; promoting tourism; encouraging energy and ocean related research; housing finance and development; and long range planning for the state. The Department also houses the Land Use Commission which works with the counties to implement the state's land use planning program. In addition to managing the state's coastal zone, the OP is responsible for guiding development in the state through a continuous process of comprehensive, long-range, and strategic planning, and manages a statewide geographic information system.

County governments play a crucial role in implementing the HICZMP by regulating development in geographically designated Special Management Areas (SMAs). Through their respective SMA permit systems, the Counties assess and regulate development proposals for compliance with the HICZMP objectives and policies and SMA guidelines set forth in Chapter 205A, HRS. Since 1990, the State through the OP, has the authority to regulate development within limited SMAs under the jurisdiction of the Hawaii Community Development Authority.

The Counties of Hawaii, Kauai, and Maui implement the SMA permit system in direct partnership and coordination with the HICZMP. This includes the receipt, expenditure, and reporting of federal award monies through the annual CZM cooperative agreement with NOAA. In 2007, the City and County of Honolulu declined to further partner with the HICZMP, including the receipt of federal CZM funds. The City and County of Honolulu choose not to accept federal funds for several reasons, including concerns with implied obligations to implement the new Ocean Resources Management Plan and increased reporting requirements. The City and County of Honolulu, however, continues to implement its SMA permit system and attends joint quarterly HICZMP and County SMA meetings when issues discussed are of interest. OCRM is concerned that the reduced level of participation by the City and County of Honolulu will affect the implementation of the federally approved HICZMP and will continue to monitor the situation.

2. Staffing and State support

At the time of the site visit, the Coastal Program was staffed by ten dedicated and knowledgeable staff and one position was vacant. The evaluation team heard from many HICZMP partners the value of staff's work, their knowledge, and HICZMP staff's ability to bring people together to successfully address coastal issues.

The Coastal Program is staffed by employees with a wide range of coastal zone management experience, from 20+ years to newer staff who have only recently been hired. Like many federal and state agencies, the Coastal Program is likely to see the retirement of key personnel in the next 5–10 years. To ensure that new staff are ready to step into coastal zone management leadership roles, the HICZMP has encouraged its staff to participate actively in the national program and to take on leadership roles within the coastal zone management community. OCRM encourages the Coastal Program to continue to support workforce development and to undertake a succession planning process to prepare staff to be leaders in coastal zone management, both at the state and national level.

The National Coastal Zone Management Program is a voluntary partnership between the federal government and U.S. coastal states and territories authorized by the Coastal Zone Management Act to better manage our nation's coasts. The evaluation team noted with concern that state financial support for the partnership declined during the evaluation period. The decline in funding impacts the Counties' ability to successfully implement their SMA permit systems and could impact the Coastal Program's ability to fill vacant positions. In addition, only two HICZMP staff members are currently funded with state funds.

Since the evaluation site visit, the State budget has continued to contract as a result of the national economic downturn and loss of tourism income. The HICZMP is implemented through the SMA permitting process and the Coastal Program provides both federal and state support to the county governments to assist them with implementing their SMA Programs. For the fiscal year (FY) 2008, the contracts to the counties were voided by the State at the last processing stage because of budget cuts, resulting in a loss of \$266,573 in state funds. In order to cover the costs incurred by the counties in FY 2008, additional Federal and County funds were reprogrammed to cover the loss of State funds.

In addition, in the fall of 2009, the State implemented a Reduction-in-Force process eliminating 1,000 state funded positions, including the Coastal Program Manager position, in order to align the budget with revenue projections. The Program Manager position is a key position, providing oversight and direction for the Coastal Program and oversight of ten employees. OCRM worked with DBEDT to maintain the Program Manager position and agreed to support the position with federal funds for two fiscal years, FY 2010 and FY 2011, with the condition that the State actively take steps to ensure that this position be funded with State funds as soon as they become available. OCRM is very concerned that the reduced level of state funding and support endangers the State's and counties' ability to implement the federally approved HICZMP.

Program Suggestion: DBEDT and the HICZMP should ensure State budget planning and funding levels support the essential components of the program necessary to maintain approvability of the HICZMP under the Coastal Zone Management Act.

3. Marine and Coastal Zone Advocacy Council

In 2001, the Hawaii state legislature created the Marine and Coastal Zone Advocacy Council (MACZAC) which is composed of twelve advisory members from the Islands of Kauai, Oahu, Maui, Molokai, Lanai, and Hawaii representing diverse backgrounds in business, environment, native Hawaiian practices, terrestrial and marine commerce, recreation, research, and tourism. MACZAC is an independent Council that pursuant to HRS, provides support to the lead coastal zone management agency through: (1) advice regarding marine and coastal zone management planning, (2) coordination, and (3) facilitation of HICZMP functions. MACZAC is tasked with: (1) evaluating the program, including the activity of networked agencies and making recommendations for improvements, (2) advocating for program, (3) providing for citizen input, and (4) working towards the implementation of an integrated and comprehensive management system for marine and coastal zone resources.

During the evaluation period, MACZAC developed working groups that were comprised of MACZAC members, members of the public, and experts to address significant coastal issues. Working groups have included Legislative, Shoreline Certification, Shoreline Parking and Access, and Cultural Resources workgroups. MACZAC members also participate in other state working groups such as the Ocean Resources Management Plan Policy Group. MACZAC has worked on a number of marine and coastal issues during the evaluation period, including coastal parking, shoreline certification, commercial boating regulations and harbor facilities, ocean resource management planning, and cultural resource management. OCRM commends MACZAC for its active engagement in resolving coastal zone management issues.

MACZAC's broad mission provides the Council with the flexibility to engage in many activities but members' time is limited. Several evaluation participants stated that MACZAC members could increase their effectiveness by further clarifying and focusing the Council's role and efforts. During the evaluation, questions were also raised regarding the primary role of MACZAC in relation to its support of the HICZMP and whether MACZAC should focus on representing HICZMP goals when engaging with the public, or organizing citizens around key coastal management issues, or bringing citizen concerns to the HICZMP.

Since the site visit, MACZAC has narrowed its focus to four workgroups which focus on tasks laid out in the HRS for MACZAC: (1) CZM Evaluation Group, (2) Advocacy Group, (3) Community Input Group, and (4) ORMP Implementation Group. However, opportunities to further clarify and enhance MACZAC's role remain. OCRM recommends that MACZAC and the HICZMP discuss existing collaborative efforts and new opportunities for using the strengths of the state Coastal Program and Council to better manage Hawaii's coastal resources. MACZAC could use this information to further clarify and prioritize its role in implementing the Coastal Program. A

formal description of MACZAC's clarified role and focus areas could be included in an updated Program Document.

Program Suggestion: OCRM encourages the HICZMP and MACZAC to work together to further clarify MACZAC's role and how together, they can best address coastal management issues and implement the state's Coastal Program.

4. Grants Management

OCRM awards the State of Hawaii federal grant funds for the implementation and enhancement of the Coastal Program. OCRM requires the HICZMP to submit semi-annual performance reports that provide information about the status of tasks in the financial assistance award.

During the evaluation period, the HICZMP has had difficulty spending funds in a timely manner. The state contracting system can add a significant amount of time between federal approval and when a project can be contracted and initiated. HICZMP has requested extensions up to the full three years allowed for its grants in order to expend the funds. OCRM encourages DBEDT to pursue streamlining approval of contracts to ensure funds are spent in a timely manner and do not have to be returned to the federal government.

5. Performance Measurement System

NOAA, the state coastal management programs, and the national estuarine research reserves have created the Coastal Zone Management Act (CZMA) Performance Measurement System to track national indicators of the effectiveness of state coastal management programs and national estuarine research reserves in achieving CZMA and strategic objectives. The Performance Measurement System was devised to provide flexibility and accommodate varying management structures and differing coastal priorities across coastal states. The System consists of a suite of contextual indicators to provide information on environmental and socioeconomic factors influencing program actions, and a set of performance measures to assess how well states are achieving CZMA objectives. The six categories of performance measures include: coastal habitats, coastal hazards, coastal water quality, coastal dependent uses and community development, public access, and government coordination and decision-making. Measures are aggregated across programs for a national and regional picture of coastal zone management.

The HICZMP participates in this effort and has invested a significant amount of staff time and funding to implement the national Performance Measurement System. To better fulfill this national mandate, the HICZMP contracted with an outside company to help develop and implement the state's Performance Measurement System. The contractor worked with the HICZMP and counties to develop reporting forms and instructions to ensure that the necessary data is collected. The HICZMP also anticipates analyzing the data and determining how the information can be used at the state level to inform coastal management efforts. The HICZMP has provided valuable input into the improvement and refinement of the Performance Measurement System at the national level. OCRM commends and appreciates the HICZMP's contributions to the development and implementation of the National Performance Measurement System.

Accomplishment: HICZMP has successfully contributed to the development and implementation of the National Performance Measurement System.

OCRM has been working with state coastal programs to streamline the new Performance Measurement System and to reduce the work load at the state level while still collecting enough data to effectively measure national program performance. The HICZMP has also been working with its county partners to simplify the reporting forms. County staff appreciate this work, although, they noted that the simplified reporting requirements still require significant staff time and do not measure the impacts of enforcement, a significant part of their programs. OCRM acknowledges that the Performance Measurement System has increased the workload of state coastal programs in order to demonstrate success at the national level.

B. GOVERNMENT COORDINATION AND DECISION-MAKING

Two objectives of the HICZMP are to “*Improve the development review process, communication, and public participation in the management of coastal resources and hazards*” and “*Stimulate public awareness, education, and participation in coastal management,*” Chapter 205A, HRS. The HICZMP’s development and implementation of an updated Ocean Resources Management Plan has provided new opportunities for coordination and public input into coastal management.

1. Ocean Resources Management Plan (ORMP)

During the evaluation period the HICZMP focused on enhancing its role as a facilitator and coordinator of statewide and regional coastal and ocean management efforts. The keystone of this effort was the development of the 2006 ORMP. State legislation requires the HICZMP to periodically develop an ocean resources management plan. The prior plan was approved in 1998. During 2005, the HICZMP worked with federal, state and nongovernmental partners and obtained public input into the development of the new Plan. The planning process brought partners together to build upon traditional Hawaiian management principles and lessons and to move toward integrated and area-based approaches to natural and cultural resource management. The Plan was completed in 2006 and approved by the legislature in 2007. The goal of the Plan is to “improve and sustain the ecological, cultural, economic, and social benefits we derive from ocean resources today and for future generations.” The initial Plan covers a five-year time frame and lays out management goals and strategic actions under three perspectives (1) Connecting Land and Sea, (2) Preserving Our Ocean Heritage, and (3) Promoting Collaborative Governance and Stewardship. The management goals and strategic actions provide a comprehensive list of activities that support Plan implementation. It is hoped that over the 30-year planning horizon, natural and cultural resource management will be fully integrated throughout state government and community groups, through collaborative governance mechanisms and stewardship agreements.

HICZMP staff members continue to lead the implementation of the ORMP. In 2007, an Executive-level multi-agency Policy Group was established to oversee the implementation and further development of the Plan. A Working Group consisting of the managers and staff of the

Executive Policy Group is tasked with coordinating their agency's implementation efforts. Members prioritized activities and developed two-year agency work plans. The Working Group meets monthly to streamline implementation and further develop the ORMP. The Policy Group meets twice annually to give overall guidance, approve work tasks and recommendations, and commit staff time and support. The Policy and Working Groups include: state agencies; the University of Hawaii; Hawaii, Kauai, and Maui Planning Departments; the Board of Water Supply, City and County of Honolulu; MACZAC; OCRM; U.S. Coast Guard; and U.S. Army Corps of Engineers.

The ORMP implementation has opened many opportunities for improving coordination of ocean and coastal resource management and serving as a conduit of information throughout the state. For example, the ORMP development and implementation has led to increased coordination between the Coral and HICZM Programs (*see Section D*). The ORMP process has also provided a venue for state agencies to interact more closely with community groups and to identify partnership opportunities. OCRM commends the HICZMP for undertaking the development of the ORMP and ensuring its implementation through ongoing leadership and staffing of the Policy Group and Working Group.

Accomplishment: The HICZMP has shown vision and leadership in the development of a new Ocean Resources Management Plan and the institutionalization of a process to coordinate state agency activities around joint marine and coastal management goals and strategic actions.

The ORMP is a new and innovative approach to addressing coastal and ocean resource management issues. Ensuring that the ORMP is implemented through the coordination of federal, state, and community group activities is a significant ongoing effort requiring staff and management time. OCRM encourages the Coastal Program to document and advertise their successes as they implement the ORMP to provide encouragement and motivation in this significant endeavor. OCRM also encourages the HICZMP to reach out to additional federal agencies, such as the National Marine Sanctuary Program and other possible partners, and to provide with them with information on the ORMP and how they can contribute.

2. Climate Change

The CZMA states that “because global warming may result in a substantial sea level rise with serious adverse effects in the coastal zone, coastal states must anticipate and plan for such an occurrence.” At the time of the site visit, the HICZMP was not actively engaged in climate change adaptation efforts. Many evaluation participants identified climate change as one of the biggest emerging issues for the state and coastal zone management. Many evaluation participants also stated that the HICZMP was uniquely positioned, capable, and needed to take the lead in initiating state and county climate change adaptation efforts. The HICZMP is an integral player in statewide hazard mitigation efforts and could draw upon this expertise and staff's relationships with key partners to bring them together to build on existing hazard mitigation efforts to develop and implement climate change adaptation plan(s).

The ORMP has several goals related to hazards but does not specifically address climate change. During the site visit, the evaluation team heard from staff that the HICZMP and ORMP partners were beginning initial discussions on how to incorporate climate change into the ORMP. Since the site visit, the HICZMP has taken a lead role in climate change adaptation planning through the ORMP process. The ORMP Working Group developed a document, “A Framework for Climate Change Adaptation in Hawaii.” While the development of the Framework was ongoing, the legislature passed SB266, establishing a Climate Change Task Force to assess impacts and possible adaptation measures and to provide a preliminary report with recommendations to the 2010 legislature. The Task Force is housed in the OP, and the OP Director is the Chair of the Taskforce. As of October 2009, the Task Force members had been identified but had not yet convened their first meeting. OCRM encourages the HICZMP to continue to show leadership in addressing climate change adaptation through appropriate planning processes such as the ORMP process, working with the Climate Change Task Force, and incorporating climate change adaptation into hazard mitigation plans.

Program Suggestion: OCRM encourages the HICZMP to continue to show leadership in addressing climate change adaptation through the ORMP and Climate Change Task Force and other appropriate planning processes.

3. Federal Consistency

The CZMA’s federal consistency provision (§307) is a primary incentive for states to participate in the national coastal zone management program. It is also a powerful tool that states use to manage coastal uses and resources and to facilitate cooperation and coordination with federal agencies. The federal consistency provision requires that federal agency activities that have reasonably foreseeable effects on any resource in the coastal zone must be consistent to the maximum extent practicable with the enforceable policies of a state’s coastal management program and that non-federal applicants for federal licenses or permits and state agency and local government applications for federal funding be fully consistent. Federal consistency reviews are the responsibility of the lead state agency that implements or coordinates the state’s federally approved coastal management program. In Hawaii, DBEDT exercises the state’s authority to review most federal activities in the coastal zone to ensure that they are consistent with the ACMP’s enforceable policies.

Federal Agency partners who participated in the evaluation site visit felt that the federal consistency process in Hawaii worked well, due in large part to the frequent dialogue and discussion of issues between the federal consistency program and federal agencies. They also noted that the HICZMP Federal Consistency Coordinator was fair, responsive, and helpful, alerting agencies to possible issues with a proposed permit application or federal activity.

The state of Hawaii has a large military presence and numerous ongoing military activities. In order to better coordinate review of military activities, the U.S Army Space and Missile Defense

Command and the Navy Region Hawaii host quarterly coordination meetings among various Federal and state regulatory agencies. HICZMP staff actively participates in these meetings and the early coordination enhances communication throughout the federal consistency process.

The HICZMP continues to enhance its consistency process through an internship program with the Navy region Hawaii. In 2006, a Navy intern worked with HICZMP staff to develop a de minimis list of Navy activities that could be excluded from federal consistency review because these activities are expected to have negligible coastal effects. This effort streamlined the federal consistency process and the Navy intern gained a more in-depth understanding of the federal consistency process. The de minimis list includes 17 categories of activities and a corresponding list of mitigation measures and general conditions. The areas covered include: Pearl Harbor Naval Complex; Naval Magazine Lualualei; Naval Communications and Telecommunications Area Master Station Pacific; Pacific Missile Range Facility; and all associated installations, facilities and equipment located outside of these Navy properties. CZM consistency concurrence was issued in April 2007. OCRM commends the HICZMP for initiating efforts to streamline the federal consistency process.

Accomplishment: The HICZMP has streamlined the federal consistency process, including the development of a de minimis list covering 17 naval activities and corresponding list of mitigation measures and general conditions.

The HICZMP Federal Consistency Coordinator has extensive experience dealing with complex federal consistency issues including those associated with military activities. The U.S. territories in the Pacific may be able to benefit from this expertise as they face new issues. For example, the military is expanding its presence and scope of activities on the island of Guam. OCRM encourages the HICZMP federal consistency staff to pursue additional opportunities to share their expertise.

C. PUBLIC ACCESS

Two objectives of the HICZMP are to “*Protect beaches for public use and recreation,*” and “*Provide coastal recreational opportunities accessible to the public,*” Chapter 205A, HRS. The HICZMP relies on the SMA permitting process to ensure public access to the beach and coastal recreational opportunities.

The state has enhanced public access since the early 1970’s through the SMA permit process. The SMA regulations require a subdivider or developer, in cases where public access is not already provided, to dedicate land for public access by right-of-way easement for pedestrian travel from a public street to the land below the high-watermark. Hawaii like most coastal states has an increasing population and increased demand for beach real estate and access to the beach. The evaluation team received numerous comments from members of the public on beach access. The comments from members of the general public focused on three concerns: (1) private landowners encouraging the growth of vegetation on the public beach through the planting and watering of salt tolerant plant species causing a narrowing of the beach and affecting the public’s ability to walk

along the beach; (2) the gating of private roads that had previously provided perpendicular access to the coast, particularly in the Kailua area (Kahala Beach) of Oahu; and (3) the lack of adequate funding for the acquisition of new public access.

The HICZMP coordinated a site visit of Kahala Beach with members of the community and State and City officials focusing on encroaching vegetation and wrote a memorandum outlining recommendations as to how to proceed. In 2008, the Hawaii state legislature passed House Concurrent Resolution No. 258 based on the memorandum. The resolution calls for city and state agencies to develop a strategy for the removal of vegetation to enhance public use and enjoyment of the beach and to submit the report to the legislature. OCRM encourages the HICZMP to continue to lead and participate in, efforts to address removal of vegetation that is encroaching on public access.

In areas of Hawaii, in particular the Kailua area, the gating of previously open private roads has caused nearby residents to be concerned and upset as their traditional access ways have been closed off. Nearby residents are also concerned that emergency vehicles will no longer have quick access in case of an emergency on the beach. Residents along the roads have expressed concerns with safety, increased trash, and late night activity and cited these as reasons for gating off roads. This reduction in coastal access has occurred in areas built out prior to the implementation of the SMA permit system. The roads are private and the Counties and State believe the residents are legally within their rights to close off the roads. OCRM encourages the HICZMP to continue to monitor the issue and, to the extent possible, to work with state, county, and community partners to find innovative ways to encourage continued perpendicular access to the beach.

Another need identified by public participants in the evaluation, was the need for information on resources to increase public access, in particular, funding sources for purchase of lands adjacent to the beach. One possible resource is the Coastal and Estuarine Land Conservation Program (CELCP) which is managed by OCRM. As described in Section D, CELCP provides funding for projects that protect coastal and estuarine lands considered important for their ecological, conservation, recreational, historical or aesthetic values. The public looks to the HICZMP to ensure public access and to provide information on public access. OCRM encourages the HICZMP to add a public access section to the HICZMP website. The public access section could include a list of possible funding sources for acquiring new public access, links to public access guides, and a list of county contacts to report access violations.

During the evaluation site visit, a public meeting was held in Hawaii to provide the opportunity for public comment. Dr. Jim Anthony, representing the Hawai'i--La'ieikawai Assn. Inc., provided comments emphasizing the importance of shoreline access issues in the state. He noted the need for more information regarding potential funding sources and possible partnerships to assist nonprofits in their efforts to acquire lands for public access and to protect culturally important areas. Since the evaluation site visit, the HICZMP has continued to explore public access related opportunities with Dr. Anthony and the Hawai'i--La'ieikawai Assn. Inc. and the HICZMP has had the opportunity to benefit from their expertise on climate change issues.

During the evaluation period the HICZMP has undertaken a range of activities to ensure and enhance public access. The HICZMP discussed public access at a quarterly SMA meeting with the Counties and brought in the Attorney General to discuss legal issues surrounding public access in the state. The HICZMP also provided funding to Hawaii County for the development of an online public access guide. HICZMP staff noted that they were interested in working with the Counties to develop a statewide online public access guide. OCRM encourages the HICZMP in its efforts to develop a statewide access guide.

D. COASTAL HABITAT

Two objectives of the HICZMP are to “*Protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems*” and “*Promote the protection, use, and development of marine and coastal resources to assure their sustainability,*” Chapter 205A, HRS. The HICZMP works with its partners through the ORMP process to protect coastal ecosystems and ensure their sustainability and supports projects that give land use managers the tools they need to better understand and protect coastal ecosystems.

1. Watershed Management and Coordination

The HICZMP promotes and encourages watershed-based management and habitat protection through the ORMP process. The ORMP stresses the connection between the land and sea and also the importance of collaboration and community involvement and empowerment. The ORMP has a strong focus on coastal habitat protection and promotes community watershed management as an important tool, necessary for successful implementation of the ORMP. One of the goals of the ORMP is to build the capacity for community participation in natural resource management.

Community stewardship groups in Hawaii are actively involved in habitat management. To better understand all the many ongoing management efforts, the HICZMP surveyed community stewardship groups throughout the state on their best practices, successful projects, needs, and institutional resources in 2007. The information was used to create a popular community stewardship directory of the 60 plus groups. The on-line directory allows community stewardship groups to find groups doing similar activities, or activities that might compliment their management efforts. The information was also used to develop five draft principles to guide the State toward place-, culture-, and community-based approaches to natural and cultural resources management. A workshop was held in January of 2008 to gain input from community stewardship groups and develop implementation options. The HICZMP’s efforts led to new connections between the HICZMP and the community stewardship groups and provided a forum for all the groups to begin discussing projects they could work on together. OCRM encourages the HICZMP to continue to build relationships with, and among, community stewardship groups.

The ORMP implementation process has also allowed HICZMP staff to build relationships with other state programs, including the Coral Program which is run by the Division of Aquatic Resources in the Department of Natural Lands and Resources (DNLR). The United States Coral Reef Task Force (USCRTF) leads U.S. efforts to preserve and protect coral reef ecosystems and

includes 12 Federal agencies, seven U.S. states, territories, and commonwealths, and three freely associated states. NOAA helps implement the work of the Taskforce through the Coral Reef Conservation Program which is co-located in the Office of Ocean and Coastal Resource Management with the Coastal Zone Management Program. The evaluation team met with several participants who stated that CZMA projects should be better coordinated with Coral Reef Conservation Program projects to avoid duplication of effort. During the year prior to the site visit, coordination with the Coral Program improved. HICZMP is currently represented by a staff member on the Coral Program Working Group and two other staff are on the Coral Program's Local Action Strategy Steering Committee. In addition, the HICZMP has also participated in the planning of two workshops for the August 2009 Coral Reef Task Force meeting held in Kona, Hawaii. Through the ORMP and other planning processes the Coastal and Coral Programs are working more closely together and eliminating duplication of effort. OCRM anticipates that the two programs will also be working more closely together at the federal level in the future.

The Coastal Program also supported the development of the Wai'anae Ecological Characterization, which synthesizes historical and current physical, ecological and cultural information. An innovative part of the ecological characterization was the addition of a Nonpoint Source Pollution Evaluation and Comparison Tool (N-SPECT) for the Wai'anae Coast. N-SPECT allows users to examine the relationship between land cover, nonpoint source pollution, and erosion. The Wai'anae Ecological Characterization is a tool that can be used by educators, planners, and decision-makers for land use planning, resource management, and educational curriculum development. However, the evaluation team found little evidence that the Wai'anae Ecological Characterization was being used by the target audience. OCRM encourages the HICZMP to work with the community and other partners to ensure that its use and value is maximized.

2. Coastal and Estuarine Land Conservation Program

Congress established the Coastal and Estuarine Land Conservation Program (CELCP) in 2002 to protect coastal and estuarine lands considered important for their ecological, conservation, recreational, historical or aesthetic values. The program provides state and local governments with matching funds to purchase significant coastal and estuarine lands, or conservation easements on such lands, from willing sellers. Lands or conservation easements acquired with CELCP funds are protected in perpetuity so that they may be enjoyed by future generations.

The CELCP guidelines outline the criteria and process for states to nominate land conservation projects to a national competitive process. The program is coordinated at the state level through each state's CELCP lead within the state's lead coastal management agency. According to the CELCP guidelines, a state must have an approved CELCP plan in order to compete for funding. The HICZMP organized a Hawaii Coastal and Estuarine Land Conservation Plan Advisory Committee, representing a wide range of program partners, to assist with the development of the Plan. The Advisory committee guided the prioritization of land conservation projects and shoreline habitats and coastal wetland habitats and adjacent upland habits were chosen as priorities. The planning process was also used to reach out to the public for support and input. OCRM commends the HICZMP on conducting an inclusive CELCP planning process.

Hawaii's draft CELCP Plan was submitted to NOAA in August of 2007. The draft plan was reviewed by NOAA staff and comments were returned to the state in October 2007. OCRM encourages the HICZMP to submit their revised CELCP Plan and to work with NOAA to obtain final approval.

Program Suggestion: The HICZMP should submit their revised CELCP Plan for approval by July 2010 to ensure Hawaii remains eligible to participate in CELCP.

E. WATER QUALITY

The Coastal Nonpoint Pollution Control Program (CNPCP), created by §6217 of the Coastal Zone Act Reauthorization Amendments of 1990, is jointly administered by NOAA and the Environmental Protection Agency (EPA). Two of the CNPCP's key purposes are to strengthen the links between federal and state coastal zone management and water quality programs, and to enhance state and local efforts to manage land use activities that degrade coastal waters. NOAA and EPA must approve each state's coastal nonpoint program. Hawaii's Coastal Nonpoint Program was conditionally approved in 1998.

The HICZMP works closely with the Hawaii Department of Health's Polluted Runoff Control Program, which receives federal funding from the EPA, to implement the state's Nonpoint Program and to address the remaining conditions placed on the Program. Over the evaluation period, Hawaii has provided several submissions to OCRM addressing outstanding management measures and administrative elements. OCRM has issued four interim decision documents in response to the submittals. The state has received interim approval of three Agricultural management measures (MMs), one Urban MM, five Marina and Boating MMs, the Enforceable Policies and Mechanisms administrative element (AE), and the Technical Assistance portion of the Critical Coastal Areas Additional MMs and Technical Assistance AE. The Program has an additional 14 MMs and AEs that still need approval.

To reach full approval of its Coastal Nonpoint Program, the state of Hawaii is currently pursuing the development of a Watershed Guidance Package which will include management measures and associated practices. The development of the Watershed Guidance will be a valuable tool as the HICZMP and partners begin to implement the ORMP and increase management efforts at the watershed level. OCRM commends the Coastal Program on making progress towards full approval of its Coastal Nonpoint Program and for having addressed several outstanding conditions during this evaluation period. OCRM encourages the State to continue to work with NOAA and EPA to address the remaining conditions and achieve a fully approved Coastal Nonpoint Program.

During the evaluation period, the HICZMP has supported projects to address coastal nonpoint pollution including:

- **Low Impact Development (LID) Guide and Training:** The HICZMP contracted for the development of a workbook *LID Hawaii: Practitioner's Guide* covering building and site

design techniques for managing stormwater, drainage, and small-scale wastewater systems to reduce nonpoint pollution. A technical workshop was held in each county and in addition, the contractor held several meetings with county staff to discuss LID approaches and county concerns and restrictions.

- **On-site Waste Water Treatment and Disposal Systems:** The HICZMP hired a contractor to develop guidance on the various treatment and disposal systems available. The *Onsite Wastewater Treatment Survey and Assessment* describes the advantages and constraints of different systems, to assist practitioners with choosing the best system for a site.
- **Hilo Bay watershed Advisory Group:** The HICZMP provided funding to the Watershed Advisory Group to develop a water quality monitoring program and a website to bring the community together to understand and protect the ecology of the Hilo Bay Watershed. This project was selected for funding to further implement the ORMP.

During discussions of the Coastal Nonpoint Program, evaluation participants raised several key needs in the state including: (1) the need for a state agency to provide leadership and bring different groups together to address nonpoint pollution; (2) building capacity, and in particular, developing and holding trainings for county permitting staff, county planning boards, and county water boards; and (3) building local watershed capacity. The HICZMP has begun to work through the ORMP to bring different groups together to build watershed capacity and to address coastal issues, including coastal nonpoint, and the Coastal Program has held trainings for county staff. However, there is still a need for additional training and capacity building at the local level. OCRM encourages the HICZMP to continue to build on the ORMP implementation process to address coastal nonpoint pollution. OCRM also encourages the HICZMP to explore partnerships and facilitate training opportunities building on the use of the information contained in the Low Impact Development Guide and the Assessment of On-site Waste Water Treatment and Disposal Systems, both are excellent resources whose use could be increased.

F. COASTAL HAZARDS

An objective of the HICZMP is to *reduce hazards to life and property from tsunamis, storm waves, stream flooding, erosion, subsidence, and pollution*, Chapter 205A, HRS. Hawaii is vulnerable to many natural hazards including volcanic activity, earthquakes, flooding, hurricanes, storm surge, shoreline erosion, and tsunamis. The population of Hawaii continues to grow from 1,108,229 in 1990 to 1,288,198 in 2008 (U.S. Census), putting more people and property at risk.

The Hawaii 2006 §309 five-year Assessment and Strategy ranked hazards as a high priority, as did the 2001 Assessment and Strategy. The Assessment of hazards noted several key needs in the state including: continued hazard mitigation assessments and planning, especially pertaining to hurricanes; public education and outreach on hazard preparedness; revision of the statutory definition of the shoreline; implementation of development standards to incorporate additional hazard mitigation requirements; and completion of research on probable tsunami impacts on the Hawaiian Islands. The HICZMP is addressing coastal hazards through partnerships, planning, technical support, and education and outreach.

1. Partnerships

The HICZMP works with many partners throughout the state, nationally, and internationally to mitigate the risks posed by natural hazards. Throughout the site visit, the evaluation team heard that the HICZMP is an integral player who brings the right people and partners together to complete projects, and provides financial and technical assistance for crucial projects.

The HICZMP is an active member of key forums and groups engaged in hazard mitigation, including the Statewide Hazard Mitigation Forum. The Forum is composed of seventeen state, federal, county, and private representatives, and provides a venue for coordinating hazard mitigation efforts in the state. Members have provided leadership and funding for the development of mitigation plans for the state and four counties, and helped educate the public on risks associated with natural hazards. In addition, the HICZMP is represented on the Hawaii State Earthquake Advisory Committee, the Tsunami Technical Review Committee, and the State Lava Flow Mitigation Technical Committee. These hazard-specific committees provide technical expertise to the Forum and State Civil Defense. Active membership in these committees ensures coastal management concerns are incorporated into the many ongoing state hazard efforts and facilitates HICZMP efforts to bring organizations together to address coastal hazards. The HICZMP is also contributing to national coastal management efforts through participation on a Coastal Resiliency Steering Committee formed by the Coastal States Organization to explore whether coastal resilience can be used as a CZMA performance measure.

Although staff time and funding is limited, the HICZMP has been involved in select regional efforts to reduce coastal hazard risks. The HICZMP was instrumental in bringing together Pacific state and territorial coastal managers to provide input into the development of the Pacific Integrated Ocean Observing System. The HICZMP has also worked to raise international awareness and knowledge of tsunamis and partnered with the International Tsunami Information Center (ITIC) to print revised versions of “Tsunami: The Great Waves” which incorporates the latest science and mitigation techniques. OCRM commends the HICZMP for its active engagement in many ongoing coastal hazard reduction efforts.

However, while the HICZMP has been involved in regional projects they are not actively engaged with several regional groups working on hazard issues such as the Pacific Climate Information System and Pacific Risk Management Ohana. OCRM encourages the HICZMP to consider whether involvement in these region-wide groups would be beneficial to the Coastal Program. These region-wide initiatives could also benefit from the substantial expertise of HICZMP staff.

2. Hazard Mitigation Planning

The HICZMP 2006 §309 Hazards Strategy exemplifies key strengths of the HICZMP’s hazard program, facilitating the building of partnerships and bringing diverse groups together to address hazard issues. The Hazards Strategy focuses on working with the state, counties, and others to encourage the adoption of state-of-the-art building codes with customized coastal hazard mitigation standards. In addition, the strategy includes providing training on the interpretation and

application of the newly adopted codes with architects, builders, inspectors, and others involved in the building industry.

The HICZMP has supported the development of a statewide building code, and in 2007, the Governor signed SB795 which created a nine-member state Building Code Council tasked with establishing a state building code based on the International Building Code (IBC). The HICZMP has been instrumental in moving this process forward. The IBC is based on storm models that do not give accurate results in Hawaii due to differences in geography and wind patterns. Therefore, the HICZMP funded wind risk assessment work for both Maui and Hawaii County that could be translated into maps and building code amendments. In conjunction with the City and County of Honolulu Building Division and other partners, the HICZMP held a training on the 2003 IBC and International Residential Code (IRC) which was attended by over 850 government and industry building professionals. The training was in high demand as the City and County of Honolulu had just adopted the 2003 IBC and IRC in September 2007. Due to the demand, the HICZMP partnered with the Hawaii Association of County Building Officials to offer six more courses on the new 2006 IBC and IRC. Several evaluation participants noted that HICZMP's support was instrumental in developing and conducting the trainings.

The HICZMP has also assisted the State and Counties in their efforts to develop FEMA approved Multi-Hazard Mitigation Plans. The Plans create a framework for risk-based decision making to reduce damages to lives, property, and the economy from future disasters. The plans are essential for receipt of federal post-disaster funding and pre-disaster mitigation grant funding, including flood mitigation assistance, fire management assistance, certain categories of public assistance, and two hazard mitigation grant programs. As a member of the State Hazard Mitigation Forum the HICZMP also has oversight for Multi-Hard Mitigation Plan approval and implementation.

3. Research, Tool Development, and Education and Outreach

The HICZMP is actively involved in the development of many research, tool development, and education and outreach projects. The Coastal Program has provided technical and financial assistance to support key projects during the evaluation period including:

- **Tsunami Education: A Blueprint for Coastal Communities:** The HICZMP provided funding to the Pacific Tsunami Museum to assist Downtown Hilo prepare for and recover from a tsunami. The project included the development of educational materials and implementation of an outreach program including a guide offering instructions on how to create a similar program.
- **Climatic Atlas of Tropical Cyclones over the Central North Pacific:** The Atlas provides access to track records of tropical cyclones over the Central North Pacific and can be used by weather forecasters, emergency managers, and researchers interested in studying changes in tropical cyclones in the Central North Pacific in an environment of increasing sea surface temperatures.
- **Legal Study, Building in High Hazard Areas:** The HICZMP and State Civil Defense Agency developed a proposal that was accepted by the University of Hawaii

Environmental Law Clinic. Students researched the history of relocation efforts in Hawaii, the public trust aspects of land transfer, and laws and programs in other states. The students made recommendation and presented their report to County of Hawaii officials, the State Lava Flow Mitigation Technical Committee, and the Hawaiian Volcano Observatory.

- **Hawaii Earthquake Loss Estimation Modeling:** The HICZMP partially funded the customization of FEMA’s loss estimation model HAZUS 00. The customized model was validated in the wake of the October 2006 Kiholo earthquake. Comparisons with reported losses demonstrated that only using the entire set of model improvements produced comparable results.
- **Earthquake Loss Estimation Report:** The HICZMP led and funded the development of the “Earthquake Hazards and Estimated Losses in the County of Hawaii.” The report provides decision makers and others with easily understandable technical information on the likely losses following an earthquake. As a follow-up, training was held in the County of Hawaii in 2005 and attended by over 100 county leaders, including the Mayor, county council members, building officials, planners, first responders, hospital officials, and scientists who have a role in earthquake hazards mitigation.
- **Tsunami Risk Assessment Project:** The HICZMP funded the acquisition of data which was utilized to determine exposure and sensitivity to tsunami hazards in Hawaii. This information will be used to help identify and tailor future preparedness, mitigation, response, and recovery planning efforts to specific communities and economic sectors.
- **Hazards Preparedness Wheel:** The Hazards Preparedness Wheel was developed during the prior evaluation period but the Hazards Wheel has remained a popular education tool and is used by the navy, hospitals, teachers, schools, and community groups. After the December 2004 tsunami, the HICZMP partnered with the ITIC and the ITIC distributed the hazards wheel and bookmarks to nations affected by the December 2004 tsunami, in hope that those products would be an impetus for development of local educational products. Subsequently, the National Disaster Warning Center of Thailand produced a similar hazards wheel.

OCRM commends the HICZMP for its leadership and support of hazard mitigation projects and for providing decision makers and the general public with the information and tools needed to mitigate risks.

Accomplishment: The HICZMP has facilitated the development of key research and tools and supported education and outreach efforts resulting in greater statewide preparedness for coastal hazards.

The evaluation team noted that Hawaii had many ongoing efforts to reduce risks to tsunami hazards but they had yet to perform a warning system drill. Tsunami drills are an essential tool to identify weaknesses and areas for improvement. OCRM encourages the HICZMP to work with partners to promote full testing of their tsunami warning system.

G. COASTAL DEPENDENT USES AND COMMUNITY DEVELOPMENT

1. Special Management Area Permit System and Community Planning

The HICZMP manages Hawaii's coast in a partnership with the four counties of Maui, Kauai, City and County of Honolulu, and Hawaii. Chapter 205A, HRS calls for each county to regulate development in geographically designated Special Management Areas (SMA) through a SMA permit system. Each County has developed its own ordinances and regulations for carrying out the SMA permit system and ensuring that development proposals are in compliance with the CZM objectives, policies, and SMA guidelines in the HRS. The HICZMP has direct SMA authority over limited areas under the jurisdiction of the Hawaii Community Development Authority.

The previous evaluation found that it was a necessary action for the HICZMP to improve the enforcement of local SMA programs and ensure open communication between all networked programs. The evaluation also encouraged the HICZMP to continue its outreach and educational activities. Since the previous evaluation, the HICZMP has taken several steps to address these concerns.

The HICZMP has focused on raising the public's understanding and awareness of the SMA permit system. The Coastal Program developed a *Participant's Guide to the Special Management Area Permit Process in the State of Hawaii*. The Guide is directed towards citizens and provides them with basic information on what an SMA permit is, what types of development are regulated, opportunities for public information, and contacts for more information at the state and county level. The guide is available in printed form and on the HICZMP website. The Coastal Program has also conducted SMA workshops for different audiences. Those attending SMA workshops have included planners, Planning Commissioners, developers, and the public. The workshops address the requirements of the SMA permit and the need for SMA permit conditions to have a CZM context. OCRM commends the HICZMP for continuing to increase awareness and understanding of the SMA permit process through the provision of training sessions and development and distribution of the SMA Guide.

The HICZMP also dedicated a position to serve as an SMA Coordinator. The SMA Coordinator serves as a liaison with county staff and the general public. The SMA Coordinator facilitates communication between the public and SMA administrators and assists with resolving issues. The Coordinator also holds quarterly meetings with the County Planning Directors and staff focused on addressing issues of mutual concern. Meeting topics have included public access, human-induced overgrowth of vegetation on beaches, and cumulative impacts of proposed development. The meetings also provide the Counties with the opportunity to exchange their experiences, successes, and challenges in administering the SMA permit and help ensure consistency in implementation.

In addition, the HICZMP also initiated a Special Management Area Permit System Assessment. The Assessment provides a comparative overview of the procedures and practices of each County's SMA permit system. The report includes a discussion of: (1) Effectiveness and efficiency of procedures for evaluating and regulating development (2) Consistency among

Counties in evaluating and regulating development (3) Effectiveness of public participation; and (4) Areas of concern for which guidance by the HICZMP may be needed. This assessment will be used by the HICZMP to streamline and improve the SMA permit system and to determine if the existing framework is sufficient to address the ORMP's strategic actions.

Accomplishment: The HICZMP has taken multiple steps to raise awareness of, and improve the implementation of, the SMA Permit System including: creating an SMA Permit Coordinator position, developing a Participants Guide, holding SMA permit workshops, and initiating an assessment of the SMA Permit System.

Evaluation participants raised a concern with the need to better monitor and enforce SMA permit conditions. Although the HICZMP has taken significant steps to improve the SMA permit system and expanded ongoing educational efforts, enforcement of permit conditions continues to remain an issue. SMA permit conditions are monitored and enforced at the County level. The HICZMP may wish to explore opportunities for assisting counties with monitoring and enforcement of SMA permit conditions.

2. Community EnVisioning

The EnVision Downtown Hilo 2025 project began as interested citizens, the Hilo Downtown Improvement Association and a County of Hawaii Planning Department staff member came together and began a process to envision Downtown Hilo's future. The group, the Friends of Downtown Hilo Steering Committee, reached out to hundreds of Hilo residents and stakeholder groups who provided input into a community based vision and a Living Action Plan that lays out a five year implementation plan. The EnVision Downtown Hilo project was the first time in Hawaii County that community members had come together to develop a shared vision for their future. The community is currently in the process of executing its Living Action Plan. OCRM commends the HICZMP for funding innovative community planning which encourages broad public participation.

3. Shoreline Certifications and Setbacks

The Coastal Program manages coastal development through shoreline setbacks in order to reduce hazard risks and protect public access. The Shoreline Setback program is implemented through DNLN and the Counties. DNLN is responsible for approving a shoreline certification and county zoning boards then use this information to determine the construction setback. The previous evaluation included a program suggestion that the HICZMP should work with DNLN to develop a scientifically-based shoreline definition process. This program suggestion arose out of a controversy surrounding the basis of shoreline certifications. The shoreline is defined in the HRS as the "upper reaches of the wash of the waves, other than storm and seismic waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth, or the upper limit of debris left by the wash of the waves."

During the previous evaluation review period, DNLR administrative rules gave preference to using the vegetation line to determine the shoreline. This became an issue when some landowners were engaging in the controversial practice of encouraging growth of vegetation by planting salt tolerant vegetation and installing watering systems to encourage growth further down the beach. Induced vegetation growth results in a reduced shoreline setback and increased risk to property and reduced public access. In 2006, the Hawaii Supreme Court ruled that the vegetation line trumps the debris line only when the vegetation line lies more inland than the debris line and furthers the public policy of extending to public ownership and use “as much of Hawaii’s shoreline as is reasonably possible.” This ruling clarified the definition of “shoreline.”

State law requires setbacks from the certified shoreline of at least 20 feet and no more than 40 feet. Counties are allowed to require additional setbacks. The HICZMP provided financial assistance to Kauai County to assist with collecting shoreline erosion and accretion data and synthesizing the information to develop annual erosion rates. In 2007, the County of Kauai passed a setback ordinance mandating a 40-foot minimum setback plus 70 times the annual coastal erosion (70 years is considered the average lifespan of a building by the Federal Emergency Management Agency). The ordinance could not have been passed without the collection and scientific analysis of erosion data to develop erosion rates for all coastal areas. OCRM commends the HICZMP for providing assistance to the County of Kauai and enabling the implementation of setbacks that will reduce future risks to life and property. OCRM encourages the HICZMP to continue to support other counties in their efforts to develop similar strong setback regulations that protect property and increase personal safety.

Accomplishment: The HICZMP provided support to the County of Kauai in their efforts to collect and synthesize the information they needed to mandate a minimum setback based on annual erosion rates and equivalent to the life of a structure (70 years).

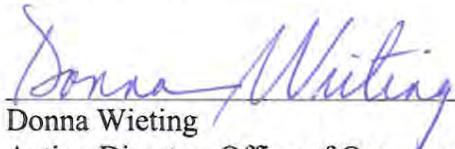
V. CONCLUSION

For the reasons stated herein, I find that the State of Hawaii is adhering to the programmatic requirements of the Coastal Zone Management Act and its implementing regulations in the operation of its approved Hawaii Coastal Zone Management Program (HICZMP).

The HICZMP has made notable progress in the following areas: development of the Ocean Resources Management Plan; streamlining federal consistency processes; facilitating research and the development of coastal hazard tools; improving the implementation of the SMA Permit System; and the development and implementation of the national Performance Measurement System.

These evaluation findings also contain four recommendations in the form of four Program Suggestions. The Program Suggestions should be addressed before the next regularly-scheduled program evaluation, but they are not mandatory at this time. Program Suggestions include: the need to ensure that state budget planning and funding levels support the essential components of the HICZMP; providing leadership for climate change adaptation planning; consideration of how MACZAC and the HICZMP might more effectively work together to address coastal management issues; and finalizing Hawaii's draft CELCP Plan. Program Suggestions that must be repeated in subsequent evaluations may be elevated to Necessary Actions. Summary tables of program accomplishments and recommendations are provided in Appendix A.

This is a programmatic evaluation of the HICZMP which may have implications regarding the State's financial assistance awards. However, it does not make any judgment about or replace any financial audits.



Donna Wieting
Acting Director, Office of Ocean and
Coastal Resource Management

JAN 11 2010

Date

VI. APPENDICES

APPENDIX A: SUMMARY OF ACCOMPLISHMENTS AND RECOMMENDATIONS

Accomplishments

Issue Area	Accomplishment
Performance Measures	HICZMP has successfully contributed to the development and implementation of the National Performance Measurement System.
Ocean Planning	The HICZMP has shown vision and leadership in the development of a new Ocean Resources Management Plan and the institutionalization of a process to coordinate state agency activities around joint marine and coastal management goals and strategic actions.
Federal Consistency	The HICZMP has streamlined the federal consistency process, including the development of a de minimis list covering 17 naval activities and corresponding list of mitigation measures and general conditions.
Coastal Hazards	The HICZMP has facilitated the development of key research and tools and supported education and outreach efforts resulting in greater statewide preparedness for coastal hazards.
Permitting	The HICZMP has taken multiple steps to raise awareness of, and improve the implementation of, the SMA Permit System including: creating an SMA Permit Coordinator position, developing a Participants Guide, holding SMA permit workshops, and initiating an assessment of the SMA Permit System.
Coastal Hazards/ Community Development	The HICZMP provided support to the County of Kauai in their efforts to collect and synthesize the information they needed to mandate a minimum setback based on annual erosion rates and equivalent to the life of a structure (70 years).

Recommendations

Recommendations are in the form of Necessary Actions (NA) or Program Suggestions (PS).

Issue Area	Recommendation
Program Approvability	PS: DBEDT and the HICZMP should ensure State budget planning and funding levels support the essential components of the program necessary to maintain approvability of the HICZMP under the Coastal Zone Management Act.
Advisory Council	PS: OCRM encourages the HICZMP and MACZAC to work together to further clarify MACZAC's role and how together, they can best address coastal management issues and implement the state's Coastal Program.
Climate Change	PS: OCRM encourages the HICZMP to continue to show leadership in addressing climate change adaptation through the ORMP and Climate Change Task Force and other appropriate planning processes.
CELCP	PS: The HICZMP should submit their revised CELCP Plan for approval by July 2010 to ensure Hawaii remains eligible to participate in CELCP.

APPENDIX B. PERSONS AND INSTITUTIONS CONTACTED

Hawaii Coastal Management Program

Name	Position
Doug Tom	Program Manager
Susan Feeney	Budget
Melissa Iwamoto	Community-Based Resource Management
Shichao Li	Special Management Area
Marnie Meyer	Ocean Resources Management Plan
John Nakagawa	Federal consistency Program
Ann Ogata-Deal	Coastal Hazards
Kenneth Roberts	Coastal Nonpoint Source Pollution
Connie Hoong	Performance Measures

Hawaii State Office of Planning

Name	Position
Abbey Mayer	Director
Mary Lou Kobayashi	Planning Program Administrator

Marine and Coastal Zone Advocacy Council

Name	Organization
Arnold Lum	MACZAC
Sue Sakai	MACZAC
Jim Coon	MACZAC
Ron Terry	Former MACZAC member

Consultants and Business Community

Name	Organization
Dr. Catherine Courtney	Tetra Tech, Inc.
Daniel Akaka, Jr.	Mauna Lani Hotel
Joe Root	Project Director, Kohanaiki Development
Gary Chock	Martin and Chock

State Agencies

Name	Department
Laura Thielen	Chair, DLNR
Risa Oram	Department of Land and Natural Resources (DLNR)
Dolan Eversole	University of Hawaii Sea Grant and DLNR
Lawana Collier	Department of Health, Clean Water Branch
Brian Hunter	Department of Health, Clean Water Branch
Hudson Slade	Department of Health, Clean Water Branch
Dawn Johnson	State Civil Defense
Larry Kanda	State Civil Defense

Petra MacGowen	DNLR, Department of Aquatic Resources
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Counties

Name	County
Jamie Peirson	City and County of Honolulu Department of Planning and Permitting
Brad Kurokawa	Hawaii County Planning Department
Alice Kawaha	Hawaii County Planning Department
Christian Kay	Hawaii County Planning Department
Ron Whitmore	Hawaii County Planning Department
Esther Imamura	Hawaii County Planning Department
Susan Gagorik	Hawaii County Planning Department
Terri Miura	County of Hawaii, Division of Parks and Recreation
Timothy Hiu	City and County of Honolulu, Department of Planning and Permitting, Building Division

Federal Agencies

Name	Agency
Larry Yamamoto	USDA NRCS
Wendy Wiltse	US EPA
Audrey Shileikis	US EPA
Kathy Chaston	NOAA, Coastal Programs and Coral Program
Paul Wong	NOAA, Hawaii Humpback Whale National Marine Sanctuary
Malia Chow	NOAA, Papahānaumokuākea National Marine Sanctuary
Eileen Shea	NOAA, NOAA IDEA Center
Bill Thomas	NOAA, Pacific Services Center
Kristina Kekuewa	NOAA, Pacific Services Center
Jean Tanimoto	NOAA, Pacific Services Center
Alan Everson	NOAA NMFS
George Balazs	NOAA NMFS
Jason Philibotte	NOAA NMFS
Irene Kelly	NOAA NMFS
Kim Mason	NOAA NMFS
Meghan Gombos	NOAA Coral Program
Kelvin Char	NOAA, Coastal America Program
Rebecca Hommon, Esq.	US Navy
Dr. Connie Chang	US Navy
CDR Dan Eldredge	US Navy
Dr. George Young	US Army Corps of Engineers, Regulatory Branch
Michael Molina	US FWS
Chris Swenson	US FWS, Coastal Program

Other

Name	Organization
Mary James	Hilo Bay Watershed Advisory Group
Steve Godzsak	Hilo Bay Watershed Advisory Group
Cindi Punihaole Kennedy	The Kohala Center
Manuel Mejia	The Nature Conservancy
Koalani Kaulukukui	Earth Justice
Miwa Tamanaha	KAHEA
Keith Tanaka, AIA	Construction Institute
Laura Kong	International Tsunami Information Center
Brian Yanagi	International Tsunami Information Center
Genevieve Cain	Pacific Tsunami Museum
Donna Saiki	Pacific Tsunami Museum

Academia

Name	Organization
Dr. Kem Lowry	University of Hawaii
Dr. Chip Fletcher	University of Hawaii
Dr. Brian Szuster	University of Hawaii

APPENDIX C: PERSONS ATTENDING THE PUBLIC MEETING

One public meeting was held on Wednesday, July 30, 2008, at 7:00 p.m. at the Hilo State Office Building, Conference Rooms A, B, and C, 75 Aupuni Street, Hilo, Hawaii. A list of attendees follows:

Name	Affiliation
Dr. Jim Anthony	Hawai'i--La'ieikawai Assn. Inc.
John Nakagawa	Hawaii CZMP
Shichao Li	Hawaii CZMP

APPENDIX D: NOAA’S RESPONSE TO WRITTEN COMMENTS

OCRM received eight sets of written comments regarding the Hawaii Coastal Management Program. Comments are summarized below and followed by OCRM’s response.

Lea Hong through Kevin Chang
Hawaiian Islands Program Director
Trust for Public Land
Honolulu, Hawaii

Comments: On behalf of The Trust for Public Land’s Hawaiian Islands Program, Ms. Hong commented that the State had secured Coastal Estuarine Land Conservation Program (CELCP) funding to complete three land acquisition projects to protect coastal and estuarine habitats: Mū’olea Poin, on the Island of Maui, Honu‘apo Bay on the Island of Hawai‘i, and Pūpūkea-Paumalūsits on the Island of Oahu. The Trust for Public Land worked with government agencies, private landowners, and local communities to complete these projects.

Ms. Hong raised concerns that public access to shorelines remains problematic and developers have built, and continually propose to build, large-scale gated communities that are rapidly eroding the public’s right of access for cultural, recreational and subsistence purposes. She commented that private landowners who are not familiar with Hawai‘i’s unique laws and traditions have resisted public shoreline access. She explained that Hawai‘i law protects the public’s right of access and mandates that the City and State work together to acquire rights of way to facilitate public access. She stated that despite these mandates, public access has and is eroding and public concern and protest has increased. Ms. Hang believes that the HICZMP should adopt as a top priority, the maintenance and enhancement of public access to Hawai‘i’s shorelines. She concluded by noting that public partnerships supported by programs such as CELCP could help to continue the people of Hawai‘i’s vital connection to shorelines, beaches, and fishing areas.

OCRM’s Response: OCRM appreciates Ms. Hang’s comments. The Coastal Zone Management Act of 1972, as amended, calls for the development of Coastal Zone Management Programs to address a wide range of coastal zone management issues including “public access to the coasts for recreation purposes.” OCRM acknowledges that an increasing population and development place additional pressures on public access. As discussed in Section C, OCRM encourages the HICZMP to continue to address public access issues and to work with partners to ensure lateral and perpendicular access to the shoreline and to consider developing additional informational resources for the public.

Isabel Figel
Resident
Kailua, Hawaii

Comments: Ms. Figel raised concerns over the proliferation of locked gates on private and public beach side roads over the past few years. Ms. Figel stated that each time a gate goes up, the number of people using the remaining open roads increases, those homeowners get upset about increased foot traffic, and then they put up a gate too. She stated that in Kailua, there are at least 17 gated roads and just five public beach right-of-ways on a three mile stretch of shoreline—not counting access via two public beach parks. Ms. Figel commented that road closures are a public health issue and noted first responders in Kailua told the Neighborhood Board that they were afraid people would die because of delays in reaching accident victims caused by locked gates. She also raised concerns that the State may be held negligent in event of a death which could cost taxpayers millions of dollars.

Ms. Figel also noted that Hawaii is dependent upon tourism and locked gates enforce the image that tourists are not welcome on public beaches. She believes the state needs to force counties to take action and give them clear standards to follow.

OCRM's Response: OCRM appreciates Ms. Figel's comments. Please see response to Ms. Hang's comments.

Daniel and Blanch Hickman
Residents
Kailua, Hawaii

Comments: Mr. and Ms. Hickman believe it is important for the State to take a lead role in addressing public access, as public access is a statewide problem. They describe how a new gate has forced community members to drive a mile and a half to a public park for beach access, whereas before they could easily walk to the beach. Mr. and Ms. Hickman noted that no property taxes are paid on these "private" accesses and "private" beach lanes, which are valued at \$100, and they are serviced by public services such as water, sewer, and trash pick-up. Mr. and Ms. Hickman call for the HICZMP to work on opening the beaches to all Hawaii residents and visitors.

OCRM's Response: OCRM appreciates Mr. and Ms. Hickman's comments. Please see response to Ms. Hang's comments.

Kenneth and Miriam Rappolt
Residents
Kailua, Hawaii

Comments: Mr. and Ms. Rappolt expressed concern over the growing number of gates on "private" streets on the beach side of North Kalaheo Avenue in Kailua and the increasing distance needed to travel to reach the public beach. Mr. and Ms Rappot expressed doubt that many lanes closed off as "private" roadways are really private as they receive public services such as refuse collection and mail delivery. In addition, they expressed concern that blocking beach access limits the ability of EMT personnel to respond to an emergency. Mr. and Ms. Rappolt urge

OCRM to consider action which might prevent the erection of future barriers to the beaches of Oahu.

OCRM's Response: OCRM appreciates Mr. and Ms. Rappolt's comments. Please see response to Ms. Hang's comments.

Rich Figel
Beach Access Hawaii
Kailua, Hawaii

Comments: On behalf of Beach Access Hawaii, Mr. Figel implored the evaluation team to make the protection of shoreline access a high priority for HICZMP. He described the founding of Beach Access Hawaii in response to a Kailua homeowners' association decision to put up a locked gate on a privately-owned street. Mr. Figel stated that the group found out that in Kailua alone, there were 17 gated roads, and some of the public rights of way were over half a mile apart.

Mr. Figel believes that although the state has made it clear that Hawaii's beaches belong to the public, neither the counties nor the State take responsibility for ensuring public access. He stated that the Honolulu City Council statutes say there "should be" public beach access every quarter mile of beach in "urbanized" areas—but the City Council attorney has stated it is merely a "suggested guideline." He mentioned that the City says it cannot afford to do anything involving acquisition of more public rights-of-way, although he believes easements could be negotiated with private homeowners at little cost to the City or State. He stated that the State says it's up to the counties to provide access or take measures to acquire additional rights-of-way, even though beaches are State property. He concluded that the Honolulu City Council and State Legislature have both failed to take any action whatsoever to protect or improve public shoreline access.

He noted that lateral access to the public shoreline is also a problem and is being impacted by vegetation being grown by owners of beachfront property, causing people to have to wade into the ocean to traverse the shoreline. He stated there is evidence that the plantings act like seawalls that lead to increased beach erosion. He also expressed concern that shoreline access is affected by commercial activities taking place on public beaches and that the lack of uniform statewide shoreline building setbacks leads landowners to build closer to the shoreline.

He recommended that the HICZMP should set aside funds to assess just how much public shoreline access currently is available throughout the islands, and analyze where additional public rights of way are needed to serve the residents of Hawaii.

OCRM's Response: OCRM appreciates Mr. Figel's comments. Please see response to Ms. Hang's comments.

Jonathan Toby Boxold
Resident

Kailua, Hawaii

Comments: Mr. Boxold stated that he is a supporter of Beach access Hawaii due to the alarming efforts of a small number of people, who have taken it upon themselves to try and block off the beaches to the public. He expressed the importance of public access for a multitude of cultural, safety and family issues.

Mr. Boxold advocated that the State to step in and establish uniform guidelines for shoreline access throughout Hawaii. He also recommended that the public needs to know where additional public access ways are needed. He described his frustration with the inaction of the City Council and State Legislature, and noted that they were "passing the buck" rather than addressing serious public access issues. He concluded that there was a need for a State agency to take responsibility for providing direction and guidelines, before more public access is lost.

OCRM's Response: OCRM appreciates Mr. Boxold's comments. Please see response to Ms. Hang's comments.

Bob Finch Resident Kailua, Hawaii

Mr. Finch expressed deep concern that the HICZMP was not taking the lead in providing beach access to the general public. He believes that the HICZMP is the logical agency to guarantee the public access to public beaches and stated beach access should not be limited to the wealthy.

OCRM's Response: OCRM appreciates Mr. Finch's comments. Please see response to Ms. Hang's comments.

Dr. Jim Anthony, Ph.D. Executive Director Hawaii Laieikawai Assn. Inc. Ka'a'awa, Hawai'i 96730

Comments: Dr. Anthony believes there is an urgent need to address shore line access issues across the State. He noted that a commitment was made at the public meeting for the Federal and State, representatives to meet with him to further address public access issues. He provided the evaluation team with information on an ongoing public access project on O'ahu and discussed the need for more funding. He also discussed that there are special places along the coast of O'ahu and that these areas are currently being researched. He also noted that he had requested fiscal information under the Freedom of Information Act. He also encouraged the evaluation team to hold more frequent review meetings in Hawaii in hopes of engendering a greater sense of accountability on the part of HICZMP.

Dr. Anthony also commented that NOAA is associated with the faulty conclusion that the single most important cause of fish depletion is the use of gill nets and stated that there are not credible, replicated studies that support such a conclusion.

Dr. Anthony also expressed concern that the dominant environmental organizations in Hawaii are led and controlled by haoles who control the back channels to State and Federal bureaucracies and their funding. He believes that environmental organizations that are focused on people of color issues and are led by people of color are lacking access to these resources and that this is an environmental justice issue that needs to be discussed and addressed.

He also urged the evaluation team to look at the full range of important issues in the state, and highlighted water issues including streams, near shore marine ecosystems, subterranean flow, rising salinity levels in aquifers, and ground water/surface water relationships. He noted that these issues call for interagency collaboration and the importance of bringing in USGS, Water Resources Division into discussions.

OCRM's Response: OCRM appreciates Dr. Anthony's comments. Please see response to Ms. Hang's comments. In addition, OCRM has provided the information requested by Dr. Anthony through the Freedom of Information Act.

OCRM strives to evaluate coastal zone management programs on a three-year cycle. OCRM does not have the staff to hold more frequent evaluations. OCRM's program staff is responsible for ongoing monitoring of programs throughout the review cycle. During the evaluation period, an OCRM program staff position was re-located to Honolulu, Hawaii, enabling staff to work more closely with the HICZMP, partners, stakeholders, and the public.

Dr. Anthony's comment regarding a faulty conclusion in NOAA research is beyond the scope of this evaluation.

OCRM acknowledges Dr. Anthony's concern regarding environmental justice issues. Dr. Anthony's comments have been passed on the HICZMP. OCRM provides funding directly to state coastal management programs to implement the Coastal Zone Management Act.

OCRM acknowledges Dr. Anthony's concerns regarding coastal zone management issues and in particular, water issues. The program evaluation addresses the wide range of coastal zone management issues and water issues are addressed primarily in Section D and Section E.

APPENDIX E. 2004 EVALUATION FINDINGS

1. Necessary Action: The gubernatorial letter of May 2003, directing the Office of Planning to answer to the Chairperson of DLNR is not clearly supported by State law and is inconsistent with the organizational structure of the CZM Hawaii Program approved by NOAA. The State must resolve this issue either by formally submitting a program change, with adequate legal justification to support such a reassignment of responsibility, or the State can appoint a new director of the Office of Planning, who can meet the responsibility of leading the CZM Hawaii Program.

2. Necessary Action: CZM Hawaii needs to complete the necessary action from the previous evaluation, addressing the need to improve the enforcement of local SMA programs, on an expedited schedule. This schedule must be provided to NOAA OCRM within six months of the receipt of the final findings. Furthermore, CZM Hawaii is to develop a strategy to assure open communication between and among all networked partners within a year of the receipt of final findings.

3. Program Suggestion: CZM Hawaii should look at alternative hiring practices as a potential mechanism to fill existing staff vacancies as it works within the State personnel practices framework to facilitate staff recruitment. In concert with this activity, CZM Hawaii is encouraged to look at other personnel needs to facilitate coordination of CZM Hawaii management practices where they are merited.

4. Program Suggestion: CZM Hawaii should maintain its stress on regional coordination and, as the lead for the synchronization of efforts under CZM Hawaii, should continue its high degree of leadership in these efforts.

5. Program Suggestion: CZM Hawaii should work with DLNR to develop a scientifically-based shoreline definition process.

6. Program Suggestion: CZM Hawaii is encouraged to pursue a rigorous strategic planning effort with the support of the networked State agencies, the Counties, appropriate interested groups and the public.

7. Program Suggestion: CZM Hawaii is encouraged to work with the Governor's Education Office to facilitate ongoing CZM Hawaii education and outreach activities both in support of actions required as a part of use of Federal CZMA funding and in support of other Programmatic initiatives.

8. Program Suggestion: CZM Hawaii is encouraged to maintain its ongoing coordination and communication activities within the full coastal resource management community. CZM Hawaii is strongly encouraged to continue outreach activities directed toward providing the knowledge and the tools to networked agencies, Counties and local governments, relevant groups and the general public to properly decide the appropriate use and protection of the State's coastal resources

9. Program Suggestion: CZM Hawaii should look at the major/minor permit process of the Counties to assure that the process and decision points provide for adequate environmental protection while allowing suitable development to proceed in a timely manner.

APPENDIX F. PROGRAM RESPONSE TO 2004 EVALUATION FINDINGS

The HICZMP provided a response to the recommendations in the 2004 Evaluation Findings in a letter dated April 27, 2006, included below.

Ref. No. P-11333

April 27, 2006

VIA FEDERAL EXPRESS

Mr. Douglas Brown, Acting Director
Office of Ocean and Coastal Resource Management
National Oceanic and Atmospheric Administration
N/ORM 10th Floor SSMC4
1305 East-West Highway
Silver Spring, Maryland 20910

Attention: Ms. Masi Okasaki

Dear Mr. Brown:

Subject: Hawaii Coastal Zone Management (CZM) Program Fulfillment of the Necessary Actions Specified in the *Final Evaluation Findings for the Coastal Zone Management Program for Hawaii*, of January 10, 2003 and November 2005

The Office of Planning, as lead agency for the Hawaii CZM Program, has fulfilled the necessary action specified in the *Final Evaluation Findings for the Coastal Zone Management Program for Hawaii*, dated January 10, 2003, and continued in the evaluation findings dated November 2005: "CZM Hawaii must work with the counties to develop a plan to strengthen the counties' implementation of their SMA (Special Management Area) authorities." We also fulfilled the necessary action of the November 2005 evaluation findings: "CZM Hawaii is to develop a strategy to assure open communication between and among all networked partners within a year of the receipt of final findings." The Hawaii CZM Program has strengthened and improved its statewide SMA program as described below.

To improve implementation of the SMA permit provisions and overall administration of the SMA, we contracted a statewide assessment of the SMA permit system. The findings and recommendations were collaborated with the County SMA agencies and are presented in a report titled, *Special Management Area (SMA) Permit System Project Final Assessment Report*, dated November 2005 (hereafter referred to as SMA Assessment). A copy of the report is included as an attachment.

Mr. Douglas Brown
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Statewide SMA Program

The statewide SMA program is strengthened and improved. In response to the Section 312 evaluation findings, the statewide SMA program is designed to:

- (1) Strengthen the Counties' implementation of their SMA authorities and ensure consistent application of their SMA rules (2003 evaluation findings); and
- (2) Assure open communication between and among all networked partners (2005 evaluation findings).

The SMA program elements are described below.

Program Organization and Function

A dedicated statewide SMA program coordinator has been established within the CZM Program along with assigned CZM staff to assist with SMA administration. The SMA coordinator oversees all SMA matters and serves as the CZM Program liaison for all the Counties. The coordinator communicates with all the Counties on a frequent and regular basis. As the point of contact, the coordinator employs a statewide perspective to identify subjects of statewide interest, as opposed to local. When issues of statewide interest or inter-jurisdictional responsibilities arise, such as responding to citizen complaints on shoreline access or shoreline protection, the SMA coordinator contacts appropriate CZM network partners within the State and County governments and convenes meetings if necessary.

In addition, the CZM Program provides support and assistance to the Counties on SMA and CZM matters. For example, we inform the Counties of proposed State legislation relevant to the SMA and CZM and coordinate testimonies on those measures as appropriate or requested. Information about the national CZM program and national legislation is often shared with the Counties to provide a better context for the State's CZM Program and the SMA permit. We also assist on SMA and shoreline area issues by coordinating among the Counties and at times with non-government interest groups. When SMA and shoreline issues involve other State agencies, we facilitate communication and coordination among the affected agencies.

CZM Program Compliance

Proactive measures are employed to ensure compliance with the Hawaii CZM Program. Although not a new approach for us, we strengthened compliance efforts through the activities of a dedicated SMA coordinator and ongoing communication with all networked partners. Attending various board meetings provide information about development trends and early data

to gauge potential CZM issues and concerns. The result is a better statewide perspective on SMA administration and CZM compliance. The SMA coordinator can better identify emerging issues of statewide interest or concern and seek solutions early by contacting applicable State and County agencies and convening meetings if necessary. Frequent communication with the Counties and State networked agencies keeps us abreast of emerging compliance issues and conflicts, and alerts us to necessary monitoring for “hot spots” and controversies. The increased interaction with the Counties and State agencies promotes monitoring for CZM Program compliance on a continuous proactive basis rather than on a reactive basis, where monitoring for program compliance occurs only after agency actions have been taken or when a citizen complaint is received.

Monitoring and Enforcement

Hawaii CZM Program compliance occurs at two different levels:

(1) CZM Program compliance. We monitor State and County agencies’ actions for compliance with the CZM Program. Enforcement of CZM Program compliance is often helped by our administrative review and coordination process involving affected agencies. When there are inter-jurisdictional differences or conflicts between agencies on CZM issues, the CZM Program attempts to facilitate resolution. Specific improvements to monitoring and enforcement have been made, such as strengthening the partnerships with the Department of Land and Natural Resources and the County Planning Departments on actions in the shoreline area, such as public access, shoreline certification, and shoreline protection to address issues in a proactive and coordinated way for more efficient and effective results.

(2) SMA and shoreline area compliance. Within the SMA and shoreline area, the Counties are responsible for monitoring and enforcing compliance. We assist the Counties with monitoring and enforcing SMA and shoreline area compliance by providing technical assistance, facilitating inter-jurisdictional coordination if compliance issues involve other agencies, and by providing funding for enforcement activities, staff, and equipment. This helps ensure the Counties are carrying out their SMA compliance and implementation responsibilities consistent with Chapter 205A. We monitor County SMA actions for compliance with the SMA guidelines and CZM Program objectives and policies. When questionable actions are taken by the Counties, we seek resolution first through administrative means, such as by meeting with County agencies, briefing decision-makers, and seeking legislative remedy when appropriate. Legal remedy is the action of last resort.

Coordination and Communication among CZM Network Agencies

The SMA coordinator serves as the point of contact for all CZM network agencies on matters relating to the SMA and shoreline areas. The coordinator maintains frequent

communication with the CZM network agencies and participates in various activities and meetings hosted by these agencies.

The CZM Program hosts regularly scheduled meetings, usually quarterly, convening all of the County Planning Directors to discuss SMA and CZM matters. These meetings are also attended by the Counties' SMA staff. The meetings are beneficial to the Counties because they provide an opportunity to discuss issues of statewide interest, compare SMA issues, share their experiences with enforcement, and interact with other Counties. They also provide the Counties with a statewide perspective of the SMA program and help to improve SMA administration. For example, the Counties have discussed streamlining procedures for assessing and processing SMA minor permits and exemptions. The SMA Assessment (p. 21) recommends that, "the Hawaii CZM Program should provide a forum for the Counties to share their experiences and to learn from each other how they may improve their respective enforcement programs." That is exactly what these meetings do.

Promoting Public Awareness

In collaboration with the Counties, the CZM Program recently completed an informational publication on the SMA process entitled, *A Participant's Guide to the Special Management Area (SMA) Permit Process in the State of Hawaii* (hereafter referred to as SMA User Guide). The SMA User Guide will help the public and County decision-makers better understand the purpose and processes of the SMA permit, as recommended in the SMA Assessment (p. 17). A copy of the guide is attached. It describes the regulatory scope of the SMA permit and its role within the broader regulatory regime so the public can better understand where and how their concerns are addressed. This should result in a more consistent application of the State SMA guidelines and CZM objectives and policies by the Counties, as well as the public. It also educates the public so that their efforts in the public participation process can be more effective. The guide complements existing County information. It will also be used to promote public awareness of the Hawaii CZM Program and the role of the Counties and the State in SMA administration. Contact information for the Hawaii CZM Program and the four County Planning Departments are provided in the guide. The Hawaii CZM Program web site makes the SMA User Guide available for viewing and downloading. The guide is also available at libraries throughout the State.

Responding to Citizen Concerns

Having a dedicated SMA coordinator has strengthened the CZM Program's role in responding to citizen concerns. The SMA coordinator oversees all SMA matters, is knowledgeable of the State SMA provisions, as well as each County's SMA rules, and can interface with the public and investigate their concerns. Because the SMA coordinator communicates frequently with each of the County SMA staffs, the coordinator can access information and research citizen concerns more readily. The SMA coordinator serves as the

point of contact for the public and County and State agencies, and provides a consistent message to the public about interpreting CZM objectives and policies.

The SMA coordinator assists the public when inquiries and complaints are received. The SMA Assessment (p. 17) recommends “providing a point-of-contact in each County to which inquiries and complaints regarding public participation in the SMA permit process would be directed.” The SMA coordinator implements this recommendation at a more comprehensive statewide level. The public is encouraged to contact the CZM Program. This is promoted through the CZM Program website, the SMA User Guide (see next paragraph), the Coastal Zone News section in the State Office of Environmental Quality Control publication, *The Environmental Notice*, and in dealings with the public.

Response to 312 Concerns

The 2003 final evaluation findings (p. 6) cited a concern about “community perceptions of inconsistency among counties regarding their implementation of the SMA rules.” While the SMA Assessment noted differences and variations among the Counties’ SMA permit practices and procedures, they are acceptable and prescribed by the Hawaii CZM law, Chapter 205A, Hawaii Revised Statutes. Chapter 205A allows for variations among the Counties in processing and evaluating SMA permit applications by delegating the SMA permit and rule-making authority to each County and requiring that developments in the SMA be consistent with each County’s general plan and zoning. Accordingly, each County authority has adopted its own rules for SMA permit procedures based on the statutory SMA guidelines in Part II of Chapter 205A.

The SMA Assessment noted that the County of Maui’s SMA processing is substantively different from the other Counties in that Maui is more comprehensive when evaluating SMA permit applications. According to the assessment, “Maui County takes an integrated coastal zone management approach which differs significantly from that of the other counties in Hawaii.” “Maui County is experiencing some of the strongest real estate development in the nation and seeks to minimize adverse impacts to its coastal resources through concurrent planning evaluation that balances environmental quality, economic development, and sectoral (jurisdictional) concerns.” (SMA Assessment, p. 3)

Maui’s SMA procedures and practices are very thorough and involve an extensive assessment and review. Maui requires a comprehensive review for Chapter 205A objectives and policies, state land use designations, County zoning, and community plan requirements. Proposals with potential adverse coastal resource impacts are sent to applicable resource agencies for review. For example, any development in the SMA on vacant land is sent to the State Historic Preservation Division for archaeological and historic resources, the U.S. Fish and Wildlife Service for impacts on endangered species, the Natural Resources Conservation Service for potential impacts on drainage, and the U.S. Army Corps of Engineers for impacts on wetlands. Therefore, although Maui’s SMA review procedures are different from the other

Counties, i.e., more comprehensive, Maui's procedures are consistent with the SMA provisions in Chapter 205A.

Mandatory Considerations from 312

This section addresses each of the four mandatory considerations identified in the 2003 Final Evaluation Findings and explains how the Hawaii CZM Program has fulfilled the necessary action requirements.

- (1) *Strengthening the role that CZM Hawaii plays in responding to citizen concerns, including promoting public awareness of CZM Hawaii's program compliance program and Public Concerns process, and considering the creation of an Ombudsman, who is knowledgeable of SMA rules, and can interact with the public and investigate their concerns.*

Responding to Citizen Concerns, Creating an Ombudsman: Having a dedicated SMA coordinator strengthens our role and ability to respond to citizen concerns. The SMA program coordinator functions similarly to an ombudsman. The coordinator oversees all SMA matters, is knowledgeable of the State SMA provisions, as well as each County's SMA rules, and can interface with the public and investigate their concerns. Because the coordinator communicates frequently with each of the County SMA staffs, the coordinator can access information and research citizen concerns more readily.

The SMA coordinator serves as a single point of contact for all SMA matters statewide and assists the public when inquiries and complaints are received. The SMA Assessment (p. 17) recommends "providing a point-of-contact in each County to which inquiries and complaints regarding public participation in the SMA permit process would be directed." The SMA coordinator implements this recommendation at a more comprehensive statewide level. The public is encouraged to contact the CZM Program. This is promoted through the CZM Program website, the SMA User Guide (see next paragraph), the Coastal Zone News section in the State Office of Environmental Quality Control publication, *The Environmental Notice*, and in dealings with the public.

Promoting Public Awareness: The CZM Program's recently completed SMA User Guide, which is an informational publication on the SMA permit process, will promote public awareness and understanding. The guide will help the public and County decision-makers better understand the purpose and processes of the SMA permit, as recommended in the SMA Assessment (p. 17). It describes the regulatory scope of the SMA permit and its role within the broader regulatory regime so the public can better understand where and how their concerns are addressed. This should result in a more consistent application of the State SMA guidelines and CZM objectives and policies by the Counties, as well the public. The intent is to educate the public so that their efforts in the public participation process are more effective. The guide

complements existing County information. It will also be used to promote public awareness of the Hawaii CZM Program and the role of the Counties and the State in SMA administration. Contact information for the CZM Program and the four County Planning Departments is provided in the guide. The Hawaii CZM Program web site makes the SMA User Guide available for viewing and downloading. In addition, the guide is available for public review at libraries throughout the State.

- (2) *Working with the counties to increase opportunities for public involvement in the SMA permitting process and clarify appeal procedures.*

Opportunities for public involvement in the SMA permit process are adequate and the provisions for public hearings are prescribed by each County's rules or ordinances. The Counties provide at least one public hearing for SMA major permits. Public notices for SMA minor permits are published by the CZM Program in the State Office of Environmental Quality Control's semi-monthly publication, *The Environmental Notice*, under our own section entitled, Coastal Zone News. The City and County of Honolulu provides additional opportunities for public input through its legislative decision-making process.

The 2003 evaluation findings (p. 36) stated that, "some citizens also expressed concern about public participation in the SMA permitting process in Maui, which they felt was inadequate and negates public input." They said that, "at Planning Commission hearings, developers receive unlimited time to present their proposals, whereas the public gets 3 minutes to present their opposing views." It is common for the Counties to set time limits for presenting oral testimonies when there are a large number of people testifying. Also, all the Counties provide applicants with adequate time at public hearings to allow for a thorough explanation of the proposal to ensure that decision-makers fully understand the proposal. The time given to applicants to explain their proposals is not unlimited but is usually more than individuals are given. This procedure is reasonable and is not contrary to Chapter 205A SMA provisions. The Counties also accept written testimony for which there are no limits.

Increasing awareness of the SMA permit process and educating the public about SMA review guidelines and CZM objectives should result in more effective and meaningful public input. The SMA User Guide identifies county procedures and provides County and State program contacts. Promoting the public's understanding of the scope of relevant SMA considerations will help the public participate more effectively, as recommended by the SMA Assessment (p. 16).

- (3) *Providing training to County Planning Commissions and City Council members, County Public Works Departments, and other interested parties, on SMA authorities and requirements.*

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Training workshops for the County administrators and decision-makers will be planned and scheduled for each County. SMA workshops for the public may also be planned. The SMA User Guide will be made available as a handout and will serve as an informational source for the training workshops.

- (4) *Including increased reporting in CZM Hawaii's annual report to the State Legislature and performance reports to NOAA/OCRM on substantive aspects of SMA implementation, including citizen complaints, effectiveness of SMA implementation, and emerging issues needing attention.*

The Hawaii CZM Program will be able to report on the effectiveness of the statewide SMA program with the coordinator monitoring citizen complaints, SMA implementation by all the Counties, and emerging issues.

If you wish to discuss our response to the Section 312 necessary actions, please call me at (808) 587-2833.

Sincerely,



Laura H. Thielen
Director

Attachments

JDN/do
Disk #8