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§ 2803. Powers and Duties of Department of Public Lands.

(a) The Department shall be responsible for the administration, use, leasing, development, and disposition of all those lands defined as public lands by N.M.I. Const. art. XI, § 1 or any other provision of law, subject to the provisions of this chapter and except as limited by transfers of freehold interests to individuals, entities, or other government agencies. The Department's authority does not extend to the issuance of land use permits and licenses, except as specifically provided for in this Act, and does not limit in any respect the authority of other Commonwealth agencies to issue permits and licenses pursuant to their respective enabling legislation.

(b) The Department shall submit each year a proposed annual budget for the next fiscal year in accord with the budgeting and planning procedures applicable to all departments of the Executive Branch. Within its proposed budget, the Department shall itemize all personnel, travel, and other expenses for the fiscal year in question; the sums required to be expended during the year with respect to its leasing responsibilities and the homestead program; sums required to be held in reserve for approved homesteads or other Department programs in the next two fiscal years; a detailed statement of all other Department assets, liabilities, revenues and expenditures; and the estimated sum to be transferred at the end of the fiscal year to the Marianas Public Land Trust.

(c) There is hereby established a fund to be known as the "DPL Operations Fund" which shall be maintained by the Department of Finance. The bank account(s) for the DPL Operations Fund shall be separate and apart from the General Fund Bank Account(s) and other funds of the Commonwealth Government. All records and accounts shall be maintained in connection herewith.

(1) All revenues received by the Department, from whatever source shall be deposited in the DPL Operations Fund bank account(s) in banks located in the Commonwealth that are insured by the FDIC.

(2) All appropriations by the Commonwealth shall be allotted for authorized disbursement of expenditures as approved in the budget.

(3) All debts, liabilities, obligations and operational expenses of the Department including land compensation judgments shall be paid from the DPL Operations Fund bank account(s).

(4) No expenditures not included in the approved budget, and no debt, obligation, or liability shall be incurred or created in any fiscal year, in excess of the amounts specified therein for each purpose.

(5) The expenditure authority of all funds collected by the Department or appropriated to the Department by the Commonwealth shall be the Secretary of the Department, or designee.

(d) The DPL shall assess, manage and collect all mining permit fees for the use of CNMI public lands. If the DPL or any of its predecessors issued a Commercial Mining Permit, and received and accepted payment pursuant to said permit, such permit shall be held valid and enforceable for the period covered by said payment(s), and shall not be terminated or voided during said period except by the written consent of both the permittee and the DPL.

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(e) If the DPL delays or prevents the permit holder from performing any act required by the permit without the fault and beyond the reasonable control of the permit holder, the time to perform such act under said permit shall be excused, and the permit holder shall be given reasonable time necessary to perform such act.

(f) The effective date of this Act shall be retroactive to February 22, 2006.

Source: PL 12-33, § 3 (103); repealed and re-enacted by PL 15-2, § 3 (103), modified; subsections (d), (e), and (f) added by PL 15-21, § 4; subsection (c)(3) amended by PL 16-31.

Commission Comment: The Board of Public Lands, which succeeded the Marianas Public Lands Corporation, was abolished by PL 12-71, § 2 (a) and replaced with the Marianas Public Lands Authority without conforming amendments to other sections of the act as enacted by PL 12-33. See comment to 1 CMC § 2801 regarding the conflict between subsection (d) above and PL 12-71, in addition to other technical deficiencies.

The Commission corrected the spelling of “permittee” in subsection (d) pursuant to the authority granted by 1 CMC § 3806(g) to correct manifest clerical and typographical errors. PL 15-21 was enacted by override on July 28, 2006, and contained the following provisions, in addition to severability and savings clauses:

Section 1. Title. This Act may be cited as the “Amendment and Clarification of Public Law 15-2.”

Section 2. Findings and Purpose. The Legislature finds that the CNMI government’s ability to function and provide critical public services is severely hampered by decreasing financial resources. The shortage of financial resources precludes the funding, construction, and provision of necessary infrastructure to provide and maintain safe and sustainable settlements in the Northern Islands. The island of Pagan possesses natural resources that could be mined, quarried, and extracted for commercial purposes, generating income for the government and providing said necessary infrastructure on the Northern Islands.

The Legislature further finds that there exist a valid commercial mining permit issued on September 8, 1995, by MPLC, for the mining and extraction of pozzolan from the island of Pagan, and that the requisite Environmental Impact Study is complete and the Coastal Resources Management Permit has been issued and is in force. The permittee [sic] has been generating revenues for the government via payment of its annual permit fees and that the permittee [sic] is current in its payment of fees through December 31, 2006. Accordingly, the Legislature finds that Commercial Mining Permit No. CP95-01s is still valid and in full force and effect.

The Legislature additionally finds that the majority of the residents of the Northern Islands, and all surviving former Mayors and the current Mayor of the Northern Islands Municipality have signed a petition urging the CNMI government to support the valid permit for Pagan mining project and to assist in the speedy implementation of the mining operations. The Ninth Saipan and Northern Islands Municipal Council passed Resolution No. 9SM-IRS-06 on March 29, 2006, in support of the

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current Pagan mining project and urging the CNMI government to support the project. The House of Representatives passed H.R. 15-24 on February 28, 2006 in support of the current permit holder's mining project.

The Legislature finds that, consistent with the CNMI Court's decision in *Camacho v. Marianas Public Land Corp.*, Civ. No. 90-0244, actions or inactions of the MPLC and MPLA are binding to DPL. Therefore, any permits that the MPLA issued and/or upheld under its official capacity shall be valid, binding and enforceable to DPL.

In *Camacho v. Marianas Public Land Corp.*, Civ. No. 90-0244 the Court held that "MPLC and LMO are both organs of our local government, whether it be the Trust Territory or the Commonwealth. [The LMO was the predecessor in interest to MPLC]. Simply because the CNMI acquired Commonwealth status did not free its newly established agencies from responsibility for the acts of their predecessors in the Trust Territory. Therefore, actions taken by LMO are binding on MPLC. To accept MPLC's argument [that its predecessor, LMO, exceeded its authority, was negligent in performing the 1979 survey, and that MPLC is in no way accountable for actions taken by LMO] would allow it to disregard any act LMO performed in its official capacity. The adoption of this policy would result in chaos".

Therefore, the Legislature finds that the MPLA's action in confirming the validity of and accepting payments for Commercial Mining Permit No. CP95-01 S is binding and enforceable to DPL.

The Legislature also finds that the action by the Department of Public Lands on May 3, 2006, terminating Commercial Mining Permit No. CP95-01 S, is therefore, unlawful, inconsistent with the wishes of the people, and not in the best interests of the Commonwealth.

The Legislature further finds that any Task Force established or created for the Mining Operations in the Northern Islands after February 22, 2006 is applicable only to all new mining applicants. Such Task Force shall not have any effect on mining permits already granted and valid as of February 22, 2006.

Section 3. Purpose. The purpose of this Act is to amend and clarify Public Law 15-02 by adding sub-sections (d), (e) and (f) to Section 103 authorizing the DPL to assess fees for mining permits and to recognize, approve, validate and enforce all existing commercial mining permits where the annual mining permit fees have been paid as of February 22, 2006 and where the CNMI government has accepted the payments;

. . .

Section 5. JG Sablan Mining Permit. Notwithstanding any provisions of PL 15-2, as amended, to the contrary, the commercial mining permit issued to JG Sablan Quarry, Inc., by the predecessor of Department of Public Lands is hereby declared valid and enforceable pursuant to the terms and conditions of the permit, provided that:

- (i) the area on the island of Pagan on which JG Sablan Quarry, Inc. may carry out mining operations is limited to that parcel designated as "Parcel A" as indicated in the records of the Department of Public Lands; and

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(ii) the Department of Public Lands shall grant a temporary ingress/egress easement to JG Sablan Quarry, Inc. over other public land areas on Pagan for the purpose of moving mining equipment, supplies and products to Parcel A from the port and vice-versa.

This section shall apply only for as long as the permit to JG Sablan Quarry, Inc. is in effect and, for this reason, this section shall not be codified in the Commonwealth Code.

Section 6. Funds for PSS from JG Sablan Quarry, Inc. In addition to the fees paid by JG Sablan, Inc. to the Department of Public Lands pursuant to the mining agreement, JG Sablan, Inc. agrees to amend the mining agreement to include a provision in which JG Sablan, Inc. shall pay \$50,000.00 each month to the Public School System beginning January 1, 2007. The \$50,000.00 each month shall strictly be used for classroom maintenance and renovations, textbooks, classroom, and instructional materials. The Commissioner of Education shall be the expenditure authority of the funds.

Public Law 16-31 was enacted into law by override on March 10, 2009. PL 16-31 contained severability and savings clause provisions and the following:

Section 1. Findings and Purpose. The Legislature finds that the Department of Public Lands is tasked with the responsibility of administering the Commonwealth's land exchange program, which includes land compensation in cases where land exchange is not a viable or desirable option. The Legislature further finds that the Department of Public Lands is a party to land compensation cases filed in court and should be responsible for paying final judgments, if any, to land compensation claimants. Land compensation judgments usually include interest which is compounded until the judgment is paid in full thereby making it imperative that the judgments are paid as soon as possible. The Legislature finds that the Department of Public Lands has the ability to satisfy land compensation judgments. Accordingly, the purpose of this legislation is to authorize the Department of Public Lands to pay for final land compensation judgments using its operations fund bank accounts.