Audit of the Management of State Boating Facilities by the Department of Land and Natural Resources

A Report to the Governor and the Legislature of the State of Hawaii

Report No. 01-09
April 2001

THE AUDITOR
STATE OF HAWAII

Office of the Auditor

The missions of the Office of the Auditor are assigned by the Hawaii State Constitution (Article VII, Section 10). The primary mission is to conduct post audits of the transactions, accounts, programs, and performance of public agencies. A supplemental mission is to conduct such other investigations and prepare such additional reports as may be directed by the Legislature.

Under its assigned missions, the office conducts the following types of examinations:

1. *Financial audits* attest to the fairness of the financial statements of agencies. They examine the adequacy of the financial records and accounting and internal controls, and they determine the legality and propriety of expenditures.

2. *Management audits*, which are also referred to as *performance audits*, examine the effectiveness of programs or the efficiency of agencies or both. These audits are also called *program audits*, when they focus on whether programs are attaining the objectives and results expected of them, and *operations audits*, when they examine how well agencies are organized and managed and how efficiently they acquire and utilize resources.

3. *Sunset evaluations* evaluate new professional and occupational licensing programs to determine whether the programs should be terminated, continued, or modified. These evaluations are conducted in accordance with criteria established by statute.

4. *Sunrise analyses* are similar to sunset evaluations, but they apply to proposed rather than existing regulatory programs. Before a new professional and occupational licensing program can be enacted, the statutes require that the measure be analyzed by the Office of the Auditor as to its probable effects.

5. *Health insurance analyses* examine bills that propose to mandate certain health insurance benefits. Such bills cannot be enacted unless they are referred to the Office of the Auditor for an assessment of the social and financial impact of the proposed measure.

6. *Analyses of proposed special funds* and existing *trust and revolving funds* determine if proposals to establish these funds are existing funds meet legislative criteria.

7. *Procurement compliance audits* and other *procurement-related monitoring* assist the Legislature in overseeing government procurement practices.

8. *Fiscal accountability reports* analyze expenditures by the state Department of Education in various areas.

9. *Special studies* respond to requests from both houses of the Legislature. The studies usually address specific problems for which the Legislature is seeking solutions.

Hawaii's laws provide the Auditor with broad powers to examine all books, records, files, papers, and documents and all financial affairs of every agency. The Auditor also has the authority to summon persons to produce records and to question persons under oath. However, the Office of the Auditor exercises no control function, and its authority is limited to reviewing, evaluating, and reporting on its findings and recommendations to the Legislature and the Governor.

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OVERVIEW

Audit of the Management of State Boating Facilities by the Department of Land and Natural Resources

Report No. 01-09, April 2001

Summary

Small boat harbors and boating facilities are part of the State's ocean recreation and coastal areas programs established in Chapter 200, Hawaii Revised Statutes, and managed by the Department of Land and Natural Resources' Division of Boating and Ocean Recreation (boating division). Their proper maintenance and operation allow people to benefit from the state's natural resources by engaging in recreational boating, commercial and personal fishing, and maritime related business operations. Residents and visitors alike use boating facilities to participate in ocean-based activities like yacht races, canoe regattas, ocean swimming, and surfing and board sailing contests.

Inadequate management of state boating facilities has been a recurring problem. Our prior audits in 1993 and 1998 reported on these deficiencies. In our present audit, we found that little had changed in the poor conditions of these state boating facilities. The boating program's mismanagement and neglect have deteriorated facilities to the point where their continued use threatens public safety. Many facilities need major repairs and face permanent closure if not addressed. For example, 64 of 338 boating slips at the Ke'ehi boating facility are closed for safety and liability reasons. The closure also results in a loss of revenues of almost $100,000 per year. We also noted sections of the Wai'anae and Kailua-Kona boating facilities were closed for the same reasons.

Such problems have resulted partly from poor planning, an insufficient fee structure, paying a disproportionate share of the department's enforcement expenses, and funding programs with special fund moneys that should be supported by general funds. For example, the fee for the State's highest mooring rate is only $4.10 per foot of vessel at Ala Wai Harbor. Whereas, Ko Olina Marina, a private facility, charges $9. Other private facilities charge as little as $2.18 per foot, but also require initiation and application fees, dues, and food and beverage minimums. The boating division has identified several additional revenue sources such as increasing commercial business operations but without the support from the Board of Land and Natural Resources. There are also 750 parking spaces at the Ala Wai Harbor that are free to the general public. We observed that most of those using the free spaces were not accessing boats in the ocean. Some were carrying construction tools and others were dressed in hotel uniforms.

We also found that the boating division lacks adequate controls to ensure the accuracy and integrity of its financial affairs. The boating division is still unable to accurately determine the cost of operating its boating facilities. In addition, inventory and cash collection controls are inadequate. Our sample of the boating division's inventory found six of 100 items missing, at a value in excess of $5,000. We also found another 40 inventory items that were missing State of Hawaii

identification tags. In addition, delinquent user fees (now totaling approximately $500,000) continue to increase.

Finally, in the midst of current boating program problems, consideration is being given to transferring the program to the Department of Transportation. We conclude that administrative deficiencies within the land department need to be corrected before such a decision is made.

Recommendations and Response

We recommended that the Division of Boating and Ocean Recreation develop realistic strategic plans to address both the short and long term problems of the boating program. This includes addressing the needed repairs in the boating facilities and increasing a currently insufficient revenue stream for the boating program. We recommended the boating division address operational deficiencies in the state boating facilities by ensuring that necessary funding for repair and maintenance projects is available; the boating program receives its fair share of enforcement; and all persons moored in state boating facilities possess current mooring permits, vessel inspection certification, and vessel registrations. We also recommended that the boating division improve controls over its financial activities by ensuring expenditures are properly classified, establishing a better inventory system, segregating duties for cash collection, improving efforts to collect delinquent user fees, and requiring more audits of its commercial permit holders. Until these administrative deficiencies are addressed, consideration of transferring the boating program to another agency should be deferred.

The Department of Land and Natural Resources concurred in general with the conclusions and recommendations in our report. Despite differences in opinion, the department stated that the report provides a solid base and positive direction for the improvement of state boating facilities in a fiscally responsible manner. The department strongly disagreed with our finding that the Board of Land and Natural Resources and Division of Boating and Ocean Recreation mismanaged and neglected the State's boating program. The department also offered additional information and points of clarification.

The Department of Transportation also concurred with the findings and recommendations of the report and offered specific comments regarding key issues that were discussed. The department noted that while it is concerned with the condition of the State's boating program, the boating program should "first look internally to resolve its issues rather than seeking safe harbor within the Department of Transportation."

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Submitted by

THE AUDITOR
STATE OF HAWAII

Report No. 01-09
April 2001

Foreword

This is a report of our audit of the management of state boating facilities by the Department of Land and Natural Resources. This audit was performed pursuant to House Concurrent Resolution No. 165, H.D. 1, S.D. 1, Regular Session 2000, which requested the Auditor investigate the existing boating facilities' management, operations, and standards. The resolution also requested the Auditor to report on the feasibility, advantages, and disadvantages of transferring the Division of Boating and Ocean Recreation from the Department of Land and Natural Resources to the Department of Transportation.

We wish to express our appreciation for the cooperation and assistance extended to us by the Department of Land and Natural Resources, Department of Transportation, and others whom we contacted during the course of the audit.

Marion M. Higa
State Auditor

Table of Contents

Chapter 1 Introduction

History of Hawaii's Boating Program 1
Objectives of the Audit 5
Scope and Methodology 5

Chapter 2 Hawaii's Boating Program Has Reached A Critical Point

Summary of Findings 7
Years of Mismanagement and Neglect Have Placed Hawaii's Boating Program In a State of Crisis 8
The Division of Boating and Ocean Recreation Lacks Adequate Controls To Ensure the Accuracy and Integrity of Its Financial Affairs 22
Many Issues Need Resolution Within the Boating Program 25
Conclusion 27
Recommendations 28

Responses of the Affected Agencies 31

List of Exhibits

Exhibit 1.1 State Boating Facilities Managed by the Boating Division 3
Exhibit 1.2 Boating Division Revenues and Expenditures FY1999-2000 4
Exhibit 2.1 Average Disbursements of the Boating Special Fund, Boating Special Fund Expenditures 13
Exhibit 2.2 Revenues and Expenditures of Selected Boating Facilities: FY1998-99 14
Exhibit 2.3 Typical Recreational and Commercial Mooring Rates of Selected State and Private Boating Facilities 15
Exhibit 2.4 Mooring Rates from Other Boating Jurisdictions (Calendar Year 2000) as Compared to Hawaii's State Boating Facilities 16
Exhibit 2.5 State Boating Facilities and Their Years of Construction 19

Chapter 1

Introduction

Small boat harbors and boating facilities are part of the State's ocean recreation and coastal areas programs established in Chapter 200, Hawaii Revised Statutes (HRS). Their proper maintenance and operation allow people to benefit from Hawaii's natural resources by engaging in recreational boating, commercial and personal fishing, and maritime-related business operations. Residents and visitors alike use boating facilities to participate in ocean-based activities like yacht races, canoe regattas, ocean swimming, and surfing and board sailing contests.

Over the years the Legislature has struggled with a myriad of issues and concerns facing the State's administration of its boating facilities. During the 2000 legislative session, Hawaii's Small Business Task Force on Regulatory Relief presented a report on its assessment of Hawaii's commercial boating industry. The task force found that over-burdensome administrative rules, excessive fees, inconsistent permitting standards, and an overall mismanagement of Hawaii's boating facilities beleaguer boaters in Hawaii.

In response, the Legislature requested the Auditor, through House Concurrent Resolution (H.C.R.) No. 165, H.D. 1, S.D. 1, investigate the existing boating facilities' management, operations, and standards. H.C.R. No. 165 also requested the Auditor report on the feasibility, advantages, and disadvantages of transferring the Division of Boating and Ocean Recreation from the Department of Land and Natural Resources back to the Department of Transportation.

History of Hawaii's Boating Program

Recreational boating facilities have existed in Hawaii since the early 1900s. In 1951, the Legislature recognized and differentiated small boat harbors from larger commercial harbors by specifying that small boat harbors were to be used for recreation and the landing of fish. However, it was not until 1976 that Hawaii's boating program, which encompassed all of the state's recreational boating facilities, was officially created as a spin-off of the Department of Transportation's Harbors Division. Prior to 1976, all boating facilities were maintained and operated by the Harbors Division and their associated costs were paid from either general or special funds. However, Act 221, Session Laws of Hawaii (SLH) 1976 was intended to create a more efficient and responsive administration of the small boating program by establishing a separate branch in the Harbors Division. The branch's sole purpose was to administer small boat harbors and a comprehensive boating program. Act 221 clarified

that the Legislature's intent was for the Department of Transportation to follow specific guidelines in administering and financing state boating facilities.

In 1991, the boating program was transferred from the Department of Transportation to the Department of Land and Natural Resources (land department) pursuant to Act 272, SLH 1991. The Legislature based this transfer on the premise that the primary function of the Department of Transportation's Harbors Division is to move people and goods in and out of Hawaii; whereas the boating program's recreational nature better aligns it with the land department's function that already includes other outdoor recreational activities. As a result, the boating program—including all boating facilities, equipment, personnel, and funding—was transferred intact on July 1, 1992. It is now organized under the land department as the Division of Boating and Ocean Recreation.

Act 272 also transferred law enforcement, security functions, and employees (otherwise known as the marine patrol) of the Department of Transportation to the Department of Public Safety effective July 1, 1991. Under the Department of Public Safety, the marine patrol continued its responsibility of enforcing laws and rules of the boating, ocean recreation, and coastal areas programs. However, five years later, Act 296, SLH 1996, transferred 18 marine patrol officer positions to the land department's Division of Conservation and Resources Enforcement and re-described them as conservation and resources enforcement officers. According to boating division documents, the primary responsibilities of these transferred positions were to remain the same as those under the marine patrol officer program: to enforce boating, ocean recreation, and coastal areas programs.

Administration and operation of the boating program

Under Section 200-2, HRS, the Board of Land and Natural Resources is responsible for managing and administering the State's ocean-based recreation and coastal areas programs. The land board is to plan, develop, operate, administer, and maintain small boat harbors, launching ramps, other boating facilities, and associated aids to navigation throughout the state. Section 200-12 requires the land department to establish a separate unit to administer small boat harbors and a comprehensive recreational boating program. This unit is the Division of Boating and Ocean Recreation, or boating division.

The boating division is organized into seven sub-units that include a staff services office, operations office, engineering branch, and four district boating branches on the islands of Oahu, Maui, Kauai, and Hawaii. The division is responsible for managing and administering 21 small boat harbors, 54 launching ramps, 13 offshore mooring areas, 10 designated ocean water areas, 108 ocean management areas, numerous associated

aids for navigation throughout the state, and beaches encumbered with easements. Exhibit 1.1 lists the locations of 36 state boating facilities by districts that are managed by the boating division.

Exhibit 1.1
State Boating Facilities Managed by the Boating Division

Oahu District	Kauai District	Maui District	Hawaii District
• Ala Wai	• Nawiliwili	• Lahaina	• Kealakekua Bay
• Ke'ehi	• Port Allen	• Ma'alaea	• Wailoa River
• Hale'iwa	• Hanalei Pier	• Hana	• Honokohau
• Heeia Kea	• Kikiaola	• Hale O' Lono	• Keahou
• Wai'anae	• Kukui'ula	• Kihei	• Kawaihae
• Kahana Bay	• Waika'ea Canal	• Mala	• Kailua-Kona
• Mauanalua Bay	• Wailua River	• Kahului	• Puako
• Sand Island		• Keanae	• Poho'iki
• Waikiki		• Kaunakakai	
		• Manele	
		• Ka'anapali	
		• Maliko	

In addition to managing Hawaii's boating facilities and coastal areas program, the boating division also administers vessel registration, boating accident investigation and reporting, boating safety education, issuance of marine event permits, licensing of commercial operators, and an ocean recreation management plan.

Boating special fund revenues and expenditures

The boating division is almost entirely supported by the revenues it generates through its boating special fund. This fund was first established in 1972 for the purposes of administering a comprehensive boating program, boating safety, vessel registration, casualty investigation, law enforcement, pollution abatement, and other related activities. In 1976, the Legislature reaffirmed this intent for the boating special fund by determining that the boating program's administrative costs should be paid from the revenues of the boating special fund. However, the Legislature did stipulate that general fund revenues may be authorized as appropriate. The Legislature's rationale for the boating special fund was that it should cover the costs of the boating program, since small boat harbors were built for, and used by, boaters who moor their boats in those harbors, and who exclusively and permanently use facilities such as piers and catwalks. Such boaters should be responsible for the cost of capital improvements that serve their primary and exclusive use as well as the cost of maintaining, operating, and managing the boating facilities.

The boating special fund's revenues and expenditures have been almost even for the past two years. The fund collected $10.9 million in revenues

in FY1998-99 and $10.3 million during FY1999-2000. Typical revenues to the fund include fees for boat registrations, mooring and berthing fees, recreational and commercial ramp permits, fees from regulating ocean recreation management areas, lease revenue from state property, 2 percent of the gross revenues from commercial vessels using boating facilities, and fees from commercial thrill craft and parasailing operations. Additional revenues to the fund include a portion of the State's liquid fuel tax and funds from the Federal Boating Safety Act.

The boating division spent approximately $10 and $10.1 million in fiscal years 1998-99 and 1999-2000 respectively. Program revenues are affected by the requirement that 20 percent of the revenues received from boating facilities on ceded lands be transferred to the Office of Hawaiian Affairs (OHA). Exhibit 1.2 details revenues and expenditures of the boating division during FY1999-2000.

Exhibit 1.2
Boating Division Revenues and Expenditures FY1999-2000

Revenues		
Federal Aid, Fish Restoration	$ 240,096	
Liquid Fuel Taxes	1,313,392	
Investment Pool Interest	79,454	
Parking Meter Collection	126,352	
Boat Safety Act	294,161	
Ramp Permit Fees	484,251	
Mooring Charges	5,872,807	
Rental of Land and Wharf	1,612,170	
Miscellaneous Income	(791)*	
Water	217,813	
Boat Registration	84,956	
Temporary Deposits	8,010	
Total Revenue		**$ 10,332,672**
Expenditures		
Payroll	$ 3,638,382	
Operations, Supplies, Maintenance	545,542	
Travel	58,829	
Utilities	539,333	
Rent	391,436	
Repairs and Maintenance	2,009,921	
General Obligation Bond Principal And Interest	1,514,269	
Machinery and Equipment, Services on a Fee Basis	1,380,333	
Security Deposit Refunds	67,015	
Total Expenditures		**$ 10,145,060**
Net Revenue		**$ 187,611**

*Miscellaneous income states a negative balance because the division adjusted this revenue category to reflects its 20 percent revenue payment to OHA for use of ceded lands. This amounted to $345,681 in FY1999-2000.

Source: DLNR, Division of Boating and Ocean Recreation.

Objectives of the Audit

1. Assess the Division of Boating and Ocean Recreation's management of state-run boating facilities and its ability to maintain and operate these facilities.

2. Assess the feasibility of transferring the Division of Boating and Ocean Recreation from the Department of Land and Natural Resources to the Department of Transportation.

3. Make recommendations as appropriate.

Scope and Methodology

To accomplish the objectives of this audit we reviewed pertinent laws, rules, regulations, and literature pertaining to the Department of Land and Natural Resources and its Division of Boating and Ocean Recreation. Our audit focused on program and fiscal operations from FY1998-99 through FY1999-2000. We examined documents and files from the boating division's administrative office and fiscal office. We visited 14 of 36 boating facilities administered by the boating division on the islands of Oahu, Hawaii, Kauai, and Maui and reviewed mooring permit files of their small boat harbors.

We examined accounting records and expenditure reports of the boating special fund and fiscal controls over the accuracy and integrity of the boating division's financial affairs. We reviewed enforcement activity files from the land department's Division of Conservation and Resources Enforcement and interviewed representatives from this division. We also interviewed boating division administrators and personnel, district branch managers, harbor agents, conservation and resources enforcement officers, and members of the recreational and commercial boating communities.

Our work was conducted from June 2000 through November 2000 in accordance with generally accepted government auditing standards.

Chapter 2

Hawaii's Boating Program Has Reached A Critical Point

In 1993 and 1998, our office reported deficiencies in the management and operation of the State's boating facilities. In both audits, we found that the Department of Land and Natural Resources (land department) lacked a comprehensive boating program. Boating facilities were unsafe and risk of physical injuries to the public continued. Security and enforcement measures also needed improvement. Finally, the department was unable to track boating program expenditures by facility or by type.

In our present audit, we found that little had changed in the poor conditions of state boating facilities. Management and oversight of Hawaii's boating program by the Division of Boating and Ocean Recreation (boating division) and the Board of Land and Natural Resources (land board) have been inadequate. The boating program has not generated sufficient revenues to support its operations and maintain boating facilities. In addition, the boating division's control over its financial affairs to ensure fiscal accuracy and integrity has been inadequate. Transferring the boating program back to the Department of Transportation has been suggested as a way to address these problems. However, a transfer should not be considered until the land department internally addresses the boating program's deficiencies.

Summary of Findings

1. Hawaii's boating program has been mismanaged and neglected for years by both the Division of Boating and Ocean Recreation and the Board of Land and Natural Resources. As a result, the operation and maintenance of the State's boating facilities continues to suffer.

2. The boating division continues to lack fiscal accountability.

3. Many problems and issues need to be addressed within the boating program before consideration is given to transferring it to the Department of Transportation.

Years of Mismanagement and Neglect Have Placed Hawaii's Boating Program In a State of Crisis

Over the years, the land department has struggled with proper management and maintenance of Hawaii's boating program and boating facilities. Our 1993 and 1998 audits identified deficiencies in the management and maintenance of the boating program that jeopardized the land department's mission to provide facilities for recreational boating and support opportunities for ocean activities.

We found that very little has changed in the overall management and operation of the boating program since our previous audits. The boating program's inadequate management and continued neglect have allowed its facilities to deteriorate to the point where their use threatens public safety. Boating program administrators have still failed to adequately plan sufficient resources for needed repairs and to make operations self-sufficient as the Legislature intended. Many facilities continue to need major repairs and face permanent closure if not addressed. In addition, boating administrators have failed to adequately plan for an expanded boating program by securing sufficient resources to maintain and operate the program and support its activities. We also found that the boating division still lacks adequate controls to ensure the accuracy and integrity of its financial affairs. Finally, in the midst of current boating program problems, consideration is being given to transferring the program to the Department of Transportation. However, administrative deficiencies need to be corrected before such a decision is made.

Lack of planning and foresight has jeopardized viability of the boating program

Good management practices require that strategic plans be developed to meet goals and objectives. Effective strategic planning helps an organization establish financial control, upgrade operations, and penetrate new markets.

The boating division, under the general direction of the Board of Land and Natural Resources, has failed to adequately plan for the future of Hawaii's boating program. A sound strategic plan would help the boating program 1) identify its current financial position, 2) identify where the program should be, and 3) identify appropriate steps and measures needed in order to get there.

The boating division lacks formal strategic and business plans for generating sufficient revenues for its activities. Such plans would identify both short- and long-range goals, a course of action to increase facility infrastructure and revenue stream, and other funding sources for the boating program. By not developing strategic or business plans, the boating division has failed to identify or take action towards implementing viable alternatives to increase the boating program's revenues and financial strength. Because of this planning deficiency, the boating program has been operating in a crisis mode by addressing only its most

pressing needs. This lack of foresight and planning has contributed to the boating division's significant backlog of repair and maintenance projects, now amounting to over $130 million.

However, we recognize that the boating division has recently made efforts to try and address its deficiencies and increase its revenues. The division submitted several bills to the Legislature between 1998 and 2000 that proposed additional revenue-generating activities for the boating program. These proposals included increasing non-maritime commercial use in the harbors, leasing the Ala Wai and Keehi harbors, leasing submerged lands, and leasing a portion of the Ala Wai harbor for commercial purposes. However, none of these bills passed. Although these proposals should have been considered years ago by both the boating division and land board, we encourage the division to continue its efforts to broaden the use of its boating facilities and to increase its revenues.

Boating division administrators have failed to adequately plan for the expansion of the boating program

Hawaii's boating program began under the jurisdiction of the Department of Transportation's Harbors Division in 1972. Act 180, SLH 1972 established the "boating special fund" to operate and maintain properties primarily used for recreation or the landing of fish. The act also created a "statewide comprehensive boating program" to address boating safety; vessel registration and casualty investigation; enforcement of boating, harbor, shorewater, and beach rules and regulations; and abatement of air and water pollution related to small craft. In 1976 the Legislature authorized a separate branch under the transportation department's Harbors Division to administer small boat harbors and a recreational boating program. We found that the role of the boating program has been expanded to encompass other areas but its funding has not. The creation of ocean recreation management areas has further increased the scope of the program. In addition, the transfer of the coastal areas program to the land department was not general funded and lacked clear program responsibility.

Ocean recreation management areas have broadened the scope of the boating program

In 1990, the Legislature (through Act 313) established "ocean recreation management areas" in Kaneohe Bay and Maunalua Bay and placed limits on the amount of ocean recreation activity (such as water-sledding, parasailing, and high speed boating) that can be conducted in these areas. Because commercial ocean activities are under the boating program's jurisdiction, the 108 ocean recreation management areas and their associated program costs must therefore be administered by the boating program and its special fund.

Division officials reported that the 1990 establishment and subsequent activities of ocean recreation management areas significantly increased the program's scope without providing resources to adequately manage and operate these recreational areas. The boating program now includes all ocean recreation management areas along with recreational boating facilities, all ocean waters out to three nautical miles, public navigable streams, and beaches with public easements.

Coastal areas program has not been established under the boating special fund

The 1991 Legislature transferred the ocean recreation and coastal areas programs from the transportation department to the land department as an additional functional and financial responsibility. The coastal areas program, which consists primarily of the prevention of shoreline erosion, repair of seawalls and other coastal protective structures, and removal of non-natural obstructions from shorelines and coastal areas, were general funded activities that stopped receiving general fund appropriations with the transfer.

However, the boating special fund is restricted to the operation and maintenance of boating facilities and other boating related activities. It is not to be used for coastal areas program costs. Although the land board has assumed the functions of the ocean recreation and coastal areas programs from the transportation department, the statute that administers small boat harbors and a comprehensive boating program, Section 200-12, HRS, does not identify the coastal areas program as part of its responsibilities.

Responsibility for the management of coastal areas is unclear

Despite the transfer of the coastal areas program from the transportation department, we found that jurisdiction over coastal areas is unclear even under the land department. Both the boating and land divisions share responsibilities related to coastal areas and the state's shorelines. For instance, Act 84, SLH 1999, assigns the land division responsibility for restoring public beach lands for the public's benefit. However, public beach lands also fall within the coastal areas (boating) program of controlling shoreline erosion.

Because the boating special fund does not identify the coastal areas program under its scope of activities, we question whether the expenditure of funds for this program is appropriate. During FY1997-98, the Oahu district boating office spent a total of $17,000 for activities related to this program, such as cleaning up debris off the shores of the state's beaches.

Chapter 46, HRS, assigns additional public agencies to coastal area/ shoreline responsibilities, further clouding jurisdiction. Under

Section 46-12, the various counties are responsible for removing and clearing all seaweed, limu, and debris which are likely to create an unsanitary condition or to otherwise become a public nuisance. Several public entities now have the responsibility of maintaining beach lands: the boating division, land division, and the counties.

The land department should clarify jurisdiction and responsibility for coastal areas and beach lands. In addition, it should seek legislative amendment of Section 200-12, HRS, to include the coastal areas program as a part of the boating division's responsibilities. It should also seek amendment of Section 200-8 to include the cost of administering this expanded program through the boating special fund.

Poor planning has resulted in a questionable and expensive land lease

An example of poor planning by the boating division centers on a 1994 lease agreement for an approximately one-acre undeveloped property located at Maalaea small boat harbor on Maui. The division has neither improved the property for the boating program's purposes nor considered its lease agreement option to buy the property within the lease's first five years. In addition, the division failed to secure the necessary funding to purchase the property and is now locked into a 30-year lease at a minimum of $154,000 per year.

Of greater concern is the subjectivity of the lease's annual rent adjustment clause to prevailing market rates. While the annual lease rent is $154,000 at minimum, the rent adjustment clause requires the division to pay 8 percent of the prevailing market rate or the annual lease rent for the preceding two-year period, whichever is greater. The boating division has agreed to terms that require an increased annual rent should the appraisal value increase. Moreover, the value of the undeveloped one-acre parcel is limited. The division cannot improve the property without the consent and approval of the lessor.

As a result of poor planning and lack of foresight, the division is now faced with the prospect of an expensive 30-year lease and no plans for use of the land—resulting in a waste of at least 4.5 million taxpayer dollars.

Boating division administrators have failed to identify and secure appropriate resources to support program activities

Revenues of the boating special fund have not been sufficient to support the expansion of the boating program. However, boating administrators have done little to address these shortfalls. The boating division relies heavily on its fees to generate the revenues needed to administer both the transferred ocean recreation and coastal areas programs. To address these shortfalls, alternative sources of revenue and funding are needed.

Revenues of the boating special fund are not sufficient to operate state boating facilities

Administering a comprehensive statewide boating program established under Section 200-8 includes:

- Operating, maintaining, and managing all boating facilities under the control of the land department;
- Improving boating safety;
- Operating a vessel registration and boating casualty investigation and reporting system; and
- Other boating program activities.

The cost of these activities, and of principal and interest payments on capital improvements for boating facilities constructed after 1975, may be paid out of the boating special fund or general revenues as authorized by the Legislature. However, Section 200-8, HRS, states that revenues shall be sufficient to pay such costs. Upon reviewing financial records of the boating division and its boating special fund, we found that revenues do not cover operating and maintenance costs and requirements of state boating facilities. As a result, the division cannot correct problems and deficiencies that have accumulated over the years. As mentioned previously, the division's repair and improvement projects currently total over $130 million of which a majority qualifies as capital improvement projects (CIP). Financing these projects will be gradual, and the number of projects will be limited in each fiscal year. The boating program's CIP are funded through revenues from general obligation bond sales for which the boating special fund is responsible for principal and interest bond payments. Given the special fund's current financial condition, the division cannot make these payments and therefore must continue to pursue revenue-generating proposals. Meanwhile, users of these facilities continue to face potential injury risks from the deteriorating facilities.

According to the division's limited revenue and expenditure data, the boating special fund generates an average of $10.5 million per year. From this amount, the boating division spends about $1.3 million per year on repairs and maintenance despite departmental documents stating that about $12 million a year is needed to maintain facilities at an acceptable standard. The remaining $9.2 million of the division's revenues is spent on administrative and mandated requirements. Exhibit 2.1 details the average expenditures of the boating division during a fiscal year.

Exhibit 2.1
Average Disbursements of the Boating Special Fund
Boating Special Fund Expenditures

Category	Amount	Percent of Total Expenditures
Repairs and Maintenance	$1,300,000	12%
Payroll	$2,900,000	28%
Debt Service on G.O. Bonds	$1,800,000	17%
Operations and Supplies	$2,000,000	19%
Internal Service Fees to Budget and Finance	$400,000	4%
Division of Conservation and Resources Enforcement	$1,300,000	12%
Office of Hawaiian Affairs	$800,000	8%
Total Average Disbursements	**$10,500,000**	**100%**

Source: Division of Boating and Ocean Recreation fiscal office.

The boating special fund's insufficient revenues are in part due to the many boating facilities that do not generate enough revenues to cover their own operations. For example, in FY1998-99 the Wailoa River small boat harbor generated approximately $175,000 while the division expended $462,000 on the facility, resulting in a $287,000 deficit. Other facilities that incurred deficit spending during FY1998-99 include: Haleiwa, $(88,000); Waianae, $(36,000); Sand Island Ramp, $(47,000); and Kihei Ramp, $(38,000). Facilities such as the Kahana Bay and Maunalua Bay Ramps generated no revenue but incurred $10,000 and $11,000 in expense respectively. Exhibit 2.2 lists the revenues and expenditures of selected boating facilities during FY1998-99.

This weak financial position prevents the boating division from meeting its own minimum standards unless additional revenues and resources become available.

Reliance on user fees shows lack of foresight

The boating division relies too heavily on the insufficient revenues it generates from user fees to cover its maintenance and operations. Revenues from mooring and slip fees account for more than half of the boating program's total revenues. In FY1998-99, user fee revenues from mooring charges and ramp permits, which totaled $6,227,129, accounted for 56 percent of the program's total revenue base of $10,961,129. Similarly, during FY1999-2000, mooring charges and ramp permit fees totaled $6,357,058 and accounted for 61 percent of the program's total revenue base of $10,332,672.

Exhibit 2.2
Revenues and Expenditures of Selected Boating Facilities: FY1998-99

Facility	Revenues	Expenditures	Excess (Deficit)
Ala Wai	$2,771,061	$917,129	$1,853,932
Ke'ehi	$923,694	$426,452	$497,242
Heeia Kea	$205,961	$163,137	$42,824
Hale'iwa	$259,687	$347,887	$(88,200)
Honokohau	$918,838	$311,007	$607,831
Kailua-Kona Anchorage	$316,527	$249,158	$67,369
Poho'iki Ramp	$0	$15,564	$(15,564)
Port Allen	$70,371	$54,449	$15,922
Kikiaola	$16,761	$34,145	$(17,384)
Waiaka'ea Ramp	$0	$35,138	$(35,138)
Lahaina	$862,217	$221,705	$640,512
Ma'alaea	$718,668	$436,129	$282,539
Oahu District Office	$47	$714,149	$(714,102)
Hawaii District Office	$12,072	$234,259	$(222,187)
Kauai District Office	$198,878	$281,246	$(82,368)
Maui District Office	$39,734	$283,561	$(243,827)
Total Selected Facilities	$7,314,516	$4,725,115	$2,589,401

Repeated revenue shortfalls require aggressive action. However, raising user fees alone may not be a reasonable route. According to one study of the boating program, current user fees are about 20 percent higher than the national average and suggested standards. However, Hawaii's higher user fees warrant further analysis because certain fees are actually below market rates.

Boating division officials have also reported that new revenues could be generated by leasing state lands adjacent to boating facilities for various concessions, retailers, and other maritime and non-maritime related commercial activities. Such lease revenue would then decrease the division's reliance on user fee revenues. However, state law has hampered the division's efforts to pursue such alternatives. Non-maritime related functions are currently prohibited on small boat harbor lands. Nevertheless, the department should pursue these enterprise opportunities more diligently as a means to achieve self-sufficiency for the boating program.

Boating program's current fee structure is insufficient

Title 13, Section 234-1 of the Hawaii Administrative Rules states that fees and charges relative to the use of small boat harbor property and facilities should produce sufficient amounts to pay the expenses for operating, maintaining, and managing boating facilities and providing services. The boating division has not established user fees in accordance with these rules. The current fee structure cannot support the maintenance and operation of statewide boating facilities. For instance, the boating program's mooring charges range from $2.80 to $4.10 per foot of vessel, which is far below Hawaii's prevailing market rates of $8 to $9 per foot of vessel. For example, a private facility, Ko Olina Marina, charges $9 per foot of vessel. Exhibit 2.3 lists mooring rates of selected state and private boating facilities in Hawaii.

Exhibit 2.3
Typical Recreational and Commercial Mooring Rates of Selected State and Private Boating Facilities

Facility	Mooring Rate (Per Foot of Vessel)	Notes
State Boating Facility*		
Ala Wai	$4.10	
Ke'ehi, Lahaina, Ma'alaea, Honokahau	$3.50	
All other state facilities	$2.80	
Private Boating Facilities		
Ko Olina	$9.00	
La Mariana Sailing Club	$8.00	
Ke'ehi Marine Center	$8.65	
Kaneohe Yacht Club	$2.18	Requires a $2,000 initiation and application fee and quarterly dues of $257
Hawaii Yacht Club	$4.10	Requires a $600 initiation and application fee and yearly club membership dues of $420
Waikiki Yacht Club	$5.75	Requires an $800 application fee, $95 in monthly dues, and a $25 monthly food and beverage minimum

*In addition to paying recreational mooring charges of these facilities, commercial operators must pay 2 percent of their gross revenues from commercial operations to the boating division, or twice the mooring charge, whichever is greater.

Ala Wai small boat harbor's mooring rates are about half those of privately operated boating facilities. Rates at the Ke'ehi and Lahaina boating facilities are 57 to 62 percent less than those at comparable private facilities. The rates for all other state boating facilities are about 65 to 69 percent less than private facility rates.

When the boating division's mooring rates are compared with those of other public jurisdictions such as California, we found that Hawaii charges a fraction of others' rates. For example, public marinas in Los Angeles County charge as much as $19.50 per foot or over 300 percent more than the boating division's highest mooring rate at the Ala Wai small boat harbor. Exhibit 2.4 lists some of the mooring rates of boating facilities along the California coast as well as some of Hawaii's mooring rates.

Exhibit 2.4
Mooring Rates from Other Boating Jurisdictions (Calendar Year 2000) as Compared to Hawaii's State Boating Facilities

Boating Facility/ Jurisdiction	Mooring Rate (Per Foot of Vessel)
Hawaii State Boating Facility	
Ala Wai	$4.10
Ke'ehi, Lahaina, Ma'alaea, Honokahau	$3.50
All other state boating facilities	$2.80
Other Boating Jurisdictions	
Anacapa Isle Marina	$9.00
Avalon Harbor (Catalina Island)	$16.00-$67.00
Bay Club Marina (San Diego, CA)	$9.70-$10.70
Bayshore Marina (Newport Beach, CA)	$14.85-$29.95
Channel Islands Marina	$6.60-$8.65
Harbor Marina (Newport Beach, CA)	$13.00-$24.00
Huntington Harbor Marina (Huntington Beach, CA)	$8.50-$11.50
Islandia Marina (San Diego, CA)	$9.00-$11.00
Kona Kai Marina (San Diego, CA)	$10.50
Long Beach Downtown Marina	$7.75-$9.00
Marina City Club	$9.00-$15.00
Marina Del Rey Hotel	$6.50-$19.50
Redondo Beach Marina	$8.25-$12.50
San Pedro Marina	$8.50
Santa Barbara Harbor	$5.85-$7.55
Sea World Marina	$7.15
The Boatyard (Marina Del Rey)	$9.00-$15.00
Ventura West Marina	$8.60

The boating division's failure to set competitive rates to meet operating, maintenance, repair and improvement costs has contributed to its weak financial position.

Overdue fee increases will not solve boating division's problems. To strengthen its financial position to meet its operating costs and needed repairs and improvements, the boating division has proposed a fee increase for both recreational and commercial uses of its facilities. Under the proposal, the mooring fees for recreational slip holders at Ala Wai will initially rise from $4.10 per foot to $11.70 per foot, an increase of 185 percent increase. This rate would subsequently increase to $13.55 per foot by FY2004-05. Commercial operators will see an increase from 2 to 4 percent of their gross receipts payable to the boating division.

While a step in the right direction for the boating program, the overdue increased fees will offer only temporary relief to a program operating under such deplorable conditions. Furthermore, justification of fee increases will be difficult considering the current state of many facilities. Increased user fees must be tied to a well-defined and adequately supported budget and a strategic plan. Fees must be tailored to meet short- and long-term expenditures. The division lacks both a well-defined budget and a strategic plan.

The boating division's financial projections based on its proposed fee increase show a growth of only $6 million a year by FY2004-05. These projections assume that market demand and customer base will remain constant and not decrease.

This projected increase will not address the approximately $130 million needed for repair projects, the rising maintenance and operating costs, nor the increasing ceded land payments to the Office of Hawaiian Affairs, and the increasing special fund assessment payments to the Department of Budget and Finance. Ceded land payments and budget department assessments are based on a percentage of the boating special fund's revenue with its anticipated increase. Therefore, the projected $6 million revenue increase cannot be dedicated in its entirety to improving facilities. The boating division must aggressively seek alternative sources and means of funding to support its program.

Additional sources of funding and revenue need further investigation. The boating division has identified several additional revenue sources but without support from the land board. Possibilities include increasing commercial business operations at certain boating facilities where they are currently permitted and allowing them where they are prohibited by law, like Ala Wai and Keehi harbors. Based on their size and location, these two facilities have the potential to generate additional revenue if commercial activity were allowed. Concerns raised by members of the boating community about allowing commercial activities inside the Ala Wai facility can be addressed. Their concern that the facility is not navigable enough to handle larger commercial vessels can be addressed by limiting the number and sizes of commercial operators. Furthermore, navigation concerns should not preclude land-based commercial activity at the Ala Wai harbor.

The division could increase and expand the scope of commercial development at the State's boating facilities. By obtaining legislative consent to amend the law (Section 171-59) prohibiting any non-maritime commercial business inside a small boat harbor, the division could promote commercial businesses adjacent to small boat harbors. Such businesses could include restaurants, retail stores, professional offices, and other non-maritime related activities.

While the division seeks to increase its percentage of gross receipts from commercial operators (either moored in a boating facility or land-based) the division should additionally consider the greater population who also utilize ocean waters for revenue support to the boating special fund. Currently, the general public does not directly contribute to the ocean recreation and coastal areas programs although they use boating facilities and ocean recreation areas. Members of the public engage in such activities as fishing, swimming, surfing, kayaking, and other non-organized ocean-based recreational activities. The division should also pursue general funding to reflect this population's impact on operations and maintenance costs.

The division is also seeking to control and charge for 750 parking spaces at the Ala Wai facility that are currently free to the general public. A boating official reported that these spaces are occupied by non-users of the Ala Moana facility such as construction workers and nearby hotel employees. Our observations confirmed this. We watched on two occasions as drivers, some carrying construction tools and others dressed in hotel uniforms, left their vehicles in these free spaces and did not proceed to any boats in the harbor. Opponents to controlled parking at the Ala Wai contend that their right to free and unobstructed access to the state's ocean waters will be denied. However, charging for parking should not inhibit a person's access to ocean waters. Most of those we observed using the spaces are not accessing the ocean. The division should research this issue further to determine its program impact and feasibility as part of the division's larger revenue generating proposals.

Poor maintenance and lax enforcement of Hawaii's boating facilities continues

Section 200, HRS, establishes boating and its related activities as part of the ocean recreation program for people of all ages to develop skills and participate in ocean-based activities. However, poor management of boating facilities has rendered them unsafe and in need of repair as they do not meet even minimum standards. In addition, enforcement of the boating program rules and regulations has not been carried out for months. Such deficiencies mean that the ocean recreation program for Hawaii's people is not a reality.

Boating facilities are unsafe and in need of repair

The boating division is responsible for managing and administering its statewide programs and therefore must plan, develop, operate, administer, and maintain small boat harbors, launching ramps, and other boating facilities in the state. However, the boating division's deficient maintenance and care have resulted in dilapidated facilities. In fact, many facilities have worsened since our 1998 audit. We noted additional sections of piers and catwalks have been closed for safety purposes at the Wai'anae, Ke'ehi, and Port Allen small boat harbors. The boating division reports that unaddressed needed repairs or replacements will end any use by the general public. As reported earlier, the boating division projected over $130 million for necessary improvements, repairs, and capital projects at boating facilities statewide.

Boating division officials report that part of the problem is that the State's aging facilities have exceeded their life expectancy—around 40 years. The oldest facility, the Kailua-Kona pier, was built about 1911. During our audit, a 50-foot section of this pier was closed to the public due to structural deficiencies that rendered it unsafe and unusable. Exhibit 2.5 lists some of the State's larger boating facilities and their years of construction.

Exhibit 2.5
State Boating Facilities and Their Years of Construction

Boating Facility	Year Constructed
Kailua-Kona Pier	circa 1911
Ala Wai	1951
Ma'alaea	1952
Lahaina	1955
Ke'ehi	1962
Heeia Kea	1966
Hale'iwa	1967
Honokohau	1978
Wai'anae	1982

Source: DLNR, Division of Boating and Ocean Recreation.

Division officials attribute the cause of this mass dilapidation to their lack of financial resources and to limited in-house technical support and adequate repair and maintenance staff. In the absence of this support, the boating division spends a substantial amount of its revenues on maintenance and engineering services provided by the Department of Transportation's Harbors Division or private contractors. Since

FY1996-97, the division has spent approximately $1.5 million for these types of services. The boating division lacks engineering, electrical, plumbing, and other special maintenance services necessary for its program.

Failure to address the problems and deficiencies of the boating facilities places the State at risk for obvious safety and liability concerns. As small boat harbor conditions continue to decline, the boating division is faced with closing down additional facilities for safety and liability reasons and will lose more revenues. Such an example is the Ke'ehi small boat harbor, where 64 out of 338 slips have been condemned because they are structurally unsafe. This condemnation represents lost revenues of almost $100,000 per year.

Boating facilities do not meet minimum standards

In our Report No. 98-11, *Audit of the Management of Small Boat Harbors and Boat Ramps*, we pointed out that the boating division lacked standards for minimum services provided at each facility. We had found significant differences in the physical conditions of facilities and in the types of services provided. The division has since developed minimum standards for its boating facilities including the provision of launch ramps, car and trailer parking, compliance with the Americans with Disabilities Act (ADA), offshore mooring, paved access roads, lighting, water and electricity, comfort stations, sewage pump-out, and security and catwalk lighting. Despite the establishment of these minimum standards, we found that the division fails to meet its standards.

Most boating facilities are not ADA compliant and many lack adequate parking and restroom facilities. This leaves the State open to lawsuits for non-compliance. Other minimum standards have not been met in many of the boating facilities such as loading docks, vessel wash-down areas, adequate drainage systems, handicap parking, perimeter walkways around the boating facilities, safety railings, water and electricity service, catwalk and security lighting, and paved interior roads.

According to the States Organization for Boating Access (a national organization that develops standards for recreational boating facilities), proper maintenance and care is an integral part of a boating facility's program to permit functional, convenient, and safe use. Good maintenance of facilities includes preserving their intended use, promoting safety, complying with laws, extending facility life, reducing litigation, and promoting goodwill. The boating division fails to meet these standards.

Enforcement of the boating program's rules and regulations is lax

According to Section 199-3, HRS, the land department's Division of Conservation and Resources Enforcement (DOCARE) is responsible for enforcing rules relating to state boating facilities. DOCARE is also responsible for enforcing rules relating to Chapter 200, HRS, which includes ocean waters, navigable streams, beaches with public easements, and the use of vessels in state waters. The boating division pays DOCARE for these services.

Our previous Report No. 98-11 found a lack of adequate security at the boat harbors. Concerns were raised about increasing theft, violence, vandalism, and drug use in the harbors as well as violations of boating rules and regulations.

The same situation exists today. We found that DOCARE's enforcement of the boating program's rules and regulations continues to be inadequate. Both harbor agents and boaters alike express concerns about the lack of an enforcement presence in the harbors. Problems with theft and vandalism persist. Boating staff report that DOCARE officers' slow response time further compounds the problems of staff and boaters alike. Some harbor agents report that their inability to write parking citations makes their jobs ineffectual. They often witness parking violations but are unable to write citations so must call, and then wait for, a DOCARE officer to do so.

In an effort to ascertain the extent of the enforcement problem within the boating facilities, we reviewed enforcement activity logs of DOCARE for FY1999-2000. In FY1999-2000, the boating division transferred $950,000 to DOCARE, which was equivalent to approximately 20 percent of DOCARE's general fund appropriation. Over the past three fiscal years, FY1997-98 through FY1999-2000, the boating division paid DOCARE an average of $845,000 per year for 18 special-funded DOCARE positions and their related costs to enforce Chapter 200, HRS, and for security activities in boating facilities. We found that DOCARE officers enforced Chapter 200 related activities between 4 to 12 percent of their time. However, DOCARE internal documents state that enforcement activities should represent at least 17 percent of their time. Even though DOCARE provides enforcement for the entire land department, the boating division is the only division within the land department that pays for DOCARE enforcement activities. This arrangement is unusual and appears inequitable.

Boat inspections and other regulations are not adequately enforced. Section 200-10, HRS, requires any vessel moored in a state boating facility to have a current vessel inspection, registration, and a mooring permit. DOCARE's enforcement of these requirements is lax. So is the

boating division's. Our review of mooring permit files from 14 small boat harbors found both expired vessel inspections and expired registrations. Some inspections had expired more than six months beyond their expiration date while some vessel registrations were over a year old. We also found boaters without current permits but whose vessels were moored in the facility. Failure to ensure that boaters have current permits means lost revenue to the boating program and places the State in a position of added liability.

The Division of Boating and Ocean Recreation Lacks Adequate Controls To Ensure the Accuracy and Integrity of Its Financial Affairs

Our 1998 audit, Report No. 98-11, reported the boating division's lack of adequate financial controls. The division's accounting system did not provide necessary information for making sound financial decisions. Also, the cost of operating boating facilities was unknown.

Little has changed. The boating division still lacks adequate fiscal controls to properly administer the boating program. The division is still unable to accurately determine the cost of operating its boating facilities and lacks controls to ensure the accuracy and integrity of its financial affairs. The division cannot make sound financial decisions and is placed in a position to lose additional revenue.

True costs of operating a boating facility are not identified

Our 1998 audit of the boating division identified several problems in the division's accounting practices, which made determining the cost of running each of its facilities impossible. For example, expenditures were not properly attributed to an appropriate cost center; debt service payments were not attributed to the facilities; and the division's revenue and expenditure data were inaccurate.

The division has made some progress in addressing these problems but further work is needed. The division has revised and developed additional "cost centers" so that expenditures can be more accurately classified. For example, cost centers have been added for boating facilities like Sand Island Ramp, Ka'anapali, Kaneohe Bay, and Miloluu wharf that were nonexistent before. As a result, the division is able to classify expenditures according to their areas or facilities more accurately. However, we found that some expenditures continue to be improperly classified. For example, expenditures for janitorial and refuse collection services were improperly classified to a district boating office instead of the facility where the service was provided.

We also found that the division continues to attribute debt service payments on general obligation bonds for boating facilities to the division's administrative cost center although debt service is for specific boating facilities. Division officials report that they cannot determine the

debt service of each facility individually. They claim that renewal and refinancing of multiple general obligation bonds used to pay debt service dating back several years, makes this tracking task too difficult.

An accurate record of facility expenditures would allow the division to determine what resources it needs, how to generate funds to operate each facility, and which repairs can be scheduled when based on those resources. The division lacks a clear understanding of the cost to operate each of its boating facilities. As a result, the division cannot determine whether fees charged at each facility are sufficient and reasonable.

Boating division lacks adequate fiscal controls

The boating division lacks fiscal controls in several areas. Inventory practices of the division are inadequate; duties for cash collections are not sufficiently segregated; delinquent user fees continue to age and increase; and the accuracy of the percentage of gross receipts the division receives is questionable. The absence of fiscal controls in these areas is of particular concern considering the poor financial position of the boating program.

Adequate controls over inventory do not exist

Physical inventory of an agency's property is a control measure used to minimize the risk of loss, theft, and unauthorized disposal of fixed assets. Absence of an inventory control procedure increases the likelihood of theft and improper disposal of state property. A common inventory control measure is the practice of affixing an identification decal to state property used for periodic status reviews. However, boating staff do not follow state administrative rules requiring the consistent tagging of state property. We checked 100 various property items listed in the boating division's *Annual Inventory Report of Property* for FY1999-2000 and found 40 items not tagged.

A majority of the property we checked at the boating facilities was accounted for but division staff could not locate a few items such as computers, typewriters, printers, and calculators. Staff reported that these items were probably disposed of but no disposal forms could support their claims. In one case, a boating facility had listed a gun on its inventory belonging to the marine patrol unit prior to the patrol's 1992 transfer to the land department. Boating staff report that the gun was removed from the facility's inventory when the marine patrol unit was transferred. Again, no documentation could support this inventory discrepancy.

Without accurate inventory controls in place, the likelihood of theft, loss, and improper disposal of state property increases. More importantly, inaccurate inventories misrepresent both the department's and thereby the State's reported property holdings and financial position.

Duties for cash collections are not sufficiently segregated

Segregating duties when performing cash related tasks provides a system of checks and balances because functions performed by one individual are subject to review by another. The majority of boating facilities we reviewed lacked segregated duties over cash transactions and related reconciliations. Harbor agents were responsible for collecting cash, issuing receipts, posting cash payments, and making deposits without second party review.

Delinquent user fees are significant and not readily available

Accounts receivables should be accurately identified and verified for integrity. We reviewed aged accounts receivable reports of the boating division and noted a substantial amount of user fees as outstanding and delinquent. As of July 1, 2000, over $400,000 in delinquent fees in the "90 days and over" delinquent fees category was outstanding on Oahu alone. Total statewide delinquencies in excess of 90 days totaled approximately $500,000 as of July 1, 2000. These are significant amounts to pursue and are owed to the State of Hawaii.

The division's ability to generate its aged receivable reports is problematic. Our *Financial Audit of the Department of Land and Natural Resources*, Report No. 00-11, noted that the boating division's computer system was unable to generate aged receivable reports as of a given date. The division has not yet addressed this problem. The division's computer system still cannot produce accurate aged receivable reports. Once a date has passed, the computer system cannot show moneys due on that particular date. The existing information is overwritten once new data is introduced into the system. We question the usefulness of a computer system that cannot produce accurate management and control reports such as an aged receivable report.

Insufficient number of audits are performed to ensure the accuracy of gross receipts

State rules allow the boating division to inspect financial records for the purposes of auditing any person conducting business in a small boat harbor and in possession of a commercial permit.

We found that the boating division does not conduct a sufficient number of audits of its commercial permit holders to ensure the integrity of the submitted financial receipts. The division has over 400 commercial permit holders who are required to pay 2 percent of their monthly gross receipts to the boating division. In 1998, the division performed a total of 23 audits of commercial permit holders to check the accuracy of their receipts. In 1999, no audits were performed; but 18 audits were conducted in 2000. The total of 41 audits conducted by the boating

division over the past three years represents only 10 percent of the total commercial permit holders in the boating program. This is not a sufficient number to test the integrity of the financial receipts submitted by these commercial operators; more audits should be conducted to ensure that the boating program is collecting all revenues owed.

Without adequate fiscal controls, questions will continue to be raised regarding the true costs of operating facilities, the accuracy of receivables, receipts, and inventory, and the integrity of boating operations. The division risks potential losses in cash, property, and commercial/ recreational revenue because of simple control duties left undone.

Many Issues Need Resolution Within the Boating Program

As a part of the audit request of the boating division in H.C.R. No. 165, the Legislature asked the Auditor to assess the feasibility, including advantages and disadvantages, of transferring the Division of Boating and Ocean Recreation from the Department of Land and Natural Resources back to the Department of Transportation. We conclude that such a transfer would not clearly show any advantages at this time that would improve the operation and administration of Hawaii's boating program. A transfer could even further delay any improvement efforts. Larger issues to address, such as improving the current administration of the boating program and generating sufficient revenues to support itself should take priority over transfer considerations. Also, we found that the activities of the boating program do not fit the mission and purpose of the transportation department. A transfer would once again fragment the boating program.

Possible advantages of a transfer

Boating division officials have claimed some potential advantages to transferring the boating program to the transportation department. For instance, a transfer would enable better access to engineering and maintenance staff as the boating division's staff is limited. Boating officials believe the boating program would be in a better financial position because it could access the revenues of the harbors special fund, which supports the activities of the Harbors Division. However, boating division officials admit that the boating program would be of lower priority to the larger commercial harbors system.

Transportation officials are opposed to a transfer of the boating division to their department and offered no possible advantages.

Activities of the boating program may not fit the mission and purpose of the Department of Transportation

The activities of the boating program, which focus on the preservation and conservation of ocean recreation, do not align with the mission and scope of activities of the transportation department's harbors division—that of moving people and goods in and out of the state. A transfer of the boating program could also affect the Harbors Division's bond rating due to the current weak financial position of the boating program. Finally, enforcement of the boating program needs clarification before any transfer takes place.

Harbors Division is responsible for the movement of people and goods

The transportation department's Harbors Division manages a commercial harbor system that facilitates the movement of people and goods to, from, and between the Hawaiian islands.

Given the mission of the transportation department, we question whether the boating division and the ocean recreation and coastal areas programs would be appropriate under the transportation department. The ocean recreation and coastal areas programs focus on the preservation and enhancement of Hawaii's ocean resources, coastal areas, and recreational boating facilities for Hawaii's people to enjoy ocean-based activities. In 1991, the Legislature's transfer of these programs from the transportation department to the land department was based on this fit.

Placement of Kewalo Basin in harbors division is questionable

Admittedly, the placement of the Kewalo Basin facility in the transportation department's Harbors Division weakens somewhat the argument that the boating program remain in the land department. Kewalo Basin activities are primarily centered on commercial recreation such as dinner cruises, deep sea fishing, and others. The same types of activities take place in small boat harbors like Lahaina, Wai‘anae, Honokahau, Ma‘alaea, and Port Allen. Harbors Division officials report that the Kewalo facility remains under their jurisdiction because the facility also moors commercial fishing fleet operators, which under Chapter 266, HRS, is an acceptable use of a commercial harbor facility. Our review of the activities in Kewalo harbor found that a significant number of the operators—46 percent—are engaged in either fishing, charter, or cruise operations, which duplicates the boating division's purpose. The land department's boating division should seek to clarify the role of Kewalo harbor and its appropriate administrative placement. If needed, the division should seek legislative guidance in amending Chapter 266 to give the land department jurisdiction of the Kewalo Basin facility. We also note that ownership of the submerged and adjacent lands to Kewalo Basin was transferred to the Hawaii Community Development Authority by the Legislature—Act 86, SLH 1990. Should the land department pursue transfer of Kewalo Basin, an appropriate agreement should also be executed with the authority.

Transfer of boating program could affect harbor division's bond rating

Harbors Division officials state that a transfer of the boating program could affect harbors' bond rating and their ability to secure funding for capital improvement projects. The Harbors Division funds its projects either on a cash basis or by obtaining revenue bonds. A transfer of the boating program could affect the Harbors Division's bond rating because of the boating division's weak financial position. The boating division's lack of self-sufficiency gives harbors division officials a basis for believing that the boating program is too much of a liability.

Enforcement issues need to be addressed

Finally, transferring the boating program to the transportation department would once again fragment the State's ocean recreation program and leave the ocean recreation and coastal areas programs without DOCARE's enforcement arm. Amending statutes to clarify jurisdictional responsibilities and their related enforcement bodies would be needed since DOCARE is under the jurisdiction of the land department only.

Conclusion

Hawaii's boating program will continue to suffer unless the Division of Boating and Ocean Recreation, under the general direction of the Board of Land and Natural Resources, seriously addresses the program's deficiencies. If the boating division fails to address the issues identified in this report, the State faces possible public safety liabilities and more potential lost revenues to the boating special fund.

At this point, the boating program should seek a general fund appropriation to address its most critical backlogged repair and maintenance projects. A general fund appropriation is appropriate because the program supports the general public as well as users of the State's boating facilities. The program's mission states that ocean-based recreation is to enrich the lives of all people who boat, surf, fish, and swim in the ocean.

Many issues need to be addressed before and if a transfer of the boating program takes place. Considering the current administrative and operational deficiencies of the boating program, a transfer would only further delay efforts to improve the organization, fragment responsibilities of the boating program, and shift the financial burden of the State's boating facilities from one agency to another.

Recommendations

1. The Division of Boating and Ocean Recreation, under the management of the Board of Land and Natural Resources, needs to develop a realistic strategic plan to address short and long term problems of the State's boating facilities and address the program's insufficient revenue stream. Emphasis should not be placed solely on user fees for the boating facilities. Instead, the division needs to identify and rigorously pursue additional measures to maximize the boating program's funding and revenues. Specifically:

    - Immediately, the boating division should seek and secure general fund appropriations from the Legislature to address its most pressing repair and maintenance projects. Support from the general fund would reflect the much larger population who benefit from the program than just the users of boating facilities; and

    - Long range plans of the division should include the possibility of increasing commercial activity in small boat harbors, allowing commercial activity in boating facilities where it is currently prohibited, and allowing land-side commercial activity in small boat harbors that is not necessarily maritime-related.

2. The boating division, under the general direction of the land board, should address the deficiencies in the State's boating facilities. The following items should be addressed specifically:

    - Identify the repair and maintenance needs of the boating facilities and aggressively pursue necessary funding within the land department and at the Legislature;

    - Review the boating division's enforcement arrangement with the Division of Conservation and Resources Enforcement to ensure that the boating program receives its fair share of enforcement; and

    - Ensure that all persons moored in state boat facilities possess current mooring permits, vessel inspections, and vessel registrations.

3. The boating division needs to improve its controls over its financial activities by:

    - Ensuring that expenditures are properly classified to an appropriate cost center;

- Establishing a better inventory system to account for physical property to ensure that the division is in possession of such property;

- Better segregating duties for cash collections at boating facilities;

- Better identifying and collecting delinquent accounts to reduce the amount of outstanding receivables owed to the division; and

- Requiring more audits of its commercial permit holders to ensure the integrity of their financial receipts.

4. Consideration of a transfer of the boating program to another agency should be deferred until the program's more immediate problems are effectively addressed.

Responses of the Affected Agencies

Comments on Agency Responses

We transmitted drafts of this report to the Department of Land and Natural Resources and the Department of Transportation on April 10, 2001. A copy of the transmittal letter to the Department of Land and Natural Resources is included as Attachment 1. A similar letter was sent to the Department of Transportation. Responses of the Department of Land and Natural Resources and Department of Transportation are included as Attachments 2 and 3 respectively.

Response of the Department of Land and Natural Resources

The Department of Land and Natural Resources concurred in general with the conclusions and recommendations in our report. Despite differences in opinion, the department stated that the report provides a solid base and positive direction for the improvement of state boating facilities in a fiscally responsible manner. The department strongly disagreed with our finding that the Board of Land and Natural Resources and the Division of Boating and Ocean Recreation mismanaged and neglected the State's boating program. The department believes that the individual land board members should have been interviewed about their perception of the management and operation of the boating program before the land board's responsibility for the condition of the boating facilities was assessed. However, during the course of the audit, several attempts were made to interview land board members with no response.

The department also disagreed with our finding regarding the lack of enforcement by the Division of Conservation and Resources Enforcement for state boating laws. The department believes that an inappropriate methodology may have been used to assess the relative efforts expended by DOCARE in enforcing boating laws and rules as compared to the enforcement efforts provided to other divisions. To support their point, the department submitted an exhibit detailing the percentages of statewide enforcement for the boating division and marine resources. However, it appears if that the department may have included other non-boating and marine resources enforcement activities in determining the total amount of time spent enforcing boating laws and rules under Chapter 200, HRS. While including these additional activities increases enforcement percentages these enforcement activities are not directly related to the Division of Boating and Ocean Recreation and its rules and regulations. Furthermore, our assessment of the time spent enforcing boating laws and rules was based on a review of DOCARE's official "enforcement activity logs" for FY1999-2000.

The department also offered additional information and points of clarification.

Response of the Department of Transportation

The Department of Transportation concurred with the findings and recommendations of the report and offered specific comments regarding key issues that were discussed. The department noted that while commercial activities at Kewalo Basin also occur in small boat harbors, Kewalo Basin should not be viewed as the answer to the "Boating Program's financial woes." The department also noted that while it is concerned with the condition of the State's boating program, the boating program should "first look internally to resolve its issues rather than seeking safe harbor within the Department of Transportation."

Finally, we made some minor changes to our draft report for the purposes of accuracy and clarity.

STATE OF HAWAII
OFFICE OF THE AUDITOR
465 S. King Street, Room 500
Honolulu, Hawaii 96813-2917

MARION M. HIGA
State Auditor

(808) 587-0800
FAX: (808) 587-0830

April 10, 2001

COPY

The Honorable Gilbert S. Coloma-Agaran, Chair
Board of Land and Natural Resources
Department of Land and Natural Resources
Kalanimoku Building
1151 Punchbowl Street
Honolulu, Hawaii 96813

Dear Mr. Coloma-Agaran:

Enclosed for your information are three copies, numbered 6 to 8 of our draft report, *Audit of the Management of State Boating Facilities by the Department of Land and Natural Resources*. We ask that you telephone us by Thursday, April 12, 2001, on whether or not you intend to comment on our recommendations. If you wish your comments to be included in the report, please submit them no later than Thursday, April 19, 2001.

The Department of Transportation, Governor, and presiding officers of the two houses of the Legislature have also been provided copies of this draft report.

Since this report is not in final form and changes may be made to it, access to the report should be restricted to those assisting you in preparing your response. Public release of the report will be made solely by our office and only after the report is published in its final form.

Sincerely,

Marion M. Higa
State Auditor

Enclosures

BENJAMIN J. CAYETANO(PRIVATE)
GOVERNOR

GILBERT S. COLOMA-AGARAN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

JANET E. KAWELO
DEPUTY DIRECTOR

LINNEL T. NISHIOKA
DEPUTY DIRECTOR FOR
THE COMMISSION ON WATER
RESOURCE MANAGEMENT

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
P.O. Box 621
HONOLULU, HAWAII 96809

April 19, 2001

BOR: DEP

RECEIVED
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OFC. OF THE AUDITOR
STATE OF HAWAII

Ms. Marion M. Higa
State Auditor
State of Hawaii
Office of the Auditor
465 South King Street
Honolulu, Hawaii 96813-2917

Dear Ms. Higa:

Subject: Comments on the Draft Report "Audit of the Management of State Boating Facilities by the Department of Land and Natural Resources"

Thank you for the opportunity to comment on your draft report "Audit of the Management of State Boating Facilities by the Department of Land and Natural Resources". This report covers Fiscal Years 1998-1999 and 1999-2000, and the work by your auditors was conducted from June 2000 through November 2000.

We concur in general with your conclusions and recommendations to improve the Boating Program. We also agree with the Chapter 2 heading that: "Hawaii's Boating Program Has Reached A Critical Point". Our disagreement lies with the language of the first two items of your "Summary of Findings". We are disappointed that the broad application of the terms "mismanagement" and "neglect", as used here and throughout the report, unfairly imply a lack of interest, effort and desire to improve conditions on the part of the management and staff of the Division of Boating and Ocean Recreation, and on the part of the members of the Board of Land and Natural Resources. We assure you and the reviewers of this report that this is not the case.

Our attached comments are offered to provide additional information that may have been overlooked or not included in the report due to time or space constraints. We trust that these comments will give the reviewers of this report a better understanding of the statutory and policy constraints under which the Division of Boating and Ocean Recreation has been required to

operate, and which have been the primary factors resulting in the present condition of boating facilities.

Despite any differences of opinion that may be reflected in our attached comments, we believe this report provides a solid base and positive direction for the improvement of our State boating facilities in a fiscally-responsible manner.

Should you have any questions, please do not hesitate to contact Mr. James Schoocraft, Acting State Boating Administrator, at 587-1966.

Very truly yours,

GILBERT S. COLOMA-AGARAN
Chairperson

Attachment

COMMENTS OF THE DEPARTMENT OF LAND AND NATURAL RESOURCES
on the

"Audit of the of the Management of State Boating Facilities by the Department of Land and Natural Resources"

Chapter 1

History of Hawaii's Boating Program

Act 272, Session Laws of Hawaii (SLH) 1991, in addition to transferring the Boating Program to the Department of Land and Natural Resources (DLNR) effective July 11, 1992, provided for one-year of planning to effect a smooth transition of the program. A Memorandum of Agreement between DLNR and DOT was executed to provide three years of continuing maintenance, engineering, and fiscal support from DOT until the new Division of Boating and Ocean Recreation (DOBOR) could be manned to the level needed to assume these functions, and engineering support could be shifted to DLNR's Division of Water and Land Development (DOWALD). However, the reduction of State revenues during Fiscal Years 1993, 1994 and 1995 led to hiring freezes, a reduction in force (RIF), and early retirement incentives which precluded expeditious establishment and filling of key Boating Program positions. The down-sizing actions also led to the reduction of the Harbors Division supporting engineering and maintenance staff, and DOWALD was reduced to branch-level status within DLNR's Land Division. These factors precluded DOBOR from developing the planning and maintenance capability that was originally expected and planned at the time the Boating Program was transferred.

Act 211, SLH 1989 created the Department of Public Safety (PSD) and ordered the transfer of DOT's enforcement functions, including the Marine Patrol Unit of the Boating Program, to the new Department effective July 1, 1991, one year prior to the Boating Program's transfer to DLNR. At the time of transfer, the Marine Patrol Unit included 18 positions funded by the Boating Special Fund, and 24 general-funded positions that had been created to assume the added enforcement burden of implementing the Ocean Recreation Management established in 1988. At the time of transfer, it was expected that the personnel costs of DOT's special-funded positions would be converted to general funds, but budgetary problems associated with the creation of PSD led to an administrative decision to continue special fund support of the special funded enforcement positions. By the time that Act 296, SLH 1996 was passed, the 24 general-funded positions had been eliminated by the personnel cut-backs described above.

Administration and operation of the Boating Program

Exhibit 1.1 listing boating facilities should be revised to show the facilities at Keanae, Kaunakakai, Manele, Kaanapali and Maliko under Maui District, and Pohoiki under the Hawaii District.

Boating Special Fund revenues and expenditures

Prior to FY 1992, DOT had not been contributing its share of 20 percent of revenues from ceded lands to the Public Lands Trust. The amounts owing had been the subject of negotiation between the Administration and the OHA. On the morning of 30 June, 1992, the last day of the Fiscal Year and the day prior to the transfer of the Boating Program, the Director of Transportation received a call from the Department of Budget and Finance stating that DOT's contribution for FY 1992 was required to be paid, in cash, prior to the end of the working day. The Boating Program's share of the total was $480,000 from the Boating Special Fund. This amount was about half of the programmed budget for boating facility special maintenance projects for FY 1993.

DOT had planned to increase boating fees by approximately 25 percent, to take effect prior to the program transfer to DLNR. Statewide public hearings to revise the Administrative Rules to implement this increase were completed by the end of December, 1991. Revision to the draft rules to implement recommendations received during the hearing process required further legal review prior to adoption, but this review was not completed prior to the date of transfer. As a result, the Attorney General's office advised DLNR that all rules of the Boating Program required re-drafting and adoption as Administrative Rules of DLNR before the higher fees could be implemented. This process required another round of statewide public hearings that were completed in 1993, and the new rules were adopted with an effective date of February 24, 1994. The new fees were implemented in March, 1994, about two years later than originally planned. The new fees were expected to generate revenues necessary to cover the debt service on planned CIP projects, but were not sufficient to compensate for the loss of 20 percent of revenues generated on the ceded lands portions of our boating facilities.

A significant fee increase is planned for implementation in the second quarter of FY 2002 to address current funding shortfalls. Statewide public hearings are planned for this summer. Both commercial and recreational user groups have been afforded an opportunity to review and comment on the draft rules.

Chapter 2
Boating Program in a State of Crisis

Summary of findings

The Department strongly disagrees with the Auditor's findings of mismanagement and neglect on the part of the Board of Land and Natural Resources and DOBOR. We believe that the individual Land Board members should have been interviewed about their perception of the management and operation of the Boating Program before the Land Board's responsibility for the condition of boating facilities was assessed. The lack of any contact with land Board members prior to publishing the draft audit report appears to invalidate this finding.

The audit report also appears to disregard the fact that neither the Land Board nor DOBOR have independent funding authority. The Land Board has no responsibility for review or approval of either the operating budget or CIP budget requests. Both the Board and DOBOR must operate within the constraints of existing statutes. The audit report also fails to note that if the Legislature had acted positively on the many different initiatives introduced by the Department over the past several years, the result of this audit may have been entirely different.

Lack of planning and foresight

We concur that good management practices require strategic planning to meet goals and objectives.

Despite the lack of a professional planning staff or the services of a planning consultant firm, DOBOR has developed a long-range plan for the implementation of needed CIP projects, based on the 1995 R. M. Towill Final Report *Documentation of Facilities for the Boating Program Transfer to the Department of Land and Natural Resources - Master Plans Phase: Boating CIP Projects.* This plan also addresses those projects identified to bring each facility up to standards, including compliance with ADA standards and best management practices for marinas and recreational boating as identified by EPA. DOBOR also developed long-range improvement. The Administration's legislative initiatives during financial projections based on various scenarios of fee increases and alternative funding methods, including cash financing. Possible use of revenue bonds was also investigated but deemed impractical by independent financial advisors, based on the program size and lack of sufficient revenue potential. As a result,

DOBOR has identified its present financial position, identified and prioritized projects based on immediate and anticipated needs, and identified alternate potential sources of new revenue including several that are not presently available under existing statutory constraints.

Since 1996, the Department has also been investigating the possibility of leasing various boating facilities to private marina management firms to generate new sources of revenue and reduce the financial burden on the State for their redevelopment and operation. The Administration's legislative initiatives during the last four sessions of the State Legislature seeking authorization to pursue this option have failed to pass due to public opposition. Earlier, however, the Department was successful in obtaining legislative concurrence for the leasing of the new Kawaihae Small Boat Harbor, Hale O Lono Harbor, and a portion of Manele Small Boat Harbor. These facilities are presently undeveloped, with few existing users to be impacted by private development and operation.

We are disappointed that the audit report does not recognize these efforts to fall within the category of "strategic planning". The Department maintains that the lack of funding to implement needed repairs is the primary factor contributing to the backlog of deferred maintenance projects, rather than the existence of a formal strategic plan.

Coastal Areas Program

The Coastal Areas Program, along with the Boating Program, was transferred to the Department by Act 272, SLH 1991. The Department's responsibility and authority to administer and manage coastal areas is set forth in Section 171-3, HRS. The Coastal Areas Program was always supported by general fund appropriations for both operations and capital improvements. This program was assigned to DOT upon Statehood as a remnant function of the former Territorial Board of Harbor Commissioners. This program was included in the Environmental Protection category for budgeting purposes. The Program I.D. TRN 903 was assigned while the program was administered by DOT, and was changed to LNR 406 after transfer to DLNR. DOT used the opportunity presented by Act 272 to divest itself of this non-transportation function.

During the Department's budget testimony on this program in 1995, both the Senate Committees on Ways and Means, and

Planning, Land and Water Use Management strongly suggested that this program be eliminated and its functions be incorporated into other existing programs of the Department. Both committees cited the small level of funding, the fact that no positions were assigned to the program, and the relatively low priority assigned to the program by the Administration as justification. (The entire appropriation for operating costs for FY '94-'95 was restricted by the Governor.) The Department agreed to eliminate the program, and incorporated its functions in the Coastal Lands Program. No further budget requests for funding of this program were submitted to subsequent sessions of the Legislature.

DOBOR still retains the responsibility for removing hazards to navigation and ensuring that grounded or wrecked boats are removed from beaches and the shoreline. Section 200-6, HRS, authorizes the Department to effect removal of such vessels and charge the owner with the cost of removal. We believe the $17,000 expenditure mentioned in the report may be attributed to the cost of removal of a beached vessel from Kuhio Beach during the FY 1997-98 time frame.

Maalaea Land Lease

The audit report cites this lease as an example of poor planning. The report fails to mention that the intent of the lease was to provide for the relocation of a commercial fish processing operation that was being displaced by the Maalaea Triangle development. Assistance in providing an alternate site for this operation was requested by the Department of Business, Economic Development and Tourism and individual legislators from Maui. All standard procedures were followed in executing this lease, including legal review of the terms of the lease and obtaining approval from the Land Board to enter into the lease and negotiate a sublease for use of the premises with the fish processing operator. Unfortunately, the fish-processing operator encountered excessive delays in obtaining appropriate permits to establish an interim facility that could be used pending completion of construction of a new facility on the leased parcel, prior to the date required to vacate the Maalaea Triangle property. This delay forced the operator to seek an alternate location and abandon plans to use the leased parcel.

Although the Department made repeated attempts to secure a legislative appropriation to purchase the parcel within the five-year option to buy, no funds were appropriated due to funding constraints. Funds have since been appropriated for purchase of

the leased parcel. An offer of purchase has been sent to the owner, but the Department has not received a favorable response regarding the selling price the owner has set for the property. The Department intends to pursue the acquisition of the leased parcel through purchase or condemnation.

The Department does not believe that the execution of this lease, with a prospective tenant already identified and eager to occupy the premises, constitutes an appropriate example of poor planning.

Insufficient program revenue

We concur that present sources of revenue are insufficient to meet projected program costs and debt service obligations that would be incurred from future CIP projects. Sources of revenue to support the program are severely limited by statutory constraints, and no general funds are authorized to support program operations.

Reliance on user fees

Although DOBOR maximizes use of Federal grant funding from the U. S. Coast Guard for boating safety operations and from the U. S. Fish and Wildlife Service for boating access projects, these amounts are set by Federal regulation. Lease rents from long-term land leases are set by the conditions of the lease, and can be revised only at the time of rental re-opening as specified in the lease. DOBOR has consistently requested that its list of boating CIP projects be funded with general obligation (G.O.) bonds in order to avoid future debt service obligations. With few exceptions, the method of funding for these projects have either been changed to G.O. bonds, with debt service to be paid from the boating Special Fund, or eliminated from the final CIP budget due to the State's bond funding limit.

We also believe it is appropriate to mention that the Department was successful in securing the passage of Act 47, SLH 200, that reduces the five percent assessment on Boating Special Fund revenues to only the net amount after the amount of annual debt service is subtracted. This action will reduce the amount of revenue that is required for non-program purposes. The only area of flexibility for raising revenue available to DOBOR is the authority granted under Chapter 200, HRS, to increase user fees. We concur that we are forced to rely too heavily on user fees as the primary source of revenue for the program.

Insufficient fee structure

A substantial fee increase is planned, as previously stated. We are well aware that the present fees for use of State boating facilities are well below the fees being charged at private marina facilities both here and on the mainland. The Department has determined that the "status quo" approach to revenue generation will no longer produce the level of revenue needed to address the deferred maintenance backlog, and DOBOR was instructed to revise the proposed fee structure to reflect the "market value" of our boating facilities. The Department expects firm opposition to this fee increase from recreational boating interests during the public hearing process.

Other potential revenue sources

Another potential source of new revenue is to lease underutilized portions of our boating facilities. Previous attempts to lease areas for private development and operation have failed either because of the restrictions limiting leases to maritime uses only, or because of strong public opposition. As an example, previous attempts to contract for parking control services for Ala Wai Boat Harbor led to the passage of a Senate Concurrent Resolution requesting that parking be kept free for surfers and beach-goers, and the prospective concessionaire withdrew the proposal due to these constraints.

The Department intends to continue its efforts of the past four years to expand the permitted uses of boating facilities beyond the narrow category of maritime use only. Our review of successful private marina operations on the mainland indicate that on the average, mooring and other harbor use fees contribute no more than 35 percent of total income from the operation. The remaining 65 percent is derived from compatible, non-maritime uses and services such as restaurants, specialty shops, and other non-intrusive uses. We believe that expanded uses of boating facilities will enable the Department to re-stimulate the interest of many private sector operators who have declined interest in our facilities because of present restrictions.

Boating facilities in need of repair

We fully concur that our boating facilities require substantial repair. Many slips in both Keehi and Waianae Boat Harbors have been taken out of service for safety reasons until funding can be obtained for their reconstruction. DOBOR has a substantial list of needed repair projects that have been planned and designed that are awaiting only the construction funding for implementation.

As previously stated, DOBOR has identified the projects and areas of boating facilities that require improvement to meet minimum standards. The Executive Biennium Budget Request for Fiscal Years 2002 and 2003 includes a CIP request for funding necessary to incorporate all improvements necessary to meet ADA standards.

We regret that the audit report was unable to mention many of the repair and improvement projects that were completed since the last audit report. We have been able to augment our annual $250,000 appropriation for statewide improvements to boat launching facilities by $750,000 of Federal funds from the boating access grant to accomplish $1,000,000 worth of repairs to various facilities each year.

The Department has also been successful in obtaining G.O. bond funding for the reconstruction of Kailua-Kona Pier, and for the construction of Kikiaola Boat Harbor. Both of these projects are expected to result in revenue increases through their projected increased usage as passenger cruise ship destinations.

Enforcement improvement

Section 199-3, HRS, instructs the Division of Conservation and Resources Enforcement (DOCARE), whether through a specifically designated marine patrol or otherwise, to enforce the rules in the areas of boating safety, conservation, and search and rescue relative to the control and management of boating facilities owned or controlled by the State, ocean waters, and navigable streams and any activities thereon or therein, and beaches encumbered with easements in favor of the public, and the rules regulating vessels and their use in the waters of the State.

These tasks are in addition to enforcing all the other rules and statutes that are currently under the jurisdiction of the Department. Lack of security at both private and public locations is a constantly discussed issue in law enforcement and boating facilities are no different. DOCARE is not manned to provide the around the clock security as requested by many of the boating facilities users. The cost of providing the amount of resources needed to provide this level of service, in terms of both manpower and equipment, is not financially feasible.

Prior to the transfer of all enforcement functions to the Department of Public Safety, Harbor Agents had been granted limited enforcement authority to address minor violations within their facilities, such as expired vessel registrations, illegal mooring, etc.

The Department will continue its efforts of the last four years to obtain legislative approval to restore limited enforcement authority for Harbor Agents. We believe this action will free DOCARE officers to concentrate on waterborne patrol activities. In the interim, Harbor Agents at various harbors have developed a good working relationship with local police authorities, and they have increased patrol and enforcement of non-boating activities within harbor facilities.

We believe that inappropriate methodology may have been used to assess the relative efforts expended by DOCARE in enforcing boating laws and rules as compared to the enforcement efforts provided to other divisions. It is the Department's position that the deterrent presence of DOCARE units provides effective enforcement, and successful results should be measured through a reduced number of citations that must be issued. We have no quota system for citations issued. Enforcement efforts should be assessed through the total time involved in providing the enforcement services.

Routine patrols for both resources protection and boating compliance often occur simultaneously. This provides for more coverage and maximum utilization of our limited manpower in areas of multiple usage. It is not uncommon on the north shore of Kauai for example, where officers assigned to the same boat patrol may engage individuals that are involved in activities related to State parks, forestry, hunting, wildlife, boating and marine resources enforcement all at the same time.

DOCARE records indicate that marine and boating enforcement efforts exceeds all other categories when added together and compared to the overall enforcement effort of the Division. The statistics provide in Exhibit A compare DOBOR Enforcement and Marine Resources Enforcement efforts to all other enforcement efforts. The results present a different perspective on this issue than those contained in the audit report.

We concur that is unusual to require only the Boating Program to pay for DOCARE enforcement services. The Department intends to follow the recommendations in this report, and attempt to shift boating enforcement costs to the general fund. For the record, vessels moored in harbors without a valid permit are charged a substantially higher fee, and therefore no loss of revenue exists.

Adequate fiscal controls

The Department appreciates the Auditor's critical comments and suggestions on means of improving financial and accounting procedures. Although DOBOR staff consistently finds areas that need improvements and institutes changes to address them, we believe independent review is necessary to identify shortcomings that may have been overlooked.

Identification of facility operating costs

We are please to note that the report cites progress in the area of revising and creating new "cost centers" for classifying operating costs and revenues from each facility. We expect to continue improvements and refinements to this function. In the example given in the report, the service contracts issued for janitorial and refuse removal are routinely bid and paid on a "lump sum" basis. These expenditures were classified as "District" expenditures for workload simplification, since the district office issues the contract, and receives and pays the bill. We will examine the possibility of revising future contracts to specify that both the bid and subsequent billing be submitted on a cost-per-facility basis for accounting purposes.

We doubt that the true amount of outstanding debt service for each facility could be determined, regardless of the level of effort dedicated to this task, due to the refinancing of various bond issues to take advantage of lower interest rates. Some bond issues were used to finance several different boating projects, and some projects were financed from different bond issues. At the time a particular bond issue is refinanced, the residual balance of boating project obligations are incorporated into the total amount being refinanced and project identity is lost. Theoretically, residual amounts from the first bond issue used to finance a boating CIP project could still be in existence.

We question the benefit that would be derived from the commitment of the level of staff resources necessary to develop the level of refinement required to determine the "true cost" of operation of each facility. The fees set for each facility are not directly tied to the cost of operation of that facility. The Boating Program was purposely established as a statewide program so that the revenue derived from the more successful facilities could help defray the cost of construction, maintenance and operation of the smaller facilities on rural Oahu and the neighbor islands that are not capable of self-sufficiency. This practice applies to both the State airports and commercial harbors programs, where the

revenues from Honolulu International Airport and Honolulu Harbor contribute to the support of outlying facilities. If DOBOR had to raise user fees for non-revenue producing facilities to cover the total cost of construction, maintenance and operation, the cost would be unaffordable to most residents.

Inventory control improvements

We concur that improvement in inventory control is needed. This task is often assigned a low priority and may be overlooked when staff shortages exist. We intend to address this problem by first verifying the accuracy of the inventory control database, and then assigning a particular position in each facility with the responsibility for inventory control for all equipment located at that facility. Spot-checks following new equipment deliveries will be conducted by either district office personnel or the audit staff.

Segregation of cash collection duties

Second party review of cash collection duties, as outlined in the audit report, will be difficult to implement for those offices that are manned by a single harbor agent. Establishing an additional clerical position for the sole purpose of segregating cash collection duties at these locations would not be financially feasible. Cash collection duties at other locations with two or more persons assigned have already been implemented. We are presently evaluating the alternative of conducting periodic spot-checks by district office personnel and the audit staff to verify cash transactions and procedures.

Significant delinquent user fee balances

We concur that some problems still exist in the program used to generate aged receivables data, and we will continue attempts to rectify these deficiencies. The monthly aged receivables reports presently generated by DOBOR are first reviewed for random errors and corrected as necessary. Over $200,000 of the reported $500,000 in delinquencies over 90 days has been sent for collection, and referrals for collection are made on a quarterly basis.

Insufficient number of audits

DOBOR's single auditor conducts all audits of commercial permit holders. Candidates for audit are selected on a random basis. DOBOR's auditor also conducts audits of commercial leases administered by DOBOR, as well as internal audits of harbor operations. During most of 1999, the auditor's efforts were concentrated on revising and refining cost center data to more accurately reflect facility revenue and expenditures, in response to

recommendations made in the 1998 Auditor's Report. In addition, the draft rules for the proposed fee increase includes provisions to restructure the present commercial operator fees. The new fees will be based on a fixed fee per seat, rather than monthly gross receipts, and will result in a fixed fee per month. This action will significantly reduce the auditor's present workload, and will allow a greater concentration on audits of harbor facilities and fiscal procedures. A new Accountant V position has recently been approved, and we expect this position assist in verification of inventory control measures and review the cash related tasks performed at facilities with a single Harbor Agent assigned.

Boating Program issues to be resolved

The Department generally concurs with the issues that must be resolved, as identified in the audit report. However, we wish to clarify that the possible advantages of transferring the Boating Program to DOT that were attributed to boating officials, were those that were actually voiced by the group of users that originally proposed the transfer.

Possible advantages of transfer

DOBOR staff does not believe any significant advantages would accrue to the program by such a transfer, even after the issues cited in the auditor's report have been resolved. The Harbors Division engineering and maintenance staff has been trimmed to service their needs only, and would not be able to accept the additional workload without additional positions. Few people realize that when the Boating Program was still located within the Harbors Division, all administrative, maintenance and engineering services performed by commercial harbors personnel, as well as rent for office space, were paid from the Boating Special Fund. The Boating Program would still have to pay for these services if the program were to be transferred back to DOT. Commercial harbor funds would not be able to be used to support boating needs, as this would result in a violation of Harbors Division's revenue bond covenants.

Status of Kewalo Basin

The Department concurs that the status of Kewalo Basin should be reexamined. The type of operations there are consistent with operations at other facilities, such as Lahaina and Maalaea Harbors. We concur that Harbors Division's interest in this facility may be diminished with the ownership of the surrounding area under the HCDA. We note that the majority of commercial fishing activities are being relocated to areas within Honolulu Harbor.

Conclusions and Recommendations

The Department concurs with the conclusions and recommendations as set forth in the audit report. We will continue to seek legislative approval of the various initiatives described in this response that will enable the Department to address the deficiencies that were emphasized in the report.

We are especially pleased that the audit recognizes the need for general revenues to assist in supporting the recreational activities provided to members of the general public who do not contribute in any way to help defray the cost of operating the facilities they enjoy.

The Department intends to initiate the corrective measures as set forth in the recommendations within the limit of existing resources. In cases where we are unable to implement specific measures due to staff or funding limitations, we will explore alternative measures that we believe will achieve the intended result.

State of Hawaii
Department of Land and Natural Resources
Division of Conservation and Resources Enforcement
Actual Statewide Enforcement Statistics, Compared To all Other Enforcement Categories.

FY 1998, 1999, 2000

	FY 1998	FY 1999	FY 2000
HOURS			
DOBOR Enforcement [A]	20.35%	23.01%	24.12%
Marine Resources Enforcement [B]	45.25%	34.84%	34.30%
Combined [A] + [B]	65.60%	57.85%	58.42%
CITATIONS			
DOBOR Enforcement [A]	41.16%	42.09%	40.50%
Marine Resources Enforcement [B]	22.11%	19.62%	20.28%
Combined [A] + [B]	63.27%		
ARRESTS			
DOBOR Enforcement [A]	23.08%	18.06%	8.20%
Marine Resources Enforcement [B]	33.33%	1.39%	3.28%
Combined [A] + [B]	56.41%	19.45%	11.48%
WARNINGS			
DOBOR Enforcement [A]	44.79%	39.51%	61.70%
Marine Resources Enforcement [B]	20.58%	11.90%	7.89%
Combined [A] + [B]	65.37%	51.41%	69.59%
INVESTIGATIONS			
DOBOR Enforcement [A]	37.09%	30.33%	34.90%
Marine Resources Enforcement [B]	29.55%	22.36%	17.83%
Combined [A] + [B]	66.64%	52.69%	52.73%

Exhibit A

ATTACHMENT 3

BENJAMIN J. CAYETANO
GOVERNOR

BRIAN K. MINAAI
DIRECTOR

GLENN M. OKIMOTO
JADINE Y. URASAKI

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

IN REPLY REFER TO:

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April 17, 2001

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OFC. OF THE AUDITOR
STATE OF HAWAII

TO: MARION M. HIGA, STATE AUDITOR
OFFICE OF THE AUDITOR

FROM: BRIAN K. MINAAI
DIRECTOR OF TRANSPORTATION

SUBJECT: DRAFT REPORT, AUDIT OF THE MANAGEMENT OF STATE BOATING FACILITIES BY THE DEPARTMENT OF LAND AND NATURAL RESOURCES

Thank you for the opportunity to review the draft report, *Audit of the Management of State Boating Facilities by the Department of Land and Natural Resources.* At this time, we offer our general concurrence to the draft and forward specific comments regarding key issues that were discussed.

We concur with your conclusion that the activities of the Boating Program do not align with the Harbors Division's mission and scope of activities. The Harbors Division's mission is to facilitate the movement of people and goods to, from, and between the islands and this mission is unrelated to the Boating Program's mission of ocean recreation conservation.

While commercial activities at Kewalo Basin also occur in small boat harbors, Kewalo Basin should not be viewed as the answer to the Boating Program's financial woes. We continue to view this facility as a commercial harbor due to the on-going commercial activities, which includes commercial fishing. Transferring Kewalo Basin from the Harbors Division to the Boating Program may benefit the Boating Program's financial needs. However, any relocation of commercial fishing operations would drastically affect our congested Honolulu Harbor. Therefore, we appreciate your recommendation that the Boating Program seek to expand operations at existing harbors to generate additional revenues.

Overall and in general, we also agree with other conclusions and recommendations set forward in the report. While we are concerned with the condition of the State's Boating Program, the

Boating Program should first look internally to resolve its issues rather than seeking safe harbor within the Department of Transportation. Should you have any questions, please feel free to contact me at 587-2150 or have your staff contact Thomas Fujikawa, Harbors Administrator, at 587-1927.