

*Final 312 Evaluation Findings  
Virgin Islands Coastal Zone Management Program  
March 1998 to April 2003*

Office of Ocean and Coastal Resource Management  
National Ocean Service  
National Oceanic and Atmospheric Administration  
United States Department of Commerce



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## **Executive Summary**

The conclusion of this evaluation is that the Virgin Islands Department of Planning & Natural Resources (DPNR) needs to take several important steps to assure continued successful implementation of its federally-approved coastal management program. Most importantly, the staffing issue is paramount to all other issues, and affects the Territory's ability to respond to programmatic requirements as well as meet necessary actions and program suggestions contained in this document.

This document includes three Necessary Actions and six Program Suggestions. Necessary actions are mandatory requirements that DPNR must undertake to maintain its coastal management partnership with NOAA and continue to receive funding through the Coastal Zone Management Act (CZMA). Program suggestions are recommendations that the Territory should address before the next regularly schedule program evaluation.

The Necessary Actions include filling critical staff vacancies as quickly as possible and filling vacancies in the CZM committees. Additional Necessary Actions include completing a strategy for developing enforceable APC management plans and developing strategies to enhance efforts to address erosion and sediment control. Program Suggestions include developing guidance for the CZM Commission, submitting routine changes and prioritizing enforcement. In addition, the VI CZMP is encouraged to enhance efforts to provide public access and increased their role in implementing the V.I. Antiquities Law. Finally, the VI CZMP is encouraged to make erosion and sedimentation control components a priority for implementation of their approved coastal nonpoint pollution.

*Overview*

Section 312 of the Coastal Zone Management Acts of 1972 (CZMA), as amended, requires NOAA's Office of Ocean and Coastal Resource Management (OCRM) to conduct periodic evaluations of state coastal management program implementation. This review examined how the Virgin Island's Department of Planning and Natural Resources (DPNR) implemented and enforced the Virgin Island Coastal Zone Management Program (VICZMP), addressed the coastal management needs addressed in section 303(2)(A) through (K) of the CZMA, and adhered to the terms and conditions of the NOAA financial assistance awards the DPNR received between March 1998 and April 2003.

This document sets forth the evaluation findings of the Director of OCRM with respect to the VICZMP for the period from March 1998 through April 2003. The fundamental conclusion of this evaluation of VICZMP is that DPNR is successfully implementing and enforcing its federally approved Coastal Management Program. The recommendations made by this evaluation appear in **bold** type and follow the section of the findings in which the facts relative to the recommendation are discussed. The recommendations may be of two types:

(1) **Necessary Actions** address programmatic requirements of the CZMA regulations and of the VICZMP approved by NOAA, and must be carried out by the date(s) specified. There are three Necessary Actions within this document.

(2) **Program Suggestions** denote actions which OCRM believes would improve the management and operations of the Program, but which are not mandatory at this time. Program Suggestions that must be reiterated in consecutive evaluations to address continuing problems may be elevated to necessary actions. The Territory is expected to have addressed the Program Suggestions by the time of the next section 312 evaluation.

The findings contained within this document will be considered by NOAA in making future financial assistance award decisions relative to the VICZMP.

## **II. Program Review Procedures**

### **A. Overview**

The Office of Ocean and Coastal Resource Management (OCRM) evaluation staff began review of the VICZMP in March 2003. The Section 312 evaluation process involves four distinct components:

- ▶ An initial document review and identification of specific issues of particular concern;
- ▶ A site visit to the Virgin Islands including interviews and public meetings;
- ▶ Development of draft evaluation findings; and
- ▶ Preparation of final evaluation findings, partly based on comments from the state regarding the content and timetable of Necessary Actions specified in the draft document.

### **B. Document Review and Issue Development**

The evaluation team reviewed a wide variety of documents prior to the site visit, including: (1) the federally approved Environmental Impact Statement and program documents; (2) financial assistance awards and work products; (3) semi-annual performance reports; (4) official correspondence; (5) previous Section 312 evaluation findings; and (6) relevant publications on natural resource management issues in the Virgin Islands.

The Evaluation Team gave special emphasis to the following issues:

- ▶ Effectiveness of the Virgin Islands Department of Planning and Natural Resources in monitoring and enforcing the core authorities that form the legal basis of the VICZMP;
- ▶ The manner in which recent changes in Territorial government may affect the VICZMP;
- ▶ Implementation of Federal consistency authority;
- ▶ Implementation of enforcement and compliance mechanisms;
- ▶ The manner in which the VICZMP coordinates with other Territory, local, and Federal agencies and programs ;

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- ▶ Effectiveness of technical assistance, training, and outreach to local governments in order to further the goals of the VICZMP; and
- ▶ The Territory's response to the previous evaluation findings dated January 25, 1999.

### **C. Site Visit to the Virgin Islands**

Notification of the scheduled evaluation was sent to DPNR, VICZMP, relevant federal environmental agencies, members of the Virgin Island's Congressional Delegation, and regional newspapers. In addition, a notice of "NOAA's Intent to Evaluate" was published in the *Federal Register* on Thursday, April 24<sup>th</sup>, 2003.

Susan Melnyk and Kenneth Walker, Evaluation Team Leaders, NPED, Bill O'Beirne, Coastal Management Specialist and Team Leader, CPD, OCRM, and Kathleen Leyden, Program Director, Maine Coastal Management Program, conducted a site visit the week of June 9-13, 2003. The Evaluation Team met with representatives of Territory and local governments, Federal agencies, interest group representatives, and private citizens during the site visit.

As required by the CZMA, public meetings were held on each island as follows: Tuesday, June 10, 2003 at 6:00 p.m. at the Department of Planning and Natural Resources Conference Room, Cyril E. King Airport, Terminal Bldg., 2nd Floor, St. Thomas, USVI 00802; Wednesday, June 11, 2003, at 6:00 p.m. at the Florence Williams Public Library, 1122 King Street, Christiansted, St. Croix, USVI 00820; and, Thursday, June 12 at 6:00 p.m. at the Legislature of the Virgin Islands Conference Room, 109 Contant-Enighed, Hilltop Building, Cruz Bay, St. John, USVI 00831. (**Appendix A** lists persons contacted in connection with the evaluation; **Appendix B** lists persons who attended the public meetings; **Appendix C** documents written comments received regarding the Virgin Island's performance during the review period; and **Appendix D** contains the response to the previous findings.)

The support of the VICZMP staff in arranging meetings and transportation is gratefully acknowledged.

### **III. Coastal Area Description**

The Virgin Islands are located approximately 1,000 miles southeast of Miami at the eastern end of the Caribbean archipelago. The Territory contains three large islands, St. Thomas, St. Croix, and St. John as well as about 50 small islets and cays. The Virgin Islands have no rivers, streams, or lakes. The islands are of volcanic origin and are composed of steep ridges, flat terrain, and abundant coral reefs. They contain terrestrial and marine ecosystems of high natural and economic value, including the extensive mangroves and coral reef system on St. Croix, and the diverse marine resources of the VI National Park on St. John and St. Croix. In addition to these abundant natural resources, relics from Pre-Colombian Amerindian Civilization, remains of the Danish colonial sugar plantations, and reminders of African Slavery and the Subsistence Culture that followed during the 100 years after Emancipation can be found throughout the islands in protected areas as well as private and public lands.

The V.I. Coastal Zone includes all the islands and territorial waters extending towards the outer limits of the territorial sea. The Coastal Zone includes open waters, tidal flats, estuaries, bays, inlets, wetlands, lagoons, beaches, dunes, and bluffs, as well as upland areas. The inland coastal zone boundary is divided into two tiers, one for the coastal areas, and one for upland areas. The first tier is composed of a relatively narrow strip of land along the coast as well as all off shore islands and cays, except areas of Federal land. All development activity in Tier 1 is subject to a Virgin Islands CZM permit, issued by the CZM Commission, of DPNR. The second tier consists of the remaining interior portions of the three main islands. Within the 2<sup>nd</sup> tier, activities are subject to Department of Public Works review of the earth change, subdivision and zoning requirements.

There are continual risks of degradation and losses of marine and coastal resources through coastal hazards, over use, and improper development procedures. These losses, such as severe erosion, over fishing, and devastation from hurricanes often remain permanent reminders of the fragility of these island's ecosystems and their contribution to the local economy, fisheries, public health and the general quality of life.

***IV. Program Description***

The VICZMP was approved in June 1979. The foundation of the coastal program is the Virgin Islands Coastal Zone Management Act (VICZMA) of 1978. The VICZMA established a comprehensive coastal zone program designed to manage all development activities in the Virgin Islands coastal zone, which includes St. Thomas, St. John, and St. Croix Islands, all offshore islands and cays, and the territorial sea. The Program manages directly all development activities on all the offshore islands and cays and in the first tier, a relatively narrow coastal strip, on the three major islands through the use of a comprehensive system of major and minor Coastal Zone Management (CZM) permits. Other laws and related permits and programs control activities within the second tier on the three major islands.

The Department of Planning and Natural Resources (DPNR) is the lead agency for administering the VICZMP. The Commissioner of the DPNR is responsible for directing the activities of the VICZMP, for approving or denying all earth change permits and minor coastal zone permits and for taking all enforcement actions arising from the implementation of the major and minor permits. DPNR also processes all the building, plumbing and electrical permits. Major CZM permits are issued by individual Coastal Zone Management Committees for each island (five members on each committee). A Coastal Zone Management Commission is composed of all three of the individual island Committees and as a body is empowered to promulgate rules and regulations and provide policy direction and leadership in coastal management issues. Enforcement and monitoring are the responsibility of the Commissioner and are carried out by the Division of Environmental Enforcement (DEE) within DPNR.



## **V. Accomplishments, Review Findings and Recommendations**

### **A. Staffing**

NOAA was impressed with the professionalism of the VI CZMP staff. The Program demonstrates dedication to the CZMP, and is involved in developing relevant skills and effective partnerships. They have made a significant effort in responding to the last evaluation findings and in participating in the national CZM program. In the Territory, they focused on reaching out to business, industry, and the public to make the CZM program visible and understandable. The Staff function well as a team, and are effective at coordinating and fostering partnerships.

VI CZMP staff were the recipient of several national and Territory awards during the evaluation period as well. These include:

- ▶ The 2001 Walter B. Jones Memorial Award for Excellence in Local Government. Received by DPNR for its outstanding performance and effectiveness in advancing the goals of the CZMA at the local level; effectiveness of increasing public awareness of coastal issues; use of innovative approaches, techniques, and most importantly, the ability of an agency/program to serve as a model for other local government efforts.
- ▶ The 2001 Commissioner's Award.
- ▶ The 2001 U.S. Coral Reef Task Force Award. Created by executive order in 1998, the task force implements research, monitoring, mapping, conservation, restoration, and international measures to reduce human impacts on coral reefs.
- ▶ The 2001 Coastal America Award (EEMP)

The evaluation team repeatedly heard about the caliber and dedication of VI CZMP staff. Immediately following, we almost always heard that the staff was overworked and in jeopardy of becoming "burned out." The program has maintained vacancies at some critical positions such as Director, assistant director, legal , permit reviews, etc.. Moreover, remaining staff have had to take on additional responsibilities as the program has grown. These responsibilities include increased permit review workload and increased activities related to coral conservation, such as the St. Croix East End Marine Park. The result is that while the program has done a remarkable job stretching to cover more responsibilities with less staff, this will not be adequate for the long term.

The VI CZMP's staffing shortage is of greatest concern to the evaluation team and NOAA. Further, NOAA considers the improvement of VI CZMP's staffing situation to be critical to the

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implementation of any of the Necessary Actions or Program Suggestions in this document.

Through the administration of the National Coastal Zone Management Program, OCRM works closely with the VICZMP on local coastal resource management efforts. OCRM also coordinates with NOAA's Coral Reef Conservation Program to support the VICZMP's efforts to protect coral reefs, including efforts in the recently established St. Croix East End Marine Park (EEMP). Through these two programs, NOAA provides approximately \$1.7 million annually in funding to the Territory in support of programmatic efforts, including staffing and operations, as well as numerous other technical projects and initiatives. NOAA and VICZMP staff work closely in the implementation of these funds, as well as to identify additional resource needs and resolve technical capacity and other challenges.

Although the NOAA VICZMP partnership continues to be positive and collaborative, the lack of staff threatens to impede our common objectives. To their credit, the DPNR has filled some of these vacant positions subsequent to the site visit. However, staff turnover has continued to leave critical staffing positions vacant, and is a serious impediment to the effective implementation of the Program.

At the time of writing, we are aware of no less than eleven (11), high priority unfilled positions within the VICZMP that are supported by funding from NOAA's Coastal Zone Management and Coral Reef Conservation Programs, (see adjacent table).

It is our understanding that in many cases qualified candidates have been or were identified for these positions, but were unable to wait out the lengthy hiring process that can often take over a year.

The evaluation team also heard from a number of interviewees that certain areas of technical expertise were needed in the program. The most frequently cited areas were in economics, land use /environmental planning and engineering. Several persons commented that an economist was needed to evaluate and "ground truth" economic analyses provided by applicants related to project alternatives. The lack of planning expertise has hindered efforts to conduct build out, and other planning studies as well as required the program to contract out APC work. In addition, engineering expertise would assist staff respond to and craft better site designs, BMPs proposals, etc. While hiring these technical specialists is one way to address these concerns there may be alternative means to obtain this expertise. For instance, the Division of CZM might seek to develop partnerships with other DPNR offices who already employ economists, engineers or .... to see if they could acquire a portion of those positions time for CZM Issues. Until the vacant positions are filled; however,

Positions outstanding:

- 1 permit coordinator
- 2 permit inspectors for St. T/ St. J
- 2 permit inspectors for St. X
- 1 environmental engineer
- 1 water quality permit inspector
- 2 attorneys
- 1 paralegal
- ½ legal secretary
- ½ education and outreach coordinator
- 1 secretary
- 1 GIS tech
- 1 EEMP administrative assistant
- 1 EEMP interpretive officer
- 1 EEMP enforcement officer
- 1 EEMP marine biologist

NOAA feels strongly that the Program lacks sufficient capacity to effectively manage and implement all NOAA funding being provided to the Territory. Furthermore, if left unaddressed, these issues could jeopardize the Territory's federally-approved coastal management program and related grant funding, as well as other NOAA funding awarded through NOAA's Coral Reef Conservation Program.

**Necessary Action: The VI CZMP must continue to fill critical vacancies with appropriate candidates as quickly as possible. The VI CZMP should identify current vacancies, priorities among vacancies, and a schedule for filling vacant positions within the CZM program. This schedule will be due to NOAA no later than thirty days after the Territory receives the Final Findings and Evaluation document. Efforts to hire priority positions should commence immediately thereafter. In addition, the Territory should seriously build technical capacity for the program in the areas of economics, planning, and engineering. This could be accomplished through recruiting this type of expertise or tapping this expertise in other DPNR programs.**

## **B. Permit Process**

The communities of the USVI vary widely, and policy development and implementation are influenced by the ecological, social, economic and political characteristics of each. St. John is the fastest growing island, whereas St. Croix is facing fewer development activities, and St. Thomas has the most extensive development of the Islands, requiring extensive mitigating measures in the cases of major development. Public access is not easily negotiable because of the limited space.

The VI CZMP Commission comprises three subcommittees which have oversight over major development throughout the VI, and two ex-officio members, the Commissioner of DPNR and the CZMP director, as required by the CZMA. There are additional subcommittees as needed for major development projects, such as the Botany Bay project on St. Thomas. The major steps involved in the permitting process begin with the review of the application for its completeness, which is done by the VI CZMP staff. Once an application for major development in Tier I of the coastal zone is complete, a preliminary finding is forwarded to the committee overseeing the project and the CZMA mandates a public hearing to be held within 60 days. VI CZMP staff then makes a recommendation to the subcommittee. A decision meeting follows. For minor projects, the DPNR Commissioner has final approval and review for the entire Territory.

During the site visit, the team heard that the permit process is timely, affords the applicant procedural due process of law and provides for adequate public input. When an application is not complete, instructions are given on what is missing, and clear lines of communication are indicated as to how to proceed and what resources are available. The team discussed a major permit project at Crown Bay, the sight of the former Yacht Haven marina. This was a large scale development project, yet the application process was completed in a time period of three months. The review process has built in time for completion of all aspects of the application, including information gathering, research, and a pre-application hearing.

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The Department of Comprehensive and Coastal Zone Management Planning was merged into the VI CZMP during the evaluation period. One of the main activities has been to consider the broad land use issues affecting the Virgin Islands, and to implement the Comprehensive Land and Water Use Plan (CLWUP). According to several persons interviewed, the Territory existing comprehensive land use plan is outdated and rezonings occur in a piecemeal fashion, with review on an individual basis where a project is slated to occur. Some groups are pressing for a new CLWUP/DL to address these concerns. There is expected to be opposition to a new plan which will entail constraints on current rights to accommodate new zoning, performance standards, and adequate protection of resources. For example, requirements for adequate parking spaces on properties need to be implemented to provide better passage for traffic.

There were several follow-up discussions concerning the implementation of a single tier permitting system being applied island-wide with procedures and enforcement being approached in a similar manner. This would most likely be achieved through revisions to the CLWUP and Development law to create a single tier permitting system. The program's approach so far is to create a land development policy requiring all developments in the Territory to use a standardized permit application.

Pursuant to the VI Cultural Antiquities Law, permit applications for major projects are required to complete an archaeological survey to determine the extent of historical resources in shoreline areas. As part of the VI's history, the land use processes reflect patterns of use by Pre-Columbian societies as well as colonial plantation societies. Throughout the history of the program, these resources have been preserved in Tier 1, through coordination with the State Office of Historic Preservation (SHIPO), Division of Archaeology and Preservation. This archaeological survey is required for major permits, but in Tier II, it may present a financial hardship to the permit applicant. SHIPO works with CZM to ensure the integrity of the Island's resources and for consistency in the permit process including attending public hearings to learn about sights containing cultural resources and to maintain Territorial control over the resources. SHIPO has been successful in incorporating cultural heritage tourism into the developers' product and in minimizing visual impacts of development, i.e., communication towers on the cultural landscape.

**Program Suggestion: The VI CZMP staff is encouraged to continue to employ assistance in implementing the VI Cultural Antiquities Law and providing resources for this assistance where possible.**

During the review period, the VI CZMP staff implemented several improvements to the permitting process. These include a streamlining of the permit process in which staff are assigned specific areas of permitting, increased communication with local and Federal partners, and an increased capacity for decision making. NOAA commends the program on their progress and notes the good relationship they have among their Federal and local partners in the process. The VI CZMP is seen as easier to work with because the CZMP is in one office, and partners rely on information provided by the program for their work in the Caribbean region. This proficiency and effective work also leads to the VICZMP's outcome in most cases that are heard by the Board of Land Use Appeals.

Some of the changes implemented by the Program include:

- ▶ Increase in Program capacity for communication, IT technology;
- ▶ Use of GIS to link complex database information - such as aerial photography, soils, zoning boundaries, and property ownership to geographic references;
- ▶ Annual Commission workshops;
- ▶ A central location where folders containing pertinent information for CZM Commission members established, and
- ▶ A computerized tracking system for submerged lands and occupancy permits and leases fees.

### **C. CZM Commission**

DPNR has addressed several Program Suggestions related to the CZM Commission and subcommittees, including holding annual meetings, improved communication, and the provision of training for the Commissioners. These changes, along with other accomplishments in the area of program administration have improved the efficiency of the Commission. Participation by commissioners in the process is at a high level and is impressive given the additional responsibilities that each commissioner has as private citizens. The Committees that the team met with were highly motivated to be a part of the process and to work with the CZMP in implementing improvements in commission operation.

The evaluation team heard mixed reports regarding the Commission's operating procedures. In response to NOAA's previous Section 312 evaluation findings, the VICZM program has made improvements in the process of information gathering before and as needed for the decision meeting. The team heard from one St. Thomas committee that some materials were not provided for the committees in a timely manner. However this concern was not expressed by the other committees when asked about it.

The Commission is improving its communication with the public, community residents and developers. A continued approach to improve this process is recommended, in particular a clear definition of the process and the roles of the participants. For example, the Commission's public hearings could be improved in terms of public notice and accessibility.

There were some concerns raised by a number of interviewees that the Commission is failing to consider staff recommendations, although this concern was not raised by all. After talking to the committees it is clear they do consider staff recommendations, but obviously the final decision rests with the committee/Commission. What is unclear, or inconsistent is the process by which the committees consider the recommendations and what they must do if they choose to disagree with these recommendations. It is not clear whether and how committees must make additional findings in these cases. Similarly, concerns were voiced about the process for issuing variances and the fact that the process lacks specific written procedures.

**Program Suggestion: The VI CZMP should work with the VI CZM Commission, and other stakeholders to develop specific written procedures for the CZM Commission. These procedures should address public hearings, consideration of staff recommendations and issuance of variances. This guidance should be made available to the Commissioners and CZM staff along with additional training and specific guidance. OCRM will review similar programs and provide examples to the Territory to help it develop guidance.**

The CZM Commission is still not fully staffed. There are two vacancies each on the St. Croix and St. John Committees and vacancies on St. Thomas committee. The Territory had filled a number of vacancies on the Commission in response to the NA in the last evaluation. However, since that time new vacancies have arisen. The evaluation team learned that the nominating and selection process employed by the legislature has kept many identified replacements from accepting a nomination. While NOAA recognizes the process required to fill the vacancies and the political implications of holding a position on the Commission impose significant hurdles, it is a critical issue that must be addressed. The lack of a full committee precludes the full range of perspectives envisioned by the VI Coastal Management Act, and impose more work on each commissioner. The vacancies also lead to considerable inefficiency. Considerable Commission and DPNR and Commission staff time is tied up trying to schedule meetings where a quorum will exist—time that would normally be spent on substantive work. A fully staffed Commission will allow for the objective of fulfilling meaningful participation in the CZM process.

**Necessary Action: The DPNR must take steps to completely fill all vacancies in each of the CZM subcommittees within 18 months.**

#### **D. Erosion & Sediment Control**

Erosion and sedimentation resulting from development and earth moving activities remains the one of the major impacts to coastal water quality and to the long term health of the Territory's coral reefs. The islands topography and economy make this a very complex issue to resolve. A majority of land in St Thomas and St, John, especially in tier 2, occur on slopes greater than 25%. Thus a typical construction practice is to cut and fill into the steep slopes of the Territory's terrain, particularly on St Thomas and St John. Without proper planning and best practices, residential and commercial development and road maintenance and construction on the steep slopes results in sedimentation and runoff which impairs coastal water quality and smothers valuable habitats such as coral reefs. However, given that the median per capita income level in the islands is very low, implementing the full range of BMPs to address erosion and sedimentation can be cost prohibitive. In addition, outside of the relatively narrow Tier 1 where coastal zone permits are required, the various agencies involved in permitting development activities do not manage these runoff issues as stringently, although the program has instituted a consolidated land and water use permit for tier 1 and 2.

Roadside clearing was also raised as an ongoing issue. In spite of the training provided by DPNR for Department of Public Works (DPW) road crews, reports of excessive clearing by these crews

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were voiced. According to these same sources, while the training programs are effective, DPNR has not been able to train all of the numerous crews to date.

The VI CZMP has initiated a laudable watershed planning effort in Fish Bay on St. John where poorly designed roads and residential construction on steep slopes have resulted in sediment runoff impacting the Bay. The VI CZMP is working directly with the Fish Bay Homeowners Association to implement best practices to reduce runoff from existing roads and new construction. The Homeowners Association is using funds collected as dues to begin paving the worst eroding roads and install BMPs. This innovative public/private partnership, based on EPA's unified watershed approach, is potentially a model for managing impacted watersheds throughout the Territory.

Several models have been proposed for addressing the erosion and sedimentation control issue. Several groups have called for the revision of the VI development law to expand coastal zone permitting into Tier 2. While this regulatory approach could address the issue, it would only be successful if the expanded regulatory authority came with adequate permitting and enforcement resources to enhance permitting staff. In addition, the territory will still need to address the confounding economic issues BMP implementation may have in tier 2. A non-regulatory approach might include transferring the Fish Bay watershed planning model to high priority watersheds within the Territory, or looking for alternative revolving loan funds or other funds to offset costs in hardship cases.

Since the 312 site visit, the VI CZMP has successfully filled two positions that are necessary for implementation of their federally-approved coastal nonpoint pollution program. One Education and Outreach Specialist (Specialist) was hired through the NOAA Assistantship Program. The Nonpoint Source Pollution Coordinator (Coordinator) was promoted from existing staff.

The Specialist has begun development of the Territorial Nonpoint Source Pollution Education and Outreach Program (E&O Program). Preliminary work has included the creation of a Territorial Educators group. This is allowing the Specialist to not only coordinate with other educators that are addressing nonpoint source pollution issues, but will also allow the Specialist the opportunity to develop the VI CZMP E&O Program by targeting untargeted stakeholders, as well as taking advantage of already developed activities and material, thereby increasing synergy among educators while reducing duplication of efforts and fragmentation of scarce funds. Other planned activities include surveys designed to allow the VICZMP to identify gaps in target groups and then the development of educational material to address the identified target groups.

The new Coordinator has just recently begun working and is still learning the scope of duties and responsibilities required to successfully implement the NPS Program. Some already existing projects which the Coordinator will gradually assume responsibility for, are the completion and implementation of the Heavy Equipment Operator's Project, the advancement of the Smart Growth Project, the continued implementation of the Fish Bay Management Plan, and assisting the Specialist with the development and implementation of the E&O Program.

**Program Suggestion: The VI CZMP should make erosion and sedimentation control components (especially in Tier 2 areas) a priority for implementation of their approved coastal nonpoint pollution program.**

### **E. Areas of Particular Concern**

The VI CZMP undertook a comprehensive effort over the last decade to identify the most important coastal resources and areas of competing uses on each island through the designation of 18 Areas of Particular Concern (APCs). APCs with critical coastal resources and potential threats include the St. Croix East End Marine Park, Coral Bay and Magens Bay watersheds and Botany Bay. APCs with multiple competing uses include Cruz Bay/Enighed Pond, St Thomas Harbor/Waterfront, Red Hook/Mangrove Lagoon/Benner Bay. APCs with important cultural resources include the Christiansted and Fredericksted waterfronts.

While successful management plans have been developed and implemented for the Christiansted waterfront and the St Croix East End Marine Park, progress on implementing additional plans has languished. Additionally, some of the existing APC plan goals are so broad that a focusing and prioritization of goals and objectives may be necessary for the Territory to move forward with meaningful implementation. For example, the Coral Bay, St. John, APC Management Plan attempts to address a wide variety of issues which ultimately fall under the jurisdiction of various Territorial agencies. These include water quality (poorly flushed harbor impacted by erosion from development on steep slopes and failing septic systems), basic public services (no pump out, marine facilities or public dock for large number of residents living aboard boats) and protection of critical habitat (mangroves outside of VI National Park)

Considering staff and funding shortages, a clear prioritization of goals and identification of relevant partners may be necessary to facilitate implementation of priority projects and enhancements. Full consideration of both terrestrial and aquatic resources and impacts on both should also be a priority. Absent a Comprehensive Land & Water Use Management Plan, many of the same goals could be met through the existing APC implementation coordinated with future Marine Protected Areas efforts .

The evaluation team also heard from concerned residents that enhanced control over activities within APCs is necessary for protection of these important resources. The development of enforceable policies within APCs has proceeded slowly as these have been developed one at a time based on individual management plans. In addition, many of the regulatory changes identified, such as the 150 foot buffers adjacent to wetlands, have not been adopted by the legislature.

A standard approach to enhanced protection in all APCs may be a desirable and more efficient option. A number of possible approaches were discussed including the development of enforceable provisions for the APCs in a revised CZMA regulations and or Development Law,



and the application of a uniform design standards for particular types of APCs to promote environmentally sound development. Such design standards might reduce some impacts of development by minimizing site clearance, visual impact and preventing mass development along non-urbanized shorelines. There are likely other approaches as well.

In addition, the evaluation team heard there is a need for meaningful public input into APC plan development and implementation. Building broad partnerships and identifying local champions are critical to successful implementation. A framework for input from key players should be institutionalized, such as local APC committees (as is the case with the East End Marine Park and the Christiansted Waterfront Revitalization Plan).

Since the site visit, the VI CZMP began advertising for a person to fill the Environmental Planner position previously held by a recently departed staff. This person will be responsible for ensuring the project to develop Uniform Design Standards is completed. This person will also be responsible for coordinating with other CZM staff, other DPNR staff, staff from other VI Government agencies, and stakeholders to develop an Advisory Committee to advise on the prioritization, development and implementation of APC Management Plans.

Currently the VI CZMP is considering the feasibility of developing watershed management plans, based on the Fish Bay Management Plan model, to address APC management plan development and implementation. The Environmental Planner will be tasked with a feasibility analysis of this approach. If this approach is determined to be unfeasible, then the Environmental Planner will research and report on the best three alternatives.

**Necessary Action: Within six months of hiring the new Environmental Planner, the VI CZMP must submit to OCRM a strategy for developing enforceable APC management plans. The strategy should prioritize APC management plan development and set out a schedule for initiation and completion of these plans over a number of years. It should also describe how the process would be tailored for the various types of APCs. Other components that should be found in the strategy include:**

- A. Issue identification and prioritization of APC sites based on adequate input from all relevant stakeholders [not sure if they can do that in 6 months].**
- B. A plan for public involvement in this process and for enhancing public support of APC management**
- C. An feasible approach to developing enforceable components for APCs within the system.**
- D. Identification of roles and responsibilities of CZMP staff, other DPNR staff and any contractors in developing the plans, rules and regulations**

**Existing plans should be used whenever possible to provide information on the sites and appropriate recommendations from those plans should be considered in developing new ones.**

## **F. Program Changes**

One function of the evaluation is to determine whether changes have occurred in the VI CZMP during the review period and whether those changes have been submitted to OCRM for processing as program amendments or as routine program changes (RPCs). This ensures that changes are consistent with the Federally-approved coastal management programs and facilitates the thorough application of Federal consistency. Federal Regulations, 61 Fed. Reg. 33801-33819, 33815-33816 (to be codified at 15 C.F.R., part 923, subpart H) require evaluation of program changes to see if they result in substantial changes in one or more of the following coastal management program areas: (1) uses subject to the management program; (2) special management areas; (3) boundaries; (4) authorities and organization, and (5) coordination, public involvement, and national interest.<sup>1</sup>

In July of 1996, OCRM issued final program change guidance to coastal states clarifying requirements and submission procedures for changes to Federally-approved coastal management programs. The CZMA requires that state CZMPs promptly notify OCRM of any proposed changes to its approved CZMP. 16 U.S.C. § 1455 (e) (1). CZMA funds are limited to expenditures on the approved parts of a state's program, as is the requirement of Federal consistency.

During the evaluation, amendments to the VI CZMA were discussed. If changes to the rules and regulations which constitute the VI CZMP are completed through the legislative process, these statutes need to be incorporated into the VI CZMP. Any further changes to Program statutes need to be submitted to NOAA on a continual basis to ensure that the CZMP is up to date, as well as to avoid processing delays. Complete requirements for RPC requests, found at 15 C.F.R. § 923.84, will ensure further avoidance of delays. VI DPNR should develop an action plan for submitting program changes to NOAA.

The review team heard about efforts in the legislature to resurrect changes to the Comprehensive Land and Water Use Plan and Development Law (CLWUP/DL) that would in effect change the VI CZM program to a single tier system. While the Territory has not finalized or submitted any changes to the Comprehensive Land and Water Use Plan and Development Law (CLWUP/DL), NOAA staff have encouraged the DPNR to submit drafts of the changes to NOAA along with an analysis of the changes and a legal opinion on the effect of the revised CLWUP/DL.

**Program Suggestion: The VI CZMP should submit any routine program changes during the last evaluation period and submit future routine program changes in a timely manner.**

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<sup>1</sup> In the revised program change regulations, effective July 28, 1996, OCRM replaced the four criteria by which program change requests are evaluated with a reference to these five program approvability areas addressed in the program development regulations. In addition, the term routine program implementation (RPI) was changed to the more descriptive term of routine program change (RPC). See 61 Fed. Reg. 33801-33819 (1996).

**Reporting of statutory programmatic changes should be reported in a consistent manner on performance reports submitted as a requirement of the NOAA grant.**

**G. Public Access:**

The pristine beaches of the Virgin Islands are one of its most important aesthetic, cultural, recreational and economic resources and an important component of the Territory's tourism-based economy. Under Territorial Law, all beaches are public, but historically only access from the water has been guaranteed. Lateral access across private property to get to the public beach has not always been assured. Over the last decade, St. Thomas, and to a lesser degree St Croix, has experienced hotel and resort development on many of the remaining undeveloped beaches.

Provision of an access easement is required for new development, but the results have been mixed, as in many cases real or perceived barriers still remain. Private developments sometimes incorporated physical barriers to curb access by the public, such as fences which have gone up at a later date. In addition, guard houses, gates, and resort facility fees (such as use of beach chairs) or simply having to walk through these resorts provide a "psychological" barrier for residents to access.

Additional opportunities to enhance public access include enforcement of easement procurement, and an inventory and guidebook, and facility enhancement (installation of trash receptacles). Common signage could also help direct public to official access sites, and has been very successful in both North Carolina and Michigan.

The VI CZMP has funding to develop a Territory-wide Coastal and Estuarine Land Conservation Plan (CELP) to compete for CELP funding and target the remaining undeveloped beaches for acquisition. In addition, the VI CZMP should build partnerships with nonprofits such as The Nature Conservancy, which has successfully purchased two pristine beaches on the east end of St. Croix and others such as the Trust for Public Lands. While acquisition is the best way to assure long term access, other options should be considered as acquisition costs are prohibitive in many cases. NOAA encourages the Territory to aggressively seek funds to acquire access to beaches, in particular efforts to purchase Lindquist Beach.

**Program Suggestion: Within one year, the VI CZMP should submit a comprehensive plan to enhance public access efforts through inventory, education and outreach.**

## **H. Enforcement**

The review team heard from several groups that enforcement generally needs improvement. Several advocacy groups cited lack of sufficient resources for CZM activities, the earth change law in the 2<sup>nd</sup> tier and the new East End Marine park.

The VI CZMP supports five (5) enforcement officers who routinely monitor the three islands and Water Island for permit violations with assistance from the Division of Environmental Enforcement. The enforcement officers also respond to numerous calls from citizens as well. With the addition of two new boats provided by CZMP during the review period, DPNR has built up its enforcement fleet to four boats on St. Croix and four in the St. Thomas-St. John District. The boats patrol V.I. waters out to three miles, the limit of the territory's jurisdiction, and officers are equipped with night-vision goggles, new weapons and bulletproof vests mostly for their drug interdiction work. When asked about time devoted to CZM activities, the enforcement staff did indicate that a significant portion of their time had been redirected to homeland security efforts, such as port security, customs, etc.. NOAA is concerned about continued CZMP support of enforcement staff whose priority is homeland security.

Several procedures put in place during the review period have increased the effectiveness of enforcing VI CZMP statutes. To begin with, the Coastal Program has made an effort to make the process of complying with the laws more accessible and reinforced its procedures through education and outreach, mentioned earlier. The Coastal Program implemented a mediation program. The result has been that people are satisfied with the process to provide a forum to discuss and settle a case when a CZMA violation is cited. This process allows a step where the infraction can be resolved before a formal hearing is held and often precludes litigation. In many cases both large scale development as well as residential, time is an important factor, and the education and intervention are deemed helpful because they allow the project to continue instead of being tied up in litigation.

Education is incorporated as a part of the enforcement program at the VI CZMP. An Environmental Protection Handbook is available from the CZMP offices and events. New standardization of violation procedures were put in place to assist both the enforcement personnel and the public with this tool by making the process more efficient. Ticket book legislation, which was passed during the review period, allows enforcement officers to issue fines on site if necessary which has helped staff in their jobs. Finally, the use of GIS and permit tracking is a useful tool for the program to track action on upcoming leases on submerged lands and docks.

**Program Suggestion: The VI CZMP should prioritize enforcement of program statutes by ensuring that enforcement staff paid out of the CZM grant spend their time on CZM enforcement and continuing education of enforcement staff on changes in the program statutes.**

## **I. Federal Consistency**

NOAA commends the VI CZMP staff on its completion of response to the last evaluation findings, “Within six (6) months of the receipt of these final findings, the Virgin Islands will inform OCRM of how it will address the new public notice requirements at 306(d)(14) of the CZMA. Consistent with NOAA’s guidance and the steps it intends to take to provide clarity to its procedures.”

In addition to completing the above requirement, the CZMP has put forth effort to make the federal consistency process an effective and efficient component of the Program. Workshops were held on St. Croix and St. John in order to update Program partners on the regulations as well as to provide education and a forum for developing partnerships based on shared goals.

The program is actively involved in applying federal consistency to developments including the installation of moorings, development of harbors, and activity within the National parks. Federal partners that the team heard from expressed satisfaction with the process and showed cooperation with the VI CZMP in the process.

## **J. Outreach/Education**

The evaluation team heard throughout the week of several approaches to implementing Program goals in light of the current budget climate in the Territory. The CZMP recognizes the role of public involvement in the process of environmental protection and regulation as well. Several steps were taken by the Program to recognize individuals for their contributions to the Program’s goals, and efforts were made to increase awareness of the value and role of the Island’s natural resources in the economy and in contribution to the population’s quality of life. These outreach efforts make the coastal program more visible and increase the public’s involvement and knowledge of the process:

- ▶ *Coastal Views*, a quarterly newspaper containing relevant issues, CZMP news, and announcements;
- ▶ WWW [www.viczmp.com](http://www.viczmp.com). Features downloadable permit application, news, CZMP program information, and links to other relevant WWW sites;
- ▶ CZM general video on cultural, economic and ecological value of coastal resources, and Coral Reef video;
- ▶ Development of an award program to recognize stewardship. In 2002, the Program presented an award for the Coastal Organization of the Year to the St. Thomas League of Women Voters, and the Coastal School of the Year to Bertha C. Boschulte Jr. High School;
- ▶ Along with several other govt. and non governmental organizations, the CZMP sponsors an annual nonpoint source pollution conference. The public is encouraged to attend and youth participation is part of the conference which is attended by decision makers who work to educate enforcement officers as well as the public in the Caribbean region; and,

- ▶ Annual Coastweeks with presentations to elementary and middle schools, and beach cleanups.

NOAA commends the program in its efforts to publicize the program on a national level and to get the citizens of the Virgin Islands involved in coastal management issues affecting their individual lives as well as for the future of the Territory and its coastal and cultural resources.

### **K. East End Marine Park**

The establishment of the St. Croix East End Marine Park is a tremendous accomplishment and is the focus of current Territorial Marine Park efforts. The East End of St. Croix includes one of the largest reef systems within the Caribbean. Through a comprehensive process, spearheaded by the VI CZMP staff, the Territory brought together a range of stakeholders from fishermen to conservation organizations to develop the East End Marine Park Management Plan. Important tasks have been delineating park boundaries, established zones with different levels of protection and take restrictions, and developing strategies for implementing Management Plan goals and objectives to assure long term health of this important resource. The Coastal program staff spent considerable staff time in a leadership role in this effort and are recognized for their contributions to the success of this Initiative. This process can serve as a model for a potential system of Marine Parks within the Territory. Future Marine Protected Area efforts should fully address important near shore habitat connections and be coordinated with APC implementation.

### **L. Promoting Waterfront Redevelopment: Christiansted Waterfront Revitalization Plan**

The Christiansted Waterfront Revitalization Plan has successfully moved into implementation with designation of a local committee of key stakeholders and construction of a boardwalk. This project is now a showcase for downtown Christiansted and is a credit to the full potential of the Territory's Areas of Particular Concern (APC) program. Territory residents are seeing first hand the benefits of an APC plan to enhance this important and unique cultural resource. The boardwalk has become a major attraction for both tourists and residents, and plans include expansion to adjoining properties. Interpretative signage explains both the cultural and environmental significance of the waterfront.

Waterfront revitalization is a goal of the CZMA and the VI CZMP is the only Territorial agency with a specific mandate related to this issue. As a high visibility issue, the evaluation team noted this a good niche and potential growth area for the VI CZMP. A plan for the Fredericksted waterfront is also being developed.

**VI. Conclusion**

Based on OCRM's review of the federally approved Virgin Island Coastal Zone Management Program and the criteria at 15 CFR Part 923, Subpart 1, I find that the Territory of the Virgin Islands is adhering to its federally approved coastal zone management program. Further advances in coastal management implementation will occur as the Territory addresses the necessary action and program suggestions contained herein.

These evaluation findings contain three necessary actions that must be accomplished by the Territory within the specified time frame. The remaining five recommendations are program suggestions that the Territory should address before the next regularly scheduled program evaluation, but which are not mandatory at this time. Program suggestions that OCRM must repeat in subsequent evaluations, however, may be elevated to necessary actions.

This is a programmatic evaluation of the VICZMP that may have implications regarding the State's financial assistance award(s). However, it does not make any judgments on, or replace any financial audit(s) related to, the allocability of any costs incurred.

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Date

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Eldon Hout, Director

**APPENDIX A  
VIRGIN ISLANDS COASTAL ZONE MANAGEMENT PROGRAM  
312 EVALUATION**

**PERSONS CONTACTED DURING THE EVALUATION**

**Department of Planning and Natural Resources, VICZMP Staff:**

Dean Plaskett	Commissioner
Janice Hodge	Director
Julita de Leon	Legal Council
Bill Rohring	NPS Coordinator, GIS Planner
Manual C. Ramos	Environmental Planner
Michael Spellen	Environmental Planner
Nellie Gumbs	Administrative Secretary
Algem Petersen	Environmental Specialist
Carl Howard	Environmental Specialist
Rhoda Felix	Administrative Assistant
Lillian Moolenaar	Paralegal/Public Outreach Coordinator
Giselle Richardson	Federal Consistency Coordinator
Alesia Francis	Administrative Secretary
Kevin Matthews	CZM Financial Specialist
Jean-Pierre Oriol	Environmental Assessor
Victor Sommells	Director, Virgin Islands Energy Office
Barbara Kojis	Director, Fish and Wildlife
Myron Jackson	Director, Virgin Islands State Historic Preservation Office
Brent Blyden	Director, Permits
Sue Higgins	Director, Division of Comprehensive and CZM Planning
Norman Williams	Permits Coordinator, DPNR St. Croix
Ursula Anlauf	Marine Biologist/Resource Ecologist, DPNR St. Croix

**VI CZMP Commission**

Dean Plaskett	DPNR Commissioner, ex officio
Janice Hodge	CZM Director, ex officio
Julian Harley	Chairman
John Beagles	Vice-chairman



Virgin Islands Coastal Management Program CZMA Section 312 Evaluation Findings

**St. Thomas Committee**

Winston Adams  
Peggy Simmonds  
Austin Monsanto  
Claudette Lewis

St. Thomas CZM Commissioner  
St. Thomas CZM Commissioner  
St. Thomas CZM Chairman  
St. Thomas Assistant CZM Commissioner

**St. Croix Committee**

John Beagles  
Albert Hewitt

St. Croix CZM Chairman  
St. Croix CZM Commissioner

**St. John Committee**

Julian Harley  
J. Brian Morisette  
Madaline Sewer

St. John CZM Commission Chair  
St. John CZM Commissioner  
St. John CZM Commissioner

**Federal Agencies:**

**National Park Service**

Joel Tutein  
Paul Thomas

Superintendent  
Chief of Resource Education

**Army Corps of Engineers (ACOE)**

Edwin Muniz

**Non-Governmental Organizations:**

Carla Joseph

Environmental Association of St. Thomas and St. John  
(EAST)

Helen Gjessing

League of Women Voters (LOWV)

Jason Budsan

LOWV, EAST

Joe Kessler

President, Friends of Virgin Islands National Park

Terry Pishko

President, Fish Bay Owners Association

Robert Weary

Director, Virgin Islands and Eastern Caribbean Program,  
The Nature Conservancy

**APPENDIX B**

**VIRGIN ISLANDS COASTAL ZONE MANAGEMENT PROGRAM  
312 EVALUATION**

**PERSONS ATTENDING THE PUBLIC MEETING**

The Public Meetings for the Virgin Islands evaluation were held on:

- ▶ Tuesday, June 10, 2003 at 6:00 pm, at the Department of Planning and Natural Resources, Lower Level Conference Room, Cyril E. King Airport, Terminal Building 2<sup>nd</sup> Floor, St. Thomas, USVI 00802
- ▶ Wednesday, June 12, 2003 at 6:00 at the Florence Williams Public Library, 1122 King Street, Christiansted, St. Croix, USVI 00820
- ▶ Thursday, June 12, 2003 at 6:00 at the Legislature of the Virgin Islands Conference Room, 109 Contant-Enighed, Hilltop Building, Cruz Bay, St. John, USVI 00831.

Those attending:

St. Thomas

Helen Gjessing	League of Women Voters
Jonathan Gjessing	Citizen
Richard CzarJota	Beachy Clean (VI), LLC
Barbara Tyne	Citizen
Bill Rohring	DPNR
Algen Petersen	DPNR
Manny Ramos	DPNR
Barry Hurst	Citizen
Austin Monsanto	St. Thomas CZM Commission
Peggy Simmonds	St. Thomas CZM Commission
Winston Adams	St. Thomas CZM Commission
Andrea Stephens	Coral World
L. Nikina Mounce	Coral World

St. Croix

Nancy Cole	Reporter, The Virgin Islands Daily News
Therese Cretian	Citizen, Member St. Croix Environmental Association
David Quimby	Citizen, Member St. Croix Environmental Association

Virgin Islands Coastal Management Program CZMA Section 312 Evaluation Findings

Sharon Coldren	Fish Bay Homeowners Association
Mary Blazine	Citizen
Terry Pishko	President Fish Bay Homeowners Association
Chuck Pishko	Citizen
Ed Joyce	Associate Editor, St. John Tradewinds

All

Kenneth Walker	NOAA
Susan Melnyk	NOAA
Bill O'Beirne	NOAA
Kathleen Leyden	Maine State Planning Office
Janice Hodge	VICZMP
Julita de Leon	CZM Legal Council

## APPENDIX C

### VIRGIN ISLANDS COASTAL ZONE MANAGEMENT PROGRAM 312 EVALUATION

#### WRITTEN COMMENTS RECEIVED AND RESPONSES

**Commentor:** Helen Gjessing, Chair, Committee on Planning and Environmental Quality of the League of Women Voters of the Virgin Islands (LOWV), and President of the Save Long Bay Coalition.

**Comments:** The League presented comments on the commercial development of Crown Bay, and the proposed WICO activities at Long Bay. Comments on the EAR include concerns about existing retail space competing with proposed development, traffic congestion in central St. Thomas, and opportunity for public access.

The Coalition opposes development at the filled Long Bay lands and advocates the land be used for a public park. The Virgin Islands Conservation Society, of which the Environmental Association of St. Thomas-St. John and the St. Croix Environmental Association are members, and the LOWV contested the WICO claims of treaty rights that exempted them from the CZM permitting process, and now advocates for the development of the land for public use.

**Response:** NOAA recognizes the role of the public in the process in observing the regulatory process as well as the protection of the Island's coastal resources. The Island's zoning law is outdated, and development of the Comprehensive Land and Water Use Plan is strongly supported.

**Commentor:** Bruce L. McMakin, Citizen, St. John, USVI

**Comments:** Confusion by citizens in understanding the building codes is forcing neighbors to change their attitude towards compliance. Enforcement is good, but witnessed mangrove trees being removed at Enighed Pond, and a commercial building project on South Shore Road built in a congested area with no parking. Suggestions include clarification of the VI code pertaining to zoning enforcement, Title 12, Chapter 13, Section 531, and 532; development of a comprehensive plan for each island, an increase in enforcement and compliance officers, and an update of the "Definition" section of the VI code. The DPNR needs to be elevated in importance in the VI government and receive proper funding in order to achieve model status as a coastal management agency in the world.

**Response:** NOAA supports the VI CZMP in procuring more enforcement as well as a strong education effort towards environmental issues. It is a critical part of the implementation of the VICZMP and must be given priority.

**Commentor:** Sharon L. Coldren, Citizen, Coral Bay, St. John, USVI

Virgin Islands Coastal Management Program CZMA Section 312 Evaluation Findings

**Comments:** The development and implementation of Areas of Particular Concern (APC) plans needs to be locally-based and allow residents to play a role in the management of their resources. The entire Coral Bay community lies within the Coral Bay APC management area, but residents feel their concerns have not been addressed during the public comments periods for APC plan development and in identifying mechanisms for implementation. In addition, APC plan maps need to clearly show zoning codes, public areas, designated mooring areas, and resources for protection. The Coral Bay Homeowners Association feels DPNR has not been responsive on issues such as requiring developers to pave private roads to reduce sedimentation and enhancing protection of mangroves outside of U.S. National Park jurisdiction. In addition, additional research and monitoring is needed to identify priorities based on real damage potential to assure long term health of coral reefs, critical habitat (mangroves), and water quality.

**Response:** NOAA recognizes the important role citizens and citizen groups should play in the development and implementation of APC plans. A Necessary Action included in the Findings addresses this issue.

## **APPENDIX D**

### **VIRGIN ISLANDS COASTAL ZONE MANAGEMENT PROGRAM 312 EVALUATION**

#### **RESPONSE TO THE PREVIOUS FINDINGS**

##### **RECOMMENDATION 1: NECESSARY ACTION 1. Coastal Zone Management**

**Commission Issues. Commission Appointments.** The existing vacancies to the Territory's CZM Commission must be filled by the end of the calendar year 1999. The St. John Committee membership will require, assuming the current designees are approved by the Legislature, one additional appointment or the reinstatement of one outgoing member or the appointment of a new member. The St. Thomas Committee membership will require the appointment of two new members and either the reinstatement of one outgoing

**RESPONSE:** Efforts to fill all seats of the Virgin Islands Coastal Zone Management Commission is a dynamic process. While new appointments have been made on all three islands since 1998, there have been some resignations and expiration of terms (attached correspondences). Currently St. Thomas has one (1) vacancy, St. Croix has two (2) vacancies, and St. John has two (2) vacancies. Despite the vacancies, each island has a quorum and, although there have been some challenges in scheduling, CZM activities are not significantly hampered.

**RECOMMENDATION 2: NECESSARY ACTION 2. Federal Consistency.** Within six (6) months of the receipt of these final findings, the Virgin Islands will inform OCRM of how it will address the new public notice requirements of the 306(d)(14) of the CZMA, consistent with NOAA's guidance and the steps it intends to take to provide clarity to its procedures.

**RESPONSE:** The Virgin Islands has addressed the new Public Notice requirements of Section 306(d)(14) of the CZMA, by drafting rules and regulations for federal consistency. Pursuant to V.I. Rules and Regulations tit. 12 Section 904-10 (8), "following receipt of a federal consistency determination the Division of Coastal Zone Management must provide the public notice of the proposed activity. Public notice shall include a summary of the proposed activity, an announcement that public information submitted by the applicant is available for inspection and a statement that comments may be submitted. Whenever possible, the Division shall jointly issue public notice with the federal license or federal permit issuing agency if a federal permit or license is required. The Division awaits final action by the Governor before the rules and regulations can be promulgated.

**RECOMMENDATION 3: NECESSARY ACTION 3. Department of Public Works.** DPNR must develop a memorandum of understanding (MOU) with DPW, in particular, regarding this relationship at the Commissioner's level. A draft should be completed and a schedule for executing the MOU by April 30, 1999.

**RESPONSE:** On October 20, 2000, Commissioner Dean C. Plaskett, Esq., and Wayne Callwood of DPNR and DPW respectively, signed a MOU and pledged their cooperation in following the mandates of the CZARA, Section 6217, as it relates to the maintenance and operation of roads, highways, and bridges and as set forth in the final U.S. Virgin Islands Coastal Nonpoint Source Pollution Control Program as approved by NOAA and EPA.

**APPENDIX E**

**VIRGIN ISLANDS COASTAL ZONE MANAGEMENT PROGRAM  
312 EVALUATION**

TABLE OF RECOMMENDATIONS

Evaluation Recommendations For: Virgin Islands  
Evaluation Findings Issued: April 2005

Number/Type of Recommendation		Recommendation Text	Required Date
Number	1	The VI CZMP must continue to fill critical vacancies with appropriate candidates as quickly as possible. The VI CZMP should identify current vacancies, priorities among vacancies and a schedule for filling vacant positions within the CZM program.	30 days after receipt of Final Findings
Necessary Action	X		
Program Suggestion			
Number	2	The VI CZMP staff is encouraged to continue to employ assistance in implementing the V I Cultural Antiquities Law and providing resources for this assistance where possible.	N/A
Necessary Action			
Program Suggestion	X		
Number	3	The VI CZMP should work with the VI CZM Commission, and other stakeholders to develop specific written procedures for the CZM Commission. These procedures should address public hearings, consideration of staff recommendations and issuance of variances.	N/A
Necessary Action			
Program Suggestion	X		
Number	4	The DPNR must take steps to completely fill all vacancies in each of the CZM subcommittees with 18 months.	18 months
Necessary Action	X		
Program Suggestion			
Number	5	The VI CZMP should make erosion and sedimentation control components a priority for implementation of their approved coastal nonpoint pollution program.	N/A
Necessary Action			
Program Suggestion	X		



*Virgin Islands Coastal Management Program CZMA Section 312 Evaluation Findings*

Number	6	Within six months of hiring the new Environmental Planner, the VI CZMP must submit to OCRM a strategy for developing enforceable APC management plans. The strategy should prioritize APC management plan development and set out a schedule for initiation and completion of these plans over a number of years.	Within 6 months of hiring Environmental Planner
Necessary Action	X		
Program Suggestion			
Number	7	The VI CZMP should submit any routine program changes during the last evaluation period and submit future program changes in a timely manner. Reporting of statutory programmatic changes should be reported in a consistent manner on performance reports submitted as a requirement of the NOAA grant.	N/A
Necessary Action			
Program Suggestion	X		
Number	8	Within one year, the VI CZMP should submit a comprehensive plan to enhance public access efforts through inventory, education and outreach.	Within one year
Necessary Action			
Program Suggestion	X		
Number	9	The VI CZMP should prioritize enforcement of programs statutes by ensuring that enforcement staff paid out of the CZM grant spend their time on CZM enforcement and continuing education of enforcement staff in changes in the program statutes.	N/A
Necessary Action			
Program Suggestion	X		