



TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGANA, GUAM 96910
U.S.A.

EXECUTIVE ORDER NO. 88-22

PROTECTION AND RECOVERY OF UNDERWATER
HISTORIC PROPERTY AND SITES

WHEREAS, a recent ruling by the District Court of Guam in D.C. Case No. CV-87-0036-CCD has cast serious doubt on the efficacy of Government Code sections 13985.29 through 13985.35, Guam's enabling legislation relating to the protections and recovery of underwater historic property; and

WHEREAS, under Pub. Law 100-298 (the Abandoned Shipwreck Act of 1987), enacted April 29, 1988, the United States asserts title to any abandoned shipwrecks embedded in submerged lands of the Territory of Guam; embedded in coralline formations protected by the Territory on submerged lands of the Territory; or on submerged lands of the Territory and is included in or determined eligible for inclusion in the National Register; and

WHEREAS, the United States has transferred its title to such shipwrecks to the territory of Guam; and

WHEREAS, pursuant to Pub. Law 100-298, the Secretary of the Interior, acting through the Director of the National Park Service, is authorized by publish guidelines, but has not yet done so; and

WHEREAS, there currently exists an immediate need for an interim regulatory scheme for the protection and recovery of Guam's underwater historic property and sites;

NOW, THEREFORE, by virtue of the authority vested in me by the Organic Act of Guam and the laws of the United States and Guam, the following regulations are promulgated:

"1. Definitions. As used in these regulations, 'underwater historic property' means any shipwreck, vessel, cargo, apparel, tackle, armament, or vestiges thereof, or underwater



archaeological specimen, including any found at refuse sites or submerged sites of former habitation, that has remained unclaimed for more than ten (10) years on the bottoms of any waters; 'Department' means the Guam Department of Parks and Recreation.

2. Title to underwater historic property. Subject to any statute of the United States and any vested riparian rights, the title to all bottoms of navigable water within Guam's boundaries and the title to any underwater historic property on submerged lands, embedded in submerged lands, embedded in coralline formations which are in, on or under submerged lands of the Territory of Guam, or other historic property to which the Government of Guam has the authority under federal or territorial law to assert title, is declared to be in the territory, and such bottoms and underwater historic properties shall be subject to the exclusive dominion and control of the territory.

3. Custody of underwater historic property. The custodian of underwater historic properties as defined herein shall be the Department which shall administer the preservation and protection of these properties as hereinafter directed by these regulations. The Department is empowered to prescribe such additional rules and regulations as may be necessary to preserve, protect, and recover any or all underwater historic properties.

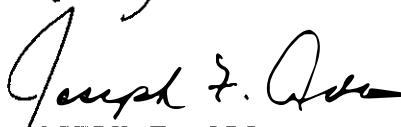
4. Salvage research. The Department shall establish a center responsible for salvage research in areas designated by the Department as endangered by the lease, sale, or use of public or private lands.

5. Permits. Any qualified persons, firm, or corporation desiring to conduct any type of exploration or recovery operations, in the course of which any underwater historic property or part thereof may be removed, displaced, or

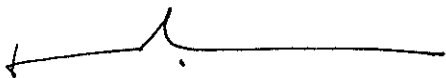


destroyed, shall first make application to the Department for a permit to conduct such operations. If the Department finds that the granting of such permit is in the best interest of the territory, it may grant such applicant a permit for such a period of time and under such conditions as the Department considers to be in the best interest of the territory. Such permit may provide for the fair compensation to the permittee in terms of a percentage of the reasonable cash value of the objects recovered or a fair share of the objects recovered, such fair compensation or share to be determined by the Department. Superior title to all objects recovered shall be retained by the territory unless or until they are released to the permittee by the Department with the concurrence of the Governor. All exploration and recovery operations undertaken pursuant to a permit issued under these regulations shall be carried out under the general supervision of the Department and in accordance with the rules and regulations prescribed hereunder and in such manner that the maximum amount of historic, scientific, archaeological, and educational information may be recovered and preserved in addition to the physical recovery of items. Permits may be renewed upon or prior to expiration upon such terms as the Department may specify. Holders of permits shall be responsible for obtaining permission of any federal agencies having jurisdiction prior to conducting any salvaging operations.

Promulgated this 13th day of August, 1988.


JOSEPH F. ADA
Governor of Guam

Countersigned:



FRANK F. BLAS
Lieutenant Governor of Guam