

## Chapter 9

### **Mining and dredging**

#### Section

9-101 Designation of sites and limitations of amounts

9-102 Conditions for mining or dredging

9-103 Penalties

42 PC 9-101. Designation of sites and limitations of amounts.

In addition to all other requirements provided by law and regulations, the Public Lands Trust Board of Trustees, hereinafter referred to as the "Board," is authorized to regulate the removal of mined and dredged materials located on Public Trust Lands in the following areas listed in this section. Dredging and removal of dredged material at any other site is prohibited:

(1) Nanisou, U;

(2) Seinwar/Paliapailong, Kitt;;

(3) Pahnisou/Tipwen Ais in Rohi, Kitt;;

(4) Roie, Sokehs;

(5) Iohl, Sokehs;

(6) Oaumoar, Sokehs;

(7) Sapwohn, Sokehs;

(8) Eir, Sokehs;

(9) Namwen Wei Laud and Pohdol in Nankepikep en Parem, Nett; PROVIDED that sand mining at Namwen Wei Laud and Pohdol shall comply with the following conditions:

(a) The area shall be identified by Nett District Planning Committee and delineated by the Department of Land and Natural Resources. The Department of Land and Natural Resources, together with the Environmental Protection Agency, shall install landmarks, which landmarks shall identify the boundaries at the designated mining area;

(b) A dredging schedule shall be made available to the Environmental Protection Agency and the Nett District Government for monitoring purposes;

(c) Rock and coral shall remain unremoved; and

(d) Any person found not to be in compliance with the above conditions shall be subject to the penalties prescribed by 42 PC 9-103;

(10) Ohwa, Madolenihmw;

(11) Metipw, Madolenihmw;

(12) Temwen, Madolenihmw;

(13) Lohd Pah, Madolenihmw;

(14) Pohnpikalap, Madolenihmw; PROVIDED that sand mining at Pohnpikalap shall comply with the following conditions:

(a) The area shall not exceed 100 meters by 200 meters;

(b) Sand mining shall be done only by manpower;

(c) A record shall be kept of how much sand is removed by individuals or groups for the purpose of assessing any environmental effect; and

(d) There shall be an establishment of monitoring procedures that will empower the Environmental Protection Agency and the Division of Forestry and Marine Conservation to jointly monitor and report every three months to the Department of Land and Natural Resources, which shall report to the Governor and the Legislature on the physical effect of the sand mining in the area; and

(15) Nan Pein Mwoakot, Nett; PROVIDED that the dredging shall be for the purpose of dredging a boat channel 400 yards long, 20 feet wide, and 8 feet deep; and PROVIDED FURTHER that the dredging shall only be used for the improvement of the area except that it may also be used to compensate the dredging contractor.

Source: S.L. No. 5L-02-00 §1, 3/15/00; S.L. No. 5L-10-00 §1, 7/27/00; S.L. No. 5L-14-00 §3-61, 10/1/00; S.L. No. 5L-81-02 §1, 11/22/02

42 PC 9-102. Conditions for mining or dredging.

The following conditions shall be met, in connection with any mining or dredging under this chapter:

(1) Any entity wishing to mine or dredge shall first apply for a permit, which application, among other things, shall disclose the site to be mined or dredged, the estimated cubic yards of material to be removed, and the purpose for which the removed materials are to be used.

(2) A recording system, acceptable to the Board, shall be maintained by the permittee to allow the Board to monitor the amount of removed materials to mitigate environmental damage.

(3) Any permittee shall be required to return the site to an aesthetically and environmentally acceptable condition as approved by the Board. Rocks and other materials unacceptable for removal, for instance, shall be returned to the dredging site as fill, so as not to be visible above the waterline and in an acceptable depth which shall be jointly inspected and approved by both the Board and the Office of Transportation and Infrastructure or its successor as acceptable safety standard for saltwater transportation.

(4) No mining or dredging shall occur prior to issuance of a permit by the Board, and no permit shall be issued by the Board until it is satisfied that an applicant is capable of fulfilling the conditions listed herein.

(5) A severance or royalty fee, payable to the Board, shall be imposed for each cubic yard of material removed; PROVIDED that Pohmpei Government entities shall be exempt from payment of such fee; PROVIDED FURTHER, that fifty percent (50%) of such fee collected shall be deposited into the treasury of the local jurisdiction in which the fee is collected from.

Source: S.L. No. 5L-02-00 §2, 3/15/00; S.L. No. 5L-14-00 §3-61, 10/1/00

#### 42 PC 9-103. Penalties.

In addition to such other criminal and civil penalties as may be prescribed by law, whosoever shall unlawfully acquire or remove mined or dredged materials located on Public Trust lands not designated by this chapter, or who shall acquire or remove mined or dredged materials from an area designated by this chapter without approval of the Public Lands Trust Board of Trustees or in violation of the regulations or permits issued by the Board with respect thereto, shall be guilty of unlawful acquisition or removal of mined and dredged materials from Public Trust lands, and upon conviction thereof shall be fined not more than \$500, or imprisoned not more than 30 days, or both such fine and imprisonment. Any material removed from the public domain in violation of this chapter shall be subject to confiscation by the Board.

Source: S.L. No. 5L-02-00 §3, 3/15/00

Note: S.L. No. 5L-02-00 §4 repealing provision has been omitted.

Extended legislative history: S.L. No. 2L-197-91, 05/22/91, was original legislation; S.L. No. 2L-197-91 §1 was amended by S.L. No. 3L-113-95 §1, 12/13/95, S.L. No. 4L-22-96 §1, 11/1/96, S.L. No. 4L-49-97 §1, 8/10/97, and S.L. No. 4L-74-98 §1, 4/8/98; S.L. No. 2L-197-91 §3 was amended by S.L. No. 3L-113-95 §2, 12/13/95. S.L. No. 2L-197-91 was repealed in its entirety by S.L. No. 5L-02-00 §4, 3/15/00.