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STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

December 20, 2011

WILLIAM J. AILA, JR.  
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COMMISSION ON WATER RESOURCE MANAGEMENT

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HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Ref. No.: 09HD-112

Author: LD-GH

MEMORANDUM

TO: Mr. Gary Hooser, Director  
Office of Environmental Quality Control  
Department of Health

FROM: William J. Aila, Jr., Chairperson   
Board of Land and Natural Resources

SUBJECT: Draft Environmental Assessment (EA) for the Issuance of Direct Lease to  
Hawaii's Volcano Circus for Educational Purposes; Kehena, Puna, Hawaii, TMK:  
3<sup>rd</sup>/1-2-09:15

RECEIVED  
1-5-12 a.m.  
11 DEC 36 A 9:43  
OFFICE OF ENVIRONMENTAL  
QUALITY CONTROL

The Department of Land and Natural Resources, Land Division, has reviewed the enclosed draft environmental assessment for the above referenced project and anticipates a negative declaration determination.

Please publish the notice of availability for this project on the next publication date of the Environmental Notice.

We have enclosed a completed OEQC Bulletin Publication Form and one copy of the draft environmental assessment along with an e-copy of the publication form and draft EA on a compact disc.

If you have any questions, please feel free to contact Gordon Heit at (808) 974-6203. Thank you.

Enclosures

cc: Land Board Member  
Central Files  
District Files

**Publication Form**  
**The Environmental Notice**  
**Office of Environmental Quality Control**

Instructions: Please submit one hardcopy of the document along with determination letter from the agency. On a compact disk, put an electronic copy of this publication form and a PDF of the EA or EIS. Mahalo.

**Name of Project:** Hawaii's Volcano Circus  
**Applicable Law:** HRS 343  
**Type of Document:** Draft Environmental Assessment  
**Island:** Hawaii  
**District:** Puna  
**TMK:** (3)1-2-009:015  
**Permits Required:** DEA-FONSI; County Special Permit, Grading/Grubbing and Building  
**Name of Applicant or Proposing Agency:** Hawaii Volcano Circus and the Village Green Society  
RR2 Box 4524  
Address Pahoia, Hawaii 96778  
City, State, Zip Graham Ellis  
Contact and Phone 808.965.6595  
**Approving Agency or Accepting Authority:** Department of Land and Natural Resources  
Post Office Box 621  
Honolulu, Hawaii 96809  
Address  
City, State, Zip  
Contact and Phone  
**Consultant** Ted Hong, Esq.  
Address Post Office Box 4217  
City, State, Zip Hilo, Hawaii 96720  
Contact and Phone 808.933.1919

**Project Summary:** Summary of the direct, indirect, secondary, and cumulative impacts of the proposed action (less than 200 words).

Hawaii's Volcano Circus ("HVC") and the Village Green Society proposes a direct lease with the State of Hawaii Department of Land and Natural Resources for a parcel identified as Tax Map Key (3)1-2-009:015, hereinafter ("Property") which consists of 59.59 acres located within the Kehena-Keauohana-Keokeya Homesteads in the Puna District, Island of Hawaii. HVC would like to facilitate efforts to build and strengthen community connections and empower individuals with culture, education, vocational training and performance within the arts in the underserved lower Puna District. The proposed action will have little direct, indirect, secondary and cumulative impacts as the project area will utilize 4.25 acres which is currently a 'a lava and the remainder will be left undisturbed and protected to develop as a lowland ohia rainforest.

# **DRAFT ENVIRONMENT ASSESSMENT**

Hawaii's Volcano Circus  
Lease of State Lands to Facilitate  
Educational and Community Activities

TMK: (3<sup>rd</sup>)1-2-009:015  
Kehena, Puna, Hawai'i Island, State of Hawai'i

December 2011

Prepared for:

State of Hawai'i  
Department of Land and Natural Resources  
Post Office Box 621  
Honolulu, Hawaii 96809

**DRAFT ENVIRONMENT ASSESSMENT**

Hawaii's Volcano Circus  
Lease of State Lands to Facilitate  
Educational and Community Activities

TMK: (3<sup>rd</sup>)1-2-009:015  
Kehena, Puna, Hawai'i Island, State of Hawai'i

**APPLICANT**

Hawaii's Volcano Circus and the Village Green Society  
RR2 Box 4524  
Pahoa, Hawaii 96778

**APPROVING AGENCY**

Department of Land and Natural Resources  
Post Office Box 621  
Honolulu, Hawaii 96809

**AGENT FOR APPLICANT**

Ted H.S. Hong, Esq.  
Post Office Box 4217  
Hilo, Hawaii 96720

**CLASS OF ACTION**

Use of State Lands

This document is prepared pursuant to  
The Hawai'i Environmental Policy Act,  
Chapter 343, Hawai'i Revised Statutes (HRS), and  
Title 11, Chapter 200, Hawai'i Department of Health Administrative Rules (HAR)

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- Appendix B -- Ornithologist Survey of proposed lease site at Kalapana Seaview TMK: 1-2-9-15: Puna, Hawaii, by Patrick Hart, Dept. of Zoology, University of Hawaii at Manoa, November 2, 1997
- Appendix C -- Archaeological Inventory Survey of proposed lease site for Hawaii's Volcano Circus at Kalapana Seaview, TMK: 1-2-9-15: Puna, Hawaii, by Catherine Glidden, MA Archeologist, Hawaii National Park, October 28, 1997
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## ENVIRONMENTAL ASSESSMENT SUMMARY

Hawaii's Volcano Circus ("HVC") and the Village Green Society proposes a direct lease with the State of Hawaii Department of Land and Natural Resources for a parcel identified as Tax Map Key (3)1-2-009:015, hereinafter ("Property") which consists of 59.59 acres located within the Kehena-Keauohana-Keokea Homesteads in the Puna District, Island of Hawaii. HVC would like to facilitate efforts to build and strengthen community connections and empower individuals with culture, education, vocational training and performance within the arts in the underserved lower Puna District.

## 1. INTRODUCTION

### 1.1 Applicant

The applicant, Hawaii's Volcano Circus is an IRS 501 (c ) (3) Hawaii non-profit corporation and is requesting a 30 year lease for a State-owned parcel located within the Kehena-Keauohana-Keokea Homesteads in the Puna District, Island of Hawaii.

Hawaii's Volcano Circus, ("HVC") has been active with educational, cultural and entertainment programs since 1984, and is based in lower Puna on the Big Island of Hawaii. The 35 founding members of HVC are mostly circus arts educators and professional performers. The present Board of Advisors (11 members) is represented by long standing community leaders from Puna Makai.

HVC's main program is Hawaii Island Community Circus Unity Program ("HICCUP" also known as "Hiccup CIRCUS"). Our mission is to creatively promote sustainable local community in Puna Makai. We offer educational services to the public with emphasis on school age children living in isolated rural communities. Our methodology for developing and implementing programs is through partnerships with other educational, civic and charitable organizations. HVC programs have served the communities of Puna, East Hawaii, the Big Island and the State of Hawaii.

Past programs organized by HVC include nineteen International Circus Arts Festivals held on the Big Island plus performances, educational workshops and classes in schools, libraries, churches, festivals, fairs, benefits, and other community events. The Hiccup Circus, with participants from rural Puna and Hilo, has been a regular feature at most Big Island Festivals and Parades. HVC's "Juggling For Success" programs in eight Big Island and two Kauai Schools have served over 16000 students and have been funded by the Hawaii Community Foundation, the Department of Education (DOE), the Federal Drug Free Program, the State Foundation for Culture and the Arts, the YWCA Community Youth Activity Program, McNerny, Freer Eleemosynary, George Castle Trust, Atherton Family foundation, Baldwin Foundation, Watumull Foundation, Julia Temple, HEI, Helco and the Wilcox Foundation.

Other HVC programs have included weekly cultural-recreational programs funded by Office of Hawaiian Affairs (OHA), four community festivals and programs funded by the State Foundation Culture and the Arts, "Dr Seuss in Words and Actions" a literacy program presented in 15 libraries and schools funded by the Friends of the Libraries plus the highly acclaimed show "Naturally High" funded by the federal Drug Free program. This show with its "positive alternatives to drugs" message was featured on Hawaiian Moving Company, has been presented in 169 Elementary and Intermediate schools on the Big Island, Kauai, Maui Oahu and in California and has been funded by the State Foundation Culture & Arts, the American Lung Association, the Atherton Family Foundation, the G. N. Wilcox Trust and the George P & Ida Tenney Castle Trust. HVC has also received funding from the National Endowment for the Arts, the USDA Forest Service and the DLNR division of Wildlife and Forestry.

Since 2007 Hiccup Circus programs have been held at Seaview Performing Arts Center for Education (“SPACE”) located in Kehena, Puna Makai, adjacent to the proposed lease parcel. Hiccup Circus members have been winners in major local talent shows including State Championships and Big Island Exchange Club Search for Talent and the Lehua Jaycees Search for Talent. The Hiccup Circus has performed throughout the Hawaiian Islands in over 200 schools and has performed for First Night in Oahu and Maui and eight Kauai Festivals. Television appearances have included three features by Hawaiian Moving Company and many public access shows statewide. Several Hiccup Circus graduates have chosen circus as a profession and others are engaged in higher education circus training with a view to working for Cirque Du Soleil, one of our benefactors.

The proposed location is Tax Map Key (3)1-2-009-015, situated within one of the least served and most needed areas of the Puna district. Within a ten mile radius there are three subdivisions with over 1200 house lots and a population of over 4,000. In October 1998 HVC was issued a Finding of No Significant Impact for this property, however, at that time plans to move forward with the lease agreement stalled because of financial resources and funding. Since that time, HVC has strengthened their resources and are committed to complete their goals of service this community.

HVC/SPACE is home to elective programs for a DOE Charter School and provides additional educational, cultural and recreational benefits for a rural community that is undeniably one with the greatest problems in all of Hawaii and has been recognized by many authorities as being in great need of positive input on social, economic and educational levels. Our program objectives developed from the needs of the children and youth for supplementary activities in school, for more organized after school activities and for opportunities to participate in community events inside and outside their district.

The County of Hawaii leads the State in a multitude of social problems: a suicide rate six times greater than Kauai’s and 2-1/2 times more than Oahu’s, more child abuse, high infant mortality, more teen pregnancy and more substance abuse than anywhere in the state<sup>1</sup> and a domestic violence rate more than twice that of Oahu.<sup>2</sup> Personal bankruptcy filings increased 71% as compared to 50% statewide 2006-2008<sup>3</sup> and the highest percentage of Aid to Families with Dependent Children (“AFDC”) clients<sup>4</sup>, and 35% of the population receiving food stamp assistance<sup>5</sup> and the County of Hawaii leading with the lowest per capita income in the State of Hawaii.<sup>6</sup>

The State of Hawaii as a whole has serious needs with respect to the education and health of its children and youth. In the past ten years, while the Hawaii DOE budget has been relatively declining, many educational, recreational and cultural needs of children and youths have continued to grow and remain unfulfilled. Hawaii students in general and

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<sup>1</sup> Source Hawaii Mental Health Association 2007

<sup>2</sup> Source Attorney General 2007

<sup>3</sup> Source U.S. Bankruptcy Court 2008

<sup>4</sup> Source Department of Human Service 1996 AFDC Data

<sup>5</sup> Source Department of Human Service 2006

<sup>6</sup> Source Department of Labor and Industrial Relations 2007

Puna students specifically are deprived of adequate cultural and recreational educational activities at school and after school.

It is the view of many authorities that the shortcoming in the provision of these essential services has had serious adverse effects on children and youths. Community groups statewide are reporting concerns about the level of violence, the growth of gangs and the negative discrimination affecting our students.

The fast growing Puna area in the County of Hawaii with a population of about 35,000 and an land area larger than the island of Oahu, is probably the most economically depressed area in Hawaii and leads the state in teenage pregnancies, domestic violence, and drug abuse, with an exceptionally high population of alienated students, broken homes, low income families and high school drop outs dropouts. (The state of Hawaii as a whole ranks 4<sup>th</sup> in the nation for high school dropouts, 11<sup>th</sup> for children living in poverty and 7<sup>th</sup> for percentage of children living in single family homes.<sup>7</sup>

Puna district is seriously lacking in infrastructure, particularly for children's activities, its schools are overcrowded and have severe disciplinary problems while there are limited social activities available for students outside of school. Due to it's rural location and virtual absence of public transport, the 8,000 students and youths, lack easy access to many recreational, cultural, artistic and social events that are available to other Hawaii children. This area averages about 150" of rain annually, and recreational activities planned for outdoors often have to be canceled because of inclement weather.

While growing at a rate of 76.8% over ten years (State average 14.9%) Puna has some of the highest levels of poverty in Hawaii. Our programs serve youths from subdivisions which are the most impoverished in the County of Hawaii, perhaps in the whole State. Average annual income for Puna is the lowest in the County. In rural Puna, where most people live miles down unpaved roads, there is no dedicated youth center, no public beaches and few accessible park facilities. Pahoa, Keonepoko and Kea'au Schools have all been on the State list of Special Needs Schools. The D.O.E. budget cuts have consistently reduced the schools' ability to provide their own funds for cultural and recreational activities.

Having a positive and prominent cultural and recreational program like the Hiccup Circus provides a much needed boost in pride for the local community. The positive role model presented to Puna students by the local Hiccup Circus performers motivates other children's interest in educational and cultural activities in the district and has had far reaching effects.

## 1.2 Approving Agency

This Environmental Assessment has been prepared pursuant to the requirements of the State Environment Impact Statement (EIS) law and associated rules. The approving agency for the use of state land is the State Land Board.

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<sup>7</sup> Source Casey Foundation 2009

### 1.3 Agencies Consulted

As noted in Section 1.1, in October 1998 HVC was issued a Finding of No Significant Impact for this property, however, at that time plans to move forward with the lease agreement stalled because of financial resources and funding. Since that time, HVC has strengthened their resources and are committed to complete their goals of service this community. HVC continue to propose the same use of education programs and bunk houses as in the 1998 Environmental Assessment with a modest portion approximately 21,000 sq./ft. for overflow parking.

The following agencies and organizations were re-contacted and consulted in the process of preparing this Environmental Assessment.

County of Hawaii Planning Department  
County of Hawaii Department of Public Works  
County of Hawaii Police Department  
Malama O Puna (previously Puna Outdoor Circle)  
Kalapana Seaview Estates Community Association  
State of Hawaii Department of Land and Natural Resources  
Hawaii County Council

The following are the agencies consulted during the 1998 Environmental Assessment

State of Hawaii, Office of Hawaiian Affairs  
State Of Hawaii, Department of Health  
State of Hawaii, D.L.N.R. State Historic Preservation Division  
State Of Hawaii, D.L.N.R. Division of Forestry And Wildlife  
The Hawaii State Senate  
The Hawaii State House of Representatives  
County Of Hawaii, Department of Public Works  
County of Hawaii, Planning Department  
County of Hawaii, Department of Water Supply  
County of Hawaii, Police Department  
Hawaii County Council  
Puna Outdoor Circle  
Kalapana Seaview Estates Community Association

## 2. DESCRIPTION OF PROPOSED ACTION

### 2.1 Location and Ownership

The subject parcel is owned by the State of Hawaii and consists of 59.69 acres. It is located within the Kehena-Keauohana-Keokea Homesteads in the Puna District, Island of Hawaii, and is identified by Tax Map Key (3)1-2-009-015, hereinafter (“Property”). As noted in Section 1.1, in October 1998 HVC was issued a Finding of No Significant Impact for this property, however, at that time plans to move forward with the lease agreement stalled because of financial resources and funding. Since that time, HVC has strengthened their resources and are re-committed to complete their goals in service this community.

### 2.2 Existing Uses, State and County Land Use Classifications Plans and Guides

The Property is currently vacant. The Property was almost entirely covered by lava in 1955 and currently the topography is a rocky (a’ a lava) with Ohia Lehua trees scattered throughout the Property. Adjacent and to the east-northeast of the Property is SPACE (a sustainable community arts center demonstration model project) permitted by the County of Hawaii as a performing arts educational center. Other adjacent properties located to the north, south and west are vacant and have a similar landscape (rocky, lehua, etc.) to the Property.

Additional surrounding land uses include the Kalapana Seaview Estates, a residential subdivision agriculturally zoned with scattered homes and vacant lots. The district of Puna is a rural community with varied agricultural uses, rural agricultural subdivisions, native forests and barren lava flows scattered throughout. The population in 2007 was estimated at over 35,000 people for the district.

### 2.3 Project Description

#### 2.3.1 Activities

HVC/SPACE is requesting support to provide additional support for our services to the families of Puna who are greatly in need of more educational, vocational recreational and community areas.

HVC/SPACE is applying to the State Department of Land and Natural Resources for a 30 year lease of TMK 1-2-09-15 a 59.69 acre parcel (see attached map). Our project proposes to utilize approximately 4 acres of this parcel and the remainder will be left undisturbed and protected to develop as a lowland ohia rainforest. The area to be used is mostly on the 1955 a’ a lava flow with vegetation consisting only of lichen and sporadic young ohia trees averaging 10ft in height, about 5% of the parcel is an older lava flow and has a mixture of guava, ohia, hala and lama trees.

HVC/SPACE's immediate plan is to utilize a modest portion of the 4 acres, approximately 21,000 sq./ft (0.5 acres) to provide overflow parking associated with the permitted community farmers market held on Saturdays. The additional parking will mitigate and reduce parking, traffic and noise that, on occasion, occur on West Pohakupele Loop and Kehauopuna Street fronting the permitted HVC/SPACE facility.

Future and long-term plans for the balance of the approximately 4 acres of the property will be to facilitate efforts to strengthen and enhance community connections and relations and similar to the 1998 request may include but not limited to an enhancement of an education, vocational and/or industrial arts center, approximately 12 small and modest bunkhouses, bathhouse or washrooms areas, two water catchment tanks, and an Environment Educational Nature Trail to support HVC's existing education and community programs. HVC/SPACE will secure any federal, state or county regulatory and entitlement permits require or associated with future long-term plans for the Property.

The potential social impact is that the families of Kalapana Seaview Estates, Lower Puna and the other communities served by our programs will benefit in many ways from the additional facilities while community development and services for children and the community would all be greatly enhanced.

### 2.3.2 Physical Characteristics and Use

Upon approval of all the required regulatory and entitlement permits, a parking area will be graded and graveled and of sufficient size to accommodate approximately 100 cars. Future long-range plans may include but not limited to an education, vocational and/or industrial arts center that is envisioned to be possibly a 60'x60' area that could include a workshop, restroom and storage facilities to support education programs in ceramics, glass blowing, welding and wood sculpturing. It is planned to serve as an educational classroom for youth and adult students and as a workshop for scenery and prop building for HVC/SPACE performances and could be utilized intermittently by community members upon requests for similar uses for up to a maximum of 10 people. It is planned to have a Solar Electric system for power and a catchment tank to supply water. The modest bunkhouses will be used as accommodation for interns, staff and faculty. The modest structures area planned to be approximately 12'x16' and planned to be simple, sustainable accommodations with no electricity or water and will be located discretely along narrow trails in the small kipuka section of this parcel. The bathhouse or washroom area is planned to be approximately 12'x20' and will service interns, staff and faculty. Water will be provided by a catchment tank and electrical power from a Solar Electric system.

### 2.3.3 Timetable and Cost.

Phase 1 of the development would be the grading of the access road and parking lot with the spreading of cinders and gravel. This is expected to cost \$25,000 and be completed in year one of the lease.

Phase 2 is planned to include the construction of the bathhouse or washroom and the some of the proposed bunkhouses. Though the timing for this and future phases are somewhat unknown because it is difficult to determine the timing associated with the regulatory building and entitlement permits necessary for this phase of work, HVC/SPACE assume Phase 2 could be completed by the end of the fourth year of the lease. The expected cost is estimated to be approximately \$80,000.

Phase 3 is planned to be the construction of the educational, vocational and/or industrial arts center. This phase is expected to cost \$85,000 and again it is difficult to determine the timing associated with the permits for this phase of work however, HVC/SPACE assumes Phase 3 could be completed by the end of the fifth years of the lease. In addition any of the proposed bunkhouse not constructed in Phase 2 would be completed in Phase 3.

Again, HVC/SPACE will secure any federal, state or county regulatory and entitlement permits require or associated with the future long-term plans for the Property. It is also the general goal of HVC/SPACE to complete all phases of construction by the fifth year of the lease, however, should there be some unforeseen circumstances HVC/SPACE will work in conjunction and in collaboration with the appropriate federal, state or county agencies to modify its long-range plans to meet its goal to facilitate community connections and empower individuals with culture, education, vocational training and performance within the arts in the underserved lower Puna District.

### 3. ENVIRONMENTAL SETTING, IMPACT, & MITIGATION MEASURES

#### 3.1 Physical Characteristics

##### 3.1.1 Climate

The mean annual rainfall in this area ranges between 75 to 100 inches.

##### 3.1.2 Topography & Soils

The parcel is essentially entirely on the 1955 flow with only 3 acres within an older vegetated *kipuka*, which is on older (ca. A.D. 1840-1950, Burtchard, 1994) vegetated lava. The vegetation on the 1955 flow is sparse, consisting of lichen covering most of the surface with dispersed young 'Ohi'a trees. Vegetation within the *kipuka* is fairly dense with a wide variety of indigenous and introduced species.

The Land Study Bureau's Detailed Land Classification report designates the site poorly suited for intensive agricultural activities. The soils series is almost all bare a-a lava with no soil material. It is well drained, with slopes generally about 20%. It is very poorly suited for machine tillability.

Under the Agricultural Lands of Importance to the State of Hawaii (ALISH) classificatory system, the subject site is designated "Other Agricultural Land" or not classified.

##### 3.1.3 Natural Hazards

The proposed lease is located on the lower east slopes of Kilauea volcano and is dominated by a 1955 lava flow. The lava flows have created an irregular, undulating landscape. Within the last 1500 years, many lava flows from the Kilauea summit have entered the region. Most of the recent flows have been emitted from Kilauea's east rift zone, including an 1840 and 1955 flow. The lease site is 5 miles from the eastern edge of the flow field that destroyed Kalapana in 1990. Most of the flow field lies in lava flow hazard Zone 2, just as the lease site does, according to Christina Heliker, Geologist at the Hawaiian Volcano Observatory, Nov. 26, 1996.

The general geology of the area is conducive to the formation of lava tubes and cavities. Soils consist primarily of organic and volcanic ash that is typically very rocky and less than 8 inches deep, and pahoehoe and a'a lava flows. Soils in the Puna region generally have rapid permeability, slow runoff, and slight soil erosion potential as rated by the Soil Conservation Service.

Zone 1 includes summits and rift zones of Kilauea and Mauna Loa, where vents have been repeatedly active in historical times. Recently compiled statistical data by the USGS using digitized geologic maps show that since 1955, at least 35 percent of Zones 1 and 2 on the east rift of Kilauea Volcano have been covered (C. Heliker, November

1996). The new analysis shows that the lava coverage rates, and therefore the hazards, are somewhat higher than indicated on the published Lava Flow Hazard Map (USGS Map MF-2193), although the zonation remains at zone 2 (Volcano Observatory, October, 1995).

Zone 3 includes areas less hazardous than zone 2 because of greater distance from recently active vents and/or because of topography. One to five percent of zone 3 has been covered since 1800, and 15 to 75 percent has been covered within the past 750 years.

According to Christina Heliker of the USGS, the statistical probability of lava coverage occurring over the next 50 years in the following zones are: 75 percent in Zone 1; 65 percent in Zone 2; and 22 percent in Zone 3 (November 1996).

### Earthquake Hazard

Most of Hawaii's earthquakes are related directly to volcanic activity. They occur before and during eruptions and during non eruptive underground movements of molten rock (magma). The lease site is in the Kilauea east rift zone where there is a higher risk for potential lava flows and seismic hazards. The island of Hawaii is in seismic zone 4, where great earthquake damage may recur on the order of once every 500 years (Oak Ridge National Laboratory, Oct. 1994;1 and Hawaiian Volcano Observatory, Oct. 1995). Zone 4 is the highest earthquake zonation and is that of regions in California located near the San Andreas Fault.

According to David Clague, former Scientist-in-charge, Hawaiian Volcano Observatory, (Oct. 1995), "One of the most active earthquake zones in Hawaii is the south flank of Kilauea extending from Kalapana to Punalu'u. Although the area in question is outside this most active region, it is close enough that shaking from earthquakes such as magnitude 7.2 Kalapana earthquake in 1975 or the magnitude 6.1 Kalapana earthquake of 1989 cause damage in this area, particularly to poorly constructed buildings."

For the most part, earthquakes on the island of Hawaii are concentrated beneath Kilauea and Mauna Loa (C. Heliker, USGS, 1990). The likelihood of a damaging earthquake on Kilauea or Mauna Loa probably increases with long-lived activity of the rift zones, but its precise time and magnitude are impossible to predict. (Ibid.). Small, non-damaging earthquakes will be felt more frequently by people living on the slopes of these volcanoes. The effects of a large earthquake under Kilauea or Mauna Loa, however, will not be limited to the immediate area and may cause damage over much of the island (USGS 1990)

### Subsidence

The coastal region along the entire south flank of Kilauea is subject to rapid and catastrophic subsidence related to the large earthquakes mentioned in the Earthquake Hazard section, above. Although the area of most severe subsidence during the 1975

earthquake was located within Hawaii Volcanoes National Park, subsidence at Kalapana and Kaimu was about 0.6 meter (nearly 2 feet) and decreased to the east. At Pohoiki the subsidence was still 0.4m (one and a third feet), and at Kapoho, it was about 0.25 meter (8/10 of a foot). The much smaller earthquake in 1989 resulted in much smaller amounts of subsidence. In addition to the subsidence associated with earthquakes, the entire island of Hawaii is sinking at rates of about 4.5 millimeters per year relative to sea level. Such rates seem small but accumulate to significant amounts of subsidence (about 9 inches in 50 years.) (Ref: David Clague, Hawaiian Volcano Observatory, October 1995).

#### 3.1.4 Archeological Research

There have been general studies of the Puna area starting in the early 1900s with John F.G. Stokes surveys of major *heiau*; followed by an early 1930s survey of East Hawaii Island by Alfred Hudson. In the 1960s Violet Hansen conducted surveys throughout Puna and in 1970 Virginia H. Loo and William J. Bonk compiled a list of the major significant sites in Puna. Since the early 1980s there has been a significant amount of research related to the Kilauea East Rift Zone's geothermal potential. These studies have been both specific project area surveys and general predictive model type research.

An Archaeological Survey prepared by Catherine Glidden, MA Archaeologist, Hawaii National Park is attached as **Appendix A**. The archaeological background research(s) has identified a general zonal pattern for the Puna District. Recent research by International Archaeological Research Institute, Inc. (Burtchard 1994) has attempted to summarize archaeological and historic literature to better define the zonal pattern. The zonal pattern of land use and settlement that would be representative of the parcel area *ahupua'a* includes:

(1) coastal settlement zone, characterized by "highest density, variety and complexity of prehistoric surface features. Primary aggregations of residential, ceremonial, garden and associated features at sheltered embayments with adjacent inland agricultural soils" (Burtchard 1994);

(2) coastal margin agricultural zone characterized by "moderate to high density and variety of surface features spatially linked to coastal settlement and agriculturally productive sediments (*Ibid.*);

(3) inland agricultural zone characterized by "moderate to low density of surface features linked to agricultural land use, possibly in isolated pockets of suitable agricultural sediments. Trails link agricultural areas with coastal settlements" (*Ibid.*);

(4) upland forest exploitation zone characterized by a "very low feature density consisting of isolated agricultural and short-term surface and lava tube residences" (*Ibid.*).

Coastal settlement and coastal margin agricultural would be represented within the parcel, if not for the 1955 lava flow. The proposed lease parcel would have, based on the above zonal pattern, been located in the coastal margin agricultural zone.

There are three archaeological studies that are of particular relevance to the parcel which include: 1) Archaeological Reconnaissance of Proposed Kapoho-Kalapana Highway (Bevacqua and Dye 1972), 2) Archaeological Reconnaissance of Keauohana Ahupua'a, Puna, Hawai'i Island (Cordy 1987), 3) Keauohana, Puna, Hawaii Island Archaeological Reconnaissance of TMK 1-2-096&8 (Barrera 1993),

Significant historic sites are present next to the Kapoho-Kalapana Highway (#137) and just to the east and north of Kehena Beach Estates. The site adjacent to Highway #137 is a section of the "Kehena Beach trail" (State site #50-10-55-2540) discussed in Violet Hansen's field notes, then subsequently described and given the State site number by Bevacqua and Dye (1972:22). The trail section observed adjoining Highway 137 is located some 500-700 feet to the east of Kalapana Seaview Estates and is thus well outside the parcel area.

The sites east and north of Kehena Beach Palisades subdivision were first described and given State site numbers (50-10-55-10, 922 to-10,936) by Dr. Ross Cordy (1987). The sites included cemeteries, agricultural complexes and trails. However, none of these sites are within or even close to the parcel.

A review of previous studies indicated that no known sites were within the parcel and that the archaeology within Puna and especially within the vicinity of the parcel is dependent on two main factors: human induced disturbance and recent lava activity. Thus, only a very low site density was expected because virtually the entire parcel is recent (1955).

### 3.1.5 Flora

Avian Survey by Patrick Hart, Dept.of Zoology, University of Hawaii at Manoa is attached as **Appendix B** and a Botanical Survey by Tim Tunison, Tunison Ecological Consulting is attached as **Appendix C**. Field studies were conducted for endangered plant species and unique biological communities in and adjacent to the proposed lease site. A complete report of the findings follows.

The project areas surveyed included TMK (3)1-2-009:015. A botanist surveyed the project area on foot. Adjacent sites of botanical interest were also examined for rare plants. No plant species listed as endangered or threatened under the U.S. Endangered Species Act or the State of Hawaii endangered species program were found in the survey area. Unusual native plants were found in the study area, but none have legal status requiring planning considerations.

### 3.1.6. Fauna

Although no threatened or endangered avian or mammalian species were detected during the survey it is expected that there is some usage of the site by four listed species. These species are the Hawaiian Hawk, I'o (*Buteo solitarius*), Newells' Shearwater, A'o (*Puffinus newelli*), Hawaiian Dark-rumped Petrel, "Ua'u (*Pterodroma phaeopygiga*

*sandwichensis*) and Hawaiian Hoary bat, Ope'ape'a (*Lasiurus cinereus semotus*) (U.S. Fish & Wildlife Service, 1992).

### 3.1.7 Air Quality

The district of Puna does have pollution, some natural and some man-made. The man made are those associated with the automobile and geothermal development. The more significant one is a natural one coming from the fumes of the volcanic activity.

The developments on this lease should not generate any significant air pollutants. While some students will visit the site using an automobile, the attendance is too small to make any discernable difference to the air quality.

Additionally, the balance of the parcel will be left intact, environmentally reducing potential air impact.

### 3.1.8 Noise

The subject area is very rural, generally with low level ambient noise levels associated with the distant shoreline and volcanic activity. This project and its use should not significantly affect the overall ambient noise quality of the area. The buildings will occupy less than 3 acres out of a total of almost 60 acres and are set back and are separated from public roads by forested areas.

## 3.2 Socioeconomic Characteristics

The proposed action will not involve any relocation of residents apart from a caretaker, nor will the action induce or inhibit population growth. The proposed facility is intended to service the existing and future population of the area. Although governed by existing zoning and County land use policies the proposed action is also not expected to significantly affect surrounding land values.

## 3.3 Public Facilities, Utilities and Services

Our project will have very little environmental impact since none of the structures will be visible from any existing public roads nor any existing residences. We will be clearing and grading a maximum area of 3 acres for the structures, access roads and parking. We will access this property from our existing S.P.A.C.E. facility on TMK 1-2-9-034. Telephone services will not require any new poles. Solar Photovoltaic systems will be used for providing electricity for the project. Water will be provided by catchment tanks.

### 3.3.1 Roads

The Paho-Kalapana State Highway (Highway 130), then the County roads to Kalapana Seaview Estate. Access to the site is available on County roads through Kalapana Seaview Estates via Mapuana and Keahau'opuna Streets. The overall road condition generally comports to county standards. Access to the property is paved. From

the edge of the property to the car park and building site the access road will be graded and cindered.

The Industrial Arts Center, will add an anticipated average of 20 vehicles per week to the existing traffic flow (est. 1000 per week total Seaview). The other proposed activities all support existing programs and will not therefore impact existing traffic numbers. The parking lot will allow us to keep all visiting vehicles from parking in Seaview Estates.

### 3.3.2 Water System

Potable water will be provided by a catchment system and by trucked in County water. Two 5,000 gallon water tanks containing catchment water will provide water for toilets and showers.

### 3.3.3 Wastewater system

An individual wastewater system will be required to service the Industrial Arts Center restroom and showers. The preferred method – due to the costs – is the cesspool. Should that alternative not meet with the appropriate State or County requirements then, a septic tank or comparable system meeting with Health department requirements will be installed.

### 3.3.4 Drainage System

The subject site is designated Zone X, areas of minimal flood and/or drainage hazards. The proposed parking area will be graveled and not paved so will not significantly increase the area of semi impervious surface. The buildings roofs should only add slightly to on site drainage. However, given the existing permeable condition of the land, on site drainage problems are not anticipated.

### 3.3.5 Solid Waste

The proposed use should not generate a significant amount of waste. Nonetheless, whatever waste is generated, they will be disposed of at one of the county's solid waste transfer station sites in lower Puna.

### 3.3.6 Electrical/ Telephone

Electrical services will be provided by solar energy. As most activities will be principally conducted during the day anticipated electrical usage should be minimal except for the Industrial Arts Center which will have a stand alone photovoltaic system with generator back up. Telephone services are currently available to the site.

### 3.3.7 Other Public Facilities

Additional public services should not be required for the proposed use. This area, being partially developed and with its volcanic attraction, already generates fire and police protective services. The proposed uses are not expected to significantly add to the demand for these services.

#### **4. RELATIONSHIP TO PLANS, POLICIES, AND CONTROLS**

##### **4.1 State Land Use Law and Special Use Permit**

The subject parcel is classified agricultural A3 by the State Land Use Commission. Since some of the proposed activities are not a permitted use on agriculturally zoned land a Special Permit is required. Once the State land lease is approved the proposed 4.25 acres and listed activities will form part of the application to amend Special Permit #1122 (issued 2001) pertaining to S.P.A.C.E. and described as a “Self-sustaining Community Arts Center Demonstration Model”. The remaining 55 acres will be maintained as a subtropical lowland rainforest preserve with about one acre in total to be used for keeping bee hives, a small horse corral with shelter and an environment educational nature trail. The requested activities comply with the State Land Use and County Planning Commission’s criteria for Special Permits. These criteria and justifications are:

##### **A. Such Use Shall Not be Contrary to the Objectives Sought to be Accomplished by the Land Use Law and Regulations**

One objective of the Land Use Law and Regulations is to “preserve, protect and encourage the development and preservation of lands in the State for those uses to which they are best suited in the interest of public health and welfare of the people of the State of Hawaii.”

In this particular situation, the land is not considered prime from an agricultural perspective, and is also not being used agriculturally now. As such, the use of this site for the proposed educational support activities would not be inherently contrary to this criteria. The facility would serve certain cultural, educational and recreational needs of the community.

##### **B. The Desired Use Shall Not Adversely Affect Surrounding Properties**

The Board of Directors of Kalapana Seaview Estates representing the subdivision Residents affected by these proposed activities have expressed their absolute support for the desired use. Similarly the owners of the only other occupied adjacent property, the Village Green Society, have also expressed their support for this project. The potential impacts to the surrounding properties, if any, could be noise and traffic. However, the additional volume of traffic to be generated by the proposed activities should be very low. The parking lot will serve to take existing traffic coming to the SPACE facility away from Kalapana Seaview Estate residences. Any noise associated with the proposed use should also be quite minimal and within normal working hours. That factor, combined with the fact that homes in the immediate area are quite sparse, should not make the requested use an adverse one to the surrounding properties.

- C. Such Use Shall Not Unreasonably Burden Public Agencies to Provide Roads and Streets, Sewers, Water, Drainage, School Improvements, and Police and Fire Protection

Access to the subject site is via State and County roads. Thus no road improvements would be required to service the requested use. Water would be provided by catchment and by an occasional water truck . The request should also not generate additional burden for fire and police protective services. This area already has residences and recreational use that demand such services and the requested use should not require an extension of this type of public service.

The requested use is service orientated, providing facilities that support the existing DOE school and the community arts center. It is a use that services the existing population and not one that serves as a catalyst for more people to reside in the area.

Any drainage and wastewater requirements will be taken care of by the applicant and will meet all the required federal, state and county approvals necessary.

- D. The Land Upon Which the Proposed Use is Sought is Unsited for the Uses Permitted Within the District

Although the subject parcel is classified and zoned Agricultural, its soil characteristics are not inherently unique and suitable for intensive agricultural activities, its potential for intensive or less intensive agricultural uses is quite limited.

- E. The Proposed Use Will Not Substantially Alter or Change the Essential Character of the Land and the Present Use

Cultural, educational and recreational facilities are common in communities, and rural/agricultural areas are no exception. The site (60 acres) is large in relation to the proposed parking lot and structures. Approximately 54 acres will be designated as a forest preserve. As such, there will be a considerable open space and more than adequate buffers between the proposed activities and surrounding properties. Any structures developed in future long-range plans will consider the sites topographic features and make best effort to blend with the natural topographic features and existing plants.

#### 4.2 Hawaii County General Plan

The subject property is identified as agricultural under the State Land Use designation and Ag 3 under County zoning. It is designated rural with some extensive agricultural and some important agricultural land on the County General Plan Land Use Pattern Allocation Guide (LUPAG) map. Educational/recreational facilities are considered part of such uses. Accordingly, the requested use would not be inherently inconsistent with the General Plan.

#### 4.3 Puna Community Development Plan

The proposed activities are consistent with the following Sections of the Puna Community Development Plan Ordinance #08 –116 passed in Sept. 2008:

- Section 1.2 - “Because subdivision lots were sold in their undeveloped state rather than with dwellings, development has occurred in a leap frog pattern which makes it even more difficult to develop infrastructure and provide services to the population. Residents must often make long trips to employment, schools, shopping and other destinations to meet daily needs... The combination of these challenges calls for bold planning initiatives to re-shape the pattern of future growth and development in a manner that is more in harmony with the natural setting and more supportive of a better, sustainable quality of life.”
- Section 3.1.2 - Includes the objective to “enhance the role of existing and new village centers by allowing expanded commercial uses, facilitating the development of farmers markets and community gathering places, opportunities for special needs housing and infrastructure to support more compact development form and multi-modal travel.”
- Section 3.2.2 g – “Form partnerships with local businesses and educational institutions to advance education and training in... the Green sector, to include agriculture, alternative energy, resource recycling and recovery, and other related areas.”
- Section 3.3.1 e. - Includes the goal “Public education is better integrated into Puna’s communities.”
- Section 3.3.3. c – “Build partnerships between the County and non-profit organizations to increase the range of social services and economic development opportunities.”
- Section 3.5 - “Puna will clearly need to expand its parks and recreational activities as the population grows.”

Based on County standards of five acres per thousand population, over 800 acres of recreational areas are needed within Puna subdivisions to meet the future needs of the currently permitted population.

#### 4.4 Zoning

The County and the State Land Use Commission zoning of the subject site is Agriculture, 3-acre (A-3a). The zoning code requires a Special Permit. Section 25-52 of the Zoning Code provides that permits issued pursuant to Chapter 205, HRS – such as the Special Permit – are considered permitted use.

#### 4.5 Other Regulations

The subject area is not located within the County Special Management Area (SMA). Thus, a SMA Use Permit would not be required.

Beyond the Special Permit, other permits required would be the applicable building and related permits. Again, HVC/SPACE will secure any federal, state or county regulatory and entitlement permits required or associated with the future long-term plans for the Property. It is the general goal of HVC/SPACE to complete all phases of construction by the fifth year of the lease, however, should there be some unforeseen circumstances HVC/SPACE will work in conjunction and in collaboration with the appropriate federal, state or county agencies to modify its long-range plans to meet its goal to facilitate community connections and empower individuals with culture, education, vocational training and performance within the arts in the underserved lower Puna District.

## 5 DETERMINATION WITH SUPPORTING FINDINGS AND REASONS

The proposed facility is not expected to cause significant impacts to the environment, pursuant to the significance criteria established by the State environment commission as discussed below. As such, the determination is to issue a negative declaration.

- A. The proposed project will not involve an irrevocable commitment to loss or destruction to any natural or cultural resources. Furthermore, the site on which the facility would be located does not have any significant natural resources.
- B. The proposed project will not curtail the range of beneficial uses of the environment.

The requested use would not interfere with any of the existing surrounding uses. Its noise and vehicular impacts will be negligible. Any associated drainage and wastewater requirements will be handled in a manner meeting with the requirements of the appropriate governmental agencies. Thus, environmental options for the surrounding area should still exist in spite of this project.

- C. The proposed project will not conflict with the State's long-term environmental policies.

The requested use complies with the environmental policies and standards of the State. All required improvements –wastewater and drainage – will be done in accordance with the requirements of the State and/or County. There should also be minimal impacts to air and noise quality.

- D. The proposed project will not involve substantial secondary impacts, such as population changes or effects on public facilities.

The requested use serves existing activities and is not part of any larger project or phased development. It is intended to service the needs of the existing population. It is not a growth-inducive type of use. Furthermore, all other infrastructure facilities (water, police, etc.) are either present or will be provided by the applicant.

- E. The proposed project will not involve a substantial degradation of environmental quality.

The requested use will not involve extensive on-site improvements. Landscaping will be provided in selected areas. Thus, there should be some visual enhancement to that portion of the site cleared for the buildings and parking area. All other type of environmental impacts (noise, air, etc.) should be negligible.

- F. The proposed project will not substantially affect any rare, threatened or endangered species of flora or fauna or habitat.

As documented in the accompanying reports, none of the rare or endangered plant or animal life would be threatened by the requested use.

G. The proposed project will not detrimentally affect air or water quality or ambient noise level.

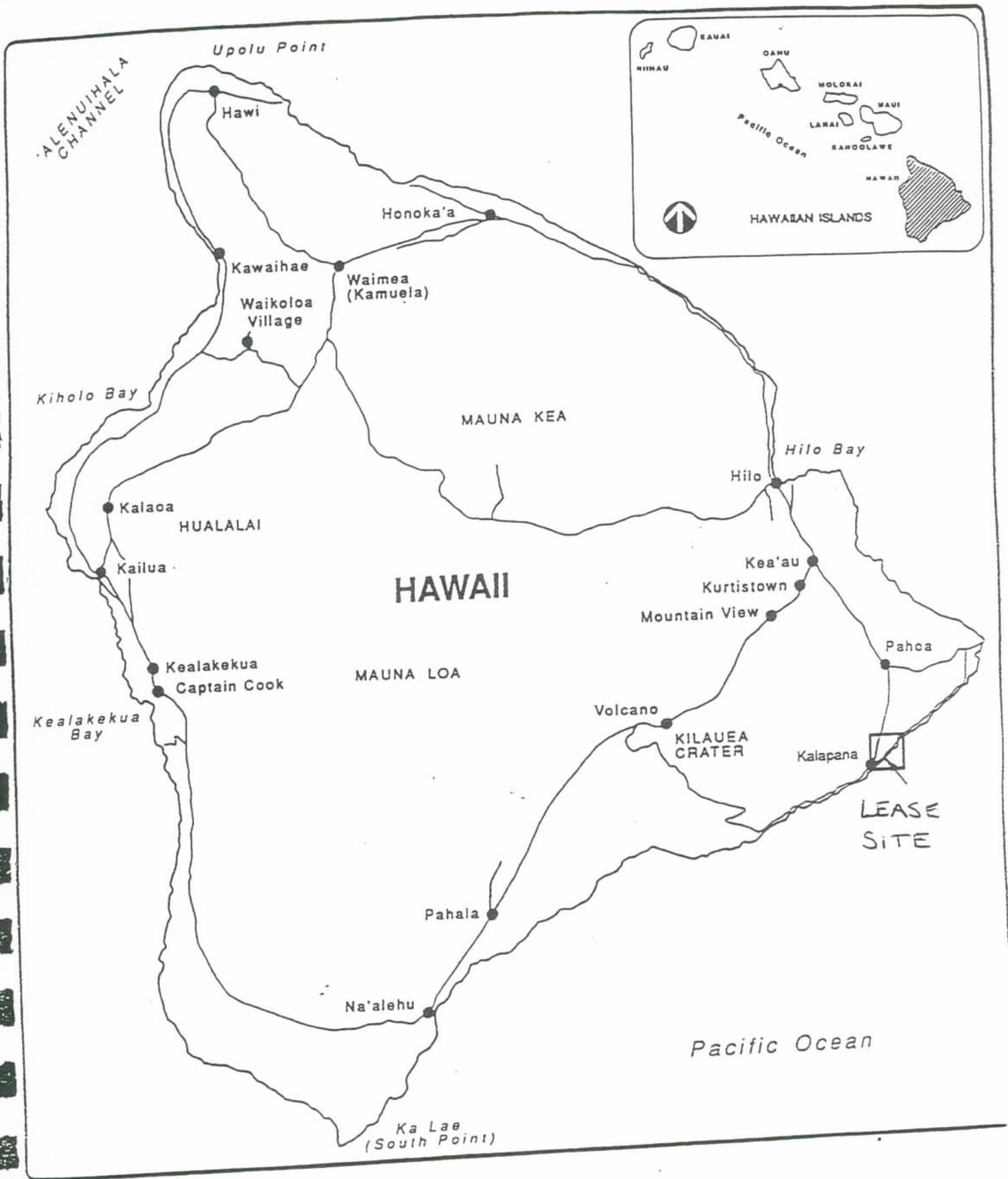
The only discernible air quality impacts associated with proposed activities would be from the vehicular traffic. The increase in the frequency and volume of traffic resulting from this use would be too small to create any appreciable impact.

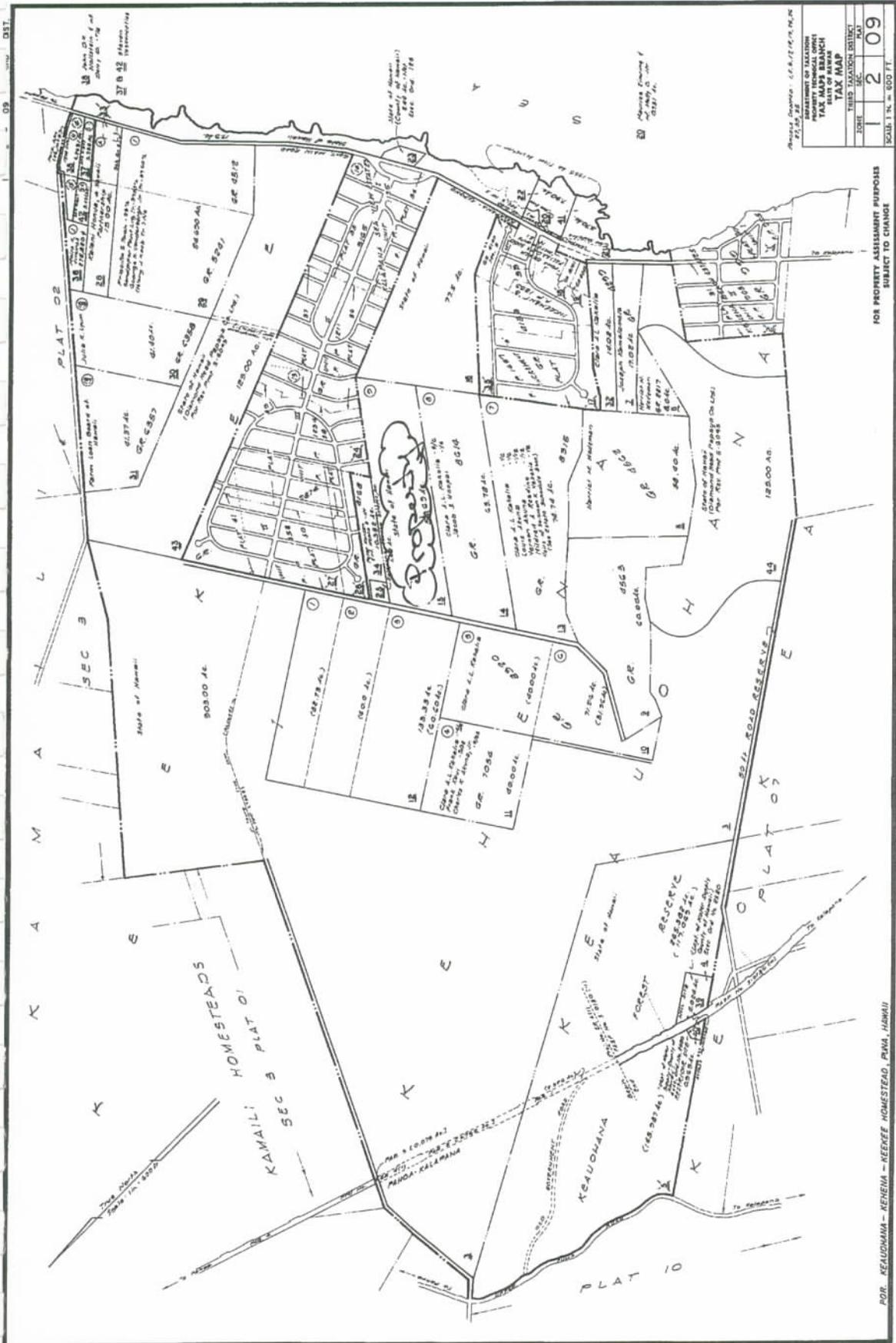
Like the air impact, possible noise impacts would be due to vehicular traffic and since traffic volume would not significantly increase the noise ambient level should thus not be significantly affected. This project proposes parking existing traffic further from subdivision residences thereby reducing ambient noise levels.

H. The proposed project is not located in an environmentally sensitive area.

The project is located in Lavazone II. Just fifty-five years ago, ninety-five per cent of the subject parcel was covered by lava. Kalapana, just eight miles away has current lava flows. Like much of lower Puna this parcel is a somewhat environmentally sensitive area because it is subjected due to lava flows.

Nonetheless, the requested use will serve community, cultural, recreational and educational needs of the people who presently reside in the area.



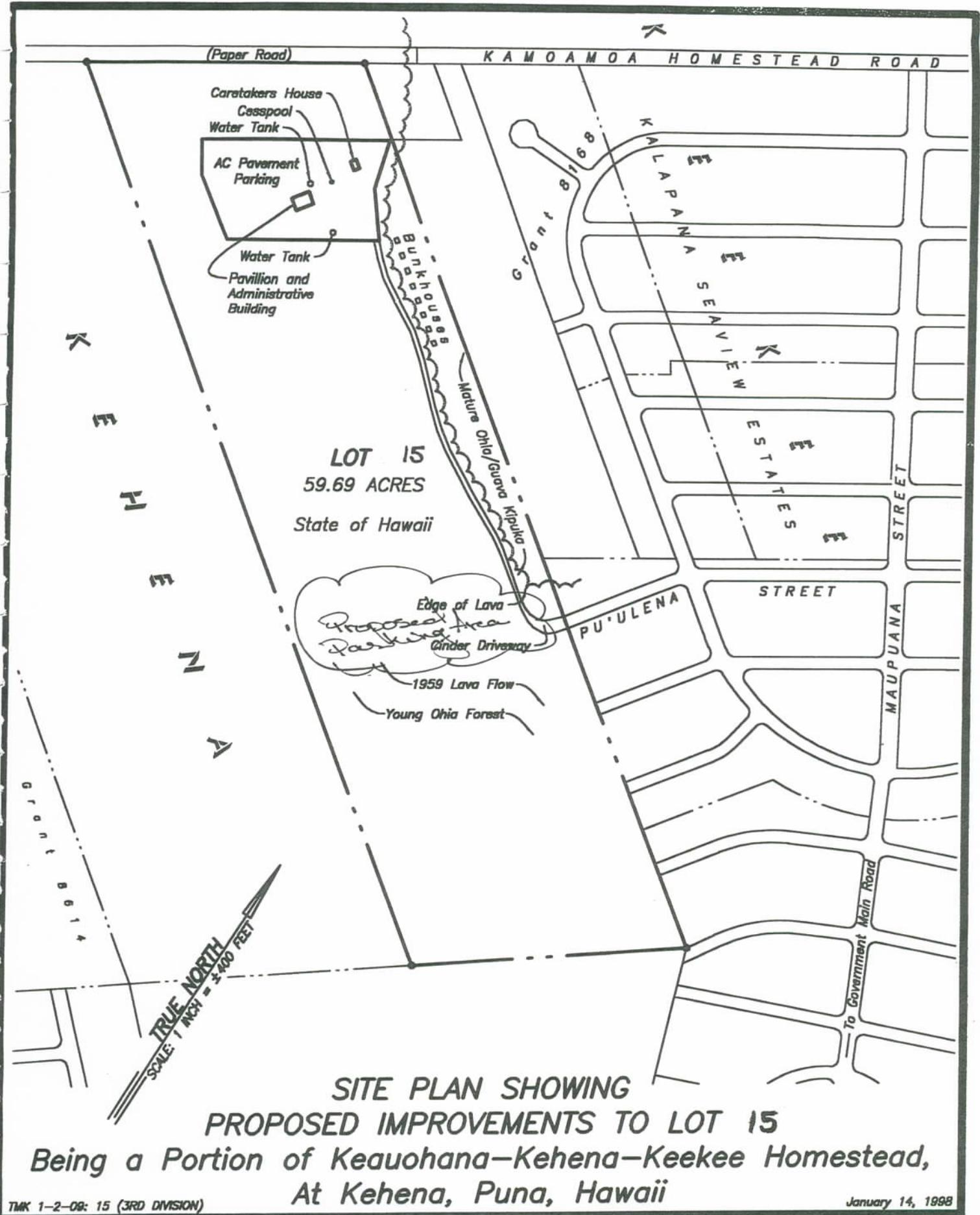


DMS. NO. 2807  
 DATED OCT. 24, 1923  
 BY J. H. ...  
 SOURCE FOR MAP

HAWAIIAN ENGINEERS - 684 FIFTH AVENUE  
 HONOLULU, HAWAII  
 BOARD OF TAXATION  
 TAX MAPS BRANCH  
 TAX MAP  
 THIRD TAXATION DISTRICT  
 SCALE: 1" = 600 FT.

LOTE	SEC.	NAI
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FOR PROPERTY ASSESSMENT PURPOSES  
 SUBJECT TO CHANGE



**SITE PLAN SHOWING  
 PROPOSED IMPROVEMENTS TO LOT 15  
 Being a Portion of Keauohana-Kehena-Keekee Homestead,  
 At Kehena, Puna, Hawaii**

TMK 1-2-09: 15 (3RD DIVISION)

January 14, 1998



Prepared For:  
 Hawaii Volcano Circus  
 RR2 Box 4544  
 Pahoa, Hawaii  
 96778

October 21, 1997

Mr. Graham Ellis  
RR-2, Box 4524  
Pahoa, Hawai'i 96778

Dear Mr. Ellis:

I conducted a botanical survey of the proposed lease site on October 12, 1997. There are two vegetation types in the area: `Ohi`a (*Metrosideros polymorpha*) scrub is found on the 1955 lava flow and a degraded `ohi`a forest with abundant weeds on the 400 year old flow. The `ohi`a scrub is largely intact with few alien plants except for patchy kukupu or swordfern (*Nephrolepis multiflora*). Short-statured `ohi`a, 2-8 feet tall, form an open to scattered overstory. The understory is largely comprised of discontinuous mats of mosses and lichens. The degraded `ohi`a forest has a closed overstory of `ohi`a. The presence of sapling and pole sized `ohi`a suggests that this native tree is replacing itself. The secondary canopy is comprised of open to closed strawberry guava (*Psidium cattleianum*), an introduced weed tree. There are also scattered individuals of wauke or paper mulberry (*Broussonetia papyrifera*), a Polynesian introduction. The ground cover is dominated by thick mats of alien sword fern with other introduced herbaceous plants such as coleus (*Plectranthus scutellarioides*) and wedelia (*Wedelia trilobata*). There are scattered native shrubs including such as `akia (*Wistroemia sandwicensis*) and pukiawe (*Styphelia tameiameia*).

No endangered/threatened plants were found. One individual of ko`oko`olau (*Bidens hawaiiensis*), listed as a Species of Concern by the US Fish and Wildlife Service (September 27 Candidate Notice of Review) was located on the contact between the two lava flows.

Sincerely,



Tim Tunison,  
Tunison Ecological Consulting

Nov. 2, 1997

Mr. Graham Ellis  
RR-2, Box 4524  
Pahoa, Hawaii 96778

Dear Graham:

I conducted an avian survey of the proposed lease site and surrounding areas on Oct. 25 1997. During the course of the survey, only the introduced Japanese White-eye (*Zosterops japonicus*) was noted on the 1955 flow. This was likely due to the lack of bird habitat, as this area contained mostly sparse ohia (*Metrosideros polymorpha*) scrub. On the adjacent 400 year flow, the forest was significantly more developed and numerous bird species were recorded. Most notable were the native Hawaii Amakihi (*Hemignathus virens*) and the native Apapane (*Himatione sanguinea*). These two are by far the most common native forest birds in the state. Their presence in this area is significant because these birds are rarely seen at such low elevations. However, it is likely that they are upper elevation individuals following seasonal lowland resources, and not year-round residents at this site. Introduced birds noted in this area included the Spotted Dove (*Streptopelia chinensis*), Common Myna (*Acridotheres tristis*), Northern Cardinal (*Cardinalis cardinalis*), Nutmeg Mannikin (*Lonchura punctilata*), and House finch (*Carpodacus mexicanus*). All of these birds are common in low elevation areas throughout the state.

No threatened or endangered birds were found. It is possible that the endangered Hawaiian Hawk (*Buteo solitarius*) visits this area but none were seen or heard. Because of the relatively barren nature of the proposed lease site, it is unlikely that small scale development will have a measurable impact on native Hawaiian birds.



Sincerely,

Patrick Hart  
Dept. of Zoology, Univ. of Hawaii at Manoa

October 28, 1997

Mr. Graham Ellis  
RR-2, Box 4524  
Pahoa, Hawaii 96778

Dear Mr Ellis:

On October 8, 1997, I conducted an archaeological survey of a parcel of land that you propose to lease from the state. The survey was limited to the part of the parcel that is located on a 400 year old a'ā' flow. The part of the parcel that is located on a 1955 lava flow was not surveyed. My survey methods consisted of walking 20 meter wide transects along the entire length of the older flow. In areas, the vegetation was quite dense with a thick matting of kupukupu or swordfern (*Nephrolepis multiflora*), and occasional dense patches of strawberry guava (*Psidium cattleianum*). Aside from these intermittent areas, the surface was relatively unobstructed with a predominant overstory of 'Ohi'a (*Metrosideros polymorpha*).

No archaeological sites, features or cultural materials were discovered on the land parcel. Some modern trash was found including various accoutrements presumably used in the production of marijuana. This includes barrels, potting vessels, hoses, metal mesh, and tin roofing. These items are clearly of recent origin and are therefore not historic.

Sincerely,



Catherine Glidden, MA Archaeologist  
PO Box 120,  
HI National Park, HI 96718-9998  
(808) 967-8145

William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

Margaret K. Masunaga  
Deputy

## County of Hawai'i

### PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720  
Phone (808) 961-8288 • Fax (808) 961-8742

October 13, 2011

Sue L.K. Lee Loy, Legal Assistant  
Ted H. S. Hong, Attorney at Law  
P.O. Box 4217  
Hilo, HI 96720

Dear Mrs. Lee Loy:

Subject: Request for Early Consultation for Draft Environmental Assessment  
Applicant: Hawai'i's Volcano Circus (HVC)  
Tax Map Key: 1-2-009:015

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This is to acknowledge receipt of your letter dated October 5, 2001 requesting input regarding HVC's desire to secure a lease with the State Department of Land and Natural Resources (DLNR) for the above listed property.

In response to your request, the subject property is owned by the State of Hawai'i and is 59.69 acres in size. It is situated within the State Land Use Agricultural District and the County's Agricultural 3-acre (A-3a) zoned district. The property is not located within the Special Management Area. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designation for the property is mainly Extensive Agriculture with a small portion designated as Important Agricultural Land.

It is our understanding that a 4-acre portion will be used for overflow parking for activities associated with an adjoining parcel. Please provide specific information in the environmental assessment regarding the proposed uses for the remainder of the approximate 60-acre leased parcel.

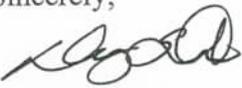
Special Permit No. 1122 was approved by the Planning Commission on September 21, 2001 to allow the establishment of a performing arts educational center on 2.5 acres of land in the State Land Use Agricultural District on TMK's: 1-2009:34 and 1-2-038:050, which adjoins the subject property.

Sue L.K. Lee Loy, Legal Assistant  
Ted H. S. Hong, Attorney at Law  
Page 2  
October 13, 2011

It is our understanding that the applicant is proposing to amend the Special Permit to increase the area and expand the uses originally permitted under Special Permit No. 1122, including adding the 4-acre portion of TMK: 1-2-009:015 to be utilized for overflow parking. The Planning Commission will need to approve such an amendment request before the 4-acre portion can be utilized for overflow parking.

Thank you for the opportunity to provide comments. If you have any questions, please feel free to contact Jeff Darrow at 961-8158.

Sincerely,

  
BJ LEITHEAD TODD  
Planning Director

JWD:smn

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69082



William P. Kenoi  
Mayor

Harry S. Kubojiri  
Police Chief

Paul K. Ferreira  
Deputy Police Chief

County of Hawai'i

POLICE DEPARTMENT  
349 Kapiolani Street • Hilo, Hawai'i 96720-3998  
(808) 935-3311 • Fax (808) 961-8865

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2011  
POLICE DEPARTMENT  
& NATURAL RESOURCES  
STATE OF HAWAII

DEPARTMENT OF LAND  
& NATURAL RESOURCES  
STATE OF HAWAII

February 24, 2011

Mr. William Aila, Jr.  
Interim Director  
State of Hawaii DLNR  
P. O. Box 621  
Honolulu, HI 96809

Dear Mr. Aila:

SUBJECT: HVC APPLICATION TO LEASE STATE LAND, TMK 1-2-9-15

Staff has reviewed a letter dated February 8, 2011, from Mr. Graham Ellis requesting comments addressed to your agency regarding his application to the State Department of Land and Natural Resources for a 30-year lease of TMK 1-2-9-15 (59.69 acre parcel) for the purpose of expanding the S.P.A.C.E (Seaview Performing Arts Center For Education).

Our position and concerns remain the same as those stated in a response memorandum (dated July 29, 2010) to County Planning Director BJ Leithead Todd regarding a request for a Special Permit Application Amendment (copy attached). The primary concern in that memorandum was noise generated from evening activities and anticipated complaints from neighboring residences.

If you need any further comments regarding this application, please contact Captain Samuel Jelsma, Puna Patrol Division, at 966-5835 or 965-2716.

Sincerely,

SAMUEL THOMAS  
ACTING ASSISTANT CHIEF  
AREA I OPERATIONS BUREAU

SJ:lli

2011 MAR -3 P 12:24  
RECEIVED  
LAND DIVISION  
HILO, HAWAII

**Ted H.S. Hong**  
**Attorney at Law**

*Employment, Workplace Law & Litigation*

**Sue Lee Loy**  
Planner and Legal Assistant

November 17, 2011

Kelly Gomes  
County of Hawaii  
Department of Public Works  
Aupuni Center  
101 Pauahi Street, Suite 3  
Hilo, Hawaii 96720-8742

Re: *Early Consultation Draft Environmental Assessment  
Hawaii's Volcano Circus  
TMK(3)1-2-009:015*

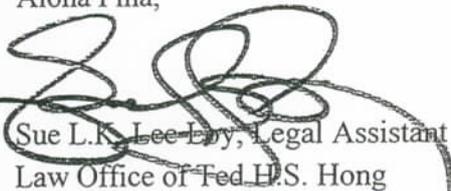
Dear Mr. Gomes,

On behalf of Hawaii's Volcano Circus ("HVC"), this letter follows-up to HVC's letter of February 8, 2011 and again in October, 2011 requesting input and comment regarding HVC's desire to secure a lease with the State Department of Land and Natural Resources ("DLNR") for a 59.69 acre parcel identified by TMK (3)1-2-009:015 located within the Kehena-Keauohana-Keokea Homesteads in the Puna District, hereinafter "Property," see attached map.

Based on our discussion, the Department of Public Works will reserve comment during the early consultation phase and if necessary will provide comment during the Environmental Assessment comment period.

We appreciate your cooperation at this time and will keep you informed of the publication of the Environmental Assessment for you to provide comments at that time

Aloha Piha,



Sue L.K. Lee-Loy, Legal Assistant  
Law Office of Ted H.S. Hong

**Ted H.S. Hong**  
**Attorney at Law**

*Employment, Workplace Law & Litigation*

**Sue Lee Loy**  
Planner and Legal Assistant

November 17, 2011

Rene Siracusa  
Malama O Puna  
Post Office Box 1085  
Pahoa, Hawaii 96778

Re: *Early Consultation Draft Environmental Assessment  
Hawaii's Volcano Circus  
TMK(3)1-2-009:015*

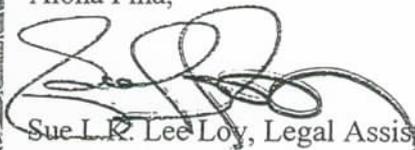
Dear Ms. Siracusa,

On behalf of Hawaii's Volcano Circus ("HVC"), this letter follows-up to HVC's letter of February 8, 2011 and again in October, 2011 requesting input and comment regarding HVC's desire to secure a lease with the State Department of Land and Natural Resources ("DLNR") for a 59.69 acre parcel identified by TMK (3)1-2-009:015 located within the Kehena-Keauohana-Keokea Homesteads in the Puna District, hereinafter "Property," see attached map.

Based on your emails of October 13, 2011 and correspondences with Graham Ellis of HVC, Malama O Puna will reserve comment during the early consultation phase and will await the Environmental Assessment for review by Malama O Puna's Board of Directors to provide a more complete comment if necessary.

We appreciate your cooperation at this time and will keep you informed of the publication of the Environmental Assessment for you to provide comments at that time

Aloha Piha,



Sue L. R. Lee Loy, Legal Assistant  
Law Office of Ted H.S. Hong

**Ted H.S. Hong**  
**Attorney at Law**

*Employment, Workplace Law & Litigation*

**Sue Lee Loy**  
Planner and Legal Assistant

December 15, 2011

Kalapana Seaview Estates Community Association  
RR2 Box 4537  
Pahoa, Hawaii 96778

Re: *Early Consultation Draft Environmental Assessment*  
*Hawaii's Volcano Circus*  
*TMK(3)1-2-009:015*

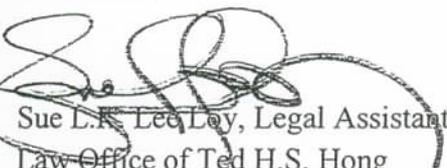
Dear Board Members,

On behalf of Hawaii's Volcano Circus ("HVC"), this letter follows-up to HVC's letter of February 8, 2011 and again in October, 2011 requesting input and comment regarding HVC's desire to secure a lease with the State Department of Land and Natural Resources ("DLNR") for a 59.69 acre parcel identified by TMK (3)1-2-009:015 located within the Kehena-Keauohana-Keokea Homesteads in the Puna District, hereinafter "Property," see attached map.

Based on your emails of today, December 15, 2011 the Kalapana Seaview Estates Community Association will support the processing of an Environmental Assessment and HVC proposes plans for the Property.

We appreciate your cooperation at this time and will keep you informed of the process for this matter.

Aloha Piha,



Sue L. Loy, Legal Assistant  
Law Office of Ted H.S. Hong



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

75 Aupuni Street, Room 204  
Hilo, Hawaii 96720  
PHONE: (808) 974-6203  
FAX: (808) 974-6222  
March 12, 2010

Ref. No.: 11HD-010  
Author: LD-GH

Mr. Graham Ellis  
President, Hawaii's Volcano Circus  
Board of Directors  
RR2 Box 4524  
Pahoa, Hawaii 96778

Dear Applicant:

Subject: Request for a Direct Lease for Educational Purposes; Kehena, Puna,  
Hawaii, TMK: 3<sup>rd</sup>/1-2-09:15

We have received your request for a direct lease for educational purposes on State land located in Puna District, Hawaii.

We have assigned the reference number noted at the top righthand corner of this letter. Use of this number will allow for more efficient processing of your request. Therefore, please use this number in all correspondence on this matter.

An inspection of the property was conducted on October 15, 2010 at which time, it was determined there were several structures located on the subject State land built without the authorization of the DLNR Land Division.

You were instructed to obtain a right-of-entry onto the State land for the purpose of removing these structures. A right-of-entry, signed by you and dated November 15, 2010 authorized you and or your agents to remove any and all structures from the State lands. A follow-up inspection conducted on January 18, 2011 showed these structures to have been removed and therefore, we may now proceed with your request for direct lease of State lands.

If you have any questions, please feel free to contact me at the Hawaii District Land Office at (808) 974-6203. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Gordon C. Heit".

Gordon C. Heit  
Land Agent

cc: Land Board Member  
Central Files  
District Files

**Fred Blas**  
Council Member  
Council District 5



Phone: (808) 965-2712  
Fax: (808) 965-2707  
Email: fbas@co.hawaii.hi.us

Mailing Address:  
(Former County Building)  
25 Aupuni Street  
Hilo, Hawai'i 96720

Business Address:  
15-2662 Pahoa-Village Road  
Pahoa Marketplace, Room 304  
Pahoa, Hawai'i 96778

*Hawai'i County Council*  
*County of Hawai'i*

Laura Thielen, Chair  
Department of Land and Natural Resources  
P. O. Box 621  
Honolulu, Hawai'i 96809

Dear Laura Thielen:

I am writing this letter on behalf of Hawai'i Volcano Circus. They are a non-profit organization of teachers and performing artists who have been active with educational, cultural, and entertainment programs since 1984.

They are in the process of applying for a 20 year lease of TMK 1-2-09-15. This is a 59.69 acre parcel that the HVC plans to provide as a headquarters for the educational program. These facilities would use about 4 acres and the rest of the parcel would be left untouched and protected to develop as a lowland ohia forest.

I am wholeheartedly in support of this application for the Hawai'i Volcano Circus and request your favorable consideration of this proposal.

If you have any questions or concerns, please do not hesitate to contact me at 965-2713.

Mahalo Nui Loa

Fred Blas, Council Member  
Hawai'i County Council, District 5  
FB/glk

BENJAMIN J. CAYETANO  
GOVERNOR OF HAWAII



MICHAEL D. WILSON  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES

DEPUTY  
GILBERT S. COLOMA-AGARAN

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

P.O. BOX 521  
HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT  
PROGRAM  
AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
CONSERVATION AND  
RESOURCES ENFORCEMENT  
CONVEYANCES  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
LAND DIVISION  
STATE PARKS  
WATER RESOURCE MANAGEMENT

001 17 1998

Mr. Gary Gill, Director  
Office of Environmental Quality Control  
235 South Beretania Street Suite 702  
Honolulu, Hawaii 96813

SUBJECT: Finding of No Significant Impact for a long term lease  
for educational and recreational purposes on vacant State  
land at Puna, Hawaii, tmk: (3) 1-2-9-15.

Dear Mr. Gill:

The Department has reviewed the comments received during the  
30-day public comment period which began on March 8, 1998. The  
agency has determined that this project will not have significant  
environmental effects and has issued a FONSI. Please public this  
notice in the November 8, 1998 OEQC Environmental Notice.

We have enclosed a completed OEQC Publication Form and four  
copies of the final EA. Please call contact Charlene Unoki at  
(808) 974-6203 if you have any questions.

Sincerely,

/S/ MICHAEL D. WILSON  
MICHAEL D. WILSON  
Chairperson

cc: Hawaii BM  
Support Services

LIST OF LETTERS RECEIVED FROM AGENCIES AND GROUPS CONSULTED

State of Hawaii Office of Hawaiian Affairs	Letter dated August 28 <sup>th</sup> 1997 Letter dated February 10 <sup>th</sup> 1998
State Of Hawaii Department of Health	Letter dated August 1 <sup>st</sup> 1997
State of Hawaii D.L.N.R. State Historic Preservation Division	Letter dated September 9 <sup>th</sup> 1997 Reply dated September 15 <sup>th</sup> 1997
State Of Hawaii D.L.N.R. Division of Forestry And Wildlife	Letter dated September 8 <sup>th</sup> 1997 Reply dated September 15 <sup>th</sup> 1997
County Of Hawaii Department of Public Works	Letter dated September 9 <sup>th</sup> 1997
County of Hawaii Planning Department	Letter dated August 5 <sup>th</sup> 1997 Letter dated September 8 <sup>th</sup> 1997
County of Hawaii Department of Water Supply	Letter dated August 19 <sup>th</sup> 1997
County of Hawaii Police Department	Letter dated September 3 <sup>rd</sup> 1997
State Of Hawaii Environmental Council	Letter dated March 19 <sup>th</sup> 1998 Reply dated April 15 <sup>th</sup> 1998
Department of Education Department of Agriculture	Letter dated February 4 <sup>th</sup> 1998 Letter dated February 3 <sup>rd</sup> 1998
The Hawaii State Senate Senator Andrew Levin	Letter dated September 23 <sup>rd</sup> 1997
The Hawaii State House of Representatives Representative Robert N. Herkes	Letter dated October 10 <sup>th</sup> 1997
Hawaii County Council Vice Chair, Al Smith	Letter dated October 28 <sup>th</sup> 1997
Puna Community Council	Letter dated October 29 <sup>th</sup> 1997
Puna Outdoor Circle	Letter dated August 28 <sup>th</sup> 1997
Kalapana Seaview Estates Community Association	Letter dated August 5 <sup>th</sup> 1997



**STATE OF HAWAII**  
**OFFICE OF HAWAIIAN AFFAIRS**  
711 KAPI'OLANI BOULEVARD, SUITE 500  
HONOLULU, HAWAII 96813

August 28, 1997

Graham Ellis, Director  
Hawaii's Volcano Circus  
P.O. Box 4524  
Pahoa, Hawaii 96778

Dear Mr. Ellis:

Thank you very much for your letter informing us of your organization's upcoming application to lease state land from DLNR and Draft Environmental Assessment (DEA). Hawaii's Volcano Circus (HVC) proposes to develop a training facility to serve as a home-base for HVC's educational programs.

The Office of Hawaiian Affairs (OHA) supports HVC's efforts to educate children and the community about traditional Hawaiian Circus Arts. At this time OHA has no concerns with the preparation of DEA, and we look forward to receiving a copy when it becomes available for public review.

Please contact Lynn Lee, Acting Land and Natural Resources Division Officer, or Richard Stook, EIS Planner at 594-1888, should you have any questions.

Sincerely yours,

  
\_\_\_\_\_  
Randall Ogata  
Administrator

  
\_\_\_\_\_  
Lynn Lee, Acting Officer  
Land and Natural Resources

RS:rs

cc: Trustee Clayton Hee, Board Chair  
Trustee Rowena Akana, Land & Sovereignty Chair  
Trustee Abraham Aiona, Board Vice-Chair  
Trustee Haunani Apoliona  
Trustee Billie Beamer  
Trustee Frenchy DeSoto  
Trustee Moses Keale  
Trustee Collette Machado  
Trustee Hannah Springer  
Jamie Kawauchi, CAC, Hilo



**STATE OF HAWAII**  
**OFFICE OF HAWAIIAN AFFAIRS**  
 711 KAPI'OLANI BOULEVARD, SUITE 500  
 HONOLULU, HAWAII 96813

Feb 13 12 47 PM '98

February 10, 1998

Charlene Unoki, District Agent  
 DLNR - Division of Land Management  
 P.O. Box 936  
 Hilo, Hawaii 96778

DOC NO: EIS-81

Subject: Draft Environmental Assessment for the Hawaii Volcano Circus, Island of Hawaii,  
TMK: 1-2-9-15

Dear Ms. Unoki:

Thank you very much for allowing us to review the above referenced Draft Environmental Assessment (DEA). Hawaii's Volcano Circus (HVC), a non-profit organization, proposes to lease approximately 60 acres of state land to develop a training facility which will serve as a home-base for HVC's educational programs.

The Office of Hawaiian Affairs (OHA) has no objections to the request for the lease of state lands by HVC. OHA strongly supports HVC's cultural and entertainment programs which serve to educate children and the community about traditional Hawaiian circus arts and culture.

The idea of utilizing only four acres of the subject parcel for development and preserving the remaining portion as a lowland ohia rainforest is a very appealing aspect of the proposed project. Nature and land (especially forests) are considered to be sacred and alive according to traditional Hawaiian belief. Natural settings allow Hawaiians to engage in spiritual and traditional practices which perpetuate the native culture. The DEA indicates that various native plant species such as 'akia and pukiawe exist on the site. OHA suggests that the applicant consider developing a management plan which would eradicate exotic weeds and encourage the proliferation native plant species in the lowland forest.

Please contact Colin Kippen, Land and Natural Resources Division Officer, or Richard Stook, EIS Planner at 594-1755, should you have any questions regarding this matter.

Sincerely yours,

Randall Ogata  
 Administrator

for Colin Kippen, Division Officer,  
 Land and Natural Resources

cc: Graham Ellis, Hawaii Volcano Circus  
 Board of Trustees  
 CAC, Island of Hawaii

2-17-98 XL HNC



**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**

P.O. BOX 916  
HILO, HAWAII 96721-0916

DATE: August 1, 1997

TO: Graham Ellis, Director  
Hawaii's Volcano Circus

FROM: Aaron Ueno  
District Environmental Health Program Chief

SUBJECT: Proposed Project on TMK: 1-2-09:15

Thank you for allowing the Department of Health to make comments on the proposed project. The following issues are brought to your attention:

- 1) The proposed food service operation would need to meet the requirements of Hawaii Administrative Rules, Title 11, Department of Health. Please contact the area Sanitarian at 933-4371 on the requirements for the kitchen facility and food service operation.
- 2) The Department of Health will be reviewing your proposed wastewater disposal system(s). This system(s) is required to be designed by a Registered Professional Engineer licensed by the State of Hawaii and submitted to our Wastewater staff (933-4552) for approval.
- 3) The Department of Health's authority on drinking water quality is based on the definition of a "public water system". A "public water system" means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen (15) service connections or regularly serves an average of at least sixty (60) days out of the year. Please contact our Safe Drinking Water staff at 933-4552 if the proposed project requires a public water system.

Past episodes of water quality concerns for lead, copper, algae and microbial contaminations in private rain catchment

Graham Ellis  
August 1, 1997  
Page 2

systems have identified the need for design standards. Without these control standards the Department of Health would not be able to support the use of these private rain catchment systems for drinking purposes.

If you have any comments regarding the above communication, please feel free to contact the indicated staff.



---

AARON UENO



DEPUTIES

GILBERT COLOMA-AGARAN

AQUACULTURE DEVELOPMENT  
PROGRAM

AQUATIC RESOURCES  
CONSERVATION AND

RESOURCES ENFORCEMENT  
CONVEYANCES

FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION

DIVISION  
LAND DIVISION

STATE PARKS  
WATER AND LAND DEVELOPMENT

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION  
33 SOUTH KING STREET, 6TH FLOOR  
HONOLULU, HAWAII 96813

September 9, 1997

Mr. Graham Ellis, Director  
Hawaii's Volcano Circus  
P.O. Box 4524  
Pahoa, Hawaii 96778

LOG NO: 20087 ✓  
DOC NO: 9708MS04

Dear Mr. Ellis:

**SUBJECT: Request for Comments of Proposed State Land Lease  
for Hawaii's Volcano Circus  
Kehena, Puna, Hawaii Island  
TMK: 1-2-09:15**

---

It is our understanding that you wish to lease the subject parcel, and use approximately 4 acres to construct facilities to support Hawaii's Volcano Circus's educational programs. Your request for written comments did not include a map of the proposed 4 acre area, therefore, a site inspection was not made by our office.

However, if indeed the planned construction will occur on the 1955 lava flow, then we believe it would be very unlikely that any significant historic sites would be present. We feel that the proposed project would have "no effect" on significant historic sites. In the event that land disturbing activities would occur in other areas of the subject parcel, we would recommend a site inspection by our office. This can be arranged by contacting Marc Smith or Patrick McCoy at 587-0006 (Honolulu).

Aloha,

DON HIBBARD, Administrator  
State Historic Preservation Division

MS:amk



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
DIVISION OF FORESTRY AND WILDLIFE

P.O. BOX 4849  
HILO, HAWAII 96720  
(808) 974-4221  
FAX (808) 974-4226

*September 8, 1997*

*Mr. Graham Ellis, Director  
Hawaii's Volcano Circus  
P.O. Box 4524  
Pahoa, Hi. 96778*

*Dear Mr. Ellis:*

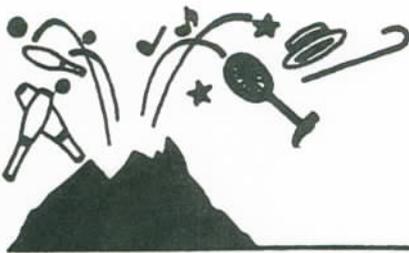
*This responds to your letter of August 20, 1997. You requested our support for an application to lease 59.59 acres of state land on the Island of Hawaii (TMK (3) 1-2-09-15.*

*We have reviewed the information you provided and have no objections to the proposed lease. Our primary concern is that your project only requires 4 acres and the proposed lease is for almost 60 acres. The state will be committing a large parcel of land for a 20 year period. This may prevent other compatible land uses in the future. Perhaps a smaller parcel would be better suited to your needs.*

*Thank you for the opportunity to comment on your proposal.*

*Sincerely,*

**JON G. GIFFIN**  
*Hawaii Branch Manager*



## HAWAII'S VOLCANO CIRCUS

A non-profit educational organization  
P.O. Box 4524 Pahoa, HI 96778 (808) 965-8756

State of Hawaii  
Dept. Of Land and Natural Resources  
Division of Forestry and Wildlife  
PO Box 4849  
Hilo 96720

September 15<sup>th</sup> 1997

Dear Mr Giffin,

This responds to your letter of September 8<sup>th</sup> regarding our application to lease 59.9 acres (TMK 3-1-2-09-15) on the island of Hawaii.

We acknowledge that you have no objections to the proposed lease but are concerned that the State will be committing 60 acres of land when we only need to use about 4 acres. Please note that we intend to use the other 56 acres as conservation and preservation land. We see ourselves acting as 'stewards' ensuring that the land in question is allowed to continue to develop as lowland ohia rainforest and does not get bulldozed for use as a papaya plantation only to be abandoned years later as a barren track of lava.

Also, in the area that we wish to locate our facility most State land parcels are very large.

Please call me if you have any other concerns.

Thank you for your kind assistance,

Graham Ellis  
Executive Director

Stephen K. Yamashiro  
Mayor



Donna Fay K. Kiyosaki  
Chief Engineer

Jiro A. Sumada  
Deputy Chief Engineer

**County of Hawaii**  
**DEPARTMENT OF PUBLIC WORKS**  
25 Aupuni Street, Room 202 • Hilo, Hawaii 96720-4252  
(808) 961-8321 • Fax (808) 961-8630

September 9, 1997

MR GRAHAM ELLIS DIRECTOR  
HAWAII'S VOLCANO CIRCUS  
P O BOX 4524  
PAHOA HAWAII 96778

**SUBJECT : DRAFT ENVIRONMENTAL ASSESSMENT**  
Kehena, Puna, Hawaii  
TMK: 3 / 1-2-09: 15

We acknowledge receipt of your letter concerning the subject matter, and provide you with our comments as follows:

1. Any building construction shall conform to all requirements of code and statutes of the County of Hawaii.
2. All development generated runoff shall be disposed on site and shall not be directed toward any adjacent properties.
3. All earthwork and grading shall be in conformance with Chapter 10, Erosion and Sediment Control, of the Hawaii County Code.
4. Any work within the County right-of-way shall be in conformance with Chapter 22, Streets and Sidewalks, of the Hawaii County Code.
5. We are unclear as to the access (Kamoamoa Homestead Road) onto Parcel 15, as stated by the applicant. Clarification should be given on how this parcel will gain access, and the condition of this access.

6. Application should be submitted to the Planning Department for their review and comments.

Should there be any questions concerning this matter, please feel free to contact Mr. Casey Yanagihara in our Engineering Division at (808)961-8327.



Galen M. Kuba, Division Chief  
Engineering Division

CKY

copy: Planning Department

Stephen K. Yamashiro  
Mayor



Virginia Goldstein  
Director  
Russell Kokubu  
Deputy Director

**County of Hawaii**  
**PLANNING DEPARTMENT**

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808) 961-8288 • Fax (808) 961-9615

August 5, 1997

Mr. Graham Ellis  
Director  
Hawaii's Volcano Circus  
P.O. Box 4524  
Pahoa, HI 96778

Dear Mr. Ellis:

Request for Comments regarding Application to Lease State Lands  
for Proposed Support Facilities for Hawaii's Volcano Circus  
TMK: 1-2-09: 15; Keekee and Kehena, Puna, Hawaii

Thank you for your letter dated August 1, 1997, requesting our comments regarding the application to lease State lands to accommodate the expansion of support facilities for Hawaii's Volcano Circus onto the subject property.

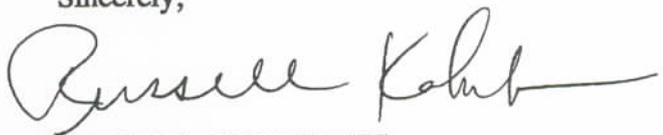
The subject property, consisting of approximately 59.69 acres, is situated within an area designated as Agriculture by the State Land Use Commission and Agricultural-3 acres (A-3a) by the County. These State and County land use designations will require the issuance of a Special Permit from the State Land Use Commission to permit the establishment of the proposed support facilities within the subject property. According to your letter, a 20-acre portion of the subject property will be leased with the remaining 39.5 acres to remain in ohia forest.

We also note within your letter that the existing headquarters for Hawaii's Volcano Circus is situated on the adjoining property identified by TMK: 1-2-09: 34. This property maintains the same land use designations as Parcel 15. Our records do not indicate any land use reviews or approvals by the County or State to permit the establishment of the headquarters on lands designated Agricultural. We ask that you contact this office immediately to discuss this matter.

Mr. Graham Ellis  
Hawaii's Volcano Circus  
Page 2  
August 5, 1997

We appreciate being given the opportunity to review and comment on the proposal. We look forward to hearing from you shortly. In the meantime, please contact Daryn Arai of this office should you have any questions.

Sincerely,

  
for VIRGINIA GOLDSTEIN  
Planning Director

DSA:pak  
f:\wp60\dsa\1997\LEllis01.dsa

xc w/ltr: DLNR-Land Management  
TMK: 1-2-09: 34

Stephen K. Yamashiro  
Mayor



Virginia Goldstein  
Director  
Russell Kokubun  
Deputy Director

## County of Hawaii

### PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808) 961-8288 • Fax (808) 961-9615

September 8, 1997

Mr. Graham Ellis, Director  
Hawaii's Volcano Circus  
P.O. Box 4524  
Pahoa, HI 96778

Dear Mr. Ellis:

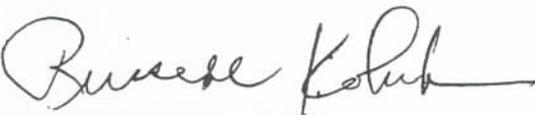
Request for Comments regarding Application to Lease State Lands  
for Proposed Support Facilities for Hawaii's Volcano Circus  
TMK: 1-2-09: 15; Keekee and Kehena, Puna, Hawaii

Thank you for your letter dated August 20, 1997, providing supplemental information regarding the application to lease State lands to accommodate the expansion of support facilities for Hawaii's Volcano Circus onto the subject property.

Thank you for clarifying the scope of the proposed lease of State lands and the establishment of support facilities for the Hawaii's Volcano Circus. We have no further comments at this time.

Should you have any questions please contact Daryn Arai of this office at 961-8288.

Sincerely,

  
for VIRGINIA GOLDSTEIN  
Planning Director

DSA:cjf  
f:\wpwin60\christin\gellis02.dsa



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

25 AUPUNI STREET • HILO, HAWAII 96720  
TELEPHONE (808) 969-1421 • FAX (808) 969-6996  
961-8660 961-8657

August 19, 1997

Mr. Graham Ellis  
Director  
Hawaii's Volcano Circus  
P.O.Box 4524  
Pahoa, HI 96778

DRAFT ENVIRONMENTAL ASSESSMENT  
TAX MAP KEY 1-2-009:015

This is in response to your letter of July 30, 1997 requesting comments for the proposed draft environmental assessment.

For your information, the subject property is not within the service limits of the Department's existing water system facility.

The nearest Department of Water Supply's existing water system facility is an existing 8-inch waterline along the Pahoa-Kalapana Road, approximately 7,000 feet from the property.

Should there be any questions, you can contact our Water Resources and Planning Branch at 961-8660.

Milton D. Pavao, P.E.  
Manager

WA:gms

copy - Planning Department

*... Water brings progress...*

Stephen K. Yamashiro  
Mayor



Wayne G. Carvalho  
Police Chief

James S. Correa  
Deputy Police Chief

County of Hawaii  
POLICE DEPARTMENT

349 Kapiolani Street • Hilo, Hawaii 96720-3998  
(808) 935-3311 • Fax (808) 961-2702

September 3, 1997

Mr. Graham Ellis  
Director  
Hawaii's Volcano Circus  
P. O. Box 4524  
Pahoa, HI 96778

Dear Mr. Ellis:

SUBJECT: APPLICATION TO LEASE STATE LAND FROM DLNR  
REQUEST FOR WRITTEN COMMENTS FOR INCLUSION IN DRAFT  
ENVIRONMENTAL ASSESSMENT

We have not received any correspondence from the State Department of Land and Natural Resources regarding the above application.

We will provide written comments on your proposal at the appropriate time.

Sincerely,

WAYNE G. CARVALHO  
POLICE CHIEF

JAMES S. CORREA  
DEPUTY POLICE CHIEF  
ACTING POLICE CHIEF

EO:lk

BENJAMIN J. CAYETANO  
GOVERNOR



STATE OF HAWAII  
ENVIRONMENTAL COUNCIL

235 SOUTH BERETANIA STREET  
SUITE 702  
HONOLULU, HAWAII 96813  
TELEPHONE (808) 586-4186  
FACSIMILE (808) 586-4188

MAR 23 2 39 PM '98

HARLAN H. HASHIMOTO  
CHAIRPERSON  
BARBARA ROBESON  
VICE-CHAIRPERSON

March 19, 1998

Charlene Unoki  
Department of Land & Natural Resources  
PO Box 936  
Hilo, HI 96721

COPY

Dear Ms. Unoki:

RE: Draft Environmental Assessment (EA) for Hawaii's Volcano Circus, Puna

Please note that the term "negative declaration" has been replaced with Finding of No Significant Impact (FONSI). In addition we have the following comments to offer:

1. Contacts: Forward a copy of the draft EA to the Department of Health, allowing them sufficient time to review it and submit comments. The Department notes in its 8-1-97 letter that proposed water catchment systems will have to be carefully reviewed before approved. If you have responded to DOH regarding this, enclose a copy of your letter in the final EA, along with copies of any other comment letters as well as your responses.
2. Facilities design: Include drawings or diagrams of the site, the proposed buildings and any proposed landscaping that show the final appearance of the project. Also describe any element or material being used to promote environmentally sensitive and energy efficient design, such as low-flush toilets, solar panels or energy-efficient fixtures.
3. Construction impacts: Include a full discussion, including impacts to nearby water resources from construction runoff, traffic impacts, safety issues, noise, and air quality. Also discuss any mitigation measures planned to prevent or lessen these impacts.
4. Lease of land: The Division of Forestry & Wildlife of DLNR notes in its 9-8-97 letter that you propose to lease 60 acres but use only 4, and that this encumbers 56 acres that might otherwise be put to another use. What is the rationale

Charlene Unoki  
March 19, 1998  
Page 2

for leasing such a large amount of land? Also, what is the reason the land you plan to use will not be purchased rather than leased?

If you have any questions call Nancy Heinrich at 586-4185.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Gill". The signature is stylized with a large, looped "G" and a cursive "Gill".

Gary Gill  
Director

c: Graham Ellis

4  
Gary Gill  
Environmental Council  
235 South Beretania Street  
Honolulu  
Hi 96813

April 15<sup>th</sup> 1998

Dear Mr Gill,

RE: Draft Environmental Assessment for Hawaii's Volcano Circus, Puna

In response to your letter of March 19<sup>th</sup> 1998 please note the following:-

1. Contacts

We intend to fully comply with Dept. of Health water catchment system regulations and having lived in Puna for 14 years are aware of the requirements.

2. Facilities design

We are enclosing preliminary drawings of our facilities design. It is our intention to minimize our impact on the site and to intentionally not introduce alien plants through landscaping. We intend to protect the growth of the existing lowland ohia rainforest that commenced after the 1955 lava flow. Puna Outdoor Circle has inspected the site and wherever possible they will try to save and replant any young ohia trees that we need to remove.

We intend to use ohia posts wherever possible in our building. We will utilize wood that has already been cut and cleared from other parcels of land by developers thus promoting environmental awareness regarding the damage done to forests by developments and we will demonstrate the possibilities for using such rescued lumber in construction.

We will be using solar power for energy as well as solar water heating systems as our primary source of hot water. All of our toilets will be low flush models and all of our fixtures will be energy efficient.

We hope that our facility will serve as a demonstration model for the potentials of ecologically sound construction and intend to seek funding to support this goal.

3. Construction impacts.

Water runoff is not an issue on lava. The traffic, noise and air quality impacts will be negligible due to the isolated location, limited areas to be bulldozed and small scale of construction. Our nearest neighbors are our strongest supporters for this project.

4. Lease of Land

In our response to the Division of Forestry & Wildlife of DLNR we explained that the use we intend for the other 56 acres is conservation and preservation. We see ourselves acting as 'stewards' to see that it is allowed to develop as lowland ohia rainforest and does not become another barren track of lava after papaya plantation use.

Our rationale for leasing 60 acres is simply that in the location we wish to place our facility this is the average size of state land parcels.

We are not interested in purchasing State Land since we believe that it is the property of the Hawaiian people being held in trust by the State and should not be sold.

We hope these answers are of assistance to your review, please call me should you require further details.

Sincerely,

Graham Ellis  
Director

Cc Charlene Unoki

RECEIVED FEB 03 1998

January 30, 1998

Suspense date: 2/13/98

MEMORANDUM

TO: Department of Agriculture  
 Attention: Paul Matsuo

FROM: Charlene E. Unoki *Charlene*  
 Hawaii District Office

SUBJECT: Long term lease for educational and recreational  
 purposes on vacant State lands at Puna, Hawaii,  
 tmk: (3) 1-2-9-15

Please review the attached:

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> DRAFT EIS     | <input type="checkbox"/> LUC REVIEW     |
| <input type="checkbox"/> EIS PREPARATION NOTICE   | <input type="checkbox"/> Correspondence |
| <input type="checkbox"/> ENVIRONMENTAL ASSESSMENT | <input type="checkbox"/> Other          |

and submit your comments within the time requested above. If you have any questions, please call my office at 974-6203.

If "no response" is received by the suspense date, we will assume there are no comments.

- We have no comments or objections.
- Comments attached or written below.

Signed: *Paul T. Matsuo*

Date: 2/3/98

Attachment(s)

FEB 9 12 53 PM '90

FACILITIES BRANCH  
FEB 3 1 39 PM '98

Date: \_\_\_\_\_  
Route to: SB  
no. Copy: 1000  
File: \_\_\_\_\_  
Return to: \_\_\_\_\_  
Discard: \_\_\_\_\_  
*mm - How long this started?*

LAN  
HAWAII

January 30, 1998

Suspense date: 2/13/98

MEMORANDUM

TO: Department of Education  
Facilities and Support Services Branch  
Attention: Sanford Beppu  
809 8th Avenue, Honolulu, Hawaii 96816

FROM: Charlene E. Unoki *Charlene*  
Hawaii District Office

SUBJECT: Long term lease for educational and recreational  
purposes on vacant State lands at Puna, Hawaii,  
tmk: (3) 1-2-9-15

Please review the attached:

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> DRAFT EIS     | <input type="checkbox"/> LUC REVIEW     |
| <input type="checkbox"/> EIS PREPARATION NOTICE   | <input type="checkbox"/> Correspondence |
| <input type="checkbox"/> ENVIRONMENTAL ASSESSMENT | <input type="checkbox"/> Other          |

and submit your comments within the time requested above. If you have any questions, please call my office at 974-6203.

If "no response" is received by the suspense date, we will assume there are no comments.

- We have no comments or objections.
- Comments attached or written below.

Signed: *John B. Cloud*

Date: 2/4/98

*LDC*

NORMAN MIZUGUCHI  
PRESIDENT  
ANDREW LEVIN  
VICE PRESIDENT  
LES IHARA JR  
MIKE MCCARTNEY  
MAJORITY LEADERS  
WHITNEY ANDERSON  
MINORITY LEADER

The Senate  
The Nineteenth Legislature  
of the  
State of Hawaii



STATE CAPITOL  
HONOLULU, HAWAII 96813

FIRST DISTRICT  
MALAMA SOLOMON

SECOND DISTRICT  
WAYNE METCALF

THIRD DISTRICT  
ANDREW LEVIN

FOURTH DISTRICT  
ROSALYN H. BAKER

FIFTH DISTRICT  
JOE TANAKA

SIXTH DISTRICT  
AVERY CHUMBLEY

SEVENTH DISTRICT  
LEHUA FERNANDES SALLING

EIGHTH DISTRICT  
SAM SLOM

NINTH DISTRICT  
MATT MATSUNAGA

TENTH DISTRICT  
LES IHARA, JR.

ELEVENTH DISTRICT  
BRIAN TANIGUCHI

TWELFTH DISTRICT  
CAROL FUKUNAGA

THIRTEENTH DISTRICT  
ROD TAM

FOURTEENTH DISTRICT  
SUZANNE CHUN OAKLAND

FIFTEENTH DISTRICT  
NORMAN MIZUGUCHI

SIXTEENTH DISTRICT  
NORMAN SAKAMOTO

SEVENTEENTH DISTRICT  
DAVID IGE

EIGHTEENTH DISTRICT  
RANDY IWASE

NINETEENTH DISTRICT  
CALVIN KAWAMOTO

TWENTIETH DISTRICT  
BRIAN KANNO

TWENTY-FIRST DISTRICT  
JAMES AKI

TWENTY-SECOND DISTRICT  
ROBERT BUNDA

TWENTY-THIRD DISTRICT  
MIKE MCCARTNEY

TWENTY-FOURTH DISTRICT  
MARSHALL IGE

TWENTY-FIFTH DISTRICT  
WHITNEY T. ANDERSON

CHIEF CLERK  
PAUL T. KAWAGUCHI

September 23, 1997

Mr. Michael Wilson  
Dept. of Land & Natural Resources  
P. O. Box 621  
Honolulu, Hawaii 96809

Dear Mr. Wilson:

I understand that Mr. Graham Ellis and Hawaii's Volcano Circus, a non-profit organization, have applied to DLNR for a 20-year lease on a parcel of land on the Big Island, TMK 1-2-09-15. Their project would use only about 4 acres of the 59-acre parcel, with the remainder to be left untouched and protected to develop as a lowland ohia rainforest. The 4 acres would provide headquarters for Hawaii's Volcano Circus and its education programs.

I have known Mr. Ellis for a number of years, and believe him to be a very caring individual who has brought considerable joy to the Big Island community through his educational and community efforts. Although I do not have any more details about this particular proposal other than what I had cited above, I hope you will give full consideration to the application and, if you find it satisfactory and environmentally sound, give it your blessing.

Very truly yours,

ANDREW LEVIN  
Senator, Third District

AL:CSY

Speaker  
JOSEPH M. SOUKI  
Vice Speaker  
PAUL T. OSHIRO  
Majority Leader  
TOM OKAMURA  
Majority Floor Leader  
MARCUS R. OSHIRO  
Majority Whip  
NESTOR R. GARCIA

HOUSE OF REPRESENTATIVES  
THE NINETEENTH LEGISLATURE

STATE OF HAWAII  
STATE CAPITOL  
HONOLULU, HAWAII 96813



October 10, 1997

DISTRICT REPRESENTATIVES

1st — DWIGHT Y. TAKAMINE  
2nd — JERRY L. CHANG  
3rd — ERIC G. HAMAKAWA  
4th — ROBERT N. HERKES  
5th — PAUL WHALEN  
6th — DAVID A. TARNAS  
7th — MICHAEL WHITE  
8th — JOSEPH M. SOUKI  
9th — BOB NAKASONE  
10th — DAVID MORIHARA  
11th — CHRIS HALFORD  
12th — HERMINA MORITA  
13th — EZRA R. KANOHO  
14th — BERTHA C. KAWAKAMI  
15th — DAVID D. STEGMAIER  
16th — GENE WARD\*  
17th — BARBARA MARUMOTO  
18th — CALVIN K.Y. SAY  
19th — BRIAN Y. YAMANE  
20th — SCOTT K. SAIKI  
21st — GALEN FOX  
22nd — TERRY NUI YOSHINAGA  
23rd — ED CASE  
24th — SAM AIONA  
25th — KENNETH T. HIRAKI  
26th — QUENTIN K. KAWANANAKOA  
27th — LEI AHU ISA  
28th — DENNIS A. ARAKAKI  
29th — FELIPE P. ABINSAY, JR.  
30th — ROMY M. CACHOLA  
31st — NATHAN SUZUKI  
32nd — BOB McDERMOTT  
33rd — TOM OKAMURA  
34th — K. MARK TAKAI  
35th — NOBU YONAMINE  
36th — ROY M. TAKUMI  
37th — NESTOR R. GARCIA  
38th — MARILYN B. LEE  
39th — RON MENOR  
40th — MARCUS R. OSHIRO  
41st — PAUL T. OSHIRO  
42nd — MARK MOSES  
43rd — MICHAEL PUAMAMO KAHIKINA  
44th — MERWYN S. JONES  
45th — ALEXANDER C. SANTIAGO  
46th — COLLEEN MEYER  
47th — TERRANCE W.H. TOM  
48th — KEN ITO  
49th — CYNTHIA HENRY THIELEN\*\*  
50th — DAVID A. PENDLETON  
51st — KENNY GOODENOW

Mr. Michael Wilson  
Department of Land and Natural Resources  
P.O. Box 621  
Honolulu, Hawaii 96809

Dear Mr. Wilson:

It has come to my attention that the Hawaii Volcano Circus has applied for a twenty year lease of TMK 1-2-09-15, a 59.69 acre parcel on the Big Island. The Hawaii Volcano Circus is a non profit educational organization which plans to use the land to provide facilities for an educational program for children in the rural area.

I would appreciate any support that you could give to the Hawaii's Volcano Circus' worthwhile endeavors. If you have any questions, please contact me at 586-6530.

Sincerely,

Robert N. Herkes  
State House of Representatives  
4th District

RNH:dd

\*Minority Leader  
\*\*Minority Floor Leader

AL SMITH  
Councilman



Phone: (808) 961-8267  
Fax: (808) 969-3291

COUNTY COUNCIL  
County of Hawaii  
Hawaii County Building  
25 Aupuni Street  
Hilo, Hawaii 96720

October 28, 1997

Michael D. Wilson, Chair  
Department of Land and Natural Resources  
P.O. Box 621  
Honolulu, HI 96809

*mike*

Dear Mr. Wilson:

I am writing on behalf of Hawaii's Volcano Circus. They are a non-profit organization of teachers and performing artists who have been active with educational, cultural and entertainment programs since 1984.

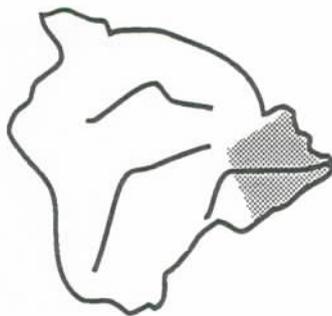
They are in the process of applying for a 20 year lease of TMK 1-2-09-15. This is a 59.69 acre parcel that the HVC plans to provide as a headquarters for the educational programs. These facilities would use about 4 acres and the rest of the parcel would be left untouched and protected to develop as a lowland ohia rainforest.

I am wholeheartedly in support of this application for the Hawaii Volcano Circus and request your favorable consideration of this proposal.

If you have any questions or concerns please do not hesitate to contact me at 961-8267.

Sincerely,

*Al Smith*  
Al Smith, Vice Chair  
Hawaii County Council



P U N A  
Community Council, Inc.  
P.O. Box 1250, Keaau HI 96749

October 29, 1997

Department of Land and Natural Resources  
P. O. Box 621  
Honolulu, Hawaii 96809

Dear Sirs:

The Puna Community Council is a body consisting of representatives from twenty-five (25) organizations and subdivision associations responsible to the 30,000 residents of the Big Island's district of Puna.

We wholeheartedly support the Hawaii Volcano Circus and it's director Graham Ellis in their application for the land lease of TMK 1-2-09-15.

The children's circus has always been the most outstanding childrens' program of any kind offered in Puna. Their shows and events not only develop skill and self-esteem in the children they teach, but also promote a wholesome drug and alcohol free lifestyle to the children they reach through their shows.

Mr. Ellis able and skilled approach teaching children and adolescents is evidenced by the success of his drug prevention programs.

We see no adverse affect to the land or the community where this project will be located. To the contrary, Puna Community Council has stress the need for community development within the subdivisions where people can walk and ride to services.

Therefore, we ask for your approval in regard to Hawaii Volcano Circus request. We are in complete support of this project and wish Mr. Ellis and the Hawaii Volcano Circus great success in their endeavor.

Sincerely,

PUNA COMMUNITY COUNCIL



David C. Taylor  
President



August 28, 1997

Ms. Charlene Unoki, District Agent  
Division of Land Management - DLNR  
P. O. Box 936  
Hilo, HI 96721

RE: REQUEST FOR LEASE OF STATE  
LAND BY HICCUP CIRCUS

Dear Ms. Unoki:

Graham Ellis of Hiccup Circus has asked the Puna Outdoor Circle if we would write a letter of support regarding his request to lease a parcel of state land adjoining Belly Acres. Our board decided to make an on-site inspection of both Belly Acres and the lease land prior to making any determination. Last week I, along with two other members of our Board of Directors, made the inspection.

We were very favorably impressed with the way Belly Acres has been developed, working with the natural topography and not disturbing the ohias or hala. Mr. Ellis showed us the lava field, of which he is only planning to use 3 acres or so, protecting the rest. He has agreed to working with us to salvage the keiki ohias from the proposed building site so that we might outplant them elsewhere.

When I first learned of the Hiccup Circus, many years ago, I admit I was rather dubious as to its value to the community. I was, you see, carrying around old derogatory "baggage" about circuses and "carnies". But over the years I have watched shy children and children from broken homes thrive and bloom under his tutelage. I have seen their growth of self-esteem, hand-eye coordination, sharing and cooperation and teamwork and many other qualities which we all want to see developed in our future citizens. The Hiccup Circus is a major benefit to our community in general, and to the children in particular. In order that they may continue and expand on this good work, we support their development plans for the state land, should you agree to lease to them. We hope you will decide to do so.

So many projects come before us to use state land for (to my mind) dubious purposes, but here is a win-win proposal and we give it our

P. O. Box 1085   ★   Pahoa   ★   Hawaii, 96778   ★   (808) 965-6626

wholehearted support.

Thank you for this opportunity to input to you on this issue.  
If you have any questions, please do not hesitate to call me at  
965-6626.

Mahalo and aloha aina,



René Siracusa  
President  
PUNA OUTDOOR CIRCLE

**KALAPANA SEAVIEW ESTATES COMMUNITY ASSOCIATION**  
RR2 Box 4537, Pahoā, HI 96778 (808) 965-8711

---

August 5, 1997

Graham Ellis  
Hawaii's Volcano Circus  
PO Box 4524  
Pahoā, HI 96778

Re: HVC's Application to Lease State Land

Dear Graham,

On behalf of the Board of Directors of Kalapana Seaview Estates Community Association, we are happy to express our whole-hearted support for the above-referenced application. HVC has proven to be a strong positive educational influence in our community over the past many years, and as your closest neighbors, you have earned our respect and appreciation.

We especially appreciate your guardianship and protection of the aina in this project, and wish you much success in this endeavor as you continue to serve the children of the Big Island, much to the delight of us all.

Warm regards,



Monica Devlin  
Secretary/Bookkeeper

# ACORD CERTIFICATE OF LIABILITY INSURANCE

CSR IT  
VILLA-2

DATE (MM/DD/YYYY)  
10/20/10

**PRODUCER**

Mutual Underwriters  
680 Iwilei Rd. #760  
Honolulu HI 96817  
Phone: 808-532-2888 Fax: 808-532-0110

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

**INSURED**

Village Green Society, Inc.  
RR2 Box 4524  
Paoha HI 96778

**INSURERS AFFORDING COVERAGE**

NAIC #

INSURER A: Nautilus Ins. Co.  
INSURER B:  
INSURER C:  
INSURER D:  
INSURER E:

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR	ADD'L	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	X	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	NC974266	12/31/09	12/31/10	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ included
		<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	"This insurance contract is issued by an insurer which is not licensed by the State of Hawaii and is not subject to its regulation or examination. If the insurer is found insolvent, claims under this contract are not covered by any guaranty fund of the State of Hawaii."  RISK PLACEMENT SERVICES, INC. (Surplus Line Broker License #313860) 677 Aia Moana Blvd., Honolulu, HI 95813			COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
		<b>EXCESS/UMBRELLA LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
		<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
		OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS  
 THE CERTIFICATE HOLDER IS NAMED AS ADDITIONAL INSURED AS THEIR INTEREST MAY APPEAR WITH RESPECT TO THE POLICY PROVISIONS.

**CERTIFICATE HOLDER**

STATE OF HAWAII  
DLNR  
75 AWAPUNI ST.  
HILO HI 96720

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

INTERNAL REVENUE SERVICE  
DISTRICT DIRECTOR  
2 CUPANIA CIRCLE  
MONTEREY PARK, CA 91755-7406

DEPARTMENT OF THE TREASURY

Date: Jan 14 1992

HAWAII VOLCANO CIRCUS LTD  
RR2 BOX 4524  
PAHOA, HI 96778-9756

Employer Identification Number:  
99-0294167  
Case Number:  
956144055  
Contact Person:  
TYRONE THOMAS  
Contact Telephone Number:  
(213) 894-2289  
Our Letter Dated:  
November 1992  
Addendum Applies:  
No

Dear Applicant:

This modifies our letter of the above date in which we stated that you would be treated as an organization that is not a private foundation until the expiration of your advance ruling period.

Your exempt status under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3) is still in effect. Based on the information you submitted, we have determined that you are not a private foundation within the meaning of section 509(a) of the Code because you are an organization of the type described in section 509(a)(2).

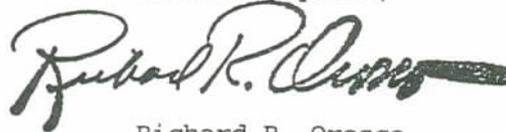
Grantors and contributors may rely on this determination unless the Internal Revenue Service publishes notice to the contrary. However, if you lose your section 509(a)(2) status, a grantor or contributor may not rely on this determination if he or she was in part responsible for, or was aware of, the act or failure to act, or the substantial or material change on the part of the organization that resulted in your loss of such status, or if he or she acquired knowledge that the Internal Revenue Service had given notice that you would no longer be classified as a section 509(a)(2) organization.

If we have indicated in the heading of this letter that an addendum applies, the addendum enclosed is an integral part of this letter.

Because this letter could help resolve any questions about your private foundation status, please keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,



Richard R. Orosco  
District Director

Letter 1050 (DO/CG)