

ENVIRONMENTAL ASSESSMENT

Disposal of the 'Ewa Drum Property
Wai'awa, O'ahu, Hawai'i

Commander, Navy Region Hawaii
June 2005

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Attention: Elsie
Job Name: 'Ewa Drum EA

Date: December 23, 2005
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ENVIRONMENTAL ASSESSMENT

Disposal of the 'Ewa Drum Property
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June 2005

DEPARTMENT OF DEFENSE7
DEPARTMENT OF THE NAVY

FINDING OF NO SIGNIFICANT IMPACT (FONSI) FOR ENVIRONMENTAL
ASSESSMENT (EA) FOR THE DISPOSAL OF THE EWA DRUM PROPERTY,
WAI'AWA, O'AHU, HAWAII

Pursuant to the Council on Environmental Quality Regulations (40 Code of Federal Regulations Parts 1500-1508) implementing the National Environmental Policy Act, and the Office of the Chief of Naval Operations Instruction 5090.1B, the Department of the Navy (Navy) gives notice that an EA has been prepared and an Environmental Impact Statement is not required for the Disposal of the 'Ewa Drum property, Wai'awa, O'ahu, Hawaii.

Proposed Action: Commander, Navy Region Hawaii (CNRH) proposes to dispose of the approximately 55.9-acre (22.6-hectare) 'Ewa Drum property in accordance with the Memorandum of Agreement (MOA) dated August 31, 1998, between the United States of America and the State of Hawaii represented by the Governor of the State of Hawaii and by the Department of Hawaiian Home Lands (DHHL). The MOA was executed pursuant to the Hawaiian Home Lands Recovery Act of 1995, Public Law 104-42, 109 Stat. 357. DHHL forecasts its reuse of the property will be consistent with the City and County of Honolulu's A-2 Medium Density Apartment District development standards. The Proposed Action assumes the construction of approximately 675 multi-family housing units, related access road improvements and supporting infrastructure as reasonably foreseeable development.

Existing Conditions: The property is located near the head of Middle Loch, Pearl Harbor, between the communities of Waipahu and Pearl City, and was used as a fuel storage and delivery facility during World War II. The facility is no longer in operation but it remains under caretaker status with the Navy. Site vegetation consists predominately of dryland grasses with non-native kiawe trees and is devoid of any threatened or endangered species. There are no sites on the parcel identified for inclusion in the National Register of Historic Places.

Alternatives Analyzed: Alternatives considered included development of the property for light industrial use and No Action (no disposal).

Environmental Effects: The Proposed Action would have an adverse effect on traffic that would require improvements at three intersections to maintain adequate levels of service. DHHL would be responsible for implementing any development-related improvements. Although the Proposed Action would represent a potential change in land use and intensity, it would be compatible with surrounding uses. CNRH has complied with the National Historic Preservation Act, Section 106 by consulting with the State Historic Preservation Officer (SHPO) and affording other consulting parties the opportunity to comment. CNRH has notified SHPO of its finding of no historic properties affected and SHPO did not object within the 30-day review period. The Proposed Action would not result in significant impacts on the following resource areas: soils, topography, drainage, ground and surface water, air quality, noise, biological resources, public infrastructure, hazardous and regulated materials, flood hazard, cultural resources and land use compatibility. The Proposed

FINDING OF NO SIGNIFICANT IMPACT (FONSI) FOR ENVIRONMENTAL ASSESSMENT (EA) FOR
THE DISPOSAL OF THE EWA DRUM PROPERTY, WAI'AWA, O'AHU, HAWAII

Action would not create environmental health and safety risks that may disproportionately affect children and minority or disadvantaged populations. CNRH has determined that the Proposed Action would not have reasonably foreseeable direct or indirect effects on any coastal use or resource of the State's coastal zone.

Finding: Based on information gathered during preparation of the EA, the Navy finds that the Disposal of the 'Ewa Drum property will not significantly impact human health or the environment. The EA prepared by the Navy addressing this Proposed Action is on file and interested parties may obtain a copy from: Naval Facilities Engineering Command, Hawaii, 400 Marshall Road, Building X-11, Pearl Harbor, Hawaii 96860-3139 (Attention: Mr. Andy D. Huang, EV3AH), telephone (808) 471-1171, ext. 207. A limited number of copies on compact disk are available to fill single copy requests.

12-13-05
Date



C. E. WEAVER
Rear Admiral, U.S. Navy
Commander, Navy Installations Command

Cover Sheet

Proposed Action To dispose of the 'Ewa Drum property located at Wai'awa, O'ahu, Hawai'i to the State of Hawai'i Department of Hawaiian Home Lands (DHHL).

Type of Document Environmental Assessment

Lead Agency Commander, Navy Region Hawaii

For Further Information Mr. Andy D. Huang, EV3AH
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Summary

This Environmental Assessment was prepared in accordance with the National Environmental Policy Act of 1969 (42 United States Code §4321, *et seq.*), as implemented by the Council on Environmental Quality regulations (40 Code of Federal Regulations Parts 1500-1508) and the Office of the Chief of Naval Operations Instruction 5090.1B Change-4, Environmental and Natural Resources Program Manual of June 4, 2003.

Commander, Navy Region Hawaii (CNRH) proposes to dispose of the approximately 55.9-acre (22.6-hectare) 'Ewa Drum property at Wai'awa, O'ahu, Hawai'i to DHHL. The property is located near the head of Middle Loch, Pearl Harbor, between the communities of Waipahu and Pearl City, and was used as a fuel storage and delivery facility during World War II. The facility is no longer in operation but it remains under caretaker status with the Navy.

The property is to be disposed of in accordance with the Memorandum of Agreement (MOA) dated August 31, 1998, between the United States of America and the State of Hawai'i. The MOA was executed pursuant to the Hawaiian Home Lands Recovery Act of 1995, Public Law 104-42, 109 Stat. 357. DHHL forecasts its reuse of the property will be consistent with the City and County of Honolulu's A-2 Medium Density Apartment District development standards. The Proposed Action assumes the construction of approximately 675 multi-family housing units, related access road improvements and supporting infrastructure as reasonably foreseeable development. Alternatives considered included development of the property for light industrial use and No Action (no disposal).

DHHL would be responsible for implementing any development-related improvements. Although the Proposed Action would represent a potential change in land use and intensity, it would be compatible with surrounding uses. It would have an adverse effect on traffic that would require improvements at three intersections to maintain adequate levels of service. CNRH has complied with the Section 106 of the National Historic Preservation Act by consulting with the State Historic Preservation Officer (SHPO) and affording other parties the opportunity to comment. CNRH has notified SHPO of its finding of no historic properties affected and SHPO did not object within the 30-day review period. The Proposed Action would not result in significant impacts on the following resource areas: soils, topography, drainage, ground and surface water, air quality, noise, biological resources, public infrastructure, hazardous and regulated materials, flood hazard, cultural resources and land use compatibility. The Proposed Action would not create environmental health and safety risks that may disproportionately affect children and minority or disadvantaged populations. CNRH has determined that the Proposed Action would not have reasonably foreseeable direct or indirect effects on any coastal use or resource of the State's coastal zone.

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- A Hawaiian Home Lands Recovery Act
- B HHLRA Memorandum of Agreement
- C Correspondence Between the Navy and DHHL
- D Section 106 Consultation

LIST OF ACRONYMS AND ABBREVIATIONS

A-2 District	A-2 Medium Density Apartment District
BWS	Honolulu Board of Water Supply
C&C	City and County of Honolulu
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CIP	Capital Improvement Projects
cm	centimeter(s)
CNRH	Commander, Navy Region Hawaii
COSCP	Central O'ahu Sustainable Communities Plan
CZMA	Coastal Zone Management Act
DHHL	Department of Hawaiian Home Lands
DoD	Department of Defense
DOT	Department of Transportation (State of Hawai'i)
DOE	Department of Education (State of Hawai'i)
du	dwelling unit
EA	environmental assessment
EBS	environmental baseline survey
EPA	Environmental Protection Agency
FAR	floor area ratio
ft	foot (feet)
ft ²	square feet
HECO	Hawaiian Electric Company
HHCA	Hawaiian Homes Commission Act of 1921
HHLRA	Hawaiian Home Lands Recovery Act
HMLUMP	Hawai'i Military Land Use Master Plan
km	kilometer(s)
kV	kilovolt(s)
L	liter(s)
LCC	Leeward Community College
m	meter(s)
m ²	square meter(s)
mgd	million gallons per day
mLd	million liters per day
MOA	Memorandum of Agreement
msf	million square feet
mW	megawatt(s)
NAVFAC Pacific	Naval Facilities Engineering Command, Pacific
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
No.	number
NRHP	National Register of Historic Places
OHA	Office of Hawaiian Affairs
OPNAVINST	Chief of Naval Operations Instruction
OR&L	O'ahu Railway & Land Company
PDO	Park Dedication Ordinance
ROW	right of way
SHPO	State Historic Preservation Officer
TMK	tax map key
USC	United States Code
WWTP	Wastewater Treatment Plant

1.0 PURPOSE OF AND NEED FOR ACTION

1.1 Summary of Proposed Action

Commander, Navy Region Hawaii (CNRH) proposes to dispose of the 'Ewa Drum property as agreed in the Memorandum of Agreement (MOA) dated August 31, 1998, between the United States of America (the United States), as represented by the Secretary of the United States Department of Interior (the Secretary), and the State of Hawai'i, represented by the Governor of the State of Hawai'i, and the Department of Hawaiian Home Lands (DHHL). The MOA was executed pursuant to the Hawaiian Home Lands Recovery Act of 1995, Public Law 104-42, 109 Stat. 357 (HHLRA). Foreseeable development of the property under the Proposed Action includes the construction of medium density, multi-family housing by DHHL. The HHLRA is attached as Appendix A. The MOA is attached as Appendix B.

While this environmental assessment (EA) analyzes the potential impacts of the foreseeable development of the site, preparation of this EA does not preclude the need for DHHL to prepare any required environmental documentation prior to development of the 'Ewa Drum property.

1.2 Purpose and Need

The purpose of and need for the project is to dispose of the 'Ewa Drum property in accordance with the MOA that was executed pursuant to the HHLRA.

1.3 Background

The 'Ewa Drum property (Tax Map Key Nos. 9-4-08:10 and 9-6-03:44) is located in Wai'awa, O'ahu, Hawai'i, as shown on Figure 1. The property is located north of the Pearl Harbor Naval Complex and is approximately 55.9 acres (22.6 hectares (ha)) in size. The net developable area, including several utility easements, is approximately 39.5 acres (16 ha). CNRH maintains the property, which is currently fenced and vacant.

Section 203 of the HHLRA provided that the Secretary may convey certain Federal lands to DHHL in exchange for full settlement and release of all legal, equitable or moral claims, actions, and liabilities arising from or relating to the United States' ownership and continued use of real property identified as "available lands" for native Hawaiians under the Hawaiian Homes Commission Act of 1921, 42 Stat. 108.

Pursuant to the MOA, the 'Ewa Drum property was included in the approximately 960 acres (388.5 ha) identified for disposition to DHHL. The site was formerly used during World War II as part of a fuel storage system. Fuel drum filling facilities were constructed after the war. The facility remained functional until it was closed in the 1970's.

DHHL forecasts that the usable portion of the property would be used for purposes consistent with City and County of Honolulu's (C&C) A-2 Medium Density Apartment District (A-2 District).¹

¹ Correspondence between Naval Facilities Engineering Command, Pacific and DHHL is included in Appendix C.

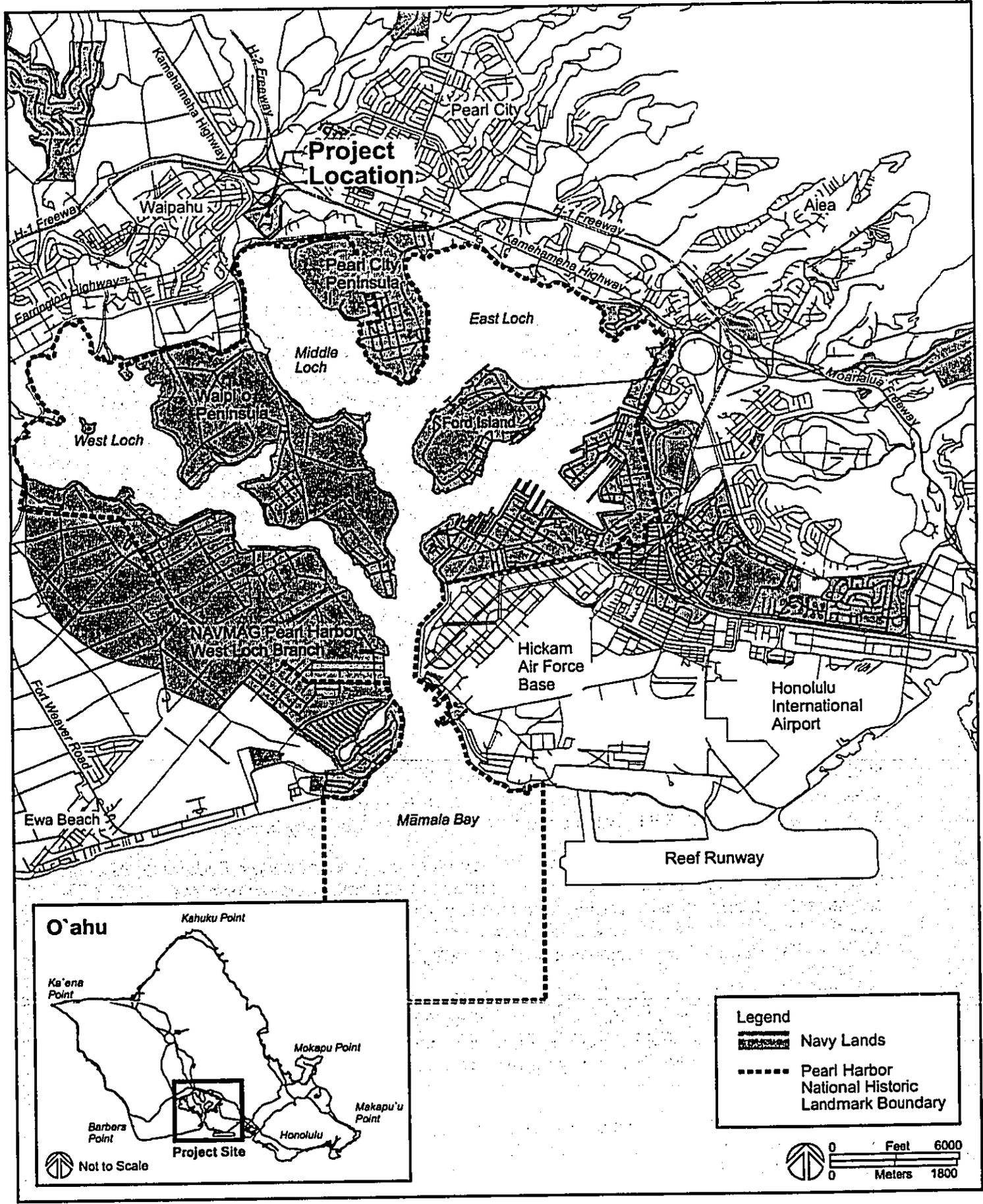


Figure 1: Project Location Map (Pearl Harbor)

Disposal of the `Ewa Drum Property
 Environmental Assessment
 O`ahu, Hawai`i

1.4 Regulatory Overview

The following is a discussion of the Federal laws and consultations that may be relevant to implementing the Proposed Action.

1.4.1 National Environmental Policy Act

This EA was prepared in accordance with the National Environmental Policy Act (NEPA) of 1969 (42 United States Code (USC) §4321 to 4370f), as implemented by the Council on Environmental Quality (CEQ) regulations, Title 40, Code of Federal Regulations (CFR) Parts 1500-1508 (40 CFR §1500 *et seq.*) and the Office of the Chief of Naval Operations Instruction 5090.1B, CH-4 Environmental and Natural Resources Programs Manual of June 4, 2003. This EA analyzes the potential impacts of the Proposed Action and reasonable alternatives and is intended to provide sufficient evidence and analysis for determining whether to prepare an Environmental Impact Statement or a Finding of No Significant Impact.

1.4.2 National Historic Preservation Act

The National Historic Preservation Act (NHPA) of 1966 (as amended) (16 USC §470 *et seq.*) recognizes the Nation's historic heritage and establishes a national policy for the preservation of historic properties as well the National Register of Historic Places (NRHP). Section 106 of the NHPA requires Federal agencies to take into account the effects of federal undertakings on historic properties and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings. The Section 106 process, as defined in 36 CFR §800, provides for the identification and evaluation of historic properties for determining the effects of Federal undertakings on such properties, and for developing ways to resolve adverse effects in consultation with relevant parties.

1.4.3 Coastal Zone Management Act

The purpose of the Coastal Zone Management Act (CZMA) of 1972, as amended (16 USC §1451 *et seq.*) is to encourage coastal states to manage and conserve coastal areas as a unique, irreplaceable resource. Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved State management programs. However, land subject solely to the discretion of the Federal government, such as federally owned or leased property is excluded from the coastal zone. The proponent of the Navy action must determine whether the action would affect any coastal use or resource in a coastal state.

1.4.4 Hawaiian Home Lands Recovery Act (HHLRA)

The HHLRA (Public Law 104-42, 109 Stat. 357) was signed into law on November 2, 1995. The HHLRA provides for the settlement of disputed land transfers by establishing a mechanism for valuing lands that were initially designated as available lands under Section 203 of the Hawaiian Homes Commission Act of 1921 (HHCA) (42 Stat. 108) and were nevertheless transferred to or otherwise acquired by the Federal Government, and authorizing an exchange of land based upon the determination of value. It authorizes

the Secretary to convey Federal lands to DHHL. Such conveyances are in exchange for the continued use of real property identified as "available land" for native Hawaiians under the HHCA retained by the Federal Government as well as in compensation for lost use of such lands. The full text of the HHLRA is attached in Appendix A.

1.4.5 HHLRA Memorandum of Agreement

The MOA dated August 31, 1998, between the Secretary and the DHHL was executed pursuant to the HHLRA. The MOA identified nine separate parcels, including the Ewa Drum parcel, totaling 960 acres (388.5 ha) for conveyance to the State of Hawai'i in exchange for release of claims or actions related to the United States' continued or past use of the "available lands" under the HHCA (42 Stat. 108). The full text of the MOA is attached in Appendix B.

2.0 PROPOSED ACTION AND ALTERNATIVES

2.1 Introduction

This chapter provides a discussion of the Proposed Action and two alternatives, and presents the environmental consequences of each.

2.2 Description of Alternatives

The following alternatives (including the Proposed Action) were considered for the 'Ewa Drum site:

- Proposed Action: Disposal to DHHL for use consistent with C&C A-2 District.
- Light Industrial Alternative: Disposal to DHHL for light industrial land use
- No Action Alternative

A comparison of the environmental impacts of the Proposed Action and other alternatives is presented at the end of this chapter in Table 3.

2.2.1 Proposed Action

CNRH proposes to dispose of the approximately 55.9-acre (22.6-ha) 'Ewa Drum property to DHHL, which forecasts using part of the area for the construction of multi-family housing. There are several highway-related easements on the property, totaling approximately 16.4 acres (6.6 ha). In addition, approximately 5.7 acres (2.3 ha) would be reserved for a possible new collector roadway. Therefore, the net area available for development is approximately 33.8 acres (13.7 ha) which includes several utility easements. Figure 2 shows the site and nearby land uses, including existing roadways and adjacent educational facilities. Figure 2 also shows the approximate alignment for a possible future collector road through the site. The connector road is being considered by the State Department of Transportation (DOT) as an alternate to Ala 'Ike Street — the only current access to Leeward Community College (LCC) — consistent with LCC's Long Range Development Plan (1995).

The 'Ewa Drum property is located within the State's Urban Land Use District and is currently zoned AG-2 General Agricultural District by the C&C. The site is identified as Industrial in the C&C's Central O'ahu Sustainable Communities Plan (COSCP), Central O'ahu's community vision for the area. As a State agency, DHHL is not required to follow the C&C's land use regulations but it has forecasted a use consistent with the C&C's A-2 District. The intent of the A-2 District is to provide areas for medium density, multi-family dwellings. The C&C's development standards for the A-2 District allow a maximum floor-area-ratio (FAR) of 1.9 and a maximum building height consistent with zoning maps approved by the City Council. The maximum height currently recommended by the COSCP for medium density apartment districts is 60 feet (ft) (18.3 meters (m)). The A-2 District development standards also require that 60 percent of the property remain in open space.

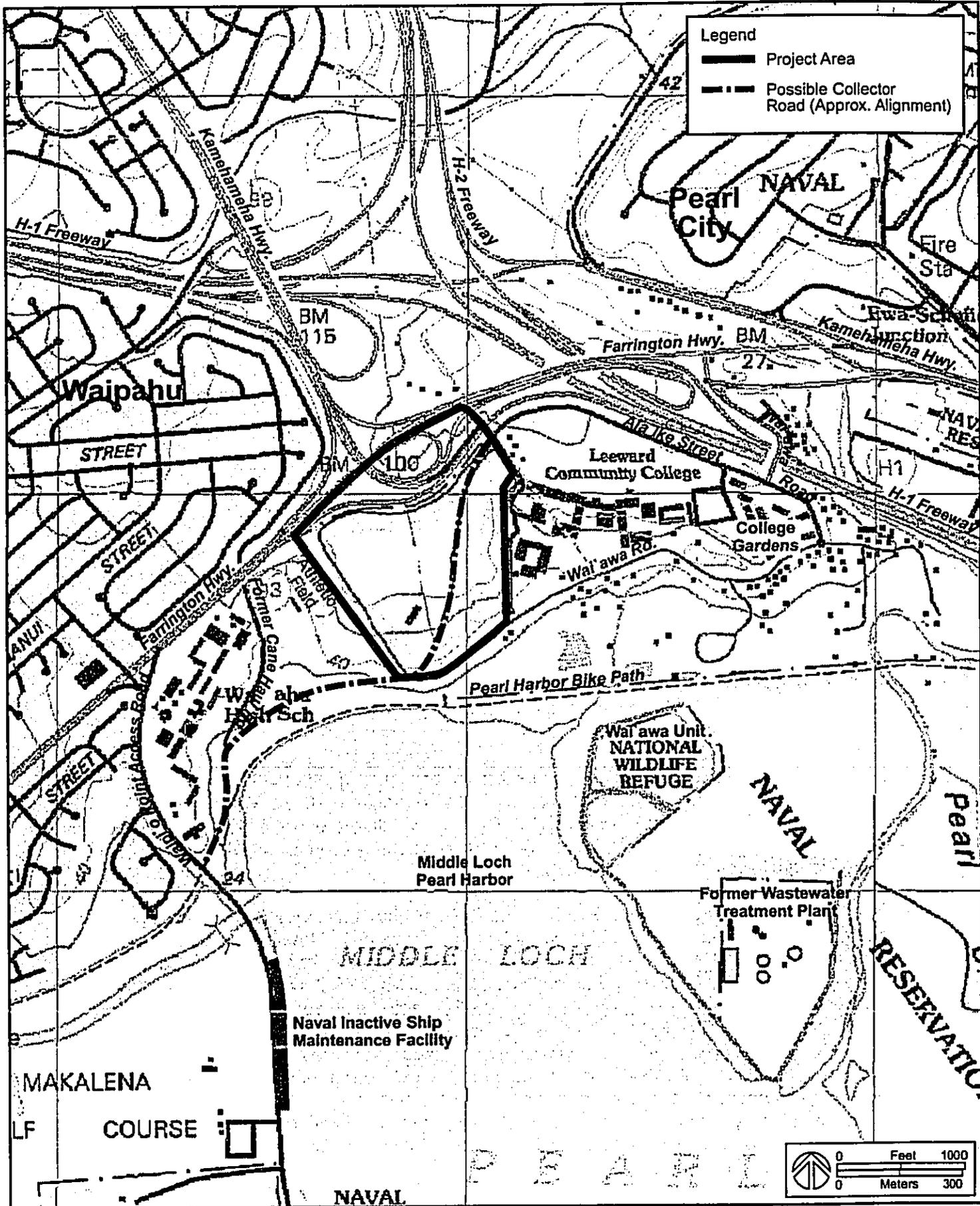


Figure 2: Roadways and Land Uses near Project Area

Under the Proposed Action, the reasonably foreseeable development within the site would include the following:

- Construction of multi-family housing units;
- Construction of a possible new collector road by the DOT through the site to provide both a second access to LCC, located immediately east of the site, and to the proposed residential development; and
- Construction of associated facilities, such as stormwater detention areas, parking and recreation areas, and off- and on-site infrastructure and roadway improvements.

Table 1 indicates the utilization of land within the site for the development scheme under the Proposed Action. Assumptions and factors used in the assessment are provided subsequently.

Table 1: Reasonably Foreseeable Use: Proposed Action

Use	Acres	Units	Population
Multi-family Residential	13.5	675	1,800
Collector Road	5.7		
Open Space	20.3		
Totals	39.5	675	1,800

- **Multi-family Residential.** For purposes of this analysis, it is assumed that 33.8 acres (13.7 ha) of the approximate 55.9-acre (22.6-ha) site is available for development, after deducting the existing highway easement area (16.4 acres (6.6 ha)) and the proposed 5.7-acre (2.3-ha) collector road right-of-way (ROW). The maximum building coverage would be restricted to approximately 13.5 acres (5.5 ha) to meet the 60 percent open space requirement of the A-2 District. Residential density and household size was determined by comparing density and household size in A-2 Districts in the 'Aiea-Pearl City-Waipahu area and then examining other DHHL residential developments and practices. Based on the similarity with other DHHL multi-family projects, both density and average household size were assumed to be similar to that of the College Gardens² development. Accordingly, it was determined that the site would be able to support approximately 675 dwelling units (du) (33.8 acres x 20 du/acre, rounded) and a population of approximately 1,800 residents (675 du x 2.61 persons/household, rounded).
- **Collector Road.** A possible new collector road through the 'Ewa Drum property is being considered by DOT to provide a second access to LCC and would also potentially serve development associated with the Proposed Action. The collector road would connect Waipi'o Point Access Road with Ala 'Ike Street as shown on Figure 2. For planning purposes, it is assumed that the ROW dimensions for the collector road through the site would be approximately 2,300

² College Gardens Phase I-IV, 96-210 Wai'awa Road. TMK 9-6-3:40, 6,341 ac., 120 units (or approximately 20 du per acre). Household size estimated at 2.61 per Census 2000 Summary File 1, 100-Percent Data.

ft (701 m) long by 108 ft (32.9 m) wide for a total area of approximately 5.7 acres (2.3 ha).

- Open Space. The A-2 District requires 60 percent of the zoning lot to be maintained in open space. Open space would consist of a number of components, including park area(s), stormwater detention basin(s), and general open space(s) which may include parking areas, local streets and driveways, and other recreation areas. The project would need to provide a minimum of 1.7 acres (0.7 ha) of park area according to the C&C Park Dedication Ordinance (Chapter 22, Article 7 Revised Ordinances of Honolulu). The ordinance requires 110 square feet (ft²) (10.2 square meters (m²)) of park area, or equivalent *in lieu* fees, to be provided for each multi-family residential unit (110 ft² x 675 du = 1.7 acres).

2.2.2 Light Industrial Alternative

Although DHHL forecasts use of the area for A-2 District purposes, it may decide on an alternate use for the property in the future, such as Light Industrial (note: the HHCA allows for non-residential uses of Hawaiian Home Lands, such as industrial). The COSCP identifies the 'Ewa Drum site for future industrial land use. It defines the industrial zone as including "facilities for light- and service-related industrial uses associated with repair, processing, construction, manufacturing, transportation, wholesaling, distribution, storage and similar economic activities." This description is consistent with the C&C's I-1 (Limited Industrial District) zoning district which provides for a maximum FAR of 1.0 and a maximum building height of 40 ft (12.2 m).

Under the Light Industrial Alternative, reasonably foreseeable development at the site would include the following:

- Construction of light industrial floor area,
- Construction of a new collector road (see Proposed Action), and
- Construction of associated facilities, such as stormwater detention areas, parking areas, and off- and onsite infrastructure and roadway improvements.

Following the City's I-1 development standards, approximately 1.47 million square feet (msf) (136,375 m²) of floor area could be developed for light industrial purposes in addition to roadways and parking (33.8 acres x 1.0 FAR = 1.47 msf). For general estimation purposes, it is assumed that this development would occur in two-story buildings, consistent with other light industrial facilities found in the area. Therefore, the light industrial building footprint would occupy approximately 16.9 acres (6.8 ha) of the site, with the remaining 16.9 acres (6.8 ha) used for open space, including internal roads and parking areas. Based on a standard identified by the Institute of Transportation Engineers for General Light Industrial Parks (Trip Generation, 6th Edition, 1997), it is estimated that one job is created for every 500 ft² (44.6 m²) of gross square footage resulting in the potential for approximately 2,900 jobs (1.47 msf/500 ft² = 2,900 jobs, rounded).

Table 2 indicates the utilization of land within the site for the development scheme under the Light Industrial Alternative.

Table 2: Reasonably Foreseeable Use: Light Industrial Alternative

Use	Acres	Floor Area (msf)	Jobs
Industrial Park	16.9	1.47	2,900
Collector Road	5.7		
Open Space	16.9		
Totals	39.5	1.47	2,900

2.2.3 No Action Alternative

The No Action Alternative would preserve the status quo. CNRH would retain ownership of the property in caretaker status with no functional, operational or strategic value. There would be no redevelopment of the site.

The No Action Alternative would not achieve the purpose of the project but was carried forward in the analysis as a benchmark against which to compare the magnitude of environmental effects of the alternatives including the Proposed Action.

2.3 Environmental Effects of the Proposed Action and Alternatives

Table 3 summarizes the environmental effects of the Proposed Action and alternatives. The information in the table is summarized from Chapter 4, Environmental Consequences.

Table 3: Summary of Environmental Effects of the Proposed Action and Alternatives

Resource Issue	Proposed Action (Multi-Family Residential)	Light Industrial Alternative	No Action Alternative
Topography, Soils, and Drainage; Biological Resources; Cultural Resources; Air Quality; Noise; Ground and Surface Water Resources; Visual Resources; Land Use	No significant impact. Short-term impacts associated with grading and construction activities. Site supports no threatened or endangered plants or animals. No historic properties affected.	Same as Proposed Action.	No impact.
Hazardous/Regulated Materials	No significant impact. The United States will be responsible to comply with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 pursuant to paragraph 6, page 3 of the HHLRA MOA.	Same as Proposed Action.	No impact.
Traffic	No significant impact. Impacts from foreseeable use would be minimized via construction of on and off site traffic improvements. Short-term construction period impacts. Operational-period impacts associated with increased traffic. Reasonably foreseeable offsite improvements include signalization of Wai'awa Road's intersection with Farrington Highway (westbound), retiming of the existing Farrington Highway (eastbound), intersection signal and reconfiguration of Wai'awa Road's intersection with Ala 'Ike Street.	Same as Proposed Action plus construction of two additional travel lanes on Wai'awa Road, potentially requiring bridge widening, replacement or construction of a second bridge.	No impact.

3.0 AFFECTED ENVIRONMENT

This chapter describes the environmental setting and baseline conditions of the environmental resources affected by the Proposed Action and alternatives.

3.1 Overview

The 55.9-acre (22.6 ha) 'Ewa Drum property is located in the south-central region of O'ahu, inland of the Middle Loch of Pearl Harbor between the Pearl City and Waipi'o Peninsulas (Figure 1). Farrington Highway lies to the north, the Middle Loch of Pearl Harbor to the south, Waipahu High School to the west, and LCC to the east. Between the property and Middle Loch are vegetated areas, the former O'ahu Railway & Land Company (OR&L) railway ROW now serving as a local access road, the State Energy Corridor, and the Pearl Harbor Bike Path. Some farming occurs southeast of the site. The site is approximately one-mile (1.2 kilometers (km)) west of Pearl City. Figure 3 presents an aerial view of the property and adjacent lands.

The 'Ewa Drum property is the site of a former drum filling and fuel storage facility. The facility is no longer in operation but remains fenced, and its improvements on the landscape are still evident. Most of the facility was situated in the level, north-central portion of the site. The former drum filling plant is located in the southwestern corner of the site.

Topography, Soils, and Drainage. The topography of the 'Ewa Drum property generally slopes towards Pearl Harbor, although it varies somewhat within the site. The terrain in the north-central portion of the site is level, while the east and southeast portions of the site slope gradually to the south and southeast toward Middle Loch. The southwestern part of the site was graded to create a level area for the drum filling plant. Ground elevations range from about 20 ft (6.1 m) above sea level to about 100 ft (30.5 m) above sea level.

There are several different soil associations within the site. The majority of the site is comprised of "Waipahu silty clay, 6 percent to 12 percent slopes" soils. This soil is considered well-drained, with medium runoff, and a moderate erosion hazard potential. The site also supports some small inclusions of "Pearl Harbor clay" and "Honouliuli clay, 0 percent to 2 percent slopes" soils.

The primary receiving water body for runoff from the 'Ewa Drum property is the Middle Loch of Pearl Harbor, located approximately 200 ft (61 m) from the southernmost property boundary. There are no wetlands or other permanent water bodies on the site, although there are several drainage channels that flow towards Middle Loch.

Biological Resources. The subject site is dominated by the invasive shrub koa haole (*Leucaena leucocephala*). The principal scrub understory species is California grass (*Brachiaria mutica*). Kiawe (*Prosopis pallida*) is present mainly at the higher elevations near the tank locations and in some parts of southern portions of the site. The majority of the open areas previously cleared are now dominated by non-native California grass, swollen fingergrass (*Chloris barbata*), sourgrass (*Digitaria insularis*), partridge pea



Figure 3: Aerial Photograph of Project Area

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(*Chamaecrista nictitans*), Chinese violet (*Asystasia gangetica*) 'uhaloa (*Waltheria indica*), golden crown beard (*Verbesina enceliodes*) and Mexican creeper (*Antigonon leptopus*). There are currently no endangered or rare plant species on the site due to the history of disturbance (Department of the Navy 1996).

Twelve species of birds have been observed in previous surveys of the site, including the dominant Zebra Dove (*Geopelia striata*), Spotted Dove (*Streptopelia chinensis*), Red-vented Bulbul (*Pycnonotus cafer*), Common Waxbill (*Estrilda astrild*) and Chestnut Mannikin (*Lonchura malacca*). Mammals known to frequent the site include the black rat (*Rattus rattus*), house mouse (*Mus musculus*), and the small Indian mongoose (*Herpestes auropunctatus*). None of these birds or mammals are federally listed or endangered species (Department of the Navy 1996). Figure 4 presents photographs of representative existing site conditions.

The Wai'awa Unit of the Pearl Harbor National Wildlife Refuge is located over 1,000 ft (305 m) southeast of the site. It is comprised of two ponds, one of which is primarily managed for the endangered Hawaiian Black-necked Stilt (*Himantopus mexicanus knudseni*) or ae'o. The Refuge's estuarine environment is ideal for establishing a host of food resources for all four endangered waterbird species (other species being the Hawaiian Coot (*Fulica alai*) or 'alae ke'oke'o, the Common Moorhen (*Gallinula chloropus sandvicensis*) or 'alae 'ula, and the Hawaiian Duck (*Anas wyvilliana*) or koloa maoli). None of these waterbird species are known to inhabit the 'Ewa Drum property.

Cultural Resources. The NHPA defines historic property as "any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in the National Register..." (16 USC 470w). For the purposes of this EA, the terms "historic properties" and "cultural resources" are used synonymously. The two categories of historic properties considered in the EA are archaeological sites and historic buildings.

The 'Ewa Drum fuel facilities formerly located at the site were constructed after the Japanese attack on December 7, 1941, along with several other fuel storage and transfer facilities at Hickam Field, Pearl Harbor, and Barbers Point Naval Air Station, in addition to a main tank at Waikakalaua Gulch. Pipelines linked these together and also connected the 'Ewa Drum facilities to the 'Ewa Marine Corps Air Station and Barbers Point Naval Air Station. On its way to Pearl Harbor, the 'Ewa Drum fuel transfer pipeline traverses along the OR&L ROW that is now the bike path around Pearl Harbor. Together, these facilities were intended to function as a reserve system before the war, and were created as a joint Army-Navy War Reserve Fuel Storage system. During the war the facilities effectively became a dispensing rather than a reserve system, and were subject to constant use (CNRH ICRMP 2002: pps 3-151, 3-235).

Early archaeological studies in the vicinity of the 'Ewa Drum were conducted by McAllister in 1933, followed by Handy and Handy in 1972 and later Sterling and Summers in 1978. Little is known about Wai'awa ahupua'a,³ except that many Historic Period and recent activities have significantly altered the landscape there, and as a result erased much of the pre-Contact archaeological record. Archival research and ethnographic interviews indicate that the general vicinity of the 'Ewa Drum is associated

³ An ahupua'a is a traditional Hawaiian land division segment, normally extending from the uplands or mountains to the sea.



Vegetation in project area looking east towards Leeward Community College



Building 9, former drum filling facility



Vegetation in lower portion of property looking south into Middle Loch



Remnants of fuel facilities and vegetation looking northeast

Date of Photographs: September 2003

Figure 4: Existing Site Conditions

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with certain legendary Hawaiian locations, including Hanapouli, Hālaulani, and Kūpahu; however, none of these sites have been specifically linked to the 'Ewa Drum property.

Many studies have been conducted and historical information recorded concerning Waipi'o ahupua'a, in the 'Ewa District, and Moanalua ahupua'a in the Honolulu District. Among others, Goodman and Nees (1991) and Williams *et al.* (1995), have concluded that these lands were used for grazing and plantation agriculture during the Historic Period, before being acquired by the U.S. Military for tactical and training purposes between 1900 and 1940.

Previous cultural resource studies of the 'Ewa Drum property included a Phase I archaeological reconnaissance survey conducted by Rechtman and Henry in 1998 and a follow-up survey by NAVFAC Pacific archaeologists in 2003. The archaeological investigations did not locate any significant sites as defined in the National Register Bulletin 15 (1991). No pre-contact native Hawaiian material was observed within the property. Moreover, due to the amount of prior disturbance and development in the area, it is highly unlikely that any cultural resources, if they once existed there, would still be present (Rechtman and Henry 1998: 6).

Building 9, the drumming facility on the property, is identified as a Category III historic structure in the Pearl Harbor Cultural Resources Management Plan (CNRH 2000).⁴ Because of its deteriorated condition and loss of integrity, the structure is no longer considered historically significant.

Air Quality and Noise. The State Department of Health (DOH) monitors air quality on O'ahu. The air in Hawai'i is relatively clean and low in pollutants. Based on air quality data collected and published by DOH, Hawai'i is considered an attainment area, not subject to the Clean Air Act's General Conformity Rule. Hawai'i's air quality is within the National and the State Ambient Air Quality Standards for carbon monoxide, nitrogen dioxide, sulfur dioxide, ozone, particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers, and lead. Hawai'i also complies with the State Ambient Air Quality Standards for hydrogen sulfide.

Noise levels at the site are predominantly a function of the amount of traffic on Farrington Highway and other nearby roadways and any noise-generating activities that might be occurring in the surrounding areas including the Waipahu High School athletic field, LCC, and industrial operations associated with the Naval Inactive Ship Maintenance Facility in Middle Loch.

Hazardous and Regulated Materials. The 'Ewa Drum property is the location of a previous fuel spill. In March 1971, vandals activated a fuel pump at one of the two 585,000 gallon (2,214,400 liter (L)) underground storage tanks on the property, releasing approximately 315,000 gallons (1,192,370 L) of gasoline onto the ground. The Navy began recovery operations immediately after the spill was reported and, during those

⁴ The 2000 Pearl Harbor Cultural Resources Management Plan defines historic categories as follows: I = aspects of the built environment that possess major historic significance and are worthy of long-term preservation; II = possess sufficient historic significance to merit consideration for long-term preservation, but do not meet the criteria for assignment to Category I; III = possess sufficient historic significance to merit consideration in planning and decision making, but are not eligible for assignment to Category II; IV = do not possess sufficient significance or are lacking in importance and are not eligible for the National Register of Historic Places.

efforts, 32,000 to 47,000 gallons (121,130 to 177,910 L) were recovered or evaporated from the ground surface. The remaining fuel infiltrated into the ground. Extraction wells and an interceptor trench were constructed to prevent the infiltrated fuel from reaching the watercress farms south of the property. More than 100,000 gallons (378,540 l) were recovered within the first year of clean-up efforts. Recovery rates then decreased to very low levels, indicating that the remaining fuel was bound to the soil, or existed as droplets or small pools within the subsurface. Free fuel product has not been detected in the subsurface in over 10 years as the fuel constituents have dissolved into the caprock ground water.

A Phase II Remedial Investigation, initiated in 1998, confirmed that the fuel spill had not impacted the farm area and would not be likely to affect it in the future. Maximum concentrations detected in caprock ground water in 1998 and 1999 were below screening criteria based on current and potential future land and water uses. The underlying caprock aquifer is not a drinking water source and hydrogeological constraints prevent transport of contaminants from the site to the deep aquifer.

The investigations by the Navy demonstrated that residual contamination associated with the 1971 gasoline spill does not threaten human health or the environment. No further action was recommended. The DOH concurred with this recommendation by letter dated March 8, 2002.

Ground and Surface Water Resources. The site is located within the C&C's "No Pass Zone" (areas in which the installation of waste disposal facilities, which may contaminate groundwater resources used or expected to be used for domestic water supplies, shall be prohibited). The underlying caprock aquifer is not a drinking water source. There are no perennial streams crossing the site. There are no wetlands or other permanent water bodies on the site, although there are several drainage channels that flow towards Middle Loch.

Visual Resources. The 'Ewa Drum property is currently fenced and consists of vacant, feral land covered with grasses and other scrub vegetation. The property is located, generally, within the highly urbanized area of Pearl City and Waipahu, although the land uses in the immediate project area are mixed, and include educational (Waipahu High School and LCC), agricultural, residential, and recreational uses.

The 'Ewa Drum property is largely out of view from passing motorists on roadways in the area, including Farrington Highway and the H-1 Freeway, due to its sloping topography and extensive vegetative growth. The site is visible from LCC, Waipahu High School, and from the Pearl Harbor Bike Path and Middle Loch.

The Coastal View Study prepared for the C&C (1987) indicates that significant stationary views can be found south of LCC (looking towards Pearl City Peninsula and into Middle Loch) and from Waipahu High School looking into Middle Loch. The site offers the same views of Pearl Harbor and would not intrude into views available from adjacent properties.

Land Use. Existing land use is categorized as vacant, feral land covered with grasses and other scrub vegetation with remnants of a military fuel storage operations. Adjacent uses from the north in a clockwise direction include an H-1 east bound freeway on ramp,

LCC, the Pearl Harbor Bike Path and energy corridor, and the Waipahu High School football stadium.

Public Infrastructure and Services. Public infrastructure is not currently provided directly to the 'Ewa Drum property, although both of the adjacent educational institutions receive utility services. In addition, a waterline easement reserved to the Bishop Estate passes through a small portion of the site at the very eastern edge to serve the farms located southwest of the property. A State Energy Corridor easement is located along the southern boundary of the property adjacent to the former OR&L ROW alignment. Fuel and gas lines are located within this easement.

The primary sources of potable water for the region come from the Waipahu wells. Water service to the adjacent property, LCC, is provided by an 8-inch (20.3-centimeter (cm)) main from the Honolulu Board of Water Supply (BWS) Waipahu "228" System at the intersection of Waipahu Street and Kahualena Street in Waipahu. Although this main was installed primarily for LCC, other service connections to the main have since been permitted by BWS. The largest is a 12-inch (30-cm) extension along Ala 'Ike Street for residential developments along Wai'awa Road.

Wastewater generated within LCC is conveyed through a 10-inch (25-cm) sewer that connects to the C&C's 18-inch (46-cm) sewer running along the OR&L ROW, and terminates at the Pearl City Sewage Pump Station. Via a series of pump stations, force mains, and gravity sewers, the wastewater is ultimately conveyed to the Honouliuli Wastewater Treatment Plant (WWTP). The capacity of the Honouliuli WWTP is 38 million gallons per day (mgd) (144 million liters per day (mLd)). New connections to the Honouliuli WWTP are allocated on a "first come, first served" basis.

Electrical power is provided by the Hawaiian Electric Company (HECO). HECO's current available generation capacity is approximately 1,669 megawatts (mW), with a present peak coincident demand of about 1,233 mW. On O'ahu, 138 kilovolt (138-kV) transmission lines transport bulk electricity to transmission substations that reduce the power to 46-kV. Then 46-kV lines serve local area substations, further reducing the voltage to 12-kV or 4-kV. LCC, adjacent to the 'Ewa Drum property, is serviced with dual 12.47-kV feeders which terminate on campus.

The 'Ewa Drum property is located within the Waipahu public school district, immediately east of Waipahu High School. The nearest elementary school to the property is August Ahrens Elementary School, located approximately one-mile (0.6 km) west of the site. Waipahu Elementary and Waipahu Intermediate Schools are located approximately 2 miles (1.2 km) to the west. The capacity and enrollments at these schools for the 2003 to 2004 school year are shown on Table 4.

Table 4: Waipahu Public Schools Near Project Area

School	Capacity	Enrollment (2003-2004)
August Ahrens Elementary School	1,569	1,233
Waipahu Elementary School	856	1,070
Waipahu Intermediate School	1,215	1,378
Waipahu High School	2,060	2,338

Source: State Department of Education, Facilities Department, 2003

According to the State Department of Education (DOE), August Ahrens Elementary School completed construction of an 8 classroom building in November 2004. It added capacity of approximately 150 students. Portables may be removed in the future depending on enrollment. Waipahu High is also getting an 8 classroom building, estimated to be completed by August 2006. It will add capacity of approximately 150 students. No major Capital Improvement Projects (CIP) are planned for Waipahu Elementary School. Waipahu Intermediate School is receiving a new cafeteria, scheduled to be completed in 2005.

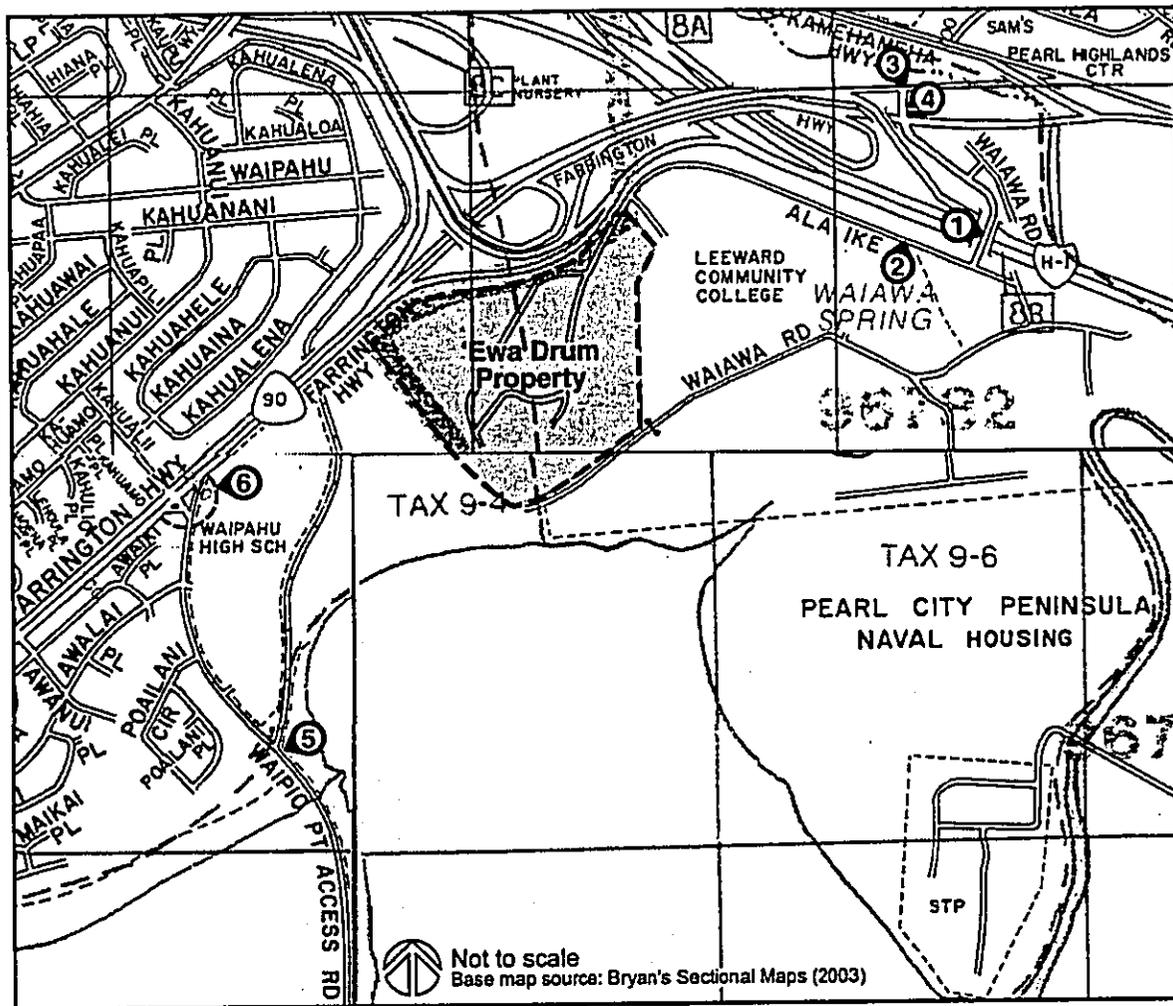
Police protection to the area is provided by District 2 Pearl City Station, approximately 1 mile (1.6 km) to the east. Fire protection, as well as Emergency Medical Services, is provided primarily by units working out of the Waipahu Fire Station (Station 12) approximately 2 miles (3.2 km) to the southwest. Other fire stations in the area include Station 20 at Pearl City, Station 42 at Waikele, and Station 10 at 'Aiea.

A number of park and recreational facilities exist in the area. The Pearl Harbor Bike Path is located immediately south of the site and the Ted Makalena Golf Course and Waipi'o Peninsula Soccer Park are located one-half mile (0.9 km) and one mile (1.8 km) southwest of the site, respectively, on Waipi'o Peninsula. Other recreational facilities nearby include the Waipahu District Park, Central O'ahu Regional Park and Waipahu Cultural Gardens.

Socioeconomic Factors. The site is located within the Leeward O'ahu region that is undergoing a major transition from a plantation-based economy to a new urban center and bedroom community for Honolulu workers. Regional population is expected to increase from 43,000 residents in 1995 to almost 125,000 residents in 2020. Employment levels are expected to increase from 17,000 to 64,000 jobs over the same period (C&C 2003).

3.2 Traffic

Access to the 'Ewa Drum property is via a series of intersections and exit ramps from Farrington Highway, Kamehameha Highway and H-1 interchanges (Figure 5). Wai'awa Road (1), a two-way, two lane access road crosses over H-1 from Farrington Highway to Ala 'Ike Street (2), a two-lane road that runs along the northern boundary (H-1 Freeway frontage) of LCC and terminates at the western end of the 'Ewa Drum property. Wai'awa Road intersects with Farrington Highway at two locations. At its intersection with the highway's westbound lanes (3), left turns from the highway are made freely, while left turns onto the highway yield to highway traffic. At the intersection with the



(Locations keyed to map)

1. Wai'awa Road
2. Ala 'Ike Street
3. Wai'awa Road/Farrington Highway westbound intersection
4. Wai'awa Road/Farrington Highway eastbound intersection
5. Waipi'o Point Access Road/OR&L ROW intersection
6. Waipi'o Point Access Road/Farrington Highway intersection

Figure 5: Roadway Access

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highway's eastbound lanes (4), a traffic signal controls movements across the intersection. Morning (AM) peak hour traffic at the westbound intersection operates at acceptable levels of service, although midday and afternoon (PM) peak hour left turns from Wai'awa Road to Farrington Highway experience very long delays. Traffic at the signalized intersection operates at acceptable levels of service.

There is also a single-lane road within the former OR&L ROW that follows the south border of the property that provides local access to farms in the area. It connects with Waipi'o Point Access Road to the west of the property (5). Waipi'o Point Access Road intersects with Farrington Highway at a signalized intersection (6). During the AM peak hour, conditions are poor as traffic volumes exceed the capacities available with very long delays for most turning movements. DOT is evaluating the feasibility of constructing a new secondary access to LCC connecting to the Waipi'o Point Access Road/OR&L ROW intersection (5).

4.0 Environmental Consequences

4.1 Overview

This chapter evaluates the probable direct, indirect, short-term, long-term and cumulative environmental impacts of the Proposed Action and the Light Industrial and No Action alternatives.

The improvements discussed in the following sections are included for the purpose of analyzing environmental impacts for this EA, but do not commit CNRH or DHHL to making these improvements. DHHL would need to verify infrastructure requirements and identify specific upgrades to infrastructure systems prior to development.

Topography, Soils, and Drainage. The Proposed Action and alternatives would not have significant impacts on topography, soils, and drainage, although grading associated with future development of the site would impact the site's existing landscape.

Biological Resources. The Proposed Action and alternatives would not have a significant impact on existing biological resources in the project area. The severity of the impact would depend on the extent to which the vegetation is removed. No species of plants or animals that are proposed for listing or are listed as threatened or endangered species under the Endangered Species Act have been observed, or would be expected to occur, on the 'Ewa Drum property. There are no wetlands on the property. Under the No Action Alternative, no vegetation would be removed and there would be no impact to biological resources in the project area. The Wai'awa Unit of the Pearl Harbor National Wildlife Refuge is located over 1,000 ft (305 m) southeast of the site.

Cultural Resources. For the purposes of this analysis, significant cultural resources are those properties listed or eligible for listing in the NRHP. As defined in the implementing regulations for Section 106 of the NHPA, impacts of an undertaking on significant cultural resources are considered adverse if they "diminish the integrity of the property's location, design setting, materials, workmanship, feeling, or association" [36 CFR § 800.9 (b)]. Examples of adverse effects include, but are not limited to, the following:

- Physical destruction, damage, or alteration of all or part of the property;
- Isolation of the property from, or alteration of the character of, the property's setting when that character contributes to the property's qualification for listing on the NRHP;
- Introduction of visual, audible, or atmospheric elements that are out of character with the property, or alter its setting;
- Neglect of a property resulting in its deterioration or destruction; and
- Transfer, lease, or sale of the property [36 CFR § 800.9 (b)].

Navy consultations with the State Historic Preservation Officer (SHPO), the O'ahu Council of Hawaiian Civic Clubs, and the Office of Hawaiian Affairs (OHA) raised no concerns about the Proposed Action. Upon conclusion of NHPA Section 106

consultations, CNRH reached a determination of "no historic properties affected" for the Proposed Action. SHPO did not object to CNRH's finding within the 30-day review period. In accordance with 36 CFR § 800.4(d)(1), CNRH's responsibilities under Section 106 have been fulfilled. In its response, OHA indicated it agrees with a "no adverse effect" determination. Correspondence related to the Section 106 consultation process is included in Appendix D.

Air Quality and Noise. The Proposed Action and Light Industrial Alternative are not expected to significantly affect air quality and noise. Some temporary short-term air quality and noise impacts would be expected during construction associated with development on the property and during the operational phase, primarily associated with vehicular traffic. The No Action Alternative would not affect air quality and noise.

Hazardous and Regulated Materials. CNRH is conducting an environmental baseline survey (EBS) prior to the potential transfer of land to DHHL. The Draft EBS (February 2004) found no indication of current environmental conditions that would be a threat to human health and the environment and future use of the site by DHHL for residential purposes. The EBS discovered the presence of suspected asbestos-containing materials and probable lead-based paint hazards on the site structures, the probable presence of creosote on numerous utility poles at the site, and the potential presence of fuel in the abandoned underground storage tanks, valve pits and pipelines at the site. The United States will be responsible for compliance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 per paragraph 6, page 3 of the HHLRA MOA. CNRH will remove the creosote poles, the two USTs and associated piping, close the recovery wells and trench, and cesspool prior to the land transfer. Soil samples will be taken and analyzed for possible contamination under the USTs. If required, CNRH will undertake clean-up and remedial actions in accordance with Federal and State regulations prior to the land transfer.

The Proposed Action and alternatives are not expected to create additional sources of environmental contamination.

Ground and Surface Water Resources. The Proposed Action and Light Industrial Alternative are not expected to adversely affect ground and surface water resources. CNRH will include a deed restriction to prohibit extraction/penetration to groundwater—to prevent inadvertent introduction of hazardous and regulated materials into the groundwater. The No Action Alternative would not affect ground and surface water resources.

Visual Resources. Given its location in an urbanized area with mixed uses, neither the Proposed Action nor the Light Industrial Alternative would be expected to have significant impacts visual resources of the area. Neither alternative would adversely affect identified public view planes. The No Action Alternative would not affect visual resources.

Land Use. Land use may change in both type and intensity: from low intensity use associated with a vacant, military fuel storage facility to substantially developed with reasonably foreseeable uses including housing and light industrial uses. The Proposed Action and the Light Industrial Alternative would however, be compatible with land use in

adjacent areas (community college and high school football stadium). The No Action Alternative would not affect land use.

Public Infrastructure and Services. According to Honolulu Board of Water Supply standards, the Proposed Action is expected to create an average daily demand of 0.35 mgd (1.33 mLd). The Light Industrial Alternative would result in an average daily demand of 0.21 mgd (0.79 mLd). According to C&C Department of Wastewater Management standards, the Proposed Action is expected to generate 0.14 mgd (0.55 mLd) of wastewater daily, while the Light Industrial Alternative would generate 0.11 mgd (0.41 mLd).

The Proposed Action and Light Industrial Alternative are not expected to have significant impacts on these public facilities and services. DHHL would need to verify projected requirements and demands on infrastructure systems, and coordinate with the relevant service providers, prior to development. The No Action Alternative would not affect public facilities.

According to DOE standards, the Proposed Action would generate an additional 148 students in local public schools: 74 in elementary school, 27 in intermediate school, and 47 in high school. Based on existing capacities, current enrollment, and planned improvements, August Ahrens Elementary School should be able to absorb the increased population associated with the Proposed Action, while the increase for the intermediate and high schools would marginally increase the current overcrowding in those facilities. Some families that move into the new residential area may already be in the same school district, continue enrollment in existing schools via school district exceptions, or have children attending private schools. Hence, the actual increase in students attending public schools may be substantially less than the projected increase. DHHL would coordinate its development schedule with DOE to minimize potential impacts to the public school system. The Light Industrial Alternative and the No Action Alternative would have no impact on public schools.

It is assumed the Proposed Action and Light Industrial alternatives would retain private security services, consistent with industry standards for master planned developments. The Proposed Action and alternatives would not significantly affect response time for police or emergency services.

According to the C&C's Park Dedication Ordinance (PDO), the Proposed Action would be required to provide a minimum of 1.7 acres (0.7 ha) of on site private park space or equivalent *in lieu* fees to address impacts to public parks. Compliance with PDO requirements would minimize potential impacts of the Proposed Action on recreational facilities in the area. The Light Industrial Alternative and the No Action Alternative would not impact public parks.

Socioeconomic Factors. The Proposed Action would potentially result in approximately 675 new homes that currently do not exist for native Hawaiians, add an estimated residential population of 1,800 to a site that currently has none, provide employment and income opportunities both in the construction phase and, to a lesser extent, in the operations phase, and, generate government revenues associated with taxes. The Light Industrial Alternative would potentially provide opportunities for approximately 2,900 light industrial-related jobs to a site that currently has none, provide

employment and income opportunities both in the construction and operations phases, generate government revenues associated with taxes, and at least indirectly, benefit native Hawaiians as beneficiaries of DHHL.

The increase in residential population (Proposed Action) or jobs (Light Industrial Alternative) is not considered significant for O'ahu, in that these households or workers would exist on the island with or without development of the site.

The Light Industrial Alternative would provide employment and income opportunities in the area that would at least indirectly benefit DHHL beneficiaries, and likewise has a potential to positively impact socioeconomic conditions in the general Leeward area when evaluated in conjunction with other reasonably foreseeable future actions.

The No Action Alternative would not affect socioeconomic factors.

4.2 Traffic

This section discusses the traffic impacts that would be generated by the Proposed Action and alternatives.

The intersection of Waipi'o Point Access Road and Farrington Highway is currently near capacity and there is limited opportunity to improve that intersection. These conditions make it a poor access point to serve LCC or project traffic—other than as an emergency access. In the AM peak hour, any LCC or project traffic would exacerbate the long queues in the westbound left turn lane and increase delays on the northbound approach. Similar effects would occur in the PM Peak Hour. Mitigation of these impacts would require substantial widening of all approaches to the intersection which would be difficult given the concentration of surrounding land uses (private residential lots and Waipahu High School). For these reasons, this access point was not considered further in this analysis. It was assumed that primary access to the site under either the Proposed Action or Light Industrial Alternative would be from Ala 'Ike Street.

4.2.1. Proposed Action

Direct, indirect, short-term, and long-term traffic impacts are anticipated from the Proposed Action. Potential impacts on local streets were evaluated by comparing projected regional traffic growth with projected project traffic. The Proposed Action would generate about 5,320 average weekday trips—about a 1 percent increase over projected regional trips (Table 5). With an overall growth in traffic volume of about 2% historically and between 0.5% and 1.5% per year that has been identified in regional studies, the Proposed Action would add daily traffic that would otherwise be expected in less than three years. Project-related traffic would be generated in the opposite direction from existing peak flow in the morning, while afternoon flow would be about equal in either direction.

Table 5: Regional Traffic Impact

<i>Alternative</i>	Average Weekday	AM Peak Hour	PM Peak Hour	Midday peak hour
Existing Traffic	550,000	41,600	39,000	29,400
Increase due to Proposed Action	5,320 1.0%	430 1.0%	575 1.5%	230 0.8%
Increase due to Light Industrial Alternative	8,700 1.6%	1,265 3.0%	1,465 3.8%	400 1.4%

Under the Proposed Action, various traffic improvements may be required to maintain adequate levels of service (Table 6). At the existing signalized intersection of Wai'awa Road and eastbound Farrington Highway, retiming of the signal could provide adequate capacity at that intersection. A new signal would be required at the westbound Farrington Highway intersection. The intersection of Wai'awa Road and Ala 'Ike Street would also need to be reconfigured to improve traffic flow from the bridge to Ala 'Ike Street.

4.2.2 Light Industrial Alternative

Direct, indirect, short-term, and long-term traffic impacts are anticipated from the Light Industrial Alternative. Potential impacts on local streets were evaluated by comparing projected regional traffic growth with projected project traffic. The Light Industrial Alternative would generate about 8,700 average weekday trips—about a 1.6 percent increase over projected regional trips (Table 5). The impact of this alternative to regional traffic volumes would be comparable to between one and three years of increases based on the daily volume. The impact to peak hour volumes, however, would be comparable to as much as eight years of growth.

Under the Light Industrial Alternative, various traffic improvements may be required to maintain adequate levels of service above and beyond those described for the Proposed Action (Table 6). Ala 'Ike Street and the Wai'awa Road bridge over H-1 would need additional capacity, including widening to four lanes. Alternatives for increasing capacity of the bridge include widening or replacing the existing facility or adding a second parallel bridge. In addition to improvements required by the Proposed Action, this alternative would require an additional two lanes of capacity at the Wai'awa Road intersection with westbound Farrington Highway, where two lanes for left turns and traffic signals would be needed.

4.2.3 No Action Alternative

The No Action Alternative would not affect traffic conditions.

Table 6: Summary of Potential Traffic Impacts and Required Improvements

Location	Existing Condition	Proposed Action	Reasonable Alternative
Intersection of Wai'awa Road and Ala 'Ike Street	Unsignalized-Stop signs controlling single lane east and westbound approaches.	Reconfiguration of intersection to make major flows the "through" movement.	Two lane bridge not adequate—need to widen bridge to add lanes for Wai'awa Road.
Wai'awa Road Bridge over H-1	Two traffic lanes, pedestrian path	Two traffic lanes, pedestrian path (no change)	Four traffic lanes, pedestrian path (need to widen, replace, or add new bridge).
Wai'awa Road	Two lanes (one each way), plus turn lanes at intersections	Two lanes (one each way), plus turn lanes at intersections (no change)	Four lanes (two each way), plus turn lanes at intersections.
Intersection of Wai'awa Road and Farrington Highway Eastbound	Traffic Signal controls movements	Adjust traffic signal timing.	Add a second lane each way across Farrington Highway and adjust traffic signal timing.
Intersection of Wai'awa Road and Farrington Highway Westbound	Unsignalized-Stop sign for traffic turning onto Farrington Highway from Wai'awa Road	Signalize the intersection.	Signalize the intersection and provide two left turn lanes from Wai'awa Road to Farrington Highway.
Regional Impacts		Impact would be comparable to the growth that would otherwise be expected to occur in less than three years—action would accelerate need for mass transit and/or highway widening.	Impact would be comparable to up to eight years of growth in traffic demand - action would accelerate need for mass transit and/or highway widening.
Second Access off of Waipio Point Road	None.	Not constructed, since timing of second access road improvement is uncertain and improvements will be needed at Farrington Highway and Waipio Point Access Road intersection.	Not constructed, since timing of second access road improvement is uncertain and improvements will be needed at Farrington Highway and Waipio Point Access Road intersection.

4.3 Cumulative Impacts

Cumulative impacts to environmental resources result from the incremental effects of development and other actions when evaluated in conjunction with other government and private, past, present and "reasonably foreseeable actions." Cumulative impacts can result from individually minor, but collectively significant actions, taking place over a period of time. Analysis of cumulative impacts was conducted on a qualitative basis, and included an assessment of known land use changes in the vicinity (none were identified), as well as future potential actions within the area (e.g., intensification of development on adjacent lands).

The Proposed Action or Light Industrial Alternative, in conjunction with future proposed actions in the area, collectively would not have a cumulative adverse impact on cultural resources. This determination is based on the understanding that once the properties are transferred, all future undertakings affecting historic properties in the area would be subject to review under State law, which provides protection for historic properties.

The Proposed Action and Light Industrial Alternative would adversely impact traffic and would require several roadway improvements to maintain adequate levels of service. Both of these alternatives represent a potential change from the current land use and an increase in population utilizing the property either for residential or light industrial purposes, and therefore would have a potential cumulative effect on traffic when evaluated in conjunction with other reasonably foreseeable future actions. DHHL would need to re-evaluate potential traffic impacts and required roadway improvements as part of its development process.

The disposal of the property would foreseeably provide additional housing or income opportunities for DHHL beneficiaries, and therefore, has the potential to have a positive cumulative socio-economic benefit for this group.

Reasonably foreseeable future actions that could be influenced by development of the site (i.e., either the Proposed Action or Light Industrial Alternative) include the expansion of LCC (along with increased enrollments), development of a nearby A-2 District located southwest of the site (corner of Waipi'o Point Access Road and the Pearl Harbor Bike Path), and conversion of farmlands located southwest of the site (adjacent to the Pearl Harbor Bike Path) to residential uses.

The No Action Alternative would result in the continued underutilization of a strategically located property, identified on State and County plans for urban uses to support the broader Leeward and Central O'ahu communities.

4.4 Compliance with Executive Orders

This section describes how the Proposed Action and alternatives comply with relevant Executive Orders.

4.4.1 Executive Order 12898, Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (11 February 1994), and the Secretary of the Navy Notice 5090 (27 May 1994) require the Navy to identify and address potential for disproportionately

high and adverse human health or environmental effects of their actions on minority and low-income populations.

There are no known significant or adverse environmental impacts, including human health, economic or social effects that would disproportionately affect minority or low-income communities resulting from the Proposed Action, Light Industrial Alternative or the No Action alternatives. The Proposed Action and Light Industrial Alternative would provide benefits to minority populations (i.e., DHHL beneficiaries) and low-income populations.

4.4.2 Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks

Executive Order 13045 (21 April 1997) requires Federal agencies to make children's health a high priority. To the extent permitted by law and appropriate and consistent with its mission, each Federal agency:

- Shall make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children; and
- Shall ensure that its policies, programs, activities and standards address disproportionate risks to children that result from environmental health risks or safety risks.

The Proposed Action and alternatives would not create environmental health and safety risks that may disproportionately affect children. Because no significant impacts on environmental resources are expected from the Proposed Action, it would not increase any health and safety risks to children.

4.5 Possible Conflicts Between the Proposed Action and the Objectives of Federal Land Use Policies, Plans and Controls

4.5.1 Hawai'i Military Land Use Master Plan (HMLUMP)

The Hawai'i Military Land Use Master Plan (HMLUMP) evaluated the military's strategic land use requirements in Hawai'i into the 21st Century, and identified several landholding reduction or acquisition proposals statewide. The plan identified the 'Ewa Drum property as potentially excess to the needs of the Navy. Disposal of the property would be consistent with the recommendations of the HMLUMP.

4.5.2 Commander, Navy Region Hawaii Regional Shore Infrastructure Plan Overview (2002)

The CNRH Regional Shore Infrastructure Plan Overview (2002) is intended to direct future planning and management decisions. Guiding principles of the plan emphasize:

- Protection of operational capabilities and mission readiness.
- Reduction of shore infrastructure costs and the reuse, divestiture or demolition of underutilized facilities.
- Optimized land use/facility locations.

The disposal of the 'Ewa Drum property would be consistent with the guiding principals.

4.5.3 Coastal Zone Management Act

The Navy has determined that the Proposed Action would not have reasonably foreseeable direct and indirect effects on any coastal use or resource of the State's coastal zone. However, prior to development of the 'Ewa Drum property, DHHL would need to make its own determination if development would have any foreseeable direct or indirect effect on the State's coastal use or resources and consult, as necessary, with the Hawai'i Coastal Zone Management Program Office.

4.5.4 Memorandum of Agreement between the United States of America and the State of State Department of Hawaiian Home Lands (1998)

Implementation of the Proposed Action would satisfy the Navy's obligation under HHLRA with regard to the 'Ewa Drum property.

4.6 Relationship of Short-Term Uses and Long-Term Productivity

This section lists the trade-offs between short- and long-term gains and losses due to the Proposed Action and alternatives. "Short-term" refers to the immediate disposal action; "long-term" refers to reasonably foreseeable development of the land in accordance with the MOA. The Proposed Action and Light Industrial Alternative would have the following short- and long-term gains and losses:

- Short and long term gain to the State of Hawai'i by assuming control of a valuable real estate asset within a growing area of O'ahu.
- Long-term gain to CNRH by the reduced costs incurred to secure and maintain the property.
- Long-term gain to DHHL beneficiaries that would have the opportunity to make the property directly productive via residential use under the Proposed Action or income-generating via the Light Industrial Alternative.
- Long term loss of operational flexibility to CNRH by reducing the acreage of lands proximate to the Pearl Harbor Naval Complex.

The No Action Alternative would result in a continued long-term loss to CNRH associated with ongoing expenses to secure and maintain the property that could be reallocated to more productive uses.

4.7 Irreversible and Irretrievable Commitments of Resources

Resources that are committed irreversibly or irretrievably are those that cannot be recovered if the Proposed Action and alternatives are implemented. The Proposed Action and Light Industrial Alternative would involve conveying the property for development purposes. It would commit land resources irreversibly or irretrievably from Federal control to the DHHL for whatever use it determines to be in its best interest. The No Action Alternative would not irreversibly or irretrievably commit resources.

4.8 Means of Resolving Potentially Adverse Effects

No mitigation is required for the Proposed Action and alternatives *per se* as the purpose of the action is limited to land disposition—not actual development. Although reasonably

foreseeable uses would involve modifications to the existing vacant land and conversion to residential or light industrial use, any impacts, with the exception of traffic, would be minimal. Traffic improvements, such as those identified herein, would be required by the DOT to minimize reasonably foreseeable impacts to public roadways. These and any other improvements associated with the development of the site would be the sole responsibility of DHHL and would be subject to applicable Federal, State, and C&C laws and regulations to minimize environmental impacts from development.

5.0 LIST OF AGENCIES AND ORGANIZATIONS CONSULTED

State of Hawai'i

Department of Land and Natural Resources, State Historic Preservation Officer
Department of Hawaiian Home Lands
Office of Hawaiian Affairs
State Department of Education

City and County of Honolulu

Honolulu Board of Water Supply
City and County of Honolulu, Department of Planning and Permitting

Non-Governmental Organizations

O'ahu Council of Hawaiian Civic Clubs

6.0 REFERENCES

- City and County of Honolulu, Department of Land Utilization. *Coastal View Study*. Prepared by Michael S. Chu and Robert B. Jones. 1987.
- City and County of Honolulu, Department of Planning and Permitting. *Central O'ahu Sustainable Communities Plan*. March 2003.
- City and County of Honolulu, Department of Wastewater Management. *Design Standards, Volume 1*. July 1993.
- CNRH (Commander, Navy Region Hawaii). *Hawai'i Overview Plan*. Prepared by Helber Hastert & Fee, Planners under contract with PACNAVFACENGCOM. November 2002.
- CNRH. *Integrated Cultural Resources Management Plan for Pearl Harbor Naval Complex*. Prepared by Helber Hastert & Fee, Planners under contract with PACNAVFACENGCOM. March 2002.
- CNRH. *Integrated Natural Resources Management Plan for Pearl Harbor Naval Complex*. Prepared by Helber Hastert & Fee, Planners under contract with PACNAVFACENGCOM. October 2001.
- CNRH. *Pearl Harbor Naval Complex Cultural Resources Management Plan*. Prepared by Paul H. Rosendahl, PhD. Inc., et al under contract with PACNAVFACENGCOM. August 2000.
- CNRH. *Phase II Remedial Investigation, Ewa Junction Fuel Drumming Facility* (GILS Record # 002256). Pearl Harbor Area RAB Fact Sheet. December 1999. Available at: <http://www.hawaii.navy.mil/CNBDATA/n4/EwajunctionFact.htm>
- Code of Federal Regulations, Title 36, Section 60, *National Register of Historic Places*.
- Department of Navy. *Remedial Investigation Report For Ewa Junction Fuel Drumming Facility, Fleet and Industrial Supply Center (FISC), Pearl Harbor, O'ahu, Hawai'i. Volume I - Technical Report*, March 1996. Prepared by Ogden Environmental and Energy Services Co., Inc. Prepared by Ogden Environmental and Energy Services Co., Inc. under contract to PACNAVFACENGCOM. March 1996.
- Department of the Navy. *Hawai'i Military Land Use Master Plan*. July 1995.
- Department of the Navy. *Pearl Harbor Final EIS for Developments at Naval Base Pearl Harbor O'ahu, Hawai'i*. Prepared by Belt Collins Associates under contract with PACNAVFACENGCOM. August 1990.
- Federal Emergency Management Agency. *Flood Insurance Rate Map*. Map No. (15003C0239 E, Panel 239). November 2000.
- Goodman, W.L., and R.C. Nees. *Archaeological Reconnaissance and Inventory Surveys of 3,600 Acres in Wai'awa Ahupu'a'a, 'Ewa, O'ahu*. Report 022802. Submitted to Gentry Development Company. Applied Research Group, Bishop Museum. 1991.
- Handy, E.S.C., and E.G. Handy. *Native Planters in Old Hawai'i, Their Life, Lore, and Environment*. *B.P. Bishop Museum Bulletin* 233. Honolulu: Bishop Museum Press (With M.K. Pukui). 1972.

- Hawai'i, State of. Department of Business, Economic Development and Tourism. *2000 State of Hawai'i Data Book: A Statistical Abstract*. 2001.
- Honolulu Board of Water Supply. *Water System Standards*. 2002.
- Institute of Transportation Engineers. *Trip Generation, 6th Edition*. Transportation Research Board, National Academy of Sciences, Washington, D.C. 1997.
- McAllister, J. Gilbert. *Archaeology of O'ahu*. Bishop Museum Bulletin 104, Bishop Museum Press, Honolulu. 1933.
- NAVFAC Pacific. *Draft Environmental Baseline Survey Wai'awa Parcel Known as Tax Map Keys 1-9-4-08:10 and 1-9-6-03:44, Wai'awa, O'ahu, Hawai'i*. February 2004.
- Julian Ng, Inc. *Traffic Assessment: Disposition of Ewa Drum Parcel (TMK 9-4-08: p10 & 9-9-03: p44)*. Prepared for Helber Hastert & Fee, Planners. June 8, 2005
- NRHP (National Register of Historic Places). *How to Apply the National Register Criteria for Evaluation*. National Register Bulletin 15, U.S. Department of the Interior, National Park Service, Interagency Resources Division, Washington, D.C. 1991.
- Rechtman, Robert B., and Jack D. Henry. *Archaeological Reconnaissance Survey, Red Hill Fuel Storage Area and Ewa Drum Filling and Fuel Storage Area, Lands of Waipi'o, Wai'awa, Halawa, 'Ewa District and Moanalua, Honolulu District, Island of O'ahu*. Prepared for Department of the Navy, Pacific Division, Naval Facilities Engineering Command, Pearl Harbor. Paul H. Rosendahl, Ph.D., Inc. 1998.
- Sterling, E.P., and C.C. Summers. *Sites of O'ahu*. Department of Anthropology and Education, B.P. Bishop Museum, Honolulu. 1978.
- Sunn, Low, Tom & Hara, Inc. *'Ewa Junction Fuel Storage Area, March 1971 Fuel Spill-Final Report on the Investigation*. Contract No. N62471-74-C-0001. June 1975.
- U.S. Department of Agriculture, Soil Conservation Service. *Soil Survey of Islands of Kaua'i, O'ahu, Maui, Molokai and Lanai, State of Hawai'i*. August 1972.
- U.S. Department of Commerce, U.S. Census Bureau. DP-1. *Profile of General Demographic Characteristics: 2000. Data Set: Census 2000 Summary File 1 (SF 1) 100-Percent Data. Geographic Area: Honolulu*.
- University of Hawai'i *Leeward Community College Long Range Development Plan*, Project No. CC-95-4195. Prepared by Group 70 International, Inc. for the Facilities Planning Office for Community Colleges, State of Hawai'i. December 1995.
- Williams, S.S., J. Landrum, and L. Anderson. *Archaeological Reconnaissance Survey and Subsurface Testing, Tripler Army Medical Center Animal Care Facility Moanalua, Island of O'ahu, Hawai'i, draft report*. Submitted to U.S. Army Corps of Engineers, Pacific Ocean Division. Ogden Environmental and Energy Services Company, Inc. 1995.

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APPENDIX A

Hawaiian Home Lands Recovery Act

by virtue of acquiring title from the State of Alaska or from the United States.

SEC. 109. DEFINITION OF REVENUES.

(a) Section 7(i) of the Alaska Native Claims Settlement Act, Public Law 92-203 (43 U.S.C. 1606(i)), is amended—

(1) by inserting "(1)" after "(i)"; and

(2) by adding at the end the following new paragraph:

"(2) For purposes of this subsection, the term 'revenues' does not include any benefit received or realized for the use of losses incurred or credits earned by a Regional Corporation."

(b) This amendment shall be effective as of the date of enactment of the Alaska Native Claims Settlement Act, Public Law 92-203 (43 U.S.C. 1601, et seq.).

TITLE II—HAWAIIAN HOME LANDS

SEC. 201. SHORT TITLE

This title may be cited as the "Hawaiian Home Lands Recovery Act".

SEC. 202. DEFINITIONS.

As used in this title:

(1) **AGENCY.**—The term "agency" includes—

(A) any instrumentality of the United States;

(B) any element of an agency; and

(C) any wholly owned or mixed-owned corporation of the United States Government.

(2) **BENEFICIARY.**—The term "beneficiary" has the same meaning as is given the term "native Hawaiian" under section 201(7) of the Hawaiian Homes Commission Act.

(3) **CHAIRMAN.**—The term "Chairman" means the Chairman of the Hawaiian Homes Commission of the State of Hawaii.

(4) **COMMISSION.**—The term "Commission" means the Hawaiian Homes Commission established by section 202 of the Hawaiian Homes Commission Act.

(5) **HAWAIIAN HOMES COMMISSION ACT.**—The term "Hawaiian Homes Commission Act" means the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et. seq., chapter 42).

(6) **HAWAII STATE ADMISSION ACT.**—The term "Hawaii State Admission Act" means the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4, chapter 339; 48 U.S.C. note prec. 491).

(7) **LOST USE.**—The term "lost use" means the value of the use of the land during the period when beneficiaries or the Hawaiian Homes Commission have been unable to use lands as authorized by the Hawaiian Homes Commission Act because of the use of such lands by the Federal Government after August 21, 1959.

(8) **SECRETARY.**—The term "Secretary" means the Secretary of the Interior.

SEC. 203. SETTLEMENT OF FEDERAL CLAIMS.

(a) **DETERMINATION.**—

(1) The Secretary shall determine the value of the following:

(A) Lands under the control of the Federal Government that—

(i) were initially designated as available lands under section 203 of the Hawaiian Homes Commission Act (as in effect on the date of enactment of such Act); and

(ii) were nevertheless transferred to or otherwise acquired by the Federal Government.

(B) The lost use of lands described in subparagraph

(A).

(2)(A) Except as provided in subparagraph (B), the determinations of value made under this subsection shall be made not later than 1 year after the date of enactment of this Act. In carrying out this subsection, the Secretary shall use a method of determining value that—

(i) is acceptable to the Chairman; and

(ii) is in the best interest of the beneficiaries.

(B) The Secretary and the Chairman may mutually agree to extend the deadline for making determinations under this subparagraph beyond the date specified in subparagraph (A).

(3) The Secretary and the Chairman may mutually agree, with respect to the determinations of value described in subparagraphs (A) and (B) of paragraph (1), to provide—

(A) for making any portion of the determinations of value pursuant to subparagraphs (A) and (B) of paragraph (1); and

(B) for making the remainder of the determinations with respect to which the Secretary and the Chairman do not exercise the option described in subparagraph (A), pursuant to an appraisal conducted under paragraph (4).

(4)(A) Except as provided in subparagraph (C), if the Secretary and the Chairman do not agree on the determinations of value made by the Secretary under subparagraphs (A) and (B) of paragraph (1), or, pursuant to paragraph (3), mutually agree to determine the value of certain lands pursuant to this subparagraph, such values shall be determined by an appraisal. An appraisal conducted under this subparagraph shall be conducted in accordance with appraisal standards that are mutually agreeable to the Secretary and the Chairman.

(B) If an appraisal is conducted pursuant to this subparagraph, during the appraisal process—

(i) the Chairman shall have the opportunity to present evidence of value to the Secretary;

(ii) the Secretary shall provide the Chairman a preliminary copy of the appraisal;

(iii) the Chairman shall have a reasonable and sufficient opportunity to comment on the preliminary copy of the appraisal; and

(iv) the Secretary shall give consideration to the comments and evidence of value submitted by the Chairman under this subparagraph.

(C) The Chairman shall have the right to dispute the determinations of values made by an appraisal conducted under this subparagraph. If the Chairman disputes the appraisal, the Secretary and the Chairman may mutually agree to employ a process of bargaining, mediation, or other means of dispute

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(b) AUTHORIZATION.—

(1) EXCHANGE.—Subject to paragraphs (2) and (5), the Secretary may convey Federal lands described in paragraph (5) to the Department of Hawaiian Home Lands in exchange for the continued retention by the Federal Government of lands described in subsection (a)(1)(A).

(2) VALUE OF LANDS.—(A) The value of any lands conveyed to the Department of Hawaiian Home Lands by the Federal Government in accordance with an exchange made under paragraph (1) may not be less than the value of the lands retained by the Federal Government pursuant to such exchange.

(B) For the purposes of this subsection, the value of any lands exchanged pursuant to paragraph (1) shall be determined as of the date the exchange is carried out, or any other date determined by the Secretary, with the concurrence of the Chairman.

(3) LOST USE.—Subject to paragraphs (4) and (5), the Secretary may convey Federal lands described in paragraph (5) to the Department of Hawaiian Home Lands as compensation for the lost use of lands determined under subsection (a)(1)(B).

(4) VALUE OF LOST USE.—(A) the value of any lands conveyed to the Department of Hawaiian Home Lands by the Federal Government as compensation under paragraph (3) may not be less than the value of the lost use of lands determined under subsection (a)(1)(B).

(B) For the purposes of this subparagraph, the value of any lands conveyed pursuant to paragraph (3) shall be determined as of the date that the conveyance occurs, or any other date determined by the Secretary, with the concurrence of the Chairman.

(5) FEDERAL LANDS FOR EXCHANGE.—(A) Subject to subparagraphs (B) and (C), Federal lands located in Hawaii that are under the control of an agency (other than lands within the National Park System or the National Wildlife Refuge System) may be conveyed to the Department of Hawaiian Home Lands under paragraphs (1) and (3). To assist the Secretary in carrying out this Act, the head of an agency may transfer to the Department of the Interior, without reimbursement, jurisdiction and control over any lands and any structures that the Secretary determines to be suitable for conveyance to the Department of Hawaiian Home Lands pursuant to an exchange conducted under this section.

(B) No Federal lands that the Federal Government is required to convey to the State of Hawaii under section 5 of the Hawaii State Admission Act may be conveyed under paragraph (1) or (3).

(C) No Federal lands that generate income (or would be expected to generate income) for the Federal Government may be conveyed pursuant to an exchange made under this paragraph to the Department of Hawaiian Home Lands.

(c) AVAILABLE LANDS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary shall require that lands conveyed to the Department of Hawaiian Home Lands under this Act shall have the status of available lands under the Hawaiian Homes Commission Act.

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(2) **SUBSEQUENT EXCHANGE OF LANDS.**—Notwithstanding any other provision of law, lands conveyed to the Department of Hawaiian Home Lands under this paragraph may subsequently be exchanged pursuant to section 204(3) of the Hawaiian Home Commission Act.

(3) **SALE OF CERTAIN LANDS.**—Notwithstanding any other provision of law, the Chairman may, at the time that lands are conveyed to the Department of Hawaiian Home Lands as compensation for lost use under this Act, designate lands to be sold. The Chairman is authorized to sell such land under terms and conditions that are in the best interest of the beneficiaries. The proceeds of such a sale may only be used for the purposes described in section 207(a) of the Hawaiian Homes Commission Act.

(d) **CONSULTATION.**—In carrying out their respective responsibilities under this section, the Secretary and the Chairman shall—

(1) consult with the beneficiaries and organizations representing the beneficiaries; and

(2) report to such organizations on a regular basis concerning the progress made to meet the requirements of this section.

(e) **HOLD HARMLESS.**—Notwithstanding any other provision of law, the United States shall defend and hold harmless the Department of Hawaiian Home Lands, the employees of the Department, and the beneficiaries with respect to any claim arising from the ownership of any land or structure that is conveyed to the Department pursuant to an exchange made under this section prior to the conveyance to the Department of such land or structure.

(f) **SCREENING.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, the Secretary of Defense and the Administrator of General Services shall, at the same time as notice is provided to Federal agencies that excess real property is being screened pursuant to applicable Federal laws (including regulations) for possible transfer to such agencies, notify the Chairman of any such screening of real property that is located within the State of Hawaii.

(2) **RESPONSE TO NOTIFICATION.**—Notwithstanding any other provision of law, not later than 90 days after receiving a notice under paragraph (1), the Chairman may select for appraisal real property, or at the election of the Chairman, portions of real property, that is the subject of a screening.

(3) **SELECTION.**—Notwithstanding any other provision of law, with respect to any real property located in the State of Hawaii that, as of the date of enactment of this Act, is being screened pursuant to applicable Federal laws for possible transfer (as described in paragraph (1)) or has been screened for such purpose, but has not been transferred or declared to be surplus real property, the Chairman may select all, or any portion of, such real property to be appraised pursuant to paragraph (4).

(4) **APPRAISAL.**—Notwithstanding any other provision of law, the Secretary of Defense or the Administrator of General Services shall appraise the real property or portions of real property selected by the Chairman using the Uniform Standards for Federal Land Acquisition developed by the Interagency Land Acquisition Conference, or such other standard as the Chairman agrees to.

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(5) REQUEST FOR CONVEYANCE.—Notwithstanding any other provision of law, not later than 30 days after the date of completion of such appraisal, the Chairman may request the conveyance to the Department of Hawaiian Home Lands of—

- (A) the appraised property; or
- (B) a portion of the appraised property, to the Department of Hawaiian Home Lands.

(6) CONVEYANCE.—Notwithstanding any other provision of law, upon receipt of a request from the Chairman, the Secretary of Defense or the Administrator of the General Services Administration shall convey, without reimbursement, the real property that is the subject of the request to the Department of Hawaiian Home Lands as compensation for lands identified under subsection (a)(1)(A) or lost use identified under subsection (a)(1)(B).

(7) REAL PROPERTY NOT SUBJECT TO RECOUPMENT.—Notwithstanding any other provision of law, any real property conveyed pursuant to paragraph (6) shall not be subject to recoupment based upon the sale or lease of the land by the Chairman.

(8) VALUATION.—Notwithstanding any other provision of law, the Secretary shall reduce the value identified under subparagraph (A) or (B) of subsection (a)(1), as determined pursuant to such subsection, by an amount equal to the appraised value of any excess lands conveyed pursuant to paragraph (6).

(9) LIMITATION.—No Federal lands that generate income (or would be expected to generate income) for the Federal Government may be conveyed pursuant to this subsection to the Department of Hawaiian Home Lands.

SEC. 204. PROCEDURE FOR APPROVAL OF AMENDMENTS TO HAWAIIAN HOMES COMMISSION ACT.

(a) NOTICE TO THE SECRETARY.—Not later than 120 days after a proposed amendment to the Hawaiian Homes Commission Act is approved in the manner provided in section 4 of the Hawaii State Admission Act, the Chairman shall submit to the Secretary—

- (1) a copy of the proposed amendment;
- (2) the nature of the change proposed to be made by the amendment; and
- (3) an opinion regarding whether the proposed amendment requires the approval of Congress under section 4 of the Hawaii State Admission Act.

(b) DETERMINATION BY SECRETARY.—Not later than 60 days after receiving the materials required to be submitted by the Chairman pursuant to subsection (a), the Secretary shall determine whether the proposed amendment requires the approval of Congress under section 4 of the Hawaii State Admission Act, and shall notify the Chairman and Congress of the determination of the Secretary.

(c) CONGRESSIONAL APPROVAL REQUIRED.—If, pursuant to subsection (b), the Secretary determines that the proposed amendment requires the approval of Congress, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives—

- (1) a draft joint resolution approving the amendment;

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Sec. 204

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Nov. 2

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- (2) a description of the change made by the proposed amendment and an explanation of how the amendment advances the interests of the beneficiaries;
- (3) a comparison of the existing law (as of the date of submission of the proposed amendment) that is the subject of the amendment with the proposed amendment;
- (4) a recommendation concerning the advisability of approving the proposed amendment; and
- (5) any documentation concerning the amendments received from the Chairman.

SEC. 205. LAND EXCHANGES.

(a) NOTICE TO THE SECRETARY.—If the Chairman recommends for approval an exchange of Hawaiian Home Lands, the Chairman shall submit a report to the Secretary on the proposed exchange. The report shall contain—

- (1) a description of the acreage and fair market value of the lands involved in the exchange;
- (2) surveys and appraisals prepared by the Department of Hawaiian Home Lands, if any; and
- (3) an identification of the benefits to the parties of the proposed exchange.

(b) APPROVAL OR DISAPPROVAL.—

(1) IN GENERAL.—Not later than 120 days after receiving the information required to be submitted by the Chairman pursuant to subsection (a), the Secretary shall approve or disapprove the proposed exchange.

(2) NOTIFICATION.—The Secretary shall notify the Chairman, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives of the reasons for the approval or disapproval of the proposed exchange.

(c) EXCHANGES INITIATED BY SECRETARY.—

(1) IN GENERAL.—The Secretary may recommend to the Chairman an exchange of Hawaiian Home Lands for Federal lands described in section 203(b)(5), other than lands described in subparagraphs (B) and (C) of such section. If the Secretary initiates a recommendation for such an exchange, the Secretary shall submit a report to the Chairman on the proposed exchange that meets the requirements of a report described in subsection (a).

(2) APPROVAL BY CHAIRMAN.—Not later than 120 days after receiving a recommendation for an exchange from the Secretary under paragraph (1), the Chairman shall provide written notification to the Secretary of the approval or disapproval of a proposed exchange. If the Chairman approves the proposed exchange, upon receipt of the written notification, the Secretary shall notify the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives of the approval of the Chairman of the proposed exchange.

(3) EXCHANGE.—Upon providing notification pursuant to paragraph (2) of a proposed exchange that has been approved by the Chairman pursuant to this section, the Secretary may carry out the exchange.

(d) SELECTION AND EXCHANGE.—

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ALASKA NATIVE CLAIMS AMENDMENTS

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Sec. 206

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(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may—

(A) select real property that is the subject of screening activities conducted by the Secretary of Defense or the Administrator of General Services pursuant to applicable Federal laws (including regulations) for possible transfer to Federal agencies; and

(B) make recommendations to the Chairman concerning making an exchange under subsection (c) that includes such real property.

(2) TRANSFER.—Notwithstanding any other provision of law, if the Chairman approves an exchange proposed by the Secretary under paragraph (1)—

(A) the Secretary of Defense or the Administrator of General Services shall transfer the real property described in paragraph (1)(A) that is the subject of the exchange to the Secretary without reimbursement; and

(B) the Secretary shall carry out the exchange.

(3) LIMITATION.—No Federal lands that generate income (or would be expected to generate income) for the Federal Government may be conveyed pursuant to this subsection to the Department of Hawaiian Home Lands.

(c) SURVEYS AND APPRAISALS.—

(1) REQUIREMENT.—The Secretary shall conduct a survey of all Hawaiian Home Lands based on the report entitled "Survey Needs for the Hawaiian Home Lands", issued by the Bureau of Land Management of the Department of the Interior, and dated July 1991.

(2) OTHER SURVEYS.—The Secretary is authorized to conduct such other surveys and appraisals as may be necessary to make an informed decision regarding approval or disapproval of a proposed exchange.

SEC. 206. ADMINISTRATION OF ACTS BY UNITED STATES.

(a) DESIGNATION.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary shall designate an individual from within the Department of the Interior to administer the responsibilities of the United States under this title and the Hawaiian Homes Commission Act.

(2) DEFAULT.—If the Secretary fails to make an appointment by the date specified in paragraph (1), or if the position is vacant at any time thereafter, the Assistant Secretary for Policy, Budget, and Administration of the Department of the Interior shall exercise the responsibilities for the Department in accordance with subsection (b).

(b) RESPONSIBILITIES.—The individual designated pursuant to subsection (a) shall, in administering the laws referred to in such subsection—

(1) advance the interests of the beneficiaries; and

(2) assist the beneficiaries and the Department of Hawaiian Home Lands in obtaining assistance from programs of the Department of the Interior and other Federal agencies that will promote homesteading opportunities, economic self-sufficiency, and social well-being of the beneficiaries.

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SEC. 207. ADJUSTMENT.

The Act of July 1, 1932 (47 Stat. 564, chapter 369; 25 U.S.C. 386a) is amended by striking the period at the end and adding the following: "Provided further, That the Secretary shall adjust or eliminate charges, defer collection of construction costs, and make no assessment on behalf of such charges for beneficiaries that hold leases on Hawaiian home lands, to the same extent as is permitted for individual Indians or tribes of Indians under this section."

SEC. 208. REPORT.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Chairman shall report to the Secretary concerning any claims that—

(1) involve the transfer of lands designated as available lands under section 203 of the Hawaiian Homes Commission Act (as in effect on the date of enactment of such Act); and

(2) are not otherwise covered under this title.

(b) REVIEW.—Not later than 180 days after receiving the report submitted under subsection (a), the Secretary shall make a determination with respect to each claim referred to in subsection (a), whether, on the basis of legal and equitable considerations, compensation should be granted to the Department of Hawaiian Home Lands.

(c) COMPENSATION.—If the Secretary makes a determination under subsection (b) that compensation should be granted to the Department of Hawaiian Home Lands, the Secretary shall determine the value of the lands and lost use in accordance with the process established under section 203(a), and increase the determination of value made under subparagraphs (A) and (B) of section 203(a)(1) by the value determined under this subsection.

SEC. 209. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary for compensation to the Department of Hawaiian Home Lands for the value of the lost use of lands determined under section 203. Compensation received by the Department of Hawaiian Home Lands from funds made available pursuant to this section may only be used for the purposes described in section 207(a) of the Hawaiian Homes Commission Act. To the extent

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ALASKA NATIVE CLAIMS AMENDMENTS

P.L. 104-42
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that amounts are made available by appropriations pursuant to this section for compensation paid to the Department of Hawaiian Home Lands for lost use, the Secretary shall reduce the determination of value established under section 203(a)(1)(B) by such amount.

Approved November 2, 1995.

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APPENDIX B

Hawaiian Home Lands Recovery Act
Memorandum of Agreement

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT (MOA) is entered into as of August 31, 1998, by and among the UNITED STATES OF AMERICA (the "United States"), as represented by the Secretary of the United States Department of Interior (the "Secretary"), and the STATE OF HAWAII ("State"), represented by the Governor of the State of Hawaii, and by the Department of Hawaiian Home Lands ("DHHL") through its Director, who is also the Chairman of the Hawaiian Homes Commission ("Chairman").

RECITALS

- A. The purpose of this MOA is to implement the Hawaiian Home Lands Recovery Act of 1995, Public Law 104-42, 109 Stat. 357 (the "Act").
- B. In connection with this MOA, the Secretary has consulted with the Department of Defense ("DOD") and the General Services Administration ("GSA").
- C. The Act authorizes the United States to convey certain real property to the DHHL, an agency of the State, in exchange for full settlement and release of all legal, equitable or moral claims, actions, and liabilities arising from or relating to the United States' ownership and continued use of real property identified as "available lands" for native Hawaiians under the Hawaiian Homes Commission Act of 1921, 42 Stat. 108 ("HHCA").
- D. Pursuant to Section 203(a) and 208 of the Act, the parties have identified and valued lands and "lost use" (as defined in the Act) of certain lands that initially had the status of "available lands" under the HHCA.
- E. The parties desire to effect the conveyance of that certain real property described on Exhibit A as provided by the Act and provide for the release of the claims arising from the United States' use of the "available lands."
- F. The parties further desire, by entering into this MOA, to provide for the release of any present or future claims identified in the Act to certain real property that may have been identified as "available lands" in the HHCA and not identified in this MOA and the delivery of any deeds or other documents necessary to effectuate such release.

NOW, THEREFORE, the parties agree as follows:

AGREEMENT

1. Conveyance of Property. The United States shall convey and the State, through the DHHL, shall accept the real property described on Exhibit A by duly executed and acknowledged quitclaim deeds.
2. Delivery of Quitclaim Deeds. The United States, acting through the GSA, shall as soon after the execution hereof as is reasonably possible, prepare and deliver to the State the quitclaim deeds in order to convey the real property described on Exhibit A. The State acknowledges that portions of the real property identified in Exhibit A are currently in use by the United States and are not currently available for conveyance. Upon notification that such parcels are considered excess by the current federal land holding agency, GSA will convey such parcels to the State as soon as is reasonably possible after such notification, provided, however:
 - (a). Waipahu FCC Monitoring Station.
 - i. Credit. Should the parcel described on Exhibit A as the Waipahu FCC Monitoring Site ("Waipahu Station") not become available for conveyance within two years from the date of this MOA, or such other time as may be mutually agreed in writing by the parties hereto, there shall be established a credit to the benefit of the State in the amount of \$16.9 million ("Credit") and the Secretary and the Chairman shall sign a letter agreement acknowledging the existence of the Credit. Upon the execution of such letter agreement, all of the State's rights, interest and title to the Waipahu Station shall terminate and be of no further force and effect.
 - ii. Conveyances Against Credit. When the State and the Secretary agree that a particular parcel of Federal surplus property is appropriate for conveyance to the State pursuant to Section 203 (f) of the Act, the Secretary shall reduce the amount of the Credit by the appraised value of such Federal surplus property. For purpose of such conveyances, the appraised value of such Federal surplus properties shall be as of the date of this MOA.
 - (b). Lualualei Buffer. The State further acknowledges that the quitclaim deed for the parcel described in Exhibit A as the Lualualei Buffer shall not be delivered until the State has erected an appropriate security barrier between that parcel and the Naval Magazine Lualualei Headquarters Branch adjacent thereto, which is acceptable to the United States Department of the Navy.

3. **Settlement and Release.** Subject to the conveyance by quitclaim deed of all the properties listed on Exhibit A (including full satisfaction of the Credit pursuant to paragraph (2)(c) above, if necessary), the State, its successors and assigns, hereby forever release, settle and discharge the United States from any and all claims, liabilities, damages, demands, actions and causes of actions, whether presently known or unknown, of any character, type or description (the "Claims") arising from or related to the United States continued or past use of the "available lands" as initially designated under Section 203 of the HHCA or the Act. All such lands subject to Claims shall, upon the conclusion of this agreement, henceforth have the status of lands acquired in fee by purchase by the United States. For purposes of this MOA, Claims shall include, without limitation, the following:
 - (a). claims arising from or relating to the Naval Communications Area Master Station Pacific, and Naval Magazine Lualualei, Headquarters Branch; and
 - (b). claims arising from or relating to any real property used or retained by the United States whether identified herein or not that may have been identified as "available lands" under the HHCA.
4. **Further Acts.** The State agrees that it shall, upon request of the United States, execute and deliver duly acknowledged deeds in a form acceptable to the Administrator of the GSA, and do such other acts and things as are reasonably necessary and appropriate to effectuate State's release of claims to the real property identified in Paragraph 3 (a) and (b) as soon as is reasonably possible after such request.
5. **Authority.** The parties hereto represent and warrant that this MOA and all instruments, documents and agreements to be executed in connection herewith are or when delivered will be duly authorized, executed and delivered by the parties hereto and will be valid, binding and enforceable obligations of the parties charged. Each individual executing this MOA on behalf of the State or the United States represents and warrants to each other that he or she is duly authorized to do so.
6. **Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA").** The United States, through DOD or GSA, shall comply with CERCLA as required for each of the parcels identified in Exhibit A.
7. **Available Lands.** The State agrees that all real property conveyed to the DHHL under this MOA shall have the status of available lands under Section 203(c)(1) of the Act, subject however, to the DHHL's right to use the lands as provided in Section 203(c)(2) and (3) of the Act.

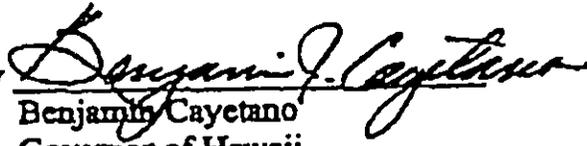
8. Legal Descriptions. The parties acknowledge that legal descriptions suitable for conveyance of title may not be available for all properties identified in Exhibit A. Prior to conveyance of any property identified in Exhibit A, in consultation with the State, the United States shall prepare a legal description, suitable for recordation, for such property.

9. Dispute Resolution. The parties agree to employ a process of negotiation, mediation, or other means of Alternative Dispute Resolution to resolve any disagreements that may arise under this MOA.

IN WITNESS WHEREOF, the parties have executed this MOA as of the day and year first written above.

STATE OF HAWAII

UNITED STATES OF AMERICA

by 
Benjamin Cayetano
Governor of Hawaii

by 
Bruce Babbitt
Secretary of the Interior

DEPARTMENT OF HAWAIIAN
HOME LANDS

by 
Kali Watson, its
Director and Chairman of the
Hawaiian Homes Commission

Witnessed by:

William J. Cassidy, Jr.
William J. Cassidy, Jr.
Deputy Assistant Secretary of
the Navy (Conversion
and Redevelopment)

Witnessed by:

Kenn N. Kojima
BY Kenn N. Kojima
Regional Administrator
General Services Administration

Witnessed by:

Daniel K. Inouye
Daniel K. Inouye
U.S. Senator

Witnessed by:

Daniel K. Akaka
Daniel K. Akaka
U.S. Senator

Witnessed by:

Patsy Mink
Patsy Mink
U.S. Representative

Witnessed by:

Neil Abercrombie
Neil Abercrombie
U.S. Representative

EXHIBIT A

<u>Federal Properties</u>	<u>Acres</u>	<u>Location</u>
Barbers Point*	586	Ewa, Oahu
Manana Housing*	20	Waiawa, Oahu
Upolu Point	38	North Kohala, Island of Hawaii
Omega Haiku*	167	Kaneohe, Oahu
Halawa Laundry*	3	Aiea, Oahu
Ewa Drum*	56	Waiawa, Oahu
Waipahu FCC Monitoring Site*	47	Waipahu, Oahu
BPNAS Raceway Expansion*	16	Ewa, Oahu
Lualualei Buffer*	27	Waiānā, Oahu

*Acreage amounts are approximate. Precise figures will be obtained and inserted in actual transfer documents.

^{1/} Approximately 20 acre landfill area of Omega Haiku will be made available upon Coast Guard clean-up.

^{2/} Conveyance subject to Federal Communications Commission vacating this site.

^{3/} Conveyance subject to Army and Navy reaching an agreement regarding alternative disposition of Army waste that would otherwise have been disposed on this parcel and Army's withdrawal of its application for the parcel. Also, conveyance subject to DHHL installation of fencing, at its expense and as acceptable to the Navy, along the DHHL raceway parcel boundary which borders on the adjacent Navy retained parcel.

^{4/} Conveyance subject to DHHL building perimeter fencing, acceptable to Navy, at DHHL's expense.

APPENDIX C

Correspondence Between
the Navy and DHHL

LINDA LINGLE
GOVERNOR
STATE OF HAWAII



STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
P.O. BOX 1879
HONOLULU, HAWAII 96805

MICHAEL KANE
COMMISSIONER
HAWAIIAN HOME LANDS COMMISSION
DEN HENDERSON
DEPUTY COMMISSIONER
KAULANA H. PARK
JOB EXECUTIVE ASSISTANT

April 15, 2003

Mr. Dennis Pacht, Operations Director
Real Estate Department
Pacific Division
Naval Facilities Engineering Command
258 Makalapa Drive, Suite 100
Pearl Harbor, Hawaii 96860-3134

Attention: Ms. Genie Wery, Ser RE2414/618

Dear Mr. Pacht:

Thank you for informing us of the available funding for preparation of necessary environmental documentation to convey the Ewa Drum and Lualualei Buffer parcels pursuant to the Hawaiian Home Lands Recovery Act of 1995.

As requested, summarized below is information on the proposed uses of the parcels to be conveyed:

<u>Property</u>	<u>Location</u>	<u>Land Area (Acres)</u>		<u>Forecast Uses/Zoning</u>
		<u>Total</u>	<u>Usable</u>	
Ewa Drum TMK 9-4-08:p10 9-6-03:p44	Waiawa, Oahu	55.842	39.433	M-F Residential/ A-2 Apartment
Lualualei Buffer TMK 8-6-03:22	Waianae, Oahu	27.000	27.000	Agriculture/AG-1 Agriculture
Halawa Laundry TMK 9-5-05:05	Aiea, Oahu	3.179	3.179	M-F Residential/A-2 Apartment (2.679 ac.) Commercial/B-2 Commercial (0.5 ac.)

Mr. Dennis Pacht
April 15, 2003
Page 2

The above anticipated uses were utilized in appraising the properties, the resulting values providing the basis for the Memorandum of Agreement dated August 31, 1998, which we continue to implement.

We note that title transfer for the Lualualei Buffer shall not be delivered until the State erects an appropriate security barrier for the adjacent Naval Magazine property, which is acceptable to the Navy. Please provide us with design specifications or a contact person for initiating plans for this replacement fencing.

If you have any questions, please contact Joe Chu of our Planning Office at 587-6421.

Mahalo and aloha,



Micah A. Kane, Chairman
Hawaiian Homes Commission

c: U.S. Department of the Interior

APPENDIX D

Section 106 Correspondence



DEPARTMENT OF THE NAVY

COMMANDER
NAVY REGION HAWAII
650 TICONDEROGA ST STE 110
PEARL HARBOR HI 96860-5102

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Ser N464/00308
26 NOV 2003

CERTIFIED MAIL NO.7001 2510 0001 9471 4480

Mr. Peter Young
State Historic Preservation Officer
Department of Land & Natural Resources
Kakuhihewa Building
601 Kamokila Boulevard Room 555
Kapolei HI 96707

Dear Mr. Young:

Pursuant to Section 106 of the National Historic Preservation Act, the Navy requests your review of the proposed transfer of the 56-acre Ewa Drum parcel (TMK 9-4-08:10 and 9-6-03:44) to the State Department of Hawaiian Homelands (DHHL). In accordance with the implementing regulations for Section 106 of the National Historic Preservation Act, we have reviewed the project and determined that it is an undertaking as defined in 36 CFR 800.16 (y).

Project Description

The Ewa Drum parcel is located between Farrington Highway and the shores of Middle Loch, in the Waiawa Ahupua'a, O'ahu, Hawai'i [enclosure (1)]. The proposed project complies with the Memorandum of Agreement (MOA) that was executed pursuant to the Hawaiian Home Lands Recovery Act (HHLRA) of 1995. The act authorized the United States to convey certain real property to the Department of Hawaiian Home Lands (DHHL), an agency of the State of Hawaii, in exchange for full settlement and release of all legal, equitable or moral claims, action and liabilities arising from or relating to the United States' ownership and continued use of real property identified as "available lands" for native Hawaiians under the Hawaiian Homes Commission Act (HHCA) of 1921. The MOA, dated 31 August 1998, between the U. S. Department of the Interior (DOI) and the State of Hawaii (State), identified several parcels of land, including the approximately 56 acres of the Ewa Drum parcel, for conveyance to DHHL.

Area of Potential Effect

The area of potential effect (APE) includes the entire Ewa Drum parcel [enclosure (1)].

Identification of Historic Properties

An archaeological reconnaissance survey of the Ewa Drum Filling and Fuel Storage Area was conducted by Paul H. Rosendahl, Ph.D., Inc.

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(PHRI) in 1998. The survey found no significant sites on the Ewa Drum parcel.

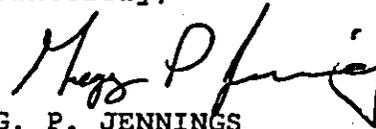
Under the 2000 Cultural Resources Management Plan, Facility 9 (a fuel drumming plant and loading platform) was designated a Category III structure. A Historic American Building Survey (HABS) Photodocumentation was carried out in 2001 to gather additional information about the history of the Ewa Drum Parcel and Facility 9. An additional field inspection of the parcel was conducted by Pacific Division, Naval Facilities Engineering Command (NAVFAC EFD Pacific) on October 31, 2003. This inspection determined that Facility 9 is no longer significant under the National Register criteria, due to loss of integrity [enclosure (1)].

The DHHL indicated to the Navy in a letter dated 15 April 2003, that their proposed use for the site would be A-2 zoned, medium density multi-family residential. If DHHL develops the property as proposed, we do not anticipate that the transfer of the parcel will have any impact to the adjacent Pearl Harbor National Historic Landmark.

In accordance with 36 CFR § 800.4(d)(1), we are notifying your office of our "no historic properties affected" finding. If we receive no objection from your office within 30 days of receipt of this letter, our responsibilities under Section 106 are fulfilled.

Should you have any questions regarding this undertaking, please contact Mr. Eric West, NAVFAC EFD Pacific Archaeologist at 474-4708, or via E-mail at eric.west@navy.mil, or Mr. Jay Yanz, Regional Historical Architect at 471-1170, extension 237 or via E-mail at yanzjs@pwcpearl.navy.mil.

Sincerely,



G. P. JENNINGS
LTJG, CEC, USNR
Historic Preservation Program
Coordinator
By direction of
Commander, Navy Region Hawaii

Enclosure: 1. Ewa Drum Field Inspection Report

Copy to: Office of Hawaiian Affairs
Oahu Council of Hawaiian Civic Clubs

Blind copy to:
PACDIV (PLN233)
CNRH N465RM

Ms. Pua Aiu
Office of Hawaiian Affairs
711 Kapiolani Boulevard Suite 500.
Honolulu HI 96813

Mr. Shad Kane
Oahu Council of Hawaiian Civic Clubs
92-1309 Uahanai Street
Kapolei, HI 96707

31/10/03

MEMORANDUM FOR THE RECORD

From: PLN233

To: File

Subj: EWA DRUM FIELD INSPECTION REPORT

Ref: (a) Facility 9 HABS Report (HABS No. HI-410)
(b) Archaeological Reconnaissance Survey of Ewa Drum Filling and Fuel Storage Area (1998), by Robert Rechtman and Jack Henry

1. On 31 October 2003 Archaeologists Eric West and Emily Donaldson conducted a field inspection of the Ewa Drum Filling and Fuel Storage Area (TMK 9-4-08:10 and 9-6-03:44) to verify the condition of Facility 9, as described in a 2001 HABS report [reference (a)], and confirm the findings of the archaeological survey conducted in 1998 [reference (b)]. The Ewa Drum parcel is in the Waiawa *Ahupua'a*, positioned between Farrington Highway and the shores of Middle Loch [figures (1) and (2)]. The property is located outside of the Pearl Harbor National Historic Landmark (NHL), and is not located within a historic zone as defined in the Pearl Harbor Integrated Cultural Resources Management Plan (2002).
2. The field inspection was done in support of the Navy's proposed disposal and reuse of the approximately 56-acre land parcel, to comply with the Hawaiian Home Lands Recovery Act (HHLRA) of 1995. The HHLRA authorized the United States to convey certain real property to the Department of Hawaiian Home Lands (DHHL), an agency of the State of Hawaii, in exchange for full settlement and release of all legal, equitable or moral claims, action and liabilities arising from or relating to the United States' ownership and continued use of real property identified as "available lands" for native Hawaiians under the Hawaiian Homes Commission Act (HHCA) of 1921. Portions of the former filling and fuel storage station were still extant on the property.
3. The field investigators explored all accessible areas within the parcel, and took photographs to document existing conditions [figures (3) - (8)]. Facility 9 still exists on the parcel, and was found to be in severely dilapidated condition and hazardously close to collapse; several of the supporting beams were crooked, cracked, or termite-ridden [figures (5) - (7)]. A large and partially collapsed concrete platform adjoins the filling station [figure (8)]. In addition, features associated with the former Ewa Drum facility, such as valve pits and underground storage tanks, were re-located. The parcel is littered with varying concentrations of debris, including beer bottles, fire extinguishers, concrete fragments, and mattresses.
4. Although once identified as a Category III Historic Property, present investigations indicate that the drumming plant (Facility 9) has deteriorated to a degree that it has lost its integrity. For example, Facility 9 has lost its integrity of design due to building deterioration and the fact that much of the original drumming equipment and associated structural features are now

Enclosure (1)

gone. Facility 9 also lacks association, in that it is an isolated parcel far away from the Pearl Harbor NHL. Furthermore, it lacks integrity of setting in that the Ewa Drum function has been abandoned for decades, and the parcel on which this facility is located is now surrounded by Leeward Community College, Waipahu High School, residential and agricultural use [figure (2)]. The field inspection concluded that the significance of the filling station requires re-evaluation. It was recommended that since the integrity of the facility has diminished over time, the classification of Facility 9 should be changed to a Category IV structure. Commander Navy Region Hawaii (CNRH) Historical Architect Jay Yanz reviewed these findings. After thorough review, Mr. Yanz concurred that Facility 9 should be downgraded to Category IV.

5. Additionally, the field inspection confirmed the negative findings of the 1998 Ewa Drum archaeological survey [reference (b)]. The extent of previous ground disturbance on the parcel due to grading, road construction and facility construction makes it unlikely that any potential surface archaeological features would not have persisted. For example, accessory features (e.g. valve pits and roads) are distributed over the entire parcel [figure (2)].

Annie Griffin

ANNIE GRIFFIN

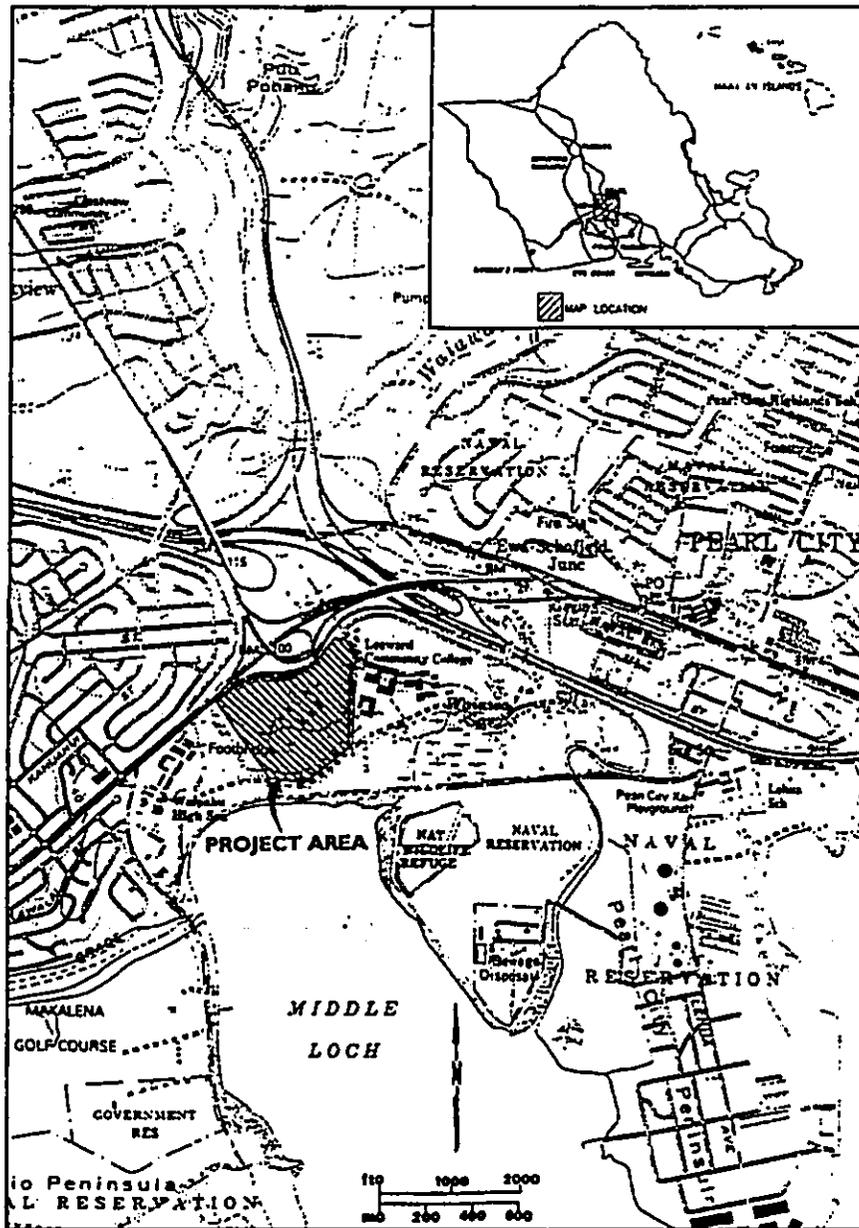


Figure 1. Map of the Ewa Drum Parcel

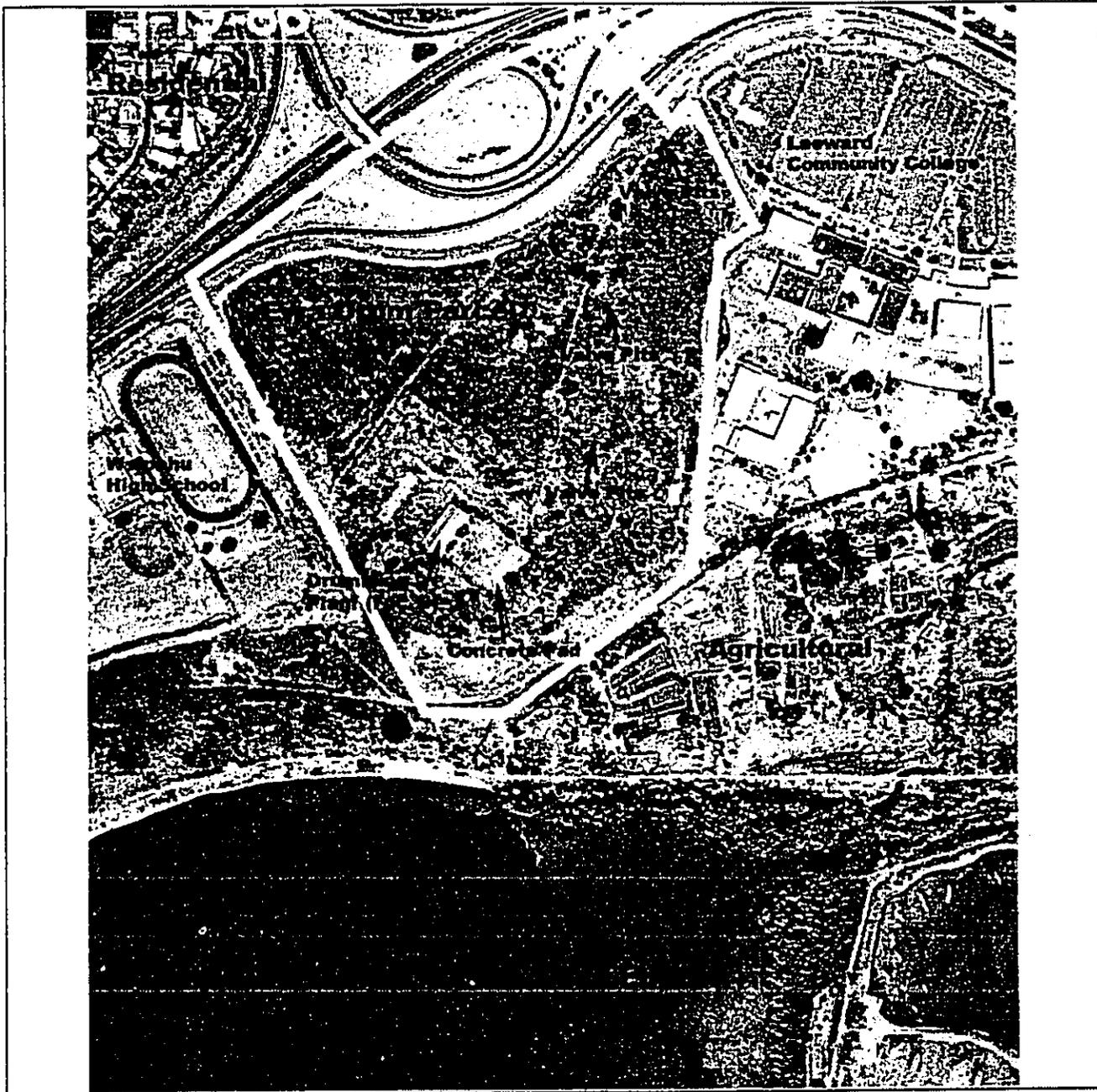


Figure 2. Aerial Photograph of the Ewa Drum Parcel Taken January 19, 1986

Ewa Drum Parcel Photos

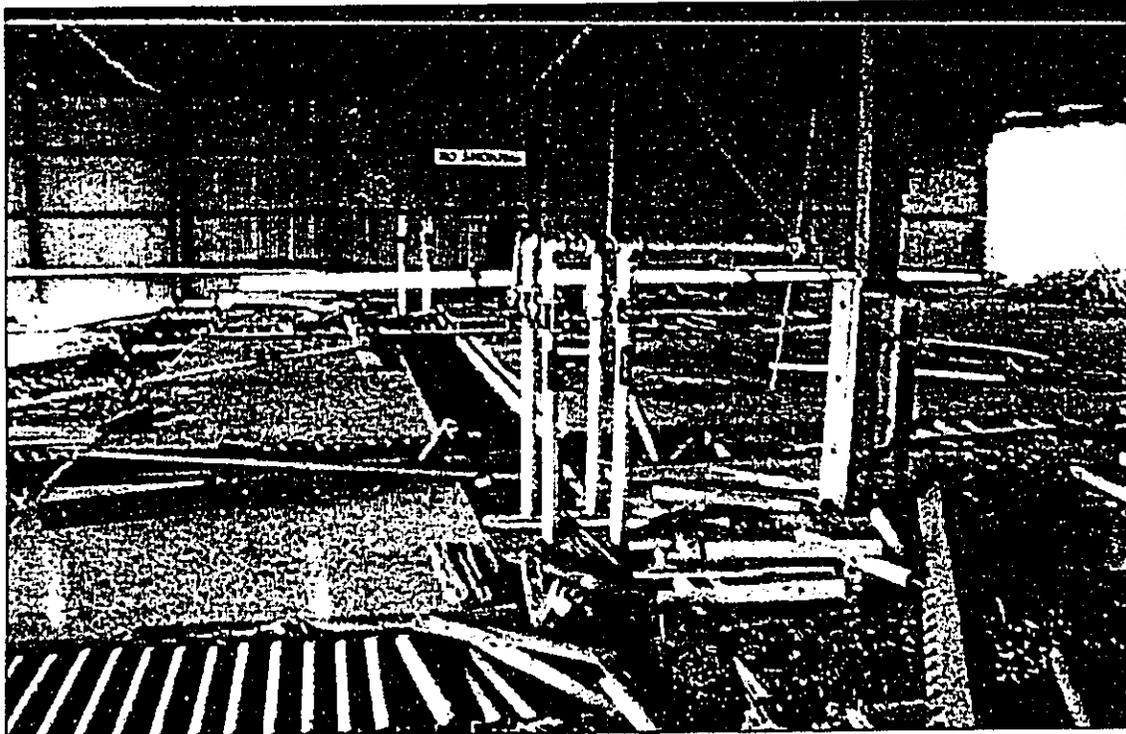


Figure 3. Inside Facility 9 facing southwest



Figure 4. Inside Facility 9 facing northeast



Figure 5. Close-up of a broken support column at Facility 9

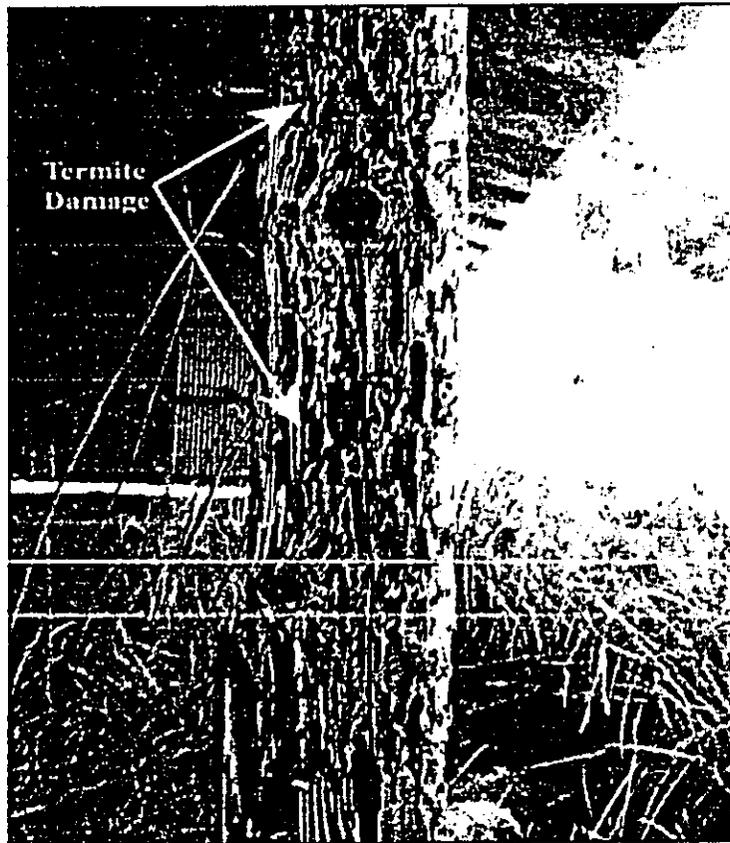


Figure 6. Close-up of a termite damaged support column at Facility 9

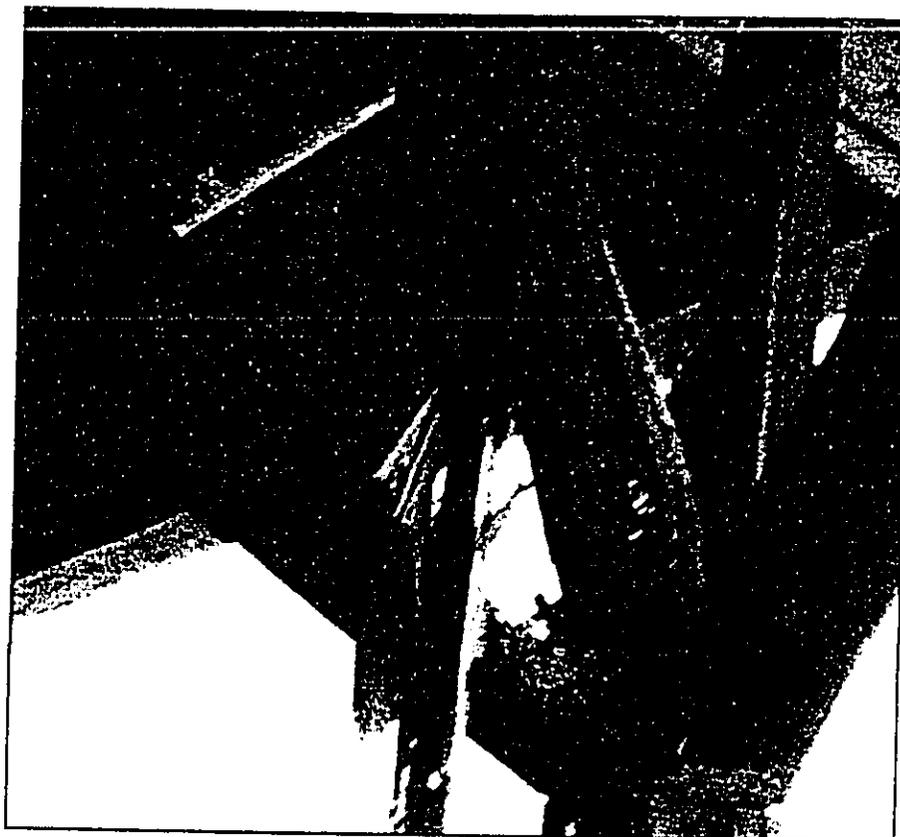


Figure 7. Close-up of column and braces supporting roof structure of Facility 9



Figure 8. Concrete pad southeast of drumming plant (Facility 9)

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HRD03/1182

December 8, 2003

G.P. Jennings
LTJG, CEC USNR
Historic Preservation Program Coordinator
Dept. of the Navy
Commander
Navy Region Hawaii
850 Ticonderoga St., Ste 110
Pearl Harbor, HI 96860-5102

RE: Section 106 Consultation Transfer of Ewa Drum Property

Dear Lt. Jennings:

Thank you for the opportunity to comment on the above referenced undertaking. OHA understands that the Navy is in the process of transferring land to the Department of Hawaiian Homelands to comply with the Memorandum of Agreement executed pursuant to the Hawaiian Homelands Recovery Act of 1995. The 56 acre Ewa Drum Parcel as identified as a parcel that should be transferred under the MOA.

After review of the documentation provided, OHA agrees with the "no adverse effect" designation for this undertaking. Should additional information regarding traditional and cultural properties on this parcel come to light, we expect that OHA would be consulted.

Thank you for this opportunity to consult. Please contact Pua Aiu at 594-1931 or by e-mail at paiu@oha.org if you have further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Clyde W. Namu'o".

Clyde W. Namu'o
Administrator