

The Environmental Notice

A semi-monthly periodic bulletin published by the Office of Environmental Quality Control pursuant to Section 343-3, Hawai'i Revised Statutes

November 23, 2007

Maui County's Hana Landfill Land Acquisition

The Maui County's Hana Landfill Land Acquisition was published on the last issue (November 8, 2007). There were inconsistencies in the summary on the November 8 issue. The following summary provides the accurate information. The County of Maui, Department of Environmental Management (DEM), seeks to expand the limits of its Hana Landfill parcel, located in Hana, Maui, identified by Tax Map Key 1-3-006:12 (Parcel 12). In 1969, the State Board of Land and Natural Resources approved a right-of-entry in favor of the County of Maui to utilize Parcel 12, approximately 29.05 acres in size, for landfill use. Since 1969, the Hana Landfill has served as the single disposal and recycling facility for the districts of Ke'anae, Nahiku, Hana, Kipahulu and Kaupo. Access to the landfill site is provided by Waikalua Road via Hana Highway. The DEM is proposing two (2) separate actions. The first action involves the boundary realignment of Parcel 12, consolidating approximately 45.15 acres of the adjacent State owned land identified by TMK 1-33-006:7 (por.) (Parcel 7) into Parcel 12. In addition, the landfill boundary realignment will allow incorporation of three (3) existing methane monitoring wells and one (1) existing groundwater monitoring well and a buffer zone into the landfill parcel. The second action involves proposed grading activities to construct a 100-foot by 100-foot storm runoff detention basin, to be located southwest of the existing landfill facility and within the realigned landfill boundaries. State and County Special Use Permit applications will be required to permit landfill operations in the State Land Use and County agricultural districts. The boundary realignment for the landfill activities and for the detention basin will require processing of a SMA Use Permit. The project involves use of lands owned by the State of Hawai'i and County of Maui funding and use of land in the conservation district, which require the processing of an environmental assessment (EA) pursuant to Chapter 343, Hawai'i Revised Statutes (HRS). The DEM is acting as both the applicant agency and the approving agency for the proposed project and has rendered a Finding of No Significant Impact (FONSI) for the proposed actions.

Environmental Council Meetings/Public Hearing on November 26, 2007

The State Environmental Council will meet on Monday, November 26, 2007, at various times (11:15 A.M. and noon) and rooms (Room 702, OEQC 235 S. Beretania Street, and Room 302, Keoni Ana Building, 1177 Alakaea Street). For notices and agendas please see pages 14-15.



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Land Use Commission Accepts the Kula Nei Project

The Land Use Commission has accepted the Kula Nei Project FEIS for the development of a low-density residential subdivision that will consist of approximately 270 residential market and affordable units. The project will include a neighborhood park, community trails and greenbelts, an internal road network, off-site connecting roads (including extension of Holoholo Street), and infrastructure to support the proposed development, including a wastewater treatment plant, a potable water well, a regional storage reservoir, and water transmission lines. The proposed project is located in the O'oma Homestead region of North Kona, east (*makai*) of Mamalahoa Highway. The project site totals approximately 150 acres, including an approximate 128-acre area that is proposed as the primary development site and is the subject of a land use boundary amendment from the Agricultural District to the Urban District. The remaining approximate 22 acres comprises portions of ten parcels that are necessary for roads and water infrastructure to support the project. The November 8, 2007 issue of the Environmental Notice listed the Kula Nei Project FEIS as being under review by the Land Use Commission; please note that the Land Use Commission has officially accepted the FEIS.

OEQC Website

The OEQC website has a new look! It's mostly a new coat of paint. However, a few links have been fixed and, generally, it's easier to navigate. Please contact OEQC if you need assistance. The website address is: <http://www.state.hi.us/health/oeqc/notice/index.html>

Chapter 343, HRS, Environmental Tips

Section 343-3, Hawaii Revised Statutes requires that the Office of Environmental Quality Control "inform the public of *notices filed by agencies ... [emphasis supplied].*" The Office of Environmental Quality Control would like to remind all that submittals for publication in the periodic bulletin must be accompanied by a letter on official agency letterhead, signed by a competent official transmitting the document and/or determination with a request that OEQC publish notice in the periodic bulletin.

With respect to extensions to a public comment period, the statute is quite clear - the comment period for a draft EIS is simply 45-days. **No more, no less.** As such, the Office of Environmental Quality Control will NOT publish ANY agency or applicant extensions to the public comment period as such publication will constitute sanctioning a process (extending a comment period) not articulated in the law. Additionally, comments received outside of the statutorily prescribed period may possibly compromise the legal standing of a commenter who seeks to challenge the acceptance of an action under Section 343-7(c), HRS.

2008 Calendar of Deadlines

Page 16 of this issue contains the 2008 calendar of deadlines as determined by OEQC using the criteria set forth in Section 11-200-3(c), Hawai'i Administrative Rules (eight working days before the issue date). Please save this for your use.

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Environmental Council

Environmental Council Meetings/Public Hearing on Monday, November 26, 2007, at 11:15 A.M. and 12:00 noon	
Standing Committee on the Annual Report at 11:15 A.M.	14
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We provide access to our activities without regard to race, color, national origin (including language), age, sex, religion, or disability. Write or call OEQC or our departmental Affirmative Action Officer at Box 3378, Honolulu, HI 96801-3378 or at (808) 586-4616 (voice/tty) within 180 days of a problem. OEQC intends to make the information in this bulletin accessible to everyone. Individuals that require this material in a different format (such as large type or braille), should contact our office for assistance.

Definitions

Your guide to the Environmental Review Process

Draft Environmental Assessment

A project or action that may affect the environment cannot be implemented until an Environmental Assessment (EA) is prepared in accordance with Chapter 343, Hawai'i Revised Statutes (HRS). If the lead State or county agency (the *proposing agency* for agency actions, or the *approving agency* for applicant actions) anticipates that the project will have no significant environmental impact, then affected agencies, individuals, and organizations must be consulted and a Draft EA (DEA) is written and public notice is published in this periodic bulletin (see, section 343-3, HRS) known as the *Environmental Notice*. The public has 30 days to comment on the Draft EA from the date of the first notice.

Final Environmental Assessment and Finding of No Significant Impact

After the lead agency reviews the public comments, if it determines that the project will have no significant effect on the environment, and then it will prepare a Final EA (FEA) and issue a Finding of No Significant Impact (FONSI) formerly called a *Negative Declaration*. The Final EA must respond to all public comments. An Environmental Impact Statement will not be required and the project may now be implemented. The public has 30 days from the first notice of a FONSI in this periodic bulletin to ask a court to require the preparation of an EIS.

Final Environmental Assessment and Environmental Impact Statement Preparation Notice

When a lead agency decides that a project may have a significant environmental impact, an Environmental Impact Statement (EIS) must be prepared prior to implementing the project. Like the DEA (see *above*), affected agencies, individuals and organizations must be consulted prior to preparation of the final EA (FEA) and issuance of a determination called an EIS preparation notice (EISPN). (The EA is called *final*, to distinguish it from the draft, *above*). After the FEA is written by the lead agency, and notice of the FEA and EISPN is published in the this periodic bulletin, any agency, group, or individual has 30 days from the first publication of the EISPN to request to become a consulted party and to make written comments regarding the environmental effects of the proposed action. The public (including an applicant) has 60 days from the first notice of an EISPN in this periodic bulletin to ask a court to not require the preparation of an EIS.

Draft Environmental Impact Statement

After receiving the comments on the FEA and EISPN (see *above*), the lead agency or private applicant must prepare a Draft Environmental Impact Statement (DEIS) prior to project implementation. This document must completely disclose the likely impacts of a project. Direct, indirect and cumulative impacts must be discussed along with measures proposed to mitigate them. The public has 45 days from the first publication date in this periodic bulletin to comment on a DEIS. The DEIS must respond to comments received during the FEA-EISPN comment period in a *point-by-point* manner.

Final Environmental Impact Statement

After considering all public comments filed during the DEIS stage, the agency or applicant must prepare a Final EIS (FEIS). The FEIS must respond in a *point-by-point* manner to all comments from the draft stage. Requisite deeper analyses must be included in the FEIS. For applicant projects, the approving agency is authorized to accept the FEIS. For agency project the Governor or the county mayor is the accepting authority. Only after the EIS is accepted may the project be implemented.

Acceptability

If the FEIS is accepted, the law requires that notice of this be published in this periodic bulletin. The public has 60 days from the date of first notice of acceptance to ask a court to vacate the acceptance of an EIS. In the case of applicant actions, the law requires that an approving agency must make a determination on acceptance within thirty-days of receipt of the FEIS or the FEIS is deemed accepted. Also, for applicant actions, the law provides for an administrative appeal of a non-acceptance to the Environmental Council.

National Environmental Policy Act

The National Environmental Policy Act (NEPA) requires federal projects to prepare an EA or EIS. In many ways it is similar to Hawai'i's law. Some projects require both a state (and county) *and* federal EIS and the public comment procedure should be coordinated. Although not required by law, the OEQC publishes NEPA notices in this periodic bulletin to help keep the public informed of important federal actions.

Conservation District

Any use of land in the State Conservation District requires a Conservation District Use Application (CDUA). These applications are reviewed and approved by the Board of Land and Natural Resources (BLNR). Members of the public may intervene in the permit process. Notice of these permit applications is published in this periodic bulletin.

Special Management Area

The Special Management Area (SMA) is along the coastlines of all our islands and development in this area is generally regulated by Chapter 205A, HRS and county ordinance. A special subset of the SMA that is regulated by Chapter 343, HRS is the Shoreline Setback Area. Most development in this area requires a Special Management Permit (SMP). This periodic bulletin posts notice of these SMP applications to encourage public input.

Shoreline Certifications

State law requires that Hawai'i shorelines be surveyed and certified when necessary to clearly establish the shoreline setback (an area contained between the certified shoreline and a prescribe distance inland (usually 40 feet) from the certified shoreline). The public may participate in the process to help assure accurate regulatory boundaries. Private land owners often petition to have their shoreline certified by the State surveyor prior to construction. This periodic bulletin publishes notice from the Department of Land and Natural Resources of both shoreline certification applicants and of final certifications or rejections.

Environmental Council

The Environmental Council is a fifteen-member citizen board appointed by the Governor to advise the State on environmental concerns. The council makes the rules that govern the Environmental Impact Statement process. The agendas of their regular meetings are published on the Internet at <http://www.ehawaii.gov.org/calendar> and the public is invited to attend.

Exemption Lists

Government agencies must keep a list describing the minor activities they regularly perform that are declared exempt from the environmental review process. These lists are reviewed and approved by the Environmental Council. This periodic bulletin will publish an agency's draft exemption list for public comment prior to Council decision making, as well as notice of the Council's decision on the list.

Endangered Species

This periodic bulletin is required by Section 343-3(c), HRS, to publish notice of public comment periods or public hearings for habitat conservation plans (HCP), safe harbor agreements (SHA), or incidental take licenses (ITL) under the federal Endangered Species Act, as well as availability for public inspection of a proposed HCP or SHA, or a proposed ITL (as a part of an HCP or SHA).

Hawai'i Notices

November 23, 2007

(1) Hamakua Road Maintenance Baseyard (HRS 343 DEA)

District: Hamakua
TMK: (3) 4-2-5; portion of 1
Proposing Agency: County of Hawai'i, Department of Public Works, 101 Pauahi Street, Suite 7, Hilo, Hawai'i 96720-8360. Contact David Yamamoto (808-961-8466)

Determination Agency: Same as above.
Consultant: Brian T. Nishimura, Planning Consultant, 101 Aupuni Street, Suite 217, Hilo, Hawai'i 96720. Contact: Brian Nishimura (808-935-7692)

Public Comment Deadline: December 24, 2007
Status: Draft environmental assessment (DEA) notice pending 30-day public comment. Address comments to the proposing agency with copies to the consultant and OEQC.

Permits Required: Approval of a Special Permit – Hawai'i County Planning Commission, Construction Plans – Public Works, Planning

The County of Hawai'i, Department of Public Works (DPW) is proposing to develop a Highway Maintenance Baseyard on approximately 14.9 acres of land in the district of Hamakua, Island of Hawai'i. The property involved is situated approximately one mile east of Pa'auilo Village along the south (mauka) side of the Hawai'i Belt Road (Highway 19) at Koholalele, Hamakua, Island of Hawai'i, Tax Map Key 4-2-05: portion of 1. The project site is part of a 1,040 acre parcel obtained by the County of Hawai'i from the Hamakua Sugar Company during bankruptcy proceedings as part of the settlement for unpaid taxes. The property was utilized for the cultivation of sugar but has remained fallow since the close of the sugar company in 1994. The project area has been cleared and a chain link fence has been erected on a portion of the property. The highway maintenance baseyard will include a maintenance building approximately 40' x 100', a warehouse building approximately 40' x 120', a fueling station, parking spaces for at least 30 vehicles and trucks, a paved access road and fencing. The facility is being designed to accommodate approximately 43 employees, the various vehicles, equipment, materials and supplies utilized by the road maintenance crew. The current equipment and vehicle inventory includes (1) grader, (1) front end loader, (1) back hoe, (5) dump trucks, (3) crew cab dump trucks, (2) flat bed trucks, (1) pick-up truck, (5) grass cutters, (1) roller and (1) front end sweeper. The roadway connection to the State High-

way and the interior turning radius within the facility have been designed to accommodate a low boy trailer which will be utilized periodically to transport equipment to and from project sites. The estimated construction cost for the proposed project is \$2.4 million. Construction is expected to commence in the first quarter of 2008, and be completed by the end of the year.

(2) Kohala Watershed Partnership Rare Species Protection Fencing Project (HRS 343 FEA-FONSI)

District: North Kohala
TMK: (3) 5-9-2:004; (3) 5-8-2:001
Proposing Agency: Kohala Watershed Partnership, 19 East Kawili Street, Hilo, Hawai'i 96720. Contact: Melora Purell (808-333-0976)

Determination Agency: Same as above.
Consultant: N/A
Status: Final environmental assessment (FEA) and Finding of No Significant Impact (FONSI).

Permits Required: N/A

The Kohala Watershed Partnership proposes the construction of up to three miles of ungulate-proof fencing, protecting approximately 520 acres of forested watershed on private lands in North Kohala on the Island of Hawai'i. The proposed project is part of the conservation efforts of the Kohala Watershed Partnership, members of which include Parker Ranch, Ponoholo Ranch, Kahuâ Ranch, Surety Kohala Corporation, Kamehameha Schools, The Queen Emma Land Company, Laupâhoehoe Nui, the State of Hawai'i, and, as associate partners, The Nature Conservancy of Hawai'i and the Hawai'i County Department of Water Supply. Introduced ungulates (hoofed animals), specifically feral cattle and pigs, pose a significant threat to native species and to the rare natural communities found in the project area. The proposed fencing will help restore a portion of native 'ôhi'a forest and the only known habitat of the native tree snail *Partulina physa*, will facilitate restoration of habitat for native birds and multiple endangered plant species, and will help enhance functionality of important forested watershed areas. Potential future management actions include weed management, rare plant out plantings, and native species monitoring. The planned fence will be approximately five feet tall, made of steel posts and steel wire and with barbed wire attached to prevent the passage of feral cattle and pigs. Potential impacts include removal of common native vegetation for fence corridor clearing and the accidental introduction of weeds during construction. Impact mitigation measures include locating the fence along existing four-wheel drive roads and trails and the incorporation of alien species prevention protocols.



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(3) Lihu'e Airport Improvements (HRS 343 FEIS)

District: Lihu'e
TMK: 3-5-01:5,6,8,9,92,109,111,128,158,159 and 160; and 3-7-02: por. 01

Proposing Agency: State of Hawai'i, Department of Transportation, Airports Division, 400 Rodgers Boulevard, Honolulu, Hawai'i 96819. Contact: Steve Takashima (808-838-8810)

Accepting Authority: Governor, State of Hawai'i, c/o Office of Environmental Quality Control, 235 S. Beretania Street, Room 702, Honolulu, Hawai'i 96813. Contact: Laurence K. Lau (808-586-4185)

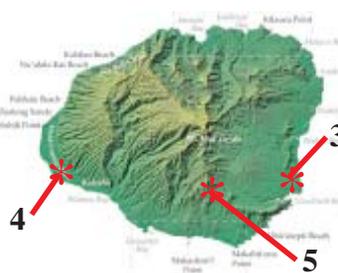
Consultant: Wilson Okamoto Corporation, 1907 South Beretania Street, Suite 400. Honolulu, Hawai'i 96826. Contact: Earl Matsukawa (808-946-2277)

Status: Final environmental impact statement (FEIS) filed and being processed for a determination of acceptability by the accepting authority. The FEIS is also available at the Office of Environmental Quality Control.

Permits Required: FAA Approval of Airport Layout Plan, NPDES Storm water Discharges, DOT-Highways Construction within State right-of-way, SMA Use Permit, Building Permit

The State of Hawai'i Department of Transportation, Airports Division, is proposing various Lihu'e Airport improvements and the acquisition of approximately 125 acres of land adjacent to the airport. The proposed improvements include reconfiguring the existing heliport approximately 200 feet to the north; expanding the air cargo facility, public and employee parking, and fuel storage facilities; realigning and extending emergency vehicle access/perimeter roads and fencing; upgrading runway safety areas; constructing a new terminal exit road; and modifying the interior of the existing terminal building. Fee acquisition of approximately 125 acres of adjacent land north of the airport is proposed to prevent incompatible future development. About nine acres of this property will be used to reconfigure the existing heliport. The remaining approximately 116 acres will remain unimproved and reserved for undetermined future airport facilities.

Short-term construction-related impacts will be created by the generation of dust, noise, and increased construction vehicle traffic. Grading work will require preparation of an NPDES for approval by the DOH Clean Water Branch. The proposed improvements will accommodate an increase in the number of enplaning passengers, with an anticipated 1-2% increase in passenger vehicle trips along adjacent highways. Planned road improvements will alleviate projected traffic operating conditions due to ambient growth and other developments. A small increase in impervious surfaces will result due to construction of the parking expansions, portions of emergency perimeter road, and the air cargo facility. Drainage systems will be designed to accommodate the increased runoff through use of pervious pavements, vegetated swales, storm water detention basins, or other measures that limit off-site discharge.



(4) Kekaha Landfill Phase II Lateral Expansion (HRS 343 FEA-FONSI)

District: Waimea
TMK: (4) 1-2-002:009 and (4) 1-2-02:001

Proposing Agency: County of Kaua'i Department of Public Works, 4444 Rice Street, Mo'ikeha Building, Suite 275, Lihu'e Kaua'i, Hawai'i 96766—1340. Contact: Mr. Troy Tanigawa (808) 241-6880

Determination Agency: Same as above.
Consultant: Earth Tech, Inc., 841 Bishop Street Suite 500, Honolulu Hawai'i 96813. Contact: Michelle Mason (808-356-5322); Facsimile (808-523-8950)

Status: Final environmental assessment (FEA) and Finding of No Significant Impact (FONSI).

Permits Required: SMA; CDUA; NPDES; Grading Permit; Permit for Well Abandonment

The County of Kaua'i, Department of Public Works, Solid Waste Division (the County) is proposing an expansion at the Kekaha Landfill (KLF) on Kaua'i, Hawai'i. The proposed action is to expand the limits of the KLF to include three additional cells. Cell 1 would expand the Phase II fill area into the existing leachate lagoon and adjacent acreage. Cell 2 would expand the Phase II fill area into the valley area between the closed Phase I landfill and the existing Phase II landfill. Cell 3 would expand the Phase II fill area directly over the closed Phase I landfill. Maximum height of these areas would be no greater than 85 feet above msl. The purpose of the proposed action is to prolong the life of KLF as it is the only permitted MSW facility on Kaua'i. The proposed action, identified as Phase II Lateral Expansion, would provide an additional landfill area for MSW filling operations for approximately 12 years, allowing the County adequate time to site, design, and construct a new landfill facility. No significant long-term adverse impacts are expected. Short-term adverse construction-related impacts to air quality, noise, and safety and health are expected during the implementation of the proposed action. However, appropriate mitigation measures would be implemented to reduce these impacts to a level of non-significance. The KLF would continue to be operated in accordance with all applicable federal and state guidelines and regulations. No significant adverse impacts are anticipated from implementation of the Phase II Lateral Expansion.

(5) Agriculture Biomass-to-Energy Facility (HRS 343 FEA-FONSI)

District: Koloa
TMK: (4) 2-7-001-001
Applicant: Green Energy Team LLC, 4313 Kapuna Road, Kilauea, Hawai'i 96754. Contact: Mr. Eric Knutzen (808-651-5042)

Approving Agency: County of Kaua'i, Department of Planning, 4444 Rice Street, Suite 473, Lihu'e, Hawai'i 96766. Contact: Mr. Ian Costa, Director (808-241-6677)

Consultant: Earth Tech, Inc., 841 Bishop Street, Suite 500,

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Status: Honolulu, Hawai'i 96813. Contact: Ms. Michelle Mason (808-356-5322)
Final environmental assessment (FEA) and Finding of No Significant Impact (FONSI).

Permits Required: County Land Use Plan – Class Zone Plan; Covered Source Permit, HAR Chapter 11-60, Subchapter 5

Green EnergyTeam LLC is proposing an agricultural waste-to-energy facility on Kaua'i, Hawai'i. The proposed project site is located in the Kōloa District approximately 1,200 feet from the north side of Kaunuaui'i Highway and approximately 6,000 feet northeast of its intersection with Maluhia Road identified by Tax Map Key (4) 2-7-001:1. The proposed action involves the construction, operation, and maintenance of an agricultural waste-to-energy facility consisting of a 40-foot high feedstock storage and wood chipping building, graveled log lay down area, 50-foot high energy plant building with 75-foot high smoke emission stack, biomass storage bins and condenser, and a power substation with utility poles and lines that will transmit the energy generated to the existing Kaua'i Island Utility Cooperative (KIUC) power lines located immediately south of the proposed facility. A waterline will also be constructed in order to draw water from and discharge water back to the Koloa Ditch, located approximately 4,600 feet to the south that will be used to supply the energy plant's cooling system. Vehicular access is pro-

posed via an existing access along Kaunuaui'i Highway and over and across a parcel fronting the highway identified by Tax Map Key (4) 2-8-01:3 containing a total area of 82.25 acres. The proposed project area is a portion of the area commonly referred to as Knudsen Gap. It is currently undeveloped agricultural land free of structures comprised of a single parcel approximately 64 acres in size. The proposed site for the actual agricultural waste-to-energy facility is located on a 6 acre portion of the 64 acres that is presently cultivated with *Eucalyptus* and *Albizia* trees by the lessee of the property, Hawaiian Mahogany, Inc. Ninety-five percent of the targeted biomass fuel would be derived from the wood chips of the *Eucalyptus* and *Albizia* trees. The development of a waste-to-energy facility triggers the environmental review process mandated under Hawai'i Revised Statutes (HRS) Chapter 343. The need for the project arises because of HRS Title 15, Chapter 269, Part V renewable portfolio standard (RPS) that mandates that each electrical utility company, in this instance KIUC, shall provide 20 percent of its net electricity through renewable energy by the end of the year 2020. Therefore, energy generated by this facility will be transmitted to the energy grid of Kaua'i Island Utility Cooperative (KIUC). According to the Applicant's Executive Summary (page i), "The facility would utilize approximately 195 tons of waste per day for a gross of 7,100 kilowatts (kW) and a net of 6,400 kilowatts (kW) of electrical energy, one tenth of Kaua'i's current peak load. The proposed action would assist with the reduction of dependence on fossil fuels for the generation of electricity and assist with meeting the mandated RPS".

O'ahu Notices

(6) Ma'ili Project III (HRS 343 DEA)

District: Wai'anae
TMK: (1) 8-7-02: 001, 007, 015, 016
Applicant: Self Help Housing Corporation of Hawai'i, 1427 Dillingham Boulevard, Suite 305, Honolulu, Hawai'i 96817. Contact: Claudia Shay, Executive Director (808-842-7111)

Approving Agency: Hawai'i Housing Finance & Development Corporation, 677 Queen Street, Suite 300, Honolulu, Hawai'i 96813. Contact: Ryan Morita (808-587-0547)

Consultant: Hawai'i Housing Finance and Development Corporation. Contact: Chris Sadayasu (808-587-0547)

Comment Deadline: December 23, 2007
Status: Draft environmental assessment (DEA) notice pending 30-day public comment. Address comments to the applicant with copies to the approving agency, consultant and OEQC.

Permits Required: Preliminary subdivision approval from City & County of Honolulu, 201-H Application approval from City and County of Honolulu-Department of Planning & Permitting and Honolulu City Council, Approval Construction Plans – City and County of Honolulu, Grading Permit-City and County of Honolulu, NPDES Permit-State Department of Health, Final

Subdivision Approval: City and County of Honolulu

The Self-Help Housing Corporation of Hawaii acquired four parcels of land totaling 9.48 acres in Ma'ili, O'ahu (TMK (1) 8-7-02: 001, 007, 015, 016) for the purposes of building a 77 lot subdivision to build an affordable housing project. With the land already zoned R-5 Residential, and indications from the City and County of Honolulu that there is adequate capacity for water, and wastewater services on the present systems, there should be no difficulty in developing the parcels. SHHCH will develop the subject property under the 201-H (HRS) process to maximize the density of the property, and attain significant savings. In cooperation with the Hawaii Housing Finance & Development Corporation, and the City and County of Honolulu, SHHCH is requesting the following 201-H exemptions: waiving the park dedication fees; utilizing narrower and smaller lots than required by R-5 zoning; utilizing an overhead electrical system; deleting gutters, and sidewalks; and waiving the building permit fees. SHHCH has undertaken significant due diligence with the completion of a Phase I-Environmental Site Assessment indicating that there are no environmental concerns. The State DLNR-State Historic Preservation Division has already indicated that there are no archaeological, historical, or cultural properties in the subject area. The land is Flood Zone D, and is not a wetlands area, nor Special Management Area. As the land has been in residential development for many years, there are no endangered or threatened species, or habitats. The proposed development of 77 single family homes is congruent with the surrounding area which is being used for residential purposes. SHHCH has drafted a preliminary subdivision map, and begun the engineering. SHHCH intends to build an

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interior road of approximately 1,200 l.f., install a main water line of approximately 1,100 l.f., install a main sewer line of approximately 1,170 l.f., install water and sewer laterals, install four fire hydrants, and localized drain inlets discharging to an existing concrete lined drainage system. Upon completion of the subdivision SHHCH will undertake five self-help housing projects of 77 units. Lower income families will build one story, three and four bedroom homes for less than \$250,000/unit fee simple. SHHCH will integrate various income groups in the projects as follows: 50% of the units affordable to families whose incomes are below 80% of the median income; 25% of the units affordable to families whose incomes are below 100% of the median income, and 25% of the families whose incomes are below 120% of the median income. Through the self-help housing project lower income families, who otherwise would not have the opportunities, will become homeowners.

(7) Hale Wai Vista Affordable Housing (HRS 343 FEA-FONSI)

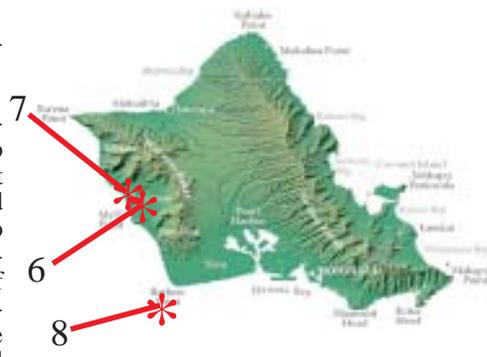
District: Wai'anae
TMK: 8-6-1:35
Proposing Agency: City and County of Honolulu, Department of Community Services, 715 South King Street, Suite 408, Honolulu, Hawai'i 96813. Contact: Keith Ishida (808-768-7750)
Determination Agency: Same as above.
Consultant: Kusao & Kurahashi, 2752 Woodlawn Drive, Suite 5-202, Honolulu, Hawai'i 96822. Contact: Ardis Shaw-Kim (808-988-2231)
Status: Final environmental assessment (FEA) and Finding of No Significant Impact (FONSI).
Permits Required: Chapter 201-H, HRS, approval, building, grading

Hawai'i Housing Development Corporation, a non-profit organization, proposes to develop an affordable rental housing project on a 5.02 acre property located at 86-78 and 86-86 Farrington Highway adjacent to Wai'anae Mall to help meet the needs of families who are unable to meet the high cost of housing. The proposed development will consist of four multi-family buildings and one multi-purpose building. A total of 216 two and three-bedroom affordable rental units, including a resident managers unit, will be developed and rented to qualified families. After meeting with the Wai'anae Neighborhood Board on September 5, 2006, the developer has reduced the height for the 2 midrise buildings. Originally proposed for 8 stories with a roof height of 70'-9", these buildings are now 7 stories with a height of 60' 1" to the top of the main roof. The other three buildings are 2-story structures. The two multi-family structures will be 27'-1" high and the community multi-purpose building will be about the same height. Previously planned with 293 parking stalls, as required by code, 38 additional stalls have been added for a total of 331 stalls. As currently envisioned, rental units will be made available to families earning up to about 30, 50 and 60% of Honolulu's median family income. The project will be constructed in phases using

a variety of funding sources including federal HOME funds and Community Development Block Grant funds. The applicant will be seeking land use exemptions under the provisions of Chapter 201-H, Hawai'i Revised Statutes, to allow development of the project.

(8) Kalaeloa Artificial Reef (HRS 343 FEIS)

District: None (outside County jurisdiction)
TMK: None
Proposing Agency: State of Hawai'i, Department of Land and Natural Resources, Division of Aquatic Resources, 1151 Punchbowl Street, Room 330, Honolulu, Hawai'i 96813. Contact: Paul Murakawa (808-587-5404)
Accepting Authority: Governor, State of Hawai'i, c/o State of Hawai'i, Department of Land and Natural Resources, 1151 Punchbowl Street, Room 130, Honolulu, Hawai'i 96813. Contact: Laura Thielen (808-587-0400)
Consultant: Planning Solutions, Inc., 210 Ward Avenue, Suite 330, Honolulu, Hawai'i 96814. Contact: Charles Morgan (808-550-4483)
Status: Final environmental impact statement (FEIS) filed and being processed for a determination of acceptability. The FEIS is also available at the Office of Environmental Quality Control.
Permits Required: Conservation District Use Permit, Department of the Army Permit, Section 401 Water Quality Certification, Coastal Zone Management Program Consistency Determination.



The State of Hawai'i Department of Land and Natural Resources (DAR) is proposing to establish an artificial reef site on the seafloor offshore from the 'Ewa District of the Island of O'ahu. Located between depths of 60-120 feet in an area that is mostly devoid of coral and valuable marine habitat, the 108-acre area is sized such that it can accommodate multiple artificial-reef structures. DAR is applying for a Conservation District Use Permit and has prepared a Final Environmental Impact Statement (FEIS) in accordance with Chapter 343, Hawai'i Revised Statutes. In addition to the overall artificial reef designation, the FEIS also covers construction of the first increment of artificial reef within the artificial reef site boundaries. For this purpose, at least two separate piles (sets) of concrete Z-blocks will be emplaced on the ocean floor approximately 50-100 feet apart. A total of approximately 700-800 blocks will be used and these will cover a seafloor area of about 8,000 square feet. This will provide shelter and surface area that will improve marine habitat quality at the site. Completion of this project is consistent with the DAR mission within the State Department of Land and Natural Resources. The Department believes it will provide direct benefits for O'ahu's fishing and marine recreational activities as well as substantial enhancements to the offshore marine environment.

Coastal Zone News

November 23, 2007

Federal Consistency Reviews

The Hawai'i Coastal Zone Management (CZM) Program has received the following federal actions to review for consistency with the CZM objectives and policies in Chapter 205A, Hawai'i Revised Statutes. This public notice is being provided in accordance with section 306(d) (14) of the National Coastal Zone Management Act of 1972, as amended. For general information about CZM federal consistency please call John Nakagawa with the Hawai'i CZM Program at 587-2878. For neighboring islands use the following toll free numbers: Lana'i & Moloka'i: 468-4644 x72878, Kaua'i: 274-3141 x72878, Maui: 984-2400 x72878 or Hawai'i: 974-4000 x72878. For specific information or questions about an action listed below please contact the CZM staff person identified for each action. Federally mandated deadlines require that comments be received by the date specified for each CZM consistency review and can be mailed to: Office of Planning, Department of Business, Economic Development and Tourism, P.O. Box 2359, Honolulu, Hawai'i 96804. Or, fax comments to the Hawai'i CZM Program at 587-2899.

(9) Fishery Ecosystem Plans for the Hawai'i Archipelago & the Pacific Pelagic Fisheries

Federal Action: Federal Agency Activity
Federal Agency: National Marine Fisheries Service
Contact: Karla Gore, 944-2273
CZM Contact: John Nakagawa, 587-2878
Proposed Action:

The Western Pacific Fishery Management Council (Council) has prepared, and is in the process of finalizing new Fishery Ecosystem Plans (FEP). The Hawai'i CZM Program is reviewing two of the new FEPs, the Hawai'i Archipelago FEP and the Pacific Pelagic FEP. The Council is moving towards an ecosystem-based approach to fisheries management and is restructuring its management framework from

species-based fishery management plans to place-based FEPs. Both the Hawai'i Archipelago FEP and the Pacific Pelagic FEP establish the framework under which the Council will manage fishery resources, and begin the integration and implementation of ecosystem approaches to management. The Hawai'i Archipelago FEP does not establish any new fishery management regulations at this time, but rather consolidate existing fishery regulations for demersal species. The Pacific Pelagics FEP does not establish any new fishery regulations at this time, but rather creates the organizational structure for developing and implementing FEPs that explicitly incorporate community input and local knowledge into the management process.

Comments Due: December 7, 2007

Special Management Area (SMA) Minor Permits

Pursuant to Hawai'i Revised Statute (HRS) 205A-30, the following is a list of SMA Minor permits that have been approved or are pending by the respective county/state agency. For more information about any of the listed permits, please contact the appropriate county/state Planning Department. City & County of Honolulu (523-4131); Hawai'i County (961-8288); Kaua'i County (241-6677); Maui County (270-7735); Kaka'ako (Honolulu) or Kalaheo (Barbers Point) Community Development District (587-2840).

Location (TMK)	Description (File No.)	Applicant/Agent
Kaua'i: Hanalei (5-8-11-59)	Spa/hot tub (SMA(M)-2008-5)	ALTA Management Services
Maui: Ki (3-9-05-12)	Replace existing fence w/blue rock wall (SM2 20070084)	Owen, Linda R.
Maui: Makena (2-1-07-92)	Install water & sewer laterals (SM2 20070085)	Makena Land LLC
Maui: Lahaina (4-4-01-106)	Temporary parking area (SM2 20070087)	West Maui Breakers
Honolulu: Waialua (6-8-11-45)	New 6-foot high vinyl fence & gate along front & right side of property (2007/SMA-66)	Linda Gallaher/ Best Vinyl LLC (Andrew Sears)

Pollution Control Permits

November 23, 2007

Department of Health Permits

The following three pages contain a list of some pollution control permits currently before the State Department of Health. For more information about any of the listed permits, please contact the appropriate branch or office of the Environmental Management Division at 919 Ala Moana Boulevard, Honolulu. Abbreviations are as follows: **CAB** - Clean Air Branch (586-4200); **CD** - comments due; **CSP** - Covered Source Permit; **CWB** - Clean Water Branch 9586-4309); **I** - issued; **SHWB** - Solid and Hazardous Waste Branch (586-4226); **SDWB** - Safe Drinking Water Branch (586-4258); **N** - none; **NSP**-Noncovered Source Permit; **NPDES** - National Pollutant Discharge Elimination System under the Federal Clean Water Act; **R** - received; **T** - temporary; **UIC** - Underground Injection Control; **NA** - not applicable.

Branch Permit Type	Applicant & Permit Number	Project Location	Pertinent Date	Proposed Use
CAB, 586-4200, NCSP	J.F. Lacy & Sons. Temporary NSP No. 0472-01-NT. (Renewal Application No. 0472-02)	Located at: Various Temporary Sites, State of Hawai'i	Issued: 10/26/07	187 TPH Crushing Plant
CAB, 586-4200 CSP	Goodfellow Brothers, Inc. Temporary CSP No. 0242-01-CT (Application for Significant Modification No. 0242-09)	Located at Various Temporary Sites, State of Hawai'i	Public Notice 10/30/07	780 TPH Stone Processing Plant w/1 MW or 1.36 MW Diesel Engine Generator and 1,100 TPH mobile Stone Processing Plant w/Integral Diesel Engines
CAB, 586-4200, CSP	Tesoro Hawai'i Corporation CSP No. 0212-01-C (Minor Modification Application No. 0212-20; Significant Modification Application No. 0212-22)	Located at: 91-325 Komohana Street, Kapolei, O'ahu	Issued: 11/6/07	Asphalt Heating & Loading Petroleum Refinery
CAB, 586-4200, CSP	Queens Medical Center CSP No. 0353-02-C (Initial CSP Application No. 0353-04 and Renewal Application No. 0353-05)	Located at: 1301 Punchbowl Street, Honolulu, O'ahu	Issued: 11/8/07	Four (4) 3,286 bhp Diesel Engine Generators and Two (2) 8.2 MMBtu/hr Steam Boilers
CAB, 586-4200, CSP	SAN Construction, LLC CSP No. 0508-01-CT (Renewal Application No. 0508-02)	Located at: Various Temporary Sites, State of Hawai'i	Issued: 11/8/07	Mobile Jaw Crushing Plant
CAB, 586-4200, CSP	Chevron USA. Amendment of CSP No. 0088-01-C. (Significant Modification Application No. 0088-13)	Located at: 91-480 Malakole Street, Kapolei, O'ahu	Issued: 11/8/07	FCC Flare Petroleum Refinery
CAB, 586-4200, CSP	Kiewit Pacific Company. Amendment of Temporary CSP No. 0626-01-CT. (Significant Modification Application No. 0626-03)	Located at: Various Temporary Sites, State of Hawai'i	Issued: 11/8/07	875 TPH Portable Stone Quarrying and Processing Plant w/One (1) 1,100 kW Diesel Engine Generator
CAB, 586-4200, CSP	R.H.S. Lee, Inc. CSP No. 0495-01-CT (Renewal Application No. 0495-02)	Located at: Various Temporary Sites, State of Hawai'i	Issued: 11/8/07	Mobile Jaw Crusher Plant
CAB, 586-4200 NCSP	Kaua'i Coffee Company NSP No. 0044-02-N (Application Renewal No. 0044-04)	Located at: Numila Coffee Plant, 'Ele'ele, Kaua'i	Issued: 11/8/07	23 Coffee Dryers

Shoreline Notices

November 23, 2007

Shoreline Certification Applications

Pursuant to § 13-222-12, HAR the following shoreline certification applications are available for inspection at the DLNR District Land Offices on Kaua'i, Hawai'i and Maui and at Room 220, 1151 Punchbowl St., Honolulu, O'ahu (Tel: 587-0414). All comments shall be submitted in writing to the State Land Surveyor, 1151 Punchbowl Street, Room 210, Honolulu, Hawai'i 96813 and postmarked no later than fifteen (15) calendar days from the date of the public notice of the application. If there are any questions, please call Barry Cheung at (808) 587-0430.

File No.	Date	Location	Applicant/Owner	TMK
OA-1195	10/24/2007	Lot 13, Land Court Application 1827 (Map 1), situated at Lualualei, Wai'anae, Island of O'ahu. Address: 87-665 Farrington Highway. Purpose: Permitting	Towill, Shigeoka & Associates, Inc./Alfred A. Anawati Trust	8-7-028:003
OA-1196	10/26/2007	Lot 1566, Land Court Application 242 (Map 240), situated at Pu'uloa, 'Ewa, Island of O'ahu. Address: 91-031 Parish Drive. Purpose: Building setback	Jaime F. Alimboyoguen/Mae Parish Trust	9-1-007:002
OA-1197	11/05/2007	Lot 604, Land Court Application 1089 (Map 40), situated at Kaunanui, Wai'aloa, Island of O'ahu. Address: 67-011 Kaimanu Place. Purpose: Building permit	Wesley T. Tengan/John Borsa, Jr.	6-7-014:028
OA-1198	11/05/2007	Lot 176, Land Court Application 979, and Parcel 15, situated at Kahalu'u, Ko'olaupoko, Island of O'ahu. Address: 47-129 Kamehameha Highway. Purpose: Building permit	Wesley T. Tengan/John Akima et al.	4-7-001:005
OA-1199	11/06/2007	Lot 10-C, Land Court Application 776, situated at La'ie, Ko'olaupoko, Island of O'ahu. Address: 55-123 Naupaka Street. Purpose: Building permit	Walter P. Thompson, Inc./Michael Pape	5-5-011:062
MA-391	10/24/2007	Lot 48-A-1, Mailepai Hui Partition Subdivision, situated at Ka'anapali, Lahaina, Island of Maui. Address: 41 Hui Road E. Purpose: Shoreline setback	Valera, Inc./Steve & Ursula Gebert	4-3-015:004
MA-392	10/24/2007	Portion of Grant 2184, Ap.1, situated at Kaupo, Hana, Island of Maui. Address: None assigned. Purpose: Shoreline setback	Valera, Inc./John M. Kean	1-7-001:010
HA-385	11/01/2007	Portion of R.P. 7819, L.C.Aw. 8559-B, Ap.8, situated at Puapua'a 2nd, North Kona, Island of Hawai'i. Address: 75-6092 Ali'i Drive. Purpose: Building permit	Wes Thomas Associates/Boaz LLC	7-5-020:021
HA-386	11/06/2007	Portion of R.P. 3676, L.C.Aw. 9746-C, Ap.1, situated at Kalahiki, South Kona, Island of Hawai'i. Address: Kalahiki Beach. Purpose: Building permit	John D. Weeks, Inc./McCandless Land & Cattle Company	8-6-014:012
KA-311	11/05/2007	Lot A-6-A, Lee Kwai Beach Lots, situated at Weliweli, Koloa, Island of Kaua'i. Address: 1871 Pe'e Road. Purpose: Property renovation	Roger M. Caires/John B. Higman	2-8-019:011
KA-312	11/06/2007	Lot A, being a portion of L.C.Aw. 11216:5, situated at Wainiha, Hanalei, Island of Kaua'i. Address: 5-7130 Kuhio Highway. Purpose: Building permit	Wagner Engineering Services, Inc./Hanalei Colony Resort	5-8-011:0271

Shoreline Notices

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Shoreline Certifications and Rejections

Pursuant to §§13-222-26, HAR the following shorelines have been proposed for certification or rejection by the DLNR. Any person or agency wishing to appeal a proposed shoreline certification or rejection shall file a notice of appeal in writing with the department no later than 20 calendar days from the date of the public notice of the proposed shoreline certification or rejection. The Notice of appeal shall be sent to the Board of Land and Natural Resources, 1151 Punchbowl Street, Room 220, Honolulu, Hawaii 'i 96813.

File No.	Proposed/Rejected	Location	Applicant/Owner	TMK
OA-1193	Proposed Shoreline Certification	Lot 194, Land Court Application 1052, situated at Makaha, Wai'anae, Island of O'ahu. Address: 84-465 Farrington Highway. Purpose: Variance	Robert K. Sing/Donald & Sandra Denhart Family Trust	8-4-008:018
MA-372	Proposed Shoreline Certification	Lots 56 & 57, Harbor View Tract, File Plan 300, portions of Grant 3343, situated at Ahuakokole, Wailuku, Island of Maui. Address: 530 Kailana Street. Purpose: Building permit	Valera, Inc./Craig H. Halley	3-4-028:045
KA-308	Withdrawn	Lot 9, being a portion of R.P. 7194, L.C. Aw. 11216, Ap.5, situated at Wainiha, Hanalei, Island of Kaua'i. Address: 7292 Alamo'o Road. Purpose: Remodeling	Ailana Surveying & Geomatics, LLC/My Bungalow, LLC	5-8-008:046

Federal Notices

Environmental Protection Agency EIS Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202)564-7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 6, 2007 (72 F.R. 17156).

EIS No. 20070307, ERP No. D-USA-A11079-00, Permanent Home Stationing of the 2/25th Stryker Brigade Combat Team (SBECT), To Address a Full Range of Alternatives for Permanently Stationing the 2/25th SBCT, Hawaii and Honolulu Counties, Hawai 'i, Anchorage and Southeast Fairbanks Boroughs, Alaska; El Paso, Pueblo, and Fremont Counties, Colorado. Summary: EPA expressed environmental concerns about the cumulative impacts related to the recent decision to resume year-round training operations in the Eagle River Flats area at Fort Richardson, AK. EPA recommended a cumulative impact analysis, particularly on water resources and the Cook Inlet Beluga whale population in this area. Rating EC2 (see, 72 F.R. 63578, November 9, 2007).

Information and Nominations of Areas for Leases

The Minerals Management Service (MMS) invites comments concerning the authorization of activities on the Outer Continental Shelf (OCS) involving the installation of meteorological or marine data collection facilities to assess alternative energy resources (e.g., wind, wave, and ocean current) or to test alternative energy technology to produce or support production of alternative energy. The MMS intends to adopt an interim policy to authorize such facilities (e.g., meteorological towers or wave and current data collection instruments and wave or current generators or other developing technology) under subsection 8(p) of the OCS Lands Act, as amended by section 388 of the Energy Policy Act of 2005. Parties wishing to obtain such authorizations should submit detailed and specific nomination and application information as described below. The MMS requests comments by January 7, 2008. We will begin review on that date and consider all comments received by that time. You may submit your comments by one of two methods: 1) Commenting electronically using the MMS Public Connect online commenting system (<https://occonnect.mms.gov>); or (2) Mailing your comments to the following address: Minerals Management Service, Offshore Minerals Management, Alternative Energy and Alternate Use Team, 381 Elden Street, Herndon, Virginia 20170-4817. For more information contact: Ms. Maureen Bornholdt, Minerals Management Service, Offshore Minerals Management, 381 Elden Street, Herndon, Virginia 20170-4817, (703) 787-1300, Mail Stop 4080 (see, 72 F.R. 62673, November 6, 2007).

Federal Notices

November 23, 2007

Revision of Refrigerant Recovery and Recycling Equipment Standards

The United States Environmental Protection Agency (EPA) is taking direct final action on motor vehicle refrigerant recovery and recycling equipment standards. Under Clean Air Act Section 609, motor vehicle air-conditioning (MVAC) refrigerant handling equipment must be certified by the Administrator or an independent organization approved by the Administrator and, at a minimum, must be as stringent as the standards of the Society of Automotive Engineers (SAE) that are in effect as of the date of the enactment of the Clean Air Act Amendments of 1990. In 1997, EPA promulgated regulations that required the use of SAE Standard J2210, HFC-134a Recycling Equipment for Mobile Air Conditioning Systems for certification of MVAC refrigerant handling equipment. SAE has replaced Standard J2210 with J2788, Recovery/Recycle and Recovery/Recycle/Recharging Equipment for HFC-134a Refrigerant. To avoid confusion with an outdated reference, EPA is updating its reference to the new SAE standards. This action reflects a change in industry standard practice. This action also revises the EPA addresses to send equipment certification forms. This rule is effective on December 31, 2007 without further notice, unless EPA receives adverse comment or a request for public hearing by December 10, 2007. If we receive adverse comment or a request for a public hearing, we will publish a timely withdrawal in the Federal Register informing the public that some or all of the amendments in this rule will not take effect. Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2006-5065, by one of the following methods: (1) <http://www.regulations.gov>; Follow the on-line instructions for submitting comments; (2) Electronic mail: a-and-r-Docket@epa.gov; (3) Facsimile – (202) 566-1741; or (4) Mail: Environmental Protection Agency, Mail code 6102T, EPA Docket Center (EPA/DC), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Direct your comments to Docket ID No. EPA-HQ-OAR-2006-5065. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. For more information contact Karen Thundiyil, Stratospheric Protection Division, Office of Atmospheric Programs (MC 6205J), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343-9464; facsimile number: (202) 343-2363; electronic mail address: thundiyil.karen@epa.gov (see, 72 F.R. 63490, November 9, 2007).

Endangered Species Recovery Permit Applications

The U.S. Fish and Wildlife Service (FWS) invites the public to comment on the following applications to conduct certain activities with endangered species. Comments on these permit applications must be received on or before December 17, 2007. Written data or comments should be submitted to the U.S. Fish and Wildlife Service, Chief, Endangered Species, Ecological Services, 911 NE. 11th Avenue, Portland, Oregon 97232-4181 (telephone: 503-231-2063; fax: 503-231-6243). Please refer to the respective

permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public. For details, contact Linda Belluomini, Fish and Wildlife Biologist, at the above Portland address (telephone: 503-231-2063; facsimile: 503-231-6243).

Permit No. TE-043638: Applicant: Directorate of Public Works, U.S. Army, Schofield Barracks, Hawai'i. The permittee requests an amendment to take (capture and release, band, collect biological samples, and conduct nest searches) the O'ahu 'elepaio (*Chasiempis sandwichensis ibidis*) in conjunction with genetic and disease research, and life history studies, on the Island of O'ahu in the State of Hawai'i, for the purpose of enhancing its survival.

Permit No. TE-146768: Applicant: Arleone Dibben-Young, Kaunakakai, Moloka'i, Hawai'i. The permittee requests an amendment to take (collect biological samples) the Hawaiian coot (*Fulica americana alai*) in conjunction with avian influenza research on the Island of Moloka'i in the State of Hawai'i for the purpose of enhancing its survival (see, 72 F.R. 64665, November 16, 2007).

Hawaiian Coastwise Cruises

The U.S. Department of Homeland Security, Bureau of Customs and Border Protection is seeking public comment on a document it has prepared proposing new criteria to be used by Customs and Border Protection ("CBP") to determine whether non-coastwise-qualified vessels are in violation of the Passenger Vessel Services Act (PVSA) when engaging in cruise itineraries in which passengers board at a U.S. port, the vessel calls at several Hawaiian ports, and then the vessel proceeds to a foreign port or ports for a brief period, before ultimately returning to the original U.S. port of embarkation where the passengers disembark to complete their cruise. CBP believes these itineraries are contrary to the PVSA because it appears that the primary objective of the foreign stop is evasion of the PVSA. Comments must be received on or before December 21, 2007. All submissions received must include the agency name and docket number for this proposed interpretation. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Office of International Trade, Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted documents should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

The maritime cabotage law governing the transportation of passengers was first established by section 8 of the Passenger Vessel Services Act of June 19, 1886 (the "PVSA"), 24 Stat. 81; as amended by section 2 of the Act of February 17, 1898, 30 Stat. 248, formerly codified at 46 U.S.C. App. 289 (now codified at 46 U.S.C. 55103). That statute provided that no foreign vessel shall transport passengers between ports or places in the United States, either directly or by way of a foreign port, under a penalty of \$200 (now \$300, as promulgated in T.D. 03-11 pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note) for each passenger so transported and landed. The intent of the maritime cabotage laws, including the PVSA, was to provide a "legal structure that guarantees a coastwise monopoly to Ameri-

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can shipping and thereby promotes development of the American merchant marine.” *Autolog Corp. v. Regan*, 731 F.2d 25, 28 (DC Cir. 1984); see also *The Granada*, 35 F.Supp. 892, 893, 1940 AMC 1601 (DC Pa 1940) (stating that the legislative aim of section 289 [now 55102] was the creation of a practical monopoly of coastwise and domestic shipping business for United States ships). In other words, the PVSA was enacted to advance the United States merchant marine and fleet by restricting the use of foreign-owned/flagged passenger vessels in United States territorial waters. Passenger vessel transportation between United States ports has historically been viewed to be part of the coastwise trade after the enactment of the PVSA. This view is premised on the concepts of continuity of the voyage and whether its intended purpose or objective was coastwise transportation. In other words, the PVSA was held to be violated if the coastwise movement was continuous or if the purpose of the trip was a coastwise voyage. (See 18 O.A.G. 445, September 4, 1886; 28 O.A.G. 204, February 16, 1910; 29 O.A.G. 318, February 12, 1912; 30 O.A.G. 44, February 1, 1913; 34 O.A.G. 340, December 24, 1924; and 36 O.A.G. 352, August 13, 1930.) The CBP regulations promulgated pursuant to the PVSA are found at section 4.80a of title 19 of the Code of Federal Regulations (19 CFR 4.80a) and are reflective of the above cited Office of the Attorney General decisions. These regulations provide, among other things, that a non-coastwise-qualified vessel which “embarks” a passenger at a port in the United States embraced within the coastwise laws (a “coastwise port”) will be deemed to have landed that passenger in violation of the PVSA if the passenger “disembarks” at a different coastwise port on a voyage to one or more coastwise ports and a “nearby foreign port or ports” (as defined in 19 CFR 4.80a(a)(2); see also 19 CFR 4.80a(b)(2)). The terms “embark” and “disembark” are words of art which are defined as going on board a vessel for the duration of a specific voyage, and leaving a vessel at the conclusion of a specific voyage, respectively. (See 19 CFR 4.80a(a)(4).) The references in section 4.80a to “nearby foreign ports” (defined in 19 CFR 4.80a(a)(2)) are the results of attempts by CBP to apply an Office of the Attorney General’s opinion dated February 26, 1910 (28 O.A.G. 204). In that case, a foreign-flag vessel transported 615 passengers on a voyage around the world, eginning in New York and concluding in San Francisco. The Attorney General opined that since the primary object of the voyage was to visit various parts of the world on a pleasure tour returning home via California, and not to be transported in domestic commerce, the transportation was not in violation of the PVSA. The 1910 Attorney General’s opinion was extended to voyages that included foreign ports other than nearby foreign ports. (See Treasury Decision (T.D.) 68-285 (33 FR 16558), November 14, 1968.) However, voyages solely to one or more coastwise ports have always been considered predominantly coastwise. Therefore non-coastwise-qualified vessels engaging in such a voyage where passengers temporarily go ashore at a coastwise port have been deemed to have violated the PVSA.

Current Law and Policy

Pursuant to Public Law 109-304, 120 Stat. 1632, enacted on October 6, 2006, Title 46, United States Code, was substantially reorganized and recodified. Consequently, the PVSA is now codified at 46 U.S.C. 55103 and provides that no vessel shall transport passengers between ports or places in the United States, either directly or by way of a foreign port, under a penalty of \$300 for each person so transported and landed, except one that: (1) Is wholly owned by citizens of the United States for purposes of

engaging in the coastwise trade; and (2) has been issued a certificate of documentation with a coastwise endorsement or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement. In 2003, Congress enacted Public Law 108-7, Division B, Title II, Section 211, for the purpose of revitalizing the oceangoing U.S.-flag cruise industry in Hawaii (the “2003 Act”). Three oceangoing U.S.-flag cruise ships, PRIDE OF ALOHA, PRIDE OF AMERICA and PRIDE OF HAWAII, were documented with coastwise privileges pursuant to the 2003 Act. These vessels entered regular service in Hawaii in 2004, 2005 and 2006, respectively, and pursuant to the express language of the 2003 Act, are limited in their operation to providing “*** regular service transporting passengers between or among the islands of Hawai’i ***” The CBP regulations promulgated pursuant to the PVSA are set forth in 19 CFR 4.80a and have remained unchanged throughout both the recodification of Title 46 of the United States Code and the enactment of the 2003 Act. They provide that a violation of the PVSA occurs when passengers “embark” (board a vessel for the duration of a voyage) a non-coastwise-qualified vessel at one U.S. port, and “disembark” (leave the vessel at the conclusion of a voyage) at a different U.S. port, unless they proceed with the vessel to a “distant foreign port” (i.e., any port not considered a “nearby foreign port” which is defined as any port located in North America, Central America, Bermuda, or the West Indies including the Bahamas). Currently, these regulations do not contain specific criteria for non-coastwise-qualified vessels on itineraries including U.S. ports and either “nearby” or “distant” foreign ports in order for such foreign port calls to be compliant with the PVSA. To reiterate, the applicable CBP regulations provide that the PVSA is violated when a non-coastwise-qualified vessel transports a passenger on a voyage solely to one or more coastwise ports and the passenger disembarks or goes ashore temporarily at a coastwise port. (19 CFR 4.80a(b)(1).) Furthermore, a violation of the PVSA also occurs when a non-coastwise-qualified vessel transports a passenger on a voyage to one or more coastwise ports and a nearby foreign port or ports (but no other foreign port) and the passenger disembarks at a coastwise port other than the port of embarkation. (19 CFR 4.80a(b)(2).) However, there is no violation of the PVSA when a passenger is on a voyage to one or more coastwise ports and a distant foreign port or ports (whether or not the voyage includes a nearby foreign port or ports) and the passenger disembarks at a coastwise port, provided the passenger has proceeded with the vessel to a distant foreign port. (19 CFR 4.80a(b)(3).)

Request From MARAD To Provide Guidance

The U.S. Department of Transportation Maritime Administration (MARAD) has requested that CBP take action to ensure enforcement of the PVSA. MARAD has asked CBP to address the recent activities of foreign-flag passenger vessels in the Hawaiian Islands that are imposing economic hardship on the operations of coastwise-qualified cruise ship operators. In April of 2007, the operator of the three U.S.-flag cruise vessels operating solely in Hawaii pursuant to the 2003 Act announced their intent to withdraw the PRIDE OF HAWAII from the Hawai’i market and redeploy her to Europe. The operator intends to re-flag the vessel to foreign registry, directly resulting in the loss of over 1,100 crewmember jobs. The primary reason cited for this decision is the rapid increase in foreign-flag competition entering the Hawai’i market from the West Coast. This competition is evidenced in published cruise itineraries of foreign-flag carriers offering a va-

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riety of round trip cruises that depart from a U.S. port, call at several Hawaiian ports, then proceed to Ensenada, Mexico for a brief period, usually in the early morning, and ultimately return to the original U.S. port of embarkation where the passengers disembark to complete their cruise. These cruises are often marketed as "Hawai'i cruises" and except for the brief stop in the nearby foreign port of Ensenada, are purely coastwise in nature. It is these cruise itineraries that pose an imminent threat to the two remaining U.S.-flagged, coastwise endorsed passenger vessels that, pursuant to the 2003 Act, are currently engaging in cruise itineraries that include only ports of call within the Hawaiian Islands.

Preliminary Notice

In response to MARAD's concerns, CBP sent letters to two carriers known to operate the itineraries in question, as well as to the Cruise Lines International Association, Inc., stating that CBP believes that these itineraries are contrary to the PVSA because it appears that the primary objective of the Ensenada stop is evasion of the PVSA. The letters further indicated that CBP is taking steps to publish this position.

CBP's Proposed Interpretive Rule

Accordingly, in this document, CBP is proposing to provide that cruise itineraries for non-qualified coastwise vessels which allow passengers to board at a U.S. port, call at several Hawaiian ports, proceed to a foreign port or ports for a brief pe-

riod, and then ultimately return to the original U.S. port of embarkation for disembarkation are not consistent with the PVSA and the regulations promulgated pursuant thereto. Specifically, CBP interprets a voyage to be "solely to one or more coastwise ports" even where it stops at a foreign port, unless the stop at the foreign port is a legitimate object of the cruise. CBP will presume that a stop at a foreign port is not a legitimate object of the cruise unless: (1) The stop lasts at least 48 hours at the foreign port; (2) The amount of time at the foreign port is more than 50 percent of the total amount of time at the U.S. ports of call; and (3) The passengers are permitted to go ashore temporarily at the foreign port. Accordingly, CBP proposes to adopt an interpretive rule under which it will presume that any cruise itinerary that does not include a foreign port call that satisfies each of these three criteria constitutes coastwise transportation of passengers in violation of 19 CFR 4.80a(b)(1). For more information, contact Mr. Glen E. Vereb, Cargo Security, Carriers & Immigration Branch, Office of International Trade, (202) 572-8730. You may submit comments, identified by docket number, by one of the following methods: Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. Mail: Border Security Regulations Branch, Office of International Trade, Customs and Border Protection, 1300 Pennsylvania Avenue, NW., (Mint Annex), Washington, DC 20229 (see, 72 F.R. 65487, November 21, 2007).

Environmental Council

Environmental Council Meetings/Public Hearing

The Environmental Council of the Department of Health will meet on Monday, November 26, 2007, as follows:

At 11:15 A.M. in Room 702, Office of Environmental Quality Control, 235 South Beretania Street, Room 702, Honolulu, Hawaii 96813, the following three Standing Committees (Annual Report, Exemption Lists, and Education and Culture) of the Environmental Council will meet.

STANDING COMMITTEE ON THE ANNUAL REPORT

Mr. David Bylund, Committee Chair, Presiding

1. Call to order
2. New indicators and possible sources
3. Theme for 2007: Environmental Justice (coordinated with Education and Culture Committee)
4. Follow-up on 2006 theme: Energy
5. graphic design upgrade
6. Annual Report production schedule
7. Adjournment

STANDING COMMITTEE ON EXEMPTION LISTS

Mr. Chester Saito, Committee Chair, Presiding

1. Call to Order
2. Review City and County of Honolulu Department of Environmental Services Exemption List.
3. Review any revised Exemption Lists that are submitted to the Council for concurrence.
4. Review key notes from the Standing Committee on Exemption List meeting of May 16, 2007 on considering the State Department of Transportation request for an amend-

ment of State EIS Rules to incorporate new exemption class 11.

5. Discuss all agencies that are required to submit Exemption Lists to the Council for concurrence.
6. Discuss each agency's requirement to maintain record of actions which it found to be exempt and produce upon request pursuant to Section 11-200-8(10)(e) by electronic means.
7. Correspondence Received: October 4, 2007, letter of Orlando Davidson, Executive Director, Hawai'i Housing Finance and Development Corporation, to Laurence K. Lau, Deputy Director for Environmental Health, and Acting Director of Environmental Quality Control concerning Hawai'i Housing Finance and Development Corporation's Petition for Rulemaking to Amend Hawai'i Administrative Rules, Section 11-200-8.
8. Discussion of Hawai'i Housing Finance and Development Corporation's Petition for Rulemaking to Amend Hawai'i Administrative Rules, Section 11-200-8(a) by Adding a New Exempt Class of Action for the Acquisition of Land and Existing Structures for Affordable Housing, Including the Kukui Gardens.
9. New Business for Discussion at Next Meeting.
10. Discuss Exemption lists issues with Deputy Attorney General (concurrent with items 2 to 8).
11. Adjournment

STANDING COMMITTEE ON EDUCATION/CULTURE

Dr. Gail Grabowsky, Committee Chair, Presiding

1. Call to Order
2. Discuss status of EJ Initiative and wrap-up plans
3. Debrief committee about the meeting Leslie Kahihikolo had with Senator Hanabusa

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4. Discuss any future plans that might pertain to the Environmental Council regarding the EJ Initiative
5. New business
6. Adjournment

Persons wishing to attend these meetings and requiring an accommodation (taped materials or sign language interpreter) should contact the Office of Environmental Quality Control, 235 South Beretania Street, Room 702, Honolulu, Hawai'i 96813, at least five working days prior to the scheduled meeting. Also, except as provided above, this is an open meeting and pursuant to Section 92-3, Hawai'i Revised Statutes, the Environmental Council will afford all interested persons an opportunity to present testimony on any agenda item for this meeting. For more information, contact the Office of Environmental Quality Control at (808) 586-4185 (voice), (808) 586-4186 (telephone facsimile), or oeqc@doh.hawaii.gov (electronic mail).

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At 12:00 noon in Room 302, Keoni Ana Building, 1177 Alakea Street, Honolulu, Hawai'i, the Environmental Council will meet as conduct a public hearing (among other things) on the October 4, 2007, petition for rulemaking from the Hawai'i Housing Finance and Development Corporation. The Adobe Acrobat Portable Document Format (PDF) files related to the October 4, 2007, petition for rulemaking from the Hawai'i Housing Finance and Development Corporation can be found on the Internet at

<http://oeqc.doh.hawaii.gov/>

ENVIRONMENTAL COUNCIL (in quorum assembled)

Mr. Robert King, Environmental Council Chairperson,
Presiding

1. Call to Order and Introduction of Interim Appointees to the Environmental Council: Messrs. Wade Lord and Christopher Steele. The meeting will be conducted by Video teleconference at the following sites: O'AHU - Keoni Ana Building, 1177 Alakea Street, Room 302, Honolulu; MAUI - Wailuku Judiciary Building, 2145 Main Street, Wailuku; HAWAI'I ISLAND - State Office Building, 75 Aupuni Street, Room 105, Hilo; KAUAI - Lihu'e District Health Office Conference Room 3040 Umi Street, Lihu'e. Please be advised that the Keoni Ana Videoconference Center at 1177 Alakea Street, Room 302, can accommodate up to thirty-five persons; the Videoconference Center Sites on Hawai'i Island, Kauai and Maui can accommodate from ten

- to fifteen persons at any given time. Persons desiring to speak are asked to submit two copies of their statement at the Office of Environmental Quality Control, 235 S. Beretania Street, Room 702, Honolulu, Hawai'i 96813, telephone facsimile (808) 586-4186, up until 11:00 A.M. on the day of the hearing. Written statements will be accepted at the public hearing.
2. Public Hearing on October 4, 2007, Petition for Rulemaking from the Hawai'i Housing Finance and Development Corporation.
3. Executive Session to Consult with the Environmental Council's Deputy Attorney General on Questions and Issues Relating to the Environmental Council's Powers, Duties, Privileges, Immunities and Liabilities (pursuant to Section 92-5, Hawai'i Revised Statutes).
4. Discussion and Decision Making on the October 4, 2007, Petition for Rulemaking from the Hawai'i Housing Finance and Development Corporation.
5. Report of the Acting Director of Environmental Quality Control, Mr. Laurence K. Lau: (A) Location of Files for the Environmental Council in the Office of Environmental Quality Control; (B) Discussion of Environmental Awards
6. Approval of Minutes for October 12, 2007
7. Correspondence Received
8. Status of New Nominations to the Environmental Council
9. Standing Committee Report - Exemption Lists: (A) Discussion and Possible Approval of an Exemption List for the Department of Environmental Services, City and County of Honolulu
10. Standing Committee Report - Education and Culture
11. Standing Committee Report - Administrative Rules
12. Standing Committee Report - Annual Report
13. Standing Committee Report - Legislation
14. New Business for Discussion at the Next Meeting.
15. Adjournment

Persons wishing to attend these meetings and requiring an accommodation (taped materials or sign language interpreter) should contact the Office of Environmental Quality Control, 235 South Beretania Street, Room 702, Honolulu, Hawai'i 96813, at least five working days prior to the scheduled meeting. Also, except as provided above, this is an open meeting and pursuant to Section 92-3, Hawai'i Revised Statutes, the Environmental Council will afford all interested persons an opportunity to present testimony on any agenda item for this meeting. For more information, contact the Office of Environmental Quality Control at (808) 586-4185 (voice), (808) 586-4186 (telephone facsimile), or oeqc@doh.hawaii.gov (electronic mail).

**2008 CALENDAR OF DEADLINES FOR THE HRS §343-3 ENVIRONMENTAL NOTICE BULLETIN
OFFICE OF ENVIRONMENTAL QUALITY CONTROL, DEPARTMENT OF HEALTH**

Issue date	Submittal deadline	30-day comment	45-day comment	WHAT IS REQUIRED ?
January 8, 2008	December 26, 2007	February 7, 2008	February 22, 2008	<ul style="list-style-type: none"> • Agency transmittal letter on official letterhead. • For environmental assessments: (A) two hard copies plus one CD containing the Adobe Acrobat PDF file of the environmental assessment; or (B) four hard copies the the environmental assessment. For environmental impact statements: (A) a distribution list plus two hard copies plus one CD containing the Adobe Acrobat PDF file of the environmental impact statement; or (B) a distribution list plus four hard copies of the environmental impact statement. • text file (on CD or via electronic mail to oeqc@doh.hawaii.gov) containing the publication information specified in the publication form as well as a 250-word or less summary of the proposed action.
January 23, 2008	January 10, 2008	February 22, 2008	March 8, 2008	
February 8, 2008	January 29, 2008	March 9, 2008	March 24, 2008	
February 23, 2008	February 12, 2008	March 24, 2008	April 8, 2008	
March 8, 2008	February 27, 2008	April 7, 2008	April 22, 2008	
March 23, 2008	March 11, 2008	April 22, 2008	May 7, 2008	
April 8, 2008	March 25, 2008	May 8, 2008	May 23, 2008	
April 23, 2008	April 11, 2008	May 23, 2008	June 7, 2008	
May 8, 2008	April 28, 2008	June 7, 2008	June 22, 2008	
May 23, 2008	May 13, 2008	June 22, 2008	July 7, 2008	
June 8, 2008	May 28, 2008	July 8, 2008	July 23, 2008	
June 23, 2008	June 10, 2008	July 23, 2008	August 7, 2008	
July 8, 2008	June 25, 2008	August 7, 2008	August 22, 2008	
July 23, 2008	July 11, 2008	August 22, 2008	September 6, 2008	
August 8, 2008	July 29, 2008	September 7, 2008	September 22, 2008	
August 23, 2008	August 12, 2008	September 22, 2008	October 7, 2008	
September 8, 2008	August 26, 2008	October 8, 2008	October 23, 2008	
September 23, 2008	September 11, 2008	October 23, 2008	November 7, 2008	
October 8, 2008	September 26, 2008	November 7, 2008	November 22, 2008	
October 23, 2008	October 13, 2008	November 22, 2008	December 7, 2008	
November 8, 2008	October 28, 2008	December 8, 2008	December 23, 2008	
November 23, 2008	November 12, 2008	December 23, 2008	January 7, 2009	
December 8, 2008	November 25, 2008	January 7, 2009	January 22, 2009	
December 23, 2008	December 11, 2008	January 22, 2009	February 6, 2009	