

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

May 25, 2012

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:09OD-111

Oahu

Acquisition of Private Lands and Set Aside to Division of Forestry and Wildlife for addition to the Hamakua Wildlife Sanctuary at Kailua, Koolaupoko, Oahu, Tax Map Key (1) 4-2-003:017.

APPLICANT AGENCY:

Division of Forestry and Wildlife ("DOFAW")

PRIVATE LANDOWNER:

Castle Family, LLC, a Hawaii Limited Liability Company ("Castle")

LEGAL REFERENCE:

Sections 107-10, 171-11 and 171-30, Hawaii Revised Statutes, as amended.

LOCATION:

Privately-owned lands of Hamakua situated at Kailua, Koolaupoko, Oahu, identified by Tax Map Key: (1) 4-2-003:017, as shown on the attached map labeled Exhibit A.

AREA:

67.178 acres, more or less.

ZONING:

State Land Use District: Conservation and Urban
C&C of Honolulu CZO: P-1 and P-2

CURRENT USE:

Vacant and unencumbered.

CONSIDERATION:

\$1,170,000.00

PURPOSE:

Conservation purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Pursuant to Section 343-5(a)(1), HRS, an environmental assessment (EA) is not required where State or county funds are being used for the acquisition of unimproved real property. As the subject lands are unimproved, an EA is not required. Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

APPLICANT REQUIREMENTS:

Applicant or landowner shall be required to:

- 1) Pay for the appraisal cost to determine the value of the properties to be acquired (Satisfied);
- 2) Provide survey maps and descriptions for the privately-owned property according to State DAGS standards and at Applicant's own cost (Pending-under review);
- 3) Obtain a title report for the privately-owned property at Applicant's own cost and subject to review and approval by the Department (Pending-under review);
- 4) Pay for and conduct a Phase I environmental site assessment and, if this Phase I identifies the potential for hazardous materials release or the presence of hazardous materials, conduct a Phase II environmental sampling and analysis plan and perform any and all remediation, abatement and disposal as may be warranted and as satisfactory to the standards required by the Federal Environmental Protection Agency and/or the State Department of Health, all at no cost to the State and to the satisfaction of the Department (Satisfied).

REMARKS:

BACKGROUND: The subject property is adjacent to the Hamakua Marsh Wildlife Sanctuary and across Kailua Road from Kawainui Marsh. The property is located on the north and western edge of the Kailua urban area, separated from it by the Kaelepulu Stream on the east and Keolu Drive on the south. The Kawainui Marsh Nature Reserve is located north of the subject property. The property comprises filled wetland areas, gently sloping land, steep slopes and drainage gullies. It makes up the entire mauka watershed for the Hamakua Marsh Wildlife Sanctuary. The land is currently vacant, but has been used for grazing livestock. The wetland portion of the restoration portion of the property

(filled wetlands) will provide habitat for endangered native waterbird species and migratory shorebirds. The property also provides restoration habitat for federally listed coastal plants.

This acquisition is part of an ongoing, comprehensive Kailua watershed partnership and planning effort covering approximately 20.2 square miles of mountainous forest reserve, agricultural lands, parks, urban areas, streams and wetlands. By stimulating interest and discussion within the community, the acquisition will help address land uses within the Hamakua watershed area and mitigate water quality issues associated with modifications to the natural drainage system for the area, thereby improving and preserving endangered species recovery actions, recreation and open space in the Hamakua/Kawainui Marsh complex. The acquisition is an opportunity to continue to develop and enhance a complex of interconnected wetland areas in the region dedicated to listed species recovery, watershed management and educational opportunities for local schools and the general public.

The acquisition is expected to result in providing increased nesting, feeding and loafing habitat for federally listed Hawaiian stilts, coots, gallinules, ducks and numerous species of migratory shorebirds. Native wetland plants are expected to thrive in restored wetland areas. Native forest and shrub-land will replace existing pasture and introduced scrub vegetation, allowing for recovery of coastal threatened and endangered plant species. Wildlife viewing, education and recreational opportunities will be enhanced.

Upon acquisition, DOFAW is committed to the long term management of the area. DOFAW will provide operations and maintenance funding for the acquisition parcel. Management actions will include restoration and maintenance of wildlife habitat, wildlife monitoring, predator removal, vegetation control, native forest restoration and maintenance of educational features such as trails and signs. An interpretive trail will be developed to educate the public about threatened and endangered species management, and other wetland and watershed features of the area.

FUNDING SOURCES: The acquisition would be funded by grants awarded to DOFAW from the U.S. Fish and Wildlife Recovery Land Acquisition ("RLA") program and the State's Legacy Land Conservation Program ("LLCP"). The total amount of funding for this acquisition is \$1,205,000.00. The RLA grant is in the amount of \$755,000.00, and the LLCP grant amount is for \$450,000.00. The Board approved the LLCP grant at its meeting on February 13, 2009 under agenda item C-2.

Using the RLA funds requires that the acquired property be managed for conservation purposes consistent with the purposes

for which it was entered into the RLA. The State shall not dispose of, exchange, encumber its title or other interests in, or convert the use of this property without the approval of U.S. Fish and Wildlife or its successor agencies. This grant requirement shall be included in the deed language. The Property shall also be managed consistently with the purposes for which it was awarded a Legacy Land Conservation Program grant and Chapter 173A, Hawaii Revised Statutes.

APPLICANT REQUIREMENTS: The Department contracted with Hastings, Conboy, Braig & Associates, Ltd. for an independent appraisal report. The report is dated July 11, 2011 and conforms to both Uniform Standards of Professional Appraisal Practice ("USPAP") and Uniform Appraisal Standards for Federal Land Acquisitions ("UASFLA" or "Yellowbook") standards. The appraisal was reviewed by the U.S. Department of the Interior, Office of Valuation Services and was approved on August 19, 2011. The Department also accepted the appraisal on September 1, 2011.

A Phase I Environmental Site Assessment ("Phase I"), dated December 22, 2010 and conducted by ENPRO Environmental, was submitted by the landowner. The Phase I was conducted in conformance with ASTM Practice E 1527. The Phase I identified a recognized environmental condition, the possible contamination of the soil and groundwater associated with the long term use of the adjacent property, to the north of the property, as a service station, auto body painting and motor repairing. The adjacent property in question is the currently the location of Windward Boats, at 789 Kailua Road, Tax Map Key (1) 4-2-038:024.

The landowner proceeded to provide a Phase II Environmental Site Assessment ("Phase II") which included soil and groundwater testing. The Phase II, dated December 9, 2011 was conducted by Environmental Science International. The soil testing did detect the presence of oil, diesel fuel and other chemical constituents in the samples, but none were detected at concentrations above the State Department of Health environmental action levels ("EAL"). The groundwater testing did detect the presence of oil in one of the samples, but it was also at a concentration below the DOH EAL. On March 1, 2012, after review of both the Phase I and Phase II ESA's, the DOH Hazard Evaluation and Emergency Response ("HEER") Office issued a No Further Action ("NFA") determination, stating that the "information indicates that the residual contaminants do not pose a significant hazard risk to human health or the environment, and therefore, the NFA Unrestricted Use Determination Criteria have been satisfied." A copy of the NFA letter is attached as Exhibit B.

The landowner has submitted a survey map and description conducted by Towill, Shigeoka & Associates, Inc., which is

subject to review and approval by DAGS Survey Division. A title report from Title Guaranty of Hawaii, Inc., dated January 21, 2011, was also submitted by the landowner, and is subject to review and approval by both DLNR and the Department of the Attorney General.

Previously, there has been a tenant on the property that conducted ranching activities. In consideration of the pending acquisition by the State, the tenant has since vacated the property. However, currently there are encroachments on the subject property originating from the Windward Boats site. As a portion of the encroachments are located within the conservation district, the landowner shall be required to have all encroachments removed from the property prior to the closing of the acquisition.

RECOMMENDATION: That the Board:

1. Authorize the acquisition of the subject private lands under the terms and conditions cited above which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current deed document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General;
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

2. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the Division of Forestry and Wildlife under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - C. Review and approval by the Department of the Attorney

General; and

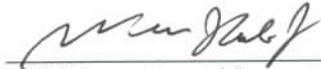
- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Authorize the issuance of a management right-of-entry permit to the Division of Forestry and Wildlife, covering the subject area under the terms and conditions cited above, effective immediately upon acquisition by the State, which are by this reference incorporated herein and further subject to the following:
- A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Ian Hirokawa
Project Development Specialist

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson





STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-3378

In reply, please refer to
File:
2012-147 AH

March 1, 2012

Mr. Tim Tybuszewski
Environmental Science International, Inc.
354 Uluniu Street, Suite 304
Kailua, Hawaii 96734

Facility/Site: Hamakua Hillside Preservation Land

Subject: No Further Action (NFA) – Unrestricted Use Determination for Hamakua Hillside Preservation Land, based upon review of "Phase I Environmental Site Assessment, Hamakua Hillside Preservation Land" prepared by ENPRO Environmental, dated December 22, 2010 and "Phase II Environmental Site Assessment, Hamakua Hillside Preservation Land" prepared by Environmental Science International, Inc., dated December 9, 2011

Dear Mr. Tybuszewski:

The Hawaii Department of Health (HDOH), Hazard Evaluation and Emergency Response (HEER) Office has reviewed the subject documents and determined that No Further Action is required at the Hamakua Hillside Preservation Land with respect to soil and groundwater contamination within the northern aspect of TMK (1) 4-2-003-017, along the property boundary of Windward Boats in Kailua, Hawaii (Figure 1).

The subject report, *Phase I Environmental Site Assessment, Hamakua Hillside Preservation Land*, describes two *recognized environmental conditions* (RECs) within TMK (1) 4-2-003-017 allegedly associated with former operations conducted at the Windward Boats property located in TMK (1) 4-2-003-024. This NFA determination is limited the northern projection of TMK (1) 4-2-003-017 whereat soil and water sampling activities were conducted by Environmental Science International, Inc. and are documented in the subject report, *Phase II Environmental Site Assessment [ESA], Hamakua Hillside Preservation Land* (Figure 2).

EXHIBIT "B"

Figure 1



Description: Approximate boundary of TMK (1) 4-2-003-017, the northern projection of which is the subject of *Phase II Environmental Site Assessment, Hamakua Hillside Preservation Land*

Source: HoLis Interactive Map and Data Services, C&C of Honolulu, DPP, 2012

Figure 2



Description: Approximate boundary of area for which HDOH HEER has determined no further action is required with respect to soil and groundwater contamination. The area is bound by TMK (1) 4-2-003-030 and TMK (1) 4-2-003-024.

Source: HoLis Interactive Map and Data Services, C&C of Honolulu, DPP, 2012

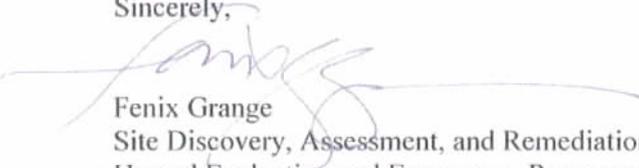
Mr. Tim Tybuszewski
March 1, 2012
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According to the *Phase II ESA*, soil samples collected at the site showed residual contamination including total petroleum hydrocarbons (TPHs) detected at maximum concentrations of 142 mg/kg (below State Unrestricted Environmental Action Levels (HDOH EALs)) and polynuclear aromatic hydrocarbons (PAHs) detected at maximum concentrations of 0.045 mg/kg (below HDOH EALs). This information indicates that the residual contaminants do not pose a significant hazard risk to human health or the environment and, therefore, the NFA Unrestricted Use Determination criteria have been satisfied.

Again, upon review of the subject documents HDOH has determined that no further action is required at the northern projection of TMK (1) 4-2-003-017 along the property boundary of Windward Boats, the site delineated in Figure 2, with respect to soil and groundwater contamination.

Please be aware that should new information concerning on-site contamination become available, the HEER Office will reevaluate the site to determine if a response action is appropriate. Should you have any questions regarding this site, you may contact me at (808) 586-0957 or via email at Amelia.Hicks@doh.hawaii.gov. Thank you for your time and consideration in this matter.

Sincerely,



Fenix Grange
Site Discovery, Assessment, and Remediation Section
Hazard Evaluation and Emergency Response Office

Cc: Attn: Mr. Kimo Steinwascher, Property Owner
Kaneohe Ranch Management Limited
1199 Auloa Road
Kailua, Hawaii 96734