

# The Environmental Notice

A SEMI-MONTHLY BULLETIN OF THE OFFICE OF ENVIRONMENTAL QUALITY CONTROL



**BENJAMIN J. CAYETANO**  
GOVERNOR

**OFFICE OF  
ENVIRONMENTAL  
QUALITY CONTROL**  
GENEVIEVE SALMONSON  
DIRECTOR

The Environmental Notice  
reviews the environmental impacts of  
projects proposed in Hawaii

Other Resources  
available at OEQC . . .

- *Guidebook for Hawai'i's Environmental Review Process*
- *Environmental Impact Study Resource Library*
- *Environmental Council Annual Reports*
- *Rules and Policies*
- *"How to Plant a Native Hawaiian Garden"*

## **OEQC**

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OCTOBER 8, 2002

## ***Heiau/Buffer Zone in Makena Subdivision***

Having passed State Historic Preservation Division muster, a plan to subdivide a 5.5 acre parcel on Maui near the Makena Golf Course (containing the Kalani Heiau and various archaeological sites) is before the Maui Planning Department in the form of draft environmental assessment (DEA) for: a State Land Use Commission district boundary amendment from agricultural to urban; a county change in zoning from interim R-3 to residential; a community plan amendment from hotel to single-family; and a special man-

agement area use permit. The applicant proposes an eleven-unit single-family subdivision on the parcel, with a 30-foot buffer zone around the Kalani Heiau situated within the subdivision boundaries. A twenty-foot side yard setback has been proposed along the property line makai of the heiau in order to maintain a line of sight to the ocean. A cultural impact assessment report is included in the draft EA and a preservation plan will be submitted to DLNR for approval. See page 6 for more.

## ***Computer Recycling Day, Saturday, October 26, 2002, at 9:00 A.M. at CompUSA, 604 Ala Moana Boulevard***

In conjunction with Make-A-Difference Day, the City and County of Honolulu, CompUSA, the Hawai'i Computers for Kids Program, and the Hawai'i Department of Education are teaming up to hold the first island-wide Computer Recycling Day. The event will be held in the parking lot of CompUSA, 604 Ala Moana Boulevard, from 9:00 a.m. to 12:00 noon on Saturday, October 26. Computer equipment collected will be evaluated for reuse or recycling. See page 19 for more details.

## ***EPA Reviews Comments and Approves State UST Program***

Despite objections from various commenters (which included a Petition To Withdraw Hawai'i Certification and a Title VI Complaint of Discriminatory Acts challenging the administration and enforcement of environmental programs by the State of Hawai'i and seeking withdrawal by EPA of authorization for all environmental programs) the U.S. Environmental Protection Agency has authorized the Department of Health's underground storage tank (UST) program to be administered in lieu of the Federal RCRA Subtitle I program. See page 15 for public comments and responses.

## ***EIS Giveaway***

OEQC is giving away environmental impact statements on a first come - first served basis. See pages 13-14 for what is available.

## ***Reopened Comment Periods for Critical Habitat***

The U.S. Fish and Wildlife Service has reopened comment periods for various critical habitat proposals in the State of Hawai'i relating to the Blackburn's Sphinx Moth and various plants on the island of Hawai'i. A public hearing for the Hawai'i island plants critical habitat is set for October 29 in Kailua Kona and October 30 in Hilo. See page 15 for details.

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*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.*

## Draft Environmental Assessments



### (1) A&B Waikiki Condominium

**District:** Honolulu  
**TMK:** 2-6-16: 2, 4, 6-8, 12-19, 62, 64, 70, 75-77  
**Applicant:** A&B Properties, Inc.  
822 Bishop Street  
Honolulu, Hawai'i 96813  
Contact: Richard Stack (525-8410)

Approving Agency/Accepting  
**Authority:** City and County of Honolulu  
Department of Planning and Permitting  
650 South King Street, 7th Floor  
Honolulu, Hawai'i 96813  
Contact: Patrick Seguirant (527-5369)

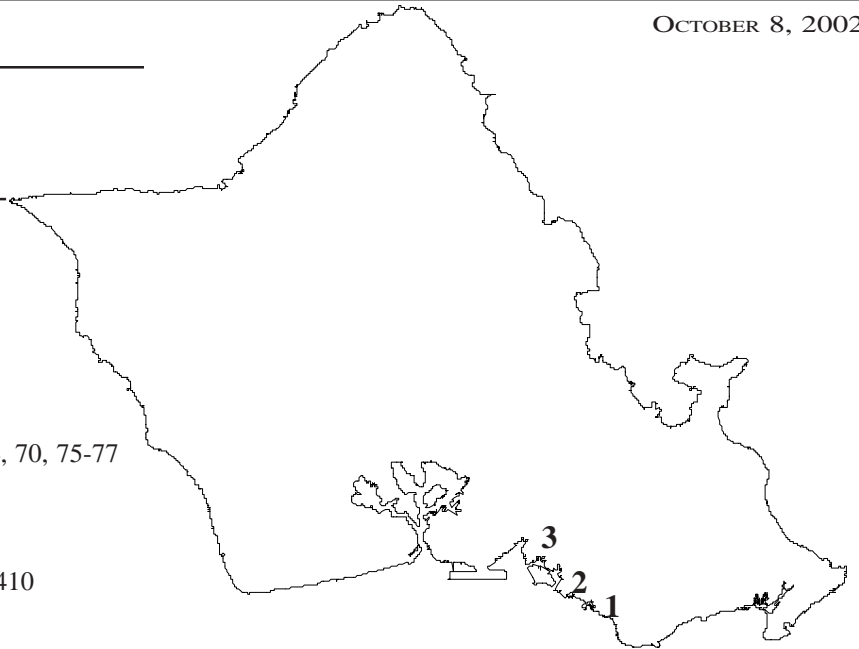
**Consultant:** Wilson Okamoto & Associates, Inc.  
1907 South Beretania St., 4th Floor  
Honolulu, Hawai'i 96826  
Contact: Earl Matsukawa (946-2277)

#### Public Comment

**Deadline:** November 7, 2002  
**Status:** DEA First Notice pending public comment.  
Address comments to the applicant with copies to the approving agency or accepting authority, the consultant and OEQC.

**Permits Required:** Waikiki Special District, CUP-1,  
Sewer Connection, Grading, Excavation,  
ROW, Building, Construction

The proposed action will include the construction of: a 25-story high-rise condominium tower containing approximately 100 residential units atop a 5-story parking structure containing approximately 230 stalls; a free-standing 2-story commercial building providing approximately 10,000 square feet of commercial space; an at-grade parking lot; residential amenities; driveways; off-street loading areas; and, landscaped open space. The project site in Waikiki encompasses most of the block bounded by Kuhio Avenue, Olohana Street, Ala Wai Boulevard and Kalaimoku Street. Construction activities are anticipated to have short-term noise, ground vibration, traffic and air-quality impacts in the surrounding area. Construction noise and air quality impacts will be minimized by compliance with applicable State Department of Health rules. Alternative construction methods will be examined to mitigate the potential for ground vibration damage to nearby structures. No significant



long-term traffic impact in the vicinity of the project site is anticipated. The project will comply with all applicable Waikiki Special District development standards, including those for building height, density, open space, and setbacks.

## Final Environmental Assessments/Findings of No Significant Impacts (FONSI)



### (2) Kalawahine 180 Reservoir

**District:** Honolulu  
**TMK:** 2-4-43:82 & portion of 90 (reservoir & access road); 2-4-32:01, 02; 2-4-14, 17, 18, 30, 32; 2-1-39 (waterline)  
**Applicant:** City and County of Honolulu  
Board of Water Supply  
630 South Beretania Street  
Honolulu, Hawai'i 96843  
Contact: Scot Muraoka (527-5221)

Approving Agency/Accepting  
**Authority:** City and County of Honolulu, Board of Water Supply, 630 South Beretania Street  
Honolulu, Hawai'i 96843  
Contact: Clifford Jamile (527-6180)

# O'ahu Notices

OCTOBER 8, 2002

**Consultant:** Shimabukuro, Endo & Yoshizaki  
1126 12<sup>th</sup> Avenue, Room 309  
Honolulu, Hawai'i 96816  
Contact: Howard Endo (737-1875)

**Status:** FEA/FONSI issued, project may proceed.

**Permits:** Noise, NPDES, building, grading, trenching, Punchbowl Special District Permit (minor) and waiver

The Board of Water Supply (BWS) proposes to alleviate the existing potable water storage deficit in the Metro Low West service area with the construction of a 2.0 million gallon reservoir at the Kalawahine site above Roosevelt High School. This additional storage will improve water system performance and reliability in meeting domestic fire protection needs, as well as provide greater system flexibility particularly during emergencies. The reservoir site is approximately 1.5 acres and owned by the BWS. The Department of Hawaiian Home Lands is the landowner for the reservoir access road site. The project also includes installation of approximately 6,000 lineal feet of 24-inch waterline. The waterline will originate from the Kalawahine site crossing through property in Roosevelt High School owned by the Department of Education. The waterline then continues in the Road Rights-of-Way owned by the City and County of Honolulu, south down 'Auwaiolimu and Pensacola Streets to Wilder Avenue and then west on Thurston Avenue and Green Street, before connecting to the existing 18-inch influent/effluent line of the Punchbowl 180' Reservoir on Alapa'i Street. Construction is expected to begin in 2004 and last approximately 17 months. The estimated construction cost of \$7.1 million will be funded by the BWS. Short term impacts during this period will include: (1) fugitive dust, exhaust emissions, and noise from construction equipment in the project vicinity and (2) disruptions in vehicular and pedestrian traffic due to diversions around work areas during installation of the waterline. The contractor will be required to follow certain procedures in order to mitigate short-term impacts, such as restricting working hours, providing proper tuning and maintenance of all equipment, and covering all trenches during non-working hours. Landscaping and irrigation systems will be designed to ensure that the site is visually unobtrusive and blends in with the existing environment. Residents will be allowed input in developing creative design features like berms, rock walls, native landscaping and earth-tone paint to further reduce the visual impacts.

### (3) Pier 51a Dredging

**District:** Honolulu  
**TMK:** Not applicable

**Applicant:** Department of Transportation, Harbors Division, 869 Punchbowl Street, Honolulu, Hawai'i 96813  
Contact: Marshall Ando (587-1961)

**Approving Agency/Accepting Authority:** Same as above

**Consultant:** Sea Engineering, Inc., Makai Research Pier 41-202 Kalaniana'ole Highway, No. 8 Waimanalo, Hawai'i 96795  
Contact: Scott Sullivan (259-7966)

**Status:** FEA/FONSI issued, project may proceed.

**Permit:** Dept. of Army, Section 10

The State Department of Transportation, Harbors Division proposes to dredge a portion of Honolulu Harbor in the vicinity of the west (ewa) end of Pier 51A (P51A) which is located on the Sand Island side of Kapalama Basin (KB), adjacent to the Sand Island bridges. The project area to be dredged is 100 ft. wide by 250 ft. long, immediately adjacent to the west end of the pier. Existing depths in the project area vary from -35 ft. to -40 ft. mean lower low water (mllw). The proposed dredge depth is -40 ft., consistent with the federal project depth of KB. The purpose of the project is to provide depth for vessel maneuvering and berthing at P51A. Large container and fuel tanker vessels must at times overhang the end of the pier in order to offload cargo, and the depths less than -40 ft. limit the safe draft of vessels using the dock and prevents them from berthing fully loaded. A barge-mounted crane with a clamshell bucket will be utilized for the dredging operation. Dredged material will be placed in a watertight barge for transport to a confined dewatering site on land at Kalaeloa Barbers Point Harbor. The barge will be offloaded by a front-end loader equipped with a watertight bucket into a containment area for drying by evaporation. Following the drying process, the dredge spoil will be disposed of at an approved on-land disposal site. No runoff or flow back into the harbor or coastal waters during any portion of the dredging or disposal operations will be permitted. The duration of the dredging and disposal operations is estimated to be six months, including equipment mobilization, containment area preparation, dredging, and drying and disposal of the dredge spoil. Actual in-water dredging is expected to take one to two weeks, and drying of the material is expected to take about four months. Approximately 1,800 cubic yards of unconsolidated silt, sand and gravel will be dredged. Pre-dredging water quality testing will be accomplished to established baseline conditions in the dredge area. During dredging a turbidity barrier will be required to completely surround the dredge area, and water quality monitoring will be conducted to ensure the effectiveness of the turbidity barrier in preventing impacts to harbor waters outside of the dredge area. Water quality monitoring during dredging will consist of daily sampling at a location within one

meter of the turbidity barrier in the vicinity of that day's operations. Two water samples will be taken and analyzed, one near the surface and one at mid-depth (-20 ft.). Parameters to be monitored include temperature, salinity, pH, dissolved oxygen, suspended solids and turbidity.

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## National Environmental Policy Act (NEPA)

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### Aviation Complex, Whole Barracks Renewal, Wheeler Army Airfield, O'ahu (EA/Draft FNSI)

**District:** Wahiawa  
**Applicant:** Department of the Army  
Contact: Peter Yuh, Jr. (656-2878 x 1051)  
**Comment Deadline:** November 8, 2002

The 25th Infantry Division (Light) and U.S. Army, Hawai'i has prepared an Environmental Assessment (EA) and Draft Finding of No Significant Impact (FNSI) for its Implementation of the FY02-07 Army Whole Barracks Renewal Program Phases 6A and 6B, to include construction of Unaccompanied Enlisted Personnel Barracks, Company Operations Facilities, Community Support Buildings, and renovation of existing facilities at Wheeler Army Airfield (WAAF), O'ahu, Hawai'i. Whole Barracks Renewal is an Army-wide program to improve the living conditions of unaccompanied soldiers. Plans call for a 24-phase program of housing projects and support facilities that began in 1995 and may take 50 years to complete. A Programmatic EA (PEA) for Whole Barracks Renewal in Hawai'i was completed in 1995. The PEA called for site-specific environmental analysis to assess potential impacts of each project phase. This EA is a project-specific document designed to assess the environmental impacts of Phases 6A and 6B of the Whole Barracks Renewal program. The purpose of the action is to provide adequate housing for bachelor enlisted soldiers, adequate facilities for command and administration, and adequate operational facilities near the flight line. In Phase 6A, three new barracks buildings and a soldier community building would be constructed. Two existing structures would be renovated for administrative use, and two new company operational facilities would be built near the flight line. In Phase 6B, three additional barracks would be constructed and an existing han-

gar would be renovated. Two existing buildings would be demolished during this phase. In both phases, walkways, parking, utility services and communications systems would be upgraded to meet new standards created by the new and renovated facilities. The EA concludes that implementation Phase 6A and 6B of the Whole Barracks Renewal does not constitute a major action having significant effects on the quality of the human environment. However, both phases include renovation and alteration of historic buildings and new construction in the Wheeler National Historic Landmark District. Consultation under Section 106 of the National Historic Preservation Act is ongoing and has not been completed. The Draft FNSI will not be finalized until all Section 106 actions are completed. Copies of the EA and Draft FNSI are available for review and can be obtained by contacting Peter Yuh, Jr. at 656-2878, extension 1051. Any comments should be provided by November 8, 2002 and sent to: Peter Yuh, Jr., NEPA Coordinator, Directorate of Public Works U.S. Army Garrison, Hawaii, Schofield Barracks, Hawai'i 96857-5013. At the conclusion of the review period and completion of the Section 106 process, the Army will respond to any comments, and finalize and sign the FNSI, if appropriate.

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## Previously Published Projects Pending Public Comments

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### Draft Environmental Assessments

#### Middle Street Transit Center

**Applicant:** City and County of Honolulu  
Department of Transportation Services  
650 S. King Street, 3rd Floor  
Honolulu, Hawai'i 96813  
Contact: Brian Suzuki (527-6880)

#### Approving Agency/Accepting

**Authority:** Same as above.

#### Public Comment

**Deadline:** October 23, 2002

#### Waimalu Stream Dredging

**Applicant:** City and County of Honolulu  
Department of Design and Construction  
650 South King Street, 11th Floor  
Honolulu, Hawai'i 96813  
Contact: Jan Dacanay (547-7506)

#### Approving Agency/Accepting

**Authority:** Same as above.

#### Public Comment

**Deadline:** October 23, 2002



# Maui Notices

OCTOBER 8, 2002

## Draft Environmental Assessments



### (1) Garcia Family Subdivision

**District:** Makawao  
**TMK:** 2-1-007:067  
**Applicant:** Samuel Garcia, Jr. & Jon Garcia  
193 Makena Road  
Makena, Hawai'i 96753

**Approving Agency/Authority:** County of Maui, Department of Planning  
250 South High Street  
Wailuku, Hawai'i 96793  
Contact: John Min (270-7735)

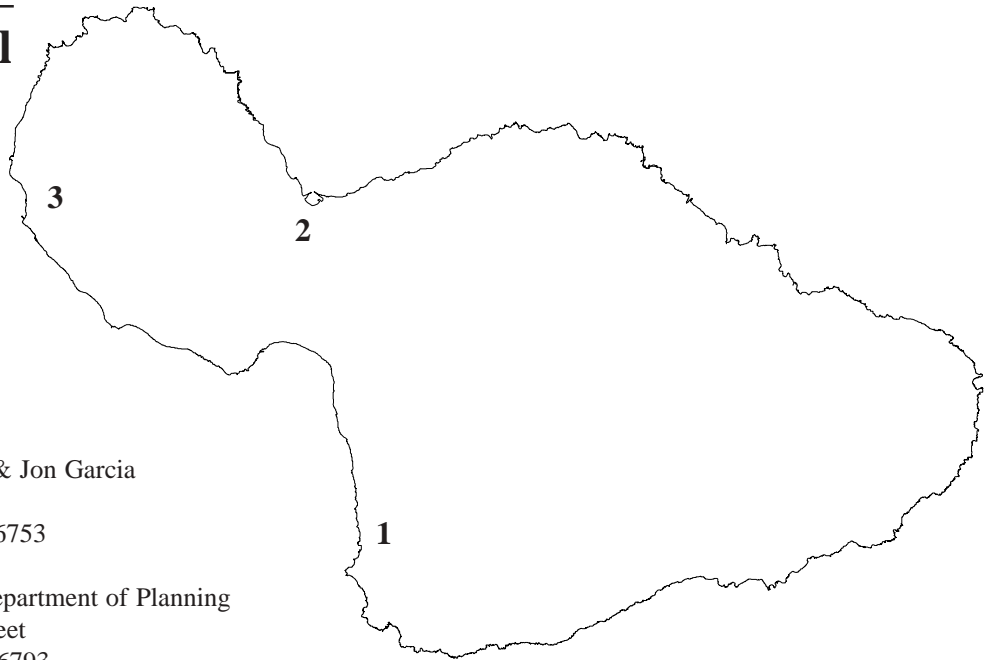
**Consultant:** Chris Hart & Partners  
Landscape Architecture and Planning  
1955 Main Street, Suite 200  
Wailuku, Hawai'i 96793  
Contact: Rory Frampton (242-1955)

**Public Comment**

**Deadline:** November 7, 2002  
**Status:** DEA First Notice pending public comment. Address comments to the applicant with copies to the approving agency or accepting authority, the consultant and OEQC.

**Permits Required:** SMA, Zone Change, Grading, Building Community Plan and District Boundary Amendments

The Garcia family is proposing to subdivide a 5.497-acre parcel into eleven (11) residential lots ranging in size from approximately 13,500 SF to 34,000 SF in order to allow for the construction of eleven single-family residential dwellings. Access to the project will be from Makena-Keoneoio Road. The proposed improvements require a District Boundary Amendment (DBA) from Agricultural to Urban, a Change in Zoning (CIZ) from Interim to (R-3) Residential, and a Community Plan Amendment (CPA) from Hotel to Single-Family. The CIZ and CPA are required in order to bring conformity between the community plan designation and zoning, which is a requirement of the subdivision approval. Associated infrastructure and site improvements include a sewer collection system which will tie into Makena Resort's wastewater collection and treatment system; paved roadways; underground utilities; water distribution and fire protection system improvements; and a drainage col-



lection and retention system. The proposed development is not anticipated to result in significant environmental impacts to surrounding properties, nearshore waters, natural resources, and/or archaeological and historic resources on the site or in the immediate area. The Kalani Heiau, which is considered a significant archaeological site, is located on the property and will be preserved in place with a buffer established around the site where no structures or utility lines will be located. The specific plans for preservation of the site will be detailed in a Preservation Plan prepared for the State Department of Land and Natural Resources-Historic Preservation Division review and approval. Public infrastructure and services including roadways, sewer and water systems, medical facilities, police and fire protection, parks, and schools, are, or will be, adequate to serve the project and are not anticipated to be significantly impacted by the project. The proposed project is not anticipated to impact public view corridors and is not anticipated to produce significant adverse impact upon the visual character of the site and its immediate environs. In light of the foregoing, the proposed project will not result in significant impacts to the environment and a Finding of No Significant Impact (FONSI) is anticipated.



### (2) Hale Makua Kahului 16-Bed Expansion and Related Improvements

**District:** Wailuku  
**TMK:** 3-8-07:84

# Maui Notices

OCTOBER 8, 2002

**Applicant:** Hale Makua, 472 Kaulana Street  
Kahului, Hawai'i 96732  
Contact: Anthony Krieg (877-2761)

**Approving Agency/Accepting**

**Authority:** County of Maui, Office of the Mayor  
200 South High Street  
Wailuku, Hawai'i 96793  
Contact: Lance Taguchi (270-7855)

**Public Comment**

**Deadline:** November 7, 2002  
**Status:** DEA First Notice pending public comment.

**Permits**

**Required:** Building

Hale Makua is a non-profit organization providing diverse healthcare services involving long-term nursing, rehabilitation, home health, day health, and foster family programs. Its Kahului facility, located on an approximately 8-acre parcel, currently provides 238 skilled/intermediate care facility nursing beds. With growing demand for such beds, Hale Makua proposes to expand its Kahului facility with the addition of 16 new beds. Additional facility modifications are also proposed to improve patient services and operational efficiencies. Proposed improvements are as follows: 1) Sixteen (16) new skilled nursing beds (eight 2-bed units) are proposed to be located between the existing north and east wings. In addition to the new bed space, a nurse's station and common area are proposed; 2) The existing dining/activities room will be modified for use for rehabilitation services. This improvement will provide approximately 1,370 s.f. for rehabilitation services; 3) A new 1,451 sq. ft. dining/activities area is proposed for an area currently occupied by an open courtyard; 4) Approximately 29 new paved parking stalls in vicinity of the existing entry drive would be provided to meet additional parking requirements; 5) New storage rooms for medical equipment and supplies are proposed at strategically identified locations. Total project cost is estimated to be \$1.9 million. Privately raised funds, as well as State funding will be used for project implementation. Lands underlying the Kahului facility are leased from the County of Maui, and State funding will be used for project construction.

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## Final EA/FONSI

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### (3) Lahaina Wastewater Pump Station Nos. 5 and 6 - Force Main Improvements

**District:** Lahaina

**TMK:** 4-6-2, 3, 5, 6, 7, 10, 11, 12, 15, 16, 17  
**Applicant:** County of Maui, Department of Public  
Works and Waste Management  
200 South High Street  
Wailuku, Hawai'i 96793  
Contact: Eric Nakagawa (270-7422)

**Approving Agency/Accepting**

**Authority:** Same as above.  
**Consultant:** Munekiyo & Hiraga, Inc.  
305 High Street, Suite 104  
Wailuku, Hawai'i 96793  
Contact: Michael Munekiyo (244-2015)

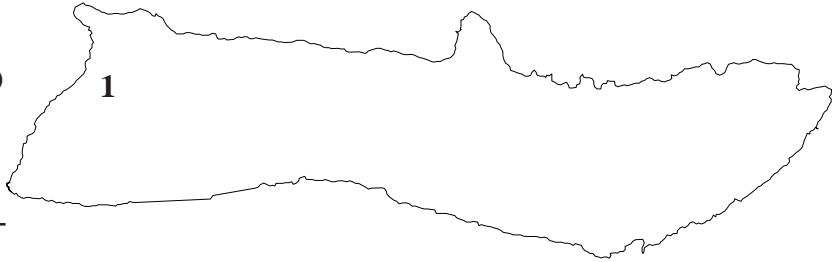
**Status:** FEA/FONSI issued, project may proceed.  
**Permits**  
**Required:** Construction Permits

The applicant, the County of Maui, Department of Public Works and Waste Management (DPWWM), proposes force main improvements for Wastewater Pump Station Nos. 5 and 6 in Lahaina, Maui. The project alignment traverses lands that are characterized by residential, hotel, business, park, public, and former agricultural uses. The proposed project will involve the installation of approximately 9,180 lineal feet of new force main within the County roadway rights-of-way along Shaw Street and portions of Front and Dickenson Streets, as well as Mill Street, a private agricultural road owned by Pioneer Mill Company, Inc. In addition, the project will involve work within the Honoapi'ilani Highway right-of-way, as the force main will cross the highway at its intersections with Shaw and Dickenson Streets. The project will involve replacing the existing 12-inch CI force main between Pump Station Nos. 5 and 6 with a new 12-inch PVC force main. In addition, the project will involve the installation of a new 16-inch PVC and HDPE force main from Pump Station No. 5 to a new sewer transition manhole at the intersection of Mill and Dickenson Streets. From this point, a new 16-inch gravity sewerline will connect to an existing 21-inch gravity sewerline at a sewer manhole at the Honoapi'ilani Highway/Dickenson Street intersection. The new 16-inch force main will replace the existing 12-inch CI force main from Pump Station No. 5 to an existing 12-inch gravity sewer manhole at the intersection of Front Street and the former Kukui Street. In addition to the force main installation, additional improvements will include upgrading Pump Station Nos. 5 and 6 with new motors and pumps, as well as modifications to connect to the new force main. Upon completion of the project, the abandoned force mains will be flushed-out and capped. The estimated cost of the project is approximately \$2.5 million. Construction of the project is expected to commence by the end of 2002 and is anticipated to take approximately nine months.

# Moloka'i Notices

OCTOBER 8, 2002

## Final Environmental Assessments/Findings of No Significant Impacts (FONSI)



### (1) Dune Planting Plan at Kaluako'i

**District:** Moloka'i  
**TMK:** 5-1-6:156  
**Applicant:** Lyle Dunham (552-2375)  
P.O. Box 98  
Maunaloa, Hawai'i 96770

**Approving Agency/Accepting Authority:** Department of Land & Natural Resources  
1151 Punchbowl St., Room 220  
Honolulu, Hawai'i 96813  
Contact: Traver Carroll (587-0439)

**Consultant:** Architectural Drafting Services  
P.O. Box 1718  
Kaunakakai, Hawai'i 96748  
Contact: Luigi Manera (553-9045)

**Status:** FEA/FONSI issued, project may proceed.

**Permits Required:** CDUA

cant no permanent irrigation, no fertilizer or top soil will be placed in the project area. Existing Kiawe will be cut to the ground level and removed. Roots will be left in the sand and covered. No machinery or heavy equipment will be used. All labor will be done manually. According to the applicant the entire action is located at least 100 to 150 feet away from the shoreline.

The applicant is requesting a Conservation District Use Permit for a Dune Planting Plan for approximately 2.64 acres of land that is situated within the State Conservation District located in Kaluako'i, Moloka'i, Hawai'i. The proposed plan will include the removal of existing kiawe trees and other exotic plants and replanting and restoration of the area with native Hawaiian plants. The proposed dune planting is associated with the proposed construction of a single-story residential dwelling on the adjacent mauka parcel which is situated in the Agricultural District. According to the appli-



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## Final Environmental Assessments/Findings of No Significant Impacts (FONSI)

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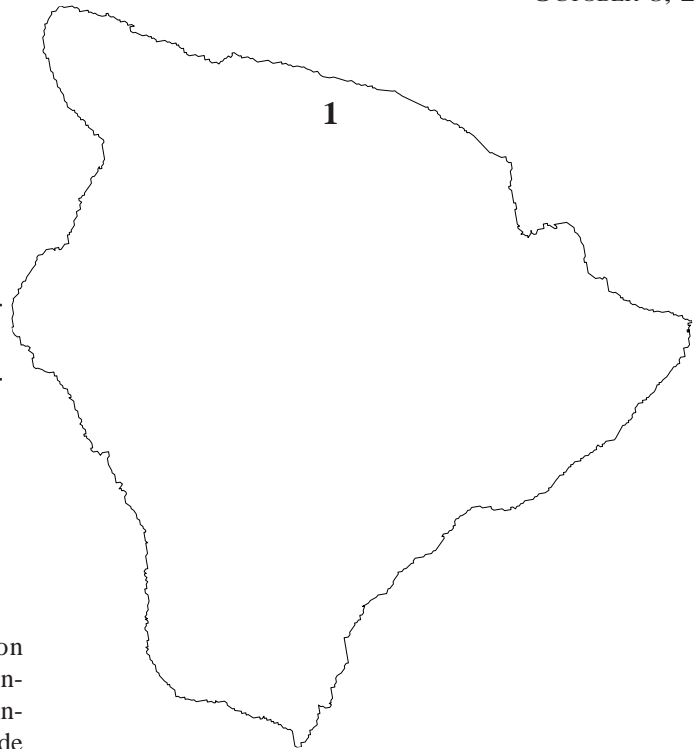
### Re-evaluation of FONSI

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#### (1) O'okala Community Center and Plantation Market Place

The Hamakua Diversified Agricultural Association (HDAA) is proposing a change to the O'okala Community Center and Plantation Market Place project. The original plan involved the renovation of an existing building on the south side of the O'okala Gym. Bids submitted for the proposed renovation were far in excess of the funds available for the project. The HDAA has determined that the most cost-effective use of available funding is to build a new structure rather than renovate the existing annex on the south side of the gym. The intended uses for the new structure will be identical to those previously proposed for the renovation project. These will include a post office (approximately 180 sq. ft.), a conference room with a small certified kitchen (540 sq.ft.) and men and women restrooms (180 sq. ft.). The location of the new structure is situated less than 100 feet away from the original structure that was proposed for renovation. The land area to be utilized has been previously disturbed and graded for use as a roadway and parking area. Moreover, the size, scale and character of the new structure will not differ substantially from the originally proposed renovation. Based on the foregoing, the County of Hawaii, Department of Parks and Recreation believes that the proposed changes to the O'okala Community Center and Plantation Market Place project have not modified the project to the extent that new or different environmental impacts are anticipated. As such, the proposed changes are not substantial and the original finding of no significant impact (FONSI) is still valid. The FONSI was previously published in the 10/23/01 issue of the Environmental Notice. If there are any questions, please call Glenn Miyao of the Hawai'i County's Department of Parks and Recreation at (808) 961-8311.



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## Previously Published Projects Pending Public Comments

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### Draft Environmental Impact Statements

#### ► Lalamilo Project

**Applicant:** Department of Hawaiian Home Lands  
1099 Alakea Street, Suite 2000  
Honolulu, Hawai'i 96813  
Contact: Amy Arakaki (587-6450); Toll  
Free: 974-4000 x 76450#

#### Approving Agency/Accepting

**Authority:** Governor of Hawai'i  
c/o Office of Environmental Quality Control  
235 South Beretania Street, Suite 702  
Honolulu, Hawai'i 96813

#### Public Comment

**Deadline:** October 7, 2002



# Shoreline Application Notices

OCTOBER 8, 2002

## 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 Nick Vaccaro at 587-0438.

Case No.	Date Received	Location	Applicant	Tax Map Key
MA-271	9/27/02	Lot 18 of Keawakapu Beach Lots Subdivision Being a portion of Grant 548 to J. Y. Kaneha, land situated at Paeahu, Honouliuli, Makawao, Island of Maui, Hawaii Address: 3254 S. Kihei Road Purpose: Building Permit	Akamai Land Surveying, Inc., for Maui Blue, LLC	2-1-10: 016
OA-891	9/27/02	Lot 1 as shown on Map 2 of Land Court Application 505, land situated at Kailua, Koolauapoko, Island of Oahu, Hawaii Address: 726 Mokulua Drive Purpose: Building Permit	Jamie F. Alimboyoguen, LLC, for Tom Coulson	4-3-08: 036

# Shoreline Determination Notices

## Shoreline Certifications and Rejections

Pursuant to §13-222-26, HAR the following shorelines have been certified or rejected by the DLNR. A person may appeal a certification or rejection to the BLNR, 1151 Punchbowl Street, Room 220, Honolulu, Hawai'i 96813, by requesting in writing a contested case hearing no later than twenty (20) calendar days from the date of public notice of certification or rejection.

Case No.	Date	Location	Applicant	Tax Map Key
MA-220-4	9/25/02 Certified	Being a portion of Land Commission Award 11216, Apana 21 to M. Kekauonohi, also being all of lot 47 of Makena Beach Lots, land situated at Palaua, Honouliuli, Makawao, Island of Maui, Hawaii Address: Makena Road Purpose: Planning for Use of Property	Warren S. Unemori Engineering, Inc., for Warmenhoven Spirit Trust	2-1-11: 021
MA-255	9/25/02 Certified	Portion of lot 1 of section 2 of the Second Portion of the Hamakuapoko Hui Lands, land situated at Paia, Hamakuapoko, Island of Maui, Hawaii Address: 65 Hana Highway, Paia Purpose: Building Permit	Akamai Land Surveying, Inc., for James E. Fuller (65 Hana Highway)	2-6-02: 010
OA-889	9/25/02 Certified	Being a portion of R.P. 4498, Land Commission Award 6175 to Kamaha no Malaea, land situated at Wailupe, Honolulu, Island of Oahu, Hawaii Address: 5311-J Kalaniana'ole Hwy. Purpose: Building Permit	Jaime F. Alimboyoguen, for Lynn Wong	3-6-03: 15

# Conservation District Notices

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## Conservation District Use Permits

Persons interested in commenting on the following Conservation District Use Applications must submit comments to the Department of Land and Natural Resources. Also, anyone interested in receiving notification of determinations on Conservation District Use Applications must submit requests to DLNR that include the following information: (1) Name and address of the requestor; (2) The departmental permit for which the requestor would like to receive notice of determination; and 3) The date the notice was initially published in the Environmental Notice. Both comments and requests for notification of determinations must be submitted to DLNR within thirty days from the initial date that the notice was published in the Environmental Notice.

Please send comments and requests to: State of Hawaii, Department of Land and Natural Resources, Land Division, 1151 Punchbowl Street, Room 220, Honolulu, Hawaii 96813. DLNR will make every effort to notify those interested in the subject CDUA, it is not obligated to notify any person not strictly complying with the above requirements. For more information, please contact Masa Alkire at 587-0385.



### Civil Defense Warning Siren Project

**File No.:** CDUA HA-3105 (Board Permit)  
**Applicant:** State Civil Defense  
**Location:** Kehena, Puna, Hawai'i  
**TMK:** 1-2-09: 41  
**Action:** Warning siren installation  
**343, HRS**  
**determination:** Exempt  
**Appl's Contact:** Harold Sonomura (586-0479)



### Zink Driveway & Landscaping

**File No.:** CDUA HA-3104 (Departmental Permit)  
**Applicant:** Maurice Zink  
**Location:** Puna, Hawai'i  
**TMK:** 1-5-10:031  
**Action:** Driveway construction & landscaping  
**343, HRS**  
**determination:** Exempt  
**Appl's Contact:** Maurice Zink (701-285-3589)

# Pollution Control Permit Applications

## Department of Health Permits

The following is a list of some pollution control permits currently being reviewed by 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.

Branch Permit Type	Applicant & Permit Number	Project Location	Pertinent Date	Proposed Use
Clean Air Branch, 586-4200, Noncovered Source Permit	Castle & Cooke Resorts, LLC NSP 0488-01-N	Central Service Facilities, Lanai City, Lanai	Issued: 9/11/02	150 HP Boiler and Three (3) 365 kW Diesel Engine Generators
Clean Air Branch, 586-4200, Covered Source Permit	Hawaiian Electric Company, Inc. CSP 0240-01-C	Kahe Generating Station, 89-900 Farrington Highway, Waianae, Oahu	Issued: 9/17/02	Six (6) Boilers and Two (2) Black Start Diesel Engine Generators
Clean Air Branch, 586-4200, Temporary Covered Source Permit	Pineridge Farms, Inc. CSP 0524-01-CT	Various Temporary Sites, State of Hawaii Initial Location: Kapaa Quarry Road, Kailua, Oahu	Comments Due: 10/21/02	One (1) 295 TPH Crushing Plant with One (1) 300 HP Diesel Engine
Clean Water Branch 586-4309, NPDES Permit	AES Hawaii, Inc. No. HI 0021130	Campbell Industrial Park Ewa, Oahu	Comments Due: 10/16/02	Modification to current permit to include discharges of RO & R1 water

# Coastal Zone News

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## 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 (587-2878).

Location (TMK)	Description (File No.)	Applicant/Agent
Hawaii: Puna (1-4-28: 44)	After the fact hand clearing and replanting of property (SMAA 02-35)	Christine Waters
Hawaii: Puna (1-5-62: 96)	Water well (SMAA 02-38)	Kenneth Heinemann
Hawaii: Hilo (2-7-20: 16)	Pali Bank Protection (SMAA 02-37)	Neal & Marilyn Herbert
Honolulu: Kailua, Kapaa Quarry Rd (4-2-15: 6)	Green waste recycle facility (2002/SMA-44)	Hawaiian Earth Products
Maui: Lahaina (4-5-21: 14)	Disaster Warning Siren & Pole (SM2-20020130)	Jay K. Hashimoto
Maui: Hana (1-4-4: 21)	Disaster Warning Siren & Pole (SM2-20020134)	Jay K. Hashimoto
Maui: Maalaea (3-8-5: 32)	Haycraft Disaster Warning (SM2-20020135)	Norman Ogasawara
Maui: Waiehu (1-2-20: 71)	Civil Defense Siren (SM2-20020136)	Norman Ogasawara
Maui: Lahaina (4-5-7: 10)	Civil Defense Siren (SM2-20020137)	Norman Ogasawara
Maui: Koomoa (1-2-2: 7)	New MECO Pole (SM2-20020138)	Al Covic
Maui: Opana Pt (2-8-3: 49)	2 Wells (SM2-20020139)	Jeffrey Naftulin
Maui: Kahului (1-7-3: 7)	Maui Beach Temp Tent (SM2-20020140)	Oka Architects
Maui: Makena (2-1-6: 5)	Swimming Pool (SMX-20020468) Pending	James Niess
Maui: Waiehu (3-2-20: 65)	Additions & Pool (SMX-20020470) Pending	George Peters
Maui: Kihei (3-9-53: 5)	Addition to Residence (SMX-20020472) Pending	Nick Wagner
Maui: Kihei (2-1-27: 6)	Residence & Pool (SMX-20020473) Pending	Daniel Sayles
Maui: Lahaina (4-5-24: 37)	Pool & Spa (SMX-20020474) Pending	Craig Weber
Maui: Haiku (2-8-3: 44)	Dwelling (SMX-20020477) Pending	Donald O'Connor
Maui: Paia (2-5-3: 26)	Change Front Door (SMX-20020478) Pending	Pauline Green
Maui: Paia (3-3-78: 3)	House & Garage (SMX-20020479) Pending	Daniel Sayles
Maui: Kapalua (4-2-7: 16)	Spa (SMX-20020480) Pending	Architectural Design
Maui: Kihei (3-9-53: 9)	Swimming Pool (SMX-20020481) Pending	Pool Pro
Maui: Makena (2-1-11: 1)	Remodel Apartment (SMX-20020482) Pending	Professional Remodeling
Maui: Hana (1-5-3: 32)	Garage (SMX-20020484) Pending	East Maui Construction
Maui: Hana (1-1-3: 56)	Propane Tank (SMX-20020485) Pending	Maui Architectural Group
Maui: Huelo (2-9-7: 22)	1 <sup>st</sup> Farm Res Bldg (SMX-20020486) Pending	Leonard Keith
Maui: Kihei (3-9-2: 28)	Restaurant (SMX-20020487) Pending	Anthony Simon
Maui: Lahaina (4-4-13: 8)	Relocate Fitness Rm (SMX-20020488) Pending	Hyatt Regency
Maui: Paia (3-8-1: 71)	Relocate Res Structure (SMX-20020489) Pending	Fred Loesberg
Maui: Lahaina (4-1-8: 71)	Addition to Dwelling (SMX-20020491) Pending	Steven Tsue
Maui: (3-9-32: 32)	Dwelling & Garage (SMX-20020492) Pending	Mary Cahill
Maui: Maalaea (3-5-8: 1)	Pac Whale Fd Edu Ctr (SMX-20020495) Pending	Marie Kimmey
Maui: Kihei (3-9-13: 16)	2 Parcel Subdivision (SMX-20020493) Pending	Silversword Engineering
Maui: Kahului (3-7-11: 24)	Alter Colvin Rehab (SMX-20020497) Pending	Jean Tessmer

# Documents Available at OEQC

OCTOBER 8, 2002

Here are environmental impact statements that OEQC is giving away. This is the result of a periodic culling-out of the OEQC library. Volumes are given away on a first come-first served basis. When calling to inquire about the availability of an item be sure to reference its library number listed below.

## OAHU

D = draft F = final R = revised S = supplemental

<u>Status</u>	<u>Date</u>	<u>Title</u>	<u>Lib. #</u>
DEIS	Aug 1973	Agricultural Park on Oahu (Kunia)	OA 116
DEIS	Nov 1975	Kalaniana'ole Highway (Aina Haina - HI Kai)	OA 137
App. D	Nov 1975	Kalaniana'ole Highway Technical Appendices for D & FEIS	OA 137A
DEIS	Jul 1976	Kalakaua Commercial Complex	OA 146
FEIS	Aug 1976	Kalakaua Commercial Complex	OA 146A
DEIS	1977	Koolauloa Housing Project B Kahuku	OA185
DEIS	Sep 1978	Halekulani Hotel	OA 203
DEIS	May 1980	HPOWER	OA 253
DEIS	Oct 1981	Kahuku Wind Energy Project	OA 281
RDEIS	Jun 1984	Lanikai Hale (CDUA)	OA 329
DEIS	Aug 1985	Kuilima Resort Expansion (Kahuku)	OA 349
DSEIS	Mar 1988	Honouliuli Wastewater Treatment Plant, Unit 2 (Ewa)	OA 131B
DEIS	Nov 1988	Waikane Golf Course (vol II, Technical Reports)	OA 412
RDEIS	Nov 1989	Waikiki Landmark	OA 420B
DEIS	Mar 1990	Honolulu Rapid Transit; Alternatives Analysis; Plans & Profiles Drawings (appendix B) B 2 vol.	OA 500, OA 500 B
DEIS	Feb 1991	Ewa Marina Phase II	OA 469
DSEIS	Oct 1993	Lihi Lani (Pupukea residential development)	OA 471B
FEIS	Dec 1993	East Mamala Bay Wastewater Fac. Plan (Red Hill - Niu Vly)	OA 519A
DSEIS	Jul 1994	Revised Kakaako Makai Area Plan	OA 444B
FEIS	Apr 1996	Ka Iwi State Park	OA 535A
DSEIS	Jul 1998	Waimanalo Wastewater Facilities Plan	OA 318A
<u>Status</u>	<u>Date</u>	<u>Title</u>	<u>Lib. #</u>
DEIS	Oct 1998	Puaena Camp (2 copies)	OA 549
FEIS	May 1999	Puaena Camp (1 copy)	OA 549A
DEIS	Mar 1999	Koko Head Regional Park Nature Preserve	OA 550
FEIS	Aug 1999	FEIS renamed Hanauma Bay Nature Preserve	OA 550A
DEIS	Jun 1999	Oahu Commercial Harbors 2020 Master Plan	OA 551
FEIS	Sep 1999		OA 551A
FEIS	Feb 2000	Kailua-Kaneohe-Kahaluu Facilities Plan	OA 552A
DEIS	Mar 2000	Diamond Head State Monument (2 copies)	OA 554
DEIS	Sep 2000	West Mamala Bay Facilities Plan (2 copies)	OA 558

# Documents Available at OEQC

OCTOBER 3, 2002

## KAUAI

D = draft      F = final      R = revised      S = supplemental

<u>Status</u>	<u>Date</u>	<u>Title</u>	<u>Lib. #</u>
FEIS	Jun 1992	Kauai Judiciary Complex	KA 141C
DEIS	Apr 1998	Pacific Missile Range Facility (PMRF) B 2 sets, 2 vol. each	KA 150
FEIS	Dec 1998	Pacific Missile Range Facility (PMRF) B 1 set, 3 vol.	KA 150A
DSEIS	Jun 1998	Kukuiula Bay Resort (2 copies)	KA 151
DEIS	May 1998	New Hanalei Middle School	KA 152
DEIS	Dec 1998	Kauai Electric Lihue Energy Service Center (2 copies)	KA 153
DEIS	Oct 1999	Kapalawai Resort (2 copies)	KA 154
DEIS	May 2000	North Pacific Acoustic Laboratory (ATOC) (2 copies)	KA 155

## HAWAII

D = draft      F = final      R = revised      S = supplemental

<u>Status</u>	<u>Date</u>	<u>Title</u>	<u>Lib. #</u>
DEIS	Aug 1988	Hawaii Commodities Irradiation Facility	HI 206
DEIS	Aug 2000	Kaloko Industrial Park, Phases III & IV (TSA Intl. ) 2 copies	HI 273
FEIS	Oct 2000	Kaloko Industrial Park, Phases III & IV (TSA Intl. ) 1 copy	HI 273A
DEIS	Jun 1996	Hapuna Beach Recreation Area Expansion	HI 260
FEIS	May 2001	Hapuna Beach Recreation Area Expansion	HI 260A
DEIS	Jun 1999	Mamalaha Highway Bypass, 2 sets, 2 vol. each	HI 268
FEIS	Sep 1999	Mamalaha Highway Bypass (2 vol.)	HI 268A
FEIS	Dec 1999	Mauna Kea Science Reserve Master Plan & technical appendices (2 vol.)	HI 269A vol I & II
DEIS	Jun 2000	Oneloa Onsen & Sports Complex	HI 270
DEIS	May 2000	University of Hawaii Center at West Hawaii (Kona) 2 copies	HI 271
FEIS	Oct 2000	University of Hawaii Center at West Hawaii (Kona) 1 copy	HI 271A
DEIS	Mar 2001	Hawaii Commercial Harbors 2020 Master Plan (2 copies)	HI 275
FEIS	Jul 2001	Hawaii Commercial Harbors 2020 Master Plan (1 copy)	HI 275A
DEIS	Nov 2001	China - US Center (3 copies) (1 copy no library #)	HI 276
FEIS	Mar 2002	China - US Center (1 copy) (no library #)	

## Reopened Comment Period and Hearings for Critical Habitat on Hawai'i

The U.S. Fish and Wildlife Service (Service) gives notice of two public hearings and a reopening of the comment period on the proposed critical habitat designations for 47 plants from the island of Hawai'i. Comments already submitted on the proposed rule need not be resubmitted as they will be fully considered in the final determination. The comment period for this proposal now closes on November 30, 2002. Any comments received by the closing date will be considered in the final decision on this proposal. Two public hearings will be held on the island of Hawai'i, on Tuesday, October 29, 2002, in Kailua-Kona at the King Kamehameha Hotel, 75-5660 Palani Road from 5:30 p.m. to 8:30 p.m. and on Wednesday, October 30, 2002, in Hilo at the Hawai'i Naniloa Resort, 93 Banyan Drive from 6:00 p.m. to 8:00 p.m. Prior to both public hearings, the Service will be available from 3:30 to 4:30 p.m. to provide information and to answer questions. The Service will also be available for questions after the hearings. Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Boulevard, Room 3-122, P.O. Box 50088, Honolulu, Hawai'i 96850. For details, contact Paul Henson, at the above address or telephone (808) 541-3441. or send facsimiles to (808) 541-3470 (see, 67 F.R. 59811, September 24, 2002).

## Western Pacific Fishery Council Meetings

The National Oceanic and Atmospheric Administration (NOAA) announced that the the 81st meeting of the Western Pacific Fishery Management Council's Scientific and Statistical Committee (SSC) will convene on October 8, 2002, from 9 a.m. to 5 p.m. and on October 9-10, 2002, from 8:30 a.m. to 12 noon. in Honolulu, at the Council Office Conference Room, 1164 Bishop St., Suite 1400. The Commercial, Recreational, Subsistence/Indigenous and Ecosystem and Habitat Advisory Panels will meet at the Council Office Conference Room, 1164 Bishop St., Suite 1400, Honolulu on October 10, 2002, from 2 p.m. to 5 p.m., on October 11 from 8:30 a.m. to 5 p.m., and on October 12, 2002, from 9 a.m. to 12 noon. The Council's Standing Committees will meet at the Council Office Conference Room, 1164 Bishop St., Suite 1400, Honolulu on October 14, 2002, from 8 a.m. to 5:30 p.m. The full Council meeting will be held on October 15, 2002, from 9 a.m. to 5 p.m., October 16 from 8:30 a.m. to 5 p.m., and October 17, 2002, from 8:30 a.m. to 12 noon at the Pier 11 Gallery, 700 Fort Street, Aloha Tower, Honolulu. For a detailed agenda please contact Ms. Kitty M. Simonds, Executive Director by telephone at (808) 522-8220 (see, 67 F.R. 61062, September 27, 2002).

## Reopened Comment Period on Critical Habitat for Blackburn's Sphinx Moth

The U.S. Fish and Wildlife Service (FWS) gives notice of a public hearing on the proposed critical habitat designation for Blackburn's sphinx moth. In addition, the comment period that originally closed on August 12, 2002, has been extended. The new com-

ment period and hearing will allow all interested parties to submit oral or written comments on the proposal. FWS is seeking comments or suggestions from the public, other concerned agencies, the scientific community, industry, or any other interested parties concerning the proposed rule. Comments already submitted on the proposed rule need not be resubmitted as they will be fully considered in the final determination. The comment period for this proposal now closes on December 30, 2002. Any comments received by the closing date will be considered in the final decision on this proposal. Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Boulevard, Room 3-122, P.O. Box 50088, Honolulu, Hawai'i 96850. For more information contact Paul Henson, at the above address, (telephone (808) 541-3441, facsimile (808) 541-3470 (see, 67 F.R. 54763, August 26, 2002).

## EPA Reviews Public Comments and Approves Hawai'i Underground Tank Program in Lieu of Federal Program

The U.S. Environmental Protection Agency (EPA) has reviewed and approved (effective September 30, 2002) the State of Hawai'i's application for approval of its Underground Storage Tank Program for petroleum and hazardous substances under Subtitle I of the Resource Conservation and Recovery Act (RCRA). Written comments regarding the EPA's approval of Hawai'i's Underground Storage Tank Program were received during the comment period from EnviroWatch, Inc. Oral comments regarding the EPA's approval of Hawai'i's Underground Storage Tank Program were received during the public hearing from Mr. Carroll Cox, President of EnviroWatch, Inc., and Mr. Joseph Ryan, a resident of Waimanalo. Additionally, in April 2001, prior to publication of EPA's tentative decision to authorize Hawai'i's Underground Storage Tank Program, EPA received a Petition To Withdraw Hawai'i Certification and a Title VI Complaint of Discriminatory Acts (Petition to Withdraw) challenging the administration and enforcement of environmental programs by the State of Hawai'i. and seeking withdrawal of authorization for all environmental programs. We have taken into consideration comments in the Petition relating to the Hawai'i Underground Storage Tank Program in taking today's action. This action is not a final determination on the merits of the Petition to Withdraw. The significant issues raised by the commenters and EPA's responses are summarized below.

1. **Comment:** EPA received comments relating to the Hawai'i Department of Health's (HDOH) implementation of other programs for which Hawai'i has been delegated authority by EPA. The comments generally asserted that HDOH has a track record of being unable to properly enforce other federally delegated programs and, thus, that the State would not adequately enforce its underground storage tank program. Specific examples cited included Hawai'i's enforcement of the Clean Water Act, including the State's National Pollutant Discharge Elimination System (NPDES) program, Hawai'i's investigation into a sewage dumping incident, and the purported failure of the State's Attorney General to give priority to environmental enforcement. The Petition to Withdraw also identified the State's economic condition and the reduction in force of State employees responsible for inspections and enforcement as a reason why the State would not

# Federal Notices

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be able to administer and enforce the UST program according to Federal guidelines and rules.

**Response:** Each environmental program is unique and must be evaluated in light of the particular Federal and state requirements applicable to that program. Among other things, programs differ significantly in the numbers and types of pollutants regulated; the number, size and type of facilities which are regulated; the complexity and scope of regulatory requirements; regulatory mechanisms (for example, use of permits and prohibitions); tools for assessing compliance (e.g., inspections, self-monitoring and self-reporting); and enforcement options. Moreover, different programs vary in funding levels and sources, and staffing levels (both number of staff and required qualifications). Requirements applicable to EPA's authorization of Hawai'i's UST program are found generally at 40 CFR part 281. These requirements include criteria for determining whether a state's program is "no less stringent than" the corresponding Federal program (see 40 CFR 281.30 through 281.39). These requirements also include criteria for determining whether a state can adequately enforce its program (see 40 CFR 281.40 through 281.43). EPA has reviewed and evaluated Hawai'i's UST authorization application in light of the criteria set forth in 40 CFR part 281. EPA has determined that Hawai'i's UST program meets the criteria set forth in 40 CFR part 281 and has determined that authorization of this program is appropriate in light of those criteria. With respect to HDOH's performance in enforcing its UST program, HDOH began implementation of its field citation program in May 2000. Field citations are issued for easily verifiable and correctable violations of Hawai'i's UST rules, and involve lower penalty amounts than are assessed in traditional administrative enforcement actions. Since May 2000, HDOH has conducted 476 state-led field citation inspections and has issued 143 field citations assessing total penalties of \$133,450. To date, 122 facilities have paid their assessed penalty for a total of \$102,565 in penalties received by HDOH. Over the past year, HDOH initiated enforcement efforts (e.g., warning letters and proposed orders) against recalcitrant owners and operators at approximately 220 facilities who had failed to conduct response activities to address releases that occurred at their facilities prior to 1997. As a result, many of these facilities are currently conducting appropriate release response activities, including site assessments and cleanup. Work has been completed at approximately 25 percent of these facilities and the cases are now closed. With respect to the portion of the comment related to HDOH's enforcement resources, in Fiscal Year (FY) 2003 (October 1, 2002-September 30, 2003) Hawai'i's UST and LUST program budgets are \$420,402.00 and \$673,551.00 respectively. HDOH has four full time UST inspector positions and has a goal of conducting a minimum of 400 UST facility inspections during FY2003. With approximately 1,100 operating UST facilities, and 400 UST facilities inspected annually, each of these facilities would be inspected at least once every three years to ensure compliance with State UST regulations. In addition to an aggressive FY2003 inspection schedule, HDOH identified ten administrative enforcement actions against non-compliant facilities in FY2002. Three of these cases have settled while an additional eight are in development or pending. With respect to the comments related to Hawai'i's implementation and enforcement of the Clean Water Act, these are the same comments which were raised in the Petition. In response to the Petition, EPA decided to change its schedule of state program audits to perform an audit of Hawai'i's NPDES program earlier than originally scheduled. Pursuant to the audit, EPA reviewed Hawai'i's statutory authorities as well as enforcement mechanisms, and the audit raised some concerns, particularly related

to enforcement. EPA is working with the State to address those concerns. We are also reviewing the issues raised in the Petition, and will respond directly to the Petitioner on those issues.

**2. Comment:** EPA received comments expressing the concern that the HDOH was unable to ensure that other Hawai'i State agencies complied with UST program requirements, including the Federal deadline for upgrading existing tanks (December 22, 1998, pursuant to 40 CFR 280.21), (the corresponding State provision is found at Hawai'i Administrative Rules [HAR] 11-281-18, and sets a deadline of January 28, 2000, the effective date of the regulations). These comments focused generally on the failure of HDOH to identify or require closure of an UST by the Hawai'i Department of Land and Natural Resources (HDLNR) at a pumphouse near Pearl Harbor's Richardson Field.

**Response:** The HDOH has the legal authority to bring an enforcement action against another State agency and, in fact, HDOH has taken enforcement action against other State agencies. The EPA is satisfied that appropriate enforcement actions can and will be taken by HDOH against other non-complying State of Hawai'i agencies when necessary. HDOH began its UST field citation program in April 2000. Since that time, HDOH has inspected 13 State facilities and has issued field citations to five of those facilities. The field citations assessed penalties ranging from a low of \$150 up to a high of \$1,750. EPA is confident that HDOH treats all tank owners and operators equally with respect to conducting inspections and taking enforcement action, including State agencies. EPA has reviewed the situation relating to the UST located at the pumphouse near Pearl Harbor's Richardson Field and is satisfied with HDOH's actions with respect to this UST. Given the dates of service of this UST, which was apparently taken out of service in 1960 prior to the 1962 transfer of the land to HDLNR, HDLNR would not ordinarily have the responsibility for closure of this UST. Under Section 9001(3)(B) of RCRA, 42 U.S.C. 6991(3)(B), for USTs no longer in service after November 8, 1984, the "owner," who would ordinarily be responsible for closure, is the entity who owned the UST immediately before it was taken out of service. See also Hawai'i Revised Statutes (HRS) Chapter 342-L1.

**3. Comment:** EPA received comments expressing concern that the State has implemented its UST program in a discriminatory manner and that the State does not have an adequate environmental equity policy.

**Response:** These comments are similar to the issues raised in the Petition To Withdraw Hawai'i Certification and a Title VI Complaint of Discriminatory Acts (Petition to Withdraw), which was rejected by EPA's Office of Civil Rights (OCR) in October of 2001. While the comments received on EPA's tentative decision to authorize Hawai'i's UST program did not provide specifics with respect to these concerns, the Petition to Withdraw specifically referred to the incident relating to mercury contamination emanating from the pumphouse near Richardson Field with respect to the allegations of discriminatory conduct by the State. As set forth above in response to Comment 2 with respect to HDOH's actions relating to the UST at the pumphouse near Richardson Field, EPA has reviewed those actions and is satisfied that HDOH has acted appropriately. No other specific examples of HDOH acting in a discriminatory manner that specifically relate to HDOH's implementation of the UST program were identified by the comments or the Petition to Withdraw. With respect to today's decision to authorize Hawai'i's UST Program, EPA must ensure that Hawai'i has an adequate UST enforcement program.



While EPA does not typically review environmental justice policies in the context of determining whether a state has an adequate UST enforcement program, EPA notes that, on January 2, 2002, the HDOH Environmental Health Administration issued an *Environmental Equity Policy*. This policy confirms that HDOH will “through the implementation of federal and state environmental laws, rules, policies, and programs, ensure the fair and equitable treatment of all persons as it evaluates and addresses the risks and consequences associated with environmental pollution.”

**4. Comment:** EPA received comments questioning the State’s ability and “political strength” to enforce its UST requirements at Federal facilities. Additionally, questions were raised concerning the continued role of EPA with respect to Federal facility enforcement in the State, after authorization of the UST Program.

**Response:** HDOH conducts inspections of military sites and has issued UST field citations to the military and other Federal facilities for violations of State UST requirements. These Federal facilities have returned to compliance as directed by the citations issued by HDOH. However, disputes have arisen between the facilities and HDOH regarding whether penalties assessed by the State must be paid by Federal facilities and whether the Federal government’s sovereign immunity with respect to such penalties has been waived. This dispute regarding the waiver of sovereign immunity with respect to penalties assessed by state agencies is not limited to Hawai‘i, but is a national issue, affecting all state UST programs. The ability of HDOH to pursue violations and require compliance is not in question. EPA is continuing to offer assistance to the states, including Hawai‘i, for Federal facility UST inspections. As to EPA’s role after authorization of the program, where appropriate, EPA will continue to exercise its enforcement authority, including the assessment of penalties, since EPA’s administrative penalty authority against Federal UST facilities is not in dispute. EPA-lead inspections of Federal UST facilities are conducted jointly with HDOH. In addition, all inspection and enforcement related information gathered in connection with Federal UST facilities is shared between EPA and HDOH.

**5. Comment:** EPA received comments expressing concern regarding the practical ability of citizens to seek a review of Hawai‘i’s administration of the State’s UST Program, once it has been delegated. The commenter was concerned that requests for review of the State’s programs are referred to the State, rather than being handled by EPA. The commenter suggested that certain safeguards be implemented in order to ensure adequate review of such requests. These suggestions included requiring administrative review of the State Program upon the filing of a citizen’s complaint and including possible sanctions against the State if it is not adequately implementing its Program.

**Response:** The process for withdrawal of approval of authorized state UST programs is set forth at 40 CFR 281.60 and 281.61. 40 CFR 281.61(b) cross-references the procedures set forth for withdrawal of approval of authorized state hazardous waste programs at 271.23(b) and (c). Both 40 CFR 281.61(b) and 271.23(b) allow interested persons to petition EPA to commence proceedings to withdraw approval of these state programs. EPA must respond in writing to any such petitions. 40 CFR 271.23(b)(1). If EPA determines that proceedings to withdraw approval of an authorized UST program are appropriate, either in response to an interested person’s petition or on the Agency’s own initiative, EPA may order commencement of such proceedings. Petitions to withdraw approval of authorized state programs are not referred to the affected state for a decision. The only sanction specifically provided in the regulations is withdrawal of the program.

Neither the statute nor the regulations provide for sanctions in addition to withdrawal of program approval against a state that is not adequately implementing its UST Program.

**6. Comment:** EPA received comments criticizing EPA’s criteria for deciding whether or not to hold a public hearing on EPA’s tentative determination to authorize Hawai‘i’s UST Program. The commenter asserted that the decision whether to hold a public hearing on that tentative determination should not be based on whether there was “sufficient” public interest, since, the commenter argued, that standard was vague and unfair.

**Response:** The standard for determining whether a public hearing should be held on EPA’s tentative decision to authorize a state program is set forth at 40 CFR 281.50(e)(4), which indicates that, if “insufficient public interest is expressed,” EPA may cancel the public hearing. In any event, EPA held a public hearing on its tentative decision to authorize Hawai‘i’s UST Program on November 13, 2001. The hearing was held at Kawanakoa Middle School in Honolulu, Hawai‘i. Thus, regardless of the standard used to determine whether or not a hearing should be held, the public did in fact have an opportunity to attend a public hearing on EPA’s tentative decision to authorize Hawai‘i’s UST Program and the concerns raised by these comments are moot.

**7. Comment:** EPA received comments expressing concern over whether or not EPA would continue to oversee Hawai‘i’s implementation of its UST Program after authorization. These comments also requested clarification of the timing of approval of Hawai‘i’s UST program and the standards used to determine whether or not to approve authorization.

**Response:** The effective date of the present decision to authorize Hawai‘i’s UST Program is September 30, 2002. The criteria used to evaluate Hawai‘i’s UST Program are set forth generally at 40 CFR Part 281. These regulations can be found on the web at <http://www.access.gpo.gov/nara/cfr/cfrhtml-00/Title--40/40cfr281--00.html>. Pursuant to 40 CFR 281.24, at the time of approval of a state’s application for authorization of its UST program, a Memorandum of Agreement (MOA) must be signed by the Regional Administrator and the appropriate official of the state lead agency. The MOA contains proposed areas of coordination between the state and EPA as well as a delineation of separate state and Federal roles and responsibilities. These roles and responsibilities include the following areas: enforcement, compliance monitoring, EPA oversight, and sharing and reporting of information. In the MOA entered into between EPA and the State of Hawai‘i with respect to implementation of Hawai‘i’s UST Program, EPA has assumed an oversight role with respect to the State’s program. This oversight role will include an annual review of the State’s Program in order to assist the State in implementing its Program, and to allow EPA to report to the President, the Congress and the public on the achievements of the State’s UST Program. The MOA also envisions that EPA and the State will coordinate regarding desirable technical support that EPA may provide to the State, and regarding targeting of joint efforts to prevent and mitigate environmental problems associated with the improper management of USTs.

**8. Comment:** EPA received comments expressing concerns regarding Hawai‘i’s UST Program and whether or not the Program was as stringent as the Federal UST program.

**Response:** EPA has determined that Hawai‘i’s application for authorization of its State UST Program meets the criteria for approval set forth at 40 CFR part 281. As part of this determination, EPA has determined that Hawai‘i’s UST Program is “no less strin-

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gent” than the Federal UST program in accordance with 40 CFR part 281, subpart C. EPA has also determined that the State has provided for an adequate enforcement program pursuant to 40 CFR part 281, subpart D, and has provided for public participation in the enforcement process in accordance with 40 CFR 281.42. With respect to EPA’s determination that Hawai‘i’s UST program is “no less stringent” than the Federal UST program, in its Federal Register notice announcing its tentative decision to authorize Hawai‘i’s UST Program, EPA specifically identified certain areas of the Hawai‘i program which EPA considers broader in scope than the Federal UST program. See 66 F.R. 50964-50965 (October 5, 2001). While these “broader in scope” provisions are enforceable by the State, they are not part of the authorized program and are thus not enforceable by EPA. EPA has determined that the remaining aspects of the State’s UST Program are as stringent or more stringent than the Federal program. EPA notes that Hawai‘i’s deadline for UST owner/operators to upgrade their existing USTs, found at Hawai‘i Administrative Rules (HAR) 11-281-18, was January 28, 2000, the effective date of the Hawai‘i regulations. The Federal deadline for upgrading existing tanks, found at 40 CFR 280.21, was December 22, 1998. For USTs which met Hawai‘i’s deadline but failed to meet the Federal deadline, Hawai‘i and EPA, through the MOA, have agreed that EPA will assume all related enforcement responsibilities. As explained above, authorization of a state Program is a prospective action only and an authorized state Program only operates in lieu of the Federal Program as of the effective date of the authorization. The Agency may undertake enforcement of the Federal requirements for violations of those Federal requirements which occurred prior to the effective date of authorization of the state’s Program. Since the Hawai‘i UST Program operates in lieu of the Federal UST Program as of September 30, 2002, the Federal deadline for upgrading existing tanks, found at 40 CFR 280.21, December 22, 1998, is not affected by this authorization. EPA may continue to undertake enforcement of violations of the Federal regulation, 40 CFR 280.21, occurring between December 22, 1998 and September 30, 2002. EPA may also enforce the State regulation, HAR 11-281-18, with respect to tanks that continue to be in violation of the upgrade requirement on or after September 30, 2002. With the exception of those provisions deemed “broader in scope” than the Federal program, the Hawai‘i program being authorized by today’s action consists of the following statutory and regulatory provisions: HRS 128D-4; HRS 342L-1 through 342L-53; and HAR 11-281-01 through 11-281-131. EPA has also determined that the State has provided for public participation in the enforcement process in accordance with 40 CFR 281.42 and that the State’s enforcement program is “adequate” in terms of the factors set forth at 40 CFR part 281, subpart D. Based on these determinations, EPA is authorizing the State’s UST Program pursuant to today’s rulemaking.

9. **Comment:** The Petition to Withdraw asserted that the State had denied access to public documents in violation of the Hawai‘i Uniform Information Practices Act (HRS 92F-1 *et seq.*) (UIPA).

**Response:** EPA notes that the UIPA contains provisions allowing persons aggrieved by denial of access to State governmental records to compel disclosure of the requested information. See HRS 92F-15.

10. **Comment:** EPA received comments requesting information on how farm tanks and agricultural businesses using USTs are regulated and how spills from such systems would be addressed.

**Response:** The Federal UST requirements exclude from the definition of “underground storage tank” or “UST” any “[f]arm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes” (40 CFR 280.12). The Federal regulations define “farm tank” as “a tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements” (40 CFR 280.12). The Federal definition of “farm tank” also makes clear that a farm tank must be located on the farm property and that the term “farm” includes fish hatcheries, rangeland and nurseries with growing operations (40 CFR 280.12). Hawai‘i’s definitions of “underground storage tank” or “UST,” “farm” and “farm tank” track the Federal definitions but also indicate that a farm tank must be used only for farm related purposes. See HAR 11-281-03. Thus, EPA has determined that Hawai‘i’s UST Program is broader in scope than the Federal UST program to the extent that Hawai‘i regulates 1,100 gallon capacity or less USTs storing motor fuel on farms when such USTs are used for non-commercial purposes other than farming purposes. Spills from tanks which are excluded from the definition of “underground storage tank” or “UST” under Hawai‘i’s UST Program would not be addressed using the corrective action authorities set forth at HAR 11-281 Subchapter 7. However, the State may have additional authorities available to it to address cleanup of such spills under certain circumstances. For instance, HRS 128D-4 provides the State with specific release response and enforcement authorities in order to address certain releases of hazardous substances. Other State and Federal authorities may also exist, depending on the circumstances associated with any particular spill. For details, contact: Mr. Norwood Scott, Underground Storage Tanks Program Office, U.S. EPA, Region 9, 75 Hawthorne Street (WST-8), San Francisco, California 94105, Telephone: (415) 972-3373 (see 67 F.R. 60161, September 25, 2002).

# Announcements

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## **COMPUTER RECYCLING DAY SATURDAY, OCTOBER 26, 2002 CompUSA - Ala Moana**

In conjunction with Make A Difference Day, the City and County of Honolulu, CompUSA, the Hawai'i Computers for Kids Program, and the Hawai'i Department of Education are teaming up to hold the first island-wide Computer Recycling Day. The event will be held in the parking lot of CompUSA, 604 Ala Moana Boulevard, from 9:00 a.m. to 12:00 noon on Saturday, October 26. Computer equipment collected will be evaluated for reuse or recycling.

### **REUSE:**

Hawai'i Computers for Kids will be accepting from businesses and householders the following equipment for reuse in the schools.

**Computers** - Windows-based Pentium and Power Macintosh

**Memory** - RAM chips of any sort

**Drives** - hard drives, CD-ROMs, floppies, Zip/Jaz

**Printers** - working laser or inkjet (no dot-matrix)

**Cables** - printer, network, video, power, USB, FireWire

**Peripherals** - modems, mice, keyboards, switches, working color monitors, and video, networking and sound cards

**Software** - operating systems, office suites, word-processing, spreadsheet, encyclopedia/educational, graphics, etc.

**Supplies** - paper, pads, diskettes, toner cartridges, pens, pencils

### **RECYCLING:**

Obsolete or non-working computer equipment and peripherals with scrap value will be recycled. Householders may bring in their old computer systems, working or not. Residents will be permitted to drop off a maximum of three (3) computer systems.

Since this event is designed with the householder in mind, businesses with a large quantity of equipment that meets the requirements for reuse are requested to contact Hawai'i Computers for Kids directly. Businesses need to arrange for recycling and disposal of non-working or obsolete equipment on their own. Contact Island Recycling directly at 845-1188.

Businesses may bring only working Pentium computer system suitable for donation to Hawai'i Computers for Kids. Any business bringing in non-working computer equipment, early model monitors, and 386 or 486 machines and their peripherals will be rejected. Computer furniture, desks, chairs, copiers, or other electronic office or household equipment will not be accepted at this event.

All donors will receive tax receipts for their donations that meet the specific requirements as stated above for the Hawai'i Computers for Kids Program. For more information, contact the City's Recycling Office at 692-5419 or Hawai'i Computers for Kids at 521-2259. You can also find out more about Make A Difference Day at <http://www.makeadifferenceday.com>.

## **State of Hawaii Department of Transportation Requests Proposals for Transportation Enhancement (TE) Projects (DEADLINE FOR PROPOSALS: OCTOBER 31, 2002)**

The State DOT encourages public agencies and private organizations to participate in the development of proposals to use about \$4 million/year of Federal Highway Administration (FHWA) funds for TE projects in Federal Fiscal Years 2003, 2004, 2005, and 2006. Proposals must be submitted to the Highways Division, Planning Branch, from September 1 through October 31, 2002. All proposals will be evaluated in consultation with the counties and FHWA. In January 2003, the DOT will prepare a prioritized list of proposed TE projects to guide State and county budgets and programming of FHWA funds.

Proposals for TE projects should consist of two copies of information and documents requested in the DOT TE Screening Form. The TE Screening Form and summary information on DOT and FHWA procedures and requirements can be obtained from the TE Program Manager by email at [douglas\\_meller@exec.state.hi.us](mailto:douglas_meller@exec.state.hi.us), telephone at (808) 587-1832, FAX at (808) 587-1787, or mail at Highways Division, Planning Branch, 869 Punchbowl Street, Honolulu, HI 96813.

Provided there is a direct relationship to the State's surface transportation system, the following twelve TE activities potentially may be eligible for FHWA funding: 1) Provision of facilities for pedestrians and bicycles; 2) Provision of safety and educational activities for pedestrians and bicyclists; 3) Acquisition of scenic easements and scenic or historic sites; 4) Scenic or historic highway programs (including the provision of tourist and welcome center facilities); 5) Landscaping and other scenic beautification; 6) Historic preservation; 7) Rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals); 8) Preservation of abandoned railway corridors (including the conversion and use thereof for pedestrians or bicycle trails); 9) Control and removal of outdoor advertising; 10) Archaeological planning and research; 11) Environmental mitigation to address water pollution due to highway runoff or reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; 12) Establishment of transportation museums.

All TE projects in Hawaii require an appropriation by either the State Legislature or a county council sufficient for project implementation. Provided FHWA and DOT procedures and requirements are met, FHWA will reimburse TE expenditures by any State or county agency. FHWA participation is normally limited to 80% of total eligible TE project costs. The State DOT may allow innovative ways of meeting the 20% "matching" requirement including private donations and use of non-FHWA federal funds.

