

# The Environmental Notice

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

April 23, 2008

## Request to Please Complete Bulletin Form and Summary Electronically

The Hawai'i Administrative Rules (Sections 11-200-3, 11-200-9(a)(5), 11-200-9(b)(4), 11-200-20) currently specifies the number of copies of an environmental assessment or an environmental impact statement that need to be filed with the Office of Environmental Quality Control (OEQC). The rules also require that such documents be accompanied by a completed bulletin publication form eight working days prior to the issue date (as set forth in the annual calendar compiled by OEQC and published in the November 23, 2007, edition of the *Environmental Notice*).

Since the pertinent rules cited above were last amended in 1996, information technology has progressed to the point where electronic documents now enjoy widespread distribution and use. While the current rules are quite clear in their requirements about submissions to the Office of Environmental Quality Control for publication in the periodic bulletin, the Office recognizes that electronic documents provide a more rapid method for informing the public of proposed actions. To encourage rapid dissemination of information, the OEQC had proposed an alternative method of bulletin submission about a year ago, where the proposing agency or approving agency could submit to the office two paper copies of an environmental document along with an Adobe Acrobat Portable Document Format (PDF) file of the document, along with a hard copy of a letter notice of determination from the agency on the agency's own letterhead, as well as the completed bulletin publication form.

The Office has been overwhelmed by the positive response received in subsequent agency submission - the majority of submittals were those that used the Adobe Acrobat PDF format, allowing the Office to timely post such documents to the Internet for public review. Truly grateful for the cooperation of the various proposing and approving agencies for their assistance, the Office would like to request that proposing and approving agencies please use the periodic bulletin publication form and summary in electronic format by completing the bulletin publication form and summary found on the website. Currently, because some submittals contain only the paper copy of the publication form and summary, it becomes necessary for the staff to re-key the information in the layout of the periodic bulletin. Using the information template posted on our Internet site would allow for one set of keystrokes and facilitate a more efficient layout and printing process for the periodic bulletin. To use the template for

the bulletin form and summary, simply complete the document in your word processor and copy and paste the completed form into the body of an electronic mail addressed to [oeqc@doh.hawaii.gov](mailto:oeqc@doh.hawaii.gov). If there are any questions, please do not hesitate to call us at (808) 586-4185. Thank you for your cooperation and assistance.

## Draft Papahānaumokuākea Marine National Monument Management Plan and Environmental Assessment

The Draft Papahānaumokuākea Marine National Monument Management Plan and Environmental Assessment are available for a 75-day public review and comment period beginning April 23 and ending July 8, 2008. As directed by Presidential Proclamation 8031, the U.S. Fish and Wildlife Service (FWS), National Oceanic and Atmospheric Administration (NOAA), and State of Hawai'i (collectively, the Co-Trustees) modified NOAA's Northwestern Hawaiian Islands Proposed National Marine Sanctuary Draft Management Plan to create the Draft Monument Management Plan. The draft plan was prepared with the assistance of the Office of Hawaiian Affairs. It now meets each agency's conservation planning requirements. The Monument includes the: Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve, Midway Atoll National Wildlife Refuge/Battle of Midway National Memorial, Hawaiian Islands National Wildlife Refuge, Hawai'i State Seabird Sanctuary at Kure Atoll, and State of Hawai'i's Northwestern Hawaiian Islands Marine Refuge. The Draft Monument Management Plan describes a comprehensive and coordinated management regime to achieve the vision, mission, and guiding principles of the Monument and to address priority management needs over the next 15 years. Two alternatives are analyzed in the Environmental Assessment. Under the No Action Alternative, the Co-Trustees would continue to implement activities to address priority management needs based on agency-specific plans. Under the Proposed Action (as described in the Draft Monument Management Plan), the Co-Trustees would implement new and expanded activities, in addition to ongoing activities, in a coordinated fashion to manage high priority needs. For more information about the plan including electronic copies of the plan and information about public meetings, please visit our website at <http://papahānaumokuākea.gov>. In addition, the documents have been mailed to all State of Hawai'i public libraries, where they will be available for public review. A limited number of copies are available on compact disk or in hard copy by calling the Fish and Wildlife Service in Honolulu at 808.792.9530. Comments can be submitted by mail, email or in person until July 8, 2008. Written comments should be mailed to: U.S. Fish and Wildlife Service; Papahānaumokuākea Marine National Monument; Box 50167, Honolulu, Hawai'i 96850 or via email to: [PMNM\\_MMP\\_Comments@fws.gov](mailto:PMNM_MMP_Comments@fws.gov). Comments may be hand delivered during normal business hours, Monday through Friday, from 7:30 a.m. to 4:00 p.m. through July 8, 2008, to: U.S. Fish and Wildlife Service; Papahānaumokuākea Marine National Monument; Prince Jonah Kuhio Kalaniana'ole Federal Building; 300 Ala Moana Boulevard, Room 5-231; Honolulu, Hawai'i.



Linda Lingle  
Governor

Katherine Puana Kealoha  
Director

Office of Environmental Quality Control  
Leiopapa A Kamehameha  
235 South Beretania Street, Suite 702  
Honolulu, Hawai'i 96813

Telephone (808) 586-4185 Facsimile (808) 586-4186  
Electronic mail address: [oeqc@doh.hawaii.gov](mailto:oeqc@doh.hawaii.gov)

Moloka'i/Lana'i: 1-800-468-4644 ext.64185 Kaua'i: 274-3141 ext. 64185  
Maui: 984-2400 ext. 64185 Hawai'i: 974-4000 ext. 64185

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We provide access to our activities without regard to race, color, national origin (including language), age, sex, religion, or disability. Write or call OEQC or our departmental Affirmative Action Officer at Box 3378, Honolulu, Hawaii 96801-3378 or at (808) 586-4616 (voice/tty) within 180 days of a problem. OEQC intends to make the information in this bulletin accessible to everyone. Individuals that require this material in a different format (such as large type or braille), should contact our office for assistance.

# Definitions

## Your guide to the Environmental Review Process

### Draft Environmental Assessment

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

### Final Environmental Assessment and Finding of No Significant Impact

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

### Final Environmental Assessment and Environmental Impact Statement Preparation Notice

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

### Draft Environmental Impact Statement

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

### Final Environmental Impact Statement

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

### Acceptability

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

### National Environmental Policy Act

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

### Conservation District

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

### Special Management Area

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

### Shoreline Certifications

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

### Environmental Council

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

### Exemption Lists

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

### Endangered Species

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

# Hawai'i Notices

April 23, 2008

## (1) Kalaoa Water System Improvements (HRS 343-5(c) DEA)

**District:** North Kona  
**TMK:** 7-3-004: portion 11 and 17, and utility easements in 5 and Mamalahoa Highway and Old Government Road  
**Applicant:** Seascape Development, LLC., P.O. Box 2808, Kailua-Kona, Hawai'i 96745. Contact: Mr. Bill Brooks (808 938-2136)  
**Approving Agency:** Department of Water Supply, County of Hawai'i, 345 Kekuanaoa St., Suite 20, Hilo, Hawai'i 96720. Contact: Finn McCall (808 961-8070, Ext. 255)  
**Consultant:** Wilson Okamoto Corporation, 1907 South Beretania Street, 4<sup>th</sup> Floor, Honolulu, Hawai'i 96826. Contact: Earl Matsukawa, (808 946-2277)  
**Comment Deadline:** May 23, 2008  
**Status:** Draft environmental assessment (DEA) notice pending 30-day public comment. Address comments to the applicant with copies to the approving agency, consultant and OEQC.  
**Permits Required:** National Pollutant Discharge Elimination System (NPDES) Notice of Intent for Storm Water Associated with Construction Activities; Grading Permit; and Building Permit

In 2004, the County of Hawai'i granted rezoning for the 10-acre Lokahi Ka'u Seascape Condominium property, which is located approximately 2.75 miles west of the project site. The applicant proposes to develop approximately 108-units of affordable multi-family housing at that site. A condition of the rezoning requires the applicant to develop water source, storage, and transmission improvements for the system that will serve the Seascape Condominium. In consultation with the County of Hawai'i Department of Water Supply (DWS) and other agencies, it was determined that providing improvements supplementing the existing DWS Kalaoa Reservoir facility would fulfill this condition.

The applicant proposes to acquire approximately one acre of land and construct a new 1.0 million gallon reservoir and associated water facility improvements to connect it with the nearby DWS Kalaoa Reservoir facility. Associated transmission lines within County utility and road easements, the Old Government Road, and Mamalahoa Highway to Kaiminani Drive will also be upgraded. When completed, the reservoir and transmission line improvements will be dedicated to DWS.

No significant long-term adverse impacts are anticipated to result from the proposed project. In the short-term, construction activities requiring periodic lane closures will inconvenience area residents and businesses. Construction activities will also have short-term air quality and noise impacts on the surrounding area.

In the long-term, the proposed project will improve water service in the area for existing demand, fire protection and domestic uses.

## (2) Kona View Estates Subdivision (HRS 343-5(c) FEA-FONSI)

**District:** North Kona  
**TMK:** 7-4-26:01-30  
**Applicant:** 327 Kona LLC, 4054 McKinney Avenue, Suite 310, Dallas, Texas 75204. Contact - Thomas M. Smith (214 520-0600)  
**Approving Agency:** Hawai'i County Planning Department, 101 Aupuni Street, Suite 103, Hilo, Hawai'i 96720. Contact - Daryn Arai (808 961-8288 ext. 204)  
**Consultant:** Geometrician Associates, P.O. Box 396, Hilo, Hawai'i 96721. Contact - Ron Terry, (808 969-7090)  
**Status:** Final environmental assessment (FEA) and Finding of No Significant Impact (FONSI).  
**Permits Required:** Hawai'i State DOT Approval for Work in the Right-of-Way of State Highway

The Kona View Estates Subdivision in Honokohau, North Kona, which consists of 29 one-acre lots zoned Ag-1, obtained final subdivision approval on September 26, 2006, and since that time has completed all of its internal infrastructure improvements. After construction was complete and accepted by the County of Hawai'i, the developer was informed by HELCO that, due to the location of its HELCO connection on the right-of-way of State Highway 190, the County subdivision permit pertaining to this development was not exempt from the need to prepare an EA.

Therefore, although the subdivision is complete and ready to be occupied, it requires an EA in order to obtain electrical power and other utilities from HELCO poles in the State Highway right-of-way.

Biological and archaeological studies were conducted as part of the subdivision process. No valuable biological resources were found on the property, which has a long history of farming. Archaeological features from both prehistoric and historic eras were present; inventory and data recovery mitigated effects to these resources, and one site, a burial, has been preserved. Impacts to traffic and infrastructure were considered and mitigated where necessary by the County during subdivision approval and development. Kona View Estates has design guidelines that encourage homes to take advantage of natural light and ventilation and to utilize indigenous plants in landscaping. Owners are also encouraged to create homes that reflect the rural Hawaiian setting by drawing upon indigenous building traditions and materials but at the same time to utilize solar hot water systems, solar power generating equipment, new building technologies, innovative building materials, thoughtful site planning and creative construction systems to create more energy-efficient homes.



## (3) Proposed Ke Kama Pono Facility (HRS 343-5(b) DEA)

**District:** Kona  
**TMK:** 8-2-001:084  
**Proposing Agency:** Department of Accounting and General Services, Public Works Division, 1151 Punchbowl Street, Room 430, Honolulu, Hawai'i 96813. Contact: Joseph Earing, (808 586-0486)

**Determination Agency:** Same as above.  
**Consultant:** Department of Human Services, Office of the Director, 1390 Miller Street, Room 209, Honolulu, Hawai'i 96813-2936. Contact: Dr. Scott Ray, (808 721-6225)

**Comment Deadline:** May 23, 2008  
**Status:** Draft environmental assessment (DEA) notice pending 30-day public comment. Address comments to the proposing agency with copies to the consultant and OEQC.

**Permits Required:** Building

The Hawai'i Department of Human Services (DHS) Office of Youth Services (OYS) is responsible for providing services and programs for youth-at-risk, with the goal of preventing delinquency and reducing recidivism. To meet this goal, the DHS/OYS is proposing to renovate an approximately 2,700 square-foot building (Building #3) located at the Kona Civic Center in Kona, Hawai'i from which to operate the Ke Kama Pono "Children of Promise" program. The Ke Kama Pono program is a community-based approach to diverting non-violent youth at risk from incarceration. The program serves a segment of the juvenile population that is in need of a structured and secured environment, with the appropriate services and programs to become successful members of the community. Upon operation, the proposed facility would serve up to eight boys, ages 13 to 17. The proposed building renovation would have negligible impacts on biological and socioeconomic resources including topography, soils, land use, utility services, traffic and transportation, cultural resources, and aesthetics that would be mitigated as appropriate. Beneficial impacts would include contributions toward fulfilling the DHS' mission to provide the right services, to the right child, at the right time and providing additional options for addressing their needs. Implementation of the proposed action involving Building #3 at the Kona Civic Center would result in no significant adverse impacts as defined by Hawaii Revised Statutes and the National Environmental Policy Act, while resulting in such positive impacts as providing community-based residential programs so that children in need of assistance can receive that help near their family and support services.

## (4) Ocean View Recycling Point and Convenience Center (HRS 343-5(b) FEIS)

**District:** Ka'u

**TMK:** (3)9-2-150:060  
**Proposing Agency:** County of Hawai'i, Department of Environmental Management, 25 Aupuni Street, Hilo, Hawai'i 96720. Contact: Nelson Ho (808-961-8083)

**Accepting Authority:** Mayor, County of Hawai'i, 25 Aupuni Street, Hilo, Hawai'i 96720. Contact: Nelson Ho (808-961-8083).  
**Consultant:** Geometrician Associates, P.O. Box 396, Hilo, Hawai'i 96721. Contact - Ron Terry, (808 969-7090)

**Status:** This final environmental impact statement (FEIS) has been processed and accepted by the Mayor, County of Hawai'i, on April 8, 2008, in accordance with Chapter 200 of Title 11, Hawai'i Administrative Rules, and Chapter 343, Hawai'i Revised Statutes. The FEIS is available at the Office of Environmental Quality Control. There is no public comment period.

**Permits Required:** National Pollutant Discharge Elimination System Permit, Underground Injection Control, State Historic Preservation Division Chapter 6E Concurrence; Solid Waste Management Permit, Plan Approval, Subdivision Approval, Grading Permit, Building Permits.

The County of Hawai'i proposes to build a solid waste Recycling Point and Convenience Center in Ocean View. Over the last four years, the County has utilized community input in conducting an extensive search for candidate sites and has selected a preferred site based upon criteria including location, relief of site, land use, highway access and nearby residences. Residents of rapidly growing Ocean View are obliged to travel more than 12 miles to dispose of rubbish and to recycle. Aside from inconvenience to residents, this has contributed to an epidemic of illegal dumping, which poses not only a scenic blight but also a hazard to human health and environmental quality. The convenience center, estimated to cost \$3.1 million, will include the following elements: (a) Two waste disposal chutes; (b) Recycling area with bins for glass, aluminum, cardboard, certain plastics, and other items; (c) Appliance and e-waste collection area; (d) Household hazardous waste collection area; (e) Redemption area for containers; (f) Service roads, improvements to the access road, SR 11 and their intersections, and gates; (g) Visual buffer area; (h) Firebreaks and firefighting equipment; (i) Signage; and (j) Drainage improvements. The convenience center may also include scrap metal collection bins and a re-use area, depending on community needs, desires and involvement. The center has been sited and is being designed to offer maximum convenience and minimum nuisance impacts in terms of odor, noise, air quality, pests, alien species, visual quality, and traffic. The undeveloped site is zoned agriculture, which is appropriate for this use, and has a low native forest with no archaeological sites. Impacts to wide-ranging endangered species will be avoided by scheduling construction at appropriate times.

# Maui Notices

April 23, 2008

## (5) Proposed Lahaina Wastewater Pump Station No. 1 Modifications (HRS 343-5(b) FEA-FONSI)

**District:** Lahaina  
**TMK:** (2)4-4-002:029 and 033  
**Proposing Agency:** County of Maui, Department of Environmental Management, Wastewater Reclamation Division, 2200 Main Street, Suite 610, Wailuku, Hawai'i 96793. Contact - Eric Nakagawa (808 270-7422)

**Determination Agency:** Same as above.  
**Consultant:** Munekiyo & Hiraga, Inc., 305 High Street, Suite 104, Wailuku, Hawai'i 96793. Contact - Kyle Ginoza, (808 244-2015)  
**Status:** Final environmental assessment (FEA) and Finding of No Significant Impact (FONSI).

**Permits Required:** Construction Permits

The applicant, the County of Maui, Department of Environmental Management, Wastewater Reclamation Division, proposes to upgrade the existing Lahaina Wastewater Pump Station (WWPS) No. 1, which currently does not have sufficient capacity to handle peak wet-weather flows. The pump station improvements will include a new submersible pumping station, electrical/emergency generator building, fuel tank, and odor control system. The pump station is currently serviced by a 1,600 feet long, 20-inch diameter force main. A new 30-inch force main will be installed between Lahaina WWPS No. 1 and the Lahaina Wastewater Reclamation Facility (WWRF). The existing pumping station and 20-inch force main will continue to be used until the existing pumps reach the end of their service life. The existing force main will serve as a backup line in the future. The implementation of the proposed improvements sought by the applicant will commence upon receipt of regulatory permits and approvals. It is estimated that site construction will be initiated in mid-2008 and will be completed by mid-2010.



## (6) Proposed Ke Kama Pono Facility (HRS 343-5(b) DEA)

**District:** Wailuku  
**TMK:** 3-4-011:032  
**Proposing Agency:** Department of Accounting and General Services, Public Works Division, 1151 Punchbowl Street, Room 430, Honolulu, Hawai'i 96813. Contact: Joseph Earing, (808 586-0486)

**Determination Agency:** Same as above.  
**Consultant:** Department of Human Services, Office of the Director, 1390 Miller Street, Room 209, Honolulu, Hawai'i 96813-2936. Contact: Dr.

Scott Ray, (808 721-6225)

**Comment Deadline:** May 23, 2008  
**Status:** Draft environmental assessment (DEA) notice pending 30-day public comment. Address comments to the proposing agency with copies to the consultant and OEQC.

**Permits Required:** Building, Grading

The Hawai'i Department of Human Services (DHS) Office of Youth Services (OYS) is responsible for providing services and programs for youth-at-risk, with the goal of preventing delinquency and reducing recidivism. To meet this goal, the DHS/OYS is proposing to construct an approximately 2,000 square-foot residence at a site on Wells Street in Wailuku, Maui from which to operate the Ke Kama Pono "Children of Promise" program. The Ke Kama Pono program is a community-based approach to diverting non-violent youth at risk from incarceration. The program serves a segment of the juvenile population that is in need of a structured and secured environment, with the appropriate services and programs to become successful members of the community. Upon operation, the proposed facility would serve up to eight boys, ages 13 to 17. Construction of the proposed facility would have negligible impacts on biological and socioeconomic resources including topography, soils, land use, utility services, traffic and transportation, cultural resources, and aesthetics that would be mitigated as appropriate. Beneficial impacts would include contributions toward fulfilling the DHS' mission to provide the right services, to the right child, at the right time and providing additional options for addressing their needs. Implementation of the proposed action at the Wells Street site would result in no significant adverse impacts as defined by Hawaii Revised Statutes and the National Environmental Policy Act, while resulting in such positive impacts as providing community-based residential programs so that children in need of assistance can receive that help near their family and support services.

## (7) 2025 Master Plan Improvements at Kahului Commercial Harbor (HRS 343-5(b) FSEA-FONSI)

**District:** Wailuku  
**TMK:** 3-7-01: 21 & 22; 3-7-10: 2, 3, 6, 13, 15, 21, 22, 24, 26, 27, 28, 30, 32 & 34; and 3-7-08: 2, 3, 4 & 6

**Proposing Agency:** State of Hawai'i, Department of Transportation, Harbors Division, 79 South Nimitz Highway, Honolulu, Hawai'i 96813. Contact: Michael Formby, (808 587-3651)

**Determination Agency:** State of Hawai'i, Department of Transportation, 869 Punchbowl Street, Honolulu, Hawai'i 96813. Contact: Brennon Morioka, (808 587-2150)

**Consultant:**  
**Status:** Final supplemental environmental assessment



# Maui Notices

April 23, 2008

## Permits Required:

(FSEA) and Finding of No Significant Impact (FONSI).

For in-water work: Clean Water Act Section 404 permit, CWA Section 401 water quality certification, and Rivers and Harbors Act Section 10 permit. For construction activities: National Pollutant Discharge Elimination System (NPDES) permit.

This Supplemental EA is prepared in response to a court order on the Final EA for the Kahului Commercial Harbor 2025 Master Plan. The court vacated the FONSI (published 12/23/05) with respect to traffic impacts only and affirmed that the FONSI was adequate with respect to all other subject matters. The proposed action includes improvements to be implemented by 2015 to ensure efficient, safe, and accessible port operations: (1) Pier 1 extension; (2) Pier 1 waterline; (3) new Pier 4 (angled configuration); and (4) structural pavement, access bridge, and utilities at "Pu'unene Yard." An alternative to the angled Pier 4 is expansion/extension of Pier 3 to create a linear Pier 3 and Pier 4. The traffic study analyzed three intersections along Ka'ahumanu Avenue that access the harbor: Pu'unene Avenue, Wharf Street, and Hobron Avenue. Hawai'i Superferry (HSF) operations were considered in the analysis. All three intersections currently operate at acceptable levels (LOS C or better) during peak periods, with and without HSF traffic. In 2015, with the improvements completed (with either Pier 4 configuration) and under the no-action alternative, the intersections are projected to continue operating at acceptable levels, with and without HSF traffic. No traffic mitigation is required.

## (8) 'Ohua Landing Craft/Cargo Vessel Operations (HRS 343-5(b) DEA)

**District:** Wailuku and Makawao  
**TMK:** (2) 3-9-004: por. 001 & 61 (Kihei, Maui) and n/a (Kaho'olawe)

## Proposing Agency:

Kaho'olawe Island Reserve Commission, 811 Kolu Street, Suite 201, Wailuku, Hawai'i 96793. Contact: Michele McLean, (808 243-5891)

## Determination Agency:

Same as above.

## Consultant:

NA

## Comment Deadline:

May 23, 2008

## Status:

Draft environmental assessment (DEA) notice pending 30-day public comment. Address comments to the proposing agency with copies to OEQC.

## Permits Required:

None

The Kaho'olawe Island Reserve Commission is responsible for the management of the island of Kaho'olawe and its surrounding waters. KIRC personnel travel between Maui and Kaho'olawe for restoration, cultural, operations and other work; personnel and supplies are typically transported via helicopter at an average monthly cost of \$90,000.00. To reduce expenditures and dependence on helicopters, KIRC purchased a landing craft to transport personnel and supplies by boat at an average monthly cost of \$3,600.00. The proposed action would include the loading of fuel and cargo onto the vessel at the Kihei boat ramp; the transportation of fuel and cargo from Maui to Kaho'olawe; and the unloading of fuel, cargo and passengers directly onto the beach at Honokanai'a. The potential adverse environmental impacts of these operations, *if not mitigated*, could be: disturbance of residential neighbors from noise; congestion at the boat ramp for other users; fuel spills; inadvertent transportation of invasive species between islands; collision with marine life; damage to marine environment (*e.g.*, coral); passenger injury.



# O'ahu Notices

## (9) H-POWER Facility, Air Pollution Control System Improvements (HRS 343-5(b) DEA)

**District:** 'Ewa  
**TMK:** 9-026-030, 033, 034, 035  
**Proposing Agency:** City and County of Honolulu, Department of Environmental Services, 1000 Ulu'ohia Street, Suite 308, Kapolei, Hawai'i 96707. Contact: Stephen Langham, (808 682-1359)

## Determination Agency:

Same as above.

## Consultant:

NA

## Comment Deadline:

May 23, 2008

## Status:

Draft environmental assessment (DEA) notice pending 30-day public comment. Address comments to the proposing agency with copies to the consultant and OEQC.

## Permits Required:

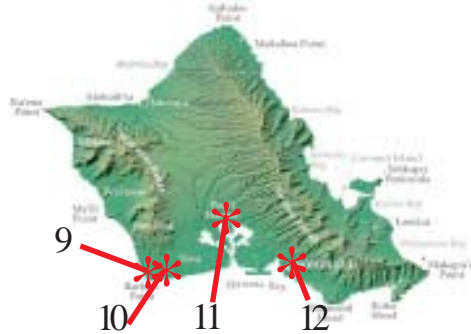
Clearing and Grubbing, Grading, Trenching, NPDES, NOI-C, NOI-G, CSP minor (DOH Clean Air)

The H-POWER Air Pollution Systems Improvement Project is being undertaken to comply with recently promulgated regulations under the Federal Clean Air Act. These regulations pertain to the control of pollutants including reductions in the allowable amounts of particulate matter, dioxins, furans and heavy metals. To comply, the City and County of Honolulu, the owner of the H-POWER facility, has evaluated the existing air pollution control

# O'ahu Notices

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equipment and has determined the electrostatic precipitators, which filter the combustor exhaust emissions, will need to be replaced with bag house filters. Construction of the Project will require office space, parking, access, storage space and room for pre-assembly. To meet these needs the Project intends to utilize approximately eight (8) acres of space on adjacent City-owned parcels on Kaomi Loop. Predominately for the additional need of using this space, an EA is deemed appropriate. Any impacts associated with use of this property can be mitigated. With respect to H-POWER, neither the through put capacity nor the electrical generation will change. Therefore, the facility remains essentially as permitted with no additional or changed environmental, community, social, economic, cultural, historic, natural, scenic, coastal, energy consumptive or other adverse impacts or effects. The sole impact or effect is a positive change to air emissions thereby decreasing potential adverse effects on human health and the environment. Therefore, it is anticipated that a finding of No Significant Impact (FONSI) will be issued.



population that is in need of a structured and secured environment, with the appropriate services and programs to become successful members of the community. Upon operation, each proposed residence would serve up to twelve boys, ages 13 to 17. Construction of the proposed residences, to serve as the program facility, would have negligible impacts on biological and socioeconomic resources including topography, soils, land use, utility services, traffic and transportation, cultural resources, and aesthetics that would be mitigated as appropriate. Beneficial impacts would include contributions toward fulfilling the DHS' mission to provide the right services, to the right child, at the right time and providing additional options for addressing their needs. Implementation of the proposed action at the Yorktown Road site would result in no significant adverse impacts as defined by Hawaii Revised Statutes and the National Environmental Policy Act, while resulting in such positive impacts as providing community-based residential programs so that children in need of assistance can receive that help near their family and support services.

## (10) Proposed Ke Kama Pono Facility (HRS 343-5(b) DEA)

**District:** 'Ewa  
**TMK:** 9-1-013: por 024  
**Proposing Agency:** Department of Accounting and General Services, Public Works Division, 1151 Punchbowl Street, Room 430, Honolulu, Hawai'i 96813. Contact: Joseph Earing, (808 586-0486)  
**Determination Agency:** Same as above.  
**Consultant:** Department of Human Services, Office of the Director, 1390 Miller Street, Room 209, Honolulu, Hawai'i 96813-2936. Contact: Dr. Scott Ray, (808 721-6225)  
**Public Comment Deadline:** May 23, 2008  
**Status:** Draft environmental assessment (DEA) notice pending 30-day public comment. Address comments to the proposing agency with copies to the consultant and OEQC.  
**Permits Required:** Building, Grading

The Hawai'i Department of Human Services (DHS) Office of Youth Services (OYS) is responsible for providing services and programs for youth-at-risk, with the goal of preventing delinquency and reducing recidivism. To meet this goal, the DHS/OYS is proposing to construct up to five, approximately 2,000 square-foot residences at a site located on Yorktown Road in Kalaeloa, O'ahu from which to operate their Ke Kama Pono "Children of Promise" program. The Ke Kama Pono program is a community-based approach to diverting non-violent youth at risk from incarceration. The program serves a segment of the juvenile

## (11) Pearl City Dewatering Facility (HRS 343-5(b) FEA-FONSI)

**District:** 'Ewa  
**TMK:** None  
**Proposing Agency:** State of Hawai'i, Department of Transportation, Highways Division, 869 Punchbowl Street, Honolulu, Hawai'i 96813. Contact: Mr. Robert Shin, (808 831-6705)  
**Determination Agency:** Same as above.  
**Consultant:** PB, 1001 Bishop Street, American Savings Bank Tower, Suite 2400, Honolulu, Hawai'i 96813. Contact: Mrs. Larissa Sato, (808 620-4705)  
**Status:** Final environmental assessment (FEA) and Finding of No Significant Impact (FONSI).  
**Permits Required:** Special Management Area Use Permit, Industrial Wastewater Discharge Permit, Waiver of Zoning and Design Standards, others

The Highways Division of the State of Hawai'i Department of Transportation proposes to construct a dewatering facility at its Pearl City Baseyard on the island of O'ahu. A dewatering facility is used to process saturated debris removed or cleaned from the State highway drainage and other structures. The highway drainage system must be periodically cleaned to prevent flooding on roadways and pollutants from affecting the quality of surface waters. Water produced from the dewatering facility is transferred directly to the City and County of Honolulu's sanitary sewer system. Once the debris reaches an acceptable level of dryness, it is removed from the facility and taken to a sanitary landfill for disposal. The Pearl City dewatering facility would consist of four settling basins and associated filter beds. It would





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also include dry storage areas, and a water filtering system. The entire facility would occupy approximately 30,000 square feet of the baseyard.

## (12) Kalihi-Nu'uuanu Area Sewer Rehabilitation (HRS 343-5(b) FEA-FONSI)

**District:** Honolulu  
**TMK:** Various  
**Proposing Agency:** City and County of Honolulu, Department of Design and Construction, 650 South King Street, Honolulu, Hawai'i 96813. Contact - Mr. Jay Hamai - (808 768-8750)

**Determination Agency:** Same as above.  
**Consultant:** Kimura International, Inc., 1600 Kapi'olani Boulevard, Suite 1610, Honolulu, Hawai'i 96814. Contact - Ms. Leslie Kurisaki (808 944-8848)

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

**Permits Required:** HRS Section 6E Historic Preservation Review, NPDES, and other City & County construction-related permits.

The City and County of Honolulu ("City") Department of Design and Construction is proposing rehabilitation of selected sewer lines in the Kalihi and Nu'uuanu areas of Honolulu. The project is part of the City's long-term effort to upgrade and rehabilitate Honolulu's aging sewer system. Sewage spills and leaks have been an ongoing problem in the Kalihi and Nu'uuanu areas, due to the age and poor physical condition of the sewers. The project involves two primary construction methods to either replace the existing lines with new lines, or rehabilitate the lines in place. Conventional, open-cut trenching will be used when

sewer lines are to be replaced or upsized. However, about 60 percent of the work can be accomplished with a less invasive, "trenchless" technology, involving a "cured-in-place pipe" (CIPP) liner. With this method, work is done through the manholes, which is less costly and less disruptive to the surrounding area than conventional trenching. The recommended sewer improvements have been prioritized, and the "high priority" rehabilitation work is targeted for completion by the end of 2009. During construction, the project will result in noise, air quality, and traffic impacts. These temporary impacts will shift to different locations within the project area as each sewer line segment is completed. The environmental impacts will generally be greater with the work involving trenching than with the CIPP method. There will be minimal disruption to sewer service with either method. Because most sewer lines are located within public roads, there will be lane closures and diversion of traffic. Where necessary, traffic flow will be directed by construction workers or special duty police officers, and appropriate warning signs and devices will be employed. Access for local traffic and emergency vehicles will be maintained at all times. Residents and businesses in the affected areas will be notified of the sewer work in advance through flyers, press releases, and an informational website. Traffic advisories will also be provided in advance. Archaeological monitoring will be conducted when the project requires trenching in areas where archaeological or cultural resources may be encountered. A monitoring plan is being prepared and will be approved by the State Historic Preservation Division. Overall, the proposed sewer improvements will have a positive long-term impact on the environment by correcting conditions that have led to sewer spills and backups. The City has issued a finding of Finding of No Significant Impact (FONSI). The Draft Environmental Assessment is available for review on the Office of Environmental Quality Control's website, <http://www.state.hi.us/health/oeqc/index.html>.



# Kaua'i Notices

## (13) Morrow Single-Family Dwelling in the Conservation District (HRS 343-5(c) FEA-FONSI)

**District:** Hanalei  
**TMK:** (4th) 5-9-003, parcels 010 and 045  
**Applicant:** David Morrow, c/o Greg Mooers, P.O. Box 1101, Kamuela, Hawai'i, 96743. Contact: Greg Mooers, (808 880-1455)

**Approving Agency:** State of Hawai'i, Department of Land and Natural Resources, P.O. Box 621, Honolulu, Hawai'i 96809. Contact: Samuel Lemmo, (808 587-0414)

**Consultant:** Ron Terry, Ph.D., P.O. Box 396, Hilo, Hawai'i 96721. Contact: Ron Terry, (808 969-7090)

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

### Required Permits:

Conservation District Use Permit; Plan Approval; Special Management Area Permit or Exemption; Building Permits; Grubbing and Grading Permits

David Morrow proposes to build a single-family residence and related improvements on a 1.053-acre shoreline property that consists of two lots that will be consolidated into one. The proposed residence would consist of a single structure occupying a footprint of approximately 3,480 square feet. Other improvements include an Individual Wastewater System, utilities, a bridge across an 'auwai to provide access, and landscape features such as vegetation and foot paths. All structures would be set more than 70 feet inland from the certified shoreline, essentially as far inland as construction is feasible on this lot. The project would also include light grading of a driveway to connect to a shared access road.

# Kaua'i Notices

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Land clearing and construction activities would produce minor short-term impacts to noise, air and water quality, access and scenery. A Storm Water Pollution Prevention Plan will be prepared to properly manage storm water runoff. The SWPPP will describe the emplacement of a number of best management practices (BMPs) for the project, which will include measures to prevent sediment from entering the 'auwai. The residence will be sited 70 feet from the certified shoreline, the maximum feasible distance and further mauka than neighboring houses. Impacts to archaeological and resources will be mitigated through data recovery in a plan reviewed and approved by the State Historic Preservation Division. If any previously unidentified sites, or remains such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings, or walls are encountered, work will stop immediately and SHPD will be consulted to determine the appropriate mitigation. Care will be taken during ground preparation to ensure that, in the unlikely event that human burials are present, they are recognized and dealt with appropriately. No valuable cultural resources would be adversely affected.

## (14) Wailua Facility Plan (HRS 343-5(b) FEA-FONSI)

**District:** Wailua & Kapa'a  
**TMK:** Various  
**Proposing Agency:** County of Kaua'i, Department of Public Works, Division of Wastewater Management, 4444 Rice Street, Suite 500, Lihu'e, Kaua'i, Hawai'i 96766. Contact: Mr. Edward Tschupp, (808 241-6610)

**Determination Agency:** Same as above.  
**Consultant:** Fukunaga & Associates, Inc., 1388 Kapi'olani Boulevard, 2nd Floor, Honolulu, Hawai'i 96814. Contact: Andrew Amuro, (808 944-1821)

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

**Permits Required:** National Pollutant Discharge Elimination System Permit, NPDES Stormwater, Construction Dewatering, Hydrotesting Permits, Underground Injection Control (UIC) Permit, Building Permit, Grading Permit, Pressure Vessel and Boiler Permit, Fuel Storage Tank permit, Wastewater Management Permit, Conditional Use Permit, Noncovered Stationary Source for Permit (modification/update), Water Quality Certification, Community Noise Permit, Notification of Renovation and Demolition Permit, Well Construction Permit

The purpose of this project is to develop a comprehensive wastewater facility plan for the Wailua Wastewater Treatment Plant (WWTP) and associated sewer system serving the Wailua and Kapa'a areas. The County of Kaua'i, Department of Public Works, Division of Wastewater Management proposes improvements to Wailua WWTP, sewer pump stations, and sewer system. The planning period of this project encompasses from the present to the year 2025. The project report will be used to help improve



water quality, protect public health, and accommodate planned future growth. Short-term impacts are associated with the construction activities at each of the project sites. These are not anticipated to be significant; and will be controlled and minimized by Federal, State, and County of Kaua'i laws, regulations, best management practices, and monitoring of construction by County inspectors. This project addresses repairs, replacement and improvements in the conveyance and treatment capabilities of the Wailua Sewer System. No negative long-term impacts are anticipated.

## (15) Lihu'e Airport Photovoltaic System Installation (HRS 343-5(b) DEA)

**District:** Lihu'e  
**TMK:** (4) 3-5-001:008  
**Proposing Agency:** State of Hawai'i Department of Transportation, Airports Division (DOTA), 400 Rodgers boulevard, 7<sup>th</sup> Floor, Honolulu, Hawai'i 96819-1880. Contact: Valerie Sasuga, (808 838-8824)

**Determination Agency:** Same as above. Contact: Brian Sekiguchi, (808 838-8600)  
**Consultant:** M&E Pacific, Inc., 841 Bishop Street, Suite 1900, Honolulu, Hawai'i 969813

**Comment Deadline:** May 23, 2008  
**Status:** Draft environmental assessment (DEA) notice pending 30-day public comment. Address comments to the proposing agency with copies to the consultant and OEQC.

**Permits Required:** NPDES Permit, Stormwater Discharge during Construction Activities, Special Management Area Permit, County of Kaua'i Building Permit

The State of Hawai'i Department of Transportation, Airports Division, hereinafter referred to as DOTA will be initiating a request for proposal (RFP) for a private investor to enter into a Power Purchase Agreement with the DOTA, heading toward a more environmentally friendly energy producing future. The RFP will include the installation of photovoltaic (PV) units, solar panels that absorb and convert the sun's rays into energy. These PV units are planned to be constructed on the roofs of a structure built over the existing public parking area. The proposed area for construction is shown on Figures 1 and 2 attached. The current condition of the parking lot has no vertical constraints (no cover) and is fenced around the perimeter of the lot by a chain link fence. See picture below. Since there is currently no roof over the parking lot, the State is planning on installing a roof-like structure that shall provide cover throughout the entire lot, while maintaining every existing stall. See attached figure No. 4, "Typical Parking Lot PV Shade." The panels will cover the entire surface area of the roof-like structure for maximum energy absorbance for this location. This Environmental Assessment (EA) will provide documentation on any potential impacts that the construction of

the PV units and parking cover structure may have on the existing environment. As this area is presently development and paved over, and the existing use of the area will not change, we anticipate

minimal, if any, impacts that this project may have on its surrounding environment.



## Statewide Notices

### (16) Madagascar Fireweed Biocontrol Project (*Secusio extensa*) (HRS 343-5(b) DEA)

**District:** Not applicable – statewide project  
**TMK:** NA  
**Proposing Agency:** Plant Pest Control Branch, Hawai'i, Department of Agriculture, 1428 South King Street, Honolulu, Hawai'i 96814-2512. Contact: Dr. Neil J. Reimer, (808 973-9522)

**Determination Agency:** Plant Quarantine Branch, Hawai'i Department of Agriculture, 1849 Auiki Street, Honolulu, Hawai'i 96819-3100. Contact: Darcy E. Oishi, (808 832-0566)

**Consultant:** NA  
**Comment:**  
**Deadline:** May 23, 2008  
**Status:** Draft environmental assessment (DEA) notice pending 30-day public comment. Address comments to the proposing agency with copies to the consultant and OEQC.

**Permits Required:** USDA-APHIS-PPQ and Board of Agriculture (HDOA Plant Quarantine Branch)

The HDOA is requesting the release of the arctiid moth *Secusio extensa* from quarantine to suppress infestations of Madagascar fireweed, *Senecio madagascariensis*, a highly invasive weed in pastures, rangelands, and wayside and natural areas of the Hawaiian Islands. Fireweed is highly toxic to cattle and other grazing animals that ingest it while foraging on grasses. Fireweed plants produce numerous seeds that are readily dispersed widely by wind, grazing animals, and human activities. Thousands of acres are now infested on the islands of Hawai'i and Maui. *Secusio extensa* was collected in Madagascar and is presently colonized in the HDOA Insect Containment Facility. Bionomics and host specificity studies have been completed. The larvae are voracious feeders of fireweed leaves and terminal shoots. Field observations in Madagascar and host specificity testing in quarantine have clearly shown that *S. extensa* is a very promising biocontrol herbivore and is highly specific in targeting and propagating on fireweed, which is its primary food source for development. During testing, *S. extensa* caterpillars fed and developed exclusively on fireweed and three other weeds in the same tribe (*Senecioneae*). Of a total of 71 non-target species tested, sunflower was the only beneficial plant on which some larvae developed during no-choice starvation tests but the damage was not significant and choice tests confirmed that this would not be problematic. The field release of *S. extensa* will have no non-target (unintended) effects and will suppress

fireweed population densities to manageable levels, thereby reducing its potential to cause the poisoning of cattle.

### (17) Nettle Caterpillar Biocontrol Project (HRS 343-5(b) DEA)

**District:** Not applicable – statewide project  
**TMK:** NA  
**Proposing Agency:** Plant Pest Control Branch, Hawai'i, Department of Agriculture, 1428 South King Street, Honolulu, Hawai'i 96814-2512. Contact: Dr. Neil J. Reimer, (808 973-9522)

**Determination Agency:** Plant Quarantine Branch, Hawai'i Department of Agriculture, 1849 Auiki Street, Honolulu, Hawai'i 96819-3100. Contact: Darcy E. Oishi, (808 832-0566)

**Consultant:** NA  
**Comment:**  
**Deadline:** May 23, 2008  
**Status:** Draft environmental assessment (DEA) notice pending 30-day public comment. Address comments to the proposing agency with copies to the consultant and OEQC.

**Permits Required:** USDA-APHIS-PPQ and Board of Agriculture (HDOA Plant Quarantine Branch)

The HDOA is requesting the release of the parasitic wasp *Aroplectrus dimerus* Lin (Hymenoptera: Eulophidae) from quarantine to suppress infestations of the nettle caterpillar (NC), *Darna pallivitta* (Moore) (Lepidoptera: Limacodidae), a moth whose larvae possess stinging hairs that cause welts, blisters, and rash on contact with human skin. The larvae have a wide and varied host range with a preference for monocots but many dicots are also hosts. *Aroplectrus dimerus* is an ectoparasitic wasp that was discovered in association with *Darna pallivitta* caterpillars in Taiwan during exploration in December 2005 for NC natural enemies. Field observations in Taiwan and host specificity studies in the HDOA Insect Containment Facility have clearly shown that *A. dimerus* is a very effective ectoparasitoid and is highly specific in targeting and propagating on the NC, its primary host (prey). During testing, *A. dimerus* females showed no interest in other (25 non-target species tested) representative Lepidoptera larvae, strictly targeting and ovipositing on the NC larvae. Thus, it is strongly believed that the field release of *A. dimerus* will have no non-target (unintended) effects and will effectively suppress NC population densities to levels where the pest will no longer cause significant damage to favored host plants in Hawai'i and will not be very common and plentiful so as

# Statewide Notices

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to come into contact with human beings to produce stinging incidents.

## (18) Release of *Tectococcus ovatus* for Biocontrol of Strawberry Guava (HRS 343-5(b) DEA)

**District:** Not applicable – statewide project  
**TMK:** NA  
**Proposing Agency:** Plant Pest Control Branch, Hawai‘i, Department of Agriculture, 1428 South King Street, Honolulu, Hawai‘i 96814-2512. Contact: Dr. Neil J. Reimer, (808 973-9522)

**Determination Agency:** Plant Quarantine Branch, Hawai‘i Department of Agriculture, 1849 Auiki Street, Honolulu, Hawai‘i 96819-3100. Contact: Darcy E. Oishi, (808 832-0566)

**Consultant:** NA  
**Comment Deadline:** May 23, 2008  
**Status:** Draft environmental assessment (DEA) notice pending 30-day public comment. Address comments to the proposing agency with copies to the consultant and OEQC.

**Permits Required:** USDA-APHIS-PPQ and Board of Agriculture (HDOA Plant Quarantine Branch)

The USDA Forest Service in collaboration with the Hawai‘i Department of Agriculture and Hawai‘i Department of Land and Natural Resources, proposes the environmental release of a scale insect from Brazil, *Tectococcus ovatus* Hempel (Homoptera: Eriococcidae), for biological control of strawberry guava, *Psidium cattleianum* Sabine (Myrtaceae), an invasive alien tree considered one of the most serious threats to native forests in Hawai‘i. *Tectococcus ovatus* is a highly specific insect that produces leaf galls on strawberry guava in its native range in Brazil. Host specificity testing in quarantine and observations of *T. ovatus* in Brazil demonstrate that this biocontrol agent will attack only the target weed strawberry guava in Hawai‘i. Initial release is proposed for the Ola‘a Forest Reserve on the island of Hawai‘i, however the eventual impact is expected to extend statewide following redistribution of this biocontrol agent by state and federal agencies involved in strawberry guava management. *Tectococcus ovatus* is expected to reduce vegetative growth and fruit and seed production, decreasing the spread of strawberry guava over a period of years. Impacts of the insect on strawberry

guava are expected to be permanent and highly beneficial to the environment and people of Hawai‘i, improving control of pest fruit flies, increasing effectiveness of mechanical and herbicidal weed control, and protecting vulnerable native forest ecosystems.

## (19) *Erythrina* Gall Wasp Biocontrol Project (HRS 343-5(b) FEA-FONSI)

**District:** Not applicable – statewide project  
**TMK:** NA  
**Proposing Agency:** Plant Pest Control Branch, Hawai‘i, Department of Agriculture, 1428 South King Street, Honolulu, Hawai‘i 96814-2512. Contact: Dr. Neil J. Reimer, (808 973-9522)

**Determination Agency:** Plant Quarantine Branch, Hawai‘i Department of Agriculture, 1849 Auiki Street, Honolulu, Hawai‘i 96819-3100. Contact: Darcy E. Oishi, (808 832-0566)

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

**Permits Required:** USDA-APHIS-PPQ and Board of Agriculture (HDOA Plant Quarantine Branch)

The HDOA requests the release of the parasitic wasp *Eurytoma* sp. (Hymenoptera: Eurytomidae) to suppress infestations of the erythrina gall wasp (EGW), *Quadrastichus erythrinae* Kim (Hymenoptera: Eulophidae), a devastating invasive pest species that is destroying *Erythrina* trees in Hawaii. One of the most susceptible trees is the native Hawaiian wiliwili, *Erythrina sandwicensis*, which may soon become a threatened species. *Eurytoma* sp. was discovered in association with *Quadrastichus* gall-forming species in Tanzania by the HDOA Exploratory Entomologist during exploration in Africa for natural enemies of the EGW. Field observations in Tanzania and host specificity studies in the HDOA Insect Containment Facility have clearly shown that *Eurytoma* sp. is a very effective and highly specific parasitoid of the EGW. During testing, *Eurytoma* sp. showed no interest in other representative gall-forming insects, strictly targeting the EGW. It is strongly believed that the field release of *Eurytoma* sp. will have no non-target (unintended) effects and will effectively suppress EGW populations to levels where it will no longer be a pest. Five letters of correspondence were received during the public comment period; four in support of the project and one requiring a reply to address a question. A final EA was written with a Finding of No Significant Impact (FONSI).



# Department of Health Notices

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## Future Lowe's Home Improvement Warehouse in 'Iwilei - Draft Remedial Action Memorandum (HRS 128D, PART II - Voluntary Response Program)

**District:** Honolulu  
**TMK:** (1) 1-5-013:010 and 012  
**Proposing Agency:** State of Hawai'i Department of Health, Office of Hazard Evaluation and Emergency Response, 919 Ala Moana Boulevard, Room 206, Honolulu, Hawai'i 96814. Contact: Mark Sutterfield (808 586-7574)  
**Approving Agency:** Same as above.  
**Send Comments To:** Proposing agency address above.  
**Comment Deadline:** May 15, 2008  
**Permits Required:** NPDES, Building, Grading

The voluntary response project to address subsurface contamination at the site of the future Lowe's Home Improvement Warehouse, 411 and 439 Pacific Street, Honolulu, Hawai'i, is

available for public review and comment. Lowe's is preparing to construct a new retail store on the 9.2-acre site of the former ConocoPhillips Honolulu bulk fuel terminal. Past releases of hazardous substances at the site could present an imminent and substantial endangerment to public health and welfare, or to the environment, if not addressed by implementing the response actions selected by the DOH. The selected response actions are protective of human health and the environment, comply with federal and state requirements, and are cost-effective. The selected response actions utilize permanent solutions and satisfy the statutory preference for responses that reduce the toxicity, mobility, and volume of contamination.

A public meeting to discuss this project will be held on April 30, 2008, at 6:30 p.m. at the Dole Ballrooms at Cannery Square, 735 'Iwilei Road, Honolulu, Hawai'i. To receive a fact sheet about the project, call Mr. Mark Sutterfield at (808) 586-7574. Information regarding this project is available for review at the Hawai'i State Library, 478 South King Street. The complete administrative record regarding this project may be reviewed at the DOH HEER Office. Written or oral comments regarding this project will be accepted through the 30-day public comment period ending on May 15, 2008. Comments and inquiries should be addressed to: Mr. Mark Sutterfield, VRP Project Manager, at DOH HEER Office, 919 Ala Moana Boulevard, Honolulu, Hawai'i 96814, or at [mark.sutterfield@doh.hawaii.gov](mailto:mark.sutterfield@doh.hawaii.gov).

## Department of Health Permits

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

Branch Permit Type	Applicant & Permit Number	Project Location	Pertinent Date	Proposed Use
Clean Air Branch, 586-4200, Covered Source Permit	RHS Lee CSP No. 0669-01-CT Initial Application	Located at: Various Temporary Sites, State of Hawai'i	Issued: 4/11/08	Mobile Crushing and Screening Plants
Clean Air Branch, 586-4200, - Covered Source Permit	CTS Earthmoving, Inc. CSP No. 0672-01-CT Initial Application	Located at: Various Temporary Sites, State of Hawai'i	Issued: 4/11/08	Mobile Crushing Plant
Clean Air Branch, 586-4200, Covered Source Permit	Bacon Universal CSP No. 0659-01-CT Initial Application	Located at: Various Temporary Sites, State of Hawai'i	Issued: 4/11/08	Mobile Crusher
Clean Air Branch, 586-4200, Covered Source Permit	Bacon Universal CSP No. 0660-01-CT Initial Application	Located at: Various Temporary Sites, State of Hawai'i	Issued: 4/11/08	Mobile Crusher
Clean Air Branch, 586-4200, Covered Source Permit	Bacon Universal CSP No. 0661-01-CT Initial Application	Located at: Various Temporary Sites, State of Hawai'i	Issued: 4/11/08	Mobile Crusher

# Department of Health Notices

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Clean Air Permits continued...

Branch Permit Type	Applicant & Permit Number	Project Location	Pertinent Date	Proposed Use
Clean Air Branch, 586-4200, Covered Source Permit	Kalaeloa Partners, L.P. CSP No. 0214-01-C Renewal Application	Located at: 99-111 Kalaeloa Boulevard, Kapolei, O'ahu	Comments Due: 5/5/08	Kalaeloa Cogeneration Plant
Clean Air Branch, 586-4200, - Temporary Covered Source Permit	Tajiri Lumber, Ltd. CSP No. 0446-02-CT Renewal Application	Located at: Various Temporary Sites, State of Hawai'i	Comments Due: 5/5/08	270 TPH Mobile Crushing Plant with 163 HP Diesel Engine
Clean Air Branch, 586-4200, Temporary-Covered Source Permit	Jas. W. Glover, Ltd. CSP No. 0542-01-CT Renewal Application	Located at: Various Temporary Sites, State of Hawai'i	Comments Due: 5/5/08	300 TPH Portable Drum Mix Asphalt Plant
Clean Air Branch, 586-4200, NonCovered Source Permit	Kaua'i Marriott Resort and Beach Club NSP No. 0415-02-N Initial Application	Located at: 3610 Rice Street Lihu'e, Kaua'i	Issued: 3/31/08	Two (2) 637 bhp Gas Engine Generators
Clean Air Branch, 586-4200, NonCovered Source Permit	Hawaiian Linen Supply NSP No. 0521-01-N Renewal Application	Located at: 865 Kino'ole Street Hilo, Hawai'i	Issued: 3/31/08	One (1) 150 hp Boiler and One (1) 200 hp Boiler
Clean Air Branch, 586-4200, Covered Source Permit	Grace Pacific Corporation CSP No. 0417-05-C Initial Application	Located at: Ahukini Cane Haul Road, Hanama'ulu Valley, Lihu'e, Kaua'i	Comments Due: 5/19/08	275 TPH Hot Mix Asphalt Drum Plant
Clean Air Branch, 586-4200, Covered Source Permit	Green Energy Team, LLC CSP No. 0650-01-C Initial Application	Located at: Old Government Road, Koloa, Kaua'i	Comments Due: 5/19/08	Two (2) 50 MMBtu/hr Biomass Gasifiers with Close-Coupled Steam Boilers and One (1) 670 bhp DEG
Clean Air Branch, 586-4200, Covered Source Permit	US Department of Agriculture, Animal & Plant Health Insp Svc NSP 0308-01-N Renewal Application	Located at: 41-650 Ahiki Street, Waimanalo, O'ahu	Issued 04/08/08	1.2 MMBTU/hr and 3.348 MMBTU/hr Steam Boilers

# Coastal Zone Notices

## Special Management Area (SMA) Minor Permits

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

SPECIAL MANAGEMENT AREA (SMA) MINOR PERMITS		
Location (TMK)	Description (File No.)	Applicant/Agent
O'ahu: Diamond Head (3-1-32:4)	Installation of an emergency electrical generator (2008/SMA-10)	Verizon Wireless/Cascadia PM, LLC
O'ahu: Adjacent to Farrington Highway-Nanakuli (8-7-6:29)	Air quality monitoring station (2008/SMA-11)	Hawaiian Electric Company, Inc.
O'ahu: Farrington Highway-Kahe (9-2-3:26 and 27)	Omni antenna (2008/SMA-16)	Hawaii Electric Company, Inc./Terrene Uehira
O'ahu: Farrington Highway-Kahe Point (9-2-3:27)	Storage area fencing and earthwork (2008/SMA-17)	Okada Trucking Company, Ltd.
O'ahu: Farrington Highway-Waianae (8-7-6:12)	Retaining walls (2008/SMA-12)	Susan Trinh/Jenken Architecture
Kaua'i: Koloa	Installation of wireless antenna facility (SMA(M)-2008-16)	Coral Wireless, LLC dba Mobi PCS

## Shoreline Certification Applications

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

File No.	Date	Location	Applicant/Owner	TMK
OA-1223	04/03/2008	Lot 11729 (Map 846) and Lot 17531 (Map 1337) of Land Court Application 1069, situated at Honouliuli, 'Ewa, Island of O'ahu. Address: 91-101 Papipi Road Purpose: Shoreline determination	Park Engineering/Haseko ('Ewa), Inc.	9-1-012:006 & 047
OA-1224	04/04/2008	Lot 604, Land Court Application 1089 (Map 64) situated at Kamananui, Waialua, Island of O'ahu. Address: 67-011 Kaimanu Place Purpose: Building permit	Wesley T. Tengan/John Borsa, Jr.	6-7-014:028
MA-397	03/31/2008	Lot 9 of Ku'au Tract Subdivision, situated at Hamakuapoko, Makawao, Island of Maui. Address: 529 Hana Highway Purpose: Building permit	Akamai Land Surveying, Inc./Robert J. Lincoln, Jr.	2-6-009:011
HA-388	04/03/2008	Portion of Lot 3, File Plan 2401, situated at Anaeho'omalua and Kalahuipua'a, South Kohala, Island of Hawai'i. Address: 68-1400 Mauna Lani Drive Purpose: Permitting	Towill, Shigeoka & Associates, Inc./Mauna Lani Resort, Inc.	6-8-022:039 portion

## Shoreline Certifications and Rejections

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

File No.	Proposed/Rejected	Location	Applicant/Owner	TMK
OA-1184	Withdrawn	Lot 34, Land Court Application 616 (Map 1), situated at Kailua, Ko'olaupoko, Island of O'ahu. Address: 1562 Mokulua Drive Purpose: Permitting	Towill, Shigeoka & Associates, Inc./Elizabeth R. Grossman Family Trust	4-3-003:068
OA-1213	Proposed Shoreline Certification	Lots 158 to 162, Land Court Application 1069 (Map 26), situate at Honouliuli, 'Ewa, Island of O'ahu. Address: 91-333, 91-329, 91-317, 91-309 and 91-303 Papipi Road Purpose: Future development	Park Engineering/Haseko (Ewa) Inc.	9-1-011:001 to 005
OA-1214	Proposed Shoreline Certification	Lot 122, Land Court Application 1095 (Map 10), situate at Kawela, Ko'olaupoko, Island of O'ahu. Address: 57-423 Honokawela Drive Purpose: New house construction	DJNS Surveying & Mapping, Inc./Paul R. Johnstone	5-7-003:038

# Conservation Notice

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## Conservation District Use Permit

Persons interested in commenting on the following Conservation District Use Application (Board Permit) must submit comments to the Department of Land and Natural Resources within thirty days from the date of this notice. Comments may be sent to the Office of Conservation and Coastal Lands, P.O. Box 621, Honolulu, Hawai'i 96809. For more information, please contact Tiger Mills of our Office of Conservation and Coastal Lands staff at 587-0382.

### Maunalaha Homesites, Water Systems Improvements, Makiki & Tantalus, O'ahu

**File No.:** CDUA OA-3463  
**Applicant:** City & County of Honolulu, Board of Water Supply  
**Location:** Round Top Drive and Maunalaha Road, Island of O'ahu

**TMK:** (1) 2-5-024-001  
**Proposed Action:** Water System Improvements  
**343, HRS determination:** No Significant Impact  
**Applicant's Contact:** Michael Domion, (808 748-5743)

# Federal Notices

## Notice of Inventory Completion of Native American Remains at Oregon State University, Department of Anthropology in Corvallis

The U.S. Department of the Interior, National Park Service (NPS) has given notice in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), of the completion of an inventory of human remains in the control of Oregon State University, Department of Anthropology, Corvallis, Oregon. The human remains were removed from an unknown location in Hawai'i. This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice. A detailed assessment of the human remains was made by Oregon State University, Department of Anthropology professional staff in consultation with representatives of the Office of Hawaiian Affairs. On an unknown date, human remains representing a minimum of three individuals were removed from an unknown location in Hawai'i. The human remains were donated to the Department of Anthropology by Dr. T. Tillman of the Oregon State University Physical Education Department upon his retirement (H0001-086-001, H0001-077-001, and H0001-081-0001). Dr. Tillman received the skulls from the widow of an unknown collector between 1940 and 1978. No known individuals were identified. No associated funerary objects are present. The collection records state that all three individuals are "Indian." The Department of Anthropology's physical anthropology faculty confirms that all three skulls have cranial morphology consistent with Native Hawaiian ancestry. According to collection records and consultation, the human remains were removed from locations in the traditional and current territory of Native Hawaiian organizations. Consultation with the Office of Hawaiian Affairs supports the origins of these three individuals from the Hawaiian Islands. Officials of the Oregon State University, Department of Anthropology have determined that, pursuant to 25 U.S.C. 3001(9-

10), the human remains described above represent the physical remains of three individuals of Native Hawaiian ancestry. Officials of the Oregon State University, Department of Anthropology have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native Hawaiian human remains and the Hui Malama I Na Kupuna O Hawai'i Nei and Office of Hawaiian Affairs. Representatives of any other Native Hawaiian Organization that believes itself to be culturally affiliated with the human remains should contact Dr. David McMurray, Oregon State University Department of Anthropology, 238 Waldo Hall, Corvallis, OR 97331, telephone (541) 737-4515, before May 19, 2008. Repatriation of the human remains to the Office of Hawaiian Affairs may proceed after that date if no additional claimants come forward. Oregon State University, Department of Anthropology is responsible for notifying the Hawai'i Island Burial Council; Hui Malama I Na Kupuna O Hawai'i Nei; Kaua'i/Ni'ihau Island Burial Council; Maui/Lana'i Island Burial Council; Moloka'i Island Burial Council; O'ahu Burial Committee, and the Office of Hawaiian Affairs that this notice has been published (see, 73 F.R. 20943, April 17, 2008).

## Endangered Species Permit Amendment Application

The U.S. Fish and Wildlife Service (FWS), invites the public to comment on the following application to amend an existing permit to conduct certain activities with endangered species. FWS must receive written data or comments by May 12, 2008.

**Permit No.** TE-003483.  
**Applicant:** U.S. Geological Survey, Biological Resources Discipline, Pacific Islands Ecosystem Research Center.

The applicant requests an amendment to an existing permit to take (capture, attach satellite radio transmitters, collect blood samples, and release) the Hawaiian goose (*Branta sandvicensis*) in conjunction with research on the Island of Hawai'i in the State



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of Hawai'i, for the purpose of enhancing its survival. Federal Register publication information about the original issuance and subsequent amendments to this permit follows: November 6, 2000 (65 F.R. 66552), May 30, 2002 (67 F.R. 37855), October 9, 2003 (68 F.R. 58354), May 22, 2007 (72 F.R. 28709). Address comments to: Program Manager, Endangered Species, Ecological Services, U.S. Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, OR 97232-4181. For more information, contact Grant Canterbury, Fish and Wildlife Biologist, at the above Portland address or by telephone (503) 231-2063 or by facsimile at (503) 231-6243 (see, 73 F.R. 19869, April 11, 2008).

## Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

On April 10, 2008, a proposed consent decree in *United States, et al., v. BHP Hawai'i, Inc.*, No. 3:08-cv-5221, was lodged with the United States District Court for the Western District of Washington. In this action the United States, State of Washington, Puyallup Tribe of Indians and Muckleshoot Indian Tribe sought natural resource damages for releases of hazardous substances into Commencement Bay, Washington. Under the consent decree, defendant will pay \$46,592.00 in natural resource damages and reimburse \$5,169.33 in damage assessment costs. For thirty (30) days after the date of this publication, the Department of Justice will receive comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov) or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611. In either case, the comments should refer to *United States v. BHP Hawai'i, Inc.*, No., 3:08-cv-5221, D.J. Ref. No. 90-11-2-1049/10. During the comment period, the Consent Decree may be examined on the following Department of Justice Web site: [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$6.75 for the decree only or \$8.50 for the decree with attachments (25 cents per page reproduction cost) payable to the United States Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address (see, 73 F.R. 20951, April 17, 2008).

## Kaumakapili Church, Tantalus-Round Top Road: Nominated to the National Register of Historic Places

The National Park Service of the U. S. Department of the Interior has received nominations for the following properties in consideration for listing or related actions in the National Register before March 29, 2008.

**No. 08000372** **Kaumakapili Church**, 766 N. King St., Honolulu

**No. 08000373** **Tantalus—Round Top Road**, Tantalus Drive, Round Top Drive, Honolulu,

Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202-371-6447. Written or faxed comments should be submitted by May 1, 2008 (see, 73 F.R. 20713, April 16, 2008).

## Designation of Critical Habitat for the North Pacific Right Whale

The National Marine Fisheries Service (NMFS) has designated by rulemaking, critical habitat for the North Pacific right whale (*Eubalaena japonica*). The North Pacific right whale was recently listed as a separate, endangered species, and because this was a newly listed entity, NMFS was required to designate critical habitat for it. On December 27, 2006, NMFS published a proposed rule (71 F.R. 77694) to list the North Pacific right whale as an endangered species pursuant to the Endangered Species Act (ESA) (16 U.S.C. 1531 et seq.), and NMFS listed this species as endangered on March 6, 2008 (73 F.R. 12024). On October 29, 2007, NMFS published a proposed rule (72 F.R. 61089) to designate critical habitat for the North Pacific right whale. NMFS proposed the same two areas that it had previously designated as critical habitat for the northern right whale in the North Pacific Ocean (71 F.R. 38277, July 6, 2006). NMFS now designates these same areas as critical habitat for the North Pacific right whale. A description of, and the basis for, the designation follows.

The ESA defines critical habitat (in part) as areas within the geographical area occupied by the species at the time it was listed under the ESA. Prior to the onset of commercial whaling in 1835, right whales were widely distributed across the North Pacific. By 1900 they were scarce throughout their range. Japan and the USSR did not sign a League of Nations agreement in 1935 to protect right whales, so they continued right whaling until 1949, when the newly created International Whaling Commission endorsed the ban. After this, 23 North Pacific right whales were legally killed by Japan and the USSR under Article VIII of the International Convention for the Regulation of Whaling (1946), which permits the taking of whales for scientific research purposes. However, it is now known that the USSR illegally caught many right whales in the North Pacific. By 1973, the North Pacific right whale had been severely reduced by commercial whaling. Sighting data from this remnant population are too sparse to identify the range of these animals in 1973. However, no reason exists to suspect that the right whales that remain alive today inhabit a substantially different range than right whales alive during the time of the Soviet catches; indeed, given the longevity of this species, it is likely that some of the individuals who survived that whaling episode remain alive now. Consequently, recent habitat use is unlikely to be different today. Both the SEBS and the western GOA (shelf and slope waters south of Kodiak) have been the focus of many sightings (as well as the illegal Soviet catches) in recent decades. In general, the majority of North Pacific right whale sightings (historically and in recent times) have occurred from about 40° N to 60° N latitude (lat.). There are historical records from north of 60° N lat., but these are

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rare and are likely to have been misidentified bowhead whales. North Pacific right whales have on rare occasions been recorded off California and Mexico, as well as off Hawai'i. However there is no evidence that either Hawai'i or the west coast of North America from Washington State to Baja California were ever important habitats for right whales. Given the amount of whaling effort as well as the human population density in these regions, it is highly unlikely that substantial concentrations of right whales would have passed unnoticed. Furthermore, no archaeological evidence exists from the U.S. west coast suggesting that right whales were the target of local native hunts. Consequently, the few records from this region are considered to represent vagrants. For the foregoing reasons, we determine that the geographical area occupied by the North Pacific right whale at the time of ESA listing extends over a broad area of the North Pacific Ocean, between 120° E and 123° W longitude and 40° N and 60° N latitude. This rule is effective on May 8, 2008. Comments and materials received, as well as supporting documentation used in the preparation of this final rule, are available for public inspection by appointment during normal business hours at the NMFS Alaska Region, 709 W. 9th Street, Juneau, AK 21688. For more information, contact Brad Smith, NMFS Alaska Region (907) 271-5006; Kaja Brix, NMFS, Alaska Region, (907) 586-7235; or Marta Nammack, (301) 713-1401, ext. 180. The final rule, references, and other materials relating to this determination can be found on our website at <http://www.fakr.noaa.gov/> (see, 73 F.R. 19000, April 8, 2008).

## Environmental Protection Agency Comments on the Stryker Brigade Combat Team EIS

Under Section 309 of the Clean Air Act and under Section 102(2)(c) of the National Environmental Policy Act, the U.S. Environmental Protection Agency has prepared comments on EIS No. 20080062, ERP No. F-USA-A11079-00, *Permanent Home Stationing of the 2/25th Stryker Brigade Combat Team (SBCT), To Address a Full Range of Alternatives for Permanently Stationing the 2/25th SBCT, Hawai'i and Honolulu Counties, HI; Anchorage and Southeast Fairbanks Boroughs, AK; El Paso, Pueblo, and Fremont Counties, CO*. EPA commented that its previous concerns have been resolved and therefore EPA does not object to the proposed project. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564-7167 (see, 73 F.R. 19833, April 11, 2008).

## Transgenic Corn Experimental Use Permit

Monsanto Company and Dow AgroSciences have used conventional breeding techniques to produce the combined trait corn product MON 89034 (Cry1A.105 and Cry2Ab2) x TC1507 (CryIF) x MON 88017 (Cry3Bb1) x DAS-59122-7 (Cry34Ab1 and Cry35Ab1) that provides insect protection against lepidopteran insects including European corn borer, as well as the coleopteran corn rootworms. Monsanto has submitted an EUP application to test 383 acres of the combined trait product, 2,570 acres of the intermediate breeding combinations, 190 acres of MON 89034, 509 acres of other registered plant-incorporated protectants, and 1,341 acres of non-plant-incorporated protectant corn acres and border rows through June 30, 2009. Trial protocols to be conducted include: breeding and observation nursery; inbred seed increase

and sample hybrid production; line per se; hybrid yield and herbicide tolerance; insect efficacy; product characterization and performance; insect resistant management; and seed treatment. States involved include: Alabama, Arkansas, California, Colorado, Florida, Georgia, Hawai'i, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New York, North Carolina, Ohio, Oregon, Pennsylvania, Puerto Rico, South Dakota, Tennessee, Texas, Washington, and Wisconsin. The U.S. Environmental Protection Agency (EPA) has announced its receipt of an application (524-EUP-00) from Monsanto Company requesting an experimental use permit (EUP) for the plant-incorporated protectants: 1) *Bacillus thuringiensis* Cry1A.105 protein and the genetic material necessary for its production (vector PV-ZMIR245) in event MON 89034 corn, 2) *Bacillus thuringiensis* Cry2Ab2 protein and the genetic material necessary for its production (vector PV-ZMIR245) in event MON 89034 corn, 3) *Bacillus thuringiensis* Cry3Bb1 protein and the genetic material necessary for its production (Vector ZMIR39) in Event MON 88017 corn (Organization for Economic Cooperation and Development (OECD) Unique Identifier: MON-88017-3), 4) *Bacillus thuringiensis* subspecies CryIF protein and the genetic material necessary for its production (plasmid insert PHI 8999) in corn, and 5) *Bacillus thuringiensis* Cry34Ab1 and Cry35Ab1 proteins and the genetic material necessary for their production (plasmid insert PHP 17662) in Event DAS-59122-7 corn. The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), EPA is soliciting comments on this application. Comments must be received on or before May 16, 2008. Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2008-0135, by one of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments. Mail: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. The Docket Facility telephone number is (703) 305-5805.

Direct your comments to docket ID number EPA-HQ-OPP-2008-0135. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://www.regulations.gov) or e-mail. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For more details contact Mike Mendelsohn, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8715; e-mail address: [mendelsohn.mike@epa.gov](mailto:mendelsohn.mike@epa.gov) (see, 73 F.R. 20625, April 16, 2008).