



The Environmental Notice

September 23, 2020

David Y. Ige, Governor

The Environmental Notice provides public notice for projects undergoing environmental review in Hawai'i as mandated under Section 343-3, Hawai'i Revised Statutes, the Environmental Impact Statement Law. Along with publishing Environmental Assessments and Environmental Impact Statements for projects in Hawai'i, *The Environmental Notice* also includes other items related to the shoreline, coastal zone, and federal activities.



Hawaiian Petrel ('ua'u) chick, one of the targeted species being protected by the Habitat Conservation Plan for Kaua'i Seabirds

Photo credit: [Kaua'i Endangered Seabird Recovery Project](#)

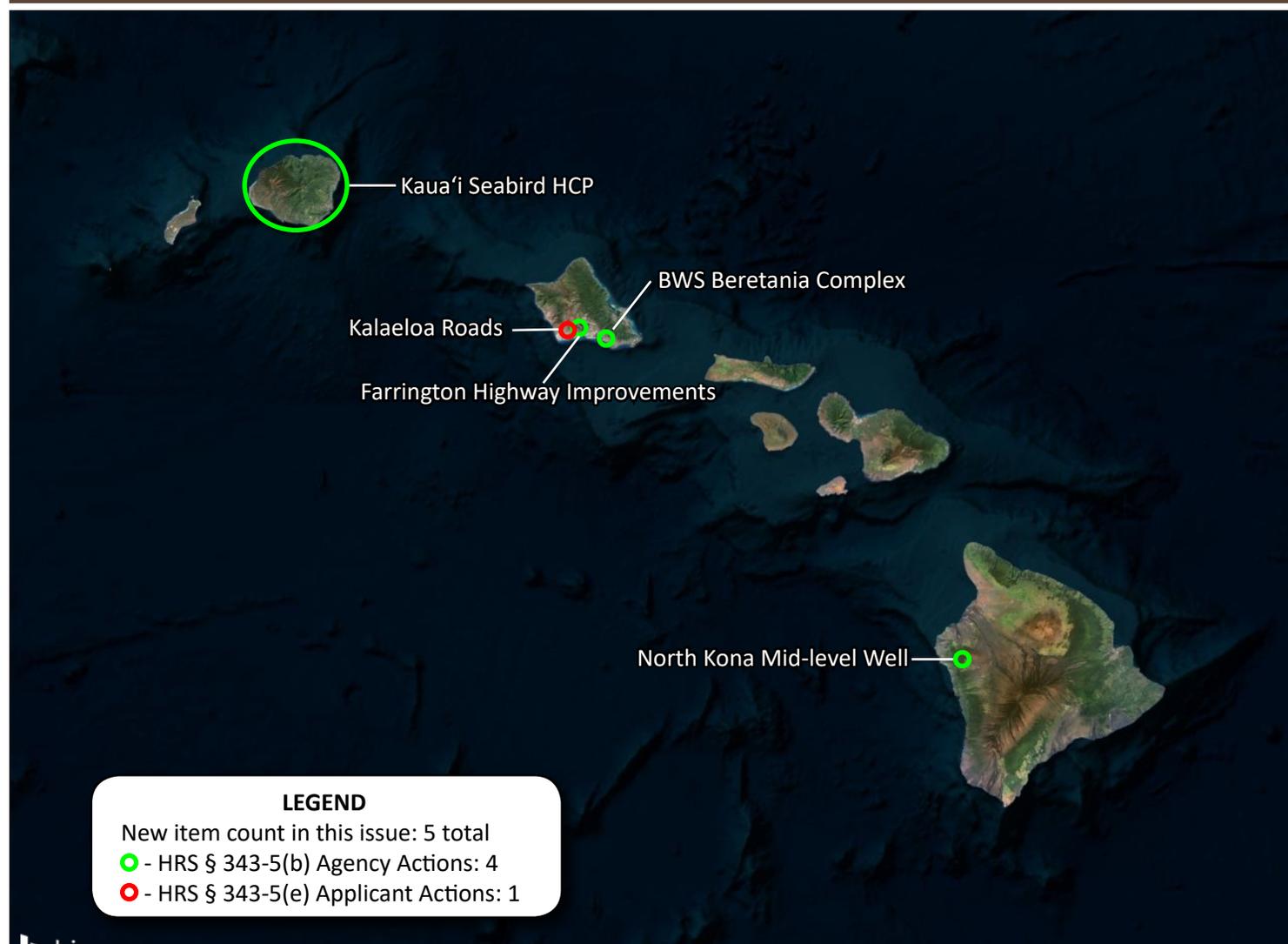
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ANNOUNCEMENTS

The Environmental Council has released its [Annual Report for 2019](#), in fulfillment of a statutory duty to monitor the progress of the state, county and federal agencies in achieving the state’s environmental goals and policies. [HRS § 341-6]. Please click the link to access and read this informative document.

STATEWIDE MAP OF NEW HRS CHAPTER 343 DOCUMENTS / DETERMINATIONS



HAWAI‘I

North Kona Mid-Level Exploratory Well Project--Draft EA (AFNSI)

HRS §343-5(a) Trigger	(1) Propose the use of state or county lands or the use of state or county funds	
District(s)	North Kona	
TMK(s)	(3) 7-5-003:001	
Permit(s)	Well construction permit, noise permit, grubbing, grading, and stockpiling permits.	
Proposing/ Determining Agency	Department of Water Supply, County of Hawai'i Jason Killam, (808) 961-7249, jkillam@hawaiidws.org 345 Kekuanaoa Street, Suite 20, Hilo, HI 96720	
Consultant	Planning Solutions, Inc.; 711 Kapiolani Boulevard, Suite 950, Honolulu, HI 96813 Makena White, (808) 550-4538, makena@psi-hi.com	
Status	Statutory 30-day public review and comment period starts. Comments are due by October 23, 2020. Click the title link above to read the document, then send comments to the proposing/determining agency at makena@psi-hi.com	

The County of Hawai‘i, Department of Water Supply is proposing a new exploratory well at the designated location. The project consists of three phases: (i) site preparation; (ii) drilling and casing an exploratory well; and (iii) pump testing. If test results are positive, the site may be developed into a production facility when demand increases.

O‘AHU

Board of Water Supply Beretania Complex Redevelopment--Final EIS

Grandfathered under old rules

HRS §343-5(a) Trigger	(1) Propose the use of state or county lands or the use of state or county funds	
District(s)	Honolulu	
TMK(s)	(1) 2-1-036: 001 & 005 (portion)	
Permit(s)	Construction and building permits	
Proposing Agency	Board of Water Supply, City and County of Honolulu Ernest Y. W. Lau, P.E., Manager and Chief Engineer, (808) 748-5061 630 South Beretania Street, Honolulu, HI 96843 bwsredevelopmenteis@hhf.com	
Accepting Authority	Mayor Kirk Caldwell, City and County of Honolulu c/o Board of Water Supply, 630 South Beretania Street, Honolulu, HI 96843 bwsredevelopmenteis@hhf.com	
Consultant	HHF Planners; 733 Bishop Street, Suite 2590, Honolulu, HI 96813 Scott Ezer, Vice President, (808) 457-3158, sezer@hhf.com	
Status	Final EIS has been submitted and is pending acceptance by the accepting authority.	

The Board of Water Supply, City and County of Honolulu (BWS) intends to issue a Request for Proposals to redevelop approximately 128,100 square feet of its 6.3 acre Beretania Complex located at 630 South Beretania Street, Honolulu. The purpose of the proposed action is to provide a revenue stream to help offset a portion of BWS’s operating expenses and capital improvements costs. BWS will enter into a development contract with a qualified developer and issue a ground lease for the use of a portion of the Beretania Complex. The lease term will not exceed 65 years and will provide for continued and uninterrupted use of existing BWS buildings and operational facilities. Redevelopment will occur on areas currently being used as ground level parking for BWS employees, equipment and staff vehicles. All lost parking spaces will be replaced in the redevelopment.

Future redevelopment of the Beretania Complex will be determined by the selected developer. However, three possible redevelopment scenarios are evaluated in the EIS: 1) Assisted Care Living Facility and Office Building; 2) Affordable Senior Rental Apartments and Office Building; and 3) Parking Structure and Office Building. The office building will be for BWS use. All of these uses are allowed under the property’s A-2 Medium Density Apartment zoning.

O‘AHU (CONTINUED)

Farrington Highway Improvements--Final EA (FONSI)

HRS §343-5(a) Trigger	(1) Propose the use of state or county lands or the use of state or county funds	
District(s)	'Ewa	
TMK(s)	Numerous (see document)	
Permit(s)	Numerous (see document)	
Proposing/Determining Agency	Department of Design and Construction (DDC), City and County of Honolulu Charmaine Tadjvar, (808) 768-8820, ctadjvar@honolulu.gov 650 South King Street, 11th Floor, Honolulu, HI 96813	
Consultant	G70; 111 South King Street, Suite 170, Honolulu, HI 96813 Tracy Camuso, (808) 523-5866, tracyc@g70.design	
Status	Finding of No Significant Impact (FONSI) determination	

Improvements to Farrington Highway are being proposed to enhance sub-regional roadway connectivity and mobility, increase capacity for future transportation demands, and accommodate multimodal transportation along an approximately three-mile section of Farrington Highway in the 'Ewa region. The project is planned to improve the two-lane section of Farrington Highway, between Kapolei Golf Course Road and Old Fort Weaver Road, to a four-lane roadway with new roadbeds, curbs, gutters, sidewalks, and a landscaped median strip. The project will require relocation of transmission and distribution utilities, along with new bridge construction and drainage improvements. With the continued growth of the 'Ewa region, the improvements to Farrington Highway will help to provide the infrastructure necessary to support the transportation demands of the area.

Hunt Kalaeloa Subdivision Roads--Final EA (FONSI)

HRS §343-5(a) Trigger	(1) Propose the use of state or county lands or the use of state or county funds	
District(s)	'Ewa	
TMK(s)	Numerous (see document)	
Permit(s)	NPDES	
Approving Agency	Hawai'i Community Development Authority (HCDA) Tessa Malama, (808) 620-9643, tessa.malama@hawaii.gov 547 Queen Street, Honolulu, HI 96813	
Applicant	Hunt Communities Hawaii LLC; 737 Bishop Street, Ste. 2750, Honolulu, HI 96813 Jinny Cheung, (808) 792-3754, jinny.cheung@huntcompanies.com	
Consultant	R.M. Towill Corporation; 2024 North King Street, Ste. 200, Honolulu, HI 96819 Brian Takeda, (808) 842-1133, briant@rmtowill.com	
Status	Finding of No Significant Impact (FONSI) determination	

Hunt Communities Hawai'i LLC, proposes to construct improvements to roadways, intersections and utility systems within the former Barbers Point Naval Air Station property in 'Ewa, O'ahu, Hawai'i. The project site is bound by the existing Franklin D. Roosevelt (FDR) Avenue to the north, Kamokila Boulevard to the west, Franklin Street to the east, and Saratoga Avenue to the south. The proposed improvements will involve an area of approximately 42.73 acres comprised of the following: approximately 32.31 acres for improvements to existing road right-of-ways (ROW), approximately 0.56 acres for installation of an on-site sewer line, and 10.42 acres for the construction off-site improvements including drainage facilities and left turn lanes, and installation or modification of traffic signals. When complete, the project will support the future development of public, residential and commercial uses within the Kalaeloa Community Development District (Kalaeloa CDD).

KAUA'I

[Kaua'i Seabird Habitat Conservation Plan--Final EA \(FONSI\)](#)

HRS §343-5(a) Trigger	(1) Propose the use of state or county lands or the use of state or county funds (2) Propose any use within any land classified as a conservation district	
District(s)	Kaua'i-all	
TMK(s)	Numerous (see document)	
Permit(s)	DLNR Incidental Take Licenses	
Proposing/ Determining Agency	Department of Land and Natural Resources Kate Cullison, (808) 223-0459, Katherine.cullison@hawaii.gov 1151 Punchbowl St. #325, Honolulu, HI 96813	
Consultant	None	
Status	Finding of No Significant Impact (FONSI) determination	

The action is for the implementation of the Kaua'i Seabird Habitat Conservation Plan in conjunction with State of Hawai'i Department of Land and Natural Resources issuing Incidental Take Licenses for take of Newell's shearwater ('a'o), Hawaiian petrel ('ua'u), & band-rumped storm-petrel ('akē'akē) caused by nighttime lighting. Under the Plan, minimization measures emphasize reducing the output and intensity of artificial, night-time lighting that shines upward, to reduce the effects of light attraction on the Covered Species. Mitigation activities include creating and managing a Seabird Preserve comprising ~ 5 acres along the Nā Pali Coast at about 4,000 ft above sea level, and conducting predator control to reduce depredation on existing nearby seabirds and colonies. The site occupies a portion of an area known as "Kahuama'a Flat," on Conservation District land owned by the State of Hawai'i, managed by DLNR Div. of State Parks (por. 5-9-001:016 (Kōke'e State Park (Resource subzone))).

PREVIOUSLY PUBLISHED DOCUMENTS OPEN FOR COMMENT

Status: Public review and comment period for these projects began previously. **Comments are due October 8, 2020, unless noted otherwise.** Please click on the links below to access, and send comments to the relevant agency and copy any relevant applicant and/or consultant.

HAWAI'I

[Royal Vistas Housing Project--Republished Draft EA \(AFNSI\)](#)

[Army Training Land Retention at Pōhakuloa Training Area \(EIS Preparation Notice\)](#) **COMMENTS DUE OCTOBER 14, 2020**

MAUI

[Ka'anapali Beach Restoration and Berm Enhancement--Draft EIS](#) **COMMENTS DUE OCTOBER 7, 2020**

[Wastewater Improvements At Pulehunui--Draft EA \(AFNSI\)](#)

O'AHU

[Mixed-Use Affordable Housing at the University of Hawai'i at Mānoa Campus--Draft EA \(AFNSI\)](#)

KAUA'I

[Waimea River Ford Crossing--Draft EA \(AFNSI\)](#)

EXEMPTION LIST CONCURRENCE

Pursuant to [HAR § 11-200.1-16](#), the Environmental Council has reviewed and concurred upon the following agency exemption list. The listed types of actions may be exempt from the requirement to prepare an EA or EIS. The Environmental Council's date of concurrence is posted on the list. Click on the link to view or download the list.

[Department of Design and Construction, City and County of Honolulu \(Sept 1, 2020\)](#)

EXEMPTION LIST REVIEW

The following agency exemption list has been submitted to the Environmental Council (EC) for review and concurrence. At the request of the EC, this draft exemption list is being published for public review and comment; please click on the link below to view the list, and **submit any comments by October 8, 2020** to: oeqchawaii@doh.hawaii.gov

[Department of Land Management, City and County of Honolulu \(reviewed by EC on Sept 1, 2020\)](#)

ENVIRONMENTAL COUNCIL NOTICES

The Environmental Council has issued an [amended](#) Findings of Fact, Conclusions of Law, and Decision and Order to that [originally published](#) on August 8, 2020, in the matter of Pet Industry Joint Advisory Council (Applicant) v. Board of Land and Natural Resources (Respondent), regarding the appeal of a [non-accepted Final Environmental Impact Statement](#).

PRIOR AGENCY DETERMINATIONS (pursuant to HAR Section 11-200.1-11)

Department of Health (DOH), State of Hawai'i [has determined](#) that additional environmental review is not required for the permit renewal for Puna Geothermal Venture (PGV)'s non-covered source permit NSP No. 0008-02-N. As noted in the linked document, numerous records, documents, demands, opposition to demands, and comments are incorporated into the record for this decision. The DOH has carefully reviewed and considered all of these filed and/or submitted demands, and documents in support of, and in opposition to, the demands, along with the January 8, 2020 PGV response in opposition to these demands, and has also reviewed and incorporates into the record the Department of Land and Natural Resources' (DLNR) previous decision of September 8, 2019 that a new or supplemental environmental review is not required for PGV's operations.

Natural Energy Laboratory of Hawai'i Authority (NELHA), State of Hawai'i [has determined](#) that additional environmental review is not required for renovation and improvements to facilitate fish processing, packing, and refrigeration in an existing warehouse on NELHA land and leased by Keahole Point Provisions LLC. Two prior-accepted Environmental Impact Statements, published in 1985 and 1992, describe anticipated impacts of development of the Hawai'i Ocean Science and Technology Park - including on lands applicable to the existing Keahole Point Provisions LLC warehouse site. These evaluations were included in the assessment of several build-out scenarios intended to include future improvements, allowing for flexibility to adapt to current market and technology conditions. NELHA has determined that the proposed expansion is consistent with the location, types and scale of scenarios evaluated in the prior EIS documents, and that the potential direct, indirect, and cumulative impacts of the project have been adequately disclosed and evaluated therein, and therefore that the findings in those reports satisfy the requirements of HRS Chapter 343 for the proposed expansion.

SHORELINE NOTICES

APPLICATIONS FOR SHORELINE CERTIFICATION

The shoreline certification applications below are available for review at the Department of Land and Natural Resources offices on Kaua'i, Hawai'i, Maui, and Honolulu, 1151 Punchbowl Street, Room 220 ([HRS § 205A-42](#) and [HAR § 13-222-12](#)). All comments shall be submitted in writing to the State Land Surveyor, 1151 Punchbowl Street, Room 210, Honolulu, HI 96813 and postmarked no later than 15 calendar days from the date of this public notice of the application. For more information, call Ian Hirokawa at (808) 587-0420.

File No.	Location	TMK	Applicant	Owner
OA-1909	525 Portlock Road, O'ahu 96825	(1) 3-9-026: 044, 045, 047, & 048	Sam O. Hirota, Inc.	Evershine II L.P.
OA-1910	67-343 Kiapoko Place, O'ahu 96791	(1) 6-7-014: 017	Leaps & Boundaries, Inc.	Mark Woodfield
OA-1911	1226a Mokulua Drive, O'ahu 96734	(1) 4-3-005: 056	Austin, Tsutsumi & Associates, Inc.	Krueger Trust

PROPOSED SHORELINE CERTIFICATIONS AND REJECTIONS

The shoreline notices below have been proposed for certification or rejection by the Department of Land and Natural Resources ([HRS § 205A-42](#) and [HAR § 13-222-26](#)). Any person or agency who wants to appeal shall file a notice of appeal in writing with DLNR no later than 20 calendar days from the date of this public notice. Send the appeal to the Board of Land and Natural Resources, 1151 Punchbowl Street, Room 220, Honolulu, Hawai'i 96813.

File No.	Status	Location	TMK	Applicant	Owner
OA-1885	Proposed	61-821 Papailoa Road, O'ahu 96712	(1) 6-1-004: 097	Kenn Nishihira	Jon and Marie-Neige Whittington
OA-1907	Proposed	918 Hanua Street, O'ahu	(1) 9-1-026: 026	R.M. Towill Corporation	918 Hanua Street LLC c/o Copart Inc.
MA-742	Proposed	4885 Lower Honoapi'ilani Hwy, Maui 96767	(2) 4-3-015: 001	Lahaina Surveying Company, LLC	Todd Boyd
MA-725	Rejection	409 Front Street, Maui 96761	(2) 4-6-002: 002	Arthur P. Valencia	Smith Family Trust
KA-448	Rejection	5-7480 Kūhiō Hwy, Kaua'i 96714	(4) 5-8-010: 014	Honua Engineering, Inc.	Keely & Pierce Brosnan

COASTAL ZONE MANAGEMENT NOTICES

SPECIAL MANAGEMENT AREA (SMA) MINOR PERMITS

The SMA Minor permits below have been approved ([HRS § 205A-30](#)). For more information, contact the relevant county/state planning agency. Honolulu (768-8014); Hawai'i (East 961-8288, West 323-4770); Kaua'i (241-4050); Maui (270-7735); Kaka'ako or Kalaeloa Community Development District (587-2841).

Location (TMK)	Description (File No.)	Applicant/Agent
Kaua'i: Hanalei (5-5-002: 003)	4-foot High Fence, Platform Hot Tub, and a 100 Square Feet Shed (SMA(M)-2021-1)	3 Coconuts, LLC
Kaua'i: Hanalei (5-5-005: 019)	5'9" High Fence (SMA(M)-2021-2)	Alex Bogusky
Maui: Kahana (4-3-010: 032)	Interior Bathroom Renovation (SM2 20200074)	Sharon Wright, MWA, Inc.
Maui: Ha'ikū (2-7-004: 064)	Repair and Maintain Surface and Sides of Existing Dirt Road and Start Cultivating the Land (SM2 20200075)	Graham Ezzy and Kathrin Mielke
Maui: Hana (1-4-010: 016)	Pool with Trellis (SM2 20200076)	Allen Greenfield & Vivian Feintech
Maui: Pā'ia (2-6-002: 018)	Uniki-Hula Ceremony (SM2 20200077)	Francine Aarona
O'ahu: Waimea (6-1-002: 002)	Waimea Falls Park Rockfall Mitigation (2019/SMA-34)	Hiipaka, LLC/AECOM Technical Services, Inc.
O'ahu: Waikīkī (2-6-004: 010)	Outrigger Reef Waikiki Beach Resort Improvements (2020/SMA-4)	Architects Hawaii Ltd./R.M. Towill Corporation

CONSERVATION DISTRICT USE APPLICATIONS

Persons interested in commenting on the following Conservation District Use Application(s) or receiving notification of determinations on Conservation District Use Applications must submit comments and requests to the Department of Land and Natural Resources. Notification requests must include the following information: 1) Name and address of the requestor; 2) The application for which the requestor would like to receive notice of determination; and 3) The date the notice was initially published in *The Environmental Notice*. Send comments and requests to: Department of Land and Natural Resources, Office of Conservation and Coastal Lands, P.O. Box 621, Honolulu, HI, 96809. DLNR will make every effort to notify those interested in the subject CDUAs. However, DLNR is not obligated to notify any person not strictly complying with the above requirements. For more information, please contact the Office of Conservation and Coastal Lands staff listed for each project. CDUAs can be found via the hyperlinked File No. below or on the OCCL website at <https://dlnr.hawaii.gov/occl/current-applications/>.

File No.: [CDUA MA-3870](#)
Applicant: Kīhei Canoe Club
Location: Kīhei, Maui
TMK: (2) 3-8-005:003
Proposed Action: After the Fact Public Purpose Recreational Use
343, HRS determination: Exempt per HAR, 11-200.1-15 (c)(4)
Applicant's Contact: Rory Frampton rory@roryframpton.com
OCCL Staff Contact: K. Tiger Mills kimberly.mills@hawaii.gov (808) 587-0382

File No.: [CDUA HA-3869](#)
Applicant: Department of Land and Natural Resources, Division of Forestry and Wildlife
Location: Kipahoe, South Kona, Island of Hawai'i
TMK: (3) 6-9-001:005
Proposed Action: Road Construction Project
343, HRS determination: The [Final Environmental Assessment/FONSI](#) was published in OEQC's *The Environmental Notice* on [June 23, 2020](#)
Applicant's Contact: Emma Yuen, DLNR, Division of Forestry and Wildlife (808) 587-4170
OCCL Staff Contact: Rachel Beasley (808) 798-6481

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) ACTIONS

As a courtesy, listed below are documents provided for publication that have been prepared pursuant to federal NEPA requirements, rather than Hawai'i's Chapter 343, HRS (sometimes referred to as "HEPA"). Accordingly, these entries may have unique comment periods. Occasionally, actions are subject to both NEPA and HEPA; in those cases, a separate Chapter 343, HRS, entry would be published in *The Environmental Notice* when a relevant document or determination is submitted to OEQC.

Halewai`olu Senior Residences--NEPA EA

Island/District/TMK	O'ahu / Honolulu / (1) 1-7-006:012
Permit(s)	Chapter 201H, HRS
Approving Agency	Department of Land Management, City and County of Honolulu Sandra S. Pfund, Director, (808) 768-4277, spfund@honolulu.gov 558 South King Street, Honolulu, HI 96813
Applicant	Halewai`olu Senior Development, LLC Karen Seddon, Vice President, (808) 691-9446, kseddon@tmo.com 737 Bishop Street, Suite 1520, Honolulu, HI 96813
Consultant	R. M. Towill Corporation Keith Kurahashi, Principal Planner, (808) 842-1133, keithk@rmtowill.com 2024 North King Street, Suite 200, Honolulu, HI 96819
Status	15-day Comment Period: September 23, 2020 to October 9, 2020 Written comments must be received by October 9, 2020 to be considered. Send comments to the Consultant (with a copy to the Department of Land Management, attention Seiji Ogawa: seiji.ogawa@honolulu.gov).

The Project will include the demolition of an existing, vacant, commercial building, and parking lot on the Project Site and construction of a new affordable, rental housing residential facility for seniors aged 62 and over, with incomes at 80% and below of the HUD Area Median Income ("AMI"). The new residential facility will include 156 one- and two-bedroom units (includes one resident manager's unit). The new residential facility will also include a multi-purpose room, warming kitchen, restrooms, storage rooms, utility rooms, computer room, social services activity rooms, social services office, property management offices, mail and package boxes, and elevator lobby on the ground level. On the ground level will also be a courtyard (plaza), retail space, and parking access, along with bicycle parking, the trash compactor room, and loading area. Levels 2-3 will include vehicle parking, a portion of the bicycle parking, a generator room, storage, and utility rooms. Level 4 will include a recreation area, laundry room, and equipment rooms. The residential units will be on Levels 5-17.

FEDERAL NOTICES

As a courtesy, listed below are some relevant entries from the Federal Register published since the last issue of *The Environmental Notice*. For more information, click on the title link, also available at www.federalregister.gov.

Rule: [Pacific Island Fisheries; Sea Turtle Limits in the Hawaii Shallow-Set Longline Fishery](#) (published by the National Oceanic and Atmospheric Administration on 09/17/2020)

This final rule revises measures that govern interactions between the Hawaii shallow-set pelagic longline fishery and sea turtles. This rule lowers the annual fleet interaction limit ("hard cap") for leatherback sea turtles from 26 to 16, and removes the annual fleet hard cap for North Pacific loggerhead turtles. This rule also creates individual trip interaction limits of two leatherback and five North Pacific loggerhead turtle interactions, with accountability measures for reaching a limit. This rule provides managers and fishermen with the necessary tools to respond to and mitigate changes in North Pacific loggerhead and leatherback turtle interactions to ensure a continued supply of fresh domestic swordfish to U.S. markets, consistent with the conservation needs of these sea turtles. This action also ensures that the Hawaii shallow-set longline fishery operates in compliance with the conditions of a recent biological opinion (BiOp). **This rule is effective September 17, 2020.**

For further information, click on the title link to this entry or contact Joshua Lee, NMFS PIR Sustainable Fisheries, 808-725-5177. Copies of Amendment 10 to the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP) and supporting documents are available at www.regulations.gov, or from the Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808-522-8220, fax 808-522-8226, www.wpcouncil.org

FEDERAL NOTICES (CONTINUED)

Notice: [Notice of Intent To Prepare an Environmental Impact Statement for a Submarine Dry Dock and Waterfront Production Facility at the Pearl Harbor Naval Shipyard and Intermediate Maintenance Facility, Oahu, and To Announce the Public Scoping Meeting; Corrections](#) (published by the Navy Department on 09/18/2020)

The Department of the Navy [published](#) a document in the Federal Register of September 15, 2020, concerning its intent to prepare an Environmental Impact Statement (EIS) to evaluate the potential environmental effects associated with construction and operation of a submarine dry dock (DD) replacement and waterfront production facility (WPF) at the Pearl Harbor Naval Shipyard and Intermediate Maintenance Facility (PHNSY & IMF) at Joint Base Pearl Harbor-Hickam (JBPHH), Oahu, Hawaii and announce the public scoping period. The document contained incorrect dates and omitted details concerning the request for public comment. For further information, click on the title link of this entry or contact Andréa M. Von Burg Hall, Navy PHNSY DD/WPF EIS Project Manager, by telephone (808-472-1425) or email (andrea.vonburg-hall@navy.mil). The Navy is providing two web-based platforms for the public to learn about the Proposed Action and provide scoping comments. **All comments are due by October 19, 2020.** The Navy intends to publish the Draft EIS in July of 2021, the Final EIS in April 2022 with a Record of Decision signed in September 2022.

Proposed Rule: [List of Fisheries for 2021](#) (published by the National Oceanic and Atmospheric Administration on 09/21/2020)

The National Marine Fisheries Service (NMFS) publishes its proposed List of Fisheries (LOF) for 2021, as required by the Marine Mammal Protection Act (MMPA). The LOF for 2021 reflects new information on interactions between commercial fisheries and marine mammals. NMFS must classify each commercial fishery on the LOF into one of three categories under the MMPA based upon the level of mortality and serious injury of marine mammals that occurs incidental to each fishery. The classification of a fishery on the LOF determines whether participants in that fishery are subject to certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan (TRP) requirements. For further information, click on the title link or contact Diana Kramer, Pacific Islands Region, 808-725-5167. **Comments must be received by October 21, 2020.**

Proposed Rule: [Proposal To Reissue and Modify Nationwide Permits](#) (published by the Engineers Corps on 09/15/2020)

Nationwide Permits (NWP) authorize certain activities under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. The U.S. Army Corps of Engineers (Corps) is proposing to reissue its existing NWPs and associated general conditions and definitions, with some modifications. We are also proposing to issue five new NWPs.

Two of those proposed new NWPs would authorize certain categories of mariculture activities (i.e., seaweed and finfish mariculture) that are not authorized by NWP 48. We are proposing to divide the current NWP that authorizes utility line activities (NWP 12) into three separate NWPs that address the differences in how different linear projects are constructed, the substances they convey, and the different standards and best management practices that help ensure those NWPs authorize only those activities that have no more than minimal adverse environmental effects. Specifically, we are proposing to modify the current utility line NWP 12 to authorize only oil and natural gas pipeline activities. Two proposed new NWPs would authorize activities associated with the construction, maintenance, repair, and removal of electric utility lines/telecommunication lines and utility lines that convey water, sewage, and other substances. The fifth proposed new NWP would authorize discharges of dredged or fill material into jurisdictional waters for the construction, expansion, and maintenance of water reuse and reclamation facilities. We are proposing these modifications to simplify and clarify the NWPs, reduce burdens on the regulated public, and continue to comply with the statutory requirement that these NWPs authorize only activities with no more than minimal individual and cumulative adverse environmental effects. The Corps is requesting comment on all aspects of these proposed nationwide permits.

For further information, click on the title link to this entry or contact Mr. David Olson at 202-761-4922 or access the U.S. Army Corps of Engineers Regulatory Home Page at <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/> You may **submit comments on or before November 16, 2020**, by any of the identified methods.

GLOSSARY OF TERMS AND DEFINITIONS

Agency Actions

Projects or programs proposed by any department, office, board, or commission of the state or county government which is part of the executive branch of that government per [HRS 343-2](#).

Applicant Actions

Projects or programs proposed by any person who, pursuant to statute, ordinance, or rule, requests approval (discretionary consent) for a proposed action per [HRS 343-2](#).

Draft Environmental Assessment

When an Agency or Applicant proposes an action that [triggers](#) HRS 343, an Environmental Assessment shall be prepared at the earliest practicable time to determine whether the action's environmental impact will be significant, and thus whether an environmental impact statement shall be required per [HRS 343-5\(b\)](#), for Agency actions and [HRS 343-5\(e\)](#), for Applicant actions. For actions for which the proposing or approving agency anticipates a Finding of No Significant Impact (AFNSI), a Draft EA (DEA) shall be made available for public review and comment for 30 days and public notice is published in this periodic bulletin.

Final Environmental Assessment and Finding of No Significant Impact

The action's proponent shall respond in writing to comments on a DEA received during the 30-day review period and prepare a Final EA (FEA) that includes those responses to determine whether an environmental impact statement shall be required. If there are no significant impacts, then the Agency will issue a Finding of No Significant Impact (FONSI). An Environmental Impact Statement (EIS) will not be required and the project has cleared HRS 343 requirements. The public has 30 days from the notice of a FONSI in this bulletin to ask the Environmental Court to require the preparation of an EIS.

Final Environmental Assessment and Environmental Impact Statement Preparation Notice

An EIS shall be required if the Agency finds that the proposed action may have a significant effect on the environment. The Agency shall file notice of such determination with OEQC, called an EIS Preparation Notice (EISPN) along with the supporting Final EA. After the notice of the FEA-EISPN is published in this bulletin, the public has 30 days to request to become a consulted party and to make written comments. The public (including the Applicant) has 60 days from the notice of the EISPN in this bulletin to ask a court to not require the preparation of an EIS.

Act 172-2012, Direct-to-EIS, Environmental Impact Statement Preparation Notice (with no EA)

Act 172 in 2012 amended HRS 343 by providing for an agency to bypass the preparation of an environmental assessment for various actions that in the experience of the agency would clearly require the preparation of an EIS. The agency must submit its determination that an EIS is required for an action (Act 172-2012, EISPN) with a completed OEQC publication form detailing the specifics of the action. This starts a 30-day scoping period in which the agency or applicant must hold a public scoping meeting for the preparation of the Draft EIS. Written comments and responses on the EISPN must be incorporated into the subsequent Draft EIS and oral comments from the public scoping meeting must be recorded and submitted to the OEQC with the Draft EIS.

Act 312-2012, Secondary Actions in the Highway or Public Right Of Way

Act 312-2012, amended HRS 343, by adding a new section (HRS 343-5.5., entitled "Exception to applicability of chapter"). HEPA allows for a statutory exception for "secondary actions" (those that involve infrastructure in the highway or public right-of-way) provided that the permit or approval of the related "primary action" (those outside of the highway or public-right-of-way and on private property) is not subject to discretionary consent and further provided that the applicant for the primary action submits documentation from the appropriate agency confirming that no further discretionary approvals are required. An aid to understanding this is to visualize residential driveway improvements in the public right-of-way, versus, retail outlet driveway improvements in the public right-of-way.

Draft Environmental Impact Statement

After receiving the comments on the EISPN, the Agency or Applicant must prepare a Draft Environmental Impact Statement (DEIS). The content requirements of the DEIS shall contain an explanation of the environmental consequences of the proposed action including the direct, indirect and cumulative impacts and their mitigation measures. The public has 45 days from the first publication date in this bulletin to comment on a DEIS. The DEIS must respond to comments received during the 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 and must be included in the FEIS. For Applicant projects, the Approving Agency is the Accepting Authority and must make a determination within 30 days or the FEIS is deemed accepted as a matter of law. For an Agency project, the Governor or the Mayor (or their designated representative) is the Accepting Authority, and unlike applicant actions, there is no time limit on the accepting authority reviewing the FEIS. Only after the FEIS is accepted may the project be implemented.

Acceptability

The Accepting Authority must be satisfied that the FEIS meets three criteria (process, content, response to comments) to accept it. If the FEIS is accepted, notice is published in this bulletin. The public has 60 days from publication to challenge the acceptance of a FEIS. For Applicant actions, non-acceptance by the Approving Agency is cause for the Applicant to administratively appeal to the Environmental Council. For Agency actions, there is no such administrative appeal. In both instances, the Applicant or the proposing Agency can prepare a revised DEIS after a non-acceptance determination.



Maui sunset

Photo by [Thomas Hawk](#)

National Environmental Policy Act

The National Environmental Policy Act (NEPA) requires federal projects to prepare a Federal EA or EIS. In many ways it is similar to Hawai'i's law. Some projects require both a State and Federal EIS and the public comment procedure should be coordinated. Upon request by a federal agency, OEQC publishes NEPA notices in this bulletin to help keep the public informed of important federal actions.

Conservation District

Proposed uses of land in the State Conservation District require a Conservation District Use Application (CDUA). These applications are reviewed and approved by the Board of Land and Natural Resources. Members of the public may intervene in the permit process. This bulletin will include EAs & EISs for actions proposed within the Conservation District.

Special Management Area and Shoreline Setback Area

The Special Management Area (SMA) is along the coastline of all islands and development in this area is generally regulated by [HRS 205A](#), and county ordinance. A portion of the SMA that is addressed by HRS 343 is the [Shoreline Area](#), which includes land between the State-certified shoreline and the county-determined shoreline setback line. This bulletin will include EAs & EISs for actions proposed within the Shoreline Setback Area.

Shoreline Certifications

State law requires that Hawai'i shorelines be surveyed and certified when necessary to clearly establish the shoreline setback 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 bulletin publishes notice from the Department of Land and Natural Resources of shoreline certification applicants and final certifications or rejections.

Environmental Council

The [Environmental Council](#) is a 15-member citizen board appointed by the Governor. They serve as a liaison between the Director of OEQC and the general public concerning ecology and environmental quality. The Council makes the rules that govern the Environmental Impact Statement process (HRS 343). Agendas of their regular meetings are posted on the Internet and the public is invited to attend. The Council just completed the repeal of Hawaii Administrative Rules (HAR) Chapter 11-200 and adoption of HAR Chapter 11-200.1.

Agency Exemption Lists

Government agencies may keep a list describing the minor activities they regularly perform that are exempt from the environmental review process. These lists and any amendments shall be submitted to the Council for review and concurrence (HAR 11-200.1-16). This 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 bulletin is required by [HRS 343-3\(c\)](#), 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).