

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawai'i 96813

December 14, 2012

Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

SUBJECT: Approval to Enter into a Curatorship Agreement with On Target, Inc. for planning, development, operation, management, and revenue generation of the Hawai'i Public Shooting Range at Pu'u Anahulu, Pu'u Anahulu Game Management Area, Hawai'i.

Background

The Board of Land and Natural Resources approved in concept the establishment of a public shooting range at Pu'u Anahulu, Pu'u Anahulu Game Management Area, Hawai'i and designated approximately 640 acres for the site on February 23, 2007. The Board also authorized the Department to collaborate with a Hawaii Island stakeholder group to develop the facility and complete the environmental review. On February 13, 2009, the Board approved contracting an Environmental Impact Statement and site plan for the facility. In 2010, the Department amended its hunting rules to establish a section providing for entering agreements with public or private organizations to manage and operate public shooting ranges under Hawaii Administrative Rules, Chapter 13-121-6, Public shooting ranges.

Progress is being made with the environmental review and site planning and it is now time to begin preparations for operation and management of the facilities. The Department is proposing entering into a Curatorship Agreement with the community-based stakeholder group that has been assisting with the initial planning and is also interested in helping to operate the facility once developed.

The Department has been working with this community-based stakeholder group since 2004 to promote and develop a public shooting facility on the Island of Hawaii. The group was incorporated as On Target, Inc., a state-registered domestic nonprofit organization, in 2011, and received its 501(c)(3) tax exempt status from the Internal Revenue Service on October 25, 2012.

The organization is comprised of representatives of island shooting sports clubs, businesses, and interested parties. The mission of On Target, Inc., is to assist with fund raising and obtain private funding for development of public shooting range facilities on

Hawaii Island, to provide manpower and expertise for range planning, development, and operations; to assist with public outreach, and seek support from various stakeholders, local businesses, state and county agencies including the State Department of Health, DLNR divisions of Engineering, Forestry and Wildlife, Conservation and Resources Enforcement, and Hunter Education and relevant national organizations, nonprofits, and shooting sports businesses, including the NRA, the National Shooting Sports Foundation, firearms equipment manufacturers and suppliers such as Remington, Hornady, Beretta USA, Browning, and others.

The goal is to develop a comprehensive, state-of-the art recreational and education facility which exceeds county, state, and federal environmental requirements to provide for public safety in the use and handling of firearms, hunter education and training, and a place for Hawaii Island residents and visitors to safely target practice and sight-in firearms. Use for residents and visitors will range from plinking to international competitive matches. On Target, Inc., is interested in assisting with the initial planning and development of the facilities, and to help operate the facility once in service.

Curatorship Agreement

The Curatorship Agreement will be for an initial period of 5 years with an option to extend if both parties are in agreement.

The components of the Curatorship Agreement are:

On Target, Inc. will:

1. Provide technical assistance and project management in planning, design and construction of the facilities.
2. Undertake improvements as provided for in the Pu'u Anahulu Shooting Range Master Plan (now under development) or in plans as approved by the Department.
3. Will operate the shooting range as the project manager once facilities are opened as per the operating guidelines and policies established by the Department and shall maintain the facilities in a safe and viable working condition.
4. Provide information to public on operations of the shooting range facilities and coordinate with neighbors and community on management and operational issues that may arise.
5. Provide training to public on safe use of firearms.
6. Provide certified firearms instructors and range safety officers to oversee firearms training and instruction classes, and operations of the range.
7. Provide \$2,000,000 in liability coverage and indemnify the State for liability.
8. Seek private and or public funds to support On Target Inc. operation of the shooting facility from sources such as private donations; and county, state or federal grants.
9. Coordinate with the Department opportunities for revenue generation for use of facilities including fees for conducting firearm safety classes, sponsorship of shooting or other outdoor hunting and shooting sports events or tournaments,

sale of shooting facility related products, sale of environmental products and art work, rental of meeting spaces.

10. Provide an annual report on range revenue generation, expenses, type and amount of public use, number and type of firearms instruction classes, number of incidents or accidents, violations of rules or local ordinances.

The Department will:

1. Provide state and federal funding as appropriated and available to help support development, construction, operations and maintenance of the shooting range facilities.
2. Assist with operations and maintenance of the shooting range.
3. Provide enforcement of laws, rules and regulations pertaining to use of shooting range.
4. Provide coordination and guidance on operations of the shooting range facilities to be in compliance with federal, state and local laws, rules, and ordinances, and any grant and funding requirements including but not limited to grants or funds provided under the Hunter Education Program Section 4c and Section 10 of the Wildlife Restoration Act of 1937.
5. Provide oversight and approval for:
 - a. Operating guidelines and policies for the facilities.
 - b. Establishment and collection of fees charged for use of facilities, including public use, firearms instruction, use of meeting space, conference or tournament events, and special use permits.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT

The Department is currently in the process of preparing an environmental assessment or EIS for the development and operation of the Hawai'i Public Shooting Range project at Pu'u Anahulu.

Entering an MOU for a Curatorship Agreement is an administrative activity exempt from the requirements for the preparation of an environmental assessment under Chapter 343, HRS, and Chapter 11-200-8(6), Hawaii Administrative Rules (HAR), *EXEMPTION CLASS # 10: Continuing administrative activities including, but not limited to, purchase of supplies and personnel-related actions.*

Remarks:

The Department encourages community and private landowner involvement and assistance with the care, management, maintenance, and appropriate sharing of the resources in various conservation and recreation programs. DOFAW currently has partnership agreements for Watershed Partnerships, Cooperative Game Management Areas, and public access agreements for hiking and other outdoor recreation spread across the state. This Curatorship agreement is a continued expansion of efforts to encourage community assistance in management of natural resources to augment the resources of the Department and meet the expectations and needs of the public.

On Target Inc. has indicated a strong commitment and determination to assist in the development and operations of a public shooting range, cooperate closely with all responsible parties to insure the highest possible standards are set in all aspects of range development and operation, and thereby help to fill a serious public safety gap in the lack of safe shooting ranges on Hawaii island. OTI is committed to set the highest possible standards for personnel competence, and members are in the process of completing First Aid and CPR training, along with NRA pistol, rifle, and shotgun instructor certification, and NRA range safety officer certification. The agreement is purposely set for a short-term, 5 year period to allow both OTI and the Department to try out the relationship, and make any changes in the relationship in the future if needed.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of entering into the proposed agreement as provided by Chapter 343, HRS and Chapter 11-200 HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Grants approval to enter into a 5-year Curatorship Agreement with On Target Inc., to allow On Target Inc. to assist with planning, development, operation, and management for the Hawai'i Public Shooting Range at Pu'u Anahulu, Pu'u Anahulu Game Management Area, Hawai'i, subject to:
 - A. The standard terms and conditions of the most current curator agreement form, as may be amended from time to time;
 - B. Review and approval of the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully submitted,



PAUL J. CONRY
Administrator, DOFAW

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR., Chairperson

Attachment: Draft Curatorship Agreement for the Hawai'i Public Shooting Range at Pu'u Anahulu

STATE OF HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES

CURATORSHIP AGREEMENT

THIS AGREEMENT, executed on the respective dates indicated below, is effective as of _____, 20__, between the STATE OF HAWAI'I (hereinafter "STATE"), by its Chairman of the Board of Land and Natural Resources (hereinafter "Board"), whose address is 1151 Punchbowl Street, Honolulu, Hawai'i 96813, and ON TARGET INC (hereinafter "OTI"), by its President, Richard Hoeflinger, whose address is HCR 1 Box 5344, Kea'au, Hawai'i 96749.

BACKGROUND

The site of the Hawai'i Island Public Shooting Range at Pu'u Anahulu is located in the northwestern section of the Pu'u Anahulu Game Management Area, adjacent to the Pu'u Anahulu Landfill, on land managed by the State of Hawai'i, Division of Forestry and Wildlife (DOFAW), Department of Land and Natural Resources (DLNR) as per Hawai'i Revised Statutes (HRS) 183D and Hawai'i Administrative Rules (HAR) chapters 122 and 123. The area was set aside as a shooting range site by the Board on February 23, 2007 (see map attached as Exhibit "A"). The land lies in the North Kona District, County of Hawai'i, Ahupua'a of Pu'u Anahulu, 6000 feet inland from Pueo and Keawaiki Bays, between Queen Kaahumanu and Mamalahoa Belt Highways.

The site is well suited for a shooting range, having little outdoor recreational value or use with the existing mauka views of the project consisting primarily of vast sparsely vegetated lava flows. The nearest human habitation is the Waikoloa Beach/Mauna Lani Resort area, located near the intersection of Waikoloa Road and Queen Ka'ahumanu Highway, about one and a half miles distant from the range site's western boundary. The Waikoloa residential area and inhabited Pu'u Anahulu lie over four miles to the northeast and southeast, respectively, of the project site. An environmental review is in progress for the development and operation of the project at this site.

INTRODUCTION

The STATE of Hawai'i owns the land underlying the site of Hawai'i Public Shooting Range at Pu'u Anahulu and has managed the area as part of a Game Management Area (GMA). The project site is of great interest for a shooting range because of its relatively isolated location in a sparsely vegetated lava flow terrain adjacent to other compatible land uses, i.e. adjacent to a landfill and commercial helicopter landing site. A group of island residents, state employees, and retired government representatives formed what was then called the Hawaii Island Public Shooting Range Working Group in 2004 to assist with the development of a shooting facility for Hawaii Island. The Working Group met regularly for the next several years defining facility requirements, reviewing suitable sites, performing sound

measurements, and seeking funding for development of a proposed island shooting complex.

In 2011, the Working Group incorporated as On Target, Inc. (OTI), a state domestic nonprofit corporation, and received its 501(c)(3) tax exempt status from the Internal Revenue Service as of October 25, 2012. OTI has assisted with securing private funding, federal shooting range development funding, and development of a conceptual Facility Master Plan and scope of an Environmental Assessment. A Master Plan and an environmental assessment are currently in progress, scheduled for completion in early 2013.

The conceptual plan includes construction of a comprehensive shooting complex on the project site. As currently envisioned, the complex will incorporate the following shooting venues:

- 30-Firing Point, 200-Yard General Purpose Rifle Range
- 15-Firing Point, 50-Yard General Purpose Pistol Range
- 3-D Bow Hunter & Target Archery Complex
- 13-Station Sporting Clays Course
- 1,000-Yard High-Power, Long Distance Rifle Range
- 10-Firing Point, 100-Yard Small Bore/Air Gun Range
- 7 - Action Pistol Shooting Bays
- 1 - Action Pistol/Rifle/Shotgun Shooting Bay
- 6 - Skeet & Trap Fields
- Provisions for Specialized Law Enforcement Training

Current funding is confined to planning and design activities. Physical development will depend on construction costs and the identification of appropriate funding sources. The primary venues will provide basic services for the hunting and shooting public in a safe and controlled environment. Federal funding and state match are expected to continue, with possible participation by the County of Hawai'i. It is expected that Pittman-Robertson funding through the U.S. Fish and Wildlife Service will continue to be available for public shooting range construction and operations, and that private funding sources will increase once the project is operational.

OBJECTIVES OF THIS AGREEMENT IN RELATION TO THE STATE'S CURATORSHIP PROGRAM

The basic aims of DLNR curatorship programs are to improve the protection of significant cultural and natural resources through partnerships between the STATE and private non-profit entities engaged in natural resource conservation. In addition, the partnerships are a means to provide greater public access to and use of public resources. In the case of a shooting range, this involves the development and operation of a public facility which will serve the needs of the STATE (which statutorily mandates certain hunter safety training and firearms training programs), the shooting sports community,

and the recreational interests of the public by providing a safe and regulated environment for shooting and firearms safety training and practice.

The development and operation of the shooting range facility shall be in accordance with the Administrative Rules of the Division of Forestry and Wildlife, specifically HAR Title 13, Chapter 121, all other applicable rules of DLNR, regulations and permit requirements of the County of Hawai'i and the U.S. Government.

CURATOR RESPONSIBILITIES

It is the role of the CURATOR to help protect the site and resources, and to help provide appropriate access for the State's citizens and visitors. The CURATOR is not the owner of the site, and can restrict access only as authorized herein.

The CURATOR will assist the STATE with the development, management, maintenance, and operations of Pu'u Anahulu Shooting Range and facilities as a public shooting range as follows:

1. The CURATOR will provide technical assistance and project management to the Department in the planning, design, construction and operation of the Pu'u Anahulu Shooting Range and facilities.
2. The CURATOR will coordinate all actions and activities undertaken in the execution of this agreement with DOFAW and any other designated cooperating entities, such as the Engineering Division, Division of Conservation and Resources Enforcement-Hunter Education Program, consultants hired for the project, the Hawai'i County Pu'u Anahulu Landfill, and others.
3. The CURATOR shall undertake improvements as provided for in the Pu'u Anahulu Shooting Range Master Plan (now under development) or in plans as approved by the Department. Plans for improvements and facilities construction will be made available to the Department and reviewed and approved in conjunction with other federal, state and county permitting agencies prior to implementation. This includes capital improvements, roads, trails, walkways, and utility provisions such as water, electricity, parking, etc., picnic tables and other appropriate appurtenances.
4. The CURATOR will provide project management and operation of the facilities once opened as per the operating guidelines and policies established by the Department and shall maintain the facilities in a safe and viable working condition.
5. The CURATOR will provide for basic security for the site, in cooperation with other partners, organizations, and participants, to prevent unauthorized entry, property damage, theft, or vandalism. Damages or impacts to the area which appear to be in excess of \$500 will be reported to DOFAW as soon as possible.
6. The CURATOR will provide informational, educational, and visitor services at the range site, including brochures as approved by DOFAW, and coordinate with neighbors and community on management and operational issues that may arise.

7. The CURATOR will provide training to the public on safe use of firearms and provide certified firearms instructors and range safety officers to oversee firearms training and instruction classes, and operations of the range.
8. The CURATOR will provide \$2,000,000 in liability insurance and agree to hold harmless and indemnify the STATE for liability arising from its participation in activities at the shooting range.
9. The CURATOR will designate a supervisor(s) who will submit a completed agreement fact sheet (Attachment 2), together with completed volunteer waiver forms (Attachment 3) from all participants before allowing use of range.
10. The CURATOR will coordinate volunteer efforts, and will seek ongoing involvement of the local community, potentially affected landowners and stakeholders, the shooting sports community, and other relevant organizations.
11. The CURATOR will seek private and public funds to help support its operations.
12. The CURATOR will coordinate with the Department in identifying and pursuing opportunities for revenue generation for use of range facilities including fees for conducting firearm safety classes, sponsorship of shooting or other outdoor hunting and shooting sports events or tournaments, sale of shooting facility related products, sale of environmental products and art work, and rental of meeting spaces.
13. The CURATOR will submit a quarterly report of its volunteer and paid labor hours and activities performed under this agreement to DOFAW or the Hunter Education project to be used as matching costs for federal grant purposes.

RESPONSIBILITIES OF THE STATE

1. DLNR will continue to have responsibilities for the area covered by the agreement as primary owner and manager of the larger GMA of which the shooting range site is a portion, and may issue permits including commercial permits, conduct archaeological and other research and investigative activities, and install interpretive devices and signs. DLNR will consult with the CURATOR on these activities, and may provide comments and suggestions at any time on the operations and management of the facility.
2. DLNR agrees to provide the CURATOR with information relating to the site, including but not limited to archaeological and historical information, surveys conducted, draft environmental impact assessments and statements, and plans regarding existing or proposed future uses of the GMA of which the shooting range site is a portion.
3. DLNR shall be responsible for obtaining concurrence from the State Historic Preservation Division and the U.S. Fish and Wildlife Service to proceed with proposals under this agreement that could have an effect on historic properties on the site, and federally protected threatened and endangered species, and for submitting for review and approval any reports or plans.

4. DLNR will provide state and federal funding as appropriated and available to help support development, construction, operations and maintenance of the shooting range facilities.
5. DLNR will provide enforcement of laws, rules and regulations pertaining to use of the shooting range.
6. DLNR will provide coordination and guidance on operations of the shooting range facilities to be in compliance with federal, state and local laws, rules, and ordinances, and any grant and funding requirements including but not limited to grants or funds provided under the Hunter Education Program Section 4c and Section 10 of the Wildlife Restoration Act of 1937.
7. DLNR shall delegate a spokesperson(s) in relation to its portion of the partnership of the shooting range site development and operations, which can be the Public Information Officer, the Engineering Division Point of Contact, DOFAW Administrator or Point of Contact, or other person(s).
8. DLNR may make inspection of the facility at any time that can be arranged with a representative of the CURATOR to insure compliance with the agreement and that proper maintenance and procedures are in place. If improper operations, information, maintenance or other problems are detected, the STATE will notify the CURATOR in writing of the problem(s), and will provide suggestions to correct the problem(s).
9. The STATE shall manage and control access to portions of the Pu`u Anahulu GMA that surround the shooting facility in such a manner as will ensure public safety at all times the range is in operation.

SPECIAL CONDITIONS

1. The CURATOR shall be authorized to accept private donations at the site of cash, materials, and labor needed for management and operations of the project.
2. The CURATOR shall be authorized to take temporary overnight residence at the site, in the course of its management, operations, and security, since major human habitations are all significant distances from the site.

COORDINATION OF ACTIVITIES

1. The CURATOR shall designate a spokesperson(s) to speak for its role in the shooting range, in matters of public relations, contacts with the media, and other matters of public record or interface.
2. The CURATOR shall designate a person(s) to coordinate with the STATE on the activities under this agreement, who may be the same or other person from the spokesperson.
3. The CURATOR shall be responsible for transmitting to the STATE the names of individuals who will be performing services under this agreement.
4. The STATE shall delegate a spokesperson(s) in relation to its portion of the partnership of the shooting range site development and operations, which can be

the Public Information Officer, the Engineering Division Point of Contact, DOFAW Administrator Point of Contact, or other person(s).

REPORTING REQUIREMENTS

Six months after the effective date of this agreement, the CURATOR shall provide to the STATE a written summary of its activities under the agreement including discussions of its accomplishments, difficulties, any potential changes in goals for the remainder of the agreement, and any other relevant information. Every year thereafter during the term of this agreement, the CURATOR will make such written reports to the STATE providing information on donations received, expenses, type and amount of public use, number and type of firearms instruction classes taught, number of incidents or accidents, violations of rules or local ordinances.

INDEMNIFICATION

The CURATOR shall provide \$2,000,000 in liability insurance and agree to hold harmless and indemnify the STATE for liability in the case of any incidents related to their management of the project. The CURATOR shall ensure that any persons or group taking part in CURATOR Sponsored activities at the facility shall read and sign a waiver of liability protecting the STATE from claim.

TERM AND MODIFICATION OF AGREEMENT

The term of this agreement is for five (5) years after its effective date. Either party may terminate this agreement after providing the other party with ninety (90) days written notice. This agreement may be amended only in writing by both the STATE and the CURATOR.

PUBLICITY

During the term of this agreement, the STATE may post a sign(s) that recognize(s) the contributions of the CURATOR to the improvement of the site. The CURATOR may post information relating to the role of the STATE in the ownership of the site, operation or provision of related services, etc. as appropriate.

COMPLIANCE WITH LAW

The CURATOR shall comply with all applicable federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the CURATOR's performance of this agreement.

SHOOTING RANGE RULES

The rules of DOFAW relating to shooting ranges are set forth in HAR Title 13, Chapter 121 and shall apply to the implementation of this agreement. It is also expected the CURATOR will work with DOFAW to develop highly visible specific shooting range rules and requirements and post them in each venue and throughout the facility.

SAFETY

One of the primary objectives of the establishment of a public shooting range is the enhancement of general public safety by providing a safe, regulated environment for shooting and firearms safety training and practice. This is expected to increase the public's familiarity with safe firearms handling and reduce the unauthorized and unregulated use of other public and private lands for shooting, target practice, and other activities, often associated with illegal dumping, littering, and other problems. The highest standards of safety are to be maintained at all times under this agreement, generally those suggested by the National Rifle Association as articulated through its publications and training courses. Any conditions to the contrary or having the appearance thereof shall be reported to the designated representative of the CURATOR, for investigation and timely resolution thereof.

IN VIEW OF THE ABOVE, the parties execute this agreement by their signatures, on the dates below, to be effective as of the date first above written.

STATE

ON TARGET INC.

(Signature)

(Signature)

William J. Aila, Jr.

Richard Hoeflinger

Chair, Board of Land & Natural Resources

President

(Date)

(Date)

APPROVED AS TO FORM:

Deputy Attorney General

ACKNOWLEDGMENT

STATE OF HAWAII

_____ COUNTY OF _____

On this _____ day of _____, 2012, before me personally appeared _____, to me known to be the person described in and who being by me duly sworn, did say that he is the

_____ of _____, the CURATOR named in the foregoing instrument, and that he is authorized to sign said instrument on behalf of _____, and acknowledges that he executed said instrument as his free act and deed.

Witness my hand and seal.

Notary Public
My commission expires: