

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

April 25, 2014

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

OAHU

Acquisition of Private Lands and Set Aside to Department of Education for
Elementary School Campus, Kehalani Mauka, Wailuku, Maui; TMK: (2) 3-5-
001:103

REMARKS:

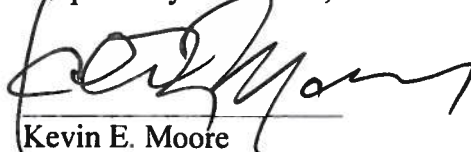
Department of Education ("DOE") requests the Board's authorization to acquire private lands and subsequently set aside such lands to DOE for new elementary school campus purposes. A copy of the submittal prepared by DOE is attached as **Exhibit 1** for the Board's consideration.

Staff notes that DOE will handle the due diligence required for the acquisition, including working with the Department of the Attorney General for the conveyance document and the Department of Accounting and General Services, Survey Division, regarding the map and description of the acquisition and set aside actions.

Staff does not have any other comment on the subject request.

RECOMMENDATION: That the Board approve the Recommendation Section mentioned in the Department of Education's submittal attached as Exhibit 1.

Respectfully Submitted,


Kevin E. Moore
Assistant Administrator

APPROVED FOR SUBMITTAL:


William J. Aila, Jr., Chairperson

STATE OF HAWAII
DEPARTMENT OF EDUCATION
OFFICE OF SCHOOL FACILITIES AND SUPPORT SERVICES
Honolulu, Hawaii 96809

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

Acquisition of private lands and set aside to Department of Education for elementary school campus, Kehalani Mauka, Wailuku, Maui, Hawaii, Tax Map Key designation (2) 3-5-001-103, as shown on the attached map labeled Exhibit A.

APPLICANT AGENCY:

Department of Education ("DOE")

PRIVATE LANDOWNER:

RCFC KEHALANI, LLC ("RCFC"), a Delaware limited liability company, whose address is 2005 Main Street, Wailuku, Maui, Hawaii 96793

LEGAL REFERENCE:

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

LOCATION:

Privately-owned lands situated in Kehalani Mauka, Wailuku, Maui, Hawaii, Tax Map Key (TMK) (2) 3-5-001-103, as generally shown on the attached tax map, Exhibit A.

AREA:

14.098 acres

ZONING:

State Land Use District: Urban
County of Maui: Residential

CURRENT USE:

Public elementary school campus.

CONSIDERATION:

None. Pursuant to the Education Contribution Agreement for Wailuku-Kahului Project District 3 ("Kehalani Mauka") dated January 14, 2003; and as amended August 14, 2008, and March 14, 2011; the landowner is dedicating the subject lands gratis.

PURPOSE:

Continued operation of public elementary school campus.

EXHIBIT 1

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before the Board of Land and Natural Resources (“Board”) involves a gratis land dedication that does not require the use of State funds. Therefore, this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements. Inasmuch as Chapter 343 environmental requirements apply to Applicant's use of the lands, Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>x</u>	NO
Registered business name confirmed:	YES <u>x</u>	NO
Applicant in good standing confirmed:	YES <u>x</u>	NO

APPLICANT REQUIREMENTS:

Private landowner has met the following requirements:

- 1) Provided survey maps and descriptions for the privately-owned property according to State DAGS standards at no cost to the State;
- 2) Obtained a title report for the privately-owned property at no cost to the State, and subject to review and approval by the Department; and
- 3) Paid for and conducted a Phase I environmental site assessment along with sufficient soil sampling and analysis as required by the State Department of Health. The landowner has prepared an updated Phase I environmental site assessment for the property dated August 1, 2013.

REMARKS:

The DOE is requesting the Board to approve the acquisition of land for a new elementary school campus in Wailuku, Maui.

Due diligence results are summarized below for your review and consideration.

Survey maps and descriptions: Subdivision of the subject site was approved and filed on May 3, 2011. Final subdivision approval was based upon Section 18.04.020C of the Maui County Code (Ordinance 2372). Access, landscaping, drainage and various utility easements are located along the site boundaries; however, these encumbrances do not impede school operations or future development of the subject site.

Title report: RCFC submitted a title report prepared by Title Guaranty of Hawaii, Inc., and dated July 19, 2013 (“PTR”). PTR does not identify any breaks in title or claims against RCFC's fee interest.

The encumbrances include provisions resulting from zoning amendments granted by the State, which are generally applicable to the area's master developer rather than being specific to the proposed school site itself. Moreover, the scope of several of the encumbrances, including those

resulting from such zoning amendments, will be limited to obligations that are unique to DOE, as a landowner at the time of conveyance as reflected in the deed document attached to this submittal as Exhibit B. Other encumbrances include utility and landscaping easements along the site's boundaries, as shown on Exhibit C, attached. None of the easements of record impede school operations or future development of the subject site.

Phase I Environmental Site Assessment: Bureau Veritas North America, Inc. (“BV”) prepared an updated Phase I Environmental Site Assessment Report dated August 1, 2013. Based on BV's review of historic records, photographs, maps, and interviews with people familiar with the property, BV reported that no recognized environmental conditions were identified on the subject property. A copy of the Executive Summary from the Phase I Environmental Site Assessment is attached as Exhibit D.

In addition to the updated Phase I Environmental Site Assessment, BV also conducted a Multi-Increment Sampling Investigation of the subject site. In its report, BV concluded subject site has not been significantly impacted by historical agricultural land uses and that the surface soil at the site is suitable for unrestricted land use and recommends no further investigation. A copy of the Executive Summary from the Multi-Increment Sampling Investigation Report is attached as Exhibit E.

Finally, the State of Hawaii, Department of Health, Hazard Evaluation and Emergency Response (“HEER”) issued a letter of No Further Action (“NFA”) determination for the Kehalani Development on March 14, 2011, attached hereto as Exhibit F.

Conveyance Document: A copy of the proposed draft warranty deed is attached as Exhibit B for your reference. It is noted that the attached document contains two material differences from the State's standard warranty deed.

1. **Hazardous waste testing provision:** The RCFC requests revisions to the State's standard warranty deed form as follows:

“AND, the Grantor warrants that if any lender or governmental agency shall ever require testing to ascertain whether there has been any release of hazardous materials by Grantor on or adjacent to the Property occurring prior to the Grantee's having taken possession of the above-described land pursuant to the unrecorded Right of Entry Agreement dated June 29, 2011, between Grantee and Kehalani Mauka, LLC, then the Grantor shall be responsible for the reasonable costs thereof. In addition, Grantor shall execute affidavits, representations and the like from time to time at the Grantee's request concerning the Grantor's best knowledge and belief regarding the presence of hazardous materials on the Property placed or released by the Grantor.”

As stated earlier in this submittal, DOE has been operating a public elementary school on the Property since July 2012. Based on the extensive environmental investigation and random soils testing by the Grantor, in addition to DOH's issuance of a letter of no further action, DOE believes that the proposed hazardous waste testing provision is reasonable.

Additionally, the State's standard hazardous waste indemnity deed provision will not be omitted from the final deed document form but has been revised as follows:

"The Grantor agrees to indemnify, defend, and hold Grantee harmless, from any damages and claims resulting from the release of hazardous materials on or about the Property occurring while the Grantor was in possession of the Property, if caused by the Grantor or persons acting through or under the Grantor."

2. **Land Use Conditions:** Based on extensive negotiations between the parties, RCFC has agreed to provide indemnification for specific land entitlement conditions imposed by the State Land Use Commission and County of Maui. The deed document proposes the following provision:

"AND, the Grantor hereby warrants to Grantee that Grantor is not in breach or default in the performance of or compliance with the Declaration of Conditions dated July 25, 1990, listed as item 3(d) on Exhibit "C" attached to this Deed; and Grantor hereby indemnifies and agrees to defend and hold Grantee harmless from all claims, losses, liabilities and expenses, including court costs and attorneys' fees that may be asserted against Grantee or that Grantee may suffer or incur in the future arising from or in connection with any present or future breach or default by Grantor (or by Grantor's successor acting as developer of Wailuku-Kahului Project District 3) of any term, provision or condition set forth in said Declaration of Conditions or if Grantee is required to perform any term, provision or condition set forth in said Declaration of Conditions."

RECOMMENDATION: It is recommended that the Board:

1. Authorize the acquisition of the subject private lands under the terms and conditions cited above which are by this reference incorporated herein and further subject to the following:
 - A. The terms and conditions of the warranty deed that is attached to this submittal as Exhibit B.;
 - B. Review and approval by the Department of the Attorney General;
 - C. Such other terms and conditions as may be prescribed by the Chairperson


of the Board to best serve the interests of the State.

2. Authorize the Department of Land and Natural Resources (“DLNR”) to issue a right-of-entry agreement (“ROE”) which would allow DOE to continue with operations of a public elementary school. This ROE would become effective upon recordation of the warranty deed for this dedication and terminate upon issuance of an executive order setting aside the subject lands to DOE.

3. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to DOE under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:

- A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
- B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
- C. Review and approval by the Department of the Attorney General; and
- D. Such other terms and conditions as may be prescribed by the Chairperson of the Board to best serve the interests of the State.

Respectfully Submitted,



Kathryn S. Matryoshi
Superintendent

APPROVED FOR SUBMITTAL:

William J. Aila Jr., Chairperson

EXHIBIT A

Reports

Parcel: [View as: Pictometry](#) | [Google Earth](#) | [Bird's Eye](#) | [Google Maps & Street View](#)

Selected Parcel 350011030000
(Click for Complete Card)

Land Size 14.098 Acres

Name RCFC KEHALANI LLC

Mailing Address ATTN: AARON GIOVARA
555 CALIFORNIA ST STE #3450
SAN FRANCISCO CA 94104

Status/Physical Address 0 HONOAPIILANI HWY

Assd Land Value \$1,490,900.00

Assd Building Value \$0.00

Total Assd Value \$1,490,900.00

Exempt Value \$0.00

Taxable Value \$1,490,900.00

Recent Sale Information

Date	Price	Vac/Imp	Qual

Map data ©2014 Google, Terms of Use Report a map error

Parcel List

Legend

Measure

is, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll.

EXHIBIT B

LAND COURT SYSTEM
Return by Mail () Pickup () To:

REGULAR SYSTEM

Tax Key: (2) 3-5-001-103

Total No. of Pages: _____

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

THAT, effective as of the _____ day of _____, 2013, RCFC KEHALANI, LLC, a Delaware limited liability company, whose address is 2005 Main Street, Wailuku, Maui, Hawaii 96793, hereinafter referred to as the "Grantor," with no consideration being paid by the STATE OF HAWAII, by its Board of Land and Natural Resources, whose address is 1151 Punchbowl Street, Honolulu, Hawaii 96813, hereinafter referred to as the "Grantee," does hereby grant and convey unto the Grantee, the Grantee's successors and assigns, that certain parcel of land situate at Wailuku, Maui, Hawaii, being LOT 3-A-2-A of the "KEHALANI MAUKA (LARGE-LOT) SUBDIVISION NO. 3-B", bearing Tax Map Key designation (2) 3-5-001-103, and containing an area of 14.098 acres, more or less, as more particularly described as Exhibit "A" attached hereto, and as delineated on the

survey map dated February 16, 2010, revised August 2, 2010, attached hereto as Exhibit "B", which exhibits are made parts hereof.

AND the reversions, remainders, rents, income and profits thereof, and all of the estate, right, title, and interest of the Grantor, both at law and in equity, therein and thereto.

TO HAVE AND TO HOLD the same, together with all improvements, rights, easements, privileges and appurtenances thereunto belonging or in any ways appertaining or held and enjoyed therewith in fee simple unto said Grantee, the Grantee's successors and assigns, forever, free and clear of all liens and encumbrances, except as noted herein.

SUBJECT, HOWEVER, to the exceptions, reservations, encumbrances and provisions contained or referenced in this Deed and in Exhibit "C" attached hereto and made a part hereof.

The Grantor, for itself, its successors and assigns, does hereby covenant with the Grantee, its successors and assigns, that the Grantor is lawfully seised in fee simple and possessed of the above-described land and premises, that it has a good and lawful right to convey the same as aforesaid, that the same is free and clear of all liens and encumbrances, excepting the lien of real property taxes assessed for the current fiscal year but not yet due, and further excepting any and all exceptions, reservations and encumbrances created by or referred to in Exhibit "C" attached hereto, and that it will and its successors and assigns, shall WARRANT AND DEFEND the same unto the Grantee, its successors and assigns, forever, against the claims and demands of all persons whomsoever, except as aforesaid.

AND, the Grantee covenants that this conveyance of real property has had prior approval by the Attorney General pursuant to Section 26-7 and Section 107-10, Hawaii Revised Statutes, as to legality and form, exceptions, and reservations.

AND, the Grantor hereby warrants to Grantee that Grantor is not in breach or default in the performance of or compliance with the Declaration of Conditions dated July 25, 1990, listed as item 3(d) on Exhibit "C" attached to this Deed; and Grantor hereby indemnifies and agrees to defend and hold Grantee harmless from all claims, losses, liabilities and expenses, including court costs and attorneys' fees that may be

asserted against Grantee or that Grantee may suffer or incur in the future arising from or in connection with any present or future breach or default by Grantor (or by Grantor's successor acting as developer of Wailuku-Kahului Project District 3) of any term, provision or condition set forth in said Declaration of Conditions or if Grantee is required to perform any term, provision or condition set forth in said Declaration of Conditions.

AND, the Grantor warrants that if any lender or governmental agency shall ever require testing to ascertain whether there has been any release of hazardous materials by Grantor on or adjacent to the Property occurring prior to the Grantee's having taken possession of the above-described land pursuant to the unrecorded Right of Entry Agreement dated June 29, 2011, between Grantee and Kehalani Mauka, LLC, then the Grantor shall be responsible for the reasonable costs thereof. In addition, Grantor shall execute affidavits, representations and the like from time to time at the Grantee's request concerning the Grantor's best knowledge and belief regarding the presence of hazardous materials on the Property placed or released by the Grantor.

The Grantor agrees to indemnify, defend, and hold Grantee harmless, from any damages and claims resulting from the release of hazardous materials on or about the Property occurring while the Grantor was in possession of the Property, if caused by the Grantor or persons acting through or under the Grantor.

For the purpose of this deed "hazardous material" shall mean any pollutant, contaminant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil, as all of the above are defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, the Federal Clean Water Act, Chapter 128D, Hawaii Revised Statutes, or any other federal, state, or local law, regulation, ordinance, rule, or bylaw, whether existing as of the date hereof, previously enforced, or subsequently enacted.

The Grantor has provided the Grantee with a Phase I environmental site assessment report dated August 1, 2013.

The provisions of this instrument shall run with the land and be binding upon and inure to the benefit of the Grantor and Grantee and their successors and assigns.

The parties hereto agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed this _____ day of _____, 2013, and the STATE OF HAWAII, by its Board of Land and Natural Resources, the Grantee herein, has caused the seal of the Department of Land and Natural Resources to be hereunto affixed and these presents to be executed this _____ day of _____, 2013, both effective as of the day, month, and year first above written.

GRANTOR:

RCFC KEHALANI, LLC

By REDWOOD CAPITAL FINANCE
COMPANY, LLC, Its Member

By _____

Its _____

Approved by the Board of
Land and Natural Resources
at its meeting held on
_____, 2013.

STATE OF HAWAII

By _____

Chairperson
Board of Land and Natural
Resources

APPROVED AS TO LEGALITY
AND FORM:

Print Name: _____
Notary Public, State of Hawaii.

My commission expires: _____

Notary Certificate on Next Page

Date of Document: _____ # Pages: _____
or Undated at time of notarization

Name: _____ Second Circuit

Doc. Description:

Notary Signature _____ Date _____

NOTARY CERTIFICATION

8. 284° 00' 38.96 feet along Lot 3-A-3 of the Kehalani Mauka (Large-Lot) Subdivision No. 3-B, also along the remainder of Grant 483 to Edward Bailey;

Thence along same on a curve to the left with a radius of 472.00, the chord azimuth and distance being:

9. 271° 15' 208.34 feet;
10. 258° 30' 254.89 feet along same;

Thence along same on a curve to the left with a radius of 30.00 feet, the chord azimuth and distance being:

11. 214° 38' 30" 41.57 feet;
12. 350 47' 753.24 feet along the West side of Lot R-3 (Kehalani Mauka Parkway) of the Kehalani Mauka (Large-Lot) Subdivision No. 3-B, also along the remainder of Grant 483 to Edward Bailey;

Thence along same on a curve to the left with a radius of 520.00 feet, the chord azimuth and distance being:

13. 329° 50' 02" 371.85 feet;

Thence along same on a curve to the left with a radius of 670.00 feet, the chord azimuth and distance being:

14. 307° 04' 27" 42.33 feet to the point of beginning and containing an area of 14.098 acres, more or less.

A. Access.

Together with easement rights for access purposes over and across the following:

1. Roadway Reserves 1, 2, 3, 4 and 5, and Lots 7, 8 and 9 (Road Widening Lots) as shown on "KEHALANI MAUKA (LARGE LOT) SUBDIVISION NO. 1" map dated November 7, 2002, revised December 13, 2002, approved on December 30, 2002, Subdivision File No. 3.1993;
2. Roadway Reserves 6, 7, 8, 9 and 10 as shown on "KEHALANI MAUKA (LARGE LOT) SUBDIVISION NO. 2" map dated September 21, 2004, approved on October 22, 2004, Subdivision File No. 3.2059;
3. Easement rights in Easements "1", "3" and "4" for access purposes, as set forth by Declaration of Easements, dated September 19, 2004, recorded in the said Bureau of Conveyances as Document No. 2004-187029, and subject to the terms and provisions contained therein;

provided, however, that if and when any such roadway reserve, easement or road lot described in paragraphs 1, 2 or 3 above shall be conveyed to or acquired by any governmental authority as a public highway, then all private easement rights granted hereby in said area so conveyed or acquired shall automatically terminate.

(Note: Portions of said roadway reserves and easements described in paragraphs 1, 2 or 3 above are located within the roadway lots described on Exhibits "1", "2" and "3" attached to this Exhibit "A".)

B. Drainage.

Together also with an easement for surface drainage purposes over the "Easement Area", being a portion of the land(s) bearing Tax Key designation (2) 3-5-002-001, as granted by Grant of Easement dated September 9, 2006, recorded in the said Bureau of Conveyances as Document No. 2006-184672, and subject to the terms and provisions contained therein.

Being the premises acquired by the Grantor herein by Deed of Kehalani Mauka LLC, a Hawaii limited liability company, dated August 27, 2012, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. A-47700420.

EXHIBIT "1"

[Kehalani Mauka (Large-Lot) Subdivision No. 3-B
Description of Lot R-3]

EXHIBIT "2"

[Iliahi at Kehalani Roadway Lot Subdivision
Description of Lot 4-D]

EXHIBIT "3"

[Iliahi at Kehalani Roadway Lot Subdivision
Description of Lot 4-E]

EXHIBIT "B"

[Kehalani Mauka (Large-Lot) Subdivision No. 3-B Map dated
February 16, 2010, revised August 2, 2010]

EXHIBIT "C"

The property described in Exhibits "A" and "B" is conveyed subject to the following:

1. SUBJECT TO, AND RESERVING for the benefit of Grantor, and Grantor's successors and assigns, a non-exclusive, perpetual easement in gross over, under and across Easement E-5 for the installation, operation, maintenance, repair and replacement of facilities for the transport of drainage and storm water runoff, bounded and described on Exhibit "1" attached to this Exhibit "C" and incorporated herein by reference, including, but not limited to, underground drainage culverts, drainage pipelines, conduits, manholes, meters and the like, as Grantor and its assigns in their sole discretion determine appropriate or desirable, and together with reasonable rights of ingress and egress; and together, also, with the right to grant to the State of Hawaii, the County of Maui or other appropriate governmental agency, or to a homeowners' association, one or more easements for such purposes within Easement E-5.

2. SUBJECT TO, AND RESERVING for the benefit of Grantor, and Grantor's successors and assigns, a non-exclusive, perpetual easement over, under and across Easement A-1 (the "Driveway") described on Exhibit "2" attached to this Exhibit "C" and incorporated herein by reference, for the installation, operation, maintenance, repair and replacement of a Driveway and for pedestrian and vehicular ingress and egress. This easement serves, and is appurtenant to, Lot P-1-A which abuts the easement area on the south and west and is bounded and described on Exhibit "3" attached to this Exhibit "C" and incorporated herein by reference. This easement is established upon, and subject to, all the terms and conditions of that certain unrecorded Agreement Between the State of Hawaii Department of Education and Kehalani Mauka LLC For a Permanent Access and Easement Across a Portion of Wailuku II Elementary School dated June 6, 2011, to which reference is hereby made.

3. SUBJECT, FURTHER, to the following:

(a) Mineral and water rights of any nature in favor of the State of Hawaii.

(b) Grant to Maui Electric Company, Limited, and Verizon Hawaii Inc., now known as Hawaiian Telcom, Inc., dated

February 3, 2005, recorded in the said Bureau of Conveyances as Document No. 2005-032467, granting a perpetual right and easement for utility purposes.

(c) The terms and provisions contained in Declaration and Reservation of Easements for Sewerline, Waterline and Drainage (Easement E-12) dated June 10, 2011, recorded in the said Bureau of Conveyances as Document No. 2011-104973. Note: Kehalani Mauka LLC's rights in said easement have been assigned to the Grantor herein.

(d) The terms and provisions contained in Declaration of Conditions dated July 25, 1990, recorded in the said Bureau of Conveyances as Document No. 90-117006.

EXHIBIT "1"

[Kehalani Mauka (Large-Lot) Subdivision No. 3-B
Description of Easement E-5]

EXHIBIT "2"

[Kehalani Mauka (Large-Lot) Subdivision No. 3-B
Description of Easement A-1]

EXHIBIT "3"

[Kehalani Mauka (Large-Lot) Subdivision No. 3-B
Description of Lot P-1-A]

EXHIBIT D

***Phase I Environmental
Site Assessment***

Wailuku II Elementary School
3700 Kehalani Mauka Parkway
(TMK Number: [2] 3-5-001: Parcel 103)
Wailuku, Maui, Hawaii

August 1, 2013
Project No. 17013-013122.00

Prepared for:

RCFC KEHALANI, LLC
2005 Main Street
Wailuku, Maui, Hawaii 96793



Move Forward with Confidence

Prepared by:

BUREAU VERITAS NORTH AMERICA, INC.
Health, Safety, and Environmental Services
841 Bishop Street, Suite 1100
Honolulu, Hawaii 96813
808.543.6100
www.us.bureauveritas.com



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List of Acronyms

AAI	All Appropriate Inquiry
ACM	Asbestos-Containing Materials
AST	Aboveground storage tanks
ASTM	ASTM International
AULs	Activity and Use Limitations
Bureau Veritas	Bureau Veritas North America, Inc.
CFR	Code of Federal Regulations
DLNR	State of Hawaii, Department of Land and Natural Resources
DPP	Department of Planning and Permitting
EDR	Environmental Data Resources, Inc.
ESA	Environmental Site Assessment
FEMA	Federal Emergency Management Agency
FINDS	Facility Index System
FIRM	Flood Insurance Rate Map
FKA	Formerly Known As
HDOH	State of Hawaii Department of Health
HEER	Hazard Evaluation and Emergency Response
ICIS	Compliance Information System
HUD	Housing and Urban Development
LBP	Lead-Based Paint
LUST	Leaking underground storage tanks
MECO	Maui Electric Company
MFD	Maui Fire Department
NFA	No Further Action
NPDES	US National Pollutant Discharge Elimination System
OSHA	Occupational Safety and Health Administration
PCBs	Polychlorinated biphenyls
SHWB	Solid and Hazardous Waste Branch
SHWS	State Hazardous Waste Site
SPILLS	Reported release
TMK	Tax Map Key
USCG	United States Coast Guard
USEPA	United States Environmental Protection Agency
USGS	United States Geological Survey
UST	Underground storage tank



Executive Summary

RCFC Kehalani, LLC retained Bureau Veritas North America, Inc. (Bureau Veritas) to conduct a Phase I Environmental Site Assessment ("ESA" or "Assessment") of the Wailuku II Elementary School, also known as Pu'u Kukui Elementary School property, located at 3700 Kehalani Mauka Parkway on Tax Map Key (TMK) Number: (2) 3-5-001: Parcel 103, Wailuku, Maui, Hawaii (the "subject property"). The objective of the Assessment was to provide an independent, professional opinion regarding recognized environmental conditions, as defined by ASTM International (ASTM), associated with the subject property. This Assessment was requested in association with RCFC Kehalani conveying the property to the State of Hawaii.

This Assessment was performed under the conditions of, and in accordance with Bureau Veritas' Proposal Number 1709.13.235, dated July 9, 2013, and ASTM International Practice E1527-05, Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process. Any exceptions to, additions to, or deletions from the ASTM Practice are described in the report. Details of the work performed, sources of information, and findings are presented in the report. Limitations of the Assessment are described in Sections 1.2 and 1.3.

The subject property consists of approximately 14.098 acres of land and is improved with a newly constructed elementary school complex located at 3700 Kehalani Mauka Parkway in Wailuku, on the island of Maui, in a residential setting. A description of the current uses and improvements at the subject property is presented in the following table:

Parcel/Street Address (including known historic address[es])	TMK: (2) 3-5-001: Parcel 103, 3700 Kehalani Mauka Parkway, Wailuku, Maui, Hawaii
Owner:	RCFC Kehalani, LLC
Number and Size of Buildings:	One two-story school building and seven single-story school buildings (square footage unknown).
Construction Date:	2012 through 2013 (portion still under construction)
Tenant:	Department of Education
Current Usage:	Elementary school for grades kindergarten through fifth grade

The historical research presented in this Assessment has established the obvious use of the subject property since 1885. In addition, information on historic uses of adjoining properties was also obtained. A chronological summary of the historic uses of the subject and adjoining/nearby properties is presented below.

The earliest available topographic maps, from 1885 and 1933, showed no development on the subject property, but the Wailuku Sugar Co. Railroad was depicted near the subject property. The 1955 and 1983 topographic maps depicted the "Hopoi Reservoir" adjacent to the northeast portion of the subject property. The earliest available aerial photographs from 1950 through 2000 showed the subject property and surrounding properties as cultivated agriculture land.

Available records at the County of Maui Real Property Tax Assessment Office indicated that the subject property has been owned by RCFC Kehalani, the current owner, since January 2013. The parcel was previously a part of TMK Nos.: (2) 3-5-001: Parcels 067, 077, and 078, and these parcels were created



from TMK No.: (2) 3-5-001: Parcel 001. The earliest available records, from 1939, indicated that Wailuku Sugar Co. owned parcel 001.

This Assessment has revealed no evidence of *recognized environmental conditions*, as defined by ASTM, in connection with the subject property.

It should be noted that the subject property was formerly used as agriculture land, with the potential for residual agriculture chemicals (i.e., pesticides/herbicides) to be present in the surface soils. However, the past, legal application of such chemicals is not considered a recognized environmental condition. In addition, a Phase II soil investigation conducted by Bureau Veritas in 2011 indicated that the subject property has not been significantly impacted by historic agriculture land uses. Furthermore, a letter from the HDOH HEER Office dated March 1, 2011, acknowledged that No Further Action was necessary and stated "A multi-increment soil sample collected from the proposed school site [i.e., Lot 3-A-2 or TMK (2) 3-5-001: Parcel 103] did not identify contaminants above levels for unrestricted land use. No further action is therefore warranted in regard to this issue."

EXHIBIT E

Multi-Increment Sampling Investigation Report

210.5 Acres of Proposed Residential Use and
38.5 Acres of Proposed Non-Residential Use
Kehalani Development
Wailuku, Maui, Hawaii

February 1, 2011
Project No. 17009-009032.00

Prepared for:

STANFORD CARR DEVELOPMENT, LLC
1100 Alakea Street, 27th Floor
Honolulu, Hawaii 96813



Move Forward with Confidence

Prepared by:

BUREAU VERITAS NORTH AMERICA, INC.
970 North Kalaheo Avenue, Suite C-316
Kailua, Hawaii 96734
808.531.6708
www.us.bureauveritas.com



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List of Acronyms

2,3,7,8-TCDD	2,3,7,8-tetrachlorodibenzo-p-dioxin
°F	Degrees Fahrenheit
amsl	Above mean sea level
bgs	Below ground surface
Bureau Veritas	Bureau Veritas North America, Inc.
CALUX [®]	Chemically Activated Luciferase Gene Expression
COPC	Chemicals of Potential Concern
DLNR	Department of Land and Natural Resources
DU	Decision Unit
EAL	Environmental Action Level
EPA	Environmental Protection Agency
GPS	Global Positioning System
HDOH	State of Hawaii Department of Health
HEER	Hazard Evaluation and Emergency Response
HRS	Hawaii Revised Statutes
LCS	Laboratory control sample
LCSD	Laboratory control sample duplicate
MDL	Method detection limit
mg/kg	Milligram per kilogram
mg/L	Milligrams per liter
MS	Matrix spike
MSD	Matrix spike duplicate
NELAC	National Environmental Laboratory Accreditation Conference
ng/kg	Nanogram per kilogram
pg/g	Picograms per gram
QA/QC	Quality Assurance/Quality Control
RPD	Relative percent difference
RSD	Relative standard deviation
SAP	Sampling and Analysis Plan
SOP	Standard Operating Procedure
Stanford Carr	Stanford Carr Development, LLC
TEF	Toxicity Equivalent Factor
TEQ	Toxicity Equivalent
TestAmerica	TestAmerica Laboratories Inc.
TGM	Technical Guidance Manual
TMK	Tax map key
UCL	Upper confidence level
UIC	Underground Injection Control
USDA	United States Department of Agriculture
USGS	United States Geological Survey
WHO	World Health Organization



Executive Summary

Bureau Veritas North America, Inc., (Bureau Veritas) was retained by Stanford Carr Development, LLC (Stanford Carr), to conduct an environmental investigation of the Kehalani Development in Wailuku, Maui, Hawaii. The environmental investigation focused on former agricultural property currently being developed for residential and non-residential uses.

The former agricultural property being developed for residential uses includes 12 contiguous residential lots (Modules 2, 3, 6, 7, 8, 9, 12, 13, 14, 17, 18, and 19) and one non-contiguous commercial lot (Module C11), which comprise a total area of 210.5 acres (hereinafter referred to as the "Residential Site"). The former agricultural property being developed for non-residential uses includes five non-contiguous lots (Lots 3-A-2, 1-J, P-1, P-2, and P-3), which comprise a total area of 38.5 acres (hereinafter referred to as the "Non-Residential Site"). The planned future uses for Non-Residential Site include a school, a community center, and three parks.

The purpose of the project was to assess the extent and magnitude of potential environmental impacts resulting from past agricultural use of the proposed Residential Site (consisting of 13 modules) and the proposed Non-Residential Site (consisting of five lots).

The environmental investigation approach for the Residential Site was presented in the *Revised Sampling and Analysis Plan for Multi-Increment Sampling*, dated February 10, 2010 (Bureau Veritas, 2010b). The environmental investigation approach for the Non-Residential Site was documented in the *Addendum to the Sampling and Analysis Plan for Multi-Increment Sampling*, which was dated March 18, 2010 (Bureau Veritas, 2010c). In general, this investigation collected surface soils from the Residential and Non-Residential Sites using Decision Unit (DU) strategies and multi-increment sampling techniques.

For the Residential Site, 59 DUs, each 5,000-square feet in area, were established based on HDOH guidance. The 59 DUs were randomly dispersed throughout the 13 modules creating the Residential Site based on the ratio of an individual module's area to the total area of the Residential Site and the soil type(s) within a module. After the 59 DUs were established and the latitude and longitude of the approximate center of the DUs were determined, a hand-held Global Positioning System (GPS) receiver was used to locate the DUs in the field.

For the Non-Residential Site, five DUs, each with different areas, were established based on HDOH guidance. For the Non-Residential Site, each of the five lots were defined as one individual DU, and a multi-increment soil sample was collected from each of the five DUs.

In February and March 2010, Bureau Veritas collected multi-increment surface soils from 59 Residential Site DUs and five Non-Residential Site DUs. For the Residential Site, a multi-increment sample consisting of 30 increments was collected from each DU, and for the Non-Residential Site, a multi-increment sample consisting of 100 increments was collected from each DU. Each of the multi-increment soil samples, plus seven replicate samples, were submitted to an analytical laboratory for preparation and analysis for (1) arsenic using the Environmental Protection Agency (EPA) Method 6010B, (2) dioxins using EPA Method 8290, and (3) organochlorine pesticides using EPA Method 8081.

For dioxins, the analytical results report the concentrations of individual congeners for each sample. The individual congeners were used to calculate the dioxin toxicity equivalence (TEQ) concentration based on the 2005 World Health Organization (WHO) toxicity equivalence factors (TEFs).

The analytical results for arsenic and organochlorine pesticides, and the calculated dioxin TEQ concentrations, were compared to the Final Tier 1 EALs for unrestricted land use where groundwater is a drinking water resource and the site is less than 150 meters from a surface water body.



Residential Site Summary, Conclusions, and Recommendations

The analytical results show arsenic and organochlorine pesticides were detected in one or more soil samples at concentrations above their method reporting limits. None of the detected concentrations of arsenic or organochlorine pesticides were above their respective Final Tier 1 EALs.

The dioxin TEQ concentrations were calculated for the multi-increment samples collected from the 59 DUs. The dioxin TEQ concentrations were less than the 2010 HDOH TEQ Dioxin Soil Action Level of 240 ng/kg in each of 59 soil samples. The dioxin TEQ concentrations were further compared to the Soil Management Categories, which show that nine dioxin TEQ concentrations were included in the Natural Background Soil Management Category (soil category "A") and 50 dioxin TEQ concentrations were included in the Minimally Impacted Soil Management Category (soil category "B").

Based on results of the analytical testing and the comparison of the results to the HDOH Final Tier 1 EALs and the 2010 HDOH TEQ Dioxin Soil Action Level, Bureau Veritas concludes that the surface soil, to a depth of 18-inches, in the Residential Site has not been significantly impacted by historical agricultural land uses and that the surface soil at the site is suitable for unrestricted land use.

Bureau Veritas recommends no further investigation of the Residential Site.

Non-Residential Site Summary, Conclusions, and Recommendations

The analytical results show arsenic was detected in two soil samples, at concentrations below the Final Tier 1 EAL. Organochlorine pesticides were not detected at concentrations above their respective method reporting limits in any of the five soil samples.

The dioxin TEQ concentrations were calculated for the multi-increment samples collected from the five DUs. The dioxin TEQ concentrations were less than the 2010 HDOH TEQ Dioxin Soil Action Level of 240 ng/kg in each of the five soil samples. The dioxin TEQ concentrations were further compared to the Soil Management Categories, which show that two dioxin TEQ concentrations were included in the Natural Background Soil Management Category (soil category "A") and three dioxin TEQ concentrations were included in the Minimally Impacted Soil Management Category (soil category "B").

Based on results of the analytical testing and the comparison of the results to the HDOH Final Tier 1 EALs and the 2010 HDOH TEQ Dioxin Soil Action Level, Bureau Veritas concludes that the surface soil, to a depth of 18-inches, in the Non-Residential Site has not been significantly impacted by historical agricultural land uses and that the surface soil at the site is suitable for unrestricted land use.

Bureau Veritas recommends no further investigation of the Non-Residential Site.

Limitations

The Residential Site and Non-Residential Site conditions documented in this report reflect the conditions of the property at the time the sampling was performed. The conditions documented in this report may be substantially altered during future grading and development activities. The conditions documented in this report should not be interpreted as representing the site conditions following future grading and development activities.

EXHIBIT F

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



LORETTA J. FUDDY, A.C.S.W., M.P.H.
ACTING DIRECTOR OF HEALTH

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

In reply, please refer to:
File:EIWAHEER
2011-114MGC

March 14, 2011

Mr. Jay Nakamura
Vice President -Senior Development Manager
STANFORD CARR DEVELOPMENT, LLC
1100 Alakea Street, 27th Floor
Honolulu, HI 96813

Facility: Kehalani Development, Wailuku, HI

Subject: No Further Action Determination Letter Based on the Review of the Multi-Incremental Sampling Investigation Report for the 210.5 Acres of Proposed Residential Use and 38.5 Acres of Non-Residential Use for Kehalani Development, Wailuku, Maui

Dear Mr. Nakamura:

The State of Hawaii, Department of Health (HDOH), Hazard Evaluation and Emergency Response (HEER) Office supports the No Further Action Determination for Kehalani Development based on the review of the "Multi-Incremental Sampling Investigation Report for the 210.5 Acres of Proposed Residential Use and 38.5 Acres of Non-Residential Use received on February 3, 2011.

The former agricultural property will be developed for residential, commercial and other uses. The 210.5 acre residential area consists of 12 contiguous residential lots and one non-contiguous commercial lot. The non-residential site will include five non-contiguous lots that comprise a total area of 38.5 acres. The non-residential site includes a school, a community center, and three parks.

For the residential property, 59 Decision Units (DUs) of 5000 square foot areas were randomly located and characterized throughout the 13 lots based on the ratio of individual lot area to the total area of the residential site. For the non-residential site, each of the five lots was considered as a separate DU. Multi-incremental soil samples collected from the DUs were analyzed for Total Arsenic (EPA Method 6010B), Dioxin (EPA Method 8290) and Organochlorine pesticides (EPA Method 8081).

Based on the result of the investigation, soil samples collected from both residential and non-residential sites show levels of total arsenic TEQ dioxins and organochlorine pesticides below DOH Final Tier I Environmental Action Levels (EALs) for unrestricted land use. The highest Total As concentration detected from soil samples collected from residential and non-residential

Letter to J. Nakamura
March 14, 2011
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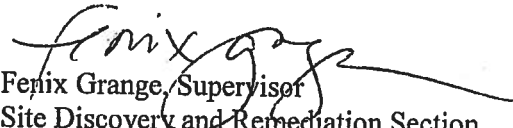
sites is 13.7 mg/kg, below the default background value of 20 mg/kg. The highest reported level of TEQ dioxins is 122 ng/kg, below the HDOH action level of 240 ng/kg.

The HDOH HEER Office sent a letter to Department of Education regarding the presence of a possible quonset hut in the proposed location of the school site (Lot 3-A-2) based on the 2002 Phase I conducted by Clayton (now Bureau Veritas). The Quonset hut was considered by HDOH as a potential Recognized Environmental Concern (REC). As discussed and explained by Bureau Veritas who prepared the 2002 Phase I, the building mentioned in the report was in fact a wooden structure, not a quonset hut and not located within the proposed school site. In the February 1, 2011, Multi-Increment Sampling Investigation Report, it was explained and clarified that the wooden structure was used for construction storage and was not considered to be an area of potentially significant contamination. A multi-increment soil sample collected from the proposed school site did not identify contaminants above levels for unrestricted land use. No further action is therefore warranted in regards to this issue.

Please be aware that if future information indicates that previously undisclosed contamination is identified at the site at a level that poses a threat to human health and the environment then HDOH could require additional investigation and cleanup to be performed.

If you need further information regarding this matter, please call Melody Calisay at 586-7577 or email her at melody.calisay@doh.hawaii.gov.

Sincerely,


Felix Grange, Supervisor
Site Discovery and Remediation Section
Department of Health- HEER Office

Cc: John Rau -Bureau Veritas