

OFFICE OF PLANNING

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BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A13-797
)	
CMBY 2011 INVESTMENT, LLC)	OFFICE OF PLANNING’S STATEMENT
)	OF POSITION; CERTIFICATE OF
To Amend the Land Use District Boundary)	SERVICE
of Approximately 86.03 Acres of Land from)	
the Agricultural District into the Urban)	
District at Pulehunui, Wailuku, Island of)	
Maui, State of Hawaii, Tax Map Key No:)	
(2) 3-8-008: 019)	

2013 JUL 18 P 1:08
LAND USE COMMISSION
STATE OF HAWAII

OFFICE OF PLANNING’S STATEMENT OF POSITION

Pursuant to Hawaii Administrative Rules (“HAR”) § 15-15-55, the Office of Planning (“OP”) submits this Statement of Position of support for the reclassification of the Petition Area, subject to certain conditions. This Statement of Position summarizes OP’s position and describes the positions of State departments impacted by the proposed boundary amendment, to the extent this information is currently available. OP’s position is based on the representations of the Petitioner and documents filed in these proceedings, coordination with the Petitioner and affected government agencies, and the statutes and regulations applicable to these proceedings. Additional information may become available in the future and will be reflected in OP’s written testimony.

PETITION OVERVIEW

General Information

The Petitioner CMBY 2011 Investment, LLC (“Petitioner”), requests that the Land Use Commission (“Commission”) reclassify approximately 86.03 acres of land from the State Agricultural District to the State Urban District at Pulehunui, Wailuku, Maui.

The Petitioner, a Washington limited liability company whose principal place of business is P.O. Box 220, Kihei, Hawaii, 96753, is the fee owner of the parcel, Tax Map Key (“TMK”) No. (2) 3-8-008: 019, being proposed for reclassification under this Petition.

Proposed Use of the Petition Area

Petitioner proposes to develop a heavy industrial subdivision. The Petitioner plans to subdivide the Petition area into 28 lots ranging in size from 0.5 to 20 acres. Infrastructure will include grading, drainage system and retention basin, the construction of internal roadways, utilities, a private water system and individual wastewater systems. According to the Petition, the final number and size of the lots may change.

The Petition indicates that the proposed uses will be dependent upon the lot buyer, and that buyers will most likely be those who want to develop “pure industrial uses”, such as manufacturing from raw materials, warehousing, and secured baseyard uses. The Petition also states explicitly that “the Petition Area will not be used as a landfill, which is a permitted use within the M-3 District, unless the Petitioner seeks approval of the Commission pursuant to a Motion to Amend or such other procedure” (Petition, page 16).

In the Final Environmental Assessment (“FEA”), a discussion regarding a construction and demolition landfill states:

“The land owner and the Maui Department of Environmental Management (DEM) have had meetings to discuss the possibility of establishing a construction and demolition (C&D) landfill within the proposed subdivision since an existing privately owned D&D facility at Maalaea is nearing capacity and has approximately two years of remaining space. Due diligence work to assess the feasibility of proceeding with the C&D landfill (a permitted use under M-3 zoning) is currently underway. Should plans for the C&D landfill move forward for implementation, the design, construction, operation and maintenance of the facility will comply with all applicable regulatory and environmental rules and regulations for its development.” (Petitioner’s Exhibit 1, page 12)

Petitioner's plans relative to landfill use should be clarified by the Petitioner during the Commission hearing; including the extent to which such use has been assessed in the FEA.

Petition Area Description and County Land Use Designations

The Petition Area is situated in Pulehunui, Wailuku and is currently vacant and undeveloped. Previously, the Petition area was used as a part of the Puunene Naval Air Station, and subsequently used for sugar cane cultivation and a plantation camp. The Petition area was also utilized as a pig farm, and then as an unofficial solid waste area for scrap metal. All uses were discontinued after 2007. According to the Petition, the area has access to Mokulele Highway through Kamaaina Road, South Firebreak Road and Lower Kihei Road. The Petition Area is shown in Petitioner's Exhibit 1, Figure 1.

The Petition area is designated Agriculture within the Kihei-Makena Community Plan. The Petitioner plans to rezone the Petition area from Agriculture to the M-3 Restricted Industrial district. The Petition area is within the approved Maui Island Plan's Urban Growth Boundary. The Petitioner's FEA was accepted on November 27, 2012 by the County of Maui Planning Commission.

The Petition area is surrounded by sugar cane fields on the north, east and south sides. The lands to the north and east are primarily owned by the State Department of Land and Natural Resources. Lands to the south are owned by the Department of Hawaiian Home Lands. A Hawaiian Cement Quarry is approximately 0.2 mile east of the Petition area. Lands to the west are within the Kihei-Makena Community Plan Project District No. 10 and the Puunene Airport Master Plan. Project District No. 10 is managed by the County of Maui under an Executive Order from the State of Hawaii, and is currently used for the Maui Raceway Park dragstrip and other recreational activities. The Hawaii Army National Guard armory is located along Mokulele Highway.

An irrigation reservoir is located adjacent to the Petition area on the north side. Kealia Pond National Wildlife Refuge ("KPNWR") is located about 1.75 miles southwest from the Petition area.

KEY ISSUES OF CONCERN TO THE STATE

The following summarizes key issues related to areas of State concern in Hawaii Revised Statutes ("HRS") §§ 205-16 and 205-17. OP's written testimony will recommend appropriate

conditions, as necessary, to address any reasonably foreseeable impacts from the proposed project that have not been addressed by commitments made by Petitioner to avoid, minimize, or mitigate these impacts.

Impacts on Areas of State Concern

Natural Systems and Habitats

Water Resources. Petitioner proposes to construct a private water system, owned and maintained by the project owners' association, including 3 new wells for potable and non-potable project needs. Projected demand for potable water is 118,800 gpd, and 305,200 gpd for the non-potable needs, including fire flow. A reverse osmosis system will be utilized to treat brackish ground water to satisfy the potable water needs for the project. The saline byproduct from the reverse osmosis system will be deposited into an injection well to be probably placed in the south side of the Petition area. The Kahului aquifer is not within a Water Management Area subject to water use permits by the Commission on Water Resource Management ("CWRM") (Attachment A).

Flora and Fauna. The Petitioner conducted surveys of the Petition Area. These surveys are included in Petitioner's Exhibit 1, Appendix E, Flora Survey, Appendix F, Faunal Survey, Appendix F-1, Anthropod Survey, and Appendix F-2, Nene Goose Survey. Surveys for the endangered Blackburn's sphinx moth were included in the Anthropod survey, dated July 23, 2012. The survey concluded that the endangered moth, host plants, eggs or larvae were not discovered on site. A letter dated June 3, 2013 from the U.S. Fish and Wildlife Service ("USFWS") indicates that a survey should be conducted during the wettest portion of the year, from November to April. Appendix F-1 does not indicate on what dates the survey was undertaken.

Appendix F-2 indicates that no Nene were found on site, and that this site would be unattractive to them for foraging. The USFWS indicates that the Petitioner should contact their office for additional information on avoiding impacts to the Nene goose.

Other concerns expressed by the USFWS were that the proposed retention basins may attract endangered waterbirds to the site. Also that barbed wire fencing may adversely impact the Hawaiian hoary bat. Seabirds such as the Hawaiian petrel and Newell's shearwater may transit through the Petition area. The FEA states that all outdoor lighting will be shielded to minimize impacts to seabirds. The USFWS also recommends that a biosecurity assessment be

conducted to address the potential impacts of invasive species introduction and transport during the construction phase. OP will recommend a condition to ensure the downshielding of exterior lighting to minimize impacts to avifauna (Attachment B).

Archaeological, Historic, and Cultural Resources. The Petitioner conducted a Cultural survey that indicates that no specific ongoing traditional cultural practices were taking place on the Petition area. The Petitioner also conducted an Archaeological Inventory Survey (“AIS”), FEA Appendix I in 2011. In addition, there was a previous AIS completed in 1999, which identified two sites. The 2011 AIS identified 15 additional sites which are associated with both of the sites originally discovered in the 1999 AIS. These sites are significant under Criterion D for their information content. Further, State Site no. 50-50-09-4164 is significant under Criterion A, yielding important information to the history of the island of Maui. The AIS recommended that no further work or mitigation measures are necessary.

A letter dated June 18, 2012 (FEA Appendix I-1), from the Department of Land and Natural Resources, State Historic Preservation Division (“SHPD”) indicates that they concur with the results of the AIS, and also recommends archaeological monitoring should an alternate access road alignment be planned.

Appendix J of the FEA is the Archaeological Monitoring Plan that was approved by the SHPD, by letter dated August 24, 2013, (FEA Appendix J-1). OP will recommend conditions to ensure that appropriate mitigation measures are undertaken if any cultural, historic or archaeological findings occur during construction-related activities.

Agricultural lands. According to the State Department of Agriculture, the project will not adversely affect the existing agricultural activities or agricultural resources of the area. The Land Study Bureau rates the productivity of the lands on the Petition area as ‘E’, and under the Agricultural Lands of Importance to the State of Hawaii (“ALISH”) system, the soils are unclassified. OP will recommend a condition related to HRS Chapter 165, Hawaii Right to Farm Act (Attachment C).

Sustainability, energy and resources. Act 181, Session Laws of Hawaii, 2011, established priority guidelines for sustainability in the Hawaii State Plan. Furthermore, the State of Hawaii’s Clean Energy Initiative has adopted a goal of using efficient and renewable energy resources to meet 70 percent of Hawaii’s energy demand by 2030, with 30 percent from efficiency measures and 40 percent from locally-generated renewable sources.

A sustainability plan was not provided in the Petition. The Petitioner indicates that lot owners will be encouraged to implement sustainability measures and practices during lot development and onsite operations. The proposed project will support small business and entrepreneurship during and after construction by creating new jobs. OP will recommend conditions related to energy and water conservation.

Commitment of State Funds and Resources

Transportation. The Petitioner included a Traffic Impact Analysis Report (“TIAR”), FEA Appendix Q. Access to the Petition Area will be from Mokulele Highway intersection with Kamaaina Road and Mehameha Loop, about 1.4 miles northwest of the Petition area. Within the TIAR, several mitigation measures were proposed, which include modifying Mokulele Highway.

A letter from the State Department of Transportation dated June 7, 2013, indicates that the TIAR should be revised, and that all recommended transportation improvements required to mitigate local and direct project generated impacts should be implemented, including the dedication of roadway right-of-ways on Mokulele Highway. Lastly, a fair share contribution for the cost of regional improvements should be considered. OP will recommend conditions to mitigate traffic impacts of the proposed project (Attachment D), in consultation with the State Department of Transportation.

Drainage. Covenants, Conditions and Restrictions (“CC&R”) will be required of all lot owners to prepare Best Management Practices and emergency response plans specific to their proposed heavy industrial use. The Petition indicates that some proposed measures could be 1) to inspect the drainage system annually and after major storms; 2) prevent grass cuttings from entering the drainage systems; 3) clean all parking areas as often as possible, etc.

According to Appendix P of the FEA, Preliminary Engineering Report, the proposal calls for 26 lots ranging in size from 0.5 acre to 20 acres. The Petition area is relatively level, with a slight slope from east to west. Currently, runoff from the Petition area sheetflows towards the west side and Mokulele Highway. Appendix P of the FEA indicates that the current 50-year storm runoff from the project site is 75.2 cubic feet per second (“cfs”) and 135,400 cubic feet (“cf”) of runoff volume. Each individual lot will be required to install an onsite drainage system to collect runoff from the site and provide a drainline connection to the drain stubout to the master drainage system. The master drainage system within the roadways will include catch basins, manholes, drainlines and a drain stubout to the individual lots. Retention basins

constructed along the western side of the Petition area will then capture the runoff within the roadways. The runoff after the development is constructed is projected to increase to about 325.5 cfs and generate 413,900 cf of surface runoff volume. The proposed project will be constructed in accordance with the County of Maui's rules for storm drainage facilities.

The State Department of Health ("DOH") commented on the Draft Environmental Assessment in a letter dated July 9, 2012. The DOH indicates that the proposed project and its potential impacts must meet the following criteria relating to potential impacts to State waters, in this case Maalaea Beach, which is listed as Category 5 waters. According to the FEA, Drainage, pages 86-89, no surface runoff is expected to reach Maalaea Beach. Also, the FEA indicates that,

"studies have indicated that the mud cap rock along the southern two-thirds of Maalaea Bay prevents groundwater discharge along the shoreline, forcing it further offshore where it is thoroughly mixed to background ocean water levels. As a result, any impact to groundwater flowing beneath the project site and flowing south toward Maalaea Bay will not adversely impact the beach's water quality, including its turbidity and chlorophyll *a* levels." (Page 87).

Appendix O of the FEA, Groundwater Resource and Water System Assessment, also indicates that there will be some impacts to the 4.0 MGD of groundwater flowing directly beneath the Petition area. This groundwater currently flows downgradient to the existing three wells in the Kealia National Wildlife Refuge. These wells are pumped seasonally to maintain the ponds and wetlands area. The changes listed on page 14 of this report are, 1) 5.7% decrease in flowrate; 2) 3.6% increase in salinity; 3) 1.3% increase in nitrogen; 4) 7.1% increase in phosphorus.

OP has concerns regarding impacts to Maalaea Beach and other downstream properties, such as the Kealia Pond National Wildlife Refuge. Conditions to mitigate impacts from storm water runoff and to groundwater resources will be recommended. Also, it is noted that the "studies" mentioned above regarding the groundwater flow into Maalaea Beach have not been referenced.

Civil Defense. This location does not have an outdoor warning system. State Civil Defense recommends that one omni-directional 121 db solar powered siren be installed for coverage of the proposed project and will advise the developer on placement of the siren. OP will recommend a condition to address the provision of a siren system (Attachment E).

Other Issues of Concern

Wastewater. The Petition area does not have connection to the County wastewater system. Individual lot owners will install aerobic-type individual wastewater systems with a leach field for each lot. Provisions for the installation and maintenance of each wastewater system will be included in the CC&R's.

Provision for Employment Opportunities and Economic Development. The proposed project will increase employment opportunities. There is a projected direct increase of 32 jobs a year on Maui and an indirect increase of 33 jobs a year during the infrastructure development. Also, a demand for 17 jobs off-island will be created during the initial infrastructure development. During individual lot construction, an increase of 70 direct and 72 indirect jobs will be created on Maui. The increase in off-island indirect employment is projected to be 38 jobs a year.

SUMMARY OF CONFORMITY WITH APPLICABLE DISTRICT STANDARDS, STATE PLANNING STATUTES, COUNTY PLANS, AND OTHER DECISION-MAKING CRITERIA

Currently, the Petition area is vacant and undeveloped, situated adjacent to agricultural uses, such as sugar cane fields and a quarry. The Petition area has historically been utilized for various urban types of uses with the Puunene Naval Air Station, and a plantation camp. The surrounding areas are agricultural on the north and east sides, with recreational and public uses (National Guard armory) on the south side. However, the State Departments of Land and Natural Resources and Hawaiian Home Lands intend to develop some of these surrounding lands with a mixture of business and public uses. The recently approved Maui Island Plan designates the Petition Area and some of the surrounding State lands within the Urban Growth Boundary. This proposal is consistent with the County of Maui's plans for the Kihei-Makena area, and generally meets the standards for determining State Urban District boundaries as set forth in HAR §15-15-18. With appropriate mitigation, the proposed reclassification is generally consistent with one or more objectives, policies, and priority guidelines of HRS Chapter 226, the Hawaii State Plan. In particular, the proposal supports a steadily growing and diversified economic base. The reclassification will complement the Administration's priorities in its New Day Comprehensive Plan by supporting the economy, jobs and small businesses. The Petition

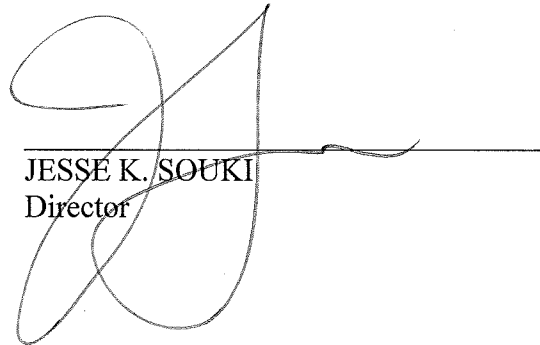
generally conforms to the Coastal Zone Management objectives and policies set forth in HRS §205A-2.

Based on our preliminary assessment of the Project with respect to the Commission's decision-making criteria, OP supports the proposed boundary amendment with conditions that will address the concerns raised herein. The proposed boundary amendment does not conflict with HRS Chapter 205 and generally meets the Commission's decision-making criteria contained in HRS Chapter 205 and HAR Chapter 15-15. OP's position is contingent on the Petitioner's commitment to avoid, minimize, or mitigate Project impacts identified by the State herein and in this proceeding to the satisfaction of the relevant State agencies prior to the close of the Petitioner's case-in-chief, or by agreed-to conditions of approval.

OP distributed the Petition to State agencies for their review and comments; additional information or concerns may be forthcoming. Specific impacts on areas of State concern and recommendations on conditions to mitigate Project impacts will be discussed further in OP's written testimony.

DATED: Honolulu, Hawaii, this 18th day of July 2013.

OFFICE OF PLANNING
STATE OF HAWAII



JESSE K. SOUKI
Director

Docket No. A13-797

CERTIFICATE OF SERVICE

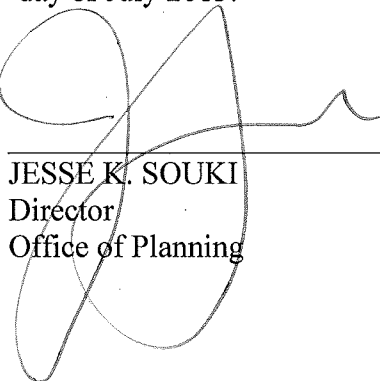
I hereby certify that a copy of the foregoing was served upon the following by either hand delivery or depositing the same in the U.S. Postal Service by regular mail.

STEVEN S.C. LIM
JENNIFER A. BENCK
ASB Tower, Suite 2200
1001 Bishop Street
Honolulu, Hawaii 96713

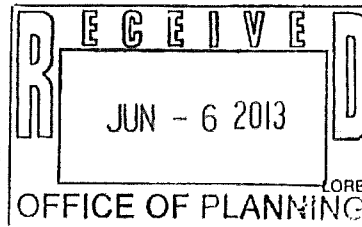
WILLIAM SPENCE
Director, Planning Department
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PATRICK K. WONG, ESQ. COUNTY CORPORATION COUNSEL
Corporation Counsel
Department of the Corporation Counsel
County of Maui
200 High Street
Wailuku, Hawaii 96793

DATED: Honolulu, Hawaii, this 18th day of July 2013.



JESSE K. SOUKI
Director
Office of Planning



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CHAIRPERSON
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TED YAMAMURA
WILLIAM M. TAM
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
P.O. BOX 621
HONOLULU, HAWAII 96809

June 4, 2013

Mr. Jesse K. Souki, Director
Office of Planning
Department of Business, Economic Development & Tourism
235 South Beretania St., 6th Floor
Honolulu, HI 96804

Dear Mr. Souki:

SUBJECT: Puunene Heavy Industrial Subdivision SLUDB Petition

FILE NO.: LUC A13-797
TMK NO.: (2) 3-8-008:019

Thank you for the opportunity to review the subject document. The Commission on Water Resource Management (CWRM) is the agency responsible for administering the State Water Code (Code). Under the Code, all waters of the State are held in trust for the benefit of the citizens of the State, therefore, all water use is subject to legally protected water rights. CWRM strongly promotes the efficient use of Hawaii's water resources through conservation measures and appropriate resource management. For more information, please refer to the State Water Code, Chapter 174C, Hawaii Revised Statutes, and Hawaii Administrative Rules, Chapters 13-167 to 13-171. These documents are available via the Internet at <http://www.hawaii.gov/dlnr/cwrm>.

Our comments related to water resources are checked off below.

- 1. We recommend coordination with the county to incorporate this project into the county's Water Use and Development Plan. Please contact the respective Planning Department and/or Department of Water Supply for further information.
- 2. We recommend coordination with the Engineering Division of the State Department of Land and Natural Resources to incorporate this project into the State Water Projects Plan.
- 3. We recommend coordination with the Hawaii Department of Agriculture (HDOA) to incorporate the reclassification of agricultural zoned land and the redistribution of agricultural resources into the State's Agricultural Water Use and Development Plan (AWUDP). Please contact the HDOA for more information.
- 4. We recommend that water efficient fixtures be installed and water efficient practices implemented throughout the development to reduce the increased demand on the area's freshwater resources. Reducing the water usage of a home or building may earn credit towards Leadership in Energy and Environmental Design (LEED) certification. More information on LEED certification is available at <http://www.usgbc.org/leed>. A listing of fixtures certified by the EPA as having high water efficiency can be found at <http://www.epa.gov/watersense/>.
- 5. We recommend the use of best management practices (BMP) for stormwater management to minimize the impact of the project to the existing area's hydrology while maintaining on-site infiltration and preventing polluted runoff from storm events. Stormwater management BMPs may earn credit toward LEED certification. More information on stormwater BMPs can be found at <http://hawaii.gov/dbedt/czm/initiative/lid.php>.
- 6. We recommend the use of alternative water sources, wherever practicable.
- 7. There may be the potential for ground or surface water degradation/contamination and recommend that approvals for this project be conditioned upon a review by the State Department of Health and the developer's acceptance of any resulting requirements related to water quality.

Permits required by CWRM:

Additional information and forms are available at http://hawaii.gov/dlnr/cwrm/info_permits.htm.

- 8. The proposed water supply source for the project is located in a designated water management area, and a Water Use Permit is required prior to use of water. The Water Use Permit may be conditioned on the requirement to use dual line water supply systems for new industrial and commercial developments.
- 9. A Well Construction Permit(s) is (are) required before the commencement of any well construction work.
- 10. A Pump Installation Permit(s) is (are) required before ground water is developed as a source of supply for the project.
- 11. There is (are) well(s) located on or adjacent to this project. If wells are not planned to be used and will be affected by any new construction, they must be properly abandoned and sealed. A permit for well abandonment must be obtained.
- 12. Ground-water withdrawals from this project may affect streamflows, which may require an instream flow standard amendment.
- 13. A Stream Channel Alteration Permit(s) is (are) required before any alteration can be made to the bed and/or banks of a stream channel.
- 14. A Stream Diversion Works Permit(s) is (are) required before any stream diversion works is constructed or altered.
- 15. A Petition to Amend the Interim Instream Flow Standard is required for any new or expanded diversion(s) of surface water.
- 16. The planned source of water for this project has not been identified in this report. Therefore, we cannot determine what permits or petitions are required from our office, or whether there are potential impacts to water resources.
- OTHER:

Previous comments on this project are enclosed. The document recognizes the sources of the ground water aquifer, and recognizes the limitations of quantity and of non-potable water quality. The document proposes three new wells to serve potable and non-potable project requirements, with reverse osmosis (RO) to treat water needed for potable purposes, delivered through a dual system. Projected potable demand is 118,800 gpd; non-potable demand is estimated at 305,200 gpd (including fire flow).

Storm runoff is proposed to be retained on site, wastewater treated in leach fields, and RO concentrate disposed in injection wells. Ground water impacts in the immediate vicinity have been estimated, considered locally modest and of insignificant broader impact. Unknowable industrial impacts are to be mitigated through approved management plans for each lot.

If there are any questions, please contact Charley Ice at (808) 587-0218.

Sincerely,


WILLIAM M. TAM
Deputy Director




WILLIAM J. AILA, JR.
CHAIRPERSON
WILLIAM D. BALFOUR, JR.
SUMNER ERDMAN
LORETTA J. FUDDY, A.C.S.W., M.P.H.
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LAWRENCE H. MIKE, M.D., J.D.
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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
P.O. BOX 621
HONOLULU, HAWAII 96809

July 8, 2011

TO: Russell Tsuji, Administrator
Land Division

FROM: William M. Tam, Deputy Director 
Commission on Water Resource Management

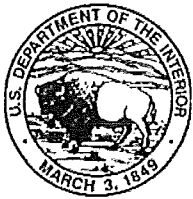
SUBJECT: Puunene Heavy Industrial Subdivision (28 lots) Draft EA Early Consult

FILE NO.: N/A
TMK NO.: (2) 3-8-008:019

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United States Department of the Interior

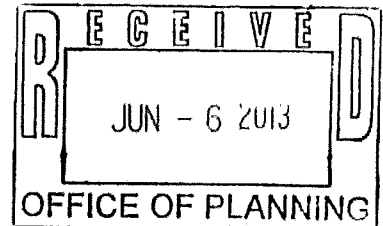


FISH AND WILDLIFE SERVICE
Pacific Islands Fish and Wildlife Office
300 Ala Moana Boulevard, Room 3-122, Box 50088
Honolulu, Hawaii 96850

In Reply Refer To:
2013-TA-0282

JUN 03 2013

Mr. Jesse K. Souki
Director
State of Hawaii
Office of Planning
235 South Beretania Street, 6th Floor
Honolulu, Hawaii 96804



Subject: Technical Assistance for the Pu'unene Heavy Industrial Subdivision, Maui 74840

Dear Mr. Souki:

The U.S. Fish and Wildlife Service (Service) received your letter on May 13, 2013, requesting comments on the Petition for Amendment of the State Land Use District Boundaries for the Pu'unene Heavy Industrial Subdivision project on the island of Maui.

Species Affected

Based on information you provided and pertinent information in our files, including data compiled by the Hawaii Biodiversity and Mapping Program, eight species protected by the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), may occur within the proposed action area and could be impacted by the proposed action: the endangered Hawaiian hoary bat (*Lasiurus cinereus semotus*), Blackburn's sphinx moth (*Manduca blackburni*), Hawaiian duck (*Anas wyvilliana*), Hawaiian goose (*Branta sandwichensis*), Hawaiian stilt (*Himantopus mexicanus knudseni*), Hawaiian coot (*Fulica alai*), Hawaiian petrel (*Pterodroma sandwichensis*), and the threatened Newell's shearwater (*Puffinus auricularis newelli*). The Service offers the following recommendations to minimize and avoid impacts to listed species in the vicinity of the proposed project area:

1. Surveys for the endangered Blackburn's sphinx moth should be conducted during the wettest portion of the year (usually November-April) and approximately four to eight weeks following a significant rainfall event. Surveys should include looking for eggs, larvae, and signs of larval feeding (chewed stems, frass, or leaf damage). Adult moths feed on nectar from native plants, including beach morning glory (*Ipomoea pes-caprae*), iliee (*Plumbago zeylanica*), and maiapilo (*Capparis sandwichiana*); larvae feed upon non-native tree tobacco (*Nicotiana glauca*) and native aiea (*Nothocestrum latifolium*).



Blackburn's sphinx moth pupae may occupy the soil within 35 feet of larval host plants for up to a year. Although surveys for the Blackburn's sphinx moth at the proposed project site took place in July 2012, the consultant, Robert Hobdy, found no larval host plants within the proposed project area. However, the larval host plant *Nicotiana glauca* is a "pioneer" species which thrives in disturbed areas. Since the proposed project has several phases as part of its Master Plan, the Service recommends that a qualified biologist re-survey the project area for the presence of non-native Blackburn's sphinx moth larval host plants before future grubbing activity and construction takes place. If presence of the Blackburn's sphinx moth is confirmed, the Service should be contacted for further guidance.

2. The planned installation of stormwater detention basins along the western edge of the proposed subdivision may pose an attractive nuisance to the endangered Hawaiian stilt, Hawaiian coot, and Hawaiian duck (collectively known as waterbirds). These species may become attracted to the detention basins after rainfall events due to the proximity of extant waterbird populations, both at a small reservoir immediately north of the proposed project site and at the Kealia National Wildlife Refuge to the south. Death or injury from vehicle strikes could increase due to the presence of additional vehicles at the proposed project site. Moreover, waterbirds utilizing shallow detention basins for foraging and sheltering are consequently exposed to predation by feral predators, such as cats (*Felis silvestris*), dogs (*Canis lupus familiaris*), and mongoose (*Herpestes javanicus*). The Service recommends that you contact our office for additional information about how to minimize and avoid potential adverse impacts to listed Hawaiian waterbirds from these threats.
3. The Hawaiian hoary bat roosts in both exotic and native woody vegetation and, while foraging, leaves young unattended in "nursery" trees and shrubs. If trees or shrubs suitable for bat roosting are cleared during the hoary bat breeding season (June 1 to September 15), there is a risk that young bats could inadvertently be harmed or killed. As a result, the Service recommends that woody plants greater than 15 feet tall should not be removed or trimmed during the Hawaiian hoary bat breeding season. Additionally, Hawaiian hoary bats forage for insects from as low as three feet to higher than 500 feet above the ground. When barbed wire is used in fencing, Hawaiian hoary bats can become entangled. The Service, therefore, recommends that barbed wire not be used for fencing as part of this proposed action. To avoid adverse impacts to the Hawaiian hoary bat, the applicant has stated that the removal of trees or shrubs over 15 feet in height will not be undertaken during the bat breeding season (June 1 to September 15). This will obviate the impacts to young bats that are left unattended in "nursery" trees and shrubs as the mother forages.
4. Due to its range and foraging behavior, the Hawaiian goose may be present in the vicinity of the proposed action at any time of the year. This species may be attracted to grassy areas along the road shoulder, lawns, and parkways, thus increasing their vulnerability to collision with moving vehicles. The Service recommends that you contact our office for additional information about how to minimize and avoid potential impacts to the Hawaiian goose from this threat. Additionally, a biologist familiar with the nesting behavior of the Hawaiian goose should survey the area around proposed construction areas prior to the initiation of any work during the Hawaiian goose breeding season (November through April), or after any subsequent delay of work of three or more days


(during which the birds may attempt to nest). If a nest is discovered within a radius of 150 feet of proposed construction activity, or a previously undiscovered nest is found within that 150-foot radius after work begins, all work should cease immediately and the Service contacted for further guidance. Lastly, if a Hawaiian goose appears within 100 feet of ongoing work at any time during the construction phase of the proposed project, all activity should be temporarily suspended until the bird moves off to a safe distance of its own volition.

5. The Hawaiian petrel and Newell's shearwater, collectively referred to as seabirds, may transit through the proposed action area while flying between the ocean and nesting sites in the mountains during their breeding season (March through December). Seabird fatalities resulting from collisions with artificial structures that extend above the surrounding vegetation have been documented in Hawaii where high densities of transiting seabirds occur. Additionally, artificial lighting, such as flood lighting for construction work, roadway illumination, and site security, can adversely impact seabirds by causing disorientation which may result in collision with utility lines, buildings, fences, and vehicles. Fledging seabirds are especially affected by artificial lighting and have a tendency to exhaust themselves while circling the light sources and become grounded. Too weak to fly, these birds become vulnerable to depredation by feral predators, such as dogs, cats, and mongoose. Therefore, the Service recommends that project-related lighting should be minimized. All project-related lights should be shielded so the bulb is not visible at or above bulb-height. According to guidelines set forth in the attached Final Environmental Assessment, all outdoor lighting will be appropriately down-shielded to minimize impacts to listed seabirds.

The Service also recommends that a biosecurity assessment be conducted to address the potential impacts of invasive species introduction and transport due to the advent of construction-related materials and heavy vehicles into the action area during the construction phase of the proposed project. Accordingly, the Service can provide guidelines for invasive species containment and mitigation through Best Management Practices upon request. This biosecurity assessment should also address future and cumulative impacts related to both listed species and the potential for invasive species introductions associated with the proposed action.

If you have any questions concerning the recommendations or comments provided in this letter, please contact Ian Bordenave, Fish and Wildlife Biologist, at (808) 792-9400.

Sincerely,



Crystal Leemeth
For

Loyal Mehrhoff
Field Supervisor

cc: Lasha Salbosa, Division of Forestry and Wildlife
Glenn Tadaki, Chris Hart and Partners

NEIL ABERCROMBIE
Governor



RUSSELL S. KOKUBUN
Chairperson, Board of Agriculture

SCOTT E. ENRIGHT
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

May 31, 2013

Mr. Jesse K. Souki, Director
Office of Planning
235 S. Beretania Street, 6th Floor
Honolulu, HI 96804

Dear Mr. Souki:

Subject: Petition for Amendment to the State Land Use District Boundaries
Agricultural to Urban (LUC Docket No. A13-797)
CMBY 2011 Investment
Wailuku, Maui, Hawaii
TMK: 2-3-8-008:019
Acreage: 86.03 acres

The Hawaii Department of Agriculture (HDOA) has reviewed the subject petition and the Final Environmental Assessment (FEA) and does not object to the Petitioner's request, as we believe the project will not adversely affect the existing agricultural activities or agricultural resources of the area. HDOA offers the following comments on the petition and FEA for the subject lands.

- 100% of the subject lands are rated "E" by the Land Study Bureau's Detailed Land Classification for the Island of Maui. 100% of the land is not classified according to the Agricultural Lands of Importance to the State of Hawaii. The subject lands are vacant and undeveloped.
- Petitioner plans to construct three wells (two active, 1 backup) onsite to draw brackish groundwater from the Kahului Aquifer. The estimated gallons per day needed for the completed project is 424,000 gallons. Petitioner's permit application for well construction and pump installation for the Project Area has been approved by the State Commission of Water Resource Management.
- The Maui Island Plan placed the subject lands within the Pulehunui planned growth area, and the subject lands are within the Urban Growth Boundary. All of the subject lands are designated as "Agriculture" in the Kihei- Makena



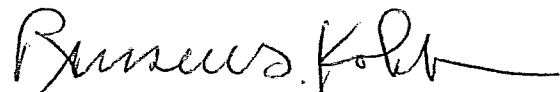
Attachment C

Community Plan. Petitioner has submitted an application for an amendment to the Community Plan to change the designation.

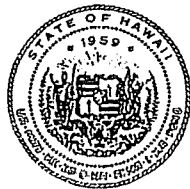
- The proposed project is not expected to have an adverse impact on surrounding agricultural uses. The Maui County Kihei-Makena Community Plan Project District 10 and the Pu'unene Airport Master Plan area are to the west of the subject lands. The Project District 10 encompasses 561 acres to meet future recreational motor sports needs. Sugar cane fields owned by HC&S are to the north, east, and south of the Petition Area. While development of the subject lands will likely produce additional odor, dust, smoke, and noise, existing agricultural operations will not be adversely effected.
- The land owner for the completed project will inform prospective lot owners of occasional noise and air quality impacts associated with sugar cane cultivation. Prospective lot owners will also be informed that Hawaii Revised Statute Chapter 165 entitled "Hawaii Right to Farm Act" limits the circumstances under which pre-existing farming operations may be deemed a nuisance.

From the comments above, the proposed boundary amendment for the subject lands does not appear to significantly impact agriculture on Maui.

Sincerely,

A handwritten signature in black ink, appearing to read "Russell S. Kokubun", with a long horizontal flourish extending to the right.

Russell S. Kokubun, Chairperson
Board of Agriculture



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

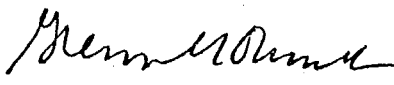
GLENN M. OKIMOTO
DIRECTOR

Deputy Directors
JADE T. BUTAY
FORD N. FUCHIGAMI
RANDY GRUNE
JADINE URASAKI

HWY-PS
2.4842

JUNE 7, 2013

TO: JESSE K. SOUKI, DIRECTOR
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT
AND TOURISM
OFFICE OF PLANNING

FROM: GLENN M. OKIMOTO, PH.D. 
DIRECTOR OF TRANSPORTATION

SUBJECT: PETITION FOR AMENDMENT OF THE STATE LAND USE DISTRICT
BOUNDARIES FROM AGRICULTURAL TO URBAN, LAND USE
COMMISSION DOCKET NO. A13-797, CMBY 2011 INVESTMENT, LLC,
WAILUKU, MAUI, HAWAII, TMK: (2) 3-8-008: 019

Thank you for the opportunity to review and comment on the subject petition to amend the State Land Use District Boundary for 86.030 acres of land for the planned Puunene Heavy Industrial Subdivision from Agriculture to Urban.

The Petition proposes the incremental development of a heavy industrial subdivision planned for approximately 28 heavy industrial lots that will range in size from 0.5 acre to 20 acres. Transportation access to the Project will be from the Mokulele Highway intersection with Kamaaina Road and Mehamaha Loop, which is approximately 1.4 miles northwest of the Project site. Mokulele Highway is State Route 311, a four-lane divided, principal arterial highway with a posted speed limit of 45 miles per hour.

The Department of Transportation (DOT) has the following concerns:

1. The subject Puunene Heavy Industrial Subdivision is part of the Old Puunene Airport Area Master Plan which has not been fully developed, and eventually at full build-out, the cumulative generated traffic from these incremental land use/zoning change/subdivision requests, etc. within the Old Puunene Airport Master Plan area will adversely impact Mokulele Highway. We suggest that the county consider imposing a condition requiring developers/applicants applying for land use approvals to participate in cost sharing arrangements regarding necessary roadway mitigation measures to our nearby State highway facilities, such as Mokulele and Piilani Highways.
2. In accordance with the Institute of Transportation Engineers (ITE) Trip Generation, 8th Edition, User's Guide, when using acres as the independent variable, the trip generation in the TIAR should be based on the entire 86-acre development site, and not on

the net projected development area of 65.92 acres. The area of the development site may be reduced by the Drainage Reserve area.

3. The level of service (LOS) with the project with mitigation improvements should reflect the DOT guide that the Petitioner mitigate all transportation impacts to State highway facilities due to the project in order to maintain the without project scenario operating LOS and delay level conditions for the horizon year.

DOT recommends the following conditions:

1. Petitioner shall revise the TIAR prepared by Phillip Rowell and Associates, dated January 24, 2012, and submit a revised TIAR for review and obtain acceptance by DOT prior to submitting a subdivision application to the County of Maui. The Revised TIAR shall indicate all recommended mitigation measures for potential project-related traffic impacts on State highway facilities to the satisfaction of the DOT.
2. Petitioner shall fund and provide for the planning, design and construction of all recommended transportation improvements required to mitigate local and direct project generated and/or related transportation impacts, in accordance with the Revised TIAR, as approved by DOT, at no cost to the State. Petitioner shall also dedicate land to accommodate auxiliary lanes on Mokulele Highway, as required.
3. Petitioner shall provide and complete all transportation improvements, as recommended in the accepted Revised TIAR, prior receiving Final Subdivision Approval from the County of Maui.
4. Petitioner shall coordinate with DOT and provide its fair share contribution toward the cost of regional transportation improvements to our State highway facilities in the area. Regional improvements may also include the reservation and contribution of land for such improvements.

Should you have any questions, please contact Gary Ashikawa, Systems Planning Engineer, Highways Division, Planning Branch, at 587-6336.

bc. STP, HWY, HWY-M, -PS (13-117)

FC:emk

NEIL ABERCROMBIE
GOVERNOR

MAJOR GENERAL DARRYLL D. M. WONG
DIRECTOR OF CIVIL DEFENSE

DOUG MAYNE
VICE DIRECTOR OF CIVIL DEFENSE



PHONE (808) 733-4300
FAX (808) 733-4287

STATE OF HAWAII
DEPARTMENT OF DEFENSE
OFFICE OF THE DIRECTOR OF CIVIL DEFENSE
3949 DIAMOND HEAD ROAD
HONOLULU, HAWAII 96816-4495

June 6, 2013

Mr. Jesse Souki, Director
Office of Planning
State of Hawaii
235 South Beretania St., 6th Floor
Honolulu, Hawaii 96813

Dear Mr. Souki:

Petition for Amendment of the State Land Use District Boundaries
Land Use Commission Docket No. A13-797, CMBY Investment, LLC

Thank you for the opportunity to comment on the subject petition.

In a letter to Chris Hart & Partners, Inc. dated August 2, 2012, we recommended that a siren be installed if the proposed development were approved. (Please see attached). Other than this request, we have no comment.

If you have any questions, please call Ms. Havinne Okamura, Hazard Mitigation Planner, at 733-4300, extension 556.

Sincerely,

DOUG MAYNE
Vice Director of Civil Defense

HO:cv

bc: Havinne Okamura ✓

NEIL ABERCROMBIE
GOVERNOR

MAJOR GENERAL DARRYLL D. M. WONG
DIRECTOR OF CIVIL DEFENSE

DOUG MAYNE
VICE DIRECTOR OF CIVIL DEFENSE



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STATE OF HAWAII
DEPARTMENT OF DEFENSE
OFFICE OF THE DIRECTOR OF CIVIL DEFENSE
3949 DIAMOND HEAD ROAD
HONOLULU, HAWAII 96816-4495

August 2, 2012

Mr. Glenn Tadaki
Chris Hart & Partners, Inc.
115 North Market Street
Wailuku, Hawaii 96793

Dear Mr. Tadaki:

Pu`unene Heavy Industrial Subdivision
Draft Environmental Assessment (DEA). TMK: 9-1-016:142

Thank you for the opportunity to comment on the subject project.

We strongly recommend one (1) omni-directional 121 db(c) siren be installed for coverage of the proposed development. State Civil Defense will work with the developer on placement of these additional sirens.

We defer to the appropriate State and federal agencies as to the protection of any cultural, historical, and archeological elements of the property.

If you have any questions, please call Ms. Havinne Okamura, Hazard Mitigation Planner, at (808)733-4300, extension 556.

Sincerely,

DOUG MAYNE
Vice Director of Civil Defense

HO:cv

bc: Havinne Okamura