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DIVISION OF FORESTRY AND WILDLIFE
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LAND
STATE PARKS

September 20, 2013

Mr. Earl Matsukawa
Wilson Okamoto Corporation
1907 South Beretania Street
Artesian Plaza, Suite 400
Honolulu, Hawaii 96826

Subject: Second Draft Environmental Impact Statement (DEIS) Kaloko Makai
Kaloko and Kohanaiki, North Kona, Hawaii
Tax Map Key: (3) 7-3-09: 017, 025, 026, and 028

2013 SEP 26 A 7:48
LAND USE COMMISSION
STATE OF HAWAII

Dear Mr. Matsukawa,

The Division of Forestry and Wildlife (DOFAW) has received your letter dated July 25, 2013, in which you respond to DOFAW's original comments sent September 21, 2011 regarding the first Draft Environmental Impact Statement (DEIS) Kaloko Makai. Thank you for responding to DOFAW's previous comments. DOFAW is aware that the DEIS for the proposed Kaloko Makai project has been revised. DOFAW has reviewed this Second DEIS and all appendices, publicly noticed in the August 8, 2013 issue of the *Environmental Notice*, and we offer the following comments pursuant to Hawaii Revised Statutes Chapter 195D (HRS 195D).

The proposed action involves the development of 1,139 acres partitioned and zoned under State Land Use Conservation, Agriculture, and Urban Districts. The project would create up to 5,000 new single- and multi-family residential lots varying in densities, up to 600,000 square feet of gross leasable area for commercial (office and retail) uses, light industrial uses, recreational facilities (e.g. parks, trails, open spaces), urgent care medical facility, hospital, business center with lodging, three school sites, a Dryland Forest Preserve, and associated infrastructure (e.g., new roadways, utilities, drainage, wastewater and potable water distribution systems).

DOFAW understands that the landowner may no longer wish to pursue a State Incidental Take License and Habitat Conservation Plan, as stated in the July 25, 2013 letter. The landowner's draft Habitat Conservation Plan (HCP) on file is dated January 2011. According to biological surveys conducted, the following threatened or endangered plants occur on the subject property: 'Aiea (*Nothocestrum breviflorum*); Hala pepe (*Pleomele hawaiiensis*); Uhiuhi (*Caesalpinia kavaiensis*); Ma'oloa (*Neraudia ovata*); and Ko'oko'olau (*Bidens micrantha* ssp. *Ctenophylla*). In addition, a 2006 biological survey visually detected a single Hawaiian Hoary Bat or 'Ōpe'ape'a (*Lasiurus cinereus semotus*) flying over the subject property.

DOFAW supports development projects that provide a benefit to the State of Hawai'i, while mitigating unavoidable impacts to threatened and endangered species, in accordance with HRS 195D. Three of the protected plant species listed above ('Aiea, Ma'olua, and Ko'oko'olau) found on the subject property are endemic to the Island of Hawai'i and are found nowhere else.

According to Appendix G of the DEIS, an updated flora survey dated May 17, 2012 found several locations of 'Aiea and Ko'oko'olau (Appendix G, Figure 7) and according to project plans (DEIS, Figure 2-11), these locations are areas proposed for a fire station, hospital, single and multi-family dwellings, and commercial spaces. A copy of Figure 7, Appendix G is enclosed for your reference. DOFAW also notes that Figure 7 does not provide a comprehensive description of all known locations of threatened and endangered plants within the subject property. For example, according to previous biological surveys conducted for the proposed action, a significant number of threatened and endangered plants are located in the northeast section of the subject property, in what is proposed to contain a park and detached homes.

DOFAW understands that the landowner is proposing to include a new modified project design to include a 50-foot buffer around each location of protected plant species, found outside of the 150 acre proposed Dryland Forest Preserve. DOFAW commends this effort, however, considering the complexity of the proposed action and the significant number of endemic threatened and endangered plants (approximately 25 individual locations outside of the proposed preserve) and their underlying seed bank within the subject property, DOFAW believes the potential for take¹ to occur is high and recommends the landowner pursue a State Incidental Take License and Habitat Conservation Plan. In this manner the landowner will mitigate for the unavoidable take and provide a net recovery benefit to Hawai'i's threatened and endangered species (HRS 195D-30).

Additional Comments

DOFAW recommends the following, in order to protect the 150 acre Dryland Forest Preserve in perpetuity:

1. Establish a restrictive land covenant on the property deed to preserve the 150 acres for conservation purposes, should the land change hands in the future;
2. Establish an educational program and access restrictions for visitors and residents (e.g., no off-trail hiking or bicycling);
3. Construct an ungulate-proof perimeter fence or other feature around the entire 150 acre Dryland Forest Preserve to prevent ingress by non-native animals;
4. Work with appropriate agencies and organizations to develop a fire response and prevention plan;
5. Collaborate with entities interested in outplanting threatened and endangered plant species into the Dryland Forest Preserve to increase the population within the proposed preserve; and
6. Consider establishing a landowner or association funded endowment for long-term management of the preserve.

All of these recommendations above could be applied towards minimization and mitigation measures within a State Habitat Conservation Plan.

¹ Take means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect endangered or threatened species of aquatic life or wildlife, or to cut, collect, uproot, destroy, injure, or possess endangered or threatened species of aquatic life or land plants, or to attempt to engage in any such conduct (HRS 195D-2).

According to reports in Appendix F, the subject property was surveyed for 'Ōpe'ape'a in September 2006 over a total of three consecutive evenings, using visual scans and an ultrasonic detector. During this limited time, a single 'Ōpe'ape'a was documented flying over the subject property. In 2012, the subject property was again surveyed for 'Ōpe'ape'a (Appendix G), however the report states that, "The mammalian survey was conducted concurrently with the avian surveys." DOFAW would like to determine the number of survey nights and any use of an ultrasonic detector. Additionally, DOFAW recommends refraining from felling or cutting of trees greater than 15 feet in height should these be found on the subject property, during the 'Ōpe'ape'a pupping season of June 1 through September 15.

DOFAW understands that the subject property is proposed to contain a private wastewater treatment facility. According to the County all new wastewater treatment facilities shall utilize to the extent feasible, a natural treatment system. DOFAW agrees with the County; however we have concerns that such wetland features within a wastewater treatment facility have attracted endangered waterbirds to these industrial sites in the past and contributed to mortality events. Endangered waterbird injury and mortality can be prevented by implementing several avoidance measures specific to the site including fencing, predator control, or other design features or minor modifications to facility operations. DOFAW is willing to provide technical assistance to develop these avoidance measures.

In summary, DOFAW is grateful for the landowner's efforts to develop sustainably in Hawai'i. DOFAW would like to continue to work with the landowner and project consultants in the most expeditious manner, to develop a habitat conservation plan to offset and provide for a net recovery benefit for unavoidable take of threatened and endangered species. Please contact Ms. Lasha-Lynn Salbosa, DOFAW Conservation Initiatives Coordinator at (808)587-4148 with any questions or to arrange a follow-up meeting.

Sincerely,



for Roger H. Imoto

cc: Ms. Lisa Hadway, DOFAW Hawai'i Island Branch Manager
Mr. Jay Nakamura, Stanford Carr Development
Mr. Daniel Orodener, State Land Use Commission
Ms. Nicki Thompson, State Historic Preservation Division
Ms. Chelsie Javar, U.S. Fish and Wildlife Service

Enclosures (1)

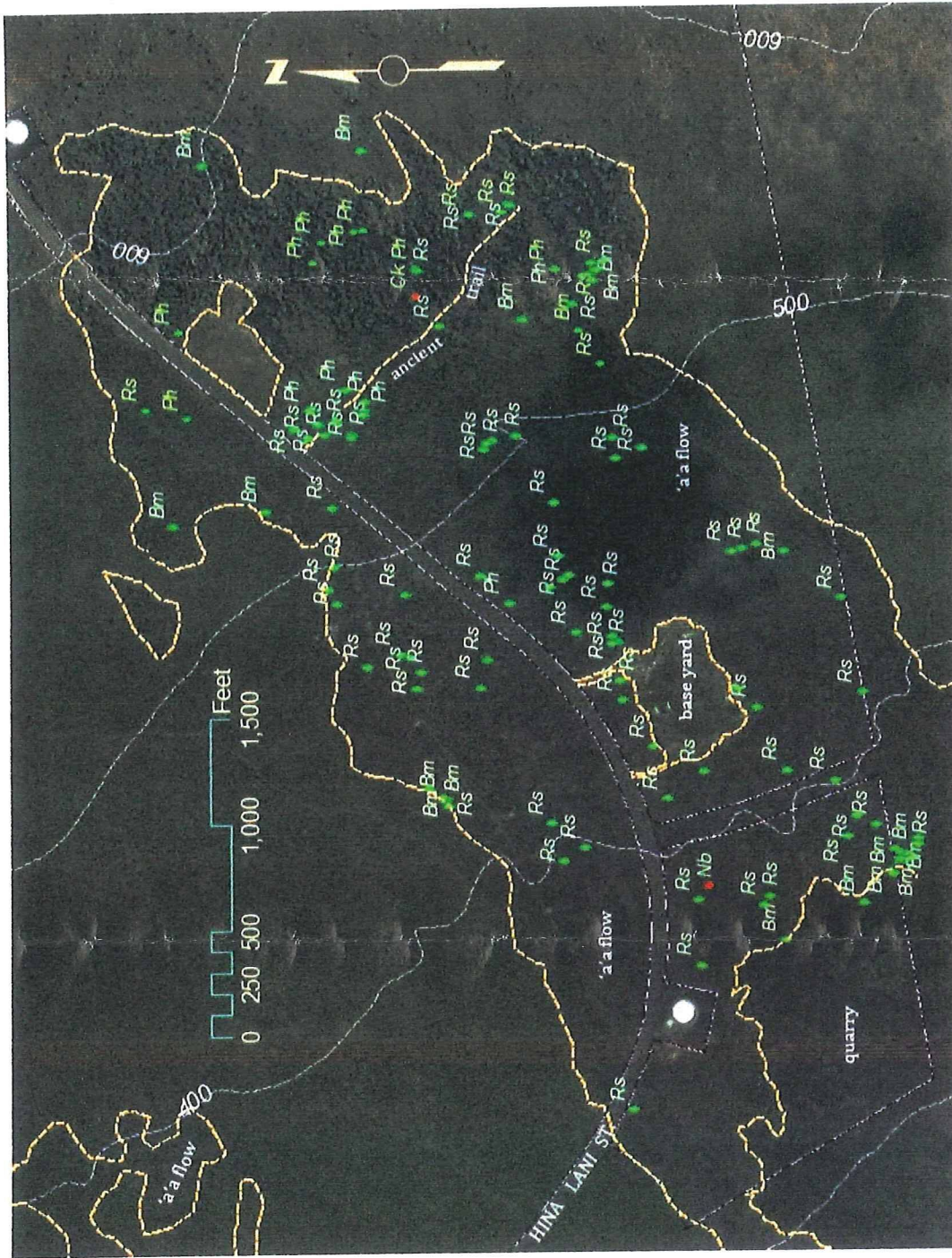


Figure 7 - Plot of selected rare plants in the project area.

- (Nb) 'aiea - *Nothocestrum breviflorum* - Endangered
- (Ph) hala pepe - *Pleomele hawaiiensis* - Endangered
- (CK) uhiuhi - *Caesalpinia kawaiensis* - Endangered
- (Bm) ko'oko'olau - *Bidens micrantha ctenophylla* - Candidate
- (Rs) 'ohe makai - *Polycias sandwicensis* - Not listed