

RCVD @ LUC HRG  
ON MAUI 11-18-15

Maui Tomorrow Foundation  
55 N. Church St Ste A-4  
Wailuku, HI 96793

November 17, 2015

To: Hawaii State Land Use Commission Members  
Re: A10-786 Olowalu Town FEIS

RECEIVED  
NOV 18 2015

Maui Tomorrow Foundation (MTF) has followed the proposed Olowalu Town project for many years. We submitted extensive comments (sixteen pages) to the proposed Olowalu Town Draft EIS in 2012. We recently received responses to our comments.

While we are gratified that our comments, and those of State and County agencies and departments, have resulted in a considerable amount of information being added to the FEIS, we are disappointed that the FEIS still denies impacts or omits any discussion of impacts in a number of major areas.

We ask that the Land Use Commission not accept the FEIS until this information is provided as required by HAR 11-200.

We are particularly concerned that many of our comments about the project's potential impacts on public trust water resources have been ignored or dismissed. Without accurate and prudent evaluation of impacts to the stream, aquifer and ocean waters of Olowalu, the true impacts of this project on cultural practices, stream health and the nearshore fisheries can not truly be known. What follows is an overview of project impacts mentioned in our comments, that are omitted or not dealt with in the FEIS responses:

**Comment 9:**

Maui Tomorrow pointed out that many expensive and non-traditional design options are being proposed to "prove" that there will be no impacts to natural and cultural resources. We pointed out that failure to implement these design options would almost guarantee that serious impacts would occur. These potential impacts were not analyzed. Since the FEIS becomes the defining authority on any impacts, and it says there are "none", future review will not be likely to scrutinize the outcomes.

OT's response to our comment states that detailed, systematic review at the State and County levels will ensure that impacts to natural and cultural resources are mitigated. This is echoed throughout the FEIS. Unfortunately, the State and County have a serious enforcement problem; two examples are right here in West Maui. Here is a photo of a failed BMP on the shoreline, likely caused by the high winds that are common in Olowalu:



Obviously, this is not going to stop a lot of dust from blowing onto the reef.

And here is a photo of a recent brown water event caused by construction runoff at Mahana Ridge:



Egregious violations of grading permit conditions were reported for months before Maui County took action. However, it's too late to prevent impacts to the marine environment.

Clearly, State and County review processes cannot be relied on to prevent impacts. The FEIS should discuss the impacts on natural and cultural resources if State and County review and subsequent enforcement are ineffective, as they currently are.

OT did not commit to any professional monitoring protocols for ocean resources - only a vague mention of a community management group-likely to be unfunded as is Olowalu Cultural Reserve.

Past residents tried to bring violations of a 2001 SMA permit to the attention of the Maui Planning Commission and County Council, but their concerns were unresolved.

The current SMA for the property requires a dust and erosion control plan (condition 16 attached) but there is no monitoring of how effective it has been, and residents observe lots of dust and run-off sediment travelling to the ocean. Current owners, who are partners in OT, fail to acknowledge or remedy this situation.

Likely this pattern of denying any problems will continue through the OT entitlement process. Our comments and the environmental impacts they describe are being ignored in the FEIS, and this needs to be corrected.

**Comment 18:**

- FEIS does not acknowledge that since the general rainfall on Maui is decreasing, this could have an effect on its future water supply and how to mitigate that effect.
- FEIS does not include long term pump test data at greater volumes for its existing potable well, yet concludes that its output can increase 10 fold with no impacts to its water quality, and any such tests can be done later.
- The existing well is located near to Olowalu stream, and in spite of no test data provided for the well at the proposed increased pumping rates, the FEIS concludes there will be no impacts to the stream.
- The FEIS offers the same conclusion for two proposed future wells that will also be located further down hill near the stream.

In short, the FEIS changed the subject to discuss other studies that they interpret as showing there is plenty of aquifer capacity available, but did not answer the concerns and request for data in our comments.

- **COMMENT 19:** asks the FEIS to discuss a drought plan for this very hot windy location that currently only has a population of 40 residences with 80 people on its private water system.

- FEIS assumes that since stream and ground water was used in greater quantities during plantation days, there is no need to discuss drought planning for the new sustainable community.
- The FEIS does not disclose that plantation records showed a chronic shortage of water in Olowalu and resulting in over exploitation of the stream and the basal aquifer wells.
- FEIS does not discuss specific stream water needs of the Olowalu Cultural Reserve.
- FEIS does not acknowledge that stream water supply was cut off to the mandated plant buffer of the nearby Ka'iwaloa heiau, as reported in the project's Cultural impact statement.
- In short, the FEIS draws conclusions about its water supply being adequate to accommodate agriculture, stream restoration, irrigation of common spaces and fireflow, without providing complete data on expected demands or acknowledging that there may be competing priorities under the state water code.

**Comment 21: asks FEIS to discuss plans for future monitoring well for the aquifer.**

- FEIS concludes that ongoing reporting of conditions in the production wells themselves is all that is needed to monitor the aquifer health (note: the safe yield of the aquifer is 2 mgd) We note that a similar sized proposed subdivision in Waikapu Aquifer (SY= 3 mgd installed a monitor well, as is prudent.
- FEIS represents that future wells will be spaced over the aquifer, although according to the project's Exhibit 7 Map all three potable wells will be concentrated in a line, a short distance apart, in an area of less than 20 acres. The aquifer, conversely spans over 600 acres.
- In conclusion, the FEIS does not clearly represent the project's private water system or offer mitigations to ensure there are not impacts to public trust resources like groundwater quality.

**Comment 22: Asks FEIS to include information on how ohana units allowed for up to 900 of the 1500 units could affect water demand?**

- FEIS claimed project used “county water use data” that included potential ohana units in its calculations, with no specific reference to the source of the data, or if data was from developments in very hot, dry, windy locales like Olowalu.
- In short, FEIS is unwilling to look at infrastructure demands of future ohana units and their possible impact on amount of water that would need to be eventually pumped.
- Current potable water demand in OT is claimed to be .67 mgd to a peak of 1 mgd. This is based on very low base usage rates per household, not Maui County DWS rates
- If OT used Maui county water usage rates per household their demand would jump to .97 mgd with a peak use of 1.45 mgd. (in other words, peak use would be double the current assumed average use)
- This increased demand could have different impacts on the aquifer and affect existing ground water discharges into the nearshore environment that affect cultural practices and fisheries. No analyses of coastal groundwater impacts is provided in the DEIS for this more feasible rate of water use.
- The FEIS cites “county figures” as a justification for not needing to include any water demand for ohana units, but insists its project would never use that much water due to LEED design certification
- FEIS does not discuss in the text that it would not qualify for LEED certification based on its non-urban location, so it is possible that its water saving regimes would never be implemented.

**Comment 30: Asks if kuleana use has been included in project’s non-potable water demands and if the conclusion that only .39 mgd of stream is realistic.**

- OT has no idea of how much water is used by kuleanas or how much is needed.
- Topic never discussed in main body of FEIS, even though kuleana users have priority under state water code.
- Users of privately owned kuleanas of Olowalu state that they cannot grow kalo due to lack of agricultural water from the stream. This is not reflected in the OT comments.
- FEIS ignores the comments that the figures given in the FEIS on potential stream water use could add up to more than the purported .39 mgd demand on the stream and asserts that there is plenty of stream water flow or brackish well water.
- The FEIS should present realistic demand forecasts for our public trust resources, especially since it is discussed in other sections of the FEIS that Olowalu stream rarely has enough water volume to have mauka-makai flows and is a very culturally important resource, identified in the project’s Cultural Impact Assessment.

**Comment 31: Asks if there is any proof that reductions of groundwater discharges by 6% from Olowalu wells pumping will have no effects on the near shore environment** and notes that recent USGS groundwater studies assume that stream lows will be restored to recharge the aquifers. It also asks if plantation wells near reservoirs have been tested to determine if their capacity was influenced by leaking reservoirs? This could have a bearing on the viability of their future use.

- FEIS contends that the OT marine consultant concluded that sediment deposits, not lowered groundwater inputs were the main stressors on the marine environment, therefore the DEIS ignores the cultural importance of freshwater discharge.
- FEIS avoids any discussion of the import of stream restoration on aquifers.
- FEIS fails to consider providing any data on the current state of the plantation wells and changes to subject to the “plenty of water” justification.
- FEIS fails to provide any data on water losses from Olowalu’s existing ditches and reservoirs, even though such waste of water is not allowed under the state water code.
- FEIS does not disclose in the body of the text that the stream water being diverted originates on state land and the Olowalu Water Company currently has no license to divert the water it is selling to existing Olowalu residents.

**Comment 33: Asks FEIS to include fireflow requirements in its discussion of project demands on stream water**

- FEIS fails to provide any specific fireflow figures except the formula of “2000 gallons for 2 hours” with no explanation of whether this formula applied to each unit, each acre, or other measure.
- The OT comment admitted that some areas of the development would be served by potable water for fire flow, but gave no specifics.
- OT potable water demand calculations in the FEIS have no category for fireflow use and that information is omitted from the document.
- In conclusion, the FEIS does not analyze the impacts of providing a water supply for fire flow in a very fire hazard prone area. (three major fires in the last three years.)
- **Comment 57:** OT notes that an ongoing marine ecosystem monitoring program, long requested by citizens, could be valuable, but does not commit to implement one on the site. Without monitoring, the impacts of OT’s land based activities cannot be known. The FEIS failed to explain why such a system is not part of the project’s proposed BMPs.

A number of other comments were also avoided or answered without providing any needed data. We sincerely hope the Land Use Commission will find the Olowalu Town FEIS unacceptable, and ask that information omitted from our comments and those of other individuals and organizations, be included in a more complete version of the FEIS.

Mahalo for your attention

Albert Perez  
Executive Director, Maui Tomorrow Foundation

To the State Land Use Commission,

November 2015

In regards to all pending and future boundary reclassifications of Agriculture District to Rural and Urban Districts I am writing this letter. There are many areas that I could reflect on but will limit my testimony. Righteous land management is necessary to ensure that our God given resources are being utilized; mindful of the Creator's "Higher and Better" uses.

I am including, as evidentiary materials, three books for you to keep on file: *Maui on My Mind* written by Rita Ariyoshi (first printed in 1985) and *Absolute MAUI* written by Tom Stevens (first printed in 2011). The pictures are a reminder of what great responsibility you have in your positions as commissioners.

Exhibit 3 is the Holy Bible. David Malo, the famous Hawaiian historian, writes in his book *Hawaiian Antiquities Mo'olelo Hawaii* (first printed in 1838): "But the book that contains the word of Jehovah is of a value above every other treasure because it contains salvation for the soul." There are many references to land management, in the Bible, but the one I will quote is from 2 Chronicles 7: 14 "if My people, who are called by My name, will humble themselves and pray and seek My face and turn from their wicked ways, then will I hear from heaven and will forgive their sin, and will heal their land."

The very name of Hawai'i invokes a response of accountability and stewardship. *Ha* is the breath of life; *wai* is living water; *I* is created by God. You, as appointed commissioners, will be held to a higher standard of judgement for your decisions regarding Hawai'i land use. To whom much is given; much is required.

I would like to point out a few areas of interest but recognize the scope is much broader and the issues extensive. Though Hawaii is geographically isolated, God has provided all we need to be sustainable. Reclaimed potable water could be used for agriculture. Hydro, thermal, solar, and wind is abundant for energy sources. We have ideal growing conditions that would provide food security and employment sustainability. Affordable housing in perpetuity is necessary and viable. The ocean is home to exotic corals and sea creatures that provide enjoyment and employment to millions of people; demanding our due diligence in protection. Tourism is the focus of revenues and every precaution must be taken to protect that resource. Preserving and protecting Hawaiian culture and history is essential for the perpetuation of ALOHA.

#### AGRICULTURE

1) The abundance of agricultural evidence is found in the Maui On My Mind book in contrast to the barren hillsides of West Maui shown in the Absolute Maui book. Job opportunities and tax revenues have suffered as a result of fallow fields. Land taxes are paid at an agricultural rate depriving the state and county of what should be lucrative resources of funding. This is gross mismanagement of our natural resources and detrimental for the benefit of our overall economy.

2) Instead of accountability for these once productive agriculture lands, developers are being rewarded with boundary amendments. They only consider the short-term real-estate “highest and best” use in relationship to financial equity rather than the revenues that would be realized continuously if used for agricultural purposes. Some developer’s intentions are non-inclusive of the land designation that they are entrusted with.

3) Precedents established will entail the threat of over-development and agricultural resources lost forever. We are ushering in Hawaii’s next era. Land use designations will determine the direction that Hawaii will progress.

4) Hawaii’s geographical isolation makes it vulnerable. Historically, famines have occurred and to think it won’t happen in the future is naïve and dangerous. Decisions today will greatly impact the food security that we should be working toward. With our current population, we have less than a week supply of food on hand. It will only get worse as our population increases.

5) In light of Hawaii’s strategic military location, with current world events and global unrest, it is essential for the immediate transition to food security.

6) There are many drought affected areas, which make it a perfect opportunity for Hawaii to transition to an Agrarian Economical society.

7) There needs to be incentive for agricultural land owners to use their land for its designated purpose. Rezoning to urban and rural designations without agriculture conservation only encourages higher land values making agriculture designated land less attractive, as it is less lucrative. This is flawed thinking as is it only less lucrative for the developer—not society.

8) Regulations and enforcement is necessary of agriculture plans. “Fake Farms” are in violation of the land’s designation. Though developers are not responsible for the future homeowner’s “crops” they are responsible for the designation of the land. Their intentions are perceived by God; their proposed plans are not hidden from Him.

9) Diversified farming will include large operations along with small farms and ranches. Rural housing will need to be made available but at prices reflected for the wages earned in the agriculture industry and in perpetuity. Prices must be reflective for use of genuine farmers.

## AFFORDABLE HOUSING

1) Our current system of “affordable” HUD housing guidelines is not conducive to our limited resources. In many cases, it is not truly affordable as rates and prices are reflections of skewed numbers. We live on islands and must take into consideration factors that continental regions do not require.

- 2) In the event that some truly affordable homes are made available, in due time, they escalate to market prices that make affordable housing obsolete. It perpetuates the need for more affordable housing, which is problematic. We are islands, after all, with limited land and resources.
- 3) Affordable housing needs to be affordable for the wages reflected in the workforce of the tourist and agriculture industries. Blue collar workers must be able to afford homes.
- 4) Community Land Trust (CLT) housing is a viable option for affordable housing in perpetuity. The percentage required for CLT housing should be the ratio necessary for our entire workforce. The remainder of housing options can be at market rate and luxury estates.
- 5) The current policy of building more homes does not relieve homelessness or allow for densely populated households to gain relief. Unless the homes are made affordable to the local residents our housing crisis will continue. Community Land Trust or other housing programs, with similar stipulations, would protect the local community from outside investors and vacation rentals. The requirements for qualification of CLT would serve favorably for full-time resident's occupancy.
- 6) Construction costs and expenses related to development needs to be alleviated with county and state funding to make housing affordable, provide viable agriculture, and be lucrative for the developer. The county could pay for things, like infrastructure, and be compensated with monthly fees from the project's beneficiaries.
- 7) Approving reclassification of agricultural land, by the State Land Use Commission, to Urban and Rural designations is contributing to an existing problem that will have disastrous results. Commissioners are ultimately responsible as they are appointed as non-biased individuals for Hawaii land management.

## TOURISM

- 1) The tourism revenues generated on the West Side of Maui is one the main sources of income for the state. Whether it is considered the "cash cow" or "golden goose" it demands a higher level of protection and scrutiny as it affects the entire state.
- 2) Traffic analysis, for the West Side of Maui, must include more than the surrounding community when considering the impacts. The future By-pass will not alleviate the bottle-neck traffic that the pali and tunnel will (and does) incur. Traffic jams will be a deterrent for tourism. Access to and from the airport is limited. Traffic flow, as well as picturesque landscapes, must be considered to sustain our vital tourist industry.
- 3) Scenic vistas must be protected. Visitors are traveling thousands of miles and spending thousands of dollars to experience Hawaii's beautiful tropical paradise. Concrete and construction is not the ideal panoramic views we want to encourage along scenic by-ways.

4) Healthy coral reefs are necessary for the ecology-system as well as the economic-system. Many residents have employment from fishing and ocean recreational related jobs. Tourism income and people's livelihoods will suffer if we do not protect the reefs.

## HAWAIIAN CULTURE AND HISTORY

1) You lose the culture; you lose ALOHA.

2) The host culture is dynamic and there is none like it in the world. We must protect and preserve cultural sites, sacred land, as well as historical places. We must be respectful of iwi (bones) and other objects that exemplify the heritage.

3) Hawaiian culture is to malama (to take care of) the land, malama the ocean, (what happens mauka (inland) affects the ocean), take only what you need, and give thanks to Ke Akua (God).

4) Hawaiians honor their ancestors, take care of family, practice hospitality, enjoy life, play hard, mele and hula, "talk story", and have a deep faith that acknowledges the Creator. Aloha means to receive the breath of God. God is love. Jesus is the personification of God (Love); God in a bod. The Hawaiians may have had a better understanding of Christianity than the missionaries that came here 200 years ago to tell the "Good News". Love is the essence of the culture. All people are the beneficiary of these wonderful principles. It is your duty, as commissioners in regards to decisions of land use, to protect and perpetuate these values.

5) The United States did not behave well when they participated in the overthrow of the Kingdom of Hawaii. We cannot change what has happened till now but we can change what will be. Recognize the current "taking of land". The State Land Use Commission has a responsibility to verify the ownership of the land that they are considering for reclassification. There is a "taking" of Hawaiian's land with use of the courts. It is plunder; theft. If the State Land Use does nothing then they are contributing to an insidious practice and perpetuating more wrongdoing. Ultimately, the earth is the Lord's and everything in it. We are accountable and answer to Him.

6) "*The Life of the Land is Perpetuated in Righteousness*" is our state motto, a Hawaii Revised Statute, and included in the Constitution of the State of Hawaii. Mismanaging of our God-given resources and using the courts to perpetuate unrighteous acts will prove fatal. We suffer man exercising his rights and self-righteousness. It's time to start doing what is right...the life of the land depends on it.

7) Originally, Queen Ke'opuolani stated "*The Life of the Land is Perpetuated in Righteousness of Jesus Christ.*" "Seek first the kingdom of God *and His righteousness*" Only God is righteous, sovereign, and King overall. When restoration, with God, occurs in our hearts it will be manifested in the land. The choice is ours; the consequences eternal.

8) "I could not turn back the time for the political change, but there is still time to save our heritage. You must remember never to cease to act because you fear you may fail. The way to

lose an earthly kingdom is to be inflexible, intolerant, and prejudicial. Another way is to be too flexible, tolerant of too many wrongs and without judgement at all. It is a razor's edge. It is the width of a blade of pili grass. To gain the kingdom of heaven is to hear what is not said, to see what cannot be seen, and to know the unknowable—that is Aloha. All things in this world are two; in heaven there is but One.” Queen Lili’uokalani, 1917.

---

Here are samples of some questions to ask Petitioners in boundary amendment proceedings, remembering first and foremost that “The earth is the Lord’s and everything in it, the world, and all who live in it.” (Psalm 24:1)

1) Does the Petitioner have clear title?

2) How did the Petitioner acquire title?

Note: If it is recent history “quiet title” and “quit claim”, with standard newspaper protocol, then application would be considered incomplete until verification of Land Court Awardee release or other historical resources to validate rightful ownership and current status.

3) Is the ratio of agriculture land conducive for food security and sustainable employment for the state of Hawaii?

4) Is the agriculture land in a conservation easement, guaranteeing it in perpetuity?

5) How is the agriculture plan proposed to be enforced?

Note: If agriculture portion is not in an agricultural conservation then the Petition would be denied until modified to reflect this requirement.

6) Is the percentage of affordable housing adequate for the workforce?

7) Is the housing affordable for the wages reflected in the blue collar workforce?

8) Is the housing affordable in perpetuity?

Note: If it is not truly affordable for the wages of the teachers, nurses, hotel service personnel, farmers etc. or protected in perpetuity then the Petition would be denied until it reflects those criterion.

9) Do the cumulative impacts from storm-water runoff from impervious surfaces affect the near-shore coral reefs?

10) Does the karst (underground caves leading to the ocean) system impact the nearshore reef?

11a) What regulations would be imposed on the project to mitigate these impacts?

11b) How would they be enforced?

12) What is the history or cultural significance of the project site?

13) How can the Petitioner include features or commemorative displays throughout the project to include historical information or cultural significance pertaining to this location?

14) How would they allow access for the enjoyment for the community or visitor industry?

15) Does the additional traffic from the project create an unreasonable delay in travel? How will it affect the tourism industry and the resident's quality of life? An example would be how the traffic will affect people from West Maui or from Ho'opili traveling to necessary destinations?

16) Does the project negatively affect the scenic corridors of major tourist thoroughfares and scenic by-ways?

17) How will the visual impact be mitigated to ensure scenic resources are protected for our vital tourism industry and the local residents?

18) When God looks down to see, will He be pleased?

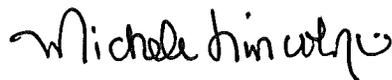
Note: "Whether you turn to the right or to the left, your ears will hear a voice behind you saying, 'This is the way; walk in it.'" (Isaiah 30:21) "Rejoice in the LORD always, I will say it again: REJOICE! Let your gentleness be evident to all. The LORD is near. Do not be anxious about anything, but in everything, by prayer and petition, with thanksgiving, present your requests to God. And the peace of God, which transcends all understanding, will guard your hearts and your minds in Christ Jesus. Finally, commissioners, whatever is true, whatever is noble, whatever is right, whatever is pure, whatever is lovely, whatever is admirable—if anything is excellent or praiseworthy—think about such things. Whatever you have learned or received or heard from me, or seen in me—put it into practice. And the God of peace will be with you." (Philippians 4:4-9)

Michele Lincoln

452 Aki Street

Lahaina, HI 96761

lincolnmichele@yahoo.com





EDMUND ACZON, CHAIR  
JONATHAN LIKEKE SCHEUER, VICE-CHAIR  
STATE OF HAWAII LAND USE COMMISSION

TESTIMONY ON BEHALF OF MAUI TOMORROW FOUNDATION  
REGARDING THE FINAL ENVIRONMENTAL IMPACT STATEMENT  
FOR THE OLOWALU TOWN MASTER PLAN (DKT. NO. A10-786)

November 18, 2015 – 9:30 a.m.  
Maui Arts & Cultural Center, Haynes Meeting Room

RECEIVED  
NOV 18 2015

STATE OF HAWAII  
LAND USE COMMISSION

Aloha Chair Aczon and Commissioners:

My name is Summer Kupau-Odo, and I am an attorney in the Mid-Pacific office of Earthjustice, a national, non-profit, public interest environmental law firm. The Mid-Pacific office has been offering pro bono legal services in Hawai'i for over twenty-five years, and has represented dozens of environmental, Native Hawaiian, and community organizations in enforcing environmental laws. Earthjustice submits this testimony on behalf of its client Maui Tomorrow Foundation, and respectfully urges you to reject the final environmental impact statement submitted for the Olowalu Town Master Plan (FEIS).

The FEIS has numerous content inadequacies, which Maui Tomorrow Foundation and other concerned community groups and individuals will address. The scope of this testimony addresses a procedural violation of Hawai'i's environmental review laws: the absence of federal agency cooperation in the preparation of the FEIS.

The FEIS does not satisfy at least one of the three criteria for acceptability enumerated in Hawai'i Administrative Rule (HAR) § 11-200-23(b)(1). Pursuant to this rule, before this Commission may deem the FEIS acceptable, it must find that "[t]he procedures for . . . the preparation and submission of the statement . . . have all been completed satisfactorily as specified in [HAR chapter 11-200.]" HAR § 11-200-25(1) requires that when an action is subject to both the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*, and the Hawai'i Environmental Policy Act (HEPA), Hawai'i Revised Statutes (HRS) chapter 343, the applicant "shall notify the responsible federal agency, the [Office of Environmental Quality Control], and any agency with a definite interest in the action (as prescribed by chapter 343, HRS) of the situation." Additionally, the same rule requires state agencies, such as this Commission, to "cooperate with federal agencies to the fullest extent possible to reduce duplication between federal and state requirements[,] . . . [including the preparation of] joint environmental impact statements with concurrent public review and processing at both levels of government." HAR § 11-200-25(2); HRS § 343-5(h) (requiring same).

As discussed in further detail below, the Olowalu Town Master Plan is subject to several federal laws, and is dependent on federal actions that trigger environmental review under NEPA. Yet, there has been no coordination with federal agencies in the preparation of the EIS. The Olowalu Town FEIS is the product of a deficient process that violates HAR § 11-200-25, and, accordingly, this Commission cannot deem it acceptable pursuant to HAR § 11-200-23(b)(1).

### **The Olowalu Town Master Plan is Subject to Federal Environmental Review Under NEPA**

#### **A federal Clean Water Act permit is required.**

Based on information in the FEIS, the Olowalu Town Master Plan cannot be implemented without a federal permit issued by the Army Corps of Engineers (the Army Corps or Corps), to discharge dredged or fill material into waters of the U.S., pursuant to section 404 of the Clean Water Act, 33 U.S.C. § 1344. On July 9, 2010, the Army commented on the environmental impact statement preparation notice and advised the applicant to submit a request for an approved jurisdictional determination for water bodies that fall within the project area (FEIS Vol. I). Robert Hobdy was commissioned to prepare an Aquatic Resource Survey, dated May 2011 (FEIS Vol. IV Appendix F1). Utilizing the Corps' approved jurisdictional determination form, Hobdy concluded that six aquatic features within the project area—Olowalu Stream, Kapa'iki Village Drainage Channel, Kapa'iki Fishpond, and three unnamed tributaries—constitute waters of the U.S. Based on Hobdy's analysis, before any of these areas can be dredged or filled, the applicant must obtain a section 404 permit. *See* 33 U.S.C. §§ 1311, 1344 (prohibiting the discharge of dredged or fill material into waters of the U.S. without a permit).

The Olowalu Town Master Plan proposes to construct a 160-foot wide bridge crossing at Olowalu Stream (FEIS p. 234), as part of a larger plan to relocate the Honoapi'ilani Highway mauka of its current location and through the applicant's land. Building such infrastructure in a water of the U.S. constitutes a discharge of fill material requiring a permit. *See* 33 C.F.R. § 323.2(f) ("The term discharge of fill material . . . generally includes . . . [p]lacement of fill that is necessary for the construction of any structure or infrastructure in a water of the United States; the building of any structure, infrastructure, or impoundment requiring rock, sand, dirt, or other material for its construction . . .").

Overall, the Olowalu Town Master Plan proposes construction of 1,500 residential dwelling units, including houses, apartments, townhouses, cottages, farmsteads, in addition to stores, schools, parks, community centers, and all of the necessary infrastructure to support these improvements, including roadways, drainage systems, and a wastewater treatment facility with constructed wetlands. The applicant anticipates these construction activities will extend across 434 acres of the approximately 636 acres of the project site. (Carlsmith Ball letter, dated Nov. 9, 2015, p. 3.) Comparing the conceptual master plan map for alternative 1 in Figure

4 of the FEIS with the maps in Hobdy's reports showing the locations of the six jurisdictional waters, it appears the extensive construction under the master plan will occur across all six water bodies, not just Olowalu Stream. These construction activities will likely cause discharges of fill material into these waters. *See* 33 C.F.R. § 323.2(e)(2) ("Examples of such fill material include, but are not limited to: rock, sand, soil, clay, plastics, construction debris, wood chips, . . . and materials used to create any structure or infrastructure in the waters of the United States."). These activities may also cause discharge of dredged material, *i.e.*, "material that is excavated or dredged from waters of the United States." 33 C.F.R. § 323.2(c).

For instance, comparing Figure 4 with Hobdy's assessment of the Kapa'iki Fishpond, the Olowalu Town Master Plan proposes to remove the section of the Honoapi'ilani Highway that crosses the Kapa'iki Fishpond drainage pipe (which runs to the ocean). Such an extraction will likely cause the discharge of fill material, and, depending on what the applicant plans to do thereafter, possibly the discharge of dredged material, into the fishpond, as well as the ocean.

For all of these reasons, the applicant must secure a federal permit before commencing construction.

**The need for a Section 404 permit triggers NEPA review.**

The United States Court of Appeals for the Ninth Circuit has held that the issuance of a Section 404 permit constitutes a federal action triggering environmental review under NEPA. *See Save Our Sonoran, Inc. v. Flowers*, 408 F.3d 1113, 1121 (9<sup>th</sup> Cir. 2004) ("A section 404 permit issued by the Corps is a 'Federal action' to which NEPA applies."). This means that the Corps has an independent obligation to determine the potential impact of a project, and not just on the waters within the Corps' jurisdiction, but on the environment at large. *See id.* at 1122. *See also* C.F.R. Title 40, chapter V (Council on Environmental Quality NEPA regulations); C.F.R. Title 33, chapter II, part 230 (Army Corps procedures for implementing NEPA).

**HEPA and NEPA Mandate Joint Cooperation with the Army Corps, and Likely the Federal Highway Administration, in the Preparation of the Olowalu Town EIS**

**Where both NEPA and HEPA apply to an action, joint cooperation among federal and state agencies is required.**

NEPA's applicability to the Olowalu Town Master Plan invokes additional legal obligations for the applicant, as well as this Commission, in fulfilling the state EIS laws. Where an action is subject to both NEPA and HEPA, HEPA and its implementing regulations require state agencies, including this Commission, to cooperate with federal agencies to the fullest extent possible, including preparing joint environmental impact statements and conducting concurrent public review and processing at both levels of government. HRS § 343-5(h); HAR § 11-200-25(2). Similarly, NEPA's implementing regulations require federal agencies, including

the Army Corps, to cooperate with state and local agencies to the fullest extent possible, 40 C.F.R. § 1506.2(b), (c), including preparing joint environmental impact statements and holding joint public hearings, *id.* This process must begin at the earliest possible time. *Id.* § 1501.2(d)(3).

There has been no cooperation with the Army Corps in preparing the FEIS, and, therefore, the FEIS was produced in violation of state and federal law.

### **Under HEPA, the Applicant Must Notify the Army Corps of NEPA Applicability**

HEPA places the onus on the applicant to notify the Army Corps that NEPA applies to its project. When NEPA applies to a private action, HAR § 11-200-25(1) requires the applicant to notify: (1) "the responsible federal agency"; (2) the Office of Environmental Quality Control (OEQC); and (3) "any agency with a definite interest in the action." The FEIS does not state the applicant notified any of these agencies of NEPA applicability. Instead, in its response to a comment from the state Department of Health, Clean Water Branch (letter dated October 26, 2015), the applicant states it will contact the Army Corps later, "[a]s the project progresses towards implementation." Later is too late; HAR § 11-200-25(1) requires the applicant to have contacted the Army Corps, OEQC, and other interested agencies long ago. *See id.* ("The applicant or agency, upon discovery of its proposed action being subject to both chapter 343, HRS, and the National Environmental Policy Act, shall notify the responsible federal agency, . . . ." (emphasis added).

### **Cooperation with the Federal Highway Administration is Likely Required.**

The Olowalu Town Master Plan seeks to relocate a portion of Honoapi'ilani Highway mauka from its existing location, and to utilize parts of the remnant roadway as a "coastal roadway." (FEIS p. 234.) The FEIS estimates the cost of the highway relocation to be \$18 million, and designates as an "unresolved issue," the applicant's total financial contribution for area roadway improvements. (FEIS p. 398.) What is not addressed in the FEIS is the extent of federal agency involvement in the highway realignment, and whether any federal funds will be used. These are critical facts that need clarification now, because federal assistance with the highway realignment is another trigger for federal environmental review under NEPA, thereby necessitating cooperation with an additional federal agency, the Federal Highway Administration (FHA). *See* 40 C.F.R. § 1508.18(b) ("Federal actions tend to fall within one of the following categories: . . . (4) Approval of specific projects, such as construction or management activities located in a defined geographic area. Projects include actions approved by permit or other regulatory decision as well as federal and federally assisted activities.").

Notably, the Honoapi'ilani Highway is already designated a "federal-aid highway,"<sup>1</sup> and currently, the state Department of Transportation (HDOT) and FHA are in the process of preparing a joint draft EIS for plans to realign, improve, and widen the highway from Mā'alaea to Launiupoko, which encompasses Olowalu. The FEIS references ongoing negotiations between the applicant and HDOT, and proposes to relocate and widen the highway through its lands "in conjunction with" HDOT's Mā'alaea to Launiupoko project. (FEIS p. 234.) Thus, it appears the Olowalu Town Master Plan is dependent on HDOT's plans. HDOT has apparently taken this view, stating, in its January 26, 2015 letter to the applicant (FEIS Vol. II), that it expected roadway improvements to be provided *prior to the issuance of a certificate of occupancy*. Legally, then, because a project that FHA is administering is a necessary part of the Olowalu Town Master Plan, the federal nexus for involving FHA in the environmental review process for the Olowalu Town Master Plan is present. See 40 C.F.R. § 1508.18; Lathan v. Brinegar, 506 F.2d 677, 693 (9<sup>th</sup> Cir. 1974) (requiring "full, fair bona fide compliance with NEPA" when reviewing an agency decision with respect to a federal-aid highway project).

In addition to being legally required, it makes good sense that the Olowalu Town EIS incorporate all information concerning environmental impacts of the HDOT highway project. As HDOT pointedly stated in its January 26, 2015 letter:

It is recommended that Olowalu Town expand its environmental impact statement (EIS) to consider the Federal environmental efforts the HDOT is currently conducting for its preparation of the EIS for the Honoapiilani Highway Realignment Project from Launiupoko to Maalaea. The Olowalu Town's EIS should be consistent with HDOT's federal environmental documents in matters of alternative alignment analysis, historic and cultural preservation, and endangered species, etc.

This Commission simply cannot accept the FEIS knowing there is additional, material information already being compiled into an EIS through the joint efforts of another state agency and a federal agency, which, as discussed below, has presumably accessed the expertise of other federal agencies pursuant to obligations under the Endangered Species Act. As HDOT advises, the Olowalu Town EIS should, at minimum, include information from HDOT/FHA's Mā'alaea-Launiupoko EIS.

---

<sup>1</sup> The Federal-Aid Highways 2035 Transportation Plan for the District of Maui (July 2014) designates the Honoapi'ilani Highway (Route 30) a "federal-aid highway" between Main Street (Wailuku) and Front Street (Lahaina). "Federal-aid highway" means "a public highway eligible for assistance under [Title 23 chapter 1 of the U.S.C.] other than a highway functionally classified as a local road or rural minor collector." 23 U.S.C. § 101(a)(6).

### **Subsequent Preparation of a Federal EIS Does Not Cure the FEIS's Illegality**

Accepting the FEIS would deprive state and county decision makers of additional information that would be obtained through joint federal-state environmental review.

#### **The Army Corps and FHA Must Comply with the Endangered Species Act**

The FEIS notes the presence of four species in the project area listed under the Endangered Species Act (ESA): the endangered nēnē, the endangered hawksbill sea turtle, the endangered Hawaiian monk seal, and the threatened green sea turtle. (FEIS pp. 107-17.) The presence of these listed species triggers obligations under the ESA for the Army Corps and FHA before they can issue a Section 404 permit and offer federal assistance for the highway realignment.

Section 7(a)(2) of the ESA directs each federal agency to ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. 16 U.S.C. § 1536(a)(2). If listed species or critical habitat units are present, the federal agency must determine if the proposed action may affect the species or habitats, in which case, the agency must initiate at least informal consultation with the U.S. Fish & Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS), to obtain their expertise in determining the action's impact on those species and habitats.

Under the ESA, the applicant cannot unilaterally determine whether the Olowalu Town Master Plan is likely to adversely affect listed species or critical habitat. Accepting the FEIS and prior to collaboration with the Army Corps and the FHA would deprive state and county decision makers of important information concerning endangered and threatened species.

The FEIS also does not adequately address the potential for a "take" of the four listed species found in the project area. Section 9 of the ESA makes it unlawful for any person to "take," that is, "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct[,] any endangered species. 16 U.S.C. §§ 1532(19), 1538(1)(b). Section 10 of the ESA addresses situations in which projects may result in the incidental take of listed species, and provides for incidental take permits where the applicant develops and obtains approval of a habitat conservation plan. *See id.* § 1539.

In response to the Maui County Department of Planning's comment regarding the draft EIS's failure to discuss how water features might attract more nēnē to the area, the possibility of incidental "takes," and cooperation with the FWS (FEIS Vol. II, October 26, 2015 letter to William Spence, Director, Dept. of Planning p. 10), the applicant concluded, without any data or input from the FWS, that water features or irrigated parks in the master plan "are not dangerous to nene," and that these features "do not create a take." However, according to the

applicant's wastewater management plan prepared by Brown & Caldwell, the proposed location for the Honoapi'ilani Highway realignment is next to the 4.7 acres of soil aquifer treatment (SAT) basins and near to the constructed wetlands meant to attract birds. (FEIS Appendix Q pp. 1-3, 8-1 to 8-3 & Fig. 3.2.) The FEIS does not address whether the location of the highway next/near to water features within the project—the constructed wetlands, SAT basins, as well as the Olowalu Stream—will increase the potential for a “take” of nēnē.

The FEIS does not discuss the potential for incidental take of the three listed marine species at all.

This is an important topic that must be thoroughly discussed in the FEIS as a potential impact, and it raises the specter of liability under the ESA, for not just the applicant, but state agencies, including this Commission, that approve a private project that causes a “take” of listed species. This is all the more reason why cooperation in the preparation of the Olowalu Town EIS between the applicant, this Commission, and the Army Corps and FHA is imperative.

#### **Federal Environmental Review is Required Now, at the Early Planning Stages**

The fact that federal environmental review must occur before the Army Corps issues a Section 404 permit and before the FHA provides assistance with the Honoapi'ilani Highway realignment makes the FEIS legally deficient, and this will not be cured by future NEPA compliance. The timing of environmental review is key under both HEPA and NEPA. As the Hawai'i Supreme Court reaffirmed in the Koa Ridge case:

[B]oth federal and state courts have recognized that environmental review must occur early enough to function practically as an input into the decision making process. In construing [NEPA], for example, the United States Court of Appeals for the Ninth Circuit cautioned that an assessment must be prepared early enough so that it can serve practically as an important contribution to the decision making process and will not be used to rationalize or justify decisions already made. . . . [T]he rationale behind this rule is that inflexibility may occur if delay in preparing an EIS is allowed: After major investment of both time and money, it is likely that more environmental harm will be tolerated. . . .

Accordingly, decisions reflecting environmental considerations can most easily be made when other basic decisions are also being made, that is, during the early stages of project conceptualization and planning.

*Sierra Club v. Office of Planning*, 109 Hawai'i 411, 419, 126 P.3d 1098, 1106 (2006) (internal quotation marks, brackets, emphasis, and citations omitted). *See also Metcalf v. Daley*, 214 F.3d 1135, 1145 (9<sup>th</sup> Cir. 2000) (“NEPA’s effectiveness depends entirely on involving environmental considerations in the initial decisionmaking process.”); 40 C.F.R. § 1502.5(b) (“For applications to the agency[,] . . . [f]ederal agencies are encouraged to begin preparation of [environmental]

assessments or statements earlier, preferably jointly with applicable State or local agencies.”). The federal agencies must be involved in the EIS process before the Olowalu Town Master Plan obtains any entitlements, so that decision makers, including this Commission, have the benefit of federal input, which would include the expertise of the Army Corps and FHA, and because endangered and threatened species fall within the project area, the input of FWS and NMFS.

**This Commission Cannot Accept the FEIS in its Current Form**

In sum, the FEIS does not comport with the criterion in HAR § 11-200-23(b)(1) that the procedures for preparing and submitting the FEIS be completed in accordance with HAR chapter 11-200, because there has been no cooperation with federal agencies to comply with NEPA, in violation of HAR § 11-200-25. Simply put, because federal laws apply to this project, any EIS this Commission sanctions must include the environmental concerns of the relevant federal agencies, and, more importantly, thorough evaluation of every environmental impact they, with their federal resources, experience, and expertise, may foresee. Accordingly, this Commission cannot lawfully accept the FEIS in its current form.

The applicant still has the option of submitting a revised draft EIS, *see* HAR § 11-200-23(e), but only after it undertakes joint environmental review with the Army Corps and FHA.

Mahalo for the opportunity to testify.

ORIGINAL

Nov 18, 2015

My name is Cheryl King, and I am submitting this testimony on my own behalf regarding today's State Land Use Commission meeting concerning the proposed development at Olowalu. **I request that you do not accept the proposed Olowalu Town EIS as final.** All of the impacts of such a huge development have not been adequately addressed, which is very concerning.

I am a 16-year Maui resident and marine biologist who continues to watch in horror as our mauka and makai lands are developed at an alarming rate. There seems to be no stopping this process despite the many issues surrounding the short and long-term impacts. We're all feeling this pressure, or we wouldn't be here today. It's simply tragic that Maui is losing her natural charm.

Olowalu provides extremely important habitats for sharks, manta rays, monk seals, and sea turtles just to name some megafauna. Everyone who experiences this area reflects on its expansive coral reef characteristics and natural beauty. This complex reef system needs to be protected and actively managed appropriately, with no nearby development.

The EIS mentions that this development will improve the quality of the reef by its mitigation efforts. Indeed, these drainage-related best management practices should be incorporated, but we don't need a large development to step in to do them- they should've been incorporated years ago.

The proposed development threatens the very natural qualities of the Olowalu area that we appreciate and that these animals need to survive. Please do not let this happen! Development simply cannot be done in a sustainable way so close to the ocean. The impending doom of sedimentation and chemical runoff kills coral reefs, and this has happened too many times where development was allowed to occur. Hawaii's reefs are in serious decline, especially with this year's major coral bleaching event. They can't handle any more stressors.

This is a chance for Maui to truly make a positive, not negative, impact on the future of hundreds of species that are struggling to survive the statewide changes in land and seascapes. I truly appreciate your time and expertise on this important matter. It's up to you... please don't let our beautiful island turn into another O'ahu!

Sincerely,

*Cheryl S. King*

Cheryl King, MSc  
808-385-5464  
sandy.c.maui@gmail.com

RECEIVED  
NOV 18 2015

STATE OF HAWAII  
LAND USE COMMISSION

November 17, 2015

Land Use Commission  
Department of Business, Economic Development & Tourism  
State of Hawai'i

RECEIVED  
NOV 18 2015  
STATE OF HAWAII  
LAND USE COMMISSION

SUBJECT:

Written Testimony of Concern of Impact to Coral Reef Ecosystem  
Draft Environmental Impact Statement (DEIS) - Proposed Olowalu Town Master  
Plan  
Olowalu, Maui, Hawaii  
Tax Map Key: 4-8-03: 84, 98 through 118, and 124

ORIGINAL

As the department of business, economic development & tourism, I urge you to consider the importance of our reefs to the influx of tourist, the continued business, and the economic development that is dependent on the presence and health of the coral reef that is found in the nearshore of Olowalu. Olowalu is known for its reef often referred to as "mile marker 14" because of the location on Honoapi'ilani Hwy, Highway 30, (14 miles along the highway) by Trip Advisor, The Snorkel Store, Boss Frog's, as well as many other companies and business on island.

Olowalu is described as a "rare, unique" with "old corals" that have "larvae that populate West Maui, Moloka'i and Lāna'i reefs". Was also "designated a priority reef site under the Hawai'i Coral Reef Strategy".

In light of recent changes in climate, and bleaching events that have occurred, the state of these corals are more fragile than normal. Corals have some resilience to bleaching events that could potentially kill and decimate a coral reef, leaving the shoreline robbed of protection from waves and shoreline erosion, suitable habitat for food fish and other reef fish, and loss of draw for tourist visiting.

To maintain coral reef structure and health, in light of global bleaching events occurring, and support the coral resilience and ability to recover from these events, we need to reduce the stressors upon the coral to ensure and support their recovery and resilience. Local stressors, can include land-based and marine-based pollution, coastal development, identified by the Nature Conservancy Reef Resilience Program. **I urge you to reconsider the amount of effort that was put into the studies looking at the health of these reefs and the impact to the reefs from development of this town. Minimizing the effects of development with the input of proper storm drains and other infrastructure to reduce runoff and erosion is crucial for these reefs.**

Mahalo for your time and understanding of the importance of protection of our reefs,

Amy Markel  
B.S. Marine Science, Biology  
University of Hawai'i at Hilo

**Social + Economic Issues/Problems**

November 18, 2015

**Introduction and My background:** Professor (Econ + Geog); former Maui Planning Commissioner; Vice-Chair of Planning advisory bodies (especially General Plan Advisory Committee (GPAC)); Reviewer of EIS documents for UH Environmental Center

**Olowalu Town Final-EIS is: DEFECTIVE**

Dismissive of comments

Devious

Deceptive

Ohanas

Evolving Numbers

Seniors included in "workforce"

H-DOT position

"Bait and Switch"

Local residents will make up 95%

Transit and O-Turns

Source of Infrastructure \$s

3,000+ household to benefit

Fire and Police

# of Affordables

Ohanas not included in infrastructure

Ambulance

Taxes vs. public expenditures

**1. Isolation of Olowalu Town, which was really a "plantation camp", not an historical town.**

Not near any urban lands.

Overall impact from isolation: not discussed.

**HOUSING**

**2. ACCESSORY DWELLINGS == OHANAs:** Volume 1 PDF 52-54 Pages 26-28

920 potential Ohana units are not considered in infrastructure impacts or needs: schools, traffic, water, parks, wastewater, police, fire, school busses, solid waste, etc.

"Ohana units will be an option."

**3a. Number of AFFORDABLE/WORKFORCE HOMES: "Bait and Switch"**

Number of affordable homes kept being reduced.

500 "affordable"+ 500 sub-market "gap housing" to GPAC to get UBC and RBC

**This what got GPAC members willing to draw Urban and Rural growth boundaries!**

(Only 13 votes from GPAC Committee of 25.)

Then "Bait and Switch".

750 in Draft-EIS which we all used to make comments in preparation of the Final-EIS.

Then "Bait and Switch" again". Only 375 in Final-EIS

**3b. Number of market priced homes:**

500 to GPAC to get UBC and RBC (Only 13 votes from Committee of 25)

**This what got GPAC members willing to draw Urban and Rural growth boundaries!**

750 in Draft-EIS

1,125 in Final-EIS

**3c. Seniors are included within workforce housing.** See PDF 57 Page 31

The developer could meet the 375 affordables with many 2 bedroom units in the multi-family buildings, thus supplying the needs of seniors, but not of the many young families with children.

Providing senior housing is also an important element of the project. The aging population of Maui residents will require appropriate housing. Senior housing is proposed in a variety of forms and types of units. Much of such senior housing is expected to be within the workforce housing pricing requirements.

**3d. No assurance that local families will have first access, although claims of 95%.**

**3e. Phasing of workforce/senior housing is unclear over the build-out.**

ORIGINAL

RECEIVED  
NOV 18 2015

STATE OF HAWAII  
LAND USE COMMISSION

## 5. Public Infrastructure Costs:

## II. INFRASTRUCTURE

Lots of new facilities Volume 1 PDF 61 Page 39

Much verbiage about what will be available, but no accurate calculations on OTMP's contributions or commitments to needed infrastructure: community center, fire, police, walking trails, etc,

## 6. Infrastructure – Mauka Highway: Volume 1 PDF 76 Page 53

ONLY \$18 million for miles of highway and a bridge over stream

**H-DOT has not accepted TIAR;** H-DOT specifically asked in a November 6, 2015 letter to the applicant that H-DOT not to be made to look like they have approved any Olowalu Town actions.

The SDOT has reviewed a draft of the traffic section of the proposed final Environmental Impact Study and request that references to the SDOT requiring or approving various actions of Olowalu Town be deleted from the text.

**The public also has not had the ability to review their TIAR.**

H-DOT has its own mauka highway plans. The Olowalu Town mauka highway section may not align with the highway to be proposed by H-DOT.

H-DOT is initiating its own FEDERAL EIS that is much stricter about protecting endangered species and cultural sites; the OTMP highway may not meet the federal EIS standard..

## 7. Infrastructure – Existing Honoapi'ilani Highway: Volume 1 PDF 60 Page 38

Coastal road is cut in two places, making it much less available for both Maui residents and visitors.

However the Final-EIS states, “

*As shown on Figure 4 in the Draft EIS, the existing Honoapiilani Highway will connect to the new mauka highway at the north and south end of the OTMP. Travelers through OTMP will have the option to utilize the mauka bypass or the existing highway. The*

## 8. Infrastructure – Police and Fire:

Fire station: \$11 million, + \$1.25 Fire truck, + \$1 million,/ year

Police \$360,000 year

## 9. Infrastructure – Ambulance:

Ambulance: Closest is Napili (State not County as stated in FEIS)

### Response:

As with other emergency services (i.e. fire and police), ambulance service will be coordinated with the County of Maui in conjunction with the implementation of the OTMP. As appropriate, ambulance service may be co-located with the proposed fire station.

**10. Because of isolation, Water and Wastewater will be provided by private companies which may charge a higher monthly amount than people in affordables can pay.**

## 11. Infrastructure – Beach Access

My comments ignored, and problems will be solved by putting up signs and handing out cards

## 12. Infrastructure – Hydro-Electricity may be used:

My comments ignored totally.

**13. Public Facilities and Financing: County and State Expenditures: Volume 4 Appendix L Page 7  
County and State Expenditures underestimated. OTMP will “contribute.”**

14a. Deceptive school enrollments Volume 1 (Table 32) Pages 218

Units: 900 Multi-Family and only 600 Single Family → 462 students

Number of pupils are actually underestimated because they told DOE; 900 Multi-Family and 600 SF so that number would look lower than it will be. DOE formula assumes about 3X more pupils from SF than MF.

**Table 2032.** Estimated New Students at Olowalu Town Master Plan for Alternatives 1 and 2

	Single-Family Student Generation Rate	Single-Family Students <sup>(a)</sup>	Multi-Family Student Generation Rate	Multi-Family Students <sup>(b)</sup>	Total Students
Elementary	0.22	132	0.09	81	213
Middle	0.12	72	0.04	36	108
High	0.16	96	0.05	45	141
<b>TOTAL</b>	<b>0.5</b>	<b>300</b>	<b>0.18</b>	<b>162</b>	<b>462</b>

Notes:  
<sup>(a)</sup> Based on 600 single family residences.  
<sup>(b)</sup> Based on 900 multi-family residences.  
 Source: Department of Education, 2010.

	Units	Formula	Total Students
Single Family	600	0.5 X 600	300
Multi Family	900	0.18 X 900	162
		<b>TOTAL</b>	<b>462</b>

Source: Department of Education, West Maui Impact Fee Schedule, 2014

14b. Infrastructure – Schools: Volume 1 (Table 31) Pages 216 + 217

	Capacity now	Enrollment 2015	Already Over Capacity
Kam 3 Elementary	646	788	142
Princess Nahienaena	612	675	63
Lahaina Intermed	571	672	101
Lahainaluna High	969	1,081	112

Lahaina schools are already over-capacity and the DOE 'impact fee' is too low to build even a small part of a school.

- Only 10-15 acres being potentially offered by OTMP
- Who will pay the costs of bussing 462+ kids every day to Lahaina? Final-EIS says increase the one bus by about 30 students.

**14a. Constantly changing numbers** make reviews of OTMP difficult and lead one to think that the numbers will change again if and after the Final-EIS were accepted.

- Highway Right-of-Way      200' to 160'
- Commercial space          25,000 sq ft - 300,000+ sq ft
- Affordable + gap housing    from 1,000 to 750 to 375
- Market housing              from 500 to 750 to 1,125
- No. of acres in boundary amendment application    320 acres to 426 acres to 434 acres

**In a November 9, 2015 letter from Applicant's Attorney, Jennifer Lim**

OTMP is a proposed new community to be located in the once thriving Olowalu plantation town on the west side of the island of Maui. It is located along Honoapi'ilani Highway, approximately four (4) miles south of Lāhainā Town. The OTMP area is comprised of approximately 23 parcels of land and approximately 636 acres of land, almost all of which are currently designated within the State Land Use Agricultural District. Within the OTMP area, approximately 434 acres will be proposed for reclassification pursuant to an amended Petition for District Boundary Amendment.<sup>1</sup>

<sup>1</sup> Please note that the Petition Area described in the Initial Petition was approximately 320 acres (175 acres from State Land Use Agricultural to State Land Use Urban District, and 145 acres from State Land Use Agricultural to State Land Use Rural District). Through the EIS process Petitioner has greatly refined its understanding of the land areas proposed for reclassification. The exact acreages, including metes and bounds description if required, will be provided when Petitioner files its First Amended Petition. However, Petitioner anticipates, consistent with what has been described in the FEIS, that the proposed reclassification will be approximately 266 acres from the Agricultural District to the Urban District and 168 acres from the Agricultural District to the Rural District.

**14b. Phony Numbers:**

95% of residents will be local; therefore little additional cost to supply County and state services. The services will just follow the residents.

**14c. Number of Construction Jobs and households benefitting is misleading and exaggerated:**

**Comment:**

*Phony Numbers: Both Appendix K and L, by the same two authors, develop a set of phony numbers to make the Olowalu Town project look good. For example, they multiply by a factor of 10, all job numbers, residents supported, and households that will benefit!! For example: 477 jobs on Maui and Oahu are made to look like 4,770 jobs; 351 households magically and inappropriately become 3,510. They hope no one will notice.*

**Response:**

To clarify your example, the multiplier of "10" is *not* a factor but the number of years projected to complete the OTMP. Thus, any annual figure identified in the report is multiplied by 10 to arrive at the total over the projected 10-year development period. The multiplier of "10" is based on the anticipated timeframe for full buildout of OTMP.

However, they say it will take 8 years of construction after 2 years of entitlements.

**14d. Jobs within the community**      Volume 3

In discussion with ACM, the 1,000 jobs estimated to be created within the community is based on an average of one (1) employee per 300 square feet of commercial space projected to be developed within the OTMP. A copy of the information is attached as **Exhibit "2"** for your information.

**15. Agricultural Land, specifically "Prime Agricultural Land"**

According to our agricultural consultant, modern technology has altered the way in which farming is conducted in the 21st Century. For example, there is a strong and well-established trend of growing food hydroponically in greenhouses. In comparison to field farming, hydroponic farming in greenhouses provides higher quality produce; generates far higher yields, allows for year-round production regardless of season, provides secure production unaffected by droughts and storms, does not require good-quality farmland, requires much less land, water and energy, and requires no pesticides or herbicides. In this regard, modern farming is not dependent on the use of prime agricultural lands. We note that current agricultural use within the OTMP is limited.

**16. Undiscussed Alternative**

- **Leave the land in agriculture with a solar PV farm.** Final-EIS states that repairing the irrigation system would cost only \$1 million.
- It would better meet the State's desire to increase sustainability.
- This would not diminish future decision makers to convert these lands into urban land-use when needed. OTMP's project would prevent a reversion to agriculture.

**17. Unrealistic 8 year construction timeframe.**

Used to be able to satisfy LUC requirements, and then used to inflate the number of jobs.

**18. Premature to be asking for the Makai lands, before West Maui Community Plan**

They will claim that they have an approved FEIS, even though it is based on misleading info

**19. Desire to move outside of UGB into Makai area.**

**In case they get only mauka boundary amendment.**

**Alternative #2 is used as their "fall-back" position.**

**Olowalu Town Final-EIS is DEFECTIVE, and should not be accepted at this time.**

November 18, 2015  
Please Reject Olowalu Town EIS

ORIGINAL

RECEIVED  
NOV 18 2015

Aloha,

For the record, my name is Jaclyn Mae Santos, speaking on behalf of the Santos family of Olowalu. Our address is 804 Olowalu, Lahaina, Hawai'i 96761.

STATE OF HAWAII  
LAND USE COMMISSION

I stand before you today to humbly request that the Land Use Commission deny the Olowalu Town EIS because it is flawed, inaccurate, inadequate and it does not address the concerns of the local community at large.

I am not a marine biologist, I am not kanaka maoli, I am not a Hawaiian activist, I am not a person with much money, I am not here today to repeat facts that have already been presented to you.

I am just a girl from Olowalu. A girl who was born and raised in this special place. A girl whose father was raised in Olowalu. A girl who wants to call Olowalu home forever. A girl who wants her children to call Olowalu home. I want them to have what I had. Better than I had. Isn't that the point? To provide better than you had? I'm a girl who studies hula, a student of the culture. A girl who honors what has come before and allows it to guide me into the future.

Having had the privilege through my education and support of my parents, I have traveled the world. I have experience the beauty and nature in all people and parts of the world and cherished every moment of my experience. But nothing compares to Maui, to Olowalu, and to what you hold dearest to your heart and soul. For me that is Olowalu. Olowalu is my greatest teacher.

Having grown up in Olowalu, with no friends, very little neighbors, all of whom were far from my age, Olowalu became my friend, my parent, and my family. The reef was my life, my imagination, my teacher, and the valley was my backbone. This place is my savior,

I am young I am trying to live here forever personally and raise my kids here, how many of you can say that? This is and will affect me and my family to come personally and profoundly.

Aside from all of the obvious points mentioned today, the failure to embrace Native Hawaiian culture and practices mauka to makai, the inevitable loss of reef life, the lack of affordable housing for local families, the cost of developing prime agricultural land, the degradation of vital terrestrial and marine habitat for endangered species, the blatant greed for money, the shameful use of the term "ahupua'a", the blasphemous idea of building a hotel, the lack of infrastructure in place for traffic to and from the West Side. Just to name a few. It's a tale as old as time.

November 18, 2015

Please Reject Olowalu Town EIS

It is very simple. Build houses, build hotels, the land will suffer; it will result in imminent death to the ecosystem.

Now ask yourself what is most important? What is Olowalu worth to you? Can it be priced? It is your purpose to care for the land and do what is right, to preserve the land and the sanctity of this place. Maui does not need this development. Focus on other parts of the west side that are yet to be finished. Please reject the Olowalu Town EIS.

Are you able to connect with the being in yourself and realize what is right and what is wrong? Where does your moral compass point? Can you feel in your heart whispering to you what is right and wrong? I think you do. Now go with it, do what is right this time. For all time. For Olowalu. For the sacredness of its being. For me and for my children. Please, I am personally asking you to allow me to offer my children the very best. Better than I had. An Olowalu that is thriving in the life of the land.

Olowalu is sacred. There is life there; there is presence there. There is something that needs to be preserved.

Mahalo for your time.

RECEIVED  
NOV 18 2015

STATE OF HAWAII  
LAND USE COMMISSION

ORIGINAL

Good morning State Land Use Commissioners,

I humbly ask all of you to accept the Olowalu Town LLC Final EIS submission.

For the record, I am Adeline Kamaile-Olihau Ka'ahui Rodrigues. My address is 4132 Honoapiilani Highway, Olowalu and I am here testifying on my own behalf.

I was born in the ahupua'a of Olowalu in 1929, some 86 years ago. My mom and dad were born in the ahupua'a of Ukumehame. I can trace my descendants in Ukumehame and Olowalu as far back to the 1600's. In 1966 my husband and I built our home in Olowalu, next door to my mother. Olowalu has always been a very special place to me and my family!

One of the earliest supporters of this project, the late Tillie Nahooikaika of Olowalu testified on its behalf. She and I both agreed that our grandchildren and the following generations will have a great future as a result of this proposed town.

I have reviewed the Olowalu Town EIS reports. From what I see the developers have addressed all concerns. I don't expect there will be total agreement on this subject. Opposition to this development has been vocal, and I do believe that everyone has a right to voice their opinions. I ask that you give special consideration to those of us who live in Olowalu.

There are many opponents to the development of Olowalu Town due to a belief that it may possibly damage our reefs. Please understand that we who live here in Olowalu know how important it is to protect our reefs. Over-fishing and recreational boat tours are additional causes of reef damage! Almost every day boat loads of visitors anchor off Olowalu. I have even seen visitors standing on the reef. Also, what effect does all their suntan lotion have on the reefs? What about the drastic effects of climate change? The developers have studied the reefs and have included steps to protect them.

I know that State Land Use Commissioners make tough and smart decisions. At my age of 86, it is unlikely that I will live to see this town built, no matter what you decide. But my vision is, if the EIS is accepted – it will be the most beautiful place to live on Maui. I will be looking down from above – at a town like no other in all of Hawaii.

Again, I humbly ask all of you to accept the Olowalu Town LLC Final EIS submission.

Thank you

*Hawaii State*

ORIGINAL

Testimony before the ~~Maui County Council~~ Land Use Committee  
November 18, 2015

RECEIVED  
NOV 18 2015

Katherine Kama'ema'e Smith  
Resident of West Maui -26 years  
Volunteer, Olowalu Cultural Reserve

STATE OF HAWAII  
LAND USE COMMISSION

I understand that the Land Use Committee will today determine if the EIS for Olowalu Town Plan meets requirements of Hawaii Statutes; does it include all the things an EIS is required by law to address?

I volunteered a lot of my time to read all the Mahele 'Āina palapala of Olowalu ahupua'a and to tend the native plants in Olowalu Cultural Reserve. I believe the CIA component not only meets the requirements to research and preserve but also the option to promote the Hawaiian cultural aspects of this land.

There is a lot of talk about the reef. This EIS addresses that too. The latest study of the reef, carried out by Steve Dollar, Ph.D., a marine biologist who has studied hundreds of reefs throughout the Pacific, using state of the art methods. His study shows that this reef will continue to be challenged by silt load, if the land is left as is. Therefore, the EIS addresses runoff.

Dr. Dollar says the uniqueness of Olowalu reef is a shallow, hard bottom that's good for coral growth and that it is protected partially from both north and south swells. He finds no scientific data to support a so-called "kupuna" theory of reef seeding. That's okay, because Hawai'i Statutes allow for experts to disagree—even in an EIS. The point is not to resolve all the science, but rather, to ensure that every environmental aspect has been researched and that appropriate mitigation steps are addressed by the plan.

One thing we do know about Olowalu is that the basalt flow under the sedimentary alluvial fan is a series of lava dikes that retain underground water in the aquifer. At other West Maui locations, runoff is swept onto reefs by underground lava tubes that bypass land mitigations. At Olowalu, storm runoff comes from the land into the loko or wetland areas and stream overflow. Therefore, Olowalu is geologically suited for use of storm water runoff BMPs; including Low Impact Development methods to stop silt from continuing to distress the Olowalu reef. This EIS addresses wastewater management and storm runoff with land mitigation strategies that have proven successful in seaside communities throughout the world.

I have been testifying with the kūpuna of Olowalu for the last six years – in support their ideas to recreate a sustainable small town with shops, businesses, parks, open view lines and affordable housing all within walking distance. I stand with them today.

Respectfully submitted,

*Katherine Kama'ema'e Smith*



## Hawai'i Wildlife Fund

November 17, 2015

Daniel Orodener  
Executive Officer  
State Land Use Commission  
Agenda item A10-786

RECEIVED  
NOV 18 2015  
STATE OF HAWAII  
LAND USE COMMISSION

**SUBJECT: Please reject the FEIS for Olowalu Town**

Aloha Mr. Orodener and Land Use Commissioners,

My name is Hannah Bernard and I am submitting testimony on behalf of Hawai'i Wildlife Fund, a Hawai'i-based marine conservation organization

We ask that you please not approve the FEIS for the proposed Olowalu Town.

The Olowalu Town Final EIS is not adequate, does not "fully declare" the environmental implications of the proposed project nor discuss the "feasible consequences."

Instead, it relies on assumptions that nothing the project does will cause any harm, and the apparent suggestion that BMPs (e.g., for water management) will be followed rather than required.

This EIS is inadequate in many ways, but I will focus on the marine resource aspects.

- 1). It appears beach/ocean access will be restricted due to parking limitations, or inadequate parking, particularly at the Olowalu surf break. This cannot be considered an insignificant environmental impact. Nor can the addition of 2,000 – 4,000 beach/ocean users living in close proximity to the reef be considered insignificant.
- 2). The marine surveys are inadequate (four surveys?) and they are not baseline (see Hawai'i Wildlife Fund Report prepared for Ed Lindsey, 2003). The importance of the "back reef" and deeper reef area both geologically and biologically are not addressed. These zones are characterized by rare coral species, juvenile fish, green sea turtles and endangered Hawaiian monk seals. This aggregate coral zone is rare in that it consists of micro atolls and stony corals that are built upon approximately 20m of coral structure, unlike much of Hawai'i's reefs that grow upon lava substrate. The age and depth of these coral structures can provide information about past sea level changes, and coral reef resilience to hurricanes, among other things.

3). This area's vulnerability to nutrient input and sedimentation were noted but introducing a new vector for such stressors: sediment basins, was highlighted as a solution instead of a potential threat. Whose responsibility will it be to maintain and dredge these sediment basins? Will they concentrate and then leach nutrients? This is unclear.

4). The Wastewater treatment plant and constructed wetland may leach nutrients into the groundwater or outright spills due to equipment failure and/or flooding, thereby jeopardizing the nearshore waters and coral reef.

5). Climate change and sea level rise, two very real threats to both shoreline development and marine ecosystems are not addressed. Hawai'i is experiencing a significant El Nino and coral bleaching episode (the third global event ever recorded). Massive, 500 year old corals at Olowalu are bleaching, and there may be permanent impacts. Considering that 16% of the world's coral reefs were lost during the last global bleaching event (1998), and marine biologists, resource managers, political leaders, fishermen, water and reef lovers and countless others have been working since then to reduce our potential impacts on reefs from land-based threats, this is a serious omission.

We founded our non-profit in 1996 to assist in the conservation of Hawai'i's native wildlife with a focus on the marine environment. With programs on both Hawai'i Island and Maui, we have succeeded in working closely with our communities to initiate significant projects including the statewide Makai Watch, Maui Reef Fund, Wild Hawai'i, Hawksbill Recovery Project, Ho'okipa Honu Watch, Maui Monk Seal Watch, Kahakuloa 'Ahupua'a and Waiohinu Anchialine Pond Restoration, Marine Naturalist Training through UH Maui College and privately, and Marine Debris Recovery Projects in the Northwestern Hawaiian Islands, Maui and Hawai'i Islands (recovering more than 225 tons in 10 years). We believe it would be a tragedy to allow a development of this magnitude, this close to this significant coral reef ecosystem.

Please don't hesitate to contact me if you have any questions.  
Mahalo for your kind consideration,



Hannah Bernard  
Executive Director  
Hawai'i Wildlife Fund

**Written testimony: A10-786 Olowalu Town: Testimony on the Final-EIS**

My name is Francois Seneca, I write on my own behalf and my address is 476 SE Krueger Creek Place, Stuart, Florida 34996.

I highly recommend the Commission to deny the Final-EIS for the Olowalu Town development.

I am a researcher for the University of Hawaii working on the effects of land-based pollutions including sediments on the health of coral reefs. The Olowalu reef is one of the sites I currently study along the coast of West Maui. I have experienced first hand the recent loss of live coral covers in the shallows at Olowalu. That decline preceded the damage done during the bleaching events of the 2014 and 2015 summers. Based on my personal investigation of the site, corals living at depth less than 3 meters are affected by an excessive input of terrestrial sediments in the system. I can affirm that this issue has taken place within the past 10 years. In fact, an examination of past google earth images strongly suggests that recent clearing of the vegetation along the coastline and on land adjacent to the beach has most likely contributed to the problem. I have read the current EIS for the Olowalu Town project and nothing is mentioned about best management practices to prevent further sediment-driven damage to the reef during constructions. My opinion based on my understanding of the Olowalu coastal system and 15 years of research on the stress response of corals is that if the Olowalu Town project goes ahead following the current EIS, people of Maui will lose one of their natural treasures. The key question is: will the West Maui community benefit more from the Olowalu reef being alive in the future or the Olowalu town being built?

Best regards,

Francois Seneca  
PhD, Molecular Biology

RECEIVED  
NOV 18 2015

STATE OF HAWAII  
LAND USE COMMISSION

ORIGINAL

*Lawrence  
Carnachell*

CHARMAINE TAVARES  
Mayor  
  
JEFFREY S. HUNT  
Director  
  
KATHLEEN ROSS AOKI  
Deputy Director



COUNTY OF MAUI  
**DEPARTMENT OF PLANNING**

February 25, 2010

Certified Receipt No. (7008 1300 0000 5090 3943)  
Olowalu Elua Associates L.L.C.  
Mr. Peter Martin  
33 Lono Ave, Suite 450  
Kahului, Hawaii 96732

RECEIVED  
NOV 18 2010

STATE OF HAWAII  
LAND USE COMMISSION

Dear Mr. Martin:

**SUBJECT: FIRST (1<sup>ST</sup>) REQUEST FOR CORRECTION FOR A NON-CONFORMITY  
WITHIN THE SPECIAL MANAGEMENT AREA (SMA)**

**TMK:** TOTAL OF 732.98 ACRES OF WHICH 659.963 ACRES  
ARE MAUKA OF HONOAPIILAI HIGHWAY AND 73.017  
ACRES LIE MAKAI OF THE HIGHWAY. THE SUBJECT  
PROPERTY IS COMPRISED OF 49 EXISTING TAX MAP  
PARCELS. ON THE LANDS MAUKA OF HONOAPIILANI  
HIGHWAY, THERE ARE 38 EXISTING TAX MAP  
PARCELS. ON THE MAKAI LANDS, THERE ARE 11 TMK  
PARCELS, LAND IN OLOWALU FOR SUBDIVISION  
DEVELOPMENT. THE PROPOSED ACTION WITHIN THE  
COUNTY SMA INNVOLES THE CONSOLIDATION AND  
RESUBDIVISION OF FOUR (4) LOTS INTO SEVEN (7)  
LOTS.

MAUKA LANDS: TMK: 4-8-3:10, 50-70, 73-82; 4-8-4: 11-16

MAKAI LANDS: TMK: 4-8-3: 5, 41-49 AND 84

**RFS No.:** 10-0000452

**Description:** Failure to comply with all SMA conditions for SMA Use Permit  
for Olowalu Subdivision Olowalu, Maui, Hawaii (SM1  
990021)

Based on the evidence collected on February 2, 2010, we find that the non-compliance with SMA Conditions listed under SMA1 9990021 is in violation with §12-202-23, SMA Rules for the Maui Planning Commission, as amended. Please comply with all of the SMA conditions by **March 27, 2010**. Evidence of the aforementioned non-conformity includes: full review of the SMA Use Permit conditions and supporting documents. Condition numbers 2, 4, 8, 11, 12, 14, 19, 32 and 33 out of the 32 conditions listed in SM1 990021 have not been completed. Attached is a copy of SM1 990021 permit dated September 19, 2000.

Olowalu Elua Associates LLC.  
February 25, 2010  
RFS No. 10-0000452  
Page 2

Please be advised that a follow-up investigation will be performed, and if not in compliance, you will be subject to civil and criminal enforcement action. Should you have any questions concerning this notice, you may contact me at [Sonny.Huh@mauicounty.gov](mailto:Sonny.Huh@mauicounty.gov) or (808)270-7810.

Sincerely,

  
for  
Sonny Huh  
Zoning Inspector

xc: Jay Arakawa, Supervising Zoning Inspector (via e-mail)  
Sonny Huh, Zoning Inspector (via e-mail)  
RFS No. 10-0000452 (KIVA related document; RFS Project File)  
General File  
AHS:FAC:JAA:SH:ckk

S:\ZONING\RFS\2010\0452\_OLOWALU\_MAUIKA\_SMAINOWINOW1.DOC (rev. 11.09)

ORIGINAL

To: State Land Use Commission  
PO Box 2359  
Honolulu, HI 96804  
Attention: Dan Ordonecker

Nov. 18, 2015

RECEIVED  
NOV 18 2015  
STATE OF HAWAII  
LAND USE COMMISSION

From: Sierra Club Maui Group  
PO Box 791180  
Paia, HI 96708

Re: FEIS Olowalu Town A10-786

### Aloha LUC Members and Staff

Sierra Club Maui has followed the efforts to urbanize the historically and culturally significant lands of Olowalu since 1999.

The ownership of the land has been consistent in promising one thing and delivering another. The current FEIS before you does not meet the standards of HAR 11-200 which specifies EIS contents : "shall **fully declare** the environmental implications of the proposed action and shall discuss all relevant and feasible consequences of the action". It does not allow the public to be "fully informed" or the agency to "make a sound decision." We agree with the State Office of Planning that the FEIS should not be accepted and urge you to act accordingly.

The basis tone of the FEIS is that the project will be done perfectly and therefore there will be no significant impacts. The reality is that Olowalu is a very sensitive location, which has been long inhabited due to the richness of the soil, the sea and the available water. Past attempts at urbanization (Olowalu Plantation) in the 19th and 20th century were short-lived.

The present FEIS describes a plan that gives lip service to the ahupua'a, then proposes to repurpose 80% of the prime ag land with dense development. The FEIS reveals no impacts from that action since it assures us the agriculture is changing to be less land based. The FEIS informs us, with little factual basis, that the development will "improve conditions in ocean water quality and on the reefs" through a complex set BMP's and design standards that may or may not ever happen and whose costs are currently unknown. the FEIS does not discuss the likelihood that ongoing costs will be born by future residents of the proposed "affordable"community."

And then there is the water. The FEIS never fully describes why nearly a million gallons of Olowalu Stream water a day is currently being diverted from state land, with no current diversion license, and being used to supply a private irrigation company with less than 30 paying customers. You do the math? The FEIS does refer to current ag useage at 50,000 gpd. That's a far cry from the 900,000 gpd that is diverted into Olowalu Irrigation Co. reservoirs. Where does that water go?

The FEIS sidesteps any description of how the leaking Olowalu ditch and reservoir system is impacting the viability of the stream to have mauka -makai flows, and in effect wasting water protected under the state water code. It gives lip service to idea of stream restoration that is a priority issue in Cultural Impact Assessment interviews, but does not describe at what level the flows will be restored, only that things will be "improved" by repairing a section of ditch that is now leaking about 1 mgd of diverted stream water back into the stream.

Then the FEIS then assures us that when Olowalu Town is developed, things will improve, because only .39 mgd of stream water will be needed and other irrigation needs will be

supplied by R-1 water from a new sewage treatment plant. Unfortunately, the FEIS does not really openly discuss that the proposed 150-225 larger rural lots and 20 large ag lots are not utilizing the sewage treatment plant. This is buried in the fine print. There is not clear information available that until the treatment plant is built and R-1 water is available in sufficient quantities, stream water will be used for irrigation.

If these large lots are developed first, and the FEIS does not include a lot of details on project phasing, but these are the more expensive lots, then their more robust irrigation needs will be served by stream water. How much? The FEIS does not break it out, but the nearest figure is around 500 gpd.

The FEIS never mentions any figure for kuleana use of stream water, and acknowledges in response to public comments, that it has no idea how much stream water is currently being used by kuleana users or if there is additional need that is not met.

Similarly, the information available in the FEIS concerning ground water demands and effects of extensive groundwater pumping of two new wells is not sufficient. The FEIS acknowledges that the project's current well has very limited demand (average of 55,000 gpd) but then does not conclude that the FEIS needs to include more extensive testing of that well to see if its output can reliably increase 10 fold. The FEIS refers to additional wells being spaced throughout the aquifer. Maps in the FEIS show the existing and proposed wells in a line along the Olowalu stream. While the Olowalu aquifer spans over 600 acres, these wells are clustered in what would appear to be less than 20 acres. The rationale for this "spacing" and its effectiveness in protecting the aquifer is never discussed in the FEIS.

The FEIS refuses to consider that the introduction of two new wells and boosted pumping at the existing wells could have any effect on the underground flows that supply the Olowalu stream. Their consultant is sure that the two are and will remain completely unconnected, although the well water and stream water above the diversion appear to have a very similar chemical profile.

The FEIS concludes the existing and new wells will draw from a deeper source than plantation wells and have minimal effects on the transport of groundwater that naturally takes place under current conditions. Cultural practitioners have concerns that new wells pumping half the 2 mgd capacity or more of the Olowalu aquifer could irrevocably alter the fresh water discharge that is so important to their traditional gathering of limu and the fisheries attracted to the limu. These concerns are either ignored, or at best, dismissed in the FEIS with no analyses of potential impacts or mitigations. Traditional knowledge of the underground flows is not even considered.

Please require the FEIS to do the work necessary to meet the standard of Chapter 343 and HAR 11-200.

Mahalo for your diligence

Lucienne de Naie  
Conservation Chair  
Sierra Club Maui

November 16<sup>th</sup>, 2015

To: The State of Hawaii Land Use Commission

Concerning: A10-786 Olowalu Town Testimony on the Final-Environmental Impact Statement

Dear Land Use Commission,

Please consider the rejection of the Final-Environmental Impact Statement (FEIS) for the proposed development of Olowalu Town on the island of Maui.

**Benthic composition is under represented-** The area of Olowalu reef that the FEIS attempts to address is approximately 454 acres or ~1.8 million square meters. The area that the FEIS actually covered by the five, 500 meter long transects (and assuming 1 meter wide) is roughly 2500 square meters, or 0.62 acres. Clearly, the area covered is not sufficient and there is a need for more transects to accurately represent the current status of Olowalu's reef. Furthermore, it is absolutely not possible for this FEIS to serve as a "baseline" for Olowalu's reef community due to the complete lack of benthic composition data.

**Marine water chemistry is under represented -** The number of marine water samples collected for water chemistry analyses is not sufficient enough to represent accurate values. Marine water chemistry can be highly variable, and it is a scientific standard for the average of three samples per location to be presented with the associated variance as the result. The FEIS only has one sample per location, and only 60 samples to address the entire 454 acres of Olowalu's reef; that is equivalent to 1 sample per 7.5 acres. In addition, Transect 1 has extremely high nitrogen levels at the nearshore sites, the reasoning for which was not addressed by the FEIS. In this same area, the Olowalu Landfill was closed in the early 1990's, and the leachate from this closed landfill might be affecting the nearshore environment; none of which was even mentioned in the FEIS.

**Sedimentation and Nutrients-** On multiple occasions the FEIS concludes that the development of Olowalu Town will decrease sedimentation rates to the adjacent reef through retention basins. Unfortunately, even with a few retention basins, more sediment will be delivered to the reef when the bare ground of the construction sites is exposed to heavy rains. Once Olowalu Town is built, there will be sustained increased levels of nutrients in the adjacent nearshore coastal water through 5 new major sources: wastewater, fertilizers, leakage at the wastewater treatment plant, 4.7 acre excess R1 leach field, and R1 re-use for irrigation (pg. 22). Unfortunately, in severe contrast to the claims of the FEIS (pg 19, 3<sup>rd</sup> paragraph), the nutrient responsive algae *Hypnea* and *Ulva* will persist excellently in the low-circulation high nutrient reef flat environment and have already formed massive coral-degrading blooms in response to land-based nutrient loading in across Maui, including Kihei, North-West Maui, Maalaea, and from Kahului to Hookipa.

RECEIVED  
NOV 18 2015

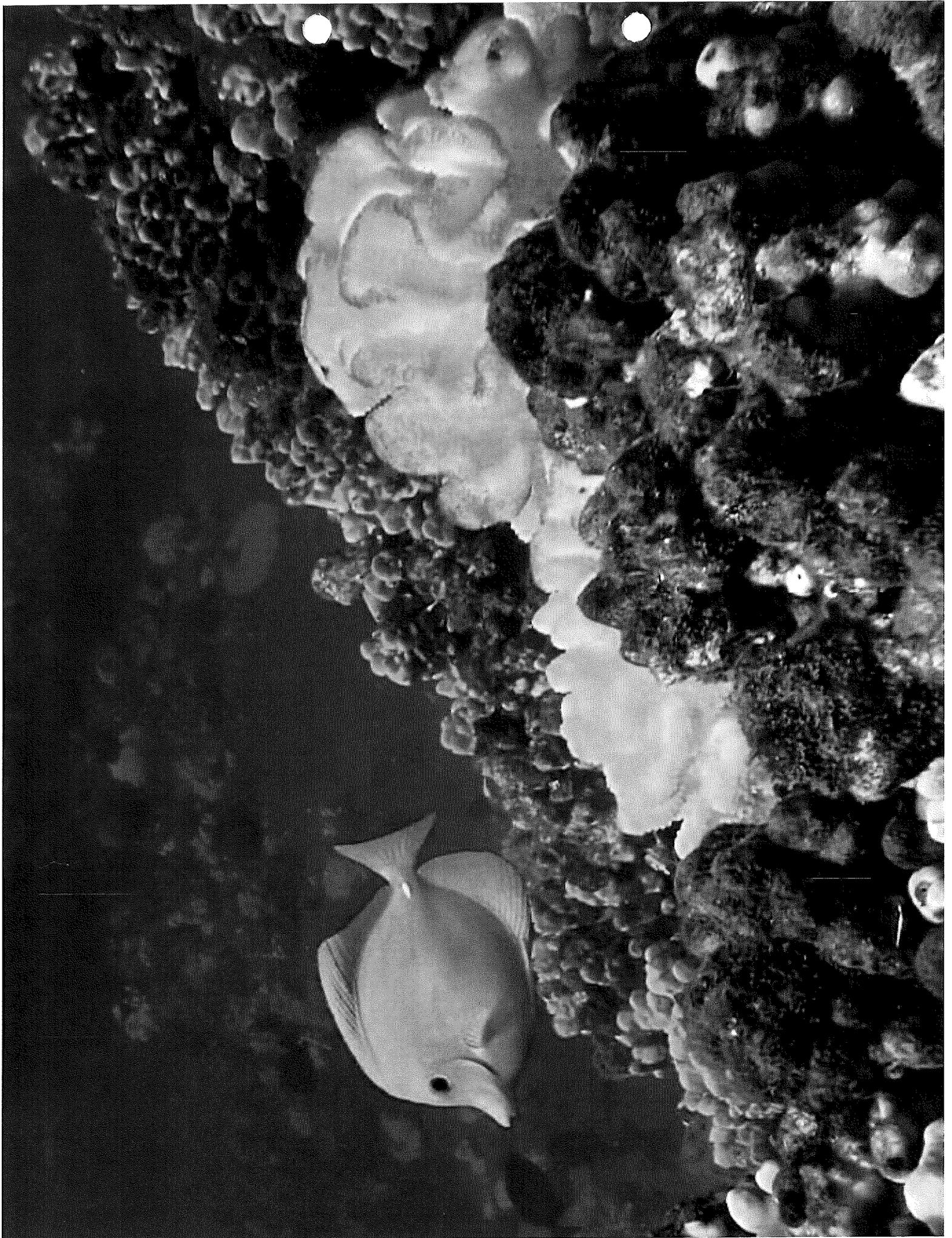
ORIGINAL

STATE OF HAWAII  
LAND USE COMMISSION

In consideration of the abovementioned issues with the current FEIS for Olowalu Town, I respectfully request that it is rejected by your authority.

Thank you for your time,

Meghan Dailer  
Marine Researcher  
MSc University of Hawaii, Manoa  
BS Long Island University, Southampton College  
dailer@hawaii.edu  
P.O. Box 10816  
Lahaina, HI 96761







ORIGINAL

RECEIVED  
NOV 18 2015

STATE OF HAWAII  
LAND USE COMMISSION

November 18, 2015

SUBJECT: FINAL ENVIRONMENTAL IMPACT STATEMENT (FEIS) for Proposed Olowalu Town Master Plan at Olowalu, Hawaii.

MNMRC recommends that the Final EIS for Olowalu Town not be approved at this time as there are still significant matters that have not been addressed in the responses we received to concerns expressed in 2012 or in the draft FEIS. Leaving these critical issues unaddressed gives much cause for concern and conclusion by our organization to consider this FEIS inadequate.

This letter serves to respond to comments received on October 26<sup>th</sup>, 2015 from Olowalu Town Project, in which they responded to comments submitted on April 22, 2012 by MNMRC re the Draft Environmental Impact Statement for the proposed Olowalu Town Master Plan.

In the interest of keeping our response concise, we'll comment on a small sample of core issues. Please note that overall we find the responses to our concerns voiced in 2012 to be insufficient – leaving our initial concerns still standing.

**COMMENT / RESPONSE 1:**

The response received goes into detail on the project's post construction storm drainage plans and water treatment design practices; however there is an alarming lack of information provided on specifics for carefully mitigating sediment impacts during the construction phase of this project.

As we know from watching other developments both past (i.e. Maui Ocean Center) and present (i.e. Mahana Ridge) it is during the construction phase of a project, when land is being cleared and excavated, that the majority of sediment is carried to the reef by wind and water.

Once sediment enters our near-shore waters it cannot be removed except by natural processes of winds, swells and waves, which may carry the sediment away from the reef. Meanwhile the sediment causes tremendous damage to our reefs.

As you know, Olowalu is situated on the leeward side of our island, and thus does not usually receive the same amount of winter swell and storm action that would otherwise assist this reef in flushing of sediment. Studies have been conducted in Maunalua Bay showing that 1 lb of sediment in a leeward reef flat has, through re-suspension, the impact of up to 5,000 lbs of sediment before it makes its way out far enough to be fully flushed.

An example is the recent coral death at Hekili Point area (Olowalu), noted by prominent marine scientists to have taken place within the past 1-2 years. This coincides with clearing of shoreline trees, which released substantial amounts of sediment onto the reef. Please see link for photos with dates taken.

Photos of 2011-2013 Tree Clearing at Hekili Point, Olowalu

[https://www.dropbox.com/sh/x21gdeob3zr7nhx/AADCWh2gl1XE440p\\_wYKmkq6a?dl=0](https://www.dropbox.com/sh/x21gdeob3zr7nhx/AADCWh2gl1XE440p_wYKmkq6a?dl=0)

When we consider the resulting coral mortality from such a small site and consider it in comparison to the magnitude of what is proposed, we find great concern for the obvious lack of planning for sediment impacts during the 10-year construction phase.

*Construction phase sedimentation mitigation must be thoroughly and carefully designed to exceed what is required by current county regulations if no impacts are to be seen to this very important reef. Detailed plans for this are extremely important.*

#### COMMENT / RESPONSE 7

If the project states the condition of the existing land to “be poorly permeable”, the question must be asked how incorporation of technologies for increasing permeability will truly function. This is not addressed in the draft FEIS.

Anyone who has spent time in Olowalu waters will have noted the presence of ground water in the near shore waters. While it may be less than the Launiupoko/Lahaina side, there is still significant ground water present.

#### COMMENT / RESPONSE 15

Please reference the Scripts Institute letter identifying and backing up concerns made regarding Marine Research Consultants Inc.’s methodology. Testimony from Pauline Fiene also provides excellent examples of questionable survey methodology.

#### COMMENT / RESPONSE 16

Comment 16 addresses concern for lack of mention of the many rare corals in Hawaii being present in Olowalu. The applicants state: “Unless there is quantitative data that these “rare” species have some specifically different physiological level of susceptibility to environmental stress as the common species of the same genera, then their occurrence will have no specific

ORIGINAL

Pauline Fiene  
PO. Box 627, Kihei, HI 96753

April 21, 2012

To: Hawaii State Land Use Commission  
PO Box 2359  
Honolulu, HI 96804  
Attention: Dan Davidson

RECEIVED  
NOV 18 2015

STATE OF HAWAII  
LAND USE COMMISSION

Re: Comments regarding the EIS for Proposed Olowalu Town Master Plan, TMK (2) 4-8-003: 84, 98-118, and 124 Olowalu, Maui Hawaii

Aloha Land Use Commission Members and Staff:

Thank you for the opportunity to comment.

I am writing to ask that you do not approve the final EIS for the Olowalu Town Project.

I am a diver and biologist with over 9,000 dives in Maui waters since 1987. I mainly study a group of mollusks called Opisthobranchs, but I also have broad interests in coral reef ecology.

In 2011 I commented on the draft EIS in regard to Appendix D - The Assessment of Marine Water Chemistry and Biotic Community Structure in the Vicinity of the Olowalu Town Master Plan. A couple weeks ago I received responses to my comments.

However, my comments were not substantively addressed in the FEIS.

In my 2<sup>nd</sup> comment I reported that there are twice as many (24 vs.12) species of corals within the area that was surveyed than were reported. The EIS states that the NOAA methodology that was used is deemed to be an appropriate scientific method to survey such a large area. But clearly. . . it is not. How could fully half the species not be reported? Obviously the methodology used for the EIS was not effective at surveying and recording the correct number of species present; that omission calls into question whether the rest of the data in the report are accurate.

I was not requesting an exhaustive list of all species in the area. That would be impossible. But corals are a protected group of marine animals in Hawaii. Boaters have been assessed huge fines for damaging corals yet developers could impact HALF of them and no one would know – based on this EIS!

If we do not have an accurate accounting of ALL the species present, we are being misled into thinking that there are fully HALF as many species as there actually are, and thus we can't accurately assess future impacts.

In my 3<sup>rd</sup> comment I stated that the number of species of corals that form micro-atolls at Olowalu is under-reported. Olowalu is also the most extensive area of well-developed micro-atolls in the whole state, making it a state treasure. The unique status of this area in the whole state is not even mentioned in the EIS, again downplaying the value of this area's marine resources. If this omission was deliberate there would be grave consequences.

In my 5<sup>th</sup> comment I report that the Olowalu area has been a nursery area for blacktip reef sharks for decades. This species of shark was added to the EIS, but the wrong name was used and there was no mention that this area has been in use by the sharks for decades. Again, the authors of the EIS were downplaying the importance of the Olowalu area for this critical stage in the life cycle of this animal that is rare in Hawaiian waters. Was this omission intentional or was the methodology flawed? We don't know. The species name should be blacktip reef shark and the scientific name is *Carcharhinus melanopterus*.

In my 6<sup>th</sup> comment I state that county best management practice guidelines have not been effective in preventing run-off from developments in the past. This has been well documented in aerial photos taken at Honolulu Bay and more recently at Flemings Beach where brown water events have been going on for over 2 years. All that was offered in the response to my concerns was that "the adverse stormwater quality impacts are anticipated to be minimized." Why would the authors anticipate that? The project is scheduled to take 10 years to build. Is there minimal chance of no rain in 10 years?

Stormwater has impacted project after project. I admit that if I had not been a diver here on Maui for the last 29 years I might not have been aware of the brown water that has entered the ocean during the construction of the Grand Wailea, the Four Seasons, the condos near Makena Landing, The Maui Ocean Center, condos in North Kihei and condos at Kapalua. The water makai of these developments was at times chocolate brown during construction. That means that the sunlight needed by corals to survive was blocked by suspended sediment and some corals were literally smothered by soil. The settled sediment continues to be re-suspended repeatedly by waves and thus has a long-lasting impact. It also prevents new coral larvae from settling; without keiki, the reef will die over the long term.

Olowalu Reef advocates continue to try and convey to residents and to decision-makers that this reef is unique on Maui and parts of it are unique in the whole state. Words such as minimize and mitigate in the EIS are not good enough for such an important reef. Once the sediment, however minimized or mitigated, has entered the ocean the damage has been done.

Given all the developments from which large amounts of sediment entered the ocean in spite of their "best practices", why do we think that this development on a steeper slope - over Maui's most extensive reef - is appropriate? Why are we risking this Maui treasure at all?

The EIS is not final until it addresses the reality of the project's potential sediment impacts during construction.

Sincerely,

Pauline Fiene

bearing of the results and conclusions of the study relating to impacts from the changes of land uses.”

If data are indeed not available on how these rare species differ physiologically to environmental stress then one would not be in a position to state that their presence has no specific or unique bearing relating to impacts from land use changes. To state otherwise calls into question whether the rest of the data and opinions in the report are accurate.

#### COMMENT / RESPONSE 18

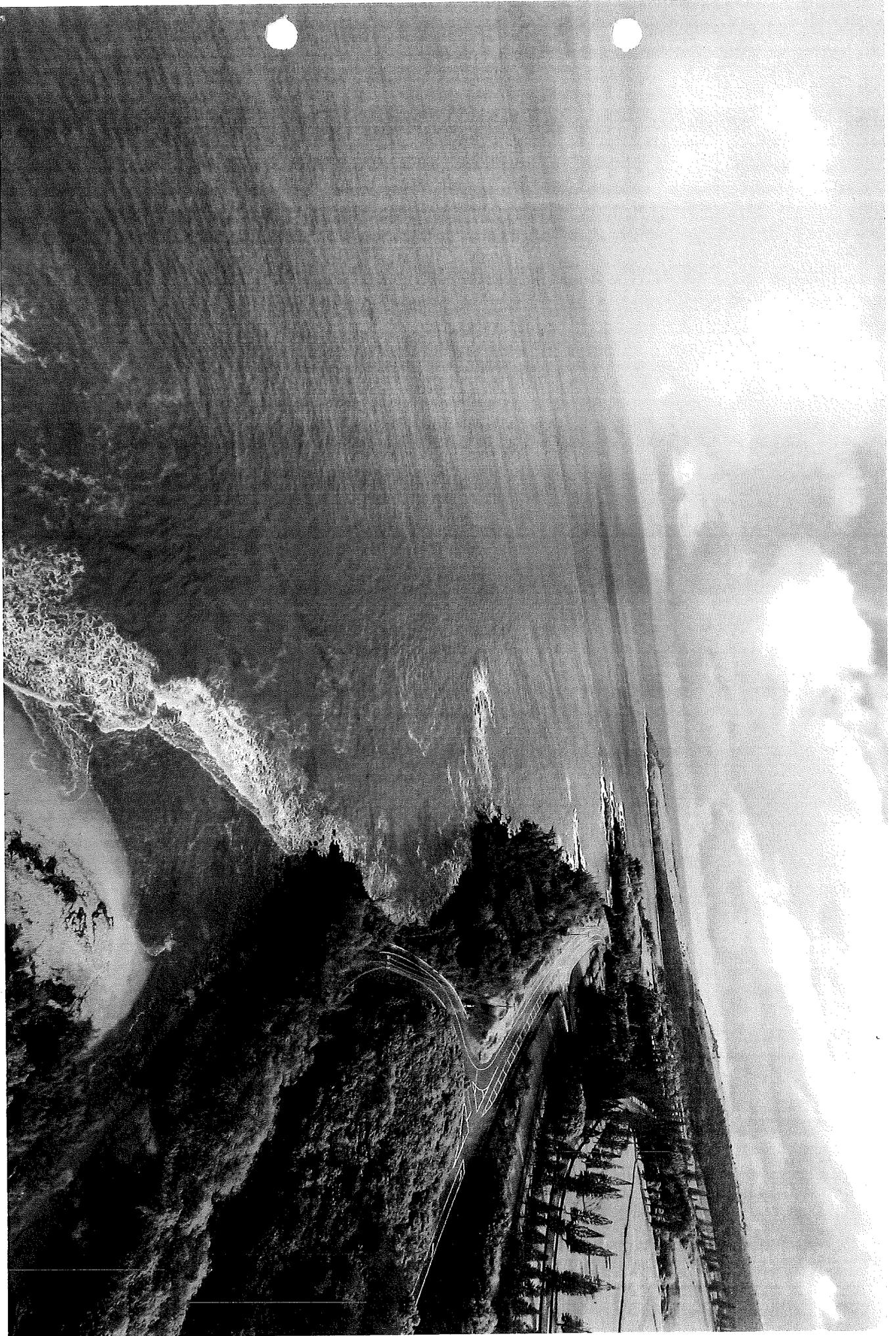
The applicant states that “Chemical effects from land are restricted to generally less than 100 meters from shore,” however it is well known and documented that sediment carries with it all kinds of other elements. In some cases this certainly extends out beyond 100 meters from shore (see photos at this link showing near-shore marine impacts to D.T. Fleming Beach Park from the Mahana Ridge development).

Photos of Brown Water impacts extending far beyond 100 meters from shore:

[https://www.dropbox.com/sh/x21gdeob3zr7nhx/AADCWh2gl1XE440p\\_wYKmkq6a?dl=0](https://www.dropbox.com/sh/x21gdeob3zr7nhx/AADCWh2gl1XE440p_wYKmkq6a?dl=0)

#### IN SUMMARY:

Due to the continued deficiency of the draft FEIS to properly characterize the current environment and provide sound plans for mitigation of known risks (such as mitigation of sedimentation to our reefs during the construction phase), this Council wishes to restate its initial concerns for the impacts of this proposed project to our near shore areas by recommending a revised draft FEIS.



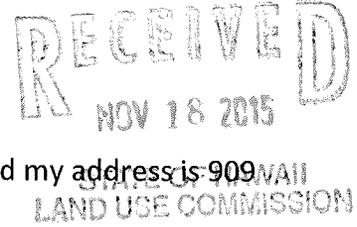
photos enclosed are  
not same dates



Photos enclosed are  
separate data,

ORIGINAL

Article 12 Section 7



For the record, my name is Davin Balagso, speaking on my own behalf and my address is 909 North Hopoe Place in Lahaina.

I want the Commission to deny the Final- EIS.

I'm 31 years old and have lived in Lahaina for about 16 years. Growing up, even though I lived in Wailuku and Kahului with my mother, on the weekends we would stay with my father and grandparents in Lahaina. My grandfather use to work at Pioneer Mill back in the day. He would take me to Olowalu where he and my father taught me how to fish, dive, surf and throw net.

My family has celebrated many events at the Olowalu Pier, birthdays, anniversaries, baby showers and family bbq's. Almost everyone from Lahaina has had a birthday, bbq or get together down in Olowalu. They are taking our livelihood from us by limiting access to these areas we all have grown up in.

I've seen a big difference in the past 3 years. When they pulled the kiawe trees out of the ocean that was along the shoreline, it changed the whole eco system in this area. There's no longer any bait fish in this spot of Olowalu because they use to live and hide in these trees. With no bait fish I don't see as much predators in the reef as I use to. I also don't see too many sharks swimming along the shore line. With no trees along the beach all the dust and dirt are being blown into the ocean which is killing the reef. The removal of the trees was only a small part of what is planned to change. But look at what great of an impact it has already had in our oceans.

The ocean provides food for my family and I. You can't just go to a store and buy reef fish. You have to go out and catch it.

I want to be able to teach fishing, diving, surfing and throwing net to the next generation. And to be able to continue my grandfather's family traditions.

THIS IS WHY I SAY NO TO THIS FINAL-EIS!!

TV

RECEIVED  
NOV 18 2015

STATE OF HAWAII  
LAND USE COMMISSION

November 17, 2015

Dear Hawaii Land Use Commissioners,

As the director of the Hawaii Association for Marine Education and Research, I have spent the last 10 years studying the manta ray population that frequents the Olowalu Reef. The proposed Olowalu Town Project will very likely have significant impacts to the Olowalu Reef and I feel that the Final Environmental Impact Statement (FEIS) does not adequately address those impacts and therefore should be denied.

Here are some of my concerns:

1. The haphazard sampling design of the coral reef characterization does not adequately cover the extent of the potential impact area. A more systematic design methodology that covers a greater representation of the impact zone is needed.
2. The reef survey was done in 2011 and subsequently there has been significant recent sediment impacts from 1) keawe tree removal along the shoreline, 2) failed Best Management Practices (BMPs) during Olowalu oceanfront home construction (see attached photos and sighting), 3) large areas cleared of trees and vegetation causing sediment to discharge onto the reef via wind and rain, and 4) a severe coral bleaching event that could potentially decimate a large proportion of the corals. All the scenarios should warrant a new baseline reef survey in order to properly monitor impacts during and post construction.
3. The author of the report claims the reefs could improve as a result of the development but nothing is reference to support this claim other than calling out the use of Best Management Practices (BMPs), which have routinely been shown to be inadequate at retaining storm water. No literature can be found to support a positive correlation between reef health and coastal development. However, plenty of literature exists demonstrating the negative correlation due to increased sediment, nutrients, waste water, storm water and people (see attached).
4. The same company conducted an EIS for the Kapalua Makai project also stating no impacts will occur to the marine environment. Since 2012 we have observed more than 50 mud-water events from BMP failures, a 5 month stop work order this past year, and they continue to struggle to maintain sediment and storm water on their property. Continued BMP failures after several reconfigurations demonstrate the challenges in controlling sediment and the likelihood of occasional failures during a 10-year build-out resulting in impacts to the reef.
5. No quantification of the ecosystem service, subsistence, commercial, and recreational impacts that would result from occasional BMP failures.
6. No description on how BMPs will be implemented and monitored for performance during construction.

7. No quantification on Low Impact Development systems and how many of what will be needed and where they would be installed and monitored.

Based on the overwhelming evidence of the likelihood of land-based pollutants reaching the marine environment during construction and beyond, a revised EIS is recommended that discloses and quantifies those impacts and therefore the current EIS should be denied.

Thank you for your service,

A handwritten signature in black ink, appearing to read "Mark Deakos". The signature is fluid and cursive, with the first name being more prominent.

Mark Deakos, Ph.D.  
Executive Director  
Hawaii Association for Marine Education and Research  
PMB175  
5095 Napilihau St 109B  
Lahaina, HI 96761

## Appendix I: Scientific Literature

### POSITIVE Impacts of coastal development on Reefs:

**No literature found.**

### NEGATIVE Impacts of coastal development on Reefs:

#### From Urbanization

Finkl, C. W., & Charlier, R. H. (2003). Sustainability of subtropical coastal zones in southeastern Florida: challenges for urbanized coastal environments threatened by development, pollution, water supply, and storm hazards. *Journal of Coastal Research*, 934-943.

#### From Nutrient Loading

Paytan, A., Shellenbarger, G. G., Street, J. H., Gonness, M. E., Davis, K., Young, M. B., & Moore, W. S. (2006). Submarine groundwater discharge: An important source of new inorganic nitrogen to coral reef ecosystems. *Limnology and Oceanography*, 51(1), 343-348.

Koop, K., Booth, D., Broadbent, A., Brodie, J., Bucher, D., Capone, D., ... & Yellowlees, D. (2001). ENCORE: the effect of nutrient enrichment on coral reefs. Synthesis of results and conclusions. *Marine pollution bulletin*, 42(2), 91-120.

Costa, O. S., Nimmo, M., & Attrill, M. J. (2008). Coastal nutrification in Brazil: a review of the role of nutrient excess on coral reef demise. *Journal of South American Earth Sciences*, 25(2), 257-270.

Gabric, A. J., & Bell, P. R. (1993). Review of the effects of non-point nutrient loading on coastal ecosystems. *Marine and Freshwater Research*, 44(2), 261-283.

#### From People

Wong, P. P. (1998). Coastal tourism development in Southeast Asia: relevance and lessons for coastal zone management. *Ocean & Coastal Management*, 38(2), 89-109.

Richmond, R. H., Rongo, T., Golbuu, Y., Victor, S., Idechong, N., Davis, G., ... & Wolanski, E. (2007). Watersheds and coral reefs: conservation science, policy, and implementation. *BioScience*, 57(7), 598-607.

Meng, P. J., Lee, H. J., Wang, J. T., Chen, C. C., Lin, H. J., Tew, K. S., & Hsieh, W. J. (2008). A long-term survey on anthropogenic impacts to the water quality of coral reefs, southern Taiwan. *Environmental Pollution*, 156(1), 67-75.

Moberg, F., & Folke, C. (1999). Ecological goods and services of coral reef ecosystems. *Ecological economics*, 29(2), 215-233.

Davenport, J., & Davenport, J. L. (2006). The impact of tourism and personal leisure transport on coastal environments: a review. *Estuarine, Coastal and Shelf Science*, 67(1), 280-292.

Creel, L. (2003). *Ripple effects: Population and coastal regions* (pp. 1-7). Washington, DC: Population Reference Bureau.

#### From Sediment

Syvitski, J. P., Vörösmarty, C. J., Kettner, A. J., & Green, P. (2005). Impact of humans on the flux of terrestrial sediment to the global coastal ocean. *Science*, 308(5720), 376-380.

Fabricius, K. E. (2005). Effects of terrestrial runoff on the ecology of corals and coral reefs: review and synthesis. *Marine pollution bulletin*, 50(2), 125-146.

#### From Urban Development

Wolanski, E., Martinez, J. A., & Richmond, R. H. (2009). Quantifying the impact of watershed urbanization on a coral reef: Maunalua Bay, Hawaii. *Estuarine, Coastal and Shelf Science*, 84(2), 259-268.

Wilkinson, C. R., & Buddemeier, R. W. (1994). *Global Climate Change and Coral Reefs: Implications for People and Reefs: Report of the UNEP-IOC-ASPEI-IUCN Global Task Team on the Implications of Climate Change on Coral Reefs*. IUCN.

Turner, R. K., Subak, S., & Adger, W. N. (1996). Pressures, trends, and impacts in coastal zones: interactions between socioeconomic and natural systems. *Environmental management*, 20(2), 159-173.

Hunter, C. L., & Evans, C. W. (1995). Coral reefs in Kaneohe Bay, Hawaii: two centuries of western influence and two decades of data. *Bulletin of Marine Science*, 57(2), 501-515.

Doney, S. C. (2010). The growing human footprint on coastal and open-ocean biogeochemistry. *science*, 328(5985), 1512-1516.

Appendix 2: Photos



June 24 2014





November 15, 2015



County of Maui  
 Kalana O Maui Building  
 200 South High Street,  
 Wailuku, HI 96793-2155

11/13/2015

## RFS Information for 14-0000860

<u>Call Information</u>						
Status	Received Date	Completed Date	Duration (Days)	Entered By	How Taken	Source
DONE	06/29/2014	07/16/2014	17	KIVANET	REMOTE	INTERNET

<u>Requestor Information</u>		
Name: TRACY ADAMS	Address:	
Company:	(H) Phone: 808-366-8822	(W) Phone:
E-Mail: tracva808@gmail.com		

<u>Event Location</u>	
Address: 11501 HONOAPIILANI HWY LAHAINA, HI 96761	Owner(s): MARTIN,PETER KLINT TRUST
TMK: 2480030460000	
Subdivision:	
Intersection:	
Common Place:	
Other Location: HOUSE UNDER CONSTRUCTION, OCEANFRONT, OLOWALU	

Memo(s)

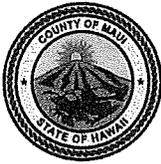
House with TMK (2) 4-8-003:046. This house (property line approximately 100 yards front the ocean) is under construction and the BMPs are inadequate (single silt retention fence almost completely collapsed and non-functional) and threaten the offshore reef should a heavy rain event occur. Photos are available of the violation upon request. Please double check the address and TMK to be sure they are valid. Very few houses under construction in this area so the one in violation should be obvious.

<u>Additional Addresses</u>	
Address	TMK

<u>Related Permit(s)</u>		
Permit	Permit Name	Status

<u>Inspection Information</u>					
<u>Problem</u>	<u>Type</u>	<u>Scheduled</u>	<u>Completed</u>	<u>Inspector</u>	<u>Result</u>

RFS#: 14-0000860      TMK#: 2480030460000



County of Maui  
 Kalana O Maui Building  
 200 South High Street,  
 Wailuku, HI 96793-2155

11/13/2015

## RFS Information for 14-0000860

### Problem/Service Action Information

<u>Problem</u>	<u>Date Entered</u>	<u>Entered by</u>	<u>Contact</u>	<u>Status</u>
PA01ADMIN	07/07/2014	KIVANET	RANDAYA	DONE
<u>Service</u>	<u>Scheduled</u>	<u>Completed</u>	<u>Completed by</u>	<u>Status</u>
*REVIEW	07/07/2014	07/07/2014	RANDAYA	DONE

**Comments:**

*REASSIGN	07/07/2014	07/07/2014	RANDAYA	DONE
-----------	------------	------------	---------	------

<u>Problem</u>	<u>Date Entered</u>	<u>Entered by</u>	<u>Contact</u>	<u>Status</u>
PD01PREREV	07/07/2014	RANDAYA	GUENO	DONE
<u>Service</u>	<u>Scheduled</u>	<u>Completed</u>	<u>Completed by</u>	<u>Status</u>
*REASSIGN	07/07/2014	07/07/2014	LNAKAMURA	DONE

**Comments:** Assigned to Engineering.

<u>Problem</u>	<u>Date Entered</u>	<u>Entered by</u>	<u>Contact</u>	<u>Status</u>
PD02GRGRUB	07/07/2014	LNAKAMURA	LOTANI	DONE
<u>Service</u>	<u>Scheduled</u>	<u>Completed</u>	<u>Completed by</u>	<u>Status</u>
*REASSIGN	07/07/2014	07/08/2014	LOTANI	DONE

**Comments:** Assigned to Cathy.

*RESEARCH	07/07/2014	07/07/2014	CAHASFURTH	DONE
-----------	------------	------------	------------	------

**Comments:** Has an active grading permit for the site. G-RS 20130084.

*RESPOND	07/07/2014	07/08/2014	CAHASFURTH	DONE
----------	------------	------------	------------	------

**Comments:** 7/8/14 - sent email to the requestor stating that our inspector, Gary, visited the site and had the contractor correct the silt fence that was down.

*INSPECT	07/07/2014	07/08/2014	CAHASFURTH	DONE
----------	------------	------------	------------	------

**Comments:** 7/7/14 - Gary visited the site and found the silt fence was laying down. He talked to the contractor to have them fix the silt fence and get it put back up. 7/8/14 - Gary went back to the site this morning and the silt fence had been installed properly to control work being done on the site.

*CLOSE	07/07/2014	07/08/2014	LOTANI	DONE
--------	------------	------------	--------	------

**Comments:** RFS may be closed.

PDADMINFR	07/08/2014	07/16/2014	LNAKAMURA	DONE
-----------	------------	------------	-----------	------

**Comments:** Review complete.

RFS#: 14-0000860

TMK#: 2480030460000

Frank Caproni

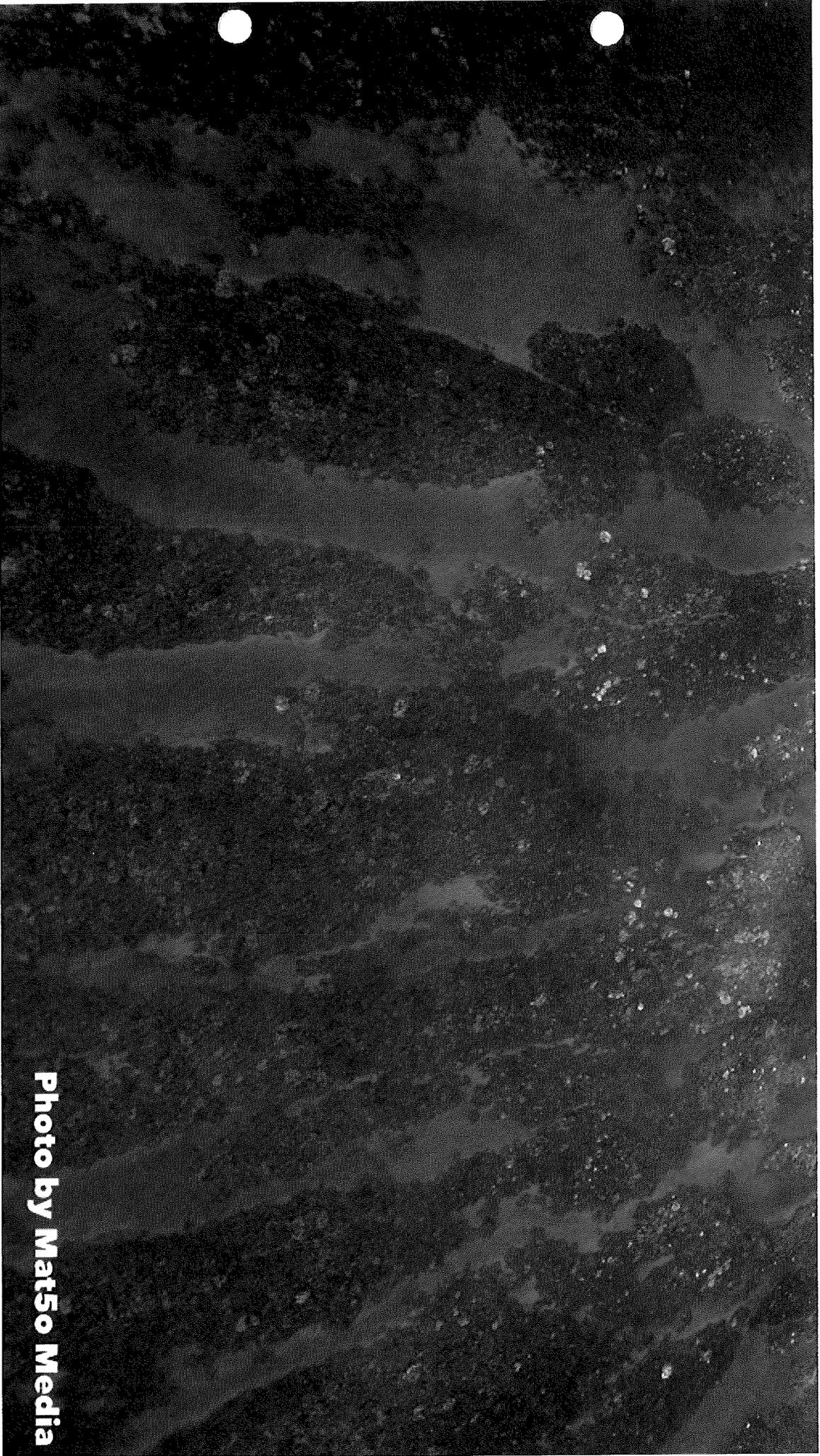


Photo by Mat5o Media



Photo by Matso Media

Frank Caproni



Frank Caproni



Front Canyon.