

DAVID Y. IGE
GOVERNOR



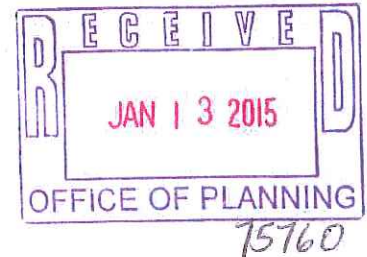
CRAIG K. HIRAI
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO:
15:DEV/005

January 13, 2015



Memo to: Leo R. Asuncion, Acting Director
Office of Planning

From: Craig K. Hirai
Executive Director

ORIGINAL

Subject: Motion to Release Conditions:
Land Use Commission Docket No. A89-643, McClean Honokohau
Properties, a Hawaii Limited Partnership
Increment I
Honokohau, North Kona, Hawaii
Tax Map Key Nos. (3) 7-4-24: 1, 2, 4, 6, 7, 8, 9, 10, 11, and 12

The Hawaii Housing Finance and Development Corporation (HHFDC) submits the following comments in response to a Memorandum from the Office of Planning dated January 12, 2015 requesting for comments to the above subject Motion to Release Conditions to Land Use Commission Docket No. A89-643, McClean Honokohau Properties, for its Increment I at Honokohau, North Kona, Hawaii (Motion to Release):

1. It is HHFDC's understanding, that Increments I and II consist of the following:

Increment I: Tax Map Key Nos. (3) 7-4-024: 001 to 011, 013, 014 and 015; and

Increment II: Tax Map Key Nos. (3) 7-4-024: 012 and 017;

2. Increments I and II are located adjacent to, on the north side, of the Villages of La'i'opua project in Kealakehe, North Kona, Hawaii;
3. The Villages of La'i'opua, except for Village 9, Tax Map Key No. (3) 7-4-020: 004, was conveyed by HHFDC's predecessor agency, the Housing and Community Development Corporation of Hawaii, to the Department of

Memo to: Leo R. Asuncion, Acting Director
January 13, 2015
Page 2

Hawaiian Home Lands (DHHL) by Transfer Agreement dated December 30, 2004, as amended;

4. Condition 1 to the Increment I conditions provides that:

"Petitioner shall ensure that a buffer area along the boundary of the property be constructed to maintain the visual integrity from the Queen Kaahumanu Highway. Petitioner shall further ensure that the proposed light industrial uses be screened from passing motorists, the Kaloko-Honokohau National Historic Park, and the adjacent Kealakehe lands, by landscaping improvements along the petition area's western, northern and southern boundaries. Petitioner shall prepare a plan for a buffer along the southern boundary with the Kealakehe lands, which shall be submitted to and approved by the Housing Finance Development Corporation. Petitioner shall properly maintain the approved landscaping improvements."

Attached to the Motion to Release is Exhibit 1, a letter dated November 19, 1996 submitted from the Housing Finance and Development Corporation, another predecessor agency to HHFDC, to the County of Hawaii Planning Department in connection with a rezoning ordinance 93-38 (REZ - 744), which provides:

"We have reviewed landscape planting and irrigation plans, dated March 5, 1996, prepared by Belt Collins Hawaii for Honokohau Properties. We concur with the proposed plans."

HHFDC defers to DHHL and the County Planning Department as to whether this condition has been satisfied.

5. Condition 2 to the Increment I conditions provides that:

"Petitioner shall participate in the funding and construction of local and regional transportation improvements on a pro rata basis as determined by the State Department of Transportation."

Attached to the Motion to Release is Exhibit 2, a letter from the State of Hawaii Department of Transportation to William L. Moore Planning dated December 11, 2000, which provides for the construction of portions of Road "G", now known as Kamanu Street, the Mid-Level Road, now known as Ane Keohokalole Highway, and "Main Street".

Memo to: Leo R. Asuncion, Acting Director
January 13, 2015
Page 3

HHFDC acknowledges that Road "G" from Kealakehe Parkway to Increment I and Ane Keohokalole Highway have been completed but has no knowledge as to whether Main Street has been completed, and defers to DHHL, the County Planning Department and the State Department of Transportation as to whether this condition has been satisfied.

6. HHFDC has no other comments to the Motion to Release.

Should there be any questions or comments regarding this matter, please contact Stan S. Fujimoto, Project Manager, at 587-0541.

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

SHAN S. TSUTSUI
I.T. GOVERNOR
STATE OF HAWAII



JOBIE M. K. MASAGATANI
CHAIRMAN
HAWAIIAN HOMES COMMISSION

WILLIAM J. AILA, JR.
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879
HONOLULU, HAWAII 96805

February 24, 2015



MEMORANDUM

TO: Leo R. Asuncion, Acting Director
Office of Planning

FROM: Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission *Jobie M. K. Masagatani*

SUBJECT: Land Use Commission Docket No. A89-643
Motion to Release Conditions: McClean Honokōhau
Properties, a Hawai'i Limited Partnership, Honokōhau ,
North Kona, Hawai'i
Tax Map Key Nos.: (3) 7-4-24: 1, 2, 4, 6, 7, 8, 9, 10,
11, and 12

Thank you for the opportunity to comment on McClean Honokōhau Properties' request that the Land Use Commission (LUC) remove all sixteen (16) Conditions stipulated in its April 16, 1991 Decision and Order for the Petition area, Increment I. The petitioner states that the development of Increment I is substantially completed and that the 16 conditions have been satisfied and duly reported in the petitioner's Annual Reports. The Department of Hawaiian Home Lands (DHHL) agrees that Conditions 2, 3, 4, 5, 7, 8, 10 and 16 could be released as these conditions pertain to specific state and/or county agencies who have submitted written confirmation and verification that the respective Conditions have been satisfied. However, Conditions 1, 6, 9, 11, 12, 13, 14, and 15 contain elements that have only been partially completed or relate to Conditions that we recommend remain to ensure proper regional coordination and compliance over time.

Created by Congress in 1921, Hawaiian Home Lands are trust lands that are managed in perpetuity to better the conditions of native Hawaiian beneficiaries. There are approximately 1,500 acres of Hawaiian Home Lands in the North Kona region, located at Kealakehe, Keahu'olū, and Kalaoa. We have awarded approximately 500 residential homestead lessees at Kealakehe. Our lands occupy strategic locations in the North Kona region that provide opportunities for DHHL to pursue residential homesteading as well as income-producing commercial and industrial development. The DHHL owns approximately 33-acres adjacent to McClean Honokōhau

Properties on their southern boundary; we share the common (southern) boundary for a distance of approximately one-half mile. The DHHL and our resident homestead community are fully vested in this region and our comments and recommendations on specific LUC Conditions stem from our long-term land management and fiduciary responsibilities to better the conditions for native Hawaiian individuals, families, the homestead community, at community-at-large.

CONDITION 1. Petitioner shall ensure that a buffer area along the boundary of the property be constructed to maintain the visual integrity from the Queen Ka'ahumanu Highway. Petitioner shall further ensure that the proposed light industrial uses be screened from passing motorists, the Kaloko-Honokōhau National Historic Park, and the adjacent Kealakehe lands, by landscaping improvements along the petition area's western, northern and southern boundaries. Petitioner shall prepare a plan for a buffer along the southern boundary with the Kealakehe lands, which shall be submitted to and approved by the Housing Finance Development Corporation (HFDC). Petitioner shall properly maintain the approved landscaping improvements.

DHHL Comments: Although the Petitioner prepared landscape planting and irrigation plans which were approved by HFDC in 1996, we recommend that this Condition remain in place because it assigns the long-term responsibility of maintaining landscape improvements to McClean Honokōhau Properties. We recommend that this Condition be kept in place because landscaping is an ongoing effort that requires funding and management.

CONDITION 6. Petitioner shall coordinate with the County of Hawai'i and the State Department of Health to establish appropriate systems to contain spills and prevent material associated with light industrial uses, such as petroleum products, chemicals, solvents or other pollutants, from leaking into the storm drainage systems and adversely affecting the groundwater and coastal waters.

DHHL Comments: This is one of DHHL's concerns about the light industrial activities that are occurring adjacent to our lands. The area has extremely porous volcanic rocks that could allow spills to leak through which could contaminate groundwater and coastal waters. The Petitioner reported that rules were adopted for all tenants to eliminate the risk of spills of petroleum products, chemicals, solvents or other pollutants, and that

the tenants have been very cooperative in this effort. This is good news. We recommend that this Condition remain in place to ensure on-going, long-term protection of the pristine groundwater and coastal water resources on which so much of the region depends.

CONDITION 9. *Petitioner shall provide its pro rata share for police, fire, park, and solid waste disposal as may be required by and to the satisfaction of the County of Hawai'i.*

DHHL Comments: Although this relates to County services, we note that there is no letter from the county stating that the Petitioner's pro rata share for police, fire, park, and solid waste disposal is NOT required. We recommend that this Condition remain in place since it affects services that are provided on an ongoing basis and help to ensure health and safety of the whole community.

CONDITION 11. *The Petitioner shall implement effective soil erosion and dust control measures during all Increments of the development.*

DHHL Comments: As an adjacent landowner we appreciate having this Condition in place since it relates to any increment of development, including future renovations or modifications to existing buildings. Soil erosion and dust control measures are important mitigation measures to protect groundwater, near shore and deep ocean waters.

CONDITION 12. *Petitioner shall develop and maintain on-site facilities to insure that the near shore, offshore and deep ocean waters remain in pristine condition. Petitioner shall also participate in a water quality monitoring system as may be required by the State Department of Health.*

DHHL Comments: As stated earlier, this is one of DHHL's concerns about the light industrial activities that are occurring adjacent to our lands. The area has extremely porous volcanic rocks that could allow spills to leak through which could contaminate groundwater and coastal waters. The Petitioner reported that they have not developed any activity that will impact near shore, offshore, or deep ocean waters. This is a good progress report; however, impacts on near shore, offshore and deep ocean waters occur over time, so we would recommend that this Condition remain in place.

CONDITION 13. Petitioner shall develop the property in substantial compliance with representations made to the Commission in obtaining the reclassification of the property. Failure to so develop may result in reclassification of the property to its former land use classification.

DHHL Comments: The Petitioner states that development has been in compliance with LUC Conditions and that future development would also be in compliance. In the unlikely, but possible situation that the land is sold, we recommend that the LUC's Conditions remain with the land and the best way to ensure this is to keep the Condition in force.

CONDITION 14. Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the subject property covered by the approved petition, prior to development of the Property.

DHHL Comments: The Petitioner reports that they have "no current plans to sell any of their properties." In the unlikely, but possible situation that the land is sold, we recommend that prior notification be given to ensure that the Conditions remain with the property and are clearly stated and understood in the transaction.

CONDITION 15. Petitioner shall provide annual reports to the Commission, the Office of State Planning and the County of Hawai'i Planning Department in connection with the status of the subject project and the Petitioner's progress in complying with the conditions imposed.

DHHL Comments: Annual reports are important because they are written statements of compliance. DHHL would support amending the requirement to state that annual reports would be required to report any compliance activities that occurred within the particular year. It need not be cumulative.

Once again, we thank the Office of Planning for their assistance in taking our concerns to the Land Use Commission. We apologize for the delay in our response and thank Lorene Maki for her assistance in ensuring that our concerns are represented.



National Park Service
U.S. Department of the Interior

Kaloko-Honokōhau
National Historical Park

73-4786 Kanalani Street # 14
Kailua-Kona, Hawaii'i 96740

808 329-6881 Phone
808 329-2597 Fax

Kaloko-Honokōhau

IN REPLY REFER TO:
L7621 2015-03

February 5, 2015

Mr. Leo R. Asuncion
Acting Director, Office of Planning
P.O. Box 2359, Honolulu, Hawaii 96804

Subject: Motion to Release Conditions: Land Use Commission Docket No. A89-643 McClean Honokohau Properties

Dear Mr. Asuncion:

Thank you for your letter dated January, 2, 2015, seeking our review and comment on McClean Honokohau Properties' "Motion to Release, Discharge, and Delete All Conditions" ("Motion to Release"), dated December 23, 2014, related to the April 16, 1991 Decision and Order ("D&O") for Land Use Commission Docket No. A89-643 McClean Honokohau Properties, Honokohau, North Kana, Hawaii, Tax Map Key Nos.: (3) 7-4-24: 1, 2, 4, 6, 7, 8, 9, 10, 11, and 12. The April 16, 1991, D&O dealt with the area of the Petitioner's property referred to as Increment I.

The April 16, 1991, D&O imposed 16 conditions on Increment I. Conditions 1, 3, 6, and 12 are directly related to the natural and cultural resources within Kaloko-Honokōhau National Historical Park ("KAHO" or "Park"). We note that Increment I is also subject to Condition 1a set out in the Decision And Order dated June 27, 2002, covering both Increment I and Increment II for the same LUC Docket Number. The National Park Service ("NPS") is only providing a response on Conditions 1, 3, 6, and 12 from the April 16, 1991 D&O since the Petitioner is seeking to be released from the conditions in the April 16, 1991 D&O.

Condition 1 required the Petitioner to, among other things, screen the industrial uses from the view from the Park. For this condition, Petitioner has simply a letter of approval for the Hawaii Housing Finance and Development Corporation, dated November 19, 1996. There is no analysis or documentation that the industrial uses within Increment I have been screened from the view from the Park with appropriate landscaping or that the Petitioner has and is maintaining the landscaping.

Condition 3 required that the Petitioner prepare and construct drainage and erosion control plans that would "control drainage with the property and to maintain ocean water quality to the satisfaction of the State Department of Health." Petitioner has provided a map showing the location of 11 injections wells ("drywells") within the project's roadways. Petitioner also submitted its correspondence with the Hawaii Department of Health ("DOH") regarding the regulatory status of the wells. It appears that these 11 drywells are designed to capture excess surface water flow during rain storms. However, Petitioner has provided nothing to support its

statements that it has met the requirement that its drainage system maintains ocean water quality. In fact, the drainage system, as designed, acts as a conduit for the contaminants and pollutants picked up in the surface water flow from the project site during storm events. The correspondence between the Petitioner and DOH does not address the requirement that the drainage system maintain ocean water quality.

Condition 6 required the Petitioner to establish appropriate systems to contain spills and prevent materials used in the industrial uses on Increment I from leaking and "adversely affecting the groundwater and coastal waters." Petition has simply included a set of standard lease conditions that it applies to its tenants that on their face do not address the requirements contained in Condition 6. The lease provisions prohibit the tenants from violating environmental laws and provide that the tenant shall indemnify the Petitioner for the costs of any violations or harm caused by the tenant; the lease terms do not address the obligation of Petitioner "to contain spills and prevent material associated with light industrial uses, such as petroleum products, chemicals, solvents or other pollutants, from leaking into the storm drainage systems and adversely affecting the groundwater and coastal waters." Thus, it appears that Petitioner has not established the necessary systems and controls to address the potential of contaminants and pollutants reaching the groundwater and coastal waters along the Kona coast, including the waters within the Park.

Condition 12 required the Petitioner to "develop and maintain on-site facilities to insure that the nearshore, offshore and deep ocean waters remain in pristine condition." In its motion, Petitioner stated simply that it "has not developed any activity that will impact nearshore, offshore or deep ocean waters." (page 7). Increment I is devoted to industrial uses which, by definition, have the potential to impact nearshore, offshore and deep ocean waters. In fact, Condition 12 is directly related to Condition 6, and neither has been satisfied. Thus, Petitioner's statement seems to show a lack of understanding of the requirements of Condition 12, as well as a lack of any analysis or documentation to support its Motion.

The NPS would like to emphasize the significance of the Conditions 3, 6, and 12 to the protection of the natural and cultural resources within the Park. The Project is located directly upslope from the Park. The groundwater-dependent resources and coastal resources in the Park would be directly impacted by contaminants and pollutants entering the groundwater under Petitioner's Project site. Our concern is heightened by the fact that the site is close to the coast and the Park, and the site is located where groundwater is relatively close to the surface. As far as we can tell, neither the County of Hawaii nor the DOH has imposed any substantive requirements on this project to control the release of pollutants and contaminants into the groundwater and coastal waters. Although the wording is different and has more detail, the requirements of Conditions 3, 6, 12 and in the April 16, 1991 D&O are in essence addressing the same issues and potential impacts that are addressed in Conditions 2 (a-h) and 3 (a-h) of the June 27, 2002 D&O (covering Increment II for the same docket). For another project directly uphill from the Park, the Kaloko Light Industrial Park-Phases III and IV, the LUC stated over 10 years ago they are " ... acutely aware that continuous development is planned for this coastline. Although each developer might claim that only a "small amount" of pollution will result from their development and that the area's ecosystem will show "little" effects, these developments and their impacts are cumulative and, absent strong mitigation measures, have the potential to devastate the fragile resources of the coastal and marine aquatic environments of the entire Kona coastal region." (LUC Docket AOO-732, FFCLDO, p. 103).

Because the Petitioner has provided either inadequate, or no, evidence to establish that it has complied with Conditions 1, 3, 6, and 12, the Motion to Release, as it relates to these conditions, should be denied. In addition, as the requirements of Conditions 1, 6, and 12 involved ongoing requirements on the part of the Petitioner, the NPS does not believe that the Conditions should be released in the future. Therefore, we ask that the petitioner not be relieved of these conditions. Thank you again for the opportunity to provide comments. If you have questions regarding these comments, please contact Dr. Jeff Zimpfer of my staff, at 800-329-6881 x1500 or Jeff_Zimpfer@nps.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "TADW", with a long, sweeping horizontal line extending to the right.

Tammy Ann Duchesne
Superintendent



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

IN REPLY REFER TO:
HWY-PS 2.8947

February 4, 2015

TO: LEO R. ASUNCION
ACTING DIRECTOR
OFFICE OF PLANNING
DEPARTMENT OF BUSINESS ECONOMIC DEVELOPMENT AND
TOURISM

FROM: FORD N. FUCHIGAMI
DIRECTOR OF TRANSPORTATION

SUBJECT: MOTION TO AMEND CONDITIONS OF APPROVAL, LAND USE
COMMISSION DOCKET NO. A89-643, McCLEAN HONOKOHAU
PROPERTIES PROPOSED ACTION: MOTION TO DELETE CONDITIONS
OF DECISION AND ORDER, KONA, HAWAII
TMK: (3) 7-4-024:001-002, 004 AND 006-012

Thank you for the opportunity to respond to the subject motion from the Petitioner, McClean Honokohau Properties, LLC, dated December 23, 2014. This relates to a petition to amend an approximate total of 89,527 acres of lands from the conservation and Agricultural Districts into the Urban District for the project's Increment I was filed on June 13, 1989, and a subsequent petition for the project's Increment II was filed on April 16, 2001. The Decisions and Orders of April 16, 1991, for Increment I and June 27, 2002, for Increment II, were filed by the State Land Use Commission under the same Docket No. A89-643.

The Department of Transportation (DOT) recommends against the Petitioner's motion to delete, in its entirety the Condition No. 2 of the Decision and order in the subject Land Use Commission Docket No. A89-643. This condition relates to both local and regional transportation improvements through DOT's letter of agreement (HWY-PS 2.0929, dated December 11, 2000). This was reiterated under Procedural Matters of the Decision and Order for Increment II. We hereby acknowledge that only a portion of the agreement has been fulfilled and our comments are as follows:

1. Road G. The construction of "Road G," which is now considered Kamanu Street was confirmed by the County of Hawaii that it has been constructed and paved. However, we understand that this road has not yet been formally accepted or dedicated to the County of Hawaii. Therefore, although the overall construction of the road appears to be completed, a release of this portion of the condition should not be authorized until the status of the improvements are satisfactory to the DOT.

LEO R. ASUNCION

February 4, 2015

Page 2

HWY-PS 2.8947

2. Mid-Level Road. The Ane Keohokalole Highway was constructed and dedicated to the County of Hawaii. The proposed request for the removal of this portion of the agreement will not trigger any State concerns with regards to the connection between the Ane Keohokalole Highway to Kealakehe Parkway.
3. Main Street. The Main Street from Kealakehe Parkway to the Petitioner's north property line (parcel 12) has not yet been constructed to date. Also, the Petitioner did not provide an explanation regarding why this portion of the condition should be removed.

If you have any questions, please contact Ken Tatsuguchi, Engineering Program Manager, Highways Planning Branch, at 587-1830. Please reference file review number PS 2015-009 in all contacts and correspondence regarding these comments.

DAVID Y. IGE
GOVERNOR OF HAWAII



CARTY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

February 4, 2015

Office of Planning
State of Hawaii
Attention: Ms. Lorene Maki
235 South Beretania Street, 6th Floor
Honolulu, Hawaii 96804

via email: lmaki@dbedt.hawaii.gov

Dear Ms. Maki:

SUBJECT: Land Use Commission Docket No. A89-643; Motion to Release Conditions, McClean Honokohau Properties, a Hawaii Limited Partnership, Applicant, Honokohau, North Kona, Hawaii; TMK: (3) 7-4-24:1, 2, 4, 6, 7, 8, 9, 10, 11 and 12

Thank you for the opportunity to review and comment on the subject matter. The Department of Land and Natural Resources' (DLNR) Land Division distributed or made available a copy of your report pertaining to the subject matter to DLNR Divisions for their review and comments.

At this time, enclosed are comments from the (i) Division of Aquatic Resources, (ii) Engineering Division, (iii) Division of Forestry and Wildlife, (iv) Division of State Parks, and (v) Office of Conservation and Coastal Lands on the subject matter. Should you have any questions, please feel free to call Kevin Moore at 587-0426. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Russell Y. Tsuji".

Russell Y. Tsuji
Land Administrator

Enclosure(s)

DAVID Y. IGE
GOVERNOR OF HAWAII



CARTY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

January 2, 2015

MEMORANDUM

TO:

DLNR Agencies:

- ☒ Div. of Aquatic Resources
- ☒ Div. of Boating & Ocean Recreation
- ☒ Engineering Division
- ☒ Div. of Forestry & Wildlife
- ☒ Div. of State Parks
- ☒ Commission on Water Resource Management
- ☒ Office of Conservation & Coastal Lands
- ☒ Land Division – Hawaii District
- ☒ Historic Preservation

FROM:

Russell Y. Tsuji, Land Administrator

SUBJECT:

Land Use Commission Docket No. A89-643; Motion to Release Conditions

LOCATION:

Honokohau, North Kona, Hawaii; TMK: (3) 7-4-24:1, 2, 4, 6, 7, 8, 9, 10, 11 and 12

APPLICANT:

McClellan Honokohau Properties, a Hawaii Limited Partnership

Transmitted for your review and comment is information on the above referenced matter. The motion and other documents may be viewed or downloaded from the LUC website at the following address:

<http://luc.hawaii.gov/completed-dockets/decision-and-orders-for-boundary-amendments/completed-dba-hawaii-county/completed-dba-hawaii-county-1980/completed-dba-hawaii-county-1988-to-1989/a89-643-mcclellan-honokohau-properties/>

Please submit any comments by February 3, 2015. If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact Kevin Moore at 587-0426. Thank you.

- ☐ We have no objections.
- ☐ We have no comments.
- ☒ Comments are attached.

Signed:

Print name:

Date:

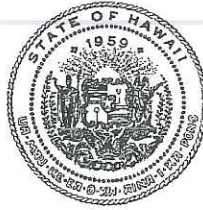
1/14/15

cc: Central Files



DA #5051
2015 JAN 22 PM 2:20
RECEIVED
LAND DIVISION
JK
WW

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

CARTY S. CHANG
ACTING CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

JESSE K. SOUKI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Date: (Jan 14, 2015)

DAR # (DAR 5051)

MEMORANDUM

TO: Carty S. Chang, Interim Chairperson (*CS*)
FROM: William j Walsh Ph.D, Aquatic Biologist (*Wjw*)
THRU: Jo-Anne N. Kushima, Aquatic Biologist
SUBJECT: Motion to Release Conditions: McClean Honokohau Properties

Comment	Date	Request	Receipt	Referral	Due Date
	(Jan 14, 2015)	(Jan 2, 2015)	(Jan 7, 2015)	(Jan 7, 2015)	(Feb 5, 2015)

Requested by: Leo R. Asuncion, Acting Director, Office of Planning, State of Hawaii

Summary of Proposed Project

Title: Motion to Release Conditions: McClean Honokohau Properties

Project by: McClean Honokohau Properties a Hawaii Limited Partnership

Location: Honokohau, North Kona, Hawaii Tax Map Key Nos.: (3) 7-4-24: 1, 2, 4, 6, 7, 8, 9, 10, 11, and 12

Brief Description:

McClean Honokohau Properties is requesting that the state Land Use Commission (LUC) remove all the conditions for the Petition area for Increment I.

Comments:

DAR/DLNR notes that there are three specific conditions which relate to the authority and jurisdiction of the department. Specifically these are:

CONDITION 3: "Petitioner shall prepare a drainage and erosion control plan and shall fund and construct the necessary drainage improvements to control drainage within the property to maintain ocean water quality to the satisfaction of the State Department of Health."

CONDITON 5: "Petitioner shall fund and construct the necessary waste-water disposal improvements on the subject property for eventual hook-up to a municipal sewer system as determined by the State Department of Health."

CONDITION 6: "Petitioner shall coordinate with the County of Hawaii and the State Department of Health to establish appropriate systems to contain spills and prevent material associated with light industrial uses, such as petroleum products, chemicals, solvents or other pollutants, from leaking into the storm drainage systems and adversely affecting the groundwater and coastal waters."

While the Attorney for the Petitioner provides a description of various actions that have been taken to satisfy the requirements of the conditions and these are verified by the Petitioner, there is no documentation provided from either the State Department of Health or the County of Hawaii that these actions have actually been completed.

Until such time that there is independent verification that the specific Interim I Conditions noted above have been met, DLNR cannot recommend approval of the Motion to Release Conditions.

DAVID Y. IGE
GOVERNOR OF HAWAII



15 JAN 5 AM 8:30 ENGINEERING

RECEIVED
LAND DIVISION

CARTY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

2015 JAN 30 PM 12:42

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

January 2, 2015

MEMORANDUM

TO: PR:

DLNR Agencies:

- ☒ Div. of Aquatic Resources
- ☒ Div. of Boating & Ocean Recreation
- ☒ Engineering Division
- ☒ Div. of Forestry & Wildlife
- ☒ Div. of State Parks
- ☒ Commission on Water Resource Management
- ☒ Office of Conservation & Coastal Lands
- ☒ Land Division – Hawaii District
- ☒ Historic Preservation

FROM: TP:

Russell Y. Tsuji, Land Administrator

SUBJECT:

Land Use Commission Docket No. A89-643; Motion to Release Conditions

LOCATION:

Honokohau, North Kona, Hawaii; TMK: (3) 7-4-24:1, 2, 4, 6, 7, 8, 9, 10, 11 and 12

APPLICANT:

McClean Honokohau Properties, a Hawaii Limited Partnership

Transmitted for your review and comment is information on the above referenced matter. The motion and other documents may be viewed or downloaded from the LUC website at the following address:

<http://luc.hawaii.gov/completed-dockets/decision-and-orders-for-boundary-amendments/completed-dba-hawaii-county/completed-dba-hawaii-county-1980/completed-dba-hawaii-county-1988-to-1989/a89-643-mcclean-honokohau-properties/>

Please submit any comments by February 3, 2015. If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact Kevin Moore at 587-0426. Thank you.

- ☐ We have no objections.
- ☐ We have no comments.
- ☒ Comments are attached.

Signed: Chris Johnson

Print name: Carty S. Chang, Chief Engineer

Date: 1/30/15

cc: Central Files

**DEPARTMENT OF LAND AND NATURAL RESOURCES
ENGINEERING DIVISION**

LD/ Russell Y. Tsuji

**REF: Land Use Commission Docket No. A89-643, McClean Honokohau Properties, Motion to
Release Conditions
Hawaii.001**

COMMENTS

- (X) We confirm that the project site, according to the Flood Insurance Rate Map (FIRM), is located in Flood Zone X. The National Flood Insurance Program does not have any regulations for developments within Zone X.
- () Please take note that the remainder of the project site according to the Flood Insurance Rate Map (FIRM), is located in Zones ____.
- () Please note that the correct Flood Zone Designation for the project site according to the Flood Insurance Rate Map (FIRM) is ____.
- () Please note that the project site must comply with the rules and regulations of the National Flood Insurance Program (NFIP) presented in Title 44 of the Code of Federal Regulations (44CFR), whenever development within a Special Flood Hazard Area is undertaken. If there are any questions, please contact the State NFIP Coordinator, Ms. Carol Tyau-Beam, of the Department of Land and Natural Resources, Engineering Division at (808) 587-0267.

Please be advised that 44CFR indicates the minimum standards set forth by the NFIP. Your Community's local flood ordinance may prove to be more restrictive and thus take precedence over the minimum NFIP standards. If there are questions regarding the local flood ordinances, please contact the applicable County NFIP Coordinators below:

- () Mr. Mario Siu Li at (808) 768-8098 of the City and County of Honolulu, Department of Planning and Permitting.
- () Mr. Frank DeMarco at (808) 961-8042 of the County of Hawaii, Department of Public Works.
- () Mr. Carolyn Cortez at (808) 270-7253 of the County of Maui, Department of Planning.
- () Mr. Stanford Iwamoto at (808) 241-4896 of the County of Kauai, Department of Public Works.
- () The applicant should include project water demands and infrastructure required to meet water demands. Please note that the implementation of any State-sponsored projects requiring water service from the Honolulu Board of Water Supply system must first obtain water allocation credits from the Engineering Division before it can receive a building permit and/or water meter.
- () The applicant should provide the water demands and calculations to the Engineering Division so it can be included in the State Water Projects Plan Update.
- () Additional Comments: _____
- () Other: _____

Should you have any questions, please call Mr. Dennis Imada of the Planning Branch at 587-0257.

Signed: Chris Fahnestock
for CARTY S. CHANG, CHIEF ENGINEER
Date: 1/20/15










State of Hawaii FLOOD HAZARD ASSESSMENT REPORT





NATIONAL FLOOD INSURANCE PROGRAM

FLOOD ZONE DEFINITIONS


SPECIAL FLOOD HAZARD AREAS SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD – The 1% annual chance flood (100-year flood), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. The Special Flood Hazard is the area subject to flooding by the 1% annual chance flood. Areas of Special Flood Hazard include Zone A, AE, AH, AO, V, and VE. The Base Flood Elevation (BFE) is the water-surface elevation of the 1% annual chance flood. Mandatory flood insurance purchase applies in these zones:

-  **Zone A:** No BFE determined.
-  **Zone AE:** BFE determined.
-  **Zone AH:** Flood depths of 1 to 3 feet (usually areas of ponding); BFE determined.
-  **Zone AO:** Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined.
-  **Zone V:** Coastal flood zone with velocity hazard (wave action); no BFE determined.
-  **Zone VE:** Coastal flood zone with velocity hazard (wave action); BFE determined.
-  **Zone AEF:** Floodway areas in Zone AE. The floodway is the channel of stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without increasing the BFE.

NON-SPECIAL FLOOD HAZARD AREA – An area in a low-to-moderate risk flood zone. No mandatory flood insurance purchase requirements apply, but coverage is available in participating communities.

-  **Zone XS (X shaded):** Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.
-  **Zone X:** Areas determined to be outside the 0.2% annual chance floodplain.

OTHER FLOOD AREAS

-  **Zone D:** Unstudied areas where flood hazards are undetermined, but flooding is possible. No mandatory flood insurance purchase requirements apply, but coverage is available in participating communities.

PROPERTY INFORMATION

COUNTY: HAWAII
TMK NO: (3) 7-4-024-001
PARCEL ADDRESS: 74-555 HONOKOHAU STREET
KAILUA KONA, HI 96740
FIRM INDEX DATE: APRIL 02, 2004
LETTER OF MAP CHANGE(S): NONE
FEMA FIRM PANEL(S): 1551660692C
PANEL EFFECTIVE DATE: SEPTEMBER 16, 1988

PARCEL DATA FROM: JUNE 2013
IMAGERY DATA FROM: MAY 2005

IMPORTANT PHONE NUMBERS

County NFIP Coordinator
County of Hawaii
Frank DeMarco, CFM (808) 961-8042
State NFIP Coordinator
Carol Tyau-Beam, P.E., CFM (808) 587-0267

Disclaimer: The Department of Land and Natural Resources (DLNR) assumes no responsibility arising from the use of the information contained in this report. Viewers/Users are responsible for verifying the accuracy of the information and agree to indemnify the DLNR from any liability, which may arise from its use.

If this map has been identified as 'PRELIMINARY' or 'UNOFFICIAL', please note that it is being provided for informational purposes and is not to be used for official/legal decisions, regulatory compliance, or flood insurance rating. Contact your county NFIP coordinator for flood zone determinations to be used for compliance with local floodplain management regulations.

DAVID Y. IGE
GOVERNOR OF HAWAII



CARTY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

January 2, 2015

MEMORANDUM

TO: *From*

DLNR Agencies:

- ☒ Div. of Aquatic Resources
- ☒ Div. of Boating & Ocean Recreation
- ☒ Engineering Division
- ☒ Div. of Forestry & Wildlife
- ☒ Div. of State Parks
- ☒ Commission on Water Resource Management
- ☒ Office of Conservation & Coastal Lands
- ☒ Land Division – Hawaii District
- ☒ Historic Preservation

FROM: *To:*

R Russell Y. Tsuji, Land Administrator

SUBJECT:

Land Use Commission Docket No. A89-643; Motion to Release Conditions

LOCATION:

Honokohau, North Kona, Hawaii; TMK: (3) 7-4-24:1, 2, 4, 6, 7, 8, 9, 10, 11 and 12

APPLICANT:

McClean Honokohau Properties, a Hawaii Limited Partnership

Transmitted for your review and comment is information on the above referenced matter. The motion and other documents may be viewed or downloaded from the LUC website at the following address:

<http://luc.hawaii.gov/completed-dockets/decision-and-orders-for-boundary-amendments/completed-dba-hawaii-county/completed-dba-hawaii-county-1980/completed-dba-hawaii-county-1988-to-1989/a89-643-mcclean-honokohau-properties/>

Please submit any comments by February 3, 2015. If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact Kevin Moore at 587-0426. Thank you.

- () We have no objections.
- (☒) We have no comments.
- () Comments are attached.

Signed: 

Print name: *David G. Smith, Acting Administrator*

Date: *1/7/15*

cc: Central Files

RECEIVED
LAND DIVISION
2015 JAN -3 AM 9:45
DEPT OF LAND &
NATURAL RESOURCES
STAFF OFFICE

56426

DAVID Y. IGE
GOVERNOR OF HAWAII



CARTY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
RECEIVED
STATE PARKS DIV



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

15 JAN -9 A8:14

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

DEPT OF LAND &
NATURAL RESOURCES

January 2, 2015

MEMORANDUM

TO:

DLNR Agencies:

- ☒ Div. of Aquatic Resources
- ☒ Div. of Boating & Ocean Recreation
- ☒ Engineering Division
- ☒ Div. of Forestry & Wildlife
- ☒ Div. of State Parks
- ☒ Commission on Water Resource Management
- ☒ Office of Conservation & Coastal Lands
- ☒ Land Division – Hawaii District
- ☒ Historic Preservation

FROM:

Russell Y. Tsuji, Land Administrator

SUBJECT:

Land Use Commission Docket No. A89-643; Motion to Release Conditions

LOCATION:

Honokohau, North Kona, Hawaii; TMK: (3) 7-4-24:1, 2, 4, 6, 7, 8, 9, 10, 11 and 12

APPLICANT:

McClellan Honokohau Properties, a Hawaii Limited Partnership

RECEIVED
LAND DIVISION
2015 JAN 30 AM 10:48
DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

Transmitted for your review and comment is information on the above referenced matter. The motion and other documents may be viewed or downloaded from the LUC website at the following address:

<http://luc.hawaii.gov/completed-dockets/decision-and-orders-for-boundary-amendments/completed-dba-hawaii-county/completed-dba-hawaii-county-1980/completed-dba-hawaii-county-1988-to-1989/a89-643-mcclellan-honokohau-properties/>

Please submit any comments by February 3, 2015. If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact Kevin Moore at 587-0426. Thank you.

- ☒ We have no objections.
- ☒ We have no comments.
- ☐ Comments are attached.

Signed: _____

Print name: Daniel S. Quinn

Date: 1/29/15

cc: Central Files

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

January 2, 2015

MEMORANDUM

TO:
FROM:

DLNR Agencies:

- ☒ Div. of Aquatic Resources
- ☒ Div. of Boating & Ocean Recreation
- ☒ Engineering Division
- ☒ Div. of Forestry & Wildlife
- ☒ Div. of State Parks
- ☒ Commission on Water Resource Management
- ☒ Office of Conservation & Coastal Lands
- ☒ Land Division – Hawaii District
- ☒ Historic Preservation

TO: FROM:

SUBJECT:

LOCATION:

APPLICANT:

Russell Y. Tsuji, Land Administrator
Land Use Commission Docket No. A89-643; Motion to Release Conditions
Honokohau, North Kona, Hawaii; TMK: (3) 7-4-24:1, 2, 4, 6, 7, 8, 9, 10, 11
and 12
McClean Honokohau Properties, a Hawaii Limited Partnership

Transmitted for your review and comment is information on the above referenced matter. The motion and other documents may be viewed or downloaded from the LUC website at the following address:

<http://luc.hawaii.gov/completed-dockets/decision-and-orders-for-boundary-amendments/completed-dba-hawaii-county/completed-dba-hawaii-county-1980/completed-dba-hawaii-county-1988-to-1989/a89-643-mcclean-honokohau-properties/>

Please submit any comments by February 3, 2015. If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact Kevin Moore at 587-0426. Thank you.

None of the TMKs
listed are located
within the Conservation
District – all in
Urban District.

- ☐ We have no objections.
- ☒ We have no comments.
- ☐ Comments are attached.

Signed:

Print name: ALEX J. ROY
Date: 1-14-15

cc: Central Files

CARTY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RECEIVED
LAND DIVISION

2015 JAN 14 PM 1:19

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

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RECEIVED
OFFICE OF CONSERVATION
& COASTAL LANDS

JAN 14 2015

DAVID Y. IGE
GOVERNOR OF HAWAII



VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

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

In reply, please refer to:
EMD/CWB

01021PCTM.15

January 20, 2015

Ms. Lorene Maki
The Office of Planning
P.O. Box 2359
Honolulu, Hawaii 96804

Dear Ms. Maki:

**SUBJECT: Comments on the Motion to Release Conditions:
Land Use Commission Docket No. A89-643
McClean Honokohau Properties, a Hawaii Limited Partnership
North Kona, Island of Hawaii, Hawaii**

The Department of Health (DOH), Clean Water Branch (CWB), acknowledges receipt of your letter, dated January 2, 2015, requesting comments on your project. The DOH-CWB has reviewed the subject document and offers these comments. Please note that our review is based solely on the information provided in the subject document and its compliance with the Hawaii Administrative Rules (HAR), Chapters 11-54 and 11-55. You may be responsible for fulfilling additional requirements related to our program. We recommend that you also read our standard comments on our website at: <http://health.hawaii.gov/epo/files/2013/05/Clean-Water-Branch-Std-Comments.pdf>.

1. Any project and its potential impacts to State waters must meet the following criteria:
 - a. Antidegradation policy (HAR, Section 11-54-1.1), which requires that the existing uses and the level of water quality necessary to protect the existing uses of the receiving State water be maintained and protected.
 - b. Designated uses (HAR, Section 11-54-3), as determined by the classification of the receiving State waters.
 - c. Water quality criteria (HAR, Sections 11-54-4 through 11-54-8).
2. National Pollutant Discharge Elimination System (NPDES) permit coverage is required for pollutant discharges into State surface waters and for certain situations involving storm water (HAR, Chapter 11-55).

OP EXHIBIT 8

- a. Discharges into Class 2 or Class A State waters can be covered under an NPDES general permit only if all of the NPDES general permit requirements are met. Please see the DOH-CWB website (<http://health.hawaii.gov/cwb/>) for the NPDES general permits and instructions to request coverage.
- b. All other discharges into State surface waters and discharges into Class 1 or Class AA State waters require an NPDES individual permit. To request NPDES individual permit coverage, please see the DOH-CWB forms website located at: <http://health.hawaii.gov/cwb/site-map/clean-water-branch-home-page/forms/>
- c. NPDES permit coverage for storm water associated with construction activities is required if your project will result in the disturbance of one (1) acre or more of total land area. The total land area includes a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under a larger common plan of development or sale. NPDES permit coverage is required before the start of the construction activities.

Land disturbance includes, but is not limited to clearing, grading, grubbing, uprooting of vegetation, demolition (even if leaving foundation slab), staging, stockpiling, excavation into pavement areas which go down to the base course, and storage areas (including areas on the roadway to park equipment if these areas are blocked off from public usage, grassed areas, or bare ground).

3. If your project involves work in, over, or under waters of the United States, it is highly recommend that you contact the Army Corp of Engineers, Regulatory Branch (Tel: 438-9258) regarding their permitting requirements.

Pursuant to Federal Water Pollution Control Act [commonly known as the "Clean Water Act" (CWA)], Paragraph 401(a)(1), a Section 401 Water Quality Certification (WQC) is required for "[a]ny applicant for Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may **result** in any discharge into the navigable waters..." (emphasis added). The term "discharge" is defined in CWA, Subsections 502(16), 502(12), and 502(6); Title 40 of the Code of Federal Regulations, Section 122.2; and Hawaii Administrative Rules (HAR), Chapter 11-54.

4. Please note that all discharges related to the project construction or operation activities, whether or not NPDES permit coverage and/or Section 401 WQC are required, must comply with the State's Water Quality Standards. Noncompliance with water quality requirements contained in HAR, Chapter 11-54, and/or permitting requirements, specified in HAR, Chapter 11-55, may be subject to penalties of \$25,000 per day per violation.

Ms. Lorene Maki
January 20, 2015
Page 3

01021PCTM.15

5. For information regarding potential impacts on traditional and cultural practices and beliefs of any cultural or ethnic groups, it is recommended that you contact the Office of Hawaiian Affairs or the Department of Land and Natural Resources, State Historic Preservation Division for comments on the proposed project.

If you have any questions, please visit our website at: <http://health.hawaii.gov/cwb>, or contact the Engineering Section, CWB, at (808) 586-4309.

Sincerely,



ALEC WONG, P.E., CHIEF
Clean Water Branch

CTM:bk

c: Ms. Lorene Maki, Office of Planning [via e-mail lmaki@dbedt.hawaii.gov only]
DOH-EPO #15-009 [via e-mail only]

DAVID Y. IGE
GOVERNOR OF HAWAII



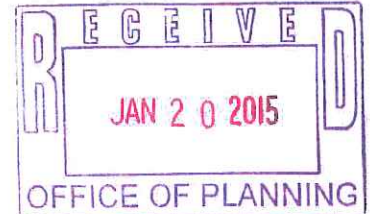
VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

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

In reply, please refer to:
File:

January 15, 2015

LUD - 3 7 4 024 001 etc
McClean Honokohau Subd-ID2005



75170
see 75140
P-14618

Mr. Leo R. Asuncion, Acting Director
Office of State Planning
State of Hawaii
235 South Beretania Street 6th Floor
Honolulu, Hawaii 96813

Dear Mr. Asuncion:

Subject: Motion to Release Conditions: Land Use Commission Docket No. A89-643, McClean Honokohau Properties, a Hawaii Limited Partnership
74-555 Honokohau Street, Kona, Hawaii 96740
TMK (3) 7-4-024: 001, 002, 004, 006, 007, 008, 009, 010, 011 and 012

Thank you for allowing us the opportunity to provide comments on the subject Motion to Release Conditions imposed on the Petitioner's area for Increment 1. We have the following to offer.

The subject project is located in the critical wastewater disposal area as determined by the Hawaii County Wastewater Advisory Committee. We do have several individual wastewater systems (IWSs) information on file, both cesspool and septic tanks. As the Petitioner has constructed the eight inch dry sewer line in both streets on the project for eventual connection to the Kealakehe Wastewater Treatment plant, we have no objections to the motion to release condition 5 of the Land Use Commission 1991 Decision and Order.

Please be informed that the proposed interim wastewater systems for the subdivision/development may have to include design considerations to address any effects associated with the construction of and/or discharges from the wastewater systems to any public trust, Native Hawaiian resources or the exercise of traditional cultural practices. In addition, all wastewater plans must conform to applicable provisions of the Hawaii Administrative Rules, Chapter 11-62, "Wastewater Systems."

Should you have any questions, please contact Mr. Mark Tomomitsu of our branch at 586-4294.

Sincerely,

SINA PRUDER, P.E., CHIEF
Wastewater Branch

LM/MST:lmj

c: Mr. Dane Hiromasa, DOH-WWB's Kona Staff

DAVID Y. IGE
GOVERNOR OF HAWAII



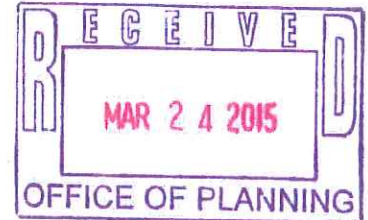
VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

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

In reply, please refer to:
File:

15-167A CAB

March 19, 2015



75900

Mr. Leo R. Asuncion
Acting Director
Office of Planning
Department of Business, Economic
Development and Tourism
State of Hawaii
235 South Beretania Street, 6th Floor
Honolulu, Hawaii 96813

Dear Mr. Asuncion:

**SUBJECT: Motion to Release Conditions for the Petition area for Increment I:
Land Use Commission Docket No. A89-643 (Ref. No. P-14618)
McClellan Honokohau Properties, Honokohau, North Kona, Hawaii
Tax Map Key Nos. (3) 7-4-24: 1,2,4,6,7,8,9,10,11, and 12**

We recommend that you release the petitioner from Condition #10, which requires its participation in an air quality monitoring program. As evidenced in the November 29, 2000 letter addressing this issue from the Clean Air Branch, Department of Health, a copy of which is included as Exhibit "5" in the exhibits to the motion referenced above, the petitioner has fulfilled this requirement.

The requirement that the petitioner implement dust control measures, which is the first half of Condition #11, may be deleted if all construction has been completed [and no new unplanned and/or un-permitted operations or activities that could potentially cause fugitive dust are established in the project area]. Fugitive dust may be generated by any number of activities including quarrying, paint spraying, auto body repair, and other business operations. Regardless of whether there is a specific condition to control fugitive dust in the Land Use Conditions for the above referenced Increment I property, the landowner, lessor, and lessee will still be jointly and severally responsible and liable for taking reasonable precautions to minimize the emission of fugitive dust. All activities and/or properties must comply with the provisions of Hawaii Administrative Rules, §11-60.1-33 on Fugitive Dust at all times.

If you have any questions, please contact Mr. Barry Ching of the Clean Air Branch at 586-4200.

Sincerely,

NOLAN S. HIRAI, P.E.
Manager, Clean Air Branch

BC:rg

OP EXHIBIT 9