



LAND USE COMMISSION
STATE OF HAWAII

2019 JUL 22 P 2:26

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of	)	DOCKET NO. A19-807
)	
TRUSTEES OF THE ESTATE OF	)	ORDER GRANTING PETITIONER'S
BERNICE PAUAHI BISHOP dba	)	MOTION REQUESTING THE LAND
KAMEHAMEHA SCHOOLS	)	USE COMMISSION (1) TO BE THE
	)	ACCEPTING AUTHORITY FOR AN
To Amend The Conservation Land Use	)	ENVIRONMENTAL IMPACT
District Boundaries Into The	)	STATEMENT; (2) DETERMINE THAT
Agricultural Land Use District For	)	THE PROPOSED ACTION WARRANTS
Approximately 94.107 Acres Of Land	)	THE PREPARATION OF AN
At Kauaea, Puna, Hawai'i, Tax Map	)	ENVIRONMENTAL IMPACT
Key: (3) 1-3-009: Por. 005	)	STATEMENT, TO BE INITIATED WITH
_____	)	THE PREPARATION OF AN
	)	ENVIRONMENTAL IMPACT
	)	STATEMENT PREPARATION NOTICE;
	)	AND CERTIFICATE OF SERVICE

ORDER GRANTING PETITIONER'S MOTION REQUESTING THE LAND USE
COMMISSION (1) TO BE THE ACCEPTING AUTHORITY FOR AN
ENVIRONMENTAL IMPACT STATEMENT; (2) DETERMINE THAT THE
PROPOSED ACTION WARRANTS THE PREPARATION OF AN ENVIRONMENTAL
IMPACT STATEMENT, TO BE INITIATED WITH THE PREPARATION OF AN
ENVIRONMENTAL IMPACT STATEMENT PREPARATION NOTICE

AND

CERTIFICATE OF SERVICE

This is to certify that this is a true and correct
copy of the document on file in the office of the
State Land Use Commission, Honolulu, Hawai'i

7/22/19 by

Executive Officer



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On June 21, 2019, the Trustees of the Estate of Bernice Pauahi Bishop dba Kamehameha Schools ("Petitioner") filed a Motion Requesting The Land Use Commission (1) To Be The Accepting Authority For An Environmental Impact Statement; (2) Determine That The Proposed Action Warrants The Preparation Of An

Environmental Impact Statement, To Be Initiated With The Preparation Of An Environmental Impact Statement Preparation Notice ("Motion"), pursuant to Hawai'i Administrative Rules ("HAR") §§15-15-70, 11-200-4(b), 11-200-6(b)(1)(F), 11-200-12, and Hawai'i Revised Statutes ("HRS") §343-5(a)(7).

In its Motion, Petitioner requested that the State Land Use Commission ("Commission") (1) determine that it will be the accepting authority for the environmental assessment under HRS chapter 343; and (2) determine, through its judgement and experience, that an Environmental Impact Statement ("EIS") is warranted and that the environmental review process should be initiated by the preparation of an Environmental Impact Statement Preparation Notice ("EISPN").

On July 21, 2019, Petitioner filed a Petition For Land Use District Boundary Amendment ("Petition"), which included an EISPN.

In its Petition, Petitioner proposes to reclassify approximately 94.107 acres of land ("Petition Area") from the State Land Use Conservation District to the State Land Use Agricultural District at Kauaea, Puna, Hawai'i, to allow Sanford's Service Center, Inc., a Hawai'i corporation ("Sanford"), as licensee of a 73.075-acre portion ("License Area") of the Petition Area, to expand its existing cinder mining and quarry

operations within the License Area.¹ Sanford currently operates mining and quarry operations on a 30-acre portion of the Petition Area.

Petitioner notes that because the Petition proposes to reclassify land classified within the State Land Use Conservation District, it is therefore subject to the environmental review process under HRS §343-5(a)(7).² Petitioner also points out that the Commission is the agency that will initially receive and process the Petition.

Petitioner further notes that inasmuch as the proposed action is likely to have a significant impact on the environment, the environmental review process should be initiated by proceeding directly to the preparation of an EISPN in accordance with HRS §343-5(e).

By email dated July 2, 2019, Jeff Darrow of the County of Hawai'i Planning Department ("Planning Department") noted that the Planning Department would not be filing a formal position on Petitioner's Motion but instead would state at the meeting that it had no objection to the matter.

On July 3, 2019, the State Office of Planning ("OP") filed a written response expressing no objection to Petitioner's Motion.

¹ According to Petitioner, if the Petition is granted by the Commission, it may allow Sanford to file a special permit application for this expansion.

² The reclassification of Conservation District lands is also an action that triggers the environmental review process under HAR §11-200-6(b)(1)(F).

On July 10, 2019, the Commission met in Kailua-Kona, Hawai'i, to determine (1) whether this Commission should be the accepting authority pursuant to HRS chapter 343; (2) whether the proposed action may have a significant effect upon the environment to warrant the preparation of an EIS; and (3) whether to authorize Petitioner to prepare an EISPN pursuant to HRS §343-5(e). Andrea Ushijima, Esq., appeared on behalf of Petitioner. Ron Kim, Esq., and Duane Kanuha appeared on behalf of the Planning Department. Dawn Takeuchi-Apuna, Esq., and Rodney Funakoshi were present on behalf of OP.

At the meeting, Petitioner summarized its position in support of its Motion that this Commission is the appropriate accepting authority for the EIS pursuant to HRS chapter 343, that the proposed action may have a significant effect upon the environment such that an EIS is likely to be required, and that Petitioner be allowed to proceed directly to the preparation of an EIS commencing with the preparation of an EISPN.³

Both OP and the Planning Department stated that they had no objections to Petitioner's Motion.

Following discussion, a motion was made and seconded to have this Commission (1) agree to be the accepting authority pursuant to HRS chapter 343; (2)

³ During the meeting, Commissioner Cabral disclosed that she has had business dealings with Sanford, the licensee of a portion of the Petition Area, but that it would not affect her ability to remain fair and impartial on the matter. The parties had no objections to Commissioner Cabral's participation in the proceeding.

find that the proposed action may have a significant effect upon the environment to warrant the preparation of an EIS; (3) authorize Petitioner to prepare an EISPN pursuant to HRS §343-5(e); and (4) authorize the Commission's Executive Officer to notify and submit a record of the Commission's decision to Petitioner and the State Office of Environmental Quality Control ("OEQC"), and to further authorize the Commission's Chairperson to sign the Order on this matter on behalf of the Commission. There being a vote tally of 7 ayes, 0 nays, and 2 excused, the motion carried.

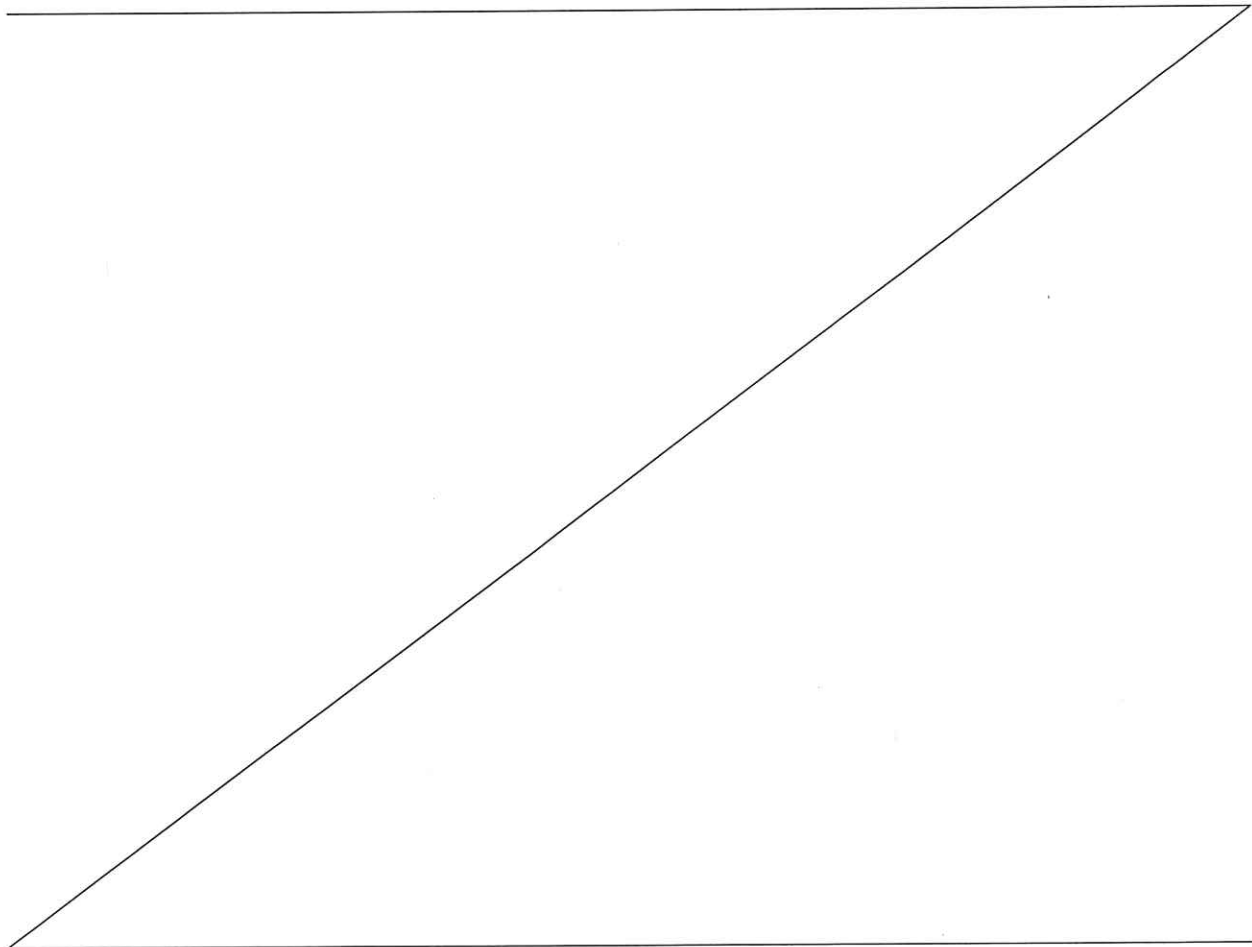
ORDER

This Commission, having duly considered Petitioner's Motion, the comments of OP and the Planning Department, and a motion having been made at its meeting on July 10, 2019, in Kailua-Kona, Hawai'i, and the motion having received the affirmative votes required by HAR §15-15-13, and there being good cause for the motion,

HEREBY ORDERS (1) that it agrees to be the accepting authority pursuant to HRS chapter 343; (2) that the proposed action may have a significant effect upon the environment to warrant the preparation of an EIS; and (3) that Petitioner is authorized to prepare an EISPN pursuant to HRS §343-5(e).

IT IS ALSO ORDERED that Petitioner shall make the EISPN available for a 30-day public review and comment period pursuant to HRS §343-5(e) and HAR §11-200-15(b).

IT IS FURTHER ORDERED that the Commission's Executive Officer shall notify and submit a record of the Commission's decision to Petitioner and the OEQC, and that the Commission's Chairperson shall sign the Order on this matter on behalf of the Commission.



ADOPTION OF ORDER

This ORDER shall take effect upon the date this ORDER is certified by this Commission.

Done at Honolulu, Hawai'i, this 15th, day of July 2019, per motion on July 10, 2019.

LAND USE COMMISSION
STATE OF HAWAII

APPROVED AS TO FORM

Randall S. Aishiyana
Deputy Attorney General

By 
JONATHAN SCHEUER
Chairperson and Commissioner

Filed and effective on:

7/15/19

Certified by:



DANIEL ORODENKER
Executive Officer



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the ORDER GRANTING PETITIONER'S MOTION REQUESTING THE LAND USE COMMISSION (1) TO BE THE ACCEPTING AUTHORITY FOR AN ENVIRONMENTAL IMPACT STATEMENT; (2) DETERMINE THAT THE PROPOSED ACTION WARRANTS THE PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT, TO BE INITIATED WITH THE PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT PREPARATION NOTICE in the above referenced-docket was duly served was served upon the following by either hand delivery or depositing the same in the U.S. Postal Service by regular or certified mail as noted.

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
MARY ALICE EVANS, DIRECTOR Office of Planning 235 S. Beretania Street Rm. 600 Honolulu, Hawai'i 96813	X		

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
DAWN TAKEUCHI-APUNA,ESQ Deputy Attorney General Hale Auhau, Third Floor 425 Queen Street Honolulu, Hawai`i 96813		X	
MICHAEL YEE Director, Department of Planning, County of Hawai`i Aupuni Center 101 Pauahi Street Hilo, Hawai`i 96720		X	
Office of the Corporation Counsel 101 Aupuni Center Street Suite #325 Hilo, Hawai`i 96720		X	
WINDWARD PLANNING COMMISSION c/o Planning Department County of Hawai`i Aupuni Center 101 Puahi Street Hilo, Hawai`i 96720		X	
CADES SCHUTTE LLP CALVERT G. CHIPCHASE, ESQ. 1000 Bishop St. Suite 1200 Honolulu, HI 96813			X
Sanford's Service Center, Inc. P.O. Box 1321 Pahoa, Hawai`i 96778		X	

Honolulu, Hawai`i, July 22, 2019

DANIEL ORODENKER
Executive Officer