

**Preconsultation Comments Received  
Prior to the Publication of the  
November 23, 2019  
Draft EA and Responses Provided**

DAVID Y. IGE  
Governor

DOUGLAS S. CHIN  
Lieutenant Governor

LUIS P. SALAVERIA  
Director

MARY ALICE EVANS  
Deputy Director



**LAND USE COMMISSION**  
Department of Business, Economic Development & Tourism  
State of Hawai'i

DANIEL E. ORODENKER  
Executive Officer

BERT SARUWATARI  
Planner

SCOTT A.K. DERRICKSON AICP  
Planner

RASMI AGRAHARI  
Planner

RILEY K. HAKODA  
Planner/Chief Clerk

FRED A. TALON  
Drafting Technician

November 19, 2018

**SSFM International, Inc.**  
**RECEIVED**  
11.26.2018

Jennifer Scheffel, Senior Environmental Planner  
SSFM International Inc.  
99 Aupuni Street, Suite 202  
Hilo, Hawai'i 96720

Subject: Pūlama Lāna'i Miki Basin 200-acre Industrial Area  
Island of Lāna'i  
Tax Map Key No.: (2) 4-9-002: 061 (portion)  
Pre-Assessment Consultation for Draft Environmental Assessment

Dear Ms. Scheffel:

The Commission has received your letter requesting comments on your pre-assessment Draft Environmental Assessment (DEA) on November 13, 2018. We have the following comments:

The proposed action identifies two steps to be taken: a reclassification of 200 acres by the LUC and then rezoning by the Lāna'i Planning Commission and Maui County Council. However, there is also discussion of a 20-acre proposed Heavy Industrial condominium project. Please clarify whether this additional 20 acres would be part of the reclassification request.

SSFM is indicating that an Environmental Assessment (EA) will be done rather than a Environmental Impact Statement (EIS) to satisfy requirements of Hawai'i Revised Statutes (HRS) Chapter 343. Please provide a discussion on what issues are triggers for HRS Chapter 343 compliance and the rationale for making this early decision to conduct an EA rather than an EIS.

SSFM should indicate which government entity would be the accepting authority for HRS Chapter 343 compliance and the rationale for that choice.

A prior docket, A89-649 Mānele Golf Course, required under Condition 1, that Petitioner convey 25 acres of lands to the State of Hawai'i: a proposed 15-acre industrial parcel and a proposed

10-acre commercial parcel. The assessment should discuss the location of these lands with respect to the proposed district boundary amendment; including whether these lands have been conveyed to the State and how any proposed projects on those lands will interact with Pūlama Lāna'i's proposed development.

Thank you for the opportunity to comment on the subject application. Should you have any questions, please feel free to contact me or Scott Derrickson, AICP of our office at 587-3921.

Sincerely,

Daniel E. Orodener  
Executive Officer

cc: Leo Asuncion, State Office of Planning  
Michelle Choteau McLean, Maui County Planning  
Caron Green, Chair Lāna'i Planning Commission

**Ho'okuleana LLC**  
... to take responsibility ...

**Peter T. Young**  
1539 Kanapu'u Drive  
Kailua, Hawai'i 96734  
(808) 226-3567 (Cell Phone)  
PeterYoung@Hookuleana.com  
www.Hookuleana.com



Land Use Commission  
235 South Beretania Street, Suite 406  
Honolulu, HI 96813

April 19, 2019

Sent only via e-mail to [scott.a.derrickson@hawaii.gov](mailto:scott.a.derrickson@hawaii.gov)

Re: Miki Basin Industrial Park, Lāna'i - Draft Environmental Assessment

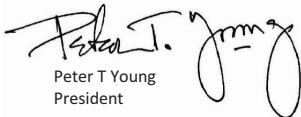
Gentlemen:

Thank you for your response to our Pre-Assessment Consultation and Scoping request for the above referenced project (SSFM initially sent the pre-assessment request, I will be preparing the EA).

We acknowledge your comments concerning issues to be included in the Environmental Assessment. Under separate correspondence, we provided information on an unrelated issue concerning 25-acres that were part of a prior LUC action; information on this unrelated 25-acres will not be in the Miki Basin EA.

A draft Environmental Assessment is being prepared and we will be sending you a copy for your review.

Thanks,  
HO'OKULEANA LLC

  
Peter T Young  
President



**OFFICE OF PLANNING  
STATE OF HAWAII**

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813  
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 587-2846  
Fax: (808) 587-2824  
Web: <http://planning.hawaii.gov/>

DAVID Y. IGE  
GOVERNOR

LEO R. ASUNCION  
DIRECTOR  
OFFICE OF PLANNING

DTS201811291657NA

November 30, 2018

Ms. Jennifer M. Scheffel  
Senior Environmental Planner  
SSFM International, Inc.  
99 Aupuni Street, Suite 202  
Hilo, Hawaii 96720

**SSFM International, Inc.**  
**RECEIVED**

*12-17-2018*

Dear Ms. Scheffel:

Subject: Pre-Assessment Consultation for Draft Environmental Assessment,  
Pulama Lanai Miki Basin 200-Acre Industrial Area, Island of Lanai  
TMK: (2) 4-9-002: 061 (por)

Thank you for the opportunity to provide comments on the pre-assessment consultation request for the preparation of a Draft Environmental Assessment (Draft EA) on the proposed reclassification and rezoning of land from Agricultural to Urban/Light and Heavy Industrial, on the Island of Lanai.

It is our understanding that Lanai Resorts, LLC, (dba Pulama Lanai) proposes to designate 200 acres of land around the existing Maui Electric Company facility and adjacent to the Lanai Airport as Light and Heavy Industrial Zoning. The site is undeveloped land currently designated as Agriculture for both the State and the County. Pulama Lanai will be requesting the State Land Use Commission (LUC) to reclassify the 200 acres from Agricultural to Urban. The Draft EA is being prepared to support Pulama Lanai's application for reclassification. Subsequently, Pulama Lanai will request the Lanai Planning Commission and Maui County Council to rezone the land to 100 acres of Light Industrial and 100 acres of Heavy Industrial.

The Office of Planning (OP) has reviewed the transmitted material and has the following comments to offer:

1. LUC District Boundary Amendment Issues of Concern  
Pulama Lanai will be requesting the LUC to reclassify 200 acres of land from the Agricultural District to the Urban District. OP represents the State as a mandatory party in proceedings before the LUC. In developing its position, OP will be evaluating whether the project meets the LUC decision-making criteria in HRS § 205-17, as well as its conformance with Coastal Zone Management objectives and policies in HRS § 205A-2.

Attached for your consideration is a document entitled "Issues of Concern in District Boundary Amendment Proceedings Based on LUC Decision-Making Criteria." The

Do well by doing good.

Ms. Jennifer M. Scheffel  
November 30, 2018  
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DEA should address relevant issues and concerns, particularly the areas of State concern and best practices that could or will be incorporated in the proposed project to address State priority guidelines for sustainability. A short list of resources related to best practices can be found at the OP website at [http://hawaii.gov/dbedt/op/land\\_use.htm](http://hawaii.gov/dbedt/op/land_use.htm).

We also recommend that Pulama Lanai consult with affected State agencies early in the project formulation process; and that they continue to do so in the preparation of the DEA so potential impacts to resources, facilities, and services managed or provided by the State and appropriate mitigation measures are identified in the DEA and subsequent petition.

2. Hawaii State Land Use Approvals

Pulama Lanai states that the subject parcels are adjacent to the Lanai Airport. Also attached for your consideration is OP Technical Assistance Memorandum TAM-2016-1, issued August 1, 2016, which describes various Department of Transportation, Airports Division and Federal Aviation Administration concerns regarding projects near State airports.

3. Hawaii State Planning Act

Hawaii Administrative Rules (HAR) § 11-200-10(4) requires an Environmental Assessment to provide a general description of the action's technical, economic, social, and environmental characteristics.

In this regard, the Draft EA should provide a discussion on the project and its ability to meet State goals and priorities as detailed in HRS Chapter 226. The analysis on the Hawaii State Planning Act should examine the project's consistency with all three parts of HRS Chapter 226 or clarify where the project conflicts with them. If any of these statutes are not applicable to the project, the analysis should affirmatively state such determination, along with discussion paragraphs.

4. Hawaii Coastal Zone Management Program

The Coastal Zone Management (CZM) area is defined as "all lands of the State and the area extending seaward from the shoreline to the limit of the State's police power and management authority, including the U.S. territorial sea" (HRS § 205A-1).

The proposed action should conform with all the objectives and supporting policies of the Hawaii CZM program, as listed in HRS § 205A-2. Pursuant to HRS § 205A-4, in implementing the objectives of the CZM program, agencies shall give full consideration to ecological, cultural, historic, esthetic, recreational, scenic, open space values, coastal hazards, and economic development. As this project will require the approval of government agencies, the Draft EA should contain analysis on the project's consistency

Ms. Jennifer M. Scheffel  
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with HRS § 205A-2.

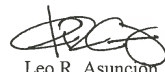
5. Drainage / Stormwater Runoff Mitigation / Erosion Control

Pursuant to HAR § 11-200-10(6) – identification and summary of impacts and alternatives considered; in order to ensure that the surface water and marine resources of the Island of Lanai remain protected, the effects of stormwater inundation, resulting from the proposed land use changes and ultimately future development activities should be evaluated in the Draft EA.

Issues that may be examined include, but are not limited to, project site characteristics in relation to flood and erosion prone areas, open spaces, the potential vulnerability of surface water resources, drainage infrastructure currently in place, soil absorption characteristics of the area, and examining the amount of permeable versus impervious surfaces in the project area. These items should be considered when developing mitigation measures for the protection for surface water resources and the coastal ecosystem, pursuant to HAR § 11-200-10(7).

If you have any questions regarding this comment letter, please contact Aaron Setogawa of our Land Use Division at (808) 587-2883 or Joshua Hekeka of our CZM Program at (808) 587-2845.

Sincerely,

  
Leo R. Asuncion  
Director

Enclosure



## Issues of Concern in District Boundary Amendment Proceedings Based on LUC Decision-Making Criteria

The following issues are commonly discussed and analyzed for project proposals in petitions and their supporting environmental assessments (EAs) or environmental impact statements (EISs) prepared pursuant to Hawaii Revised Statutes (HRS) Chapter 343. This list reflects the range of issues the State Land Use Commission (LUC) must take into consideration in its decision-making under HRS Chapter 205, and Hawaii Administrative Rules (HAR) Chapter 15-15. This list is not exhaustive or complete.

1. **Water Resources.** Groundwater and surface water resource protection and water quality are critical State issues. A thorough evaluation of these resources includes identifying and discussing: (a) estimated water demand by types of land use; (b) proposed potable and non-potable water sources to be used for the project and measures to reduce water demand and promote water reuse in the project; (c) whether the proposed project is within a designated Water Management Area; (d) the impact of the project on the sustainable yield and water quality of affected aquifers and surface water sources; (e) permits or other approvals required for proposed water source use; and (f) the consistency of the project and impact of the project in terms of proposed water use and system improvements and priorities contained in the county water use and development plan, prepared pursuant to the State Water Code, HRS Chapter 174C.
2. **Agricultural Lands.** Article XI, Section 3, of the Hawaii State Constitution provides that “[t]he State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands.” Protecting agriculture is a policy objective in the Hawaii State Plan, HRS Chapter 226, and in the State Administration’s New Day Comprehensive Plan, which is available at <http://hawaii.gov/gov/about/a-new-day>. Agricultural activity in the vicinity of the proposed project should be identified, and the impact of urban use or conversion of project lands on existing and future agricultural use and the viability of agricultural use of adjoining agricultural lands needs to be examined. Please discuss how the proposed project meets policy objectives to promote and protect agriculture, particularly in cases where the lands have high agricultural value.
3. **Affordable Housing.** Increasing the supply of affordable housing is a critical State and county issue. Every county has an affordable housing policy and both the Hawaii State Plan, HRS Chapter 226, and the State Administration’s New Day Comprehensive Plan identify affordable housing as a policy priority. If applicable, please discuss specifically how the proposed project will meet State and county affordable housing policy objectives, to include a discussion of how the project’s proposed residential product types will be allocated among the market and various affordable housing target populations, and the expected price ranges for the different product types.
4. **Coastal Zone Management (CZM).** The Office of Planning is the lead agency for the Hawaii CZM Program, which is a Federal-State partnership for protecting, restoring, and responsibly developing coastal communities and resources. The coastal zone is defined as all lands of the State and the area extending seaward from the shoreline to the limit of the State’s police power and management authority, including the United States territorial sea (HRS § 205A-1). EA/EISs should reference this definition of the coastal zone. State agency actions must be consistent with the CZM program objectives and policies under HRS § 205A-2. The EA/EIS needs to discuss the project in terms of its consistency with the following CZM objective areas.
  - a. **Coastal and Ocean Resources.** The State has an interest in protecting coastal and marine ecosystems and resources, as well as coastal and marine water quality. The EA/EIS should identify any coastal and marine resources and ecosystems that may be impacted by the proposed project, and the potential for nonpoint sources of pollution from the project to adversely affect coastal and marine water quality. Project impacts on existing site and offshore hydrology and measures to manage stormwater and runoff need to be discussed. The Office of Planning recommends the use of low impact development (LID) techniques and other best

management practices (BMPs) that promote onsite infiltration and minimize runoff from storm events. More information on LID and stormwater BMPs can be found at <http://hawaii.gov/dbedt/czm/initiative/lid.php>.

- b. **Coastal and Other Hazards.** The EA/EIS should describe any hazard risks that are relevant to the site and describe the measures that are proposed to mitigate any hazard impacts, such as from tsunamis, hurricane, wind, storm wave, sea level rise, flood, erosion, volcanic activity, earthquake, landslide, subsidence, and point and nonpoint source pollution. This should include a discussion of any wildfire hazard and any mitigation measures that might be required to address potential threats from wildfires.

The EA/EIS process also provides an opportunity to address the sustainability of proposed projects in terms of natural hazards and hazard mitigation, and the potential impact of climate change on the proposed project over time. To this end, OP recommends the final EA/EIS include a discussion of the proposed project with respect to the *State Multi-Hazard Mitigation Plan, 2010 Update*, adopted in September 2010, available at <http://www.scd.hawaii.gov/documents/HawaiiMultiHazardMitigationPlan2010PUBLIC.pdf>, as well as the respective County Hazard Mitigation Plan.

- c. **Coastal-dependent Uses and Beach Protection.** If the project is located on or near the coast, the EA/EIS should discuss why the proposed development needs to be located on the coast, the economic uses that will be of benefit to the State, as well as potential impacts on beach access. The discussion should identify measures to protect beach systems and ensure short- and long-term public access to beaches.
- d. **Coastal Recreational Resources.** If the project is located on the coast, the EA/EIS should include a description of recreational uses and facilities on or near the project site, and discuss how the impact of increasing users on coastal and ocean recreational resources and competing uses will be mitigated and managed during project development and buildout.
- e. **Scenic Resources.** The EA/EIS should discuss the impact of the proposed project on scenic views to and from the coast and along the coast and coastal open space, and how any impacts on these scenic and open space resources will be avoided, minimized, or mitigated.
- f. **Special Management Area (SMA) Permitting.** The SMA is defined by the counties and includes areas in the coastal zone that are particularly sensitive so that it requires special attention. Please identify whether the proposed project is within the SMA and how SMA permitting requirements pursuant to HRS Chapter 205A, will be satisfied.

For additional resources and information, visit <http://hawaii.gov/dbedt/czm>.

5. **Cultural, Archaeological, and Historic Resources.** Another CZM objective is to protect, preserve, and where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone that are significant in Hawaiian and American history and culture. If archaeological or historic properties or artifacts, including native Hawaiian burials, are identified in an archaeological inventory survey on the property, the EA/EIS should discuss how the petitioner has consulted with the State Historic Preservation Division (SHPD), what plans will be prepared to monitor or protect identified resources, and how the petitioner intends to comply with HRS Chapter 6E, related to historic preservation, and the CZM objective and policies for historic resources contained in HRS §§ 205A-2(b) and (c). SHPD has information and guidance available at <http://hawaii.gov/dlnr/hpd/hpgrtg.htm>.

The EA/EIS document should identify any cultural resources and cultural practices associated with the property, including visual landmarks, if applicable, and discuss the impact of the proposed project on identified cultural resources and practices as well as proposed mitigation measures. The LUC is obligated under Article XII, Section 7 of the Hawaii State Constitution to protect the

reasonable exercise of customarily and traditionally exercised native Hawaiian rights. In order to fulfill its duty to preserve and protect customary and traditional native Hawaiian rights to the extent feasible, pursuant to the Hawai'i Supreme Court's holding in *Ka Pa'akai O Ka'Aina v. Land Use Commission*, State of Hawaii, specific findings are required as to the following:

- a. The identify and scope of "valued cultural, historical, or natural resources in the petition area, including the extent to which traditional and customary native Hawaiian rights are exercised in the petition area;
- b. The extent to which those resources—including traditional and customary native Hawaiian rights—will be affected or impaired by the proposed action; and
- c. The feasible action, if any, to be taken by the petitioner to reasonably protect native Hawaiian rights if they are found to exist.

The State Office of Environmental Quality Control (OEQC) provides guidance for preparing a cultural assessment at <http://oeqc.doh.hawaii.gov>, at "Environmental Assessment PrepKit." ([http://oeqc.doh.hawaii.gov/Shared%20Documents/Preparation\\_of\\_Hawaii\\_Environmental\\_Policy\\_Act\\_Documents/Guidance\\_on\\_Cultural\\_Impact/1997%20Cultural%20Impacts%20Guidance.pdf](http://oeqc.doh.hawaii.gov/Shared%20Documents/Preparation_of_Hawaii_Environmental_Policy_Act_Documents/Guidance_on_Cultural_Impact/1997%20Cultural%20Impacts%20Guidance.pdf))

5. **Biota.** The EA/EIS should include an inventory and assessment of flora and fauna, including invertebrates, found on or in proximity to the project site and in any lava tubes and caves on the property that are listed on the federal or State list of endangered or threatened species. Please also discuss species of concern and candidates for listing. The petitioner should consult with the Database Manager at the Hawaii Biodiversity and Mapping Program, Center for Conservation Research and Training, University of Hawaii, (808) 956-8094, as to the potential for the presence of rare species in the project area. The EA/EIS should discuss measures to be taken to protect rare, threatened, or endangered species or ecosystems of concern as required by law. The design of the biological survey should consider both wet and dry season observations to capture the fullest range of flora and fauna.
6. **Wastewater Treatment and Disposal.** The EA/EIS needs to identify the anticipated volume of wastewater to be generated by type of user, as well as the proposed means of wastewater treatment and disposal. A discussion of the availability of county wastewater collection and treatment capacity and its existing service levels, design capacity, and allocated capacity is also needed. The EA/EIS should also identify whether any facility improvements would be required to accommodate additional wastewater generated within the service area, including the proposed project. If a private wastewater treatment system is identified as the preferred option, the EA/EIS should discuss the type of plant to be used, permitting requirements, plans for reuse and/or disposal of treated effluent and waste solids, and how the private system will be operated and maintained.
7. **Energy Use and Impacts.** The State Hawai'i Clean Energy Initiative has adopted a goal of using efficiency and renewable energy resources to meet 70 percent of Hawaii's energy demand by 2030, with 30 percent from efficiency measures and 40 percent from locally-generated renewable sources. The EA/EIS should quantify the projected energy requirements of the project and discuss measures to be taken to reduce energy demand, promote energy efficiency, and to promote use of alternative, renewable energy sources. Please discuss how energy efficiency and energy demand reduction, including reduced transportation energy use will be incorporated in the design of the project and identify the kinds of green building and sustainable design practices that could be used to promote energy and resource conservation in the proposed project. Please also identify any generating or transmission capacity constraints that may arise as a result of the proposed project and other projects planned for the region.

8. **Impact on State Facilities and Resources.** The EA/EIS should quantify the impacts of the proposed project on State-funded facilities, including schools, highways, harbors, and airports, and discuss these impacts in terms of existing and planned capacity of the impacted facilities. The EA/EIS should cite the mitigation measures proposed to be used in the development of the project and describe efforts to address identified State agency concerns. Regarding transportation impacts, consider project design options that limit the need to drive, including mixed land uses, compact site design, walkable neighborhoods, and providing a variety of transportation choices (e.g., biking, public transit, etc.).
9. **Conservation District.** If the proposed project is within the State Conservation District, the EA/EIS should provide an inventory of conservation resources, and discuss how the loss of these resources (habitat, watershed area, etc.) will impact the public.
10. **Conformance with County Plan Designations and Urban Growth or Rural Community Boundaries.** Act 26, Session Laws of Hawaii (SLH) 2008, reaffirmed the Land Use Commission's duty to consider any proposed reclassification with respect to the counties' adopted general, community, or development plans. If the proposed project is not consistent with the county plans or lies outside a county urban growth or rural community boundary, the EA/EIS should provide an analysis and discussion of the following:
  - a. **Alternative Sites Considered.** Describe and discuss alternative sites that were considered for the project, and discuss why the project could not be accommodated on lands within the urban growth or rural community boundary, if the county plan delineates such boundaries, or on land already designated by the county for similar uses.
  - b. **Impact on Surrounding Lands.** Discuss what the impacts of changing the county plan designation or extending the urban growth or rural community boundary would have on the surrounding lands.
  - c. **Significant Public Benefit.** Discuss what, if any, public benefits are provided by the proposed project above that already required under existing approval and permitting requirements.
  - d. **Plan Amendment.** Provide a timeframe for application for and approval of any required plan amendment.
11. **Environmental Health Hazards.** The EA/EIS should discuss the potential for the project or project users to generate hazardous materials or release possible contaminants to the air, soil, or water, as well as measures to be taken to ensure that environmental and public health and safety will be protected during construction and after buildout. The EA/EIS should also identify and discuss any potential health and environmental threats that may be present due to site-specific contamination from past or current use. If contaminants of concern are identified for the project site, OP recommends that the petitioner consult with the State Department of Health's Hazard Evaluation and Emergency Response Office as to measures to be taken to address possible or actual contamination at the site.
12. **Solid Waste Management.** The EA/EIS should quantify the volume of solid waste likely to be generated by the project by types of users, and describe the impact the project will have on the county's existing and planned capacity for managing solid waste as represented in the county's solid waste management plan. The EA/EIS should discuss specific mitigation measures to be taken to reduce solid waste generation and ensure that recycling and reuse are incorporated within the project area by residential, commercial, and institutional users.
13. **Sustainability Analysis.** OP is implementing the sustainability elements of the State Administration's New Day Comprehensive Plan and Act 181, SLH 2011 (the new sustainability priority guideline of the Hawai'i State Planning Act) by requesting petitioners to prepare

sustainability plans for their projects in district boundary amendment proceedings before the LUC. LUC Dockets A06-771, DR Horton-Schuler Homes (Hoopili) and A11-793, Castle & Cooke Homes (Koa Ridge Makai/Castle & Cooke Waiawa) provide a good point of reference for sustainability plans. The Koa Ridge Sustainability Plan and Hoopili Sustainability Plan can be found on the LUC's web site under each respective docket's exhibits.

To address the principles and priority guidelines for sustainability, OP recommends that a sustainability plan or relevant elements thereof be incorporated as part of program and plan development. The sustainability plan should be included as part of the applicant's submission for development review and approval, including environmental assessments or in petitions for district boundary amendment to the State Land Use Commission submitted pursuant to HRS Chapter 205. See Technical Assistance Memorandum 2013-1 in Planner's Toolbox available online at <http://planning.hawaii.gov>. The sustainability plan should address the following areas:

- a. **Sustainable Development** - the development's contribution to creating a high quality of life and mutual supportive role among environmental, economic, and social equity concerns, as enumerated in HRS §226-108.
- b. **Smart Growth and Livability Principles** - the principles that promote safety and options with transportation choices, the promotion of energy-efficient, equitable and affordable housing choices, the enhancement of economic competitiveness and support to the existing communities.
- c. **Resource Conservation** - incorporation of energy and water efficiencies, including the implementation of solid or liquid waste management through methods of recycle and reuse, low impact development with respect to site design considerations and structural best management practices to increase on-site infiltration and reduce off-site flows and pollution from stormwater runoff, and climate change and hazard mitigation and adaptation strategies.
- d. **Green Building Standards** - the planned use of green building and sustainable design practices.

14. **Development Timetable.** The LUC requires that projects seeking reclassification be substantially completed within ten years or seek incremental approvals, pursuant to HAR § 15-15-50. The EA/EIS and/or petitioner should provide a schedule of development for each phase of the total project and a map showing the location and timing of each phase or increment of development. Regarding infrastructure (e.g., highway improvements), the petitioner should discuss how improvements will be completed to ensure that mitigation coincides with the impact created by the proposed project.

STATE OF HAWAII' OFFICE OF PLANNING  
TECHNICAL ASSISTANCE MEMORANDUM

TAM – 2016 – 1

ISSUED: 08-01-2016

AUTHORITIES: State Planning, Hawaii Revised Statutes (HRS) Chapter 225M; Hawaii State Planning Act, HRS Chapter 226; Hawaii Land Use Law, HRS Chapter 205; Aeronautics, HRS Chapter 261; Airport Zoning Act, HRS Chapter 262

SUBJECT: Federal Aviation Administration (FAA) Order 5190.6B

The Office of Planning provides technical assistance to state and county agencies in administering the statewide planning system.<sup>1</sup> This technical advisory discusses an FAA Order which may impact the use of land adjacent to or in the immediate vicinity of Hawaii's airports.

**Background**

Pursuant to FAA Order 5190.6B<sup>2</sup>:

"20.1. Background. Land use planning is an important tool in ensuring that land adjacent to, or in the immediate vicinity of, the airport is consistent with activities and purposes compatible with normal airport operations, including aircraft landing and takeoff. Ensuring compatible land use near federally obligated airports is an important responsibility and an issue of federal interest. In effect since 1964, Grant Assurance 21, Compatible Land Use, implementing Title 49 United States Code (U.S.C.) § 47107(a)(10), requires, in part, that the sponsor:"

"...take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which federal funds have been expended."

There are a number of sources that can assist an airport sponsor in dealing with noise, obstructions, and other incompatible land uses. These include, but are not limited to:

<sup>1</sup> HRS §§ 225M-2(b), 226-53(10).

<sup>2</sup> [https://www.faa.gov/airports/resources/publications/orders/compliance\\_5190\\_6/media/5190\\_6b\\_chap20.pdf](https://www.faa.gov/airports/resources/publications/orders/compliance_5190_6/media/5190_6b_chap20.pdf)

- a. Hazardous Wildlife Attractants on or Near Airports, AC 150/5200-33B, August 28, 2007.<sup>3</sup>
- b. Construction or Establishment of Landfills near Public Airports, AC 150/5200-34A, January 26, 2006.
- c. Federal and State Coordination of Environmental Reviews for Airport Improvement Projects. (RTF format) – Joint Review by Federal Aviation Administration and National Association of State Aviation Officials (NASAO), issued March 2002.<sup>4</sup>
- d. Land Use Compatibility and Airports, a Guide for Effective Land Use Planning (PDF format), issued by the FAA Office of Environment and Energy.<sup>5</sup>
- e. Compatible Land Use Planning Initiative (PDF format), 63 Fed. Reg. 27876, May 21, 1998.<sup>6</sup>
- f. A Model Zoning Ordinance to Limit Height of Objects Around Airports, Advisory Circular (AC) 150/5190-4A.
- g. Glint/Glare Hazards, Airport Airspace Analysis (IOE/AAA), Combined Federal Regulation CFR Part 77 (e-CFR format) – Current as of December 15, 2015 (same as obstruction process below).
- h. Obstruction Evaluation/Airport Airspace Analysis (IOE/AAA), Combined Federal Regulation CFR Part 77 (e-CFR format) – Current as of December 15, 2015.
- i. Avigation and Noise Easements – Permitting agencies shall ensure that all permits issued to projects near airports are compatible with avigation easement agreements between the State of Hawaii Department of Transportation, Airports Division (DOT-A) and property owners. These easements grant the DOT-A the right of flight of aircrafts, the safe operations of airports, and acceptance of certain noise levels and other phenomena associated with the airport. The right to flight includes the prevention of wildlife hazard through appropriate mitigation and monitoring. In all land-use zone changes, this easement is required and must satisfy DOT-A requirements.

<sup>3</sup> [http://www.faa.gov/documentLibrary/media/advisory\\_circular/150-5200-33B/150\\_5200\\_33b.pdf](http://www.faa.gov/documentLibrary/media/advisory_circular/150-5200-33B/150_5200_33b.pdf)

<sup>4</sup> <https://www.faa.gov/airports/resources/publications/reports/environmental/media/eis-faa-nasao-report.pdf>

<sup>5</sup> [http://www.faa.gov/about/office\\_org/headquarters\\_offices/apl/noise\\_emissions/planning\\_toolkit/media/III.B.pdf](http://www.faa.gov/about/office_org/headquarters_offices/apl/noise_emissions/planning_toolkit/media/III.B.pdf)

<sup>6</sup> <https://www.gpo.gov/fdsys/pkg/FR-1998-05-21/pdf/98-13577.pdf>

Pertinent Information from FAA's Land-Use Practices on or near Airports That Potentially Attract Hazardous Wildlife, Glint/Glare Hazards and Obstruction Hazards:

2-1. General. The wildlife attracted to the airport environment vary considerably, depending on several factors, including land-use practices on or near the airport. Other hazards that attract wildlife include glint/glare hazards, certain street and property lighting designs, and aerial obstruction hazards, all of which threaten aviation safety. In addition to the specific considerations outlined below, airport operators should refer to Wildlife Hazard Management at Airports, Glint/Glare, and Obstruction guidance materials prepared by the FAA.

Pertinent Information from FAA Order 5190.6B Compatible Land Use and Airspace Protection:

4-3. Other Land-Use Practice Changes. As a matter of policy, the FAA encourages operators of public-use airports who become aware of proposed land use practice changes that may attract hazardous wildlife within 5 statute miles of their airports, to include glint/glare hazards and aerial obstructions to promptly notify the FAA. The FAA also encourages proponents of such land use changes to notify the FAA as early in the planning process as possible. Advanced notice affords the FAA an opportunity (1) to evaluate the effect of a particular land-use change on aviation safety and (2) to support efforts by the airport sponsor to restrict the use of land next to or near the airport to uses that are compatible with the airport.

Land use practices that may attract hazardous wildlife, and may also be a glint/glare hazard or an aerial obstruction hazard to existing flight paths include, but are not limited to:

- Underwater waste discharges
- Aquaculture activities conducted outside of fully enclosed buildings
- Water features on properties such as fountains or ponds, areas of permanent or temporary standing water, and furrow irrigation and drainage systems
- Landfills and material recycling/processing facilities
- Photovoltaic/Solar panels
- Utility poles and lines
- Wind turbines
- Antenna towers
- High rise building structures
- Cranes
- Tethered Air Balloon Devices
- Street and exterior property lights
- Certain landscape, trees, and ground cover



4-3.a. Airports that have received Federal grant-in-aid assistance are required by their grant assurances to take appropriate actions to restrict the use of land next to or near the airport to uses that are compatible with normal airport operations. The FAA recommends that airport operators to the extent practicable oppose off-airport land-use changes or practices within the separations identified in Sections 1-2 through 1-4 that may attract hazardous wildlife, and/or be glint/glare, and/or obstruction hazards. Failure to do so may lead to noncompliance with applicable grant assurances. The FAA will not approve the placement of airport development projects pertaining to aircraft movement in the vicinity of hazardous wildlife attractants, or where glint/glare and/or obstruction hazards exist without appropriate mitigating measures. Increasing the intensity of wildlife control efforts is not a substitute for eliminating or reducing a proposed wildlife hazard, nor is the placement adjustments to mitigate glint/glare and obstruction hazards. Airport operators should identify hazardous wildlife, glint/glare, and obstruction hazards during any planning process for new airport development projects.

Pertinent Information from FAA 14 Code of Federal Regulation Part 77 Safe, Efficient Use and Preservation of the Navigable Airspace:

7460-1 Notice of Proposed Construction or Alteration – Requirement to file \$77.9 Construction or alteration requiring notice.

If requested by the FAA, or if you propose any of the following types of construction or alteration, you must file notice with the FAA of:

- (a) Any construction or alteration that is more than 200 ft. above ground level (AGL) at its site.
- (b) Any construction or alteration that exceeds an imaginary surface extending outward and upward at any of the following slopes:
  - (1) 100 to 1 for a horizontal distance of 20,000 ft. from the nearest point of the nearest runway of each airport described in paragraph (d) of this section with its longest runway more than 3,200 ft. in actual length, excluding heliports.
  - (2) 50 to 1 for a horizontal distance of 10,000 ft. from the nearest point of the nearest runway of each airport described in paragraph (d) of this section with its longest runway no more than 3,200 ft. in actual length, excluding heliports.
  - (3) 25 to 1 for a horizontal distance of 5,000 ft. from the nearest point of the nearest landing and takeoff area of each heliport described in paragraph (d) of this section.
- (c) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a waterway or any other traverse way not previously mentioned, an amount equal to the height of

the highest mobile object that would normally traverse it, would exceed a standard of paragraph (a) or (b) of this section.

#### NOTE

- (a) You must submit this form at least 45 days before the start date of the proposed construction or alteration or the date an application for a construction permit is filed, whichever is earliest.
- (b) If you propose construction or alteration that is also subject to the licensing requirements of the Federal Communications Commission (FCC), you must submit notice to the FAA on or before the date that the application is filed with the FCC.
- (c) If you propose construction or alteration to an existing structure that exceeds 2,000 ft. in height above ground level (AGL), the FAA presumes it to be a hazard to air navigation that results in an inefficient use of airspace. You must include details explaining both why the proposal would not constitute a hazard to air navigation and why it would not cause an inefficient use of airspace.
- (d) The 45-day advance notice requirement is waived if immediate construction or alteration is required because of an emergency involving essential public services, public health, or public safety. You may provide notice to the FAA by any available, expeditious means. You must file a completed FAA Form 7460-1 within 5 days of the initial notice to the FAA. Outside normal business hours, the nearest flight service station will accept emergency notices.
- (e) There is a Notice Criteria Tool on <https://oeaaa.faa.gov/oeaaa/external/gisTools/gisAction.jsp?action=showNoNoticeRequireToolForm> on the left margin of the webpage. It is free and will help to determine if proposed structures need to be filed for aeronautical review.

Photovoltaic and Solar Farms concerns about hazards to safe air navigation from:

1. Potential glare and glint caused by parabolic troughs and heliostats that might cause temporary loss of vision to pilots on arrival or departure, or to Air Traffic Control personnel in the control tower.
2. Electromagnetic interference with on-and off-airport radar systems that may pick up a false signal from the metal components of the mirrors with impacts that can vary based on solar tracking activity.
3. Physical penetrations of navigable airspace from power towers that extend into Part 77 imaginary surfaces, terminal instrument procedures (TERPS) surfaces, or the path of radio emitting navigational aids.
4. Thermal plumes emitted by the power tower that produce unexpected upward moving air columns into navigable air space.
5. Use your discretion to evaluate the proposed footprint to be developed. If the footprint is approaching 1 acre, have the proponent submit a 7460-1. If its within 3 nautical miles of an airport, have them submit a 7460-1.

Wind Farms concerns about hazards to safe air navigation from:

1. Create false targets and impacts FAA long radar capabilities.
2. Height of structures and propellers.
3. Any wind farm proposal needs to have the proponent submit a 7460-1.

#### Application

The State of Hawai'i Department of Transportation, Airports Division (DOT-A) discourages such land uses that may attract hazardous wildlife within five (5) statute miles of airport boundaries, pursuant to FAA Advisory Circular 150/5200-33B, (August 28, 2007). Attached are maps depicting the five (5) statute miles from airports in the State of Hawai'i, including glint/glare hazards pursuant to Federal Aviation Administration Notice of Interim Policy dated October 23, 2013 and aerial obstruction to existing flight paths pursuant to Combined Federal Regulation CFR Part 77 (e-CFR format) – Current as of December 15, 2015.

State, county, and federal agencies who have jurisdiction over areas within five (5) statute miles of airport boundaries and have permit authority over future land uses that may attract hazardous wildlife shall consider FAA Advisory Circular 150/5200-33B, including glint/glare hazards and aerial obstruction(s) to existing flight paths in accordance with the FAA Obstruction Evaluation/Airport Airspace Analysis (iOE/AAA), Combined Federal Regulation CFR Part 77 in their decision making on plans and permits,

Consultation with the DOT-A (Airport Operations) shall be performed at the earliest time where a future land use that may attract hazardous wildlife, glint/glare hazard or aerial obstruction(s) is proposed. Agencies should inform applicants of permits or approvals of such proposed land uses to consult with the DOT-A (Airport Operations) as soon as possible, pursuant to the Airport Zoning Act HRS Chapter 262.

Where applicable, when a land-owner petitions the State of Hawaii Land Use Commission (LUC) with a request for a land use district boundary amendment, the State will propose an LUC condition requiring an avigation and noise easement be granted to DOT-A and the terms of the easement must meet the requirements of the DOT-A, including mitigation to minimize potential wildlife hazards to aircrafts and airport operations.

In cases where the respective counties are the authority for land use district boundary amendments (petitions under fifteen (15) acres), the respective counties should contact DOT-A for any requirements of an avigation and noise easement.

When a landowner in the vicinity of the airport pursues redevelopment of a property, the landowner must grant an avigation and noise easement to the DOT-A to ensure compatible land use in the vicinity of the airport. The terms of the easement must satisfy DOT-A requirements.

Grant of avigation and noise easements to DOT-A is necessary for the safety of air transportation which is a public benefit. State, County, and Federal regulatory and service agencies that work with any aspect of the conditions identified in an avigation and noise easement must take appropriate actions and incorporate the DOT-A avigation easement requirements in their decisions.

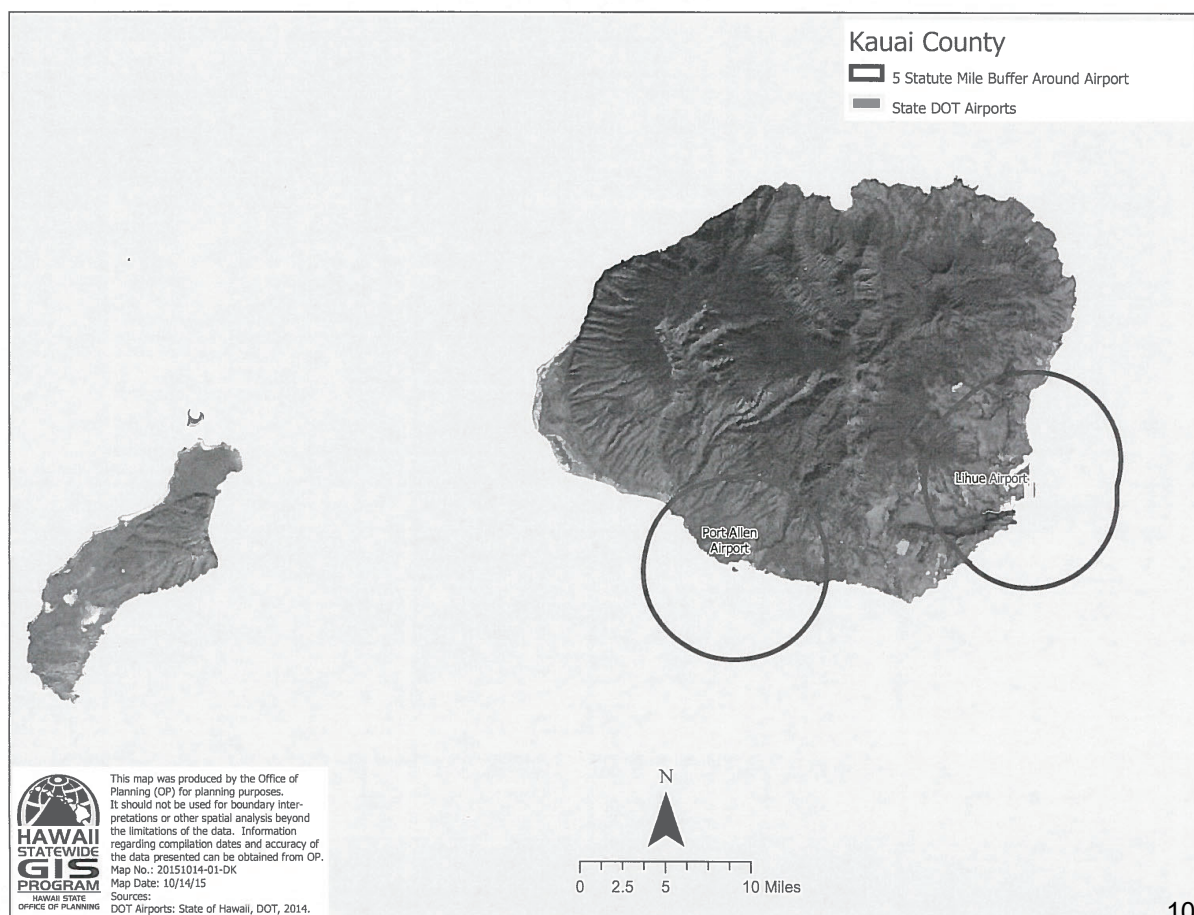
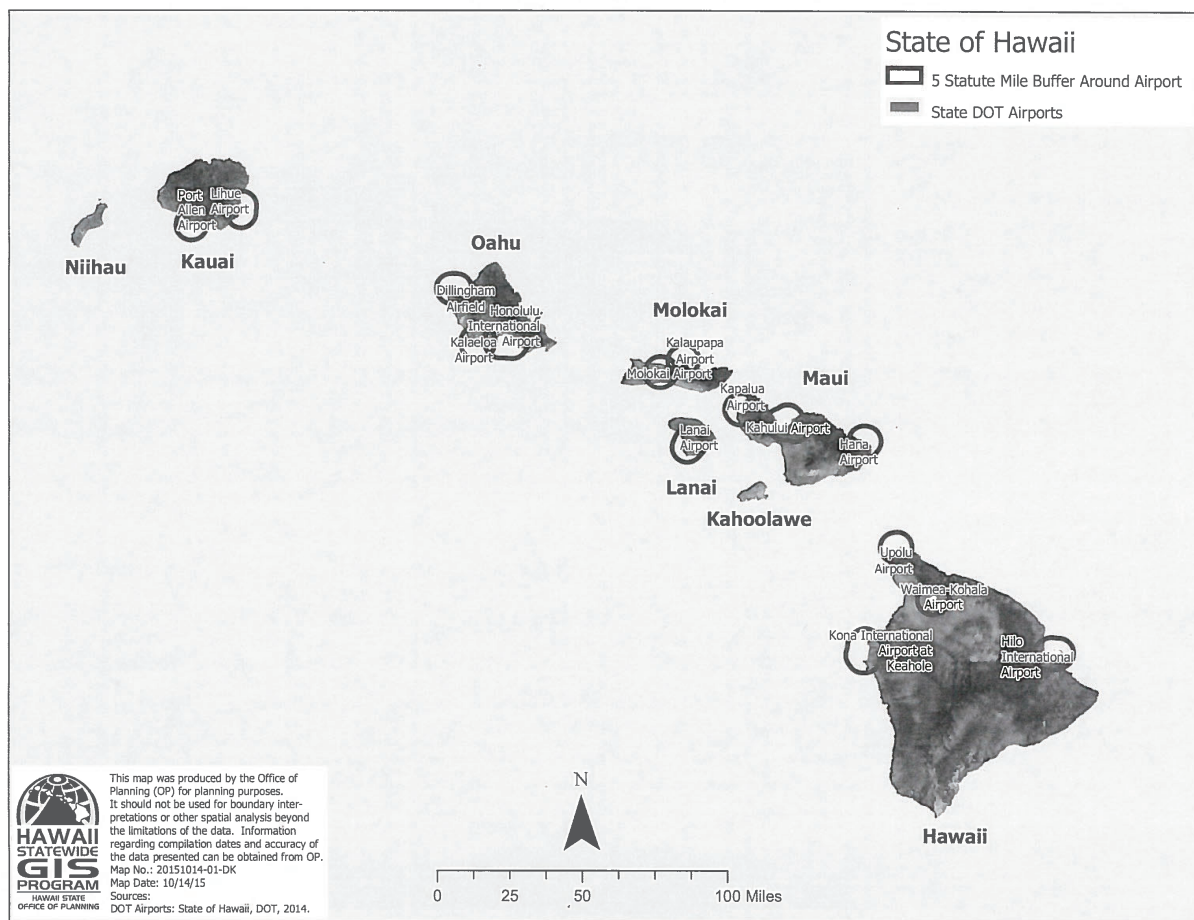
Office of Planning  
State of Hawai'i  
P.O. Box 2359  
Honolulu, HI 96804

Phone: (808) 587-2846  
Web: [planning.hawaii.gov](http://planning.hawaii.gov)

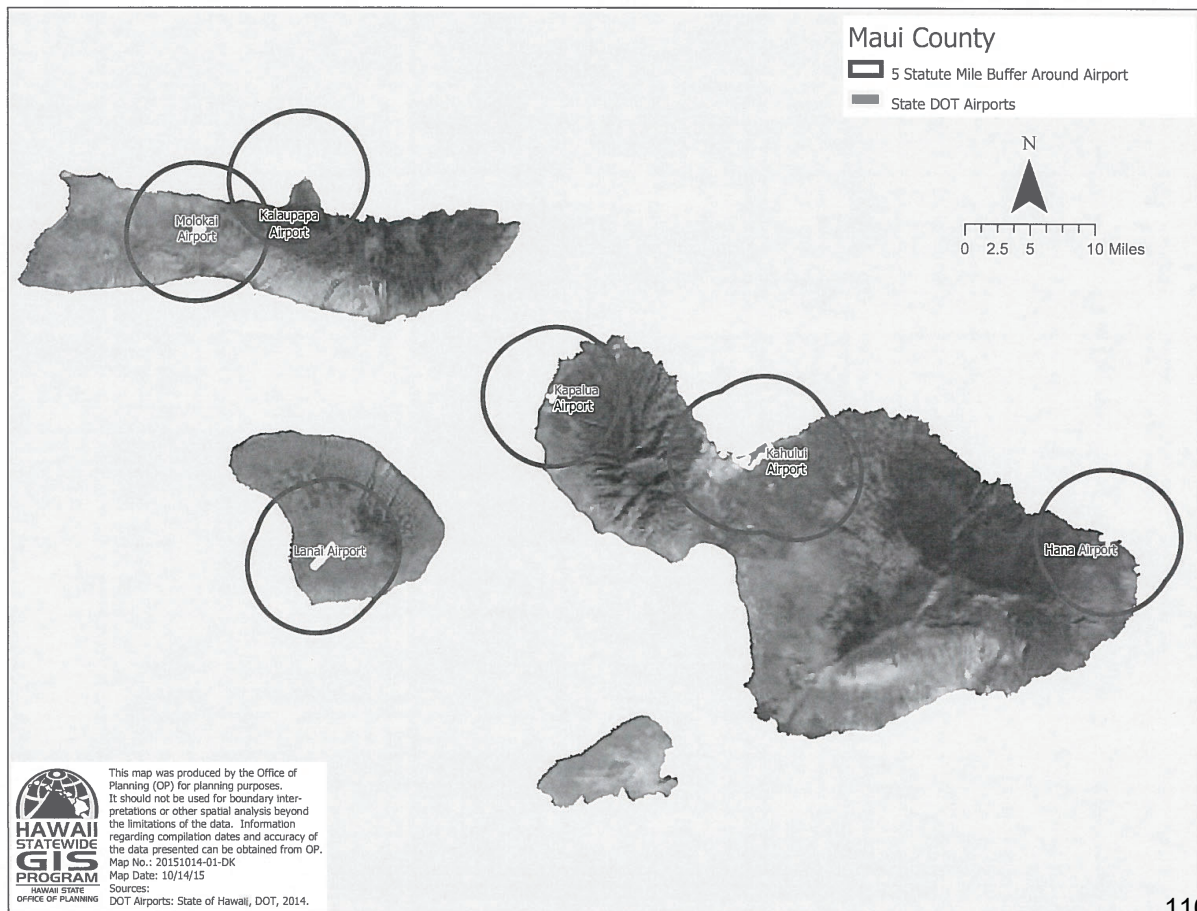
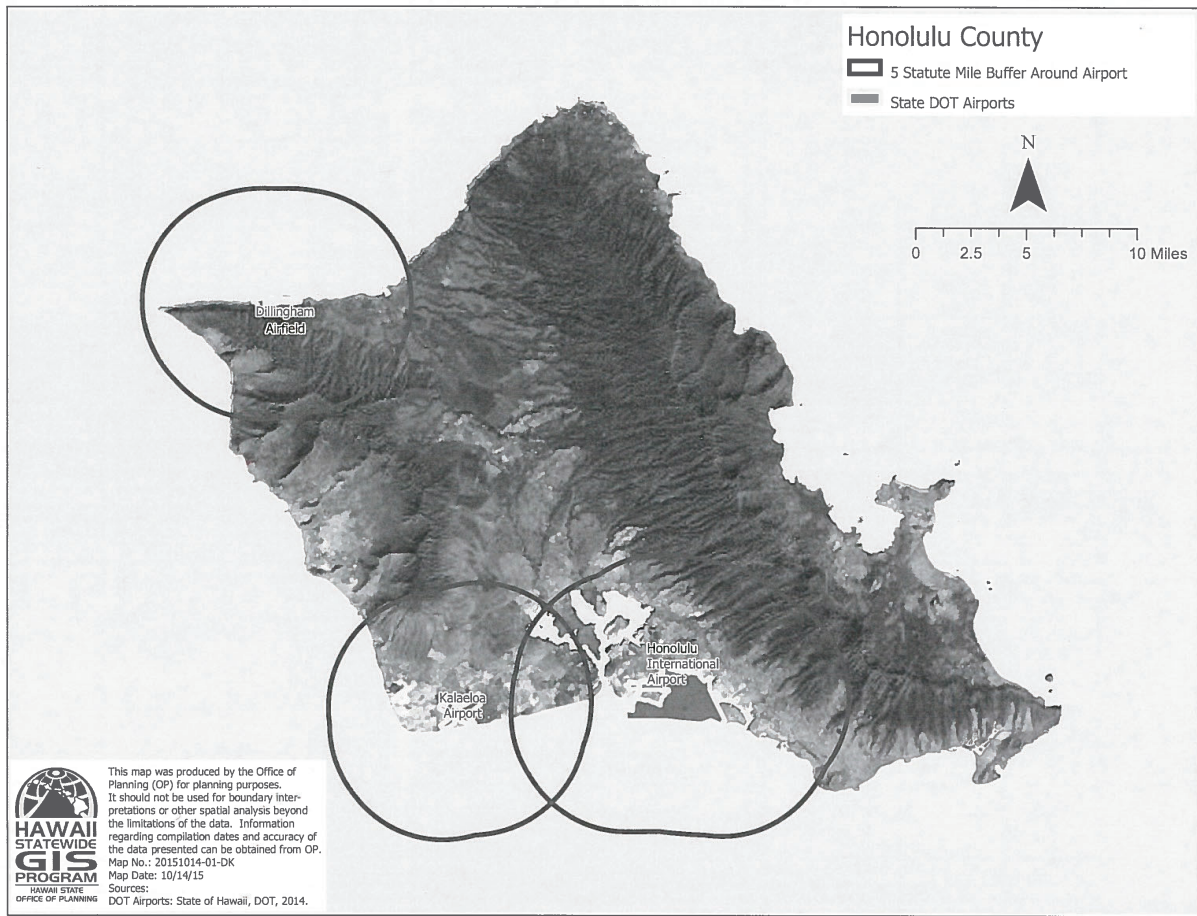
Department of Transportation  
Airports Division  
State of Hawai'i  
400 Rodgers Boulevard, Suite 700  
Honolulu, HI 96819-1880

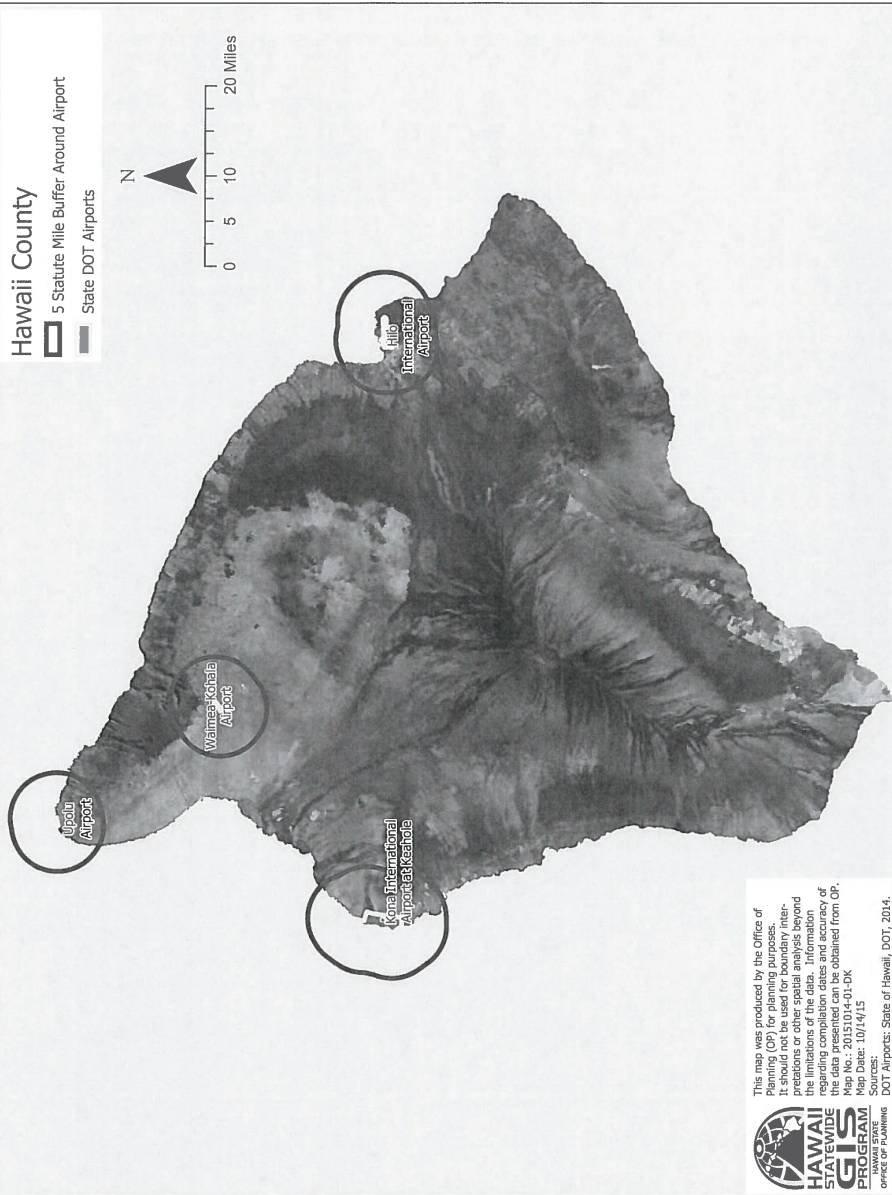
Phone: (808) 838-8810

**Note:** A Technical Assistance Memorandum (TAM) is an informational statement of the law, regulations, or policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, or changes in policies could affect the validity of the information presented in a TAM.









## Ho'okuleana LLC

... to take responsibility ...

**Peter T. Young**  
1539 Kanapu'u Drive  
Kailua, Hawai'i 96734  
(808) 226-3567 (Cell Phone)  
PeterYoung@Hookuleana.com  
www.Hookuleana.com



Office of Planning, State of Hawaii  
235 South Beretania Street, 6<sup>th</sup> Floor  
Honolulu, HI 96813

April 19, 2019

Sent only via e-mail to [Johua.K.Hekekiea@dbedt.hawaii.gov](mailto:Johua.K.Hekekiea@dbedt.hawaii.gov)

Re: Miki Basin Industrial Park, Lāna'i - Draft Environmental Assessment

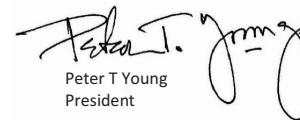
Gentlemen:

Thank you for your response to our Pre-Assessment Consultation and Scoping request for the above referenced project (SSFM initially sent the pre-assessment request, I will be preparing the EA).

We acknowledge your comments concerning Land Use District Boundary Amendments, Land Use Approvals, Environmental Assessment requirement, CZM and Drainage related to the project. These will be incorporated into the EA.

A draft Environmental Assessment is being prepared and we will be sending you a copy for your review.

Thanks,  
HO'OKULEANA LLC

  
Peter T Young  
President

Do well by doing good.



DAVID Y. IGE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

December 7, 2018

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

DAVID Y. IGE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF FORESTRY AND WILDLIFE  
1151 PUNCHBOWL STREET, ROOM 325  
HONOLULU, HAWAII 96813  
DEC - 5 2018

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

ROBERT K. MASUDA  
FISH & DEPUTY

JEFFREY T. PEARSON, P.E.  
DEPUTY DIRECTOR - WATER

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

SSFM International, Inc.  
Attn: Ms. Jennifer M. Scheffel  
Sr. Environmental Planner  
99 Aupuni Street, Suite 202  
Hilo, Hawaii 96720

via email: [jscheffel@ssfm.com](mailto:jscheffel@ssfm.com)

Dear Ms. Scheffel:

SUBJECT: Pre-Assessment Consultation for Draft Environmental Assessment for the Proposed **Pulama Lanai Miki Basin 200-Acre Industrial Area** located on the Island of Lanai; (2) 4-9-002:por. 061

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

At this time, enclosed are comments from the (a) Division of Forestry & Wildlife, and (b) Commission on Water Resource Management on the subject matter. Should you have any questions, please feel free to call Darlene Nakamura at (808) 587-0417. Thank you.

Sincerely,

Russell Y. Tsuji  
Land Administrator

Enclosures  
cc: Central Files

MEMORANDUM

TO: RUSSELL Y. TSUJI, Administrator  
Land Division

FROM: DAVID G. SMITH, Administrator *DGS*

SUBJECT: **Division of Forestry and Wildlife Comments on the Pre-Assessment Consultation for the Proposed Pulama Lānaʻi Miki Basin 200-acre Industrial Area Draft Environmental Assessment**

The Department of Land and Natural Resources Division of Forestry and Wildlife (DOFAW) has received your inquiry regarding the preparation of a draft Environmental Assessment to support the proposed reclassification of 200 acres of land adjacent to Lānaʻi Airport from Agriculture to Urban in the Miki Basin, Lānaʻi, TMK: (2) 4-9-002:061 por., to align with the zoning in the Lānaʻi Community Plan. The applicant, Pulama Lānaʻi, states the subject parcel consists of undeveloped agricultural land. We provide the following comments for potential development of the property that may occur as a result of the reclassification.

The State and Federal listed Hawaiian Hoary Bat (*Lasiurus cinereus semotus*) has the potential to occur in the vicinity of the project area and may roost in trees. To avoid the potential for impacts to this tree-roosting species, site clearing should be timed to avoid disturbance during the bat birthing and pup rearing season (June 1 through September 15). If this cannot be avoided woody plants greater than 15 feet (4.6 meters) tall should not be disturbed, removed, or trimmed without consulting DOFAW. Barbed wire should be avoided for any construction because bat mortalities have been documented as a result of becoming ensnared by barbed wire during flight.

We note that artificial lighting can adversely impact seabirds that may pass through the area at night causing disorientation that could result in collision with manmade artifacts or grounding of birds. For nighttime lighting that might be required, DOFAW recommends that any lights be fully shielded to minimize impacts. Nighttime work that requires outdoor lighting should be avoided during the seabird fledging season from September 15 through December 15. This is the period when young seabirds take their maiden voyage to the open sea.

The State and Federal listed Blackburn's Sphinx Moth (BSM; *Manduca blackburni*) has a historic range that encompasses the project area. Larvae of BSM feed on many nonnative hostplants that include tree tobacco (*Nicotiana glauca*) which grows in disturbed soil. We recommend contacting our Maui DOFAW office at (808) 984-8100 for further information about where BSM may be present and whether a vegetation survey should be conducted to determine the presence of plants preferred by BSM.

DOFAW recommends surveying for rare and endangered plants that historically occur in the area. If any of these species are found, please notify our Maui DOFAW office at (808) 984-8100.

We recommend using native plant species for landscaping that are appropriate for the area (i.e. climate conditions are suitable for the plants to thrive, historically occurred there, etc.). Please do not plant invasive species. DOFAW recommends consulting the Hawai'i-Pacific Weed Risk Assessment website to determine the potential invasiveness of plants proposed for use in the project (<https://sites.google.com/site/weedriskassessment/home>).

You should avoid moving soil or other plant material within and between the islands due to the potential presence of pathogens. We recommend consulting the Hawai'i Interagency Biosecurity Plan at <http://dlnr.hawaii.gov/hisc/plans/hibp/> in planning, design, and construction of the project.

Finally, DOFAW is concerned about attracting vulnerable birds to areas that may host non-native predators such as cats, rodents, and mongoose. We recommend taking action to minimize predator presence; remove cats, place bait stations for rodents and mongoose, and provide covered trash receptacles.

We appreciate your efforts to work with our office for the conservation of our native species. Should the scope of the project change significantly, or should it become apparent that threatened or endangered species may be impacted, please contact our staff as soon as possible. If you have any questions, please contact Jim Cogswell, Wildlife Program Manager at (808) 587-4187 or [James.M.Cogswell@hawaii.gov](mailto:James.M.Cogswell@hawaii.gov).

DAVID Y. IGE  
GOVERNOR OF HAWAII



SUZANNE D. CASE  
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

November 21, 2018

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 – Maui District
- ☒ Historic Preservation

FR:

TD:

FROM:  
SUBJECT:

Russell Y. Tsuji, Land Administrator  
Pre-Assessment Consultation for Draft Environmental Assessment for the  
Proposed **Pulama Lanai Miki Basin 200-Acre Industrial Area**  
Island of Lanai; TMK: (2) 4-9-002:por. 061  
SSFM International on behalf of Lanai Resorts, LLC dba Pulama Lanai

LOCATION:  
APPLICANT:

Transmitted for your review and comment is information on the above-referenced subject matter. We would appreciate your comments by **December 6, 2018**.

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 Darlene Nakamura at 587-0417. Thank you.

Attachments

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

Signed: /s/ Jeffrey T. Pearson, P.E.

Print Name: Deputy Director

Date: December 3, 2018

cc: Central Files

FILE ID: REF. 4984.5  
DOC ID: 206311





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

December 3, 2018

SUZANNE D. CASE  
CHAIRPERSON  
BRUCE S. ANDERSON, PH.D.  
WILLIAM D. BALFOUR, JR.  
KAMANA BEAMER, PH.D.  
MICHAEL G. BUCK  
NEIL J. HANNAHS  
PAUL J. MEYER  
JEFFREY T. PEARSON, P.E.  
DEPUTY DIRECTOR

REF: RFD.4984.5

TO: Mr. Russell Tsuji, Administrator  
Land Division

FROM: Jeffrey T. Pearson, P.E., Deputy Director  
Commission on Water Resource Management

SUBJECT: Pre-Assessment Consultation for Draft Environmental Assessment for the Proposed Pulama Lanai  
Miki Basin 200-Acre Industrial Area

FILE NO.: RFD.4984.5  
TMK NO.: (2) 4-9-002:por. 061

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

Our comments related to water resources are checked off below.

- ☐ 1. We recommend coordination with the county to incorporate this project into the county's Water Use and Development Plan. Please contact the respective Planning Department and/or Department of Water Supply for further information.
- ☐ 2. We recommend coordination with the Engineering Division of the State Department of Land and Natural Resources to incorporate this project into the State Water Projects Plan.
- ☐ 3. We recommend coordination with the Hawaii Department of Agriculture (HDOA) to incorporate the reclassification of agricultural zoned land and the redistribution of agricultural resources into the State's Agricultural Water Use and Development Plan (AWUDP). Please contact the HDOA for more information.
- ☐ 4. We recommend that water efficient fixtures be installed and water efficient practices implemented throughout the development to reduce the increased demand on the area's freshwater resources. Reducing the water usage of a home or building may earn credit towards Leadership in Energy and Environmental Design (LEED) certification. More information on LEED certification is available at <http://www.usgbc.org/leed>. A listing of fixtures certified by the EAP as having high water efficiency can be found at <http://www.epa.gov/watersense>.
- ☐ 5. We recommend the use of best management practices (BMP) for stormwater management to minimize the impact of the project to the existing area's hydrology while maintaining on-site infiltration and preventing polluted runoff from storm events. Stormwater management BMPs may earn credit toward LEED certification. More information on stormwater BMPs can be found at <http://planning.hawaii.gov/czm/initiatives/low-impact-development/>
- ☐ 6. We recommend the use of alternative water sources, wherever practicable.
- ☐ 7. We recommend participating in the Hawaii Green Business Program, that assists and recognizes businesses that strive to operate in an environmentally and socially responsible manner. The program description can be found online at <http://energy.hawaii.gov/green-business-program>.
- ☐ 8. We recommend adopting landscape irrigation conservation best management practices endorsed by the Landscape Industry Council of Hawaii. These practices can be found online at

Mr. Russell Tsuji  
Page 2  
December 3, 2018

- [http://www.hawaiiscape.com/wp-content/uploads/2013/04/LICH\\_Irrigation\\_Conservation\\_BMPs.pdf](http://www.hawaiiscape.com/wp-content/uploads/2013/04/LICH_Irrigation_Conservation_BMPs.pdf).
- ☐ 9. There may be the potential for ground or surface water degradation/contamination and recommend that approvals for this project be conditioned upon a review by the State Department of Health and the developer's acceptance of any resulting requirements related to water quality.
  - ☐ 10. The proposed water supply source for the project is located in a designated water management area, and a Water Use Permit is required prior to use of water. The Water Use Permit may be conditioned on the requirement to use dual line water supply systems for new industrial and commercial developments.
  - ☐ 11. A Well Construction Permit(s) is (are) are required before the commencement of any well construction work.
  - ☐ 12. A Pump Installation Permit(s) is (are) required before ground water is developed as a source of supply for the project.
  - ☐ 13. There is (are) well(s) located on or adjacent to this project. If wells are not planned to be used and will be affected by any new construction, they must be properly abandoned and sealed. A permit for well abandonment must be obtained.
  - ☐ 14. Ground-water withdrawals from this project may affect streamflows, which may require an instream flow standard amendment.
  - ☐ 15. A Stream Channel Alteration Permit(s) is (are) required before any alteration can be made to the bed and/or banks of a stream channel.
  - ☐ 16. A Stream Diversion Works Permit(s) is (are) required before any stream diversion works is constructed or altered.
  - ☐ 17. A Petition to Amend the Interim Instream Flow Standard is required for any new or expanded diversion(s) of surface water.
  - ☐ 18. The planned source of water for this project has not been identified in this report. Therefore, we cannot determine what permits or petitions are required from our office, or whether there are potential impacts to water resources.
  - ☒ OTHER: The Draft Environmental Assessment should discuss the projected water demands for the project, both potable and non-potable, and provide the calculations used to estimate demands. The Draft Environmental Assessment should identify the proposed water source(s) to support the project, and include a discussion of the potential impacts on water resources and other public trust uses of water, and describe any proposed mitigation measures. Water conservation and efficiency measures to be implemented should be discussed. The consistency of this project with the Lanai Water Use and Development Plan (2011) should also be discussed.

If you have any questions, please contact Lenore Ohye of the Commission staff at 587-0216.

## Ho'okuleana LLC

... to take responsibility ...

Peter T. Young  
1539 Kanapu'u Drive  
Kailua, Hawai'i 96734  
(808) 226-3567 (Cell Phone)  
PeterYoung@Hookuleana.com  
www.Hookuleana.com



Department of Land and Natural Resources  
Division of Forestry and Wildlife  
1151 Punchbowl Street, Room 325  
Honolulu, Hawaii 96813

April 19, 2019

Sent only via e-mail to [James.M.Cogswell@hawaii.gov](mailto:James.M.Cogswell@hawaii.gov)

Re: Miki Basin Industrial Park, Lāna'i - Draft Environmental Assessment

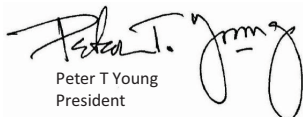
Gentlemen:

Thank you for your response to our Pre-Assessment Consultation and Scoping request for the above referenced project (SSFM initially sent the pre-assessment request, I will be preparing the EA).

We acknowledge your comments that the Hawaiian Hoary Bat has the potential to occur in the vicinity of the project area and may roost in trees, your concern for artificial lighting, Blackburn's Sphinx Moth range and your recommendation to survey for rare and endangered plants that historically occur in the area.

A draft Environmental Assessment is being prepared and we will be sending you a copy for your review.

Thanks,  
HO'OKULEANA LLC

  
Peter T Young  
President

Do well by doing good.

## Ho'okuleana LLC

... to take responsibility ...

Peter T. Young  
1539 Kanapu'u Drive  
Kailua, Hawai'i 96734  
(808) 226-3567 (Cell Phone)  
PeterYoung@Hookuleana.com  
www.Hookuleana.com



Hawaii Department of Land and Natural Resources  
Commission on Water Resource Management  
P. O. BOX 621  
Honolulu, HI 96809

April 19, 2019

Sent only via e-mail to [Lenore.N.Ohye@hawaii.gov](mailto:Lenore.N.Ohye@hawaii.gov)

Re: Miki Basin Industrial Park, Lāna'i - Draft Environmental Assessment

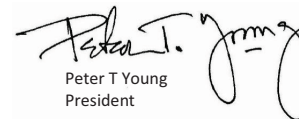
Gentlemen:

Thank you for your response to our Pre-Assessment Consultation and Scoping request for the above referenced project.

We acknowledge your comments concerning the projected water demands for the project. These will be incorporated into the EA.

A draft Environmental Assessment is being prepared and we will be sending you a copy for your review.

Thanks,  
HO'OKULEANA LLC

  
Peter T Young  
President

Do well by doing good.

DAVID Y. IGE  
GOVERNOR



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

JADE T. BUTAY  
DIRECTOR

Deputy Directors  
ROSS M. HIGASHI  
EDWIN H. SNIFFEN  
DARRELL T. YOUNG

IN REPLY REFER TO:  
DIR 1297  
STP 8.2566

December 13, 2018

Ms. Jennifer M. Scheffel  
Senior Environmental Planner  
SSFM International, Inc.  
99 Aupuni Street, Suite 202  
Hilo, Hawaii 96720

Dear Ms. Scheffel:

Subject: Pulama Lanai Miki Basin  
Pre-Assessment Consultation for Draft Environmental Assessment (DEA)  
Lanai, Maui, Hawaii  
TMK: (2) 4-9-002:061 (por.)

The Department of Transportation (DOT) understands the applicant is proposing to reclassify 200 acres of land from agriculture into urban. They will then rezone the land to 100 acres of Light Industrial and 100 acres of heavy industrial. The site is adjacent to the Lanai Airport and the Palawai Basin near the State-owned Kaunalapau Highway and Manele Road (Route 440).

DOT comments on the subject project are as follows:

#### Airports Division

1. The proposed Pulama Lanai project is approximately 300 feet from the centerline of the future Runway 21 extension at Lanai Airport (LNY). Developers of all projects within five miles from a Hawaii State airport are advised to read the Technical Assistance Memorandum (TAM) for guidance with development and activities that may require further review and permits. The TAM can be viewed at this link: [http://files.hawaii.gov/dbedt/op/docs/TAM-FAA-DOT-Airports\\_08-01-2016.pdf](http://files.hawaii.gov/dbedt/op/docs/TAM-FAA-DOT-Airports_08-01-2016.pdf).
2. Federal Aviation Administration (FAA) regulation requires the submittal of FAA Form 7460-1 Notice of Proposed Construction or alteration pursuant to the Code of Federal Regulations, Title 14, Part 77.9, if the construction or alteration is within 20,000 feet of a public use or military airport which exceeds a 100:1 surface from any point on the runway of each airport with its longest runway more than 3,200 feet. The form and criteria for submittal can be found at the following website: <https://oeaaa.faa.gov/oeaaa/external/portal.jsp>.

Ms. Jennifer M. Scheffel  
December 13, 2018  
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3. Large-scale photovoltaic (PV) panel installations have the potential to create glint and glare hazard condition for aircraft pilots. If the proposed project includes PV installation, it is recommended that the project proponent conduct a glint and glare analysis to ensure that the solar energy installation will not create hazardous conditions to Lanai Airport flight operations. Please see the following website for more information: [www.sandia.gov/glare](http://www.sandia.gov/glare). Large-scale solar energy installations also have the potential to emit radio frequency interference (RFI).

Glint, glare, radio frequency interference (RFI), photovoltaic (PV) panels and tall equipment (such as cranes that may be used during construction) can create hazardous conditions to pilots. Any such PV system, construction equipment, and/or other structure that creates such a hazardous condition for pilots, must be immediately mitigated by the owner upon notification by Hawaii Department of Transportation, Airports Division (HDOTA) and/or by FAA.

4. Wildlife attractants near airports create the potential for bird-strike hazards to aircraft operation. All activities that can potentially attract wildlife within five (5) miles of HDOTA airports are discouraged. HDOTA recommends that Pulama Lanai ensures that landscaping and project features will not create a wildlife attractant. FAA Advisory Circular 150/5200-33B Hazardous Wildlife Attractants on or Near Airports, provides guidance for developments and wildlife management around airports.
5. Due to the development proximity to Lanai Airport, there is a potential for fumes, smoke, vibrations, odors, etc., from aircraft flight operations over the proposed development. The project may also be subject to single event noise from aircraft operations.

HDOTA requests that Pulama Lanai grant an avigation easement to HDOTA for assurances of flight safety over the proposed site.

6. Lanai Resorts has committed to future relocation of Miki Road and utilities outside of airport property in the attached letter from Mr. Kurt Matsumoto, dated March 18, 2013. Currently, we request further discussion between HDOTA and Pulama Lanai on the possibility to include the Miki Road relocation with development of the proposed project.

#### Highways Division

A traffic study should be prepared by a traffic engineer licensed in the State of Hawaii and should be included in the DEA.

- a. The traffic study should evaluate any local impacts to the State Highway (Route 440) and nearby State facilities attributed by the project.



Ms. Jennifer M. Scheffel  
December 13, 2018  
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- b. An evaluation should be included for regional traffic impacts by the proposed project and any potential fair share contribution to traffic improvements.
- c. Include any phasing plan and the transportation improvements of each phase.

If there are any questions, please contact Mr. Blayne Nikaido of the DOT Statewide Transportation Planning Office at (808) 831-7979 or by email at [blayne.h.nikaido@hawaii.gov](mailto:blayne.h.nikaido@hawaii.gov).

Sincerely,



JADE T. BUTAY  
Director of Transportation

Attachment

**Lānaʻi** 733 Bishop Street, Suite 2000  
RESORTS, LLC Honolulu, HI 96813

March 18, 2013

Honorable Glenn M. Okimoto, Ph.D.  
Director of Transportation  
State of Hawaii, Department of Transportation  
869 Punchbowl Street  
Honolulu, Hawaii 96813-5097

Dear Dr. Okimoto:

Subject: Miki Basin Heavy Industrial Area  
District Boundary Amendment (DBA) and Change In Zoning (CIZ)

Per the recent video conference with Garrett Smith and Elton Teshima, DOT-STP Office; Mike Auerbach and Lynn Becones, DOT-Airports; Gary Ashikawa and Russell Iwasa, DOT-HWY Oahu; Fred Cajigal, DOT-HWY Maui; Ralph Masuda, Lanai Resorts, LLC; Keith Niiya and Adrienne Wong, Austin Tsutsumi and Associates, Inc.; and Michael Munekiyo, Munekiyo & Hiraga, Inc.; held on February 26, 2013, the subject of the encroachment of Miki Road (a private road) onto DOT airports property was discussed. A past commitment by Castle & Cooke Resorts, LLC, to relocate Miki Road and utilities at the time that Lanai Airport expansion plans are made known, then CCR at that time would be willing to meet and discuss the specifics of relocating Miki Road. This commitment still stands for the new owner, Lanai Resorts, LLC.

Lanai Resorts, LLC is prepared to discuss the scope of Miki Basin Road relocation, a new Kaunapali Highway intersection improvement, and a new traffic assessment with DOT Highways and Airports personnel when the need arises, at your convenience, so that we can accommodate your needs. In fact we are amenable to your requesting that a condition of approval be placed on the DBA and CIZ request to the Maui County Council that the Miki Road relocation shall be done upon request by DOT after meeting with Lanai Resorts, LLC on the proposed Lanai Airport expansion plan.

Thank you for your cooperation and consideration on this matter.

Sincerely,



Kurt Matsumoto  
Chief Operating Officer

cc: Garrett Smith and Elton Teshima, Department of Transportation (DOT) STP Office  
Mike Auerbach and Lynn Becones, DOT-Airports  
Gary Ashikawa and Russell Iwasa, DOT-HWY Oahu  
Fred Cajigal, DOT-HWY Maui  
Leith Niiya and Adrienne Wong, Austin Tsutsumi & Associates  
Michael Munekiyo, Munekiyo and Hiraga, Inc.  
Ralph Masuda, Lanai Resorts, Maui Office



April 18, 2019

Mr. Jade T. Butay  
Director of Transportation  
Department of Transportation  
869 Punchbowl Street  
Honolulu, HI 96813-5097

Re: Pulama Lanai Miki Basin  
Pre-Assessment Consultation for Draft Environmental Assessment (DEA)  
Lanai, Maui, Hawaii  
TMK: (2) 4-9-002:061 (por.)

Dear Mr. Butay:

This letter is in response to your December 13, 2018 letter regarding the above DEA. Your letter is also attached. Our responses follow in the same order as your letter:

Airports Division

1. Thank you for the information on reviewing the TAM for guidance with development and activities that may require further review and permit. There are none.
2. Thank you for the information on the FAA requirement within 20K feet of a public airport. We shall provide this information when there are prospective users of the 200 acres.
3. Thank you for the information on large-scale photovoltaic panel installations. We are aware of this having completed this for our Tesla installation at the Hydroponic facility.
4. Thank you for the information on discouraging the attraction of bird hazards near the airport within 5 miles of the airport. We have placed the restriction on drainage for all projects within the 5 mile radius, which basically covers all of the populated areas of Lanai.
5. Thank you for the notice of possible issue of aircraft noise for the area. We have just completed a DRAFT NEPA EA for a 500 foot runway extension for Lanai Airport and the noise study showed that the noise would not leave the runway exterior, much less the airport land.  
We would certainly work with HDOTA on an aviation easement for flight safety assurances over the proposed site. Please let me know how we would proceed with this.
6. Yes, there is such a letter, but it is based on the Lanai Airport Master Plan which has a 2000 foot runway extension. A 2000 foot runway extension results in a need for additional land to be transferred to DOT-Airports, and Miki Basin road being moved further mauka. The 500 foot runway extension at Lanai Airport did not change the existing boundaries of the current airport property. At this time there is no need to change the Miki Basin road alignment.

Letter to Jade T. Butay  
DEA Miki Basin 200 Acres Industrial Pre-Assessment Consultation  
April 18, 2019  
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Highways Division

- a. A traffic study has been prepared for the EA, and does evaluate any local impacts to the State Highway (Route 440) and nearby State facilities attributed to the project.
- b. An evaluation of regional traffic impacts are in the traffic study, and there is no potential fair share contribution from HDOT for traffic improvements.
- c. There are no phasing plans for the improvements.

We are moving forward on completing the DEA. Should you have any further questions, please do not hesitate to contact me. Mahalo!

Me ke aloha pumehana  
With warm aloha,

Lyon P. McCrory  
Senior Vice President of Government Affairs

C: Blayne Nikaido, DOT Statewide Transportation Planning Office, by e-mail  
[blayne.h.nakaido@hawaii.gov](mailto:blayne.h.nakaido@hawaii.gov)

Enclosure (1)