

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



State of Hawai'i
DEPARTMENT OF AGRICULTURE
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SHARON HURD
Chairperson, Board of Agriculture

DEXTER KISHIDA
Deputy to the Chairperson

June 17, 2024

Rec. #28319

Mr. Daniel Orodener, Executive Officer
Land Use Commission
235 S. Beretania Street, Room 406
Honolulu, Hawaii 96804
dbedt.luc.web@hawaii.gov



Dear Mr. Orodener:

Subject: Status and Progress Report
Central Maui Landfill Expansion - FY2023 Annual Report
Special Permit SP97-390
Department of Environmental Management, County of Maui
TMK: (2) 3-8-003: 019 (por.) and 020 (por.)
Area: 95.659 acres

The Department of Agriculture (Department) is unable to attend the scheduled meeting of the Land Use Commission (Commission) on Wednesday, June 19 at the University of Hawaii, Maui College. The Department has reviewed the subject Annual Report (date stamped November 27, 2023), in particular conditions 19 and 21, and offers the following comments.

“Condition 19: Within one year of approval of this Fourth Amendment, the County shall identify County-owned agricultural property of similar land properties and equivalent acreage on Maui and submit a request to have it designated as IAL to compensate for the loss of the 22 acres of IAL associated with the CML Facilities Project.”

In compliance with Condition 19, the Department of Environmental Management, County of Maui (County) has submitted a petition to the Commission (date stamped June 5, 2024), identifying 30 acres of land within the Kula Agricultural Park (Phase I) to be designated as Important Agricultural Lands. The Annual Report describes the Agricultural Park “to act as a “bank” for the County of Maui in the event that future land



areas which may be designated as IAL are necessary to remove from IAL in order to provide regional services as determined by future needs of the community and the County's General Plan."

The Department offers the following comments:

- 1) This is the first county-initiated petition to designate IAL that is not part of a countywide effort to identify and seek designation as IAL by the Commission, pursuant to Section 205-47.
- 2) The use of the Agricultural Park as an IAL replacement land bank is unique and appears to meet the requirement expressed in Condition 19.
- 3) Chapter 205, Part III does not appear to require replacement of designated IAL that is no longer active in or available for agricultural use and subject to removal of the IAL designation.
- 4) The lessee of the lot within the Agricultural Park that is directly affected by the County's action should be made aware of the effect IAL designation will have on his/her lease tenure, including access to the IAL incentives including the IAL Qualified Agricultural Cost Tax Credit (Section 235-110.93). Other Agricultural Park lessees should also be informed of the same.
- 5) The Department is unsure whether landowners of designated IAL (136,489 acres statewide) may employ land banking of their non-designated IAL lands to support reclassification or rezoning of their designated IAL, pursuant to Section 205-50.

The lot within the Agricultural Park, in its natural state, has very poor productivity ratings for agricultural uses according to the "Detailed Land Classification – Island of Maui" (Land Study Bureau, May 1967, Map 55). The lot and most, if not all, of the 445-acre Agricultural Park site has an Overall Productivity Rating of E and Land Type 29 and was poorly suited to machine tillability due to a complex of non-stony, stony and rocky lands. This land type was commonly used for grazing at the time the study was done. With irrigation, the productivity ratings for orchard and grazing uses improves to "b" and "a", respectively.

However, the "2020 Update to the Hawaii Statewide Agricultural Land Use Baseline" (Prepared for the Department of Agriculture) confirms that the Agricultural Park is almost entirely in diversified crop production (Figure 24, page 30) and is the largest aggregation of agricultural production in the Kula district. The sustained effort of

the farmer lessees since the opening of the Agricultural Park in 1985 is evidence why the multiple criteria and standards described in Section 204-44(c) are necessary in evaluating whether a particular area of agricultural land qualifies to be designated as IAL.

“Condition 21: That the Applicant shall submit a petition for Declaratory Ruling to the LUC to withdraw the 22 acres of IAL from the IAL designation within one year of the LUC’s Decision and Order for the Applicant’s Fourth Amendment Request.”

The County has submitted a draft petition to the Department for review. The petition meets Condition 21 and is in consonance with the Department’s recommendation found in its letter to the Maui County Planning Department (dated May 1, 2018) that the County consider removal of the designated IAL lands within the expansion area via the process described in Section 205-50(g) and/or implement a remediation plan for IAL designated lands to be returned to agricultural use after the life of the Central Maui Landfill. The Department believes our recommendation for remediation and return to agricultural uses appears to be addressed in Condition 20 that requires the County to seek to make the Central Maui Landfill available after restoration of closed phases for future appropriate agricultural use, if safe and practicable to do so and if still designated as agriculture at that time.

This concludes our comments on the Annual Report. Questions may be directed to Earl Yamamoto at (808) 973-9466 or earl.j.yamamoto@hawaii.gov.

Sincerely,



Sharon Hurd, Chairperson
Board of Agriculture
Department of Agriculture

c: Office of Planning and Sustainable Development (dbedt.op.lud@hawaii.gov)

