PRELIMINARY
SUBJECT TO CHANGE

MEMORANDUM

TO: Honorable Warren Price III, Attorney General

ATTN: Mr. Johnson Wong, Deputy Attorney General
Land/Transportation Division

FROM: William W. Paty, Chairperson

SUBJECT: Application for Geothermal Exploration Permits Chapter 196D, HRS

The Department of Land and Natural Resources requests clarification of the rules concerning geothermal exploration as defined by Administrative Rules, Chapters 13-183, 13-184, and Act 301, SLH 1988. The University of Hawaii plans to conduct exploratory test-hole drilling to obtain scientific information on geothermal resources. The drilling project will not involve wells capable of producing or developing geothermal resources.

Pursuant to the State funded geothermal exploratory drilling project proposed by the University of Hawaii, the following issues require your review and legal clarification:

ISSUES

1. Chapter 13-183 entitled "Rules on the Leasing and Drilling of Geothermal Resources" provides that an exploration permit is required to conduct any exploration activity on state or reserved lands for evidence of geothermal resources.

   In addition, Chapter 13-184 entitled "Designation and Regulation of Geothermal Resource Subzones" defines geothermal development activities as the exploration, development, or production of electrical energy from geothermal resources.

   Chapter 13-184 further states that "only those areas designated as geothermal resource subzones may be utilized for geothermal development activities in addition to those uses permitted in each land use district under Chapter 205, HRS." No

   We query whether geothermal exploration activities (such as exploratory test hole and well drilling, electro-magnetic ground surveys, etc.) may be conducted outside the boundary of a geothermal resource subzone (GRS).

   It is unclear as to whether Chapter 205, HRS, was intended to prohibit future exploratory activity outside of designated GRS areas, especially if the activity is for scientific purposes which may provide valuable new information useful to this agency when modifying existing GRS boundaries.

PRELIMINARY
SUBJECT TO CHANGE

It should be noted that the proposed permit application for exploration activity is to gather scientific information.

2. Chapter 13-184 requires that geothermal development activities within a GRS be administered as follows: (a) For activities within a conservation district, a conservation district use permit from the BLNR must be obtained prior to conducting any development activity; (b) For activities within urban, rural, and agricultural districts, a geothermal resource permit approved by the County Planning Commission must be obtained prior to any action by the applicant.

   Preliminary review of the pending UofH application indicates that the exploratory well drilling sites are located in both conservation and agricultural land use districts.

   We query whether a geothermal exploration permit issued under Chapter 13-183 will suffice regardless of the area in which the activity is located.

   We query whether a State-funded activity of scientific nature can be legally conjoined with or "piggy-backed" onto existing permits which have already been issued to private geothermal developers or conducted on lands of private geothermal developers.

3. Lastly, Act 301 entitled "Geothermal and Cable System Development Permitting Act of 1988", provides for a consolidated permit application and review process for geothermal development activities.

   One of the provisions of the Act is to establish an interagency committee with DLNR designated as the lead agency to develop regulatory procedures for processing geothermal/cable related permits.

   The Act further states that the chapter shall take effect on July 1, 1988, but shall not apply to any applications filed prior to the effective date.

   Rules to implement the numerous requirements of Act 301 have not been prepared. Therefore, we query whether the UofH proposed exploraion activity should be processed for permit under Act 301 or whether a permit application from the UofH be permitted under Chapter 13-183-7 as set forther in Act 301?

Your opinion on the above issues is respectfully requested and a reply at your earliest convenience will be gretly appreciated. If a meeting with our staff will expedite matters or if you should have any questions, please contact Manabu Tagomori at Ext. 7533. Thank you for your continued assistance.

WILLIAM W. PATY

ITEMNO7

DRAFT
11-2-88

ACT 301 WORK PLAN

WORK ITEM NO.7: Draft process to resolve conflicts that may arise between and among agencies.

OBJECTIVE: Examine areas where consolidation of interagency functions may be possible, in addition to the identification of potential conflicts and possible solutions.

DISCUSSION:

Development of a conflict resolution process will require the following: (a) identification of areas where agency review, informational meetings, and public hearings can be reasonably combined and conducted; (b) determination of agency jurisdiction and the delineation of regulatory controls between agencies in overlapping situations; (c) evaluation of Federal requirements as they relate to State/County regulations; and (d) discussion of voluntary Federal cooperation and compliance with State/County regulations and the consolidated permit review procedures set forth in the interagency joint agreement.

When finalized and approved, the provisions for conflict resolution between the respective agencies should be set forth in the interagency joint agreement.

The following discussion will attempt to describe areas where consolidation of interagency functions may be possible, including potential problems which may arise and their possible solutions. Finalization of a process to resolve such conflicts shall be subject to further discussion among members of the interagency group.

EXAMPLE (A):

FEDERAL AND STATE/COUNTY ENVIRONMENTAL IMPACT STATEMENT (EIS)

IDENTIFICATION:

Consideration should be given to the possibility of joint Federal and State/County EIS preparation, review, and acceptance. The Federal EIS is required by the National Environmental Policy Act and is regulated by the National Council of Environmental Quality guidelines. The State/County EIS is required under Chapter 343, HRS, and is regulated by the Office of Environmental Quality Control (OEQC) guidelines.

Federal agencies which may be involved in the EIS process are the Environmental Protection Agency (EPA) and the U. S. Army Corps of Engineers. For the purpose of the geothermal/cable project and the interagency group, DLNR may be designated as the responsible or accepting agency for the State and County agencies.

EXAMPLE (A): (cont.)

FEDERAL AND STATE/COUNTY ENVIRONMENTAL IMPACT STATEMENT (EIS)

PROBLEM:

While the consolidation of both the Federal and State/County EIS is feasible, if not desirable, Federal guidelines and requirements may differ significantly from that of the State and County. As such, the EIS format and minimum requirements for one agency may not be acceptable to the other.

In addition, the EIS processing time and procedures for the Federal versus State/County agency may be such that concurrent review of the EIS document may not be possible. A specific example being that the State EIS must be filed with OEQC for circulation and review 30 days prior to the filing of a Federal EIS with the National Council of Environmental Quality (NCEQ).

SOLUTION:

It may be possible, subject to NCEQ and OEQC approval, to modify (for the purposes of Act 301) the existing Federal and State/County EIS processing and review requirements. Such modification should be considered and actions taken in that direction to meet the consolidated review criteria and timeframe set forth by the interagency group.

At the very minimum, a variance or conditional approval could be sought from NCEQ and OEQC, granting the interagency group limited authority to consolidate where necessary, all overlapping areas within the Federal and State/County EIS process.

EXAMPLE (B):

ENVIRONMENTAL SHORELINE/OCEAN PROTECTION

IDENTIFICATION:

Major environmental requirements and permits related to activity within Special Management Areas (SMA) and seaward of the shoreline, should be considered as viable canidates for consolidation and joint informational meetings and public hearings.

These permits and environmental requirements are identified below:

1. COUNTY SPECIAL MANAGEMENT AREA PERMIT: The administrative agency is the County Planning Department and the permit issuing authority is the County Planning Commission. A public hearing is required prior to SMA permit issuance. Provisions allow for contested case hearings and an EIS may be required. As part of the Coastal Zone Management Program (CZMP), the Department of Business and Economic Development is responsible for reviewing Federal and State programs for consistency with CZMP guidelines and objectives. (P/C/E)

EXAMPLE (B): (cont.)

ENVIRONMENTAL SHORELINE/OCEAN PROTECTION

IDENTIFICATION: (cont.)

2. VARIOUS COUNTY ZONING AND CONDITIONAL/SPECIAL USE PERMITS: The administrative agency is the Planning Dept. with the exception of the Dept. of Land Utilization for the City and County of Honolulu. The permit issuing authority is the Planning Commission, with the exception of the City Council of Honolulu. Public and private utilities are permitted uses in most zoning situations. Public hearings may be required and contested case hearings may apply. (P/C ?)

3. COUNTY SHORELINE SETBACK REQUIREMENTS: (Administrative and approving agencies are the same as #2 (zoning) above.) Structures associated with public utilities are exempt from setback requirements. However, the County Planning Departments (DLU in Honolulu) must hold a public hearing and approve the proposed plans. Contested case hearing provisions apply. (P/C)

4. CONSERVATION DISTRICT USE PERMIT: (Applies to electrical transmission and not electrical production.) DLNR is the administrative agency and the permit issuing authority is the Board of Land and Natural Resources. An environmental assessment is required to determine the applicability of an EIS which may be required. Public hearings before the BLNR may be required and contested case hearing provisions apply. (P/C/E/S)

   Note: SMA approval must precede CDUA approval.

5. STATE/COUNTY EIS: It is assumed that DLNR will be designated as the responsible or accepting agency for the State/County EIS.

6. FEDERAL EIS: In most cases the U. S. Army Corps of Engineers would be the accepting Federal agency.

7. U. S. DEPT. OF THE ARMY (CORPS OF ENGINEERS) PERMIT: The District Engineer shall prepare an environmental assessment. Review of said document may initiate the preparation of an EIS by the District Engineer. The Corps of Engineers exercises jurisdiction over navigable waters, which include all ocean, and coastal waters within the area three miles seaward from the coastline.

   When the District Engineer has determined that the application for permit is complete, a public notice shall be issued providing for a 30 day comment period. A public hearing may be required. (P/E)

EXAMPLE (B): (cont.)

ENVIRONMENTAL SHORELINE/OCEAN PROTECTION

IDENTIFICATION: (cont.)

8. PERMIT FOR WORK IN SHOREWATERS AND SHORES OF THE STATE: Construction related work within State shores and shorewaters, including navigable streams are among activities that require a work permit issued by the Harbors Division of the State Department of Transportation (DOT). Application for a DOT permit must include a copy of the U.S. Army Corps of Engineers permit application since both agencies share jurisdiction over all ocean shores and waters below the mean high-water mark.

   Note: A new procedure provides for the DOT to act only in the capacity of a review agency. The proposal for work will be processed as part of the CDUA permit application which shall be approved or denied by the BLNR. A public hearing, while not mandatory, may be required. EIS and contested case hearing provisions may apply. (P/C/E ?)

9. NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT: A NPDES permit is required before any effluent can be discharged to surface streams and coastal waters. The issuance of the permit is administered by the Director of the State Department of Health (DOH). Review and concurrence of the EPA may be required. for water (not air)

   Upon public notification of DOH's intent to issue a permit, a public hearing may be required, if so requested. The permit is usually issued for 5 years, with no guarantee of renewal; a quarterly monitoring program is required. (P)

10. ZONE OF MIXING VARIANCE: A request for variance to discharge effluent may be filed in conjunction with the above permit (item #9). A variance may be issued by the DOH after holding public hearing, and receiving EPA concurrence.

11. VARIANCE FROM POLLUTION CONTROLS: A variance must be obtained for any emmission or discharge of a pollutant or noise which exceeds applicable standards. The DOH is both the administering and permit issuing agency. Public hearing and contested case hearing provisions are not applicable.

12. COUNTY GRADING PERMIT: Permits are issued by the respective County Public Works Departments. No public hearing is required.

13. COUNTY BUILDING PERMIT: A permit is required for construction of any building or structure in the county. Building permits are issued by the respective County Public Works or Building Departments. No public hearing is required.

* Need to discuss Prevention of Significant Deterioration (Air Quality) - PSD. Check w/ DOH regulations re: when PSD is applicable?

EXAMPLE (B): (cont.)

ENVIRONMENTAL SHORELINE/OCEAN PROTECTION

IDENTIFICATION: (cont.)

14. WATER WELL DRILLING PERMIT: DLNR is the administrative agency and the permit issuing authority is the Commission on Water Resource Management. No public hearing is required for permit issuance. If the proposed water use is located within a water management area, then a water use permit will be required and may be subject to a hearing before the Commission, if there is a valid objection to the proposed water use.

15. PUBLIC UTILITIES COMMISSION (PUC) APPROVAL: The PUC is required to hold a public hearing prior to issuing approval for construction of an aboveground 46 kilovolt (KV) or greater electric transmission system through any residential area. An EIS is required. (P/E ?)

PROBLEM:

For analysis of this example (B), an attempt has been made to identify all major permits and environmental requirements which apply only to proposed development within special management areas and areas seaward of the shoreline.

No attempt has been made to identify or examine those other permits or approvals which apply directly to geothermal/cable development activities occurring inland of the Special Management Areas. Preliminary information indicates, however, that most of the permits/approvals required are the same for both inland and seaward areas. Further study is warranted to determine the feasibility of a consolidated permit review and approval process which could encompass the entire scope of the project.

Based on the parameters above, initial analysis of the SMA/Shoreline area permits indicate the potential for the following actions to occur:

a. Nine (9) separate public hearings with the possibility of five (5) contested case hearings.
b. Preparation of possibly five (5) separate Environmental Impact Statements.

In addition, current statutes and/or regulations provide for sequential rather than concurrent approval of certain permits. (e.g. SMA approval must precede the CDUA approval.) Furthermore, some permits may require the concurrence of another agency before approval can be granted. (e.g. NPDES permit issued by the DOH may require EPA review and concurrence.)

EXAMPLE (B): (cont.)

ENVIRONMENTAL SHORELINE/OCEAN PROTECTION

PROBLEM: (cont.)

Procedurally, problems may also arise concerning the consolidation of public hearings required by the respective Federal, State, and County agencies. Immediate questions arise such as:

(1) Who will conduct a consolidated public hearing when the hearing is held before multiple decision-making bodies ? (The simplest example being a joint SMA/CDUA hearing which would require the attendance of both the BLNR and the County Planning Commission.)

(2) In the event of a request for a contested case hearing applicable to similar permits under different jurisdictions, how will a joint hearing be administered and which agency will conduct such a hearing ?

Additionally, standards, criteria, and guidelines used by each respective agency in their review of similar or even overlapping permits may differ considerably from one another. As such, one agency could approve a permit where another would disapprove a similar permit, even if those 2 permits were parallel in nature.

SOLUTION:

Having identified potential areas where consolidation is feasible, including possible conflicts that may arise, the next step would be the drafting of a resolution process acceptable to all members of the interagency group.

Drafting such a resolution process can only be accomplished through the completion and/or approval of the following items by the interagency group as a whole:

1. Coordinate with each member agency to ensure that all standards, criteria, etc., used for any agency decision-making process are clear, precise, and set forth in writing.

2. Draft and adopt amendments to existing rules, regulations, and procedures, such that standardization between agencies is possible.

3. Discuss and modify existing procedures to allow concurrent rather that sequential permit review and approval.

4. Develop a "generic" schedule for joint informational meetings, workshops, and public hearings acceptable to all member agencies.

EXAMPLE (B): (cont.)

ENVIRONMENTAL SHORELINE/OCEAN PROTECTION

SOLUTION:

5. Examine and develop administrative procedures for conducting joint hearings, etc., clearly setting forth the role of each decision-making body who participates in these meetings and hearings.

6. Develop a procedure allowing for the interagency group to make a non-binding recommendation to the disputing agencies who cannot agree on whether a permit should be approved or not.

   Issuance of a non-binding recommendation will only occur after each disputing agency has presented case argument in favor of their respective position before the other members of the interagency group.

   At that time during the presentation, the applicant, as a member of the interagency group, may be asked and required to submit further information or testimony in defense of their permit application.

   At the close of the interagency "dispute hearing", group members (not involved in dispute) shall confer and recommend a non-binding solution which may prescribe a compromise between the disputing agencies or a "veto" of one agency's initial decision to approve or disapprove the permit.

In summary, the conflict resolution elements described above, should be fully examined and discussed by the members of the interagency group. Specific provisions and procedures as they develop and are agreed upon, should be clearly set forth in the interagency joint agreement.

In addition, adoption of administrative rules necessary for the implementation of Act 301, shall be required. These administrative rules should further expand and clarify procedures and requirements not set out within the joint agreement. Both the joint agreement and the adopted rules shall then serve as the means and process for conflict resolution between agencies.

EXAMPLE (C):

ACTIVITIES LANDWARD OF THE SPECIAL MANAGEMENT AREAS

IDENTIFICATION:

Preliminary analysis indicates that most Geothermal/Cable related activities can be divided into three (3) basic geographical areas of government jurisdiction:

1. activities located within the Special Management Areas (SMA's) that abut the shoreline;

2. activities seaward of the shoreline; and

3. activities located landward of the Special Management Areas.

Example (B), entitled Environmental Shoreline/Ocean Protection, identified permit requirements related to activity within SMA's and seaward of the shoreline. In this section, permits for activities landward of SMA's will be identified, with specific attention given to those permits not previously discussed in Example (B).

The "inland" permits and environmental requirements are identified below:

1. VARIOUS COUNTY ZONING AND CONDITIONAL/SPECIAL USE PERMITS: (same as Example B)

2. CONSERVATION DISTRICT USE PERMIT: In Example (B), the permit applies to the use of conservation lands for the transmission of electrical energy. The CDUP referred to in this section applies to geothermal development activities proposed within a conservation district. The CDUP is administered by DLNR and approved by the BLNR. Public hearing is required and contested case provisions do not apply. In lieu of contested case hearings, mediation may be required upon appropriate request. (P/M ?)

3. STATE/COUNTY EIS: (same as Example B)

4. FEDERAL EIS: (same as Example B)

5. U.S. DEPT. OF THE ARMY (CORPS OF ENGINEERS) PERMIT: (same as Example B)

6. NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT: (same as Example B) For Water (not air)

7. COUNTY GRADING PERMIT: (same as Example B)

8. COUNTY BUILDING PERMIT: (same as Example B)

9. WATER WELL DRILLING PERMIT: (same as Example B)

10. PUBLIC UTILITIES COMMISSION (PUC) APPROVAL: (same as Example B)

EXAMPLE (C): (cont.)

ACTIVITIES LANDWARD OF THE SPECIAL MANAGEMENT AREAS

IDENTIFICATION:

11. GEOTHERMAL RESOURCE MINING LEASE: (Note: this lease shall be distinguished from a surface lease for use of State lands. The following discussion will not address the administrative requirements for securing a lease of public lands.)

    The administrative agency is the Department of Land and Natural Resources and the approving authority is the Board of Land and Natural Resources (BLNR). The BLNR may grant a mining lease to drill, discover, develop, operate, utilize, and sell geothermal resources on State and reserved lands.

    Mining leases on State lands shall be granted only on a competitive bid basis at public auction. Leases for reserved lands may be granted on a competitive bid basis by public auction, or to the occupier or to his assignee of the rights to obtain a mining lease, upon the vote of two-thirds of the Board members. If the BLNR decides that it is appropriate to grant a geothermal resource mining lease on reserved lands, the surface owner or the owner's assignee shall have the first right of refusal.

    Public hearing and contested case hearing provisions are not applicable.

12. GEOTHERMAL PLAN OF OPERATIONS: Pursuant to the requirements of the geothermal resource mining lease issued by the BLNR, a Plan of Operations must be submitted to the Department for approval by the Board. (Contents of the plan are outlined in Section 13-183-55.) Public hearing and contested case hearing provisions are not applicable.

13. GEOTHERMAL EXPLORATION PERMIT: The administrative agency is DLNR and the approving authority is the BLNR. No public hearing or contested case hearing provisions apply.

14. GEOTHERMAL WELL DRILLING/MODIFICATION/ABANDONMENT PERMIT: These permit are administered by DLNR and approved by the Chairperson. Public hearings and contested case hearings do not apply.

15. GEOTHERMAL INJECTION WELL PERMIT: The administrative agency is DLNR and the approving authority is the Chairperson. The permit covers both the construction and operation of the injection well, including the requirement for surveillance of the injected effluent. Public hearings and contested case hearings are not required.

    (There is overlapping jurisdiction between DLNR and the Department of Health in their administration of the Underground Injection Control (UIC) Program.)

EXAMPLE (C): (cont.)

ACTIVITIES LANDWARD OF THE SPECIAL MANAGEMENT AREAS

IDENTIFICATION:

16. UNDERGROUND INJECTION CONTROL (UIC) PERMIT: The administrative agency is the Department of Health (DOH) and the approving authority is the Director of DOH.

Proposed amendments to the DOH's UIC administrative rules (Chapter 11-23) provide for the creation of a special geothermal exempted aquifer for any area which has been designated as a GRS.

Regardless of whether the area is exempted or not, a UIC permit will be required for the operation, modification, and abandonment of an injection well.

For those injection wells proposed outside of a geothermal exempted aquifer or mauka of the UIC line, a public notice of such applications will be required. Within 30 days after the required notice, interested parties may request for a public hearing, which will be held at the discretion of the Director of DOH.

No injection well shall be constructed without prior approval from the DOH. Approval of the start of construction shall not be construed as approval for the operation of the injection well.

(Note: potential conflict may arise in the event that DLNR and DOH do not agree on the approval and issuance of an injection well/UIC permit.)

A. NAKONO
(FROM SUP. EIS FOR CAMPBELL COUR.)

VI. PERMITS REQUIRED FOR GEOTHERMAL DEVELOPMENT ACTIVITIES

Except for ~~the land use or~~ the Conservation District Use Permit, ~~all other~~ the following permitting requirements related to geothermal development operations within the jurisdiction of the Board or the Department of Land & Natural Resources are defined in DLNR Administrative Rules, ~~Sub-Title 7, Water and Land Development~~ Chapter 183, Rules on Leasing and Drilling of Geothermal Resources: and Chapter 184, Desig. & Reg. of GRS:

(1) ~~The~~ A **geothermal mining lease**, ~~upon issuance~~ yes, when issued by the Board, will "convey to the lessee, the exclusive rights to drill, discover, develop, operate, utilize and sell geothermal resources, by granting **a primary ten-year period** with continuation periods subject to the ~~conditions defined and will describe all other~~ terms and conditions under which ~~the~~ geothermal development activities will be conducted.

(2) ~~The~~ A **Plan of Operations must** be submitted to the Chairman **for Board approval** prior to commencing operations of any kind. The Plan of Operations **requires specific** and **detailed data** on the level of activity ~~for which the plan is prepared~~, with the provision that ~~after completion of the operations so authorized~~, **any new or expanded oprations will require a new or amended plan of operations** ~~to~~ be submitted ~~in writing~~ **to the Chairman for approval** ~~in writing~~. ~~In addition,~~ the Plan of Operations **must include provisions for monitoring**

to insure compliance with the rules for operations. ~~(The Plan of Operations, on approval,~~ and is **assumed to be the basic operating permit** that will govern and control the incremental development stages within the geothermal resource sub-zone up to the level approved in the land-use permit or CDUA.)

(3) **Prior to** ~~conducting~~ **any drilling operations,** ~~an application for~~ a drilling **permit** ~~to drill~~ **must be submitted to the Chairman** (BLNR) for approval accompanied by plot plans, drawings, and other pertinent data ~~required by this rule, with the provision that changes to the original permit require written approval~~.

(4) Various after action and summary reports on project activity are required to be submitted to the Department of Land and Natural Resources in accordance with ~~the~~ our Rules.

(5) **Under the rules, the operator for the project is responsible to monitor localized environmental impacts associated with specific activities conducted or caused by the** operator. ~~(It is planned that an environmental monitoring plan will be included in the Plan of Operations when it is submitted for approval.);~~

(6) ~~Upon completing the analysis of a discovered resource~~ that is determined **to be economically producible to** generate electricity, and upon identification of a market to utilize that power, a complete development plan ~~an application for "authority to construct"~~ or install an electrical generating facility shall ~~will~~ be submitted

all other appropriate govt agencies - review and comment prior to approval by DLNR.

to DLNR and ~~the Department of Health.~~ Design plans, including emission abatement systems and air dispersion models, ~~will~~ should be included as supporting data to demonstrate that power plant emission controls will meet all applicable State and County standards.

Other environmental protection and/or construction permits required for the proposed project include: (1) Underground Injection Control Permit; County Geothermal Resource Permit; and County Building, Electrical, Plumbing, Grading, Grubbing, Stockpiling and Outdoor Lighting permits.

HIERARCHY OF PERMITS/APPROVALS/LICENSES

GEOTHERMAL	INTER-ISLAND CABLE	UNIQUE REQUIREMENT
Geothermal Resource Subzone Designation (BLNR) Geothermal Resource Permit (County) and/or CDU Permit (BLNR)	Dept of Army Permit (Corps of Engineers) NEPA EIS (US CEQ) CDU Permit (BLNR) SMA Use Permit (County) Shoreline Setback Variancy (County)	EIS/Public Hearing Required
Authority to Construct (Air) (DOH) *Underground Injection Control Permit (DOH) *General Plan Amendment (County) *Zone Change (County) Geothermal Mining Lease (DLNR) Designated Groundwater Control Area Use (DLNR) *Variance from Pollution Controls (Water) (DOH)	Permit for Work in Shorewaters (DOT) *Conditional Use (City Council) General Plan Amendment (County) *Zoning Waiver (Height) (County)	EIS/Public Hearing May Be Required
Plan Approval (County) Geothermal Exploration Permit (DLNR) Geothermal Plan of Operation (DLNR) Geothermal Well Permit (DLNR) *Modification of Geothermal Well for Injection Use (DLNR) *Abandonment of Geothermal Well (DLNR) *Permit to Drill a Water Well (DLNR)	*Work Upon a State Highway (DOT) CZM Consistency (DBED)	EIS/Public Hearing Not Required
Building; Electrical; Plumbing; Grading; Grubbing; Stockpiling; Outdoor Lighting; and *Street Usage Permits and Plan Approval (County)		EIS/Public Hearing Not Required

*The permit/approval is not always required.

STATE OF HAWAII GEOTHERMAL PERMITS & APPROVALS
(Key environmental permits underlined)

PERMITS & APPROVALS	LEGAL AUTHORITY
LAND USE REGULATIONS	
Geothermal Resource Subzone Designation (BLNR Approval)	Hawaii Revised Statutes, Chapter 205-5 DLNR Administrative Rules, Title 13, Chapter 184
Conservation District Use Permit * (in Conservation District only) (BLNR Approval)	Hawaii Revised Statutes, Chapter 183-41 DLNR Administrative Rules, Title 13, Chapter 2
Geothermal Resource Permit (in Agricultural, Rural or Urban District)	Hawaii Revised Statutes, Chapter 205 (Act 151, 1984) Hawaii County Planning Commission, Rule No. 12 (still in draft form); Maui County pending
DEPT. OF LAND & NATURAL RESOURCES (DLNR) GEOTHERMAL PERMITS	
Geothermal Mining Lease ** (BLNR Approval)	Hawaii Revised Statutes, Chapters 177, 178 and 182 DLNR Administrative Rules, Title 13, Chapter 183, Subchapter 3
Geothermal Exploration Permit (for Wells Less Than 500 Feet Depth)	Hawaii Revised Statutes, Chapters 177, 178 and 182 DLNR Administrative Rules, Title 13, Chapter 183, Subchapter 2
Geothermal Plan of Operations ** (BLNR Approval)	Hawaii Revised Statutes, Chapters 177, 178 and 182 DLNR Administrative Rules, Title 13, Chapter 183, Subchapter 7
Geothermal Well Drilling Permit (DLNR Chairperson Approval)	Hawaii Revised Statutes, Chapters 177, 178 and 182 DLNR Administrative Rules, Title 13, Chapter 183, Subchapter 8
Modification of Geothermal Well for Injection Use Permit (DLNR Chairperson Approval)	Hawaii Revised Statutes, Chapters 177, 178 and 182 DLNR Administrative Rules, Title 13, Chapter 183, Subchapters 8 and 9

* Provisions of Hawaii Revised Statutes, Chapter 343, Environmental Impact Statements applicable
** Provisions of Hawaii Revised Statutes, Chapter 343, Environmental Impact Statements applicable on lands where mineral resource rights are reserved to the State

STATE OF HAWAII GEOTHERMAL PERMITS & APPROVALS (Cont'd.)
(Key environmental permits underlined)

PERMITS & APPROVALS	LEGAL AUTHORITY
DLNR GEOTHERMAL PERMITS (cont'd.)	
Abandonment of Geothermal Well Permit (DLNR Commission Approval)	Hawaii Revised Statutes, Chapters 177, 178 and 182 DLNR Administrative Rules, Title 13, Chapter 183, Subchapters 8 and 11
Permit to Drill, Deepen, Redrill, Plug or Alter a Water Well and to Install, Replace, or Modify a Pump (§13-166-35 Control of Ground Water Use) (DLNR Commission Approval)	Hawaii Revised Statutes, Chapters 177 and 178 DLNR Administrative Rules, Title 13, Chapter 166, Subchapter 8
DEPARTMENT OF HEALTH (DOH) PERMITS	
Authority to Construct or Modify a Facility; Permit to Operate	Clean Air Act Amendments of 1977, Public Law No. 95-95 40 CFR 52.21, Prevention of Significant Deterioration Hawaii Revised Statutes, Chapter 342 DOH Administrative Rules, Title 11, Chapters 59 and 60
Underground Injection Control Permit	Safe Drinking Water Act of 1974, Public Law 93-523, 40 CFR 122 and 146, Regulations and Technical Criteria and Standards; State Underground Injection Control Programs Hawaii Revised Statutes, Chapter 340E DOH Administrative Rules, Title 11, Chapter 23
COUNTY MINISTERIAL PERMITS	
Building, Electrical, Plumbing, Grading, Grubbing, and/or Stockpiling Permits	Hawaii and Maui County Codes

J. Parnell
10/23/84

D. NAKANO

DRAFT IV-C(1)-9/12/86
3288d

This draft adopted by the Planning Commission on 9-11-86 without the Appendix (pg 10-13)

NOTE: THIS DRAFT SHOWS REVISIONS FROM THE PREVIOUS DRAFT. DELETIONS ARE BRACKETED AND ADDITIONS ARE UNDERSCORED OR ARE INDICATED BY NOTES. MINOR GRAMMATICAL CHANGES HAVE ALSO BEEN MADE.

PLANNING COMMISSION
COUNTY OF HAWAII

RULE 12. GEOTHERMAL RESOURCE PERMITS

12.1 Purpose and Authority

This rule governs geothermal resource permit procedures pursuant to authority conferred by section 205-5.1, Hawaii Revised Statutes, as amended, upon the Planning Commission to determine whether proposed geothermal development activities should be allowed. The Planning Commission is the issuing authority for geothermal resource permits in geothermal resource subzones located within Agricultural, Rural and Urban State Land Use Districts in the County.

The Planning Commission's approval of an application for a geothermal resource permit shall not in any way abrogate nor supercede the provisions of Chapters 182 and 183, HRS, and rules promulgated thereunder. "MINERAL RIGHTS RESERVATIONS & MINING LEASES, ETC." "FOREST RESERVE, WATER DEVELOPMENT, ZONING"

12.2 Definitions

As used herein, "geothermal development activities", whether for research or commercialization purposes, means exploration, development, or production of electrical energy from geothermal resources, or as otherwise defined in Hawaii Revised Statutes, Section 205-5.1. (does not inclu. "direct-use applications")

12.3 ~~Contents of~~ Application

Any person who desires to conduct geothermal development activities on land that is located within a geothermal resource subzone and located within either the Agricultural, Rural or Urban State Land Use Districts shall apply to the Planning Commission for a geothermal resource permit. An application for a geothermal resource permit shall be filed in the Planning Department's office and shall include the following:

(a) Non-refundable filing and processing fee of one thousand dollars. (vs. DLNR's $100 filing fee)

(b) Original and twenty-five copies of:

(1) Application form;

(2) Written and appropriate graphic descriptions of the property and the proposed geothermal development activities including, but not limited to:

(A) A description of the property for which a permit is being requested to include the property's real property tax map key designation and a description of the property's location within the County.

similar to Plan of Operations per 13-183-55

(B) A written statement describing the scope of the planned activities and presenting the applicant's reasons for requesting the permit. (13-183-55(10))

(C) A preliminary plot or site plan of the property, drawn to scale, showing all existing and proposed uses and locations of structures including, but not limited to, drilling sites, wells, access roadways, water sources, waste water collection and disposal systems, the geothermal steam and/or brine collection and disposal systems, power plant(s) and electrical power distribution systems.

(D) Preliminary elevation drawings of the proposed temporary and permanent structures.

*(E) The proposed locations and elevations and depths of all superstructures and drilling rigs, bottom hole locations, casing program, proposed well completion program, size and shape of drilling sites, and location of all existing and proposed access roads. (13-183-71, 74)

overlaps w/ our "casing and cementing" requirements & BOPE reqts.

(F) Areas of potential temporary and/or permanent surface disturbance, including, but not limited to, excavation and grading sites, the location of camp sites, airstrips, and other support facilities, excavation and borrow pits for roads and other construction activities.

*(G) A written description of the methods for disposing of well effluent and other wastes.

subject to DOH's "UIC and air quality" rules.

(H) A geologist's report on the site and surrounding area's surface and subsurface geology, nature and occurrence of known or potential geological hazards and geothermal resources, surface and

Similar to 13-183-55(11) "provisions for monitoring deemed necessary by the Responsible Person" and further related to 13-183-87(c) where the operator shall provide environmental baseline data prior to production.

similar to 13-183-87

ground water resources, topographic features of the land, and drainage patterns.

*(I) **Pre-exploration** meteorological, ambient air quality and noise level measurements that demonstrate the potential effects on surrounding properties through air quality and noise impact analysis [models].

Same as "Plan of Operations" (13-183-55(8))

(J) A written **description** of the measures proposed to be taken **for protection of the environment**, including, but not limited to, the prevention and/or control of:

(i) Fires,
(ii) Soil erosion,
(iii) Surface and ground water contamination,
(iv) Damage to fish and wildlife or other natural resources,
(v) Air and noise emissions,
(vi) Hazards to public health and safety,
(vii) Socio-economic impact(s), and
(viii) Impact(s) on public infrastructure and services.

Same as "GRS" rules 13-184-11(a-c)

(K) **Statement**(s) **addressing** how the proposed development would **mitigate** or reconcile:

(i) Any **effects** to residents or surrounding properties in the areas of health, environment and socio-economic activities;

(ii) The **burdening** of public agencies to provide support infrastructure such as roads, sewers, water, drainage, school and related services and police and fire protection.

same as "Plan of Ops" 13-183-55(8,10,11) and related to "Environmental protection" 13-183-87(b,c,i,j)

(L) **Preliminary provisions** and/or plans **for** the **monitoring** of environmental effects such as **noise** and **air** and **water** quality **during each** proposed **phase** of the project (exploration, development and production) demonstrating how the applicant intends to comply with this rule, the rules of the State's Department of Health, and the rules of the State Board of Land and Natural Resources.

(M) A preliminary plan of action for emergency situations which may threaten the health, safety, and welfare of employees and other persons in the vicinity of the proposed project site including, but not limited to, procedures to facilitate coordination with appropriate Federal, State and

(N) 13-183-55(10)

County officials and the evacuation of affected individuals.

(N) Preliminary timetable(s) and/or schedule(s) for each proposed phase of the project.

similar to "Plan of Ops" 13-183-55 (10)

(O) Method(s) of presenting timely progress reports to the Planning Commission.

(P) **Other pertinent information** or data <u>such as an archaeological survey **which** the Planning Director may require</u> to support the application for the utilization of geothermal resources and the protection of the environment.

(c) **Graphic representations** suitable for both staff analysis and public presentation, including the depiction of the project boundaries, reference points (roadways, shoreline, etc.), existing and proposed structures and appurtenances. Graphics for public presentation shall be a minimum of 2 feet by 3 feet in dimension, drawn to scale on a map or maps of **1:24,000 scale**, or larger when required by the Commission.

12.4 <u>Properly Filed Application</u>

Within twenty days of receipt of an application, the Planning Director shall review it to determine if it is complete. An application that is determined to be complete shall be officially accepted within twenty days of receipt of the application and the applicant shall be so notified in writing.

12.5 <u>**Hearing and Notification**</u>

(a) [Within a period of ninety days from the date of official acceptance of a properly filed and completed application, the Planning Director, on behalf of the Planning Commission shall set a date for a public hearing.] <u>The Planning Director, on behalf of the Planning Commission, shall set a date for a ~~public hearing~~ to be held **within** a period of ~~ninety days from the date of~~ **official acceptance** of a properly filed and completed application.</u>

similar to COLA procedure

(b) The Planning Commission shall conduct a public hearing and[/or] <u>upon appropriate request</u> a contested case hearing pursuant to the Planning Commission [Rules] <u>rules</u> pertaining to public and contested case hearings.

(c) Promptly after the Planning Director fixes a date for the public hearing and ~~at~~ **least 15 days before** the date of the public hearing, the applicant **shall mail a notice** of the hearing **to owners** of interests in properties, as shown on the current **real property tax rolls** at the County Real

similar to S.B. 1678 re: "1000' notice"

Property Tax Office, within a minimum of three hundred feet of the perimeter boundary of the property for which a permit is being requested (or as determined by the Planning Director), and to other interested persons or groups as may be determined by the Planning Director. The applicant shall also make a reasonable attempt or best effort in notifying residents within one thousand feet of the perimeter boundary of the property of the public hearing. Such notice shall state:

(1) Name of the applicant;

(2) Precise location of the property involved;

(3) Nature of the proposed geothermal development activities; and

(4) Date, time, and place of the hearing.

(d) If the notification requirement set forth in section 12.5 (c) has not been met, the Planning Commission shall not conduct a hearing and further action on the application shall be deferred until the notification requirement is met [to the satisfaction of the Planning Director].

(e) In addition to said notice and at least fifteen days prior to the date of the hearing, the Planning Commission shall publish notice of the hearing in a newspaper of general circulation in the County which includes the information provided under section 12.5(c)(1-4) of this rule.

12.6 ~~Criteria for Issuance~~ of Geothermal Resource[s] Permit

The Planning Commission shall grant a geothermal resource permit if it finds that the applicant has demonstrated by a preponderance of evidence that:

same as in Chap 205, HRS and GRS rules Chap 184

[(1)] (a) The proposed geothermal development activities would not have unreasonable adverse health, environmental, or socio-economic effects on residents or surrounding property; and

[(2)] (b) The proposed geothermal development activities would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection; and

[(3)] (c) There are reasonable measures available to mitigate the unreasonable adverse effects or burdens referred to above.

12.7 Action

(a) Unless there is mutual agreement by the Planning Director, the applicant, and, if applicable, any intervenors in a contested case hearing to extend the period of time for the Planning Commission's action, the [The] **Planning Commission shall take action** on a properly filed and complete application **within six months (180 days) of the date a properly filed application is officially accepted**; provided that if a contested case hearing is held, the Planning Commission shall take action within nine months (270 days) of the date a properly filed application is officially accepted.

(b) The Planning Commission's action shall either:

(1) Grant the geothermal resource permit as requested by the applicant based upon the satisfaction of criteria in section 12.6 above and stating the reasons therefore, subject to performance, reporting and other appropriate conditions imposed by the Commission.

(2) Grant the geothermal resource permit as may be modified from the applicant's request and stating the reasons therefore, subject to performance, reporting, and other appropriate conditions imposed by the Commission.

(3) Grant the geothermal resource permit in phases or increments dependent upon the timely and progressive completion of a precedent phase or increment and stating the reasons therefore, subject to performance, reporting, and other appropriate conditions imposed by the Commission.

(4) Deny the geothermal resource permit and [state] stating the reasons therefore.

(c) [Within fourteen days of the Planning Commission's action, the] The Chairperson of the Commission shall issue official written notification to the applicant of the Commission's action including any performance, reporting, and other appropriate conditions imposed by the Commission.

[(d) Unless there is mutual agreement by the Planning Director, the applicant, and, if applicable, any intervenors in a contested case hearing to extend the period of time for the Planning Commission's action, the application shall be considered as being approved if the Commission fails to render a decision within the prescribed period.]

12.8 Requirements Prior to Initiating Construction

Prior to initiating construction of an approved project or any phase of an approved project, the applicant shall submit the following to the Planning Director:

(a) Copies of approved permits and other applicable approvals for the project or any phase of the project from other County, State or [federal] Federal agencies as applicable.

(b) Final plans or provisions for monitoring environmental effects of the project or any phase of the project such as noise, air and water quality as may be required to insure compliance with County rules and the rules of the State's Department of Health and Board of Land and Natural Resources, and other permit-issuing agencies.

(c) A final plan of action to deal with emergency situations which may threaten the health, safety, and welfare of the employees and other persons in the vicinity of the proposed project site. The plan shall include procedures to facilitate coordination with appropriate State and County officials and the evacuation of affected individuals.

(d) A final site plan and elevations of proposed temporary and/or permanent structures for the project or any phase of the project.

12.9 Amendments of Permit and Conditions

[(a) As a condition of approval, the Planning Commission may authorize the Planning Director to make administratively minor non-substantive amendments to the conditions of an approved permit, including amendments related to time extensions. If the Planning Director disapproves a minor non-substantive amendment, then the amendment shall be referred to the Planning Commission.

(b) For other than minor non-substantive amendments approved administratively, the permittee shall apply to the Planning Commission for an amendment to the geothermal resource permit or to any conditions imposed thereon.

(c)] (a) For any amendments to the [Geothermal Resource Permit] geothermal resource permit or its conditions the permittee shall set forth in writing:

(1) The specific amendment requested;

(2) The reasons for the request, including statements addressing the criteria listed under section 12.6(1) through (3) of this rule; and

(3) Any other applicable information requested by the Planning Director.

(b) In the case of any amendment concerning a time extension to the permit or its conditions, the permittee shall file the request not less than ninety days prior to the deadline for performance of the condition, setting forth:

(1) The affected condition;

(2) The length of time requested; and

(3) The reasons for the request.

If either the Planning Director or the Planning Commission is not able to act on a properly filed time extension request prior to the deadline for a time extension, the geothermal development activities allowed by the Geothermal Resource Permit may be continued by the Planning Director.

(c) [Except for minor non-substantive amendments that the Planning Director is authorized to make, all] All of the procedures set forth in sections 12.4 through 12.12 of this [Rule] rule and the procedures set forth in other applicable Planning Commission rules shall apply.

12.10. Enforcement of Permit and Conditions

(a) If the Planning Director determines that there is noncompliance with the geothermal resource permit or its conditions, the Planning Director shall so inform in writing the permittee and, if applicable, other appropriate County, State or [federal] Federal agencies, setting forth the grounds of his determination. Upon receiving notice of the determination of noncompliance, the permittee shall have five days to provide a written response to the notice of determination of noncompliance.

(b) Notwithstanding any written response submitted by the permittee, if the Planning Director affirms the determination of noncompliance, he shall so advise the permittee in writing. The permittee shall have five days thereafter to correct the noncompliance; provided that the Planning Director may allow a longer period upon a finding of good cause, such as where circumstances beyond the permittee's control will prevent compliance within the five-day period.

(c) The permittee may request a hearing with the Planning Commission to amend the permit, should compliance be impossible or impractical to meet.

(d) If the permittee fails to correct the noncompliance within the required time period, the Planning Director shall refer the matter with his recommendations to the Planning Commission for further disposition, which may include, but is not limited to, either the revocation or the modification of the permit.

(e) Notwithstanding any other provision of this section, pending a hearing by the Planning Commission the Planning Director may immediately and temporarily suspend the permit and operations allowed thereunder. Notice of a temporary suspension shall be provided in writing or orally with subsequent written confirmation within three days to the permittee and shall set forth the reasons for the temporary suspension. The Planning Director may reactivate the permit upon a subsequent finding of the permittee's compliance with the permit condition. Subject to the Planning Commission rules, the permittee may at any time request a hearing before the Planning Commission for its review and action with regard to the permit's temporary suspension or any subsequent refusal of the Planning Director to reactivate the permit. Referrals by the Planning Director to the Planning Commission and reviews by the Planning Commission of the Planning Director's action shall be heard at the Commission's next meeting when the matter can be placed on the Commission's agenda.

12.11 Penalties

If a permittee, its successors or assigns [does] do not comply with any provision of a permit or its conditions issued under this Rule they may be subject to a civil fine not to exceed those provided for by applicable statutes.

12.12 Appeals

Any person aggrieved by the action of the Planning Commission in the issuance of a geothermal resource permit or an amendment of condition or permit under section 12.9 shall be entitled to appeal such decision to the applicable court of the State of Hawaii.

NOTE: SECTION 12.13, SEVERABILITY, AND THE APPENDIX ARE ADDITIONS.

12.13 Severability

If any portion of this rule, or its application to any person or circumstance, shall be held unconstitutional or invalid, the remainder of this rule and the application of such portion to other persons or circumstances shall not be affected thereby.

APPENDIX TO RULE 12

In assessing an application for a geothermal resource permit, the Planning Commission shall impose conditions of approval as the Commission deems appropriate and necessary. The following guidelines for conditions are not intended to limit the Planning Commission from including other conditions and excluding or modifying any of the following:

Air Quality: Applicant shall meet Federal and State air quality guidelines and regulations.

Noise: Applicant shall meet Federal, State, and/or County noise guidelines and regulations.

Water Quality: Applicant shall meet Federal and State water quality guidelines and regulations.

Archaeological and Biological Resources: Surveys shall be conducted to determine the presence and value of archaeological and biological resources and submitted to the Planning Director and other appropriate government agencies for review and comment prior to approval of land clearing activities. Plans for the protection and maintenance of valuable archaeological and biological resources shall be prepared to ensure their protection and shall be submitted for approval to the Planning Director and to other appropriate government agencies for review and comment prior to approval of the Planning Director.

Security: All unattended well sites, drilling equipment, well heads, sumps, and ponds shall be protected from access by unauthorized persons.

Emergencies: The applicant shall prepare a plan of action to be approved by the Hawaii County Civil Defense Agency to deal with emergency situations such as volcanic activities, earthquakes, fires, well bore ruptures, blowouts, and any accidents or spills of hazardous materials which may threaten the health, safety, and welfare of the employees and other persons in the vicinity of the project. The plan shall include procedures to facilitate coordination with appropriate Federal, State and County officials and the evacuation of affected individuals.

Aesthetics: In the siting, design and construction of all physical components, measures shall be taken to minimize aesthetic and scenic impacts and to preserve the natural beauty of the area. Such measures can include orientation of buildings, colors of structures, and use of nonreflective, light absorbent material and textures, and landscaping.

Construction, Clearing, Erosion, and Drainage: Activities shall comply with all requirements of Chapter 10, Erosion and Sedimentation Control, Hawaii County Code, as amended, the

Hawaii County Building Code, and the hydrologic criteria incorporated in the Hawaii County Storm Drainage Standards.

Lighting: Lighting for activities, including drilling, shall be designed in such a way so it does not become a nuisance to surrounding properties or interfere with important biological resources that may be in the area. In any event, all activities and facilities shall meet the requirements of Chapter 14, Article 9, Outdoor Lighting, of the Hawaii County Code, as amended.

Wells: All wells shall be drilled, operated and abandoned in accordance with "Rules on Leasing and Drilling of Geothermal Resources" of the Department of Land and Natural Resources. Wells used for the injection, or re-injection of geothermal brines, power plant effluents, gases, etc. and drywells used for surface drainage or stormwater runoff shall conform to the conditions specified in the Department of Health, Administrative Rules, Title 11, Chapter 23, entitled Underground Injection Control.

Sumps and Ponds: All sumps and ponds shall be operated in a manner meeting with the approval of the State Department of Health. Waste materials to be disposed of from the geothermal development activities shall be disposed of at sites approved by the State Department of Health. Sump and pond locations, construction, and operation shall comply with regulations of the State Department of Health.

Reports: Copies of drilling, production, and operation reports, as provided to the State Department of Land and Natural Resources in accordance with Chapter 183 of Title 13, Administrative Rules shall be made available to the Planning Director. Other information and/or reports may be requested by the Commission.

Inspection: Applicant shall grant unrestricted access, subject to safety measures normal and necessary during operations, to authorized governmental representatives or to consultants and contractors hired by governmental agencies for inspection, enforcement, or monitoring activities.

Information and Complaints: Applicant shall designate an individual who has authority to act on behalf of the applicant for the purposes of supplying information and responses deemed necessary by the government agencies who are responsible for monitoring the permitted uses and enforcing conditions of approval of the geothermal resource permit.

Applicant shall publish a telephone number to be manned 24 hours for receiving and responding to noise, odor, or other complaints. Applicant shall keep a log of all complaints received and their responses to be submitted to the Planning

Director monthly. Applicant shall also post signs bearing the name of the operator and current telephone number for receiving complaints at appropriate locations on the perimeter of the project site. Such appropriate locations shall be approved by the Planning Director.

Indemnification: Applicant, its successors or assigns, shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under the geothermal resource permit or relating or connected with the granting of such permit.

Applicant shall protect, indemnify, defend and hold the County of Hawaii harmless against loss, damages, claims and liens of every kind and character (including but not limited to Workmen's Compensation claims and claims of third parties) which may be occasioned by uses or activities conducted by the applicant under the geothermal resource permit or by reason of the operation or working of applicant, its employees, agents or independent contractors upon the property, or any easement for ingress or egress thereto, including injuries to persons or loss of life or damage to property or nuisance and including, but not limited to, pollution or flooding of the surface or subsurface waters or any pollution of the air, with said indemnification to apply irrespective of whether claims allege the cause to be sudden or gradual.

Insurance: Applicant will at its own expense effect and maintain at all times term insurance coverage for professional liability and comprehensive general liability for risks with respect to the permitted uses and related activities allowed under the geothermal resource permit. The policy shall name the County as an additional insured.

Bond: Any applicant granted a geothermal resource permit shall file with the Planning Department a bond in an amount to be determined and to be made payable to the County of Hawaii to secure the faithful performance of requirements and conditions of approval of the permit, including but not limited to restoration of the project premises and in abating nuisances caused by the geothermal development activities. Said bond shall be executed by the applicant and by a surety company qualified to do business in the State of Hawaii and shall remain in force and effect for the full term of the permit. Said bond shall be in addition to any bond required by the Board of Land and Natural Resources of the State of Hawaii for the drilling, maintenance or operation of geothermal wells.

Best Available Control Technology: Applicant shall apply the "Best Available Control Technology" (BACT) with respect to geothermal emissions and noise abatement during all phases of

the project, including well drilling, testing, power plant operation and direct use applications. "Best Available Control Technology" is defined as an emission limitation based on the maximum degree of reduction of each pollutant subject to regulation under the federal Clean Air Act emitted from or which results from any major emitting facility, which, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs is determined to be achievable for such facility through application or production processes and available methods, systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of each such pollutant.

Soil and Water Conservation: Use of the area shall be consistent with soil and water conservation principles.

Conditions of Other Permits: The Commission shall be cognizant of other permits with conditions which the applicant will need to secure from other governmental agencies in order to undertake geothermal development activities.

Compliance with Other Laws and Regulations: Applicant shall comply with all other applicable Federal, State and County laws, statutes, regulations and ordinances.

ADOPTED this ____ day of _____, 1985.

_____

BARBARA A. KOI, Chairperson
Planning Commission
County of Hawaii

APPROVED AS TO FORM:

_____
Corporation Counsel

APPROVED this ____ day of _____, 1986.

_____
DANTE K. CARPENTER, Mayor
County of Hawaii

CERTIFICATION

I, BARBARA A. KOI, Chairperson of the Planning Commission, do hereby certify that attached hereto is a copy of a document entitled, "Rule 12, Geothermal Resource Permits," the original of which is on file with the Commission, and that the requirements as prescribed in Section 91-3 of the HRS has been followed.

_____

BARBARA A. KOI, Chairperson
Planning Commission
County of Hawaii

RECEIVED THIS ____ day of
_____, 1986.

_____

R. B. LEGASPI
County Clerk

Sections 11-60-23.1 Geothermal wells and 11-60-23.2 Geothermal power plants are proposed to be changed as follows. Sections 11-60-23.3 Other geothermal facilities and 11-60-23.4 Review of geothermal rules has been added.

§11-60-23.1 Geothermal wells. (a) A well as used in this section, section 11-60-23.2, and section 11-60-23.3 means any well which obtains, or is designed to obtain, a geothermal resource.

(b) During the exploration and developmental drilling stages, emissions controls shall be as follows:

(1) For particulate matter, best available control technology shall be applied at all times.

(2) For hydrogen sulfide, best available control technology shall be applied before unabated emissions from a well exceed eight and one-half pounds per hour.

(c) Prior to a well being part of a distribution system which supplies a geothermal resource to a power plant or facility which has commenced using the geothermal resource, best available control technology shall be applied provided that emissions from the well shall not be in excess of eight and one-half pounds of particulates, and eight and one-half pounds of hydrogen sulfide per hour. During well venting, however, best available control technology shall be applied without reference to a numerical limitation provided that, prior to commencement of the venting, the concurrence of the director is obtained and the public is notified.

(d) After a well is part of a distribution system which supplies a geothermal resource to a power plant or facility which has commenced using the geothermal resource, emissions from the well shall be as follows:

(1) For any size of power plant or facility, hydrogen sulfide emissions from the well shall not be in excess of one hundred fifty grams per gross megawatt hour or eight and one-half pounds per hour, whichever is greater.

(2) For any size of power plant or facility, during periods of malfunction or regularly scheduled service, best available control technology shall be applied for hydrogen sulfide emissions without reference to a numerical limitation.

(e) The owner or operator of a well shall obtain authority to construct and permit to operate as follows:

(1) Prior to commencement of well drilling, authority to construct shall be obtained in conformance with subchapter 3, and if applicable, subchapter 4.

(2) Prior to a well being part of a distribution system which supplies geothermal resource to a power plant or facility which has commenced using the geothermal resource, a permit to operate shall be obtained in conformance with subchapter 3.

[Eff.] (Auth: HRS §§342-3, 342-22, 342-23) (Imp: HRS §§342-3, 342-22, 342-23)

§11-60-23.2 Geothermal power plants. (a) A power plant as used in this section and section 11-60-23.1 means any power plant which uses or is

designed to use, a geothermal resource. A power plant as defined shall not include the well(s) supplying the geothermal resource to the power plant.

(b) Hydrogen sulfide emissions from a power plant shall be as follows:

(1) For any size of power plant, hydrogen sulfide emissions from a power plant shall not be in excess of one hundred fifty grams per gross megawatt hour or eight and one-half pounds per hour, whichever is greater.

(2) For any size of power plant, during periods of malfunction or regularly scheduled service, best available control technology shall be applied for hydrogen sulfide emissions without reference to a numerical limitation.

(c) The maximum allowable increase in hydrogen sulfide concentration in the ambient air above natural background level shall be thirty-five micrograms per cubic meter as a one-hour average, considering all stationary sources, except geothermal wells during testing and routine maintenance, in the area affected by the power plant applying for authority to construct. The maximum allowable increase may be exceeded once per twelve-month period at any one location.

(d) No power plant shall consume any part of the thirty-five ug/m^3 maximum allowable increase until authority to construct application is certified complete by the director.

(e) The owner or operator of a power plant shall obtain authority to construct and permit to operate in conformance with subchapter 3, and if applicable, subchapter 4.

(f) This section shall be in effect immediately for any power plant which has not begun actual construction before the effective date of this section. An existing power plant or one which has begun actual construction before the effective date of this section shall be in compliance with this section within twelve months from the effective date of this section. [Eff.] (Auth: HRS §§342-3, 342-22, 342-23) (Imp: HRS §§342-3, 342-22, 342-23)

§11-60-23.3 Other geothermal facilities. (a) A facility as used in this section and section 11-60-23.1 means any facility which uses or is designed to use, a geothermal resource. A facility as defined shall not include the well(s) supplying the geothermal resource to the facility.

(b) The maximum allowable increase in hydrogen sulfide concentration in the ambient air above natural background level shall be thirty-five micrograms per cubic meter as a one-hour average, considering all stationary sources, except geothermal wells during testing and routine maintenance, in the area affected by the facility applying for authority to construct. The maximum allowable increase may be exceeded once per twelve-month period at any one location.

(c) No facility shall consume any part of the thirty-five ug/m^3 maximum allowable increase until authority to construct application is certified complete by the director.

(d) The owner or operator of a geothermal facility shall obtain authority to construct and permit to operate in conformance with subchapter 3, and if applicable, subchapter 4.

(e) This section shall be in effect immediately for any facility which has not begun actual construction before the effective date of this section. An existing facility or one which has begun actual construction before the effective date of this section shall be in compliance with this section within twelve months from the effective date of this section. [Eff.] (Auth: HRS §§342-3, 342-22, 342-23) (Imp: HRS §§342-3, 342-22, 342-23)

§11-60-23.4 Review of geothermal rules. The review of geothermal rules shall apply to section 11-60-23.1 Geothermal wells, section 11-60-23.2 Geothermal power plants, and section 11-60-23.3 Other geothermal facilities. The geothermal rules shall be reviewed within five years of the effective date of these rules. [Eff.] (Auth: HRS §§342-3, 342-22, 342-23) (Imp: HRS §§342-3, 342-22, 342-23)

§§11-60-24 to 11-60-30 (Reserved)

The definition of "Gross Megawatt Hour" shall be added in section 11-60-1 Definitions. The definition shall be placed after the definition for "Fugitive Emissions" and prior to the definition for "HRS" and shall read as follows:

> "Gross Megawatt Hour" means the amount of electrical energy which could be realized per hour from the expected potential energy of the steam prior to any internal plant electrical requirements, as guaranteed by the turbine generator manufacturer.

(5) Conduct and supervise state educational and training programs on solid waste disposal systems, including the preparation and distribution of information relating to solid waste pollution;

(6) Require complete and detailed plans or reports on existing solid waste disposal systems and of any proposed addition to, modification of, or alteration of any such systems which contain the information requested by the director in the form prescribed by the director, which plans or reports shall be made by a competent person acceptable to the director and at the expense of such applicant or owner; and

(7) With the approval of the governor, cooperate with, and receive money from the federal government or any political subdivision of the State, or from private sources for the study and control of solid waste pollution. [L 1972, c 100, pt of §1; am L 1982, c 243, §5; am imp L 1984, c 90, §1]

[§342-53] Prohibition. (a) No person, including any public body, shall engage in the operation of an open dump without first securing approval in writing from the director.

(b) No person, including any public body, shall operate a solid waste disposal system without first securing approval in writing from the director. [L 1972, c 100, pt of §1]

[§342-54] Solid waste recycling for agricultural purposes; encouraged. The director shall encourage the recycling of solid wastes, including animal wastes and industrial wastes, for agricultural purposes. The use of treated sludge effluent for fertilizer and other agricultural purposes shall also be encouraged. [L 1974, c 230, §1]

CHAPTER 343
ENVIRONMENTAL IMPACT STATEMENTS

SECTION

343-1 FINDINGS AND PURPOSE
343-2 DEFINITIONS
343-3 PUBLIC RECORDS AND NOTICE
343-4 REPEALED
343-5 APPLICABILITY AND REQUIREMENTS
343-6 RULES
343-7 LIMITATION OF ACTIONS
343-8 SEVERABILITY

Note

Effect of 1983 amendments, see L 1983, c 140, §§11 to 14.

§343-1 Findings and purpose. The legislature finds that the quality of humanity's environment is critical to humanity's well being, that humanity's activities have broad and profound effects upon the interrelations of all components of the environment, and that an environmental review process will integrate the review of environmental concerns with existing planning processes of the State and counties and alert decision makers to significant environmental effects which may result from the implementation of certain actions. The legislature further finds that the process of reviewing environmental effects is

desirable because environmental consciousness is enhanced, cooperation and coordination are encouraged, and public participation during the review process benefits all parties involved and society as a whole.

It is the purpose of this chapter to establish a system of environmental review which will ensure that environmental concerns are given appropriate consideration in decision making along with economic and technical considerations. [L 1979, c 197, §1(1); am L 1983, c 140, §4]

§343-2 Definitions. As used in this chapter unless the context otherwise requires:

"Acceptance" means a formal determination that the document required to be filed pursuant to section 343-5 fulfills the definition of an environmental impact statement, adequately describes identifiable environmental impacts, and satisfactorily responds to comments received during the review of the statement.

"Action" means any program or project to be initiated by any agency or applicant.

"Agency" means any department, office, board, or commission of the state or county government which is a part of the executive branch of that government.

"Applicant" means any person who, pursuant to statute, ordinance, or rule, officially requests approval for a proposed action.

"Approval" means a discretionary consent required from an agency prior to actual implementation of an action.

"Council" means the environmental council.

"Discretionary consent" means a consent, sanction, or recommendation from an agency for which judgment and free will may be exercised by the issuing agency, as distinguished from a ministerial consent.

"Environmental assessment" means a written evaluation to determine whether an action may have a significant effect.

"Environmental impact statement" or "statement" means an informational document prepared in compliance with the rules adopted under section 343-6 and which discloses the environmental effects of a proposed action, effects of a proposed action on the economic and social welfare of the community and State, effects of the economic activities arising out of the proposed action, measures proposed to minimize adverse effects, and alternatives to the action and their environmental effects.

"Office" means the office of environmental quality control.

"Person" includes any individual, partnership, firm, association, trust, estate, private corporation, or other legal entity other than an agency.

"Significant effect" means the sum of effects on the quality of the environment, including actions that irrevocably commit a natural resource, curtail the range of beneficial uses of the environment, are contrary to the State's environmental policies or long-term environmental goals as established by law, or adversely affect the economic or social welfare. [L 1974, c 246, pt of §1; am and ren L 1979, c 197, §1(2); am L 1983, c 140, §5]

Revision Note

Numeric designations deleted.

Attorney General Opinions

"Action" includes a subdivision proposal. Att. Gen. Op. 75-14.
"Action" includes issuance of building permits. Att. Gen. Op. 75-15.

Case Notes

Sufficiency of an environmental impact statement. 59 H. 156, 577 P.2d 1116.

§343-3 Public records and notice. All statements and other documents prepared under this chapter shall be made available for inspection by the public during established office hours.

The office shall inform the public of notices filed by agencies of determinations that statements are required or not required, of the availability of statements for review and comments, and of the acceptance or nonacceptance of statements. The office shall inform the public by the publication of a periodic bulletin to be available to persons requesting this information. The bulletin shall be available through the office and public libraries. [L 1974, c 246, pt of §1; ren L 1979, c 197, §1(3); am L 1983, c 140, §6]

§343-4 REPEALED. L 1983, c 140, §7.

§343-5 Applicability and requirements. (a) Except as otherwise provided, an environmental assessment shall be required for actions which:

(1) Propose the use of state or county lands or the use of state or county funds, other than funds to be used for feasibility or planning studies for possible future programs or projects which the agency has not approved, adopted, or funded, or funds to be used for the acquisition of unimproved real property; provided that the agency shall consider environmental factors and available alternatives in its feasibility or planning studies.

(2) Propose any use within any land classified as conservation district by the state land use commission under chapter 205.

(3) Propose any use within the shoreline area as defined in section 205-31.

(4) Propose any use within any historic site as designated in the National Register or Hawaii Register as provided for in the Historic Preservation Act of 1966, Public Law 89-665, or chapter 6E.

(5) Propose any use within the Waikiki-Diamond Head area of Oahu, the boundaries of which are delineated on the development plan for the Kalia, Waikiki, and Diamond Head areas (map designated as portion of 1967 city and county of Honolulu General Plan Development Plan Waikiki-Diamond Head Section A).

(6) Propose any amendments to existing county general plans where such amendment would result in designations other than agriculture, conservation, or preservation, except actions proposing any new county general plan or amendments to any existing county general plan initiated by a county.

(b) Whenever an agency proposes an action which falls within the categories in subsection (a), other than feasibility or planning studies for possible future programs or projects which the agency has not approved, adopted, or funded, or other than the use of state or county funds for the acquisition of unimproved real property, which is not a specific type of action declared exempt under section 343-6, that agency shall prepare an environmental assessment for such action at the earliest practicable time to determine whether an environmental impact statement shall be required. A statement shall be required if the agency finds that the proposed action may have a significant effect on the environment. The agency shall file notice of such determination with the office

which, in turn, shall publish the agency determination for the public's information pursuant to section 343-3. The statement shall be prepared by the agency, submitted to the office, and made available for public review and comment through the office. The office shall inform the public of the availability of the statement for public review and comments pursuant to section 343-3. The agency shall respond in writing to comments received during the review. Following this review by the public and any subsequent revision by the agency, the council, when requested by the agency, may make a recommendation as to the acceptability of the statement. The final authority to accept such a statement shall rest with:

(1) The governor, or the governor's authorized representative, whenever an action proposes the use of state lands or the use of state funds or, whenever a state agency proposes an action within the categories in subsection (a); or

(2) The mayor, or the mayor's authorized representative, of the respective county whenever an action proposes only the use of county lands or county funds.

Acceptance of a required statement shall be a condition precedent to implementation of the proposed action. Upon acceptance or nonacceptance of the statement, the governor or mayor, or the governor's or mayor's authorized representative, shall file notice of such determination with the office. The office, in turn, shall publish the determination of acceptance or nonacceptance pursuant to section 343-3.

(c) Whenever an applicant proposes an action specified by subsection (a) which requires approval of an agency, and which is not a specific type of action declared exempt under section 343-6, the agency receiving the request for approval shall prepare an environmental assessment of such proposed action at the earliest practicable time to determine whether an environmental impact statement shall be required. A statement shall be required if the agency finds that the proposed action may have a significant effect on the environment. The agency shall file notice of such determination with the office which, in turn, shall publish the agency determination for the public's information pursuant to section 343-3. The statement shall be prepared by the applicant, who shall file the statement with the office. The statement shall be made available for public review and comments through the office. The office shall inform the public of the availability of the statement for public review and comments pursuant to section 343-3. The applicant shall respond in writing to comments received during the review. Following the review by the public and any subsequent revision by the applicant, the council, when requested by the applicant or agency, may make a recommendation as to the acceptability of the statement. The authority to accept such statement shall rest with the agency receiving the request for approval. Acceptance of a required statement shall be a condition precedent to approval of the request and commencement of proposed action. Upon acceptance or nonacceptance of the statement, the agency shall file notice of such determination with the office. The office shall publish the determination of acceptance or nonacceptance pursuant to section 343-3. The agency receiving the request, within sixty days of receipt of the statement, shall notify the applicant and the office of the acceptance or nonacceptance of the statement. The statement shall be deemed to be accepted if the agency fails to accept or not accept the statement within sixty days after receipt of the statement; provided that the sixty-day period may be extended at the request of the applicant for a period not to exceed thirty days.

In any acceptance or nonacceptance, the agency shall provide the applicant with the specific findings and reasons for its determination. An applicant, within sixty days after nonacceptance of a statement by an agency, may appeal the nonacceptance to the environmental council, which, within thirty days of receipt of the appeal, shall notify the applicant of the council's determination. In any affirmation or reversal of an appealed nonacceptance, the council shall provide the applicant and agency with specific findings and reasons for its determination. The agency shall abide by the council's decision.

(d) Whenever an applicant simultaneously requests approval for a proposed action from two or more agencies and there is a question as to which agency has the responsibility of preparing the environmental assessment, the office, after consultation with the agencies involved, shall determine which agency shall prepare the assessment.

(e) In preparing an environmental assessment, an agency may consider and, where applicable and appropriate, incorporate by reference, in whole or in part, previous determinations of whether a statement is required and previously accepted statements. The council, by rules, shall establish criteria and procedures for the use of previous determinations and statements.

(f) Whenever an action is subject to both the National Environmental Policy Act of 1969 (Public Law 91-190) and the requirements of this chapter, the office and agencies shall cooperate with federal agencies to the fullest extent possible to reduce duplication between federal and state requirements. Such cooperation, to the fullest extent possible, shall include joint environmental impact statements with concurrent public review and processing at both levels of government. Where federal law has environmental impact statement requirements in addition to but not in conflict with this chapter, the office and agencies shall cooperate in fulfilling these requirements so that one document shall comply with all applicable laws.

(g) A statement that is accepted with respect to a particular action shall satisfy the requirements of this chapter and no other statement for that proposed action shall be required. [L 1974, c 246, pt of §1; am and ren L 1979, c 197, §1(5) and (6); am L 1980, c 22, §1; am L 1983, c 140, §8; am imp L 1984, c 90, §1]

Case Notes

Law contemplates consideration of secondary and nonphysical aspects of proposal, including socio-economic consequences. 63 H. 453, 629 P.2d 1134.

Requirements not applicable to project pending when law took effect unless agency requested statement. 63 H. 453, 629 P.2d 1134.

Construction and use of home and underground utilities near Paiko Lagoon wildlife sanctuary. 64 H. 27, 636 P.2d 158.

Environmental assessment required before land use commission can reclassify conservation land to other uses. 65 H. 133, 648 P.2d 702.

Hawaii Legal Reporter Citations

Decision on preparation of EIS. 79 HLR 790667.

§343-6 Rules. After consultation with the affected agencies, the council shall make, amend, and repeal rules to implement this chapter. The adoption, amendment, and repeal of all rules shall be subject to chapter 91. At least one public hearing shall be held in each county prior to the final adoption, amendment, or repeal of such rules. The rules shall:

(1) Prescribe the contents of an environmental impact statement;

Neighbor Island
Building Guide *1986*

(Note: Each of the four sections of Neighbor Island Building Guide contains its own page numbering, starting from page 1. "State Federal Data" has 24 pages; "Hawaii County" has 52 pages; "Kauai County" has 36 pages; and "Maui County" has 48 pages.)

On the cover: The Sheraton Princeville Hotel on the North Shore of Kauai, completed in 1985.

Editor's Note iii
Guide to Licensed Contractor Lists iv

STATE/FEDERAL DATA

State of Hawaii Permits 1
Authority to Construct Permit (Air Quality) 1
Conservation District Use Application ... 1
Drilling Permit for Geothermal Resources 1
Environmental Impact Statement 2
Exploration Permit for Geothermal Resources 4
Ground Water Use Permit 5
Hawaii Coastal Zone Management Program Federal Consistency 6
Land Use Commission Special Use Permit 6
National Pollutant Discharge Elimination System 7
Natural Area Reserves 8
Permit for Work in Shores & Shore Waters 8
Permit for Land Use Change or Construction in Airport Hazard Area 9
Permit to Construct and/or Operate Quasi-Public Airport 10
Permit to Operate (Air Quality) 10
Prevention of Significant Deterioration (Air Quality) 10
Permit to Perform Work Upon a State Highway 10
Private Individual Wastewater Disposal System 11
Private Wastewater Treatment Works Application for Permit to Operate 12
Revocable Permit for Use of State Lands 12
Solid Waste Disposal Permit 13
State Clearinghouse Review 13
State Land Use Commission District Boundary Amendment 14
Variance from Pollution Controls 14
Well Drilling/Modification 15
Zone of Mixing 15

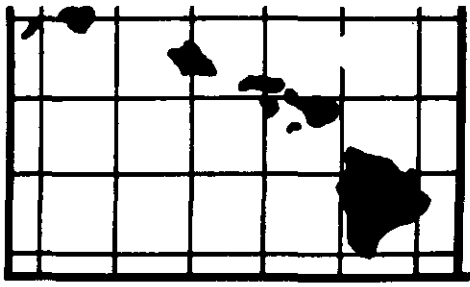
New Access Point or Relocation of Existing Access Point for State Highways 16
Historic Preservation Chapter 6E Compliance 18
Permit for Work at Historic Properties on State-Owned or Controlled Lands 18
Historic Preservation Section 106 Compliance 18
Federal Permits 20
Department of the Army Permit for Activities in Waterways 20
Environmental Impact Statements 20
Notice of Construction, Alterations, Activation & Deactivation of Airports 21
Bridge and Causeway Permit 24

HAWAII COUNTY

County Government Contacts 2
County Agencies 3
Utilities 5
State Agencies 6
Federal Agencies 7
County Permits 9
Shoreline Setback Variance 9
Permit to Construct Driveway onto County Highway 9
Permit for Excavation of Public Highways 10
Construction within a Government Right-of-Way 10
Construction & Maintenance of Sidewalks 11
Grubbing, Grading, Excavation & Stockpiling Permit 11
Installation of Utilities within Federal Aid Secondary County Highways 11
Sewer Connection Permit 12
Outdoor Lighting 12
Building, Electrical & Plumbing Permits 13
National Flood Insurance 14
Sign Permit 14
Building Plan Approval (Fire) 15
Cemeteries 15
Park Dedication 16
Plan Approval 16
Kailua Special District 17
Subdivision 17
Agricultural Use Agreement (A & B Soils) 18
Mobile Home Park 18
Zone Change 20
Zoning Variance 20
Use Permit 21
Planned Unit Development 21
General Plan Amendment 22
Special Management Area Use Permit 23
Cluster Plan Development 24
Subdivision Variance 24
Definitions of License Types 26
Licensed Contractors 27

KAUAI COUNTY

County Government Contacts 2
County Agencies 4
Utilities 6
State Agencies 7
Federal Agencies 8
County Permits 9
General Plan Amendment 9
Zoning Amendment 9
Building, Electrical & Plumbing Permits 10
Environmental Impact Assessment on Land Development 10
Relocation of Buildings Permit 11
Temporary Permit for Tents & Similar Structures 12
Zoning Permits 13
Use Permit 14
Zoning Variance 15
Project Development Use Permit 16
Special Development Plan Ordinances 16
Special Management Area (SMA) Permit 17
Sewer Connection Permit 18
Driveway Approach Permit 19
Excavation & Repairs of Streets & Sidewalks 19
Grubbing, Grading, Excavation & Stockpiling Permit 20
Subdivision 20
Park Dedication Requirement 22
Public Access Requirements 22
Bus Stops & Bus Shelter Requirement 23
Agricultural Park Subdivision 24
Agricultural Use Agreement (A & B Soils) 24
Outdoor Sign Permit 24
Shoreline Setback Variance 25
Licensed Contractors 27
Definitions of License Types 35



STATE OF HAWAII PERMITS

AUTHORITY TO CONSTRUCT PERMIT (AIR QUALITY)

ACTIVITY: The construction or installation of a new air pollution source or the modification of an existing source.

APPLICABLE AREA: State of Hawaii.

SOURCE OF LEGAL AUTHORITY: Clean Air Amendment of 1977, Public Law No. 95-95. Chapter 342, Hawaii Revised Statutes; Title II, Administrative Rules, Chapters 59 & 60.

PURPOSE: To ensure that the new source is designed, built, and equipped in accordance with the best practicable/available control technology and operated so as to reduce emissions to a minimum and not endanger the maintenance of applicable ambient air quality standards.

APPROVAL REQUIRED: AUTHORITY TO CONSTRUCT PERMIT (AIR QUALITY)

1. Application: State Department of Health - Environmental Permits Branch
   Data required for processing:
   a. Two (2) copies of complete data, citing information, plan descriptions, specifications, drawings, and other detailed information necessary to determine in what manner the new source will be operated and controlled.
   b. Filing fee: $20.00
2. Review: State Department of Health, Environmental Permits Branch
3. Approval: State Department of Health

FOR INFORMATION AND PROCESSING CONSULT:

Environmental Permits Branch
Hawaii State Department of Health
645 Halekauwila St.
Honolulu, Hawaii 96813

Phone: (808) 548-6410

CONSERVATION DISTRICT USE APPLICATION

ACTIVITY: Land use approval within the conservation district.

APPLICABLE AREA: Lands within the Conservation District, as established by the State Land Use Commission. The Conservation District includes large areas of mountain and shoreline lands, virtually all traditional Hawaiian fishponds, and most submerged offshore lands and outlying small islands. Maps showing the boundaries of the conservation district are available at the Department of Land and Natural Resources.

SOURCE OF LEGAL AUTHORITY: Chapter 183-41, Hawaii Revised Statutes Department of Land and Natural Resources Regulation, Title 13, Chapter 2.

PURPOSE: To regulate uses in the conservation district.

APPROVAL REQUIRED: CONSERVATION DISTRICT USE APPLICATION

1. Application: State Department of Land and Natural Resources - Planning Office
   Data required for processing:
   a. Eighteen (18) copies of the completed application with all attachments. Reduce or fold attachments to 8½" x 11".
   b. Filing Fee: $50.00. If use is defined as commercial, an additional public hearing fee of $50.00 is required.
2. Review: State Department of Land and Natural Resources - Office of Conservation and Environmental Affairs; Board of Land and Natural Resources
3. Approval: Board of Land and Natural Resources

FOR INFORMATION AND PROCESSING CONSULT:

Department of Land and Natural Resources
Office of Conservation and Environmental Affairs
State of Hawaii
1151 Punchbowl Street
Honolulu, Hawaii 96813

Phone: (808) 548-7837

DRILLING PERMITS FOR GEOTHERMAL RESOURCES

ACTIVITY: To drill, modify, modify use, or abandon wells.

APPLICABLE AREA: Only in designated geothermal resource subzones (GRS).

SOURCE OF LEGAL AUTHORITY: Chapter 178, Hawaii Revised Statutes; Chapter 182, Hawaii Revised Statutes; Chapter 205, Hawaii Revised Statutes; Title 13, Subtitle 7, Chapter 183 of the Administrative Rules entitled "Rules on Leasing and Drilling of Geothermal Resources" and Chapter 14 of the Administrative Rules entitled "Designation and Regulation of Geothermal Resources Subzones."

State of Hawaii Permits. *continued*

PURPOSE: To monitor all drilling activity for the purpose of assuring compliance with the "Rules on Leasing and Drilling of Geothermal Resources" for the protection and safety of the general public.

APPROVAL REQUIRED: DRILLING PERMITS FOR GEOTHERMAL RESOURCES

1. Application: State Department of Land and Natural Resources - Division of Water and Land Development

   Data required for processing:

   A. Name, signature and address of the applicant, the owner of the mining rights and the land owner if the applicant is not the land owner.
   B. The number or other designation by which the well shall be known by. The number or designation shall be subject to the chairperson's (Board of Land and Natural Resources) approval.
   C. A plot plan showing the tax map key, site elevation, and well location with reference to established property corners. A survey by a Hawaii licensed surveyor may be required.
   D. A statement of the purpose and extent of the proposed work and estimate of the depths between which discovery, production, injection, or plugging will be attempted.
   E. A description of the proposed drilling and casing program; and a plan or drawing showing the proposed work and vertical section of the well.
   F. Agreement to file the $50,000 individual well bond or $250,000 blanket bond for any number of wells as required by Subchapter 8 of the Administrative Rules with the Chairperson (Board of Land and Natural Resources) within ten days after application has been approved.
   G. Agreement to operate and maintain the well in accordance with Title 13, Chapter 183 of the Administrative Rules, and all other applicable governmental requirements.
   H. Non-refundable filing fee: $100.00 for each application to drill, modify, modify use or abandon a well.

2. Review: State Department of Land and Natural Resources — Division of Water and Land Development.
3. Approval: Chairperson of the Board of Land and Natural Resources

FOR INFORMATION AND PROCESSING CONSULT:

Department of Land & Natural Resources
Division of Water & Land Development
State of Hawaii
1151 Punchbowl Street
Honolulu, Hawaii 96813

Phone: (808) 548-7533

NOTE: Submit application in letter form.

ENVIRONMENTAL IMPACT STATEMENT (EIS)

ACTIVITY: A written report which describes what will probably happen to the environment should a project be carried out.

APPLICABLE AREA: An EIS may be required for a land development project involving:

a. The use of State or County lands or funds (See NOTE.)
b. Land within State Conservation District.
c. Lands within the shoreline area, defined as 20 to 40 feet inland and 300 feet seaward from the shoreline as defined by Chapter 205.31, HRS.
d. Land within any historic site as designated in either the State or National Register of Historic Places.
e. An amendment to the County's General Plan where such amendment would result in a designation other than agriculture, conservation, or preservation.

An EIS is required for projects which take place within the above described categories only when agencies determine that the project may have a significant effect on the environment.

If impacts are judged to be significant, a Negative Declaration is filed with the Environmental Quality Commission by the agency making such a determination.

SOURCE OF LEGAL AUTHORITY: Hawaii Revised Statutes, Chapter 343; Environmental Quality Commission's Environmental Impact Statement Regulations and Rules of Practice and Procedures

PURPOSE: Preparation of an EIS helps to make sure that environmental concerns are considered in making governmental decisions.

APPROVAL REQUIRED: EIS

1. Application: State Environmental Quality Commission

   Agencies must assess a project to determine the need for an EIS within thirty (30) days from the submission of the request for approval. No time limits are set on the preparation of the document. The applicant prepares the EIS, which must include:

   Summary sheet which outlines and concisely discusses the contents.

   Project description.

   Description of environmental setting.

   The relationship of the proposed action to land use plans, policies, and controls for the affected area.

   Any probable adverse environmental effects which cannot be avoided.

   Alternatives to the proposed action.

   The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.

Mitigation measures proposed to minimize impact.

Any irreversible and irretrievable commitments of resources.

An indication of what other interest and considerations of governmental policies are thought to offset the adverse environmental effects of the proposed action.

Organizations and persons consulted.

There is no filing and no public hearing requirement.

After it is determined that an EIS is required, a notice is published in the EQC Bulletin advertising the public that an EIS will be prepared. The Environmental Impact Statement Preparation Notice — prepared by the agency requiring the EIS — summarizes the proposed action, points out areas of potential impact and generally documents the steps and criteria used in making the decision. The Notice includes the name and address of a person who may be contacted for further information about the project.

Following the publication of the Notice, the public has thirty (30) days in which to request to be a consulted party during EIS preparation. After the EIS is prepared and circulated, the public has an additional thirty (30) days during which to comment in writing. The applicant must respond in writing to any public comments. Both the comments and the applicant's response must be included in the final EIS submitted to the approving agency.

An EIS is accepted or not accepted by the agency requiring it. Acceptance of an EIS must be within sixty (60) days of filing the document with the approving agency. The sixty (60) day period may be extended at the request of the applicant for a period not to exceed thirty (30) days. Agency acceptance of an EIS means that all identifiable environmental impacts have been adequately described, have been satisfactorily answered by the applicant. **Acceptance does not mean that a project is approved.** It is merely a condition preceding requests for permit approval.

The mechanics of filing the statement, public notification of agency decisions, distribution of the statement for review, and appeals from agency decisions are handled through the State Environmental Quality Commission.

NOTE: When actions using State or County resources are subject to both State and Federal EIS requirements, the State's must be satisfied first. HRS, Section 343-4(F).

"Public projects"; e.g., those involving the use of State of County lands or funds are assessed by the agency proposing the project. If it is determined that there would be significant environmental effects, the agency prepares the required EIS. Acceptance of the document is either by the Governor or Mayor — depending upon whether State or County funds/lands are involved. (See Chapter 343, HRS, for further elaboration.)

Project involving wetlands, streams and coastal **waters could be subject** to both State and Federal **EIS requirements.** (See ENVIRONMENTAL **IMPACT STATEMENTS** — NEPA).

For additional clarification, please refer to Table 1, **Generalized EIS Process.**

For additional clarification, please refer to Table 1, Generalized EIS Process.

2. Review: State Environmental Quality Commission; appropriate County Planning Department
3. Approval: Accepting Authority

FOR INFORMATION AND PROCESSING CONSULT:

Environmental Quality Commission
State of Hawaii
550 Halekauwila Street, 3rd Floor
Honolulu, Hawaii 96813

Phone: (808) 548-6915

EXPLORATION PERMIT FOR GEOTHERMAL RESOURCES

ACTIVITY: Any exploration activity on state or reserved lands for evidence of geothermal resources. Exploration activity includes, but is not limited to, geophysical operations, drilling of shallow temperature test holes less than 500 feet in depth, or deeper as may be determined by the Board, construction of roads and trails, and cross-country transit by vehicle over State lands.

APPLICABLE AREA: State or reserved lands.

SOURCE OF LEGAL AUTHORITY: Chapter 182, Hawaii Revised Statutes; Title 13, Subtitle 7, Chapter 183 of the Administrative Rules entitled "Rules on Leasing and Drilling of Geothermal Resources".

PURPOSE: To monitor all exploration activity for the purpose of assuring compliance with the "Rules on Leasing and Drilling of Geothermal Resources" for the protection and safety of the general public.

APPROVAL REQUIRED: EXPLORATION PERMIT FOR GEOTHERMAL RESOURCES

1. Application: State Department of Land and Natural Resources - Division of Land Management
   Data required for processing:
   A. The name and address of the person, association, or corporation for whom the operation will be conducted and of the person who will be in charge of the actual exploration activities.
   B. A description of the type of exploration activities proposed to be undertaken.
   C. A description of the lands to be explored.
   D. A map or maps available from State or Federal sources, showing the lands to be entered or disturbed.
   E. The approximate dates of the commencement and termination of exploration activities.

F. A statement by applicant agreeing to submit to the Board within twenty calendar days after notification by the Board that the permit application has been approved by a surety company bond in the amount of $10,000 payable to the State conditioned upon compliance with all terms and conditions of the exploration permit. If any person holds more than one exploration permit in the State, that person may file with the Board, in lieu of separate bonds for each exploration permit a blanket bond in the amount of $50,000.
G. The name and address of the surface owner of the land.
H. Evidence that the owner and surface lessee, if any, has or has not consented to the entry upon the land and a description of the efforts made and the reasons for not securing the consent.
I. Permit filing fee: $100.00

2. Review: State Department of Land and Natural Resources Division of Land Management

3. Approval: Board of Land and Natural Resources

NOTE: Application should be addressed to the Board of Land and Natural Resources in letter form.

GROUND WATER USE PERMIT

ACTIVITY: Anyone wishing to initiate the use of ground water from "control ground water areas" established by the Board of Land and Natural Resources.

APPLICABLE AREA: Only applicable in ground water control areas. At the present time, there are three ground water control areas, all on Oahu.

SOURCE OF LEGAL AUTHORITY: Hawaii Revised Statutes, Chapters 177 and 178; Title 13, Subtitle 7, Chapter 166 of the Administrative Rules entitled 'Rules of the Control of Ground Water Use in the State of Hawaii'

PURPOSE: To verify that there is water available for use; that the proposed use will be beneficial; and that granting the permit will not substantially and materially interfere with other existing permitted and preserved uses.

APPROVAL REQUIRED: GROUND WATER USE PERMIT

1. Application: State Dept. of Land and Natural Resources - Division of Water and Land Development
Data required for processing:
The application must be in writing and must state specifically:

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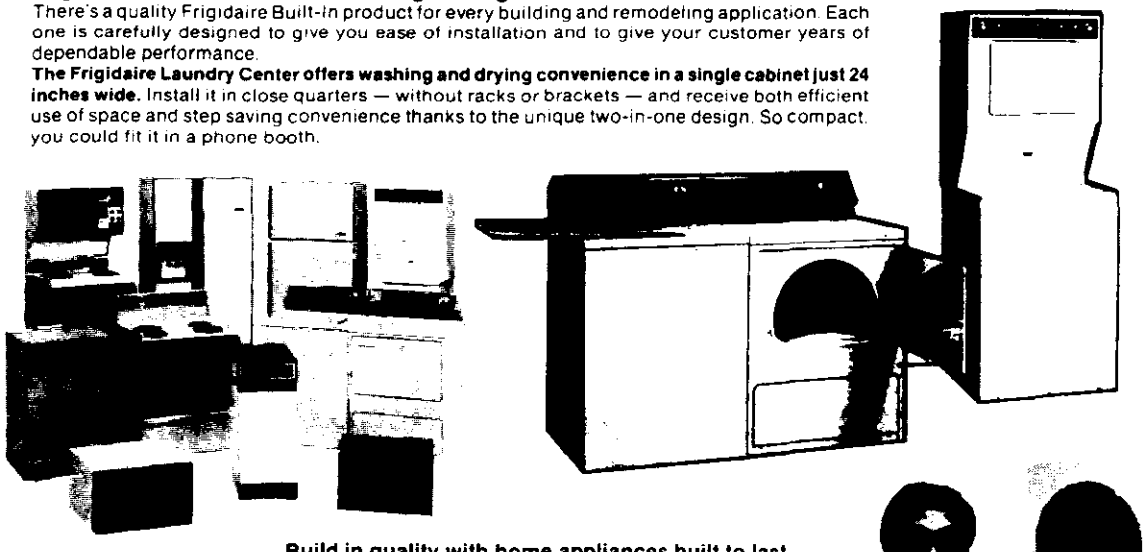

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Miyashiro

SERVCO SERVICE APPLIANCE DIVISION
A DIVISION OF SERVCO PACIFIC INC.
1610 Hart Street / Honolulu, Hawaii 96819 / Phone 848-2411

A. The merits of the water use.
B. The hazards to public health, safety and welfare.
C. The desirability of the permit.
D. Any appropriate qualifications of the applicant.

NOTE: Each permit is issued for a specified period, not exceeding fifty (50) years.

2. Review: State Dept. of Land and Natural Resources - Division of Water and Land Development
3. Approval: State Board of Land and Natural Resources

FOR INFORMATION AND PROCESSING CONSULT:

Department of Land and Natural Resources
Division of Water and Land Development
State of Hawaii
1151 Punchbowl Street
Honolulu, Hawaii 96813

Phone: (808) 548-7533

HAWAII COASTAL ZONE MANAGEMENT PROGRAM FEDERAL CONSISTENCY

ACTIVITY: Projects needing a Federal permit or license may require review for consistency with Hawaii's Coastal Zone Management (CZM) Program.

APPLICABLE AREA: The State's coastal zone which includes all land, waters, and marine waters excluding the State designated Forest Reserves and Federall controlled lands.

SOURCE OF LEGAL AUTHORITY: Section 307, National CZM Act of 1972, as amended (16 U.S.C. 1451 et. seq.); Section 205A-3(3), Hawaii Revised Statutes 15 Code of Federal Regulations, Part 930 "Federal Consistency with Approved Coastal Management Programs", NOAA, U.S. Department of Commerce

PURPOSE: To identify potential conflicts early in the Federal agency's decision-making process and to facilitate the resolution of any inconsistencies between the proposed Federal activity and the State's enforceable CZM policies prior to implementation.

APPROVAL REQUIRED: HAWAII CZM PROGRAM — FEDERAL CONSISTENCY

1. Application: State Department of Planning and Economic Development - Coastal Zone Management (DPED-CZM)

   Data required for processing:

   A. An assessment of the proposed activity's consistency with the CZM program's enforceable policies is required. A format listing the program's major objectives and policies has been developed by DPED and is available in the "Procedures Guide for Achieving Consistency with the Hawaii Coastal Zone Management Program.
   B. A signed statement to the effect that the proposed activity is consistent with the Hawaii CZM Program and a detailed project description are submitted along with the CZM assessment to the DPED.
   C. For federall permitted and licensed activities, a copy of the permit application should be forwarded.
2. Review: State Department of Planning and Economic Development - Coastal Zone Management; County Planning Department
3. Approval: State Department of Planning and Economic Development - Coastal Zone Management

FOR INFORMATION AND PROCESSING CONSULT:

Department of Planning and Economic Development
Coastal Zone Management
State of Hawaii
P.O. Box 2359
Honolulu, Hawaii 96804

Phone: (808) 548-8467

LAND USE COMMISSION SPECIAL USE PERMIT

ACTIVITY: Any person who desires to use his/her land within an agricultural and rural district other than for agricultural or rural use, as the case may be, may petition the Planning Commission of the county within which his/her land is located for permission to use the land in the manner desired.

APPLICABLE AREA: All lands within the State Rural or Agricultural Districts.

SOURCE OF LEGAL AUTHORITY: State Land Use Commission Rules of Practice and Procedure and District Regulations, 1975

PURPOSE: To allow certain "unusual and reasonable" uses other than those permitted within the State Land Use Commission Agricultural or Rural Districts.

APPROVAL REQUIRED: LAND USE COMMISSION SPECIAL USE PERMIT

1. Application: County Planning Department of the county involved.

   Data required for processing:

   A. Documentation of ownership or authorization from the owner(s) of the property.
   B. Seven (7) sets of a plot plan of the property drawn to scale with all proposed structures shown thereon.
   C. Any architectural plans available.
   D. Filing fee: $35.00
   E. Location by area and tax map key.
   F. Brief statement outlining request and justifications.
2. Review: Planning Department and the Department of Public Works of the county involved.
3. Approval: Planning Commission of the county involved (when the project site is 15 acres or

less); State Land Use Commission (when the project site is greater than 15 acres)

FOR INFORMATION AND PROCESSING CONSULT:

Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

Planning Department
County of Kauai
4280 Rice Street
Lihue, Kauai, Hawaii 96766

Planning Department
County of Maui
200 South High Street
Wailuku, Maui, Hawaii 96793

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT

ACTIVITY: Discharging any pollutant, or substantially altering the quality of any discharges, or substantially increasing the quantity of any discharge.

APPLICABLE AREA: Surface streams and coastal waters.

SOURCE OF LEGAL AUTHORITY: Federal Water Pollution Control Act; Amendments of 1972, Public Law 92-500; Chapter 342, Part III, Hawaii Revised Statutes; Title 11, Administrative Rules, Chapter 55.

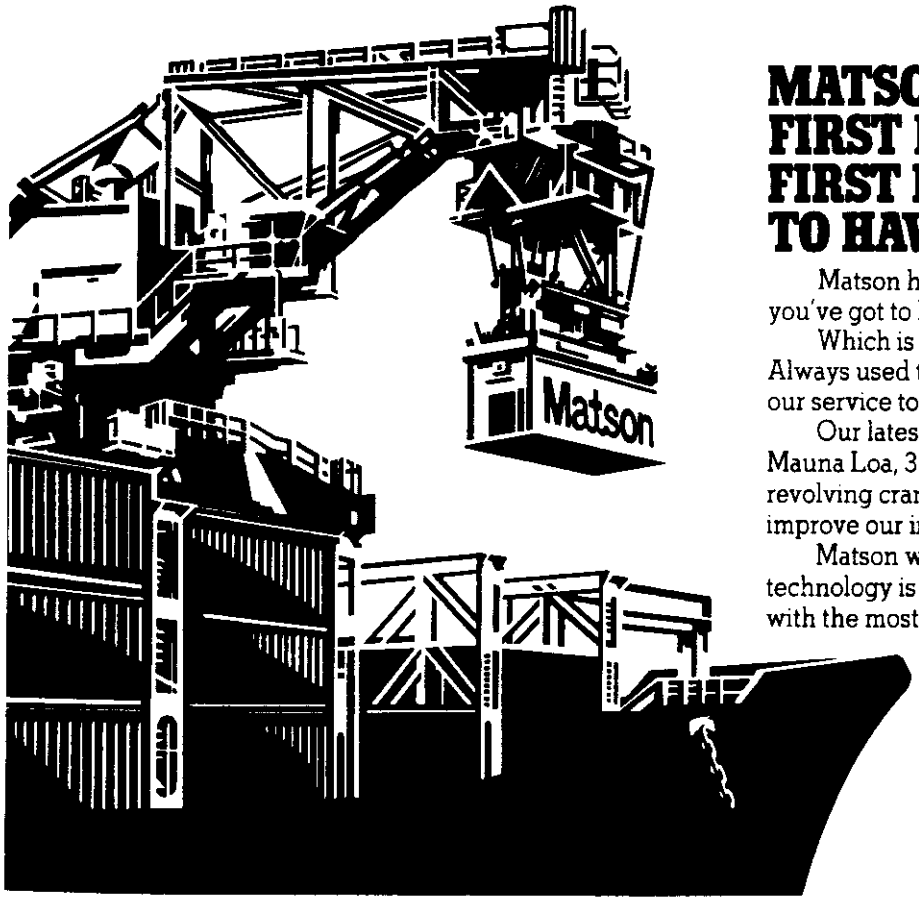
PURPOSE: To provide for the prevention, abatement and control of new and existing water pollution.

APPROVAL REQUIRED: NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

1. Application: State Department of Health - Environmental Protection and Health Service Division.

   Data required for processing:

   a. Two (2) copies of complete data, siting information, plan description, specifications, drawings, and other detailed information necessary to determine in what manner the new or existing treatment works or wastes outlet will be constructed or modified, operated, and controlled. (Physio-chemical characterization of the proposed effluent, specifically nitrogen and phosphorous, PH, temperature and any other factors and parameters by which the effluent differs from the quality of the receiving water.)
   b. $100.00 non-refundable filing fee.
2. Review: State Department of Health - Environmental Protection and Health Services Division
3. Approval: State Department of Health - Environmental Protection and Health Services Division.



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FOR INFORMATION AND PROCESSING CONSULT:

Department of Health
Environmental Permits Branch
Environmental Protection and Health Service Division
State of Hawaii
645 Halekauwila Street
Honolulu, Hawaii 96813

Phone: (808) 548-6410

NATURAL AREA RESERVES

ACTIVITY: The Board of Land and Natural Resources or its authorized representative, with the approval of the commission, may issue permits to conduct activities otherwise prohibited by section 13-209-4 for research, education, management, or for any other purpose consistent with chapter 195, Hawaii Revised Statutes.

The following activities are prohibited within a natural area reserve (section 13-209-4):

(1) To remove, injure, or kill any form of plant or animal life, except game mammals and birds hunted according to department rules;
(2) To introduce any form of plant or animal life, except dogs when permitted by hunting rules of the department;
(3) To remove, damage, or disturb any geological or paleontological feature or substance.
(4) To remove, damage, or disturb any historic or prehistoric remains;
(5) To remove, damage, or disturb any notice, marker, or structure;
(6) To engage in any construction or improvement;
(7) To engage in any camping activity that involves the erecting of a tent or other temporary structure;
(8) To start or maintain a fire;
(9) To litter, or to deposit refuse or any other substance;
(10) To operate any motorized or unmotorized land vehicle or air conveyance of any shape or form in any area, including roads or trails, not designated for its use;
(11) To operate any motorized water vehicle or any shape or form in freshwater environments, including bogs, ponds, and streams, or marine waters, except as otherwise provided in the boating rules of the State Department of Transportation.
(12) To enter into, place any vessel or material in or on, or otherwise disturb a lake or pond.

APPLICABLE AREA: Within the boundaries of a natural area reserve (Ahihi-Kinau Natural Area Reserve - Cape Kinau; West Maui Natural Area Reserve, including Kahakuloa, Honokowai, Paneawa and Lihau sections; and Hanawai Natural Area Reserve)

SOURCE OF LEGAL AUTHORITY: Section 195-5, Hawaii Revised Statutes; Title 13, Administrative Rules of the Department of Land and Natural Resources, Chapter 209.

PURPOSE: To regulate activity within natural area reserves.

APPROVAL REQUIRED: NATURAL AREA RESERVES

1. Application: State Department of Land and Natural Resources - Natural Area Reserves System

   Data required for processing:
   A. Description of project;
   B. purpose;
   C. personnel involved (names and affiliation);
   D. method used;
   E. potential environmental impact;
   F. an Environmental Assessment may be required.

   NOTE: Application should be submitted in letter form.

2. Review: State Department of Land and Natural Resources - Natural Area Reserves System
3. Approval: Board of Land and Natural Resources; Natural Area Reserves System Commission

FOR INFORMATION AND PROCESSING CONSULT:

Department of Land and Natural Resources
Natural Area Reserves System
State of Hawaii
1151 Punchbowl Street
Honolulu, Hawaii 96813

Phone: (808) 548-2861

PERMIT FOR WORK IN THE SHORES AND SHORE WATERS

ACTIVITY: Dredging, filling, or erecting of any construction within the shore waters of the State of Hawaii.

APPLICABLE AREA: Shores, shore waters, navigable streams, and harbors belonging to or controlled by the State of Hawaii.

SOURCE OF LEGAL AUTHORITY: Chapter 266, Hawaii Revised Statutes; Rules and Regulations and Section 19-42-161 of the State Department of Transportation Administrative Rules, Harbors Division.

PURPOSE: To promote public safety, health, and welfare in or on the shore waters and shores and on beaches encumbered with easements in favor of the public.

APPROVAL REQUIRED: PERMIT TO WORK IN THE SHORES AND SHORE WATERS

1. Application: State Department of Transportation — Harbors Division

Data required for processing:

a. Three (3) copies of the application form (DOT 3-009).
b. Tax Map Key (TMK) showing ownership of and adjacent to project site.
c. Three (3) copies of engineer drawings.
   1. Location of property lines.

2. Existing structures.
3. Elevations, soundings
4. Location, dimensions of proposed structure.
5. Other pertinent data; i.e., construction schedule and cost estimate.

d. Three copies of the Department of Army permit application.
e. A $50.00 non-refundable filing fee.

2. Review: State Department of Transportation — Harbors Division; State Department of Health.
3. Approval: State Department of Transportation — Harbors Division.

FOR INFORMATION AND PROCESSING CONSULT:

Department of Transportation
Harbors Division
State of Hawaii
79 S. Nimitz Highway
Honolulu, Hawaii 96813

Phone: (808) 548-2505

Permit to Change the Land Use or Construct or Alter a Structure Located Within the Airport Hazard Area Zones of Any Public, Quasi-Public or Military Airport Within the State

ACTIVITY: A permit is required to change the land use or construct or alter a structure of more than thirty-five (35) feet in height located within established airport hazard area.

APPLICABLE AREA: In the "Airport Hazard Area" which means any area of land or water, public or private, whose boundaries are defined by airport zoning regulations upon which an airport hazard might established if not prevented by Chapter 262-3 of the Hawaii Revised Statutes. The regulations do not apply to private airports.

SOURCE OF LEGAL AUTHORITY: Chapter 262, Hawaii Revised Statutes; Airport Zoning Regulation; Title 19, Administrative Rules of the State Department of Transportation

PURPOSE: That no airport hazard be established, maintained or created.

APPROVAL REQUIRED:

1. Application: State Department of Transportation — Airports Division

   Any such construction must conform to the height limitations established by the Airport Zoning Regulations.

2. Review: State Department of Transportation — Airports Division
3. Approval: State Department of Transportation — Airports Division

FOR INFORMATION AND PROCESSING CONSULT:

Department of Transportation
Airports Division, AIR-EM
State of Hawaii
Honolulu International Airport
Honolulu, Hawaii 96819

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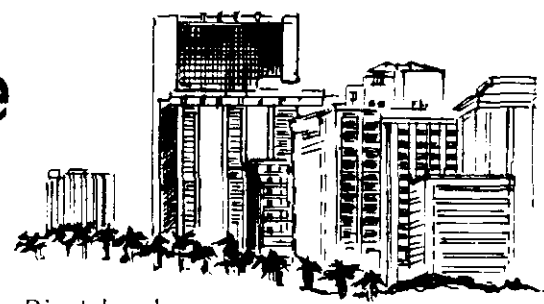

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HAWAII: 345 Kekuanaoa Street, Hilo 96720/Phone 961-3771
KAUAI: 4405 Kukui Grove, Suite 1, Lihue 96766/Phone 245-3911
OAHU: 745 Fort Street, Honolulu 96813/Phone 531-4211

PERMIT TO CONSTRUCT AND/OR OPERATE A QUASI PUBLIC AIRPORT

ACTIVITY: Constructing and/or operating a quasi public airport.

APPLICABLE AREA: This permit and/or license requirements applies to any airport or heliport open to the general public either as an aircraft operator or as a passenger being transported for hire.

SOURCE OF LEGAL AUTHORITY: Chapter 261, Hawaii Revised Statutes; Dept. of Transportation's Rules and Regulations; Airport Site Approval; Airport Licensing and Airport License; Renewal Regulations; Title 19, Administration Rules of the Department.

PURPOSE: That the site/airport for the proposed operations are safe and adequate.

APPROVAL REQUIRED: PERMIT TO CONSTRUCT AND/OR OPERATE A QUASI PUBLIC AIRPORT

1. Application: State Department of Transportation — Airports Division

Data required for processing:
Letter of application must indicate the adequacy of the site, the land use, runway standards, traffic patterns and other information pertinent to the proposal.

2. Review: State Department of Transportation — Airports Division
3. Approval: State Department of Transportation — Airports Division

FOR INFORMATION AND PROCESSING CONSULT:

Department of Transportation
Airports Division, AIR-GA
State of Hawaii
Honolulu International Airport
Honolulu, Hawaii 96819

Phone: (808) 836-6450

PERMIT TO OPERATE (AIR QUALITY)

ACTIVITY: Authority to operate a new air pollution source or a modified existing source.

APPLICABLE AREA: State of Hawaii.

SOURCE OF LEGAL AUTHORITY: Clean Air Amendment of 1977, Public Law No. 95-95; Chapter 342, Hawaii Revised Statutes; Title II, Administrative Rules, Chapters 59 & 60.

PURPOSE: To ensure that the new source is designed, built, and equipped in accordance with the best practicable/available control technology and operated so as to reduce emissions to a minimum and not endanger the maintenance of applicable ambient air quality standards.

APPROVAL REQUIRED: PERMIT TO OPERATE (AIR QUALITY)

1. Application: State Department of Health — Environmental Permits Branch

Data required for processing:

a. Submit completed application sixty (60) days prior to the end of construction, installation, or modification. In addition, the applicant must submit a written notification of completion of construction.
b. Permit fee: To be determined.

2. Review: State Department of Health, Environmental Permits Branch
3. Approval: State Department of Health

FOR INFORMATION AND PROCESSING CONSULT:

Environmental Permits Branch
Hawaii State Department of Health
645 Halekauwila Street
Honolulu, Hawaii 96813

Phone: (808) 548-6410

PREVENTION OF SIGNIFICANT DETERIORATION (AIR QUALITY)

ACTIVITY: The construction and operation of a new major stationary source or a major modification of an existing source.

APPLICABLE AREA: State of Hawaii

SOURCE OF LEGAL AUTHORITY: Clean Air Amendment of 1977, Prevention of Significant Deterioration Regulation (CFR, Title 40, Section 52.21) of August 7, 1980, EPA/DOH Delegation Agreement of August 15, 1983.

PURPOSE: To prevent the significant deterioration of air quality by limiting the amount of degradation in any one area and by regulating any new major stationary sources and major modification of existing sources.

APPROVAL REQUIRED: Prevention of Significant Deterioration (PSD) Permit.

1. Application: State Department of Health — Environmental Permits Branch

Data required for processing:

a. Determination of pollutants subject to PSD review.
b. Determination of best available control technology for each pollutant subject to PSD review.
c. Provide preconstruction monitoring of ambient air quality.

d. Conduct an air quality analysis to show that for each pollutant subject to PSD review, the source will not violate the national ambient air quality standards or the PSD concentration increments.
e. Analyze source impacts on soil, vegetation, and visibility.
f. Demonstrate that the source will not significantly impact Class I areas.

2. Time: The process to obtain a PSD permit is lengthy and may take from 8 to 24 months.
3. Review: State Department of Health, Environmental Permits Branch
4. Approval: State Department of Health and U.S. Environmental Protection Agency

FOR INFORMATION AND PROCESSING CONSULT:

Environmental Permits Branch
Hawaii State Department of Health
645 Halekauwila Street
Honolulu, Hawaii 96813

Phone: (808) 548-6410

PERMIT TO PERFORM WORK UPON A STATE HIGHWAY

ACTIVITY: Any work performed within the State highway right-of-way.

APPLICABLE AREA: State of Hawaii.

SOURCE OF LEGAL AUTHORITY: Chapter 264, Hawaii Revised Statutes.

PURPOSE: To regulate and control work on State highways.

APPROVAL REQUIRED: PERMIT TO PERFORM WORK UPON A STATE HIGHWAY

1. Application: State Department of Transportation — Highways Division

Data required for processing:

a. Three (3) sets of construction plans.
b. Performance bond. A letter of guarantee is accepted for government agencies and public utility companies.
c. Certificate of Insurance with the State of Hawaii being the additional or co-insured.
d. Permit fee.
The fee amount is computed on the following basis:
First 20 lin. ft. and/or sq. yd; 20 lin. ft. and/or sq. yd. at $0.50 per lin. ft. and/or sq. yd. = $10.00 (minimum charge)
Balance of Trench: lin. ft. at $0.10 per lin. ft.
Balance of Area: sq. yd. at $.10 per sq. yd.
e. Data required in 1b, 1c and 1d should be submitted upon approval of the construction plans by State Department of Transportation, Highways Division.

FOR INFORMATION AND PROCESSING CONSULT:

Maui

Department of Transportation
Highways Division
State of Hawaii
650 Palapala Drive
Kahului, Hawaii 96732

Phone: 877-5061

Kauai

Department of Transportation
Highways Division
State of Hawaii
3060 Eiwa Street
Lihue, Hawaii 96766

Phone: 245-4461

Hawaii

Department of Transportation
Highways Division
State of Hawaii
50 Makaala Street (P.O. Box 4277)
Hilo, Hawaii 96720

Phone: 935-3347

PRIVATE INDIVIDUAL WASTEWATER DISPOSAL SYSTEM

ACTIVITY: Any construction of private individual wastewater disposal system in an unsewered area unless approved by the Director of Health. "Disposal System" means any outlet, outfall sewer, seepage pit, cesspool, injection well, effluent irrigation system, tile field, disposal trench, or other facility or any combination thereof used in the disposal of wastewater including any wastewater transmission lines, pumps, power or other equipment associated with the ultimate disposal of wastewater.

APPLICABLE AREA: State of Hawaii.

SOURCE OF LEGAL AUTHORITY: Chapters 321 and 342, Hawaii Revised Statutes; Public Health Regulations, Chapter 38

PURPOSE: To set minimum requirements to protect public health, safety, and welfare.

APPROVAL REQUIRED: PRIVATE INDIVIDUAL WASTEWATER DISPOSAL SYSTEM

1. Application: State Department of Health — Environmental Protection and Health Service Division (if dwelling is not built concurrently with the construction of the disposal system); Maui County Department of Public Works — Land Use and Codes Administration (if dwelling is built concurrently with the disposal system).

Data required for processing:
Three (3) copies of detailed plans and specifications for the proposed private individual wastewater disposal system.

2. Review: State Department of Health — Environmental Protection and Health Service Division

3. Approval: State Department of Health — Environmental Protection and Health Service Division

NOTE: Private individual wastewater disposal systems are limited to a dwelling with two or less dwelling units, and in no case are permitted forn an area zoned agricultural or conservation provided such buildings or facilities are incidental to the operation of an agricultural enterprise or are consistent with the conservation district use intent.

FOR INFORMATION AND PROCESSING CONSULT:

Department of Health
Sanitation Branch
Environmental Protection and Health Service Division
State of Hawaii
54 High Street
Wailuku, Maui, Hawaii 96793

Phone: 244-4255

PRIVATE WASTEWATER TREATMENT WORKS APPLICATION FOR PERMIT TO OPERATE

ACTIVITY: Any construction of private treatment works in an unsewered area unless approved by the Director of Health. "Treatment Works" means any treatment unit and its associated collection system and disposal system, excluding individual wastewater systems.

APPLICABLE AREA: State of Hawaii.

SOURCE OF LEGAL AUTHORITY: Chapters 321 and 342, Hawaii Revised Statutes; Title II, Administrative Rules, Chapter 57.

PURPOSE: To set forth minimum requirements for the following general purposes: (a) to clarify responsibilities of owners, engineers and the Department; (b) to set minimum distance requirements so that minor nuisances are avoided; (c) to get minimum requirements to protect public health, safety, and welfare, and to protect the treatment works from malicious damage or unauthorized entry; (d) to emphasize the need for proper operation and maintenance.

APPROVAL REQUIRED: PRIVATE WASTEWATER TREATMENT WORKS APPLICATION FOR PERMIT TO OPERATE

1. Application: State Department of Health — Environmental Protection and Health Service Division

Data required for processing:

A. One (1) set of detailed plans and specifications for building permit clearance.
B. A maintenance schedule.

NOTE: Inspection is required before operation.

2. Review: State Department of Health — Environmental Protection and Health Service Division
3. Approval: State Department of Health — Environmental Protection and Health Service Division

FOR INFORMATION AND PROCESSING CONSULT:

Department of Health
Environmental Protection and Health Service Division
State of Hawaii
P.O. Box 3378
1250 Punchbowl Street
Honolulu, Hawaii 96801

Phone: (808) 548-6455

REVOCABLE PERMIT FOR USE OF STATE LANDS

ACTIVITY: Issuance of revocable permit covering occupancy and use of state-owned property

APPLICABLE AREA: Statewide

SOURCE OF LEGAL AUTHORITY: Chapter 171, HRS

PURPOSE: Temporary occupancy and utilization of state-owned lands for all types of uses.

APPROVAL REQUIRED:

1. Application: Department of Land and Natural Resources, Division of Land Management

   Application must be in writing using standard Division application for state land form or application by letter containing the following data.
   a. Name and address of applicant.
   b. Location of property desired.
   c. Identification of property by Tax Map Key number.
   d. Approximate area of property in square feet or acres.
   e. Proposed use of the property.
2. Environmental assessment of the proposed use must be submitted with the application.
3. Review and recommendation by Division of Land Management.
4. Approval by Board of Land and Natural Resources.
5. Documentation by Attorney General's Office and Division of Land Management.

FOR INFORMATION AND PROCESSING CONSULT:

Statewide

Department of Land and Natural Resources
Division of Land Management
P.O. Box 621
Honolulu, Hawaii 96809

Telephone: 548-3262 for Oahu application
548-6460 for Statewide application

Hawaii
Department of Land and Natural Resources
Division of Land Management
P.O. Box 936
Hilo, Hawaii 96721-0936

Telephone: Hilo 961-7245

Maui/Molokai/Lanai
Department of Land and Natural Resources
Division of Land Management
P.O. Box 1049
Wailuku, Maui, Hawaii 96793

Telephone: Wailuku 244-4272

Kauai
Department of Land and Natural Resources
Division of Land Management
P.O. Box 3390
Lihue, Kauai, Hawaii 96766

Telephone: Lihue 245-4491

SOLID WASTE DISPOSAL PERMIT

ACTIVITY: Establishing, modifying or operating any solid waste disposal or a part thereof or any extension or addition thereto.

APPLICABLE AREA: State of Hawaii.

SOURCE OF LEGAL AUTHORITY: Chapter 342, Hawaii Revised Statutes; Title 11, Administrative Rules, Chapter 58

PURPOSE: To protect public health and safety, conserve natural resources, and preserve and enhance the beauty and quality of the environment.

APPROVAL REQUIRED: SOLID WASTE DISPOSAL PERMIT

1. Application: State Department of Health — Environmental Permits Branch

Data required for processing:

a. Detailed plans and specifications for the facility.
b. Certification of compliance with local ordinances and zoning requirements.
c. An operation plan report detailing the proposed method of operation, population and area to be served, the characteristics, quantity, and source of material to be processed, the use and distribution of processed materials, method of processed residue disposal, emergency operating procedures, the type and amount of equipment to be provided and the proposed ultimate use of land or ocean disposal sites.
d. Filing fee: $20.00

2. Review: State Department of Health — Environmental Permits Branch
3. Approval: State Department of Health — Environmental Protection and Health Services Division

STATE CLEARINGHOUSE REVIEW

ACTIVITY: A project which is to be fully or partially funded through a Federal program may be subject to clearinghouse review. Federal regulations require such review for more than 225 Federal programs. Since additions and deletions to the list of programs may be made, it is advisable to confirm applicability to a particular proposed project with the State Clearinghouse Agency — Department of Planning and Economic Development.

APPLICABLE AREA: State of Hawaii.

SOURCE OF LEGAL AUTHORITY: Section 204 — Demonstration Cities and Metropolitan Development Act (1966); Title IV — Intergovernmental Cooperative Act (1968); Clearinghouse Procedures Manual (State of Hawaii): Presidential Executive Order 12372

FOR INFORMATION AND PROCESSING CONSULT:
Environmental Permits Branch
Hawaii State Department of Health
645 Halekauwila Street
P.O. Box 3378
Honolulu, Hawaii 96813

Phone: (808) 548-6410

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PURPOSE: The State Clearinghouse coordinates the review of Federal funding applications and proposed direct Federal developments. It is designed to help the applicant develop the best possible project proposals to achieve his/her objectives. The project proposal is reviewed for potential duplication or overlap, and compatibility with existing plans and programs of State and County agencies.

APPROVAL REQUIRED: STATE CLEARINGHOUSE REVIEW

1. Application: State Department of Planning and Economic Development; Federal agency which provides the federal funds for the particular project.

Data required for processing:

A. Standard Form 424 (See Page 88). This must be submitted to State Clearinghouse at least sixty (60) days before the application for Federal funds is submitted. This form serves as notification of intent and summary description of the proposed project.

B. If a detailed plan or program has been developed, two copies should be submitted with Standard Form 424.

C. Projects involving construction or major land use changes are required to provide site maps, tax map keys, and evidence of coordination with the State Dept. of Health, State Dept. of Land and Natural Resources, and the State Office of Environmental Quality Control.

2. Review: State Department of Planning and Economic Development; Federal agency involved; Other agencies having programs which might be affected by the project.
3. Approval: Federal agency involved in project.

FOR INFORMATION AND PROCESSING CONSULT:

Department of Planning and Economic Development
State Clearinghouse
State of Hawaii
250 South King Street
Honolulu, Hawaii 96813

Phone: (808) 548-3016

STATE LAND USE COMMISSION DISTRICT BOUNDARY AMENDMENT

ACTIVITY: The following people may file a petition to the State Land Use Commission for the redistricting of land in the 'Applicable Area': (1) Land Use Commission; 2) State departments or agencies; 3) County departments or agencies in which the land is situated; and 4) Any person with a property interest in the land sought to be reclassified.

APPLICABLE AREA: Lands within the State Urban, Rural, Agricultural or Conservation Districts.

SOURCE OF LEGAL AUTHORITY: Chapter 205, Hawaii Revised Statutes, as amended; State Land Use Commission's Rules of Practice and Procedure and District Regulations

PURPOSE: To provide a mechanism to redesignate land areas to more appropriate land use districts.

APPROVAL REQUIRED: STATE LAND USE COMMISSION DISTRICT BOUNDARY AMENDMENT

For petitions less than 15 acres in Agricultural, Rural and Urban Districts, check process of appropriate County Planning agency.

For Petitions to reclassify Conservation District lands, and petitions to reclassify lands in the Urban, Rural and Agricultural Districts of more than 15 acres, the following procedure would apply:

1. Application: State Land Use Commission
   Data required for processing:
   Format and information required for petitions is included in the State Land Use Commission's Rules of Practice and Procedure and District Regulations, dated December, 1975, as amended.
2. Review: Appropriate County agencies as identified by the Planning Department of the county involved; State Land Use Commission; State Department of Planning and Economic Development; any Intervenor that is admitted into the proceeding.
3. Approval: State Land Use Commission

FOR INFORMATION AND PROCESSING CONSULT:

State Land Use Commission
Old Federal Building
335 Merchant Street, Rm. 104
Honolulu, Hawaii 96813

Phone: (808) 548-3039

VARIANCE FROM POLLUTION CONTROLS

ACTIVITY: Any emission or discharge of a pollutant or noise which exceeds applicable standards.

APPLICABLE AREA: State of Hawaii.

SOURCE OF LEGAL AUTHORITY: Chapters 321, 340E and 342, Hawaii Revised Statutes; Title 11, Administrative Rules, Chapter 42, 54, and 59.

PURPOSE: The emission or discharge occuring or proposed to occur does not substantially endanger human health or safety.

APPROVAL REQUIRED: VARIANCE FROM POLLUTION CONTROLS

1. Application: State Department of Health — Environmental Protection and Health Services Division

Data required for processing:
Submit together with application form any additional information which will support it for the

variance (i.e., statements, plans, area maps, histories, etc., label "Attachment F-1").
2. Review: State Department of Health — Environmental Protection and Health Services Division
3. Approval: State Department of Health — Environmental Protection and Health Services Division

FOR INFORMATION AND PROCESSING CONSULT:
Department of Health
Environmental Protection and Health Services Division
State of Hawaii
1250 Punchbowl Street
Honolulu, Hawaii 96813

Phone: (808) 548-6455

WELL DRILLING/MODIFICATION

ACTIVITY: Anyone proposing to drill a well, modify an existing well or abandon a well must apply for a permit.

APPLICABLE AREA: State of Hawaii.

SOURCE OF LEGAL AUTHORITY: Hawaii Revised Statutes, Chapters 177 and 178; Title 13, Subtitle 7, Chapter 166 of the Administrative Rules entitled "Rules of the Control of Ground Water Use in the State of Hawaii".

PURPOSE: To provide a meaningful information base for making administrative decisions on the designation, allocation and use of ground water resources in the state.

APPROVAL REQUIRED: WELL DRILLING/MODIFICATION
1. Application: State Dept. of Land and Natural Resources — Division of Water and Land Development
Data required for processing:
Site and construction plans.
2. Review: State Dept. of Land and Natural Resources — Division of Water and Land Development
3. Approval: State Board of Land and Natural Resources

FOR INFORMATION AND PROCESSING CONSULT:
Department of Land and Natural Resources
Division of Water and Land Development
1151 Punchbowl Street
Honolulu, Hawaii 96913

Phone: (808) 548-7539

ZONE OF MIXING

ACTIVITY: Discharging waste material into a location where water quality standards for that area would be violated.

APPLICABLE AREA: All waters surrounding the Hawaiian Islands.

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Honolulu District: 404 Cooke Street
P.O. Box 4015 • Honolulu, Hi 96813 • Ph. (808) 531-3502

SOURCE OF LEGAL AUTHORITY: Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500; Chapter 342, Hawaii Revised Statutes; Title II, Administrative Rules, Chapter 54

PURPOSE: The discharge occurring or proposed to occur does not substantially endanger human health or safety, does not violate basic standards applicable use of the water areas for which it is classified, and has received the best degree of treatment or control practicable under existing technology or, in the case of the proposed discharge, will receive the best available demonstrated pollution control technology, processes and operating methods.

APPROVAL REQUIRED: APPLICATION FOR ZONE OF MIXING

1. Application: State Department of Health — Environmental Protection and Health Services Division

Data required for processing:
Complete and detailed description of present conditions, an explanation of how these conditions do not conform to standards and other pertinent information.

2. Review: State Department of Health — Environmental Protection and Health Services Division
3. Approval: State Department of Health — Environmental Protection and Health Services Division

FOR INFORMATION AND PROCESSING CONSULT:

Department of Health
Environmental Protection and Health Services Division
State of Hawaii
645 Halekauwila Street
Honolulu, Hawaii 96813

Phone: (808) 548-6410

Kauai

Department of Transportation
Highways Division
State of Hawaii
3060 Eiwa Street
Lihue, Hawaii 96766

Phone: 245-4461

Hawaii

Department of Transportation
Highways Division
State of Hawaii
50 Makaala Street
P.O. Box 4277
Hilo, Hawaii 96720

Phone: 935-3347

NEW ACCESS POINT OR RELOCATING EXISTING ACCESS POINT FOR STATE HIGHWAYS

ACTIVITY: Creation of any new access, or widening or relocation of any existing access by a property owner.

APPLICABLE AREA: State of Hawaii.

SOURCE OF LEGAL AUTHORITY: Chapter 264, Hawaii Revised Statutes.

PURPOSE: To regulate and control access points to and from State highways.

APPROVAL REQUIRED: NEW ACCESS POINT OR RELOCATING EXISTING ACCESS FOR STATE HIGHWAYS

1. Application: State Department of Transportation — Highways Division

Data required for processing:

   a. Three (3) sets of construction plans.
   b. Performance bond. A letter of guarantee is accepted for government agencies.
   c. Certificate of Insurance with the State of Hawaii being the additional or co-insured.
   d. Data required in 1b and 1c should be submitted upon approval of the construction plans by State Department of Transportation Highways Division.

2. Review: State Department of Transportation — Highways Division
3. Approval: State Department of Transportation — Highways Division

FOR INFORMATION AND PROCESSING CONSULT:

Maui

Department of Transportation
Highways Division
State of Hawaii
650 Palapala Drive
Kahului, Hawaii 96732

Phone: 877-5061

Kauai

Department of Transportation
Highways Division
State of Hawaii
3060 Eiwa Street
Lihue, Hawaii 96766

Phone: 245-4461

Hawaii

Department of Transportation
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Hanakai St. Kahului, Maui Ph. 871-8888

WOOD PROTECTION CO.
150 Keaa St.
Hilo, Hawaii 96720
Ph. 961-4477

HISTORIC PRESERVATION CHAPTER 6E COMPLIANCE

ACTIVITY: Any undertaking by an agency or officer of the State which may affect a significant historic property. Undertakings include: highway construction by the Dept. of Transportation, land subdivisions and awards by the Dept. of Hawaiian Home Lands, conservation district use applications, boundary petitions reviewed by the Land Use Commission, environmental impact statements reviewed by the Office of Environmental Quality Control, etc.

APPLICABLE AREA: State of Hawaii

SOURCE OF LEGAL AUTHORITY: Chapter 6E, Hawaii Revised Statutes.

PURPOSE: To ensure that state agencies and officials adequately consider the impacts of their undertakings on significant historic properties and take acceptable steps to see that any impacts to significant properties are reduced.

APPROVAL REQUIRED: Written approval by the Historic Sites Section.

1. Application: Historic Sites Section.
   Data required for processing:
   a. One (1) copy of a historic preservation review that includes (1) an inventory of historic properties in the project area, (2) initial significance assessments for all such properties, (3) a statement of effect (impact) for all significant properties, and (4) plans (historic preservation management plans) to mitigate the effects on any significant property that will be affected. The steps in such reviews are often submitted incrementally. Minimal standards for historic preservation review are now being prepared. Until these are completed and come into effect, the agency or official should contact the Historic Sites Section for information required in the review.
   b. Filing fee: none.
2. Review: Historic Sites Section
3. Approval: Historic Sites Section

FOR INFORMATION AND PROCESSING CONSULT:

Historic Sites Section
Division of State Parks
Dept. of Land & Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, Hawaii 96809

Phone: (808) 548-7460

PERMIT FOR WORK AT HISTORIC PROPERTIES ON STATE-OWNED OR CONTROLLED LANDS

ACTIVITY: Any work at a historic property on state owned or controlled lands. This includes archaeological research, restoration, stabilization, clearing, exhibition, etc.

SOURCE OF LEGAL AUTHORITY: Chapter 6E, Hawaii Revised Statutes.

PURPOSE: To ensure that such work meets acceptable standards and will not damage historic properties.

APPROVAL REQUIRED: Approval by Historic Sites Section.

1. Application: Historic Sites Section.
   Data required for processing:
   a. One (1) copy of proposed work, to meet minimal standards of archaeological research and/or site development. Minimal standards are now being prepared. Until these come into effect, the applicant should contact the Historic Sites Section for information required in a proposal.
   b. Filing fee: None.
2. Review: Historic Sites Section.
3. Approval: Historic Sites Section.

FOR INFORMATION AND PROCESSING CONSULT:

Historic Sites Section
Division of State Parks
Dept. of Land & Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, Hawaii 96809

Phone: (808) 548-7460

HISTORIC PRESERVATION SECTION 106 COMPLIANCE

ACTIVITY: Any federal agency's undertaking that may affect any historic property that is included on or eligible for inclusion on the National Register of Historic Places. Undertakings range from federally-funded highway and airport projects, to Community Development Block Grants, to federal permits such as Army Corps of Engineer permits, to FMHA loans.

APPLICABLE AREA: United States.

SOURCE OF LEGAL AUTHORITY: U.S. National Historic Preservation Act of 1966, as amended (Public Law 89-665); Executive Order 11593; associated federal regulations.

PURPOSE: To ensure that federal agencies take into account the effect of their proposed undertakings on significant historic properties listed on or eligible for inclusion on the National Register of Historic Places and attempt to reduce any adverse impacts.

APPROVAL REQUIRED: State Historic Preservation Office, National Park Service, U.S. Advisory Council on Historic Preservation.

1. Application: Initially to State Historic Preservation Officer.
   Data required for processing:

   a. Several steps of historic preservation review are involved — all of which must meet federal requirements. (1) Step 1 requires the agency to inventory historic properties in the project area if significant properties are likely to be present and to initially determine if any properties are eligible for or are on the National Register. Submittal to the SHPO is required. If such properties are not present, review ends. If such properties are present, then the National Park Service's National Register Program is contacted for an official determination. (2) Step 2 requires the agency to determine the effect of the undertaking on such National Register properties. Submittal to the SHPO is required. If there is no effect, review ends. If there is an effect, then mitigation plans are required. (3) Step 3 involves the preparation of mitigation plans by the agency. Such plans are submitted to the SHPO for review, consultation and/or approval. Then the plans are submitted to the Advisory Council on Historic Preservation for review, consultation and/or approval. Agreed upon plans become legally binding.

   b. Filing fee: None.

2. Review: State Historic Preservation Office, National Park Service National Register Program, U.S. Advisory Council on Historic Preservation.

3. Approval: State Historic Preservation Office, National Park Service National Register Program. U.S. Advisory Council on Historic Preservation.

FOR INFORMATION AND PROCESSING CONSULT:

Historic Sites Section
Division of State Parks
Dept. of Land & Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, Hawaii 96809

Phone: (808) 548-7460

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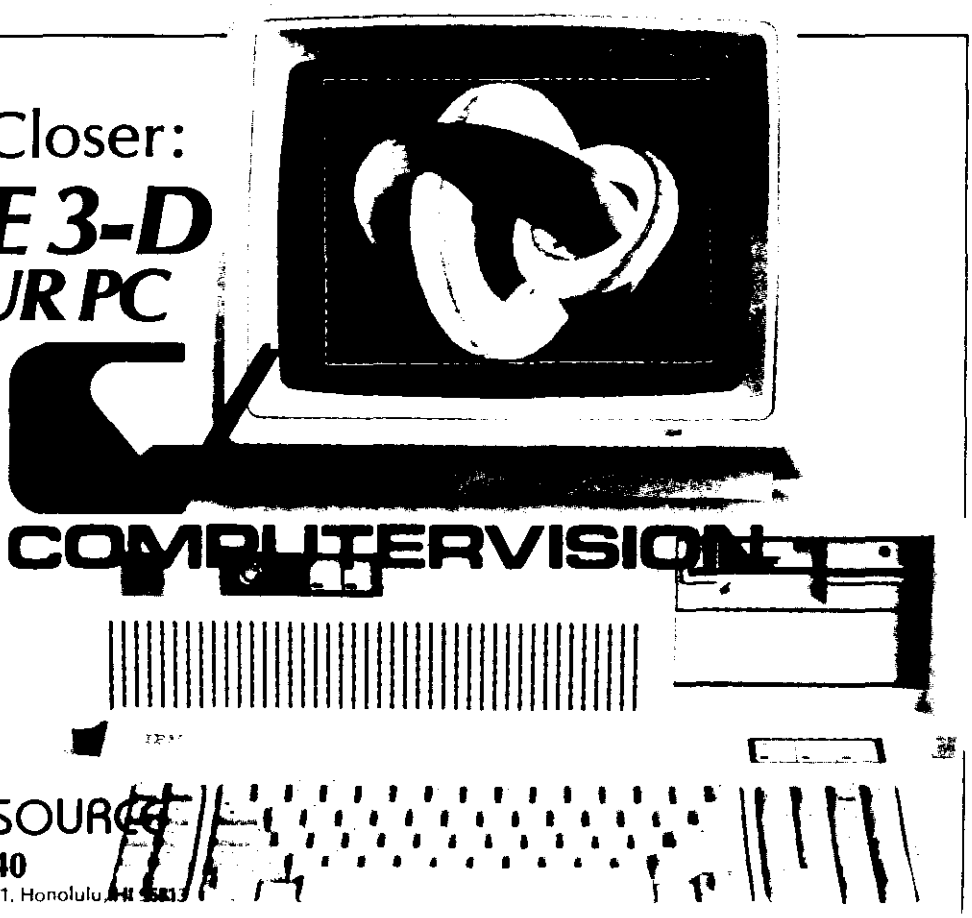

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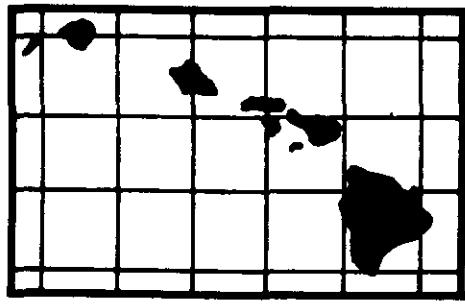

FEDERAL PERMITS

DEPARTMENT OF THE ARMY PERMIT FOR ACTIVITIES IN WATERWAYS

ACTIVITY: Any person, firm or agency (including Federal, State and local governmental agencies) who plan to do work in the waters of the United States must obtain a permit from the U.S. Army Corps of Engineers. Typical activities include construction of seawalls, piers, dredging and excavation, and depositing fill.

APPLICABLE AREA: Waters of the United States include ocean water; coastal, inland and tidal waters, tidal ponds, fishponds, rivers, streams and adjacent wetlands; impoundments, perched wetlands, and intermittent streams.

SOURCE OF LEGAL AUTHORITY: Section 10 of the River and Harbor Act, Approved March 3, 1899 (33 USC 403); Section 404 of the Clean Water Act (33 USC 1344); Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 USC 1413); Regulatory Programs of the Corps of Engineers, as published in the Federal Register, July 22, 1982 (33 CFR Parts 320-330)

PURPOSE: To insure that our nation's water resources are safeguarded and used in the best interest of the public.

APPROVAL REQUIRED: Activities in Waterways

1. Application: U.S. Army Corps of Engineers — Operations Branch

   Data required for processing:
   A. One (1) set of plans of the proposed activity drawn on 8½" x 11" sheets, showing the vicinity map, plan view and typical section.
   B. Environmental information.
   C. Coastal Zone Management certification.
   D. Copies of local government permits or applications.
   E. Permit fee: commercial or industrial use — $100.00, non-commercial use — $10.00. Fees should not be submitted with permit application, but will be collected prior to issuance of the permit.
2. Review: U.S. Army Corps of Engineers; Appropriate government agencies; Special Interest Groups; General Public
3. Approval: U.S. Army Corps of Engineers

FOR INFORMATION AND PROCESSING CONSULT:

U.S. Army Corps of Engineers
Operations Division
Fort Shafter, Bldg. 230
Honolulu, Hawaii 96858

Phone: (808) 438-9258

ENVIRONMENTAL IMPACT STATEMENTS

ACTIVITY: Environmental impact statements are required by NEPA for major federal projects and permit action in Hawaii. NEPA EIS's go through a scoping process, a draft EIS stage, public hearings, and a final EIS stage. An EIS-NEPA is required for private projects if: a) the project requires issuance of a Federal permit and b) the project constitutes a major action significantly affecting the environment.

APPLICABLE AREA: State of Hawaii.

SOURCE OF LEGAL AUTHORITY: National Environmental Policy Act of 1969 (NEPA), Public Law 91-190; National Council of Environmental Quality Guidelines

PURPOSE: To serve as an action-forcing device to insure that the policies and goals defined in the Act are infused into the ongoing programs and actions of the Federal government. It shall provide full and fair discussion of significant environmental impacts and reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment.

APPROVAL REQUIRED: EIS-NEPA

1. Application: The Federal Agency under whose jurisdiction the proposed land development project falls.

   Data required for processing:
   The EIS is to be a thorough, detailed evaluation of the environmental consequences of the proposed action. The document is to include sufficient detail so that responsible decision-makers, and the public, have an accurate picture of its possible consequences. Contract and format requirements are quite specific and are detailed in the Guidelines referred to above. While the

Federal Agency is theoretically responsible for preparing the document, in practice the applicant must generate the required information and perform necessary analysis.
2. Review: State Environmental Quality Commission; President's Council on Environmental Quality
3. Approval: President's Council on Environmental Quality

FOR INFORMATION AND PROCESSING CONSULT:
The Federal Agency under whose jurisdiction the proposed land development project falls under.

NOTICE OF CONSTRUCTION, ALTERATIONS, ACTIVATION, AND DEACTIVATION OF AIRPORTS

ACTIVITY: Any person proposing to construct, alter, activate, or deactivate a civil or joint use (civilian/military) airport, must notify the Administrator, Federal Aviation Administration. This does not apply to any project which Federal Aid has been requested under the Federal Airport Act, the Airport and Airway Development Act of 1970, or to any project involving a temporary airport which is intended to be used solely in VFR weather conditions for a period of not less than 30 consecutive days with no more than 10 operations a day.

Project requiring notice:
a. Construct or otherwise establish a new airport or activate an airport.
b. Construct, realign, alter, or activate any runway, landing strip, or associated taxiway for a period of one year or more.
c. Deactivate, discontinue using, or abandon an airport, runway, landing strip, or associated taxiway for a period of one year or more.
d. Change the status of an airport from personal use (exclusive use by the owner or other persons authorized by the owner), to an airport open to the public.

APPLICABLE AREA: United States.

SOURCE OF LEGAL AUTHORITY: Part 157 is codified under Subpart I, Airports, or Title 14 of the Code of Federal Regulations; Federal Aviation Regulations, Part 157, as published January 1975; Advisory Circular No. 70-2D, dated August 1, 1979

PURPOSE: To promote public health and safety.

APPROVAL REQUIRED: NOTICE OF CONSTRUCTION, ALTERATIONS, ACTIVATION, AND DEACTIVATION OF AIRPORTS

1. Application: Federal Aviation Administration (FAA), Pacific-Asia Branch

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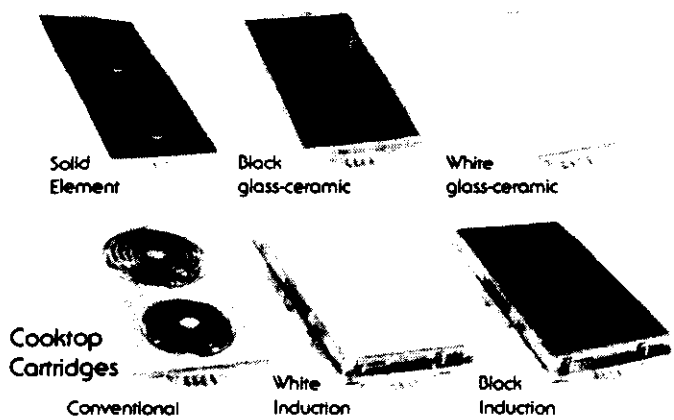

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Miyashiro

For the complete story on Jenn-Air home appliances, call Juro Ushijima or Chester Miyashiro.

Hawaii

County Government Contacts

Activity	Person to Call	Telephone
Project Plans/Specs	Robert K. Yanabu (section head) - Civil	961-8327
	Herbert Hayama - Building	961-8331
	Harold Sugiyama - Sewers & Sanitation	961-8338
	Richard Nishimura - Traffic	961-8341
Engineering Service	Bruce McClure	961-8321
Engineering & Surveys	Robert K. Yanabu	961-8327
Building Constr./Maint. & Code Enf.	Herbert Hayama	961-8331
Electrical Inspection	Iemasa Kubo	961-8331
Plumbing Inspection	Kokichi Hara	961-8331
Building Inspection	Wallis Nagareda (Hilo)	961-8331
	Colbert Nozaki (Kona)	323-2661
Safety Coordination	Albert Nakano	961-8215
Building Permits	Wayne Onomura	961-8331
Sewerage/Sewage Pump	Harold Sugiyama	961-8338
Drainage	Robert K. Yanabu	961-8327
Traffic Signs/Marking & Parking Meters	Richard Nishimura	961-8341
Traffic Signals & Street Lights	Lynn Jakahi	961-8341
Highway Construction/Maint.	Richard Mitsumori	961-8349
New Paving	Robert K. Yanabu	961-8327
Water Works	William Sewake (Department of Water Supply)	969-1421
Bid/Contract Award Information	Bruce McClure	961-8321
Parks/Recreation Construction	Glenn Miyao	961-8311
Purchasing/Accounts	Bill Gray	961-8231
Finance/Payments	Gary Takamura	961-8241
Materials Prequalification	Bruce McClure	961-8321
School Construction	Herbert Watanabe (State Department of Education)	961-7201

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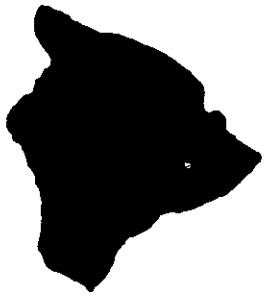

Hawaii

County Agencies

DEPARTMENT OF PLANNING

The members of the Planning Department, which consists of a planning director, a Planning Commission and a Board of Appeals, are appointed by the mayor and approved by the council.

The Planning Commission consists of nine members and the Board of Appeals of seven members. They retain a staff to support their activities.

The chief engineer of the Department of Public Works and the manager of the Department of Water Supply are ex-officio members of the department without voting authority.

In addition to his duties with the Planning Department, the planning director is the chief planning officer of the county and the technical advisor to the mayor and the council on all planning and related matters.

The Planning Commission holds public hearings when necessary, publishing an advance notice of time and place of the hearings. They recommend any change of the land use boundaries to the State Land Use Commission. However, they act only as an advisory body to the mayor, council and the planning director.

Land is designated for urban, agricultural, rural or conservation use. Under state laws, the county zones are all urban districts.

The Board of Appeals hears and decides appeals from actions of the director and the Planning Commission; appeals from actions of the Chief Engineer in the enforcement an of building, electrical, plumbing, housing and excavation, fills, grading, grubbing, stockpiling and erosion and sedimentation control chapters of the code. The board has jurisdiction including but not limited to variances from the housing, building, plumbing, and electrical chapters of the code;

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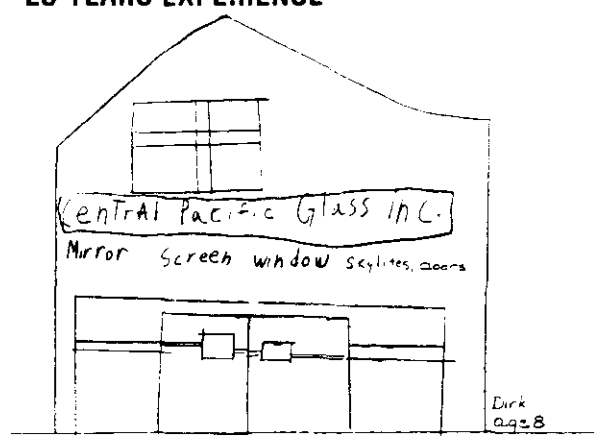

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and adoption, amendment, or repeal of any rule of the board.

Telephone: 961-8288. Address: County Building.

DEPARTMENT OF PARKS & RECREATION

The responsibilities of the Department of Parks and Recreation are varied and extensive. Among the facilities for which it is responsible are seven county swimming pools, 25 community parks, 31 beach parks, 9 neighborhood parks, a municipal golf course, zoo, gymnasiums and tennis courts, the Civic Auditorium, a regional sports complex (Hoolulu) and Island-wide senior citizens program, and the Veterans and Alae Cemeteries.

The Director of Parks and Recreation is appointed by the mayor.

Telephone: 961-8311. Address: County Building.

DEPARTMENT OF FINANCE

The Department of Finance is headed by a director appointed by the mayor and consists of five divisions.

The Division of Accounts, headed by a controller, maintains a general accounting system for the county. Included among the responsibilities for the department are preparation of payrolls, claim warrants, pensions, financial reports, and real and personal property inventories.

The Budget Division assists the mayor and director in preparing and executing the capital budget, operating budget and operating program. It is headed by the budget officer.

The Purchasing Division operates a centralized purchasing system for the procurement of services, supplies and equipment for all county agencies except the Department of Water Supply, Hawaii Redevelopment Agency and the Office of Economic Opportunity. Competitive bidding is required if the amount of purchase is expected to exceed $4,000.00 The division is headed by the purchasing agent.

The Treasury Division is custodian of all public funds and handles collections, deposits and disbursements. It is also responsible for registration of motor vehicles and issues business, occupational, bicycle, dog and other miscellaneous licenses. The division is headed by the treasurer.

The Real Property Tax Division assesses, bills and collects real property taxes.

Telephone: 961-8201. Address: 865 Pilani St., Hilo.

DEPARTMENT OF RESEARCH & DEVELOPMENT

The director of Research & Development, who is appointed by the Mayor, has the responsibility to maintain the county's Municipal Reference Center and disseminate data needed for managerial and legislative decision-making, as well as program and policy-making.

The department encourages and supports economic development projects, including, but not limited to visitor industry promotion, agriculture and new and emerging industries such as astronomy, aquaculture, electronic assembly and other light manufacturing industries.

Telephone: 961-8366. Address: 34 Rainbow Dr.

Department of Public Works

The Department of Public Works shall be headed by a chief engineer appointed by the mayor. The chief engineer must be a registered professional engineer. The powers, duties and functions of the department shall be prescribed by ordinance.

The chief engineer is also an ex-officio member of the Water Commission and the Planning Commission.

Telephone: 961-8321. Address: County Building.

WASTEWATER AND SOLID WASTE DIVISION

The Wastewater and Solid Waste Division is responsible for the operation and maintenance of the county's sewage and solid waste disposal systems and the development of programs for construction and operation of new facilities for sewerage systems and solid waste disposal.

Telephone: 961-8338. Address: County Building.

HIGHWAY MAINTENANCE DIVISION

The Highway Maintenance Division provides road maintenance service through the South Hilo, North Hilo-Hamakua, North and South Kohala, North and South Kona, Ka'u and Puna road districts. The bureau provides repairs and maintenance and improvements of all county roads and streets and does limited construction of new roadways and widening and resurfacing of existing roadways; also, maintains flood control structures and drainage channels, solid waste disposal sites and transfer station sites and rural cemeteries.

Telephone: 961-8349. Address: County Buildings.

ENGINEERING AND SURVEYS DIVISION

The Engineering and Surveys Division is responsible for surveying, designing, reviewing and inspecting the civil engineering aspects of subdivisions, drainage, grading, roads, bridges and flood control. The division performs land

rights surveys for acquisition and construction surveys; also, prepares the maps and description requirements thereof. The division also reviews processing of variances, special permits for subdivisions, zone changes, land use, shoreline and related subjects.

Telephone: 961-8327. Address: County Building.

BUILDING DIVISION

The division is responsible for all code enforcement inspection programs pertaining to building construction and is responsible for the design and construction of building facilities.

The division is also responsible for the repair and maintenance of all Hawaii County buildings and bridges.

Telephone: 961-8331. Address: County Building.

TRAFFIC SERVICES DIVISION

The Traffic Services Division is responsible for the operation and maintenance of traffic control devices on all county highways, including traffic signals, street lights, signs and markings, and parking meters and facilities.

Telephone: 961-8341. Address: County Building.

Hawaii

Utilities

ELECTRIC

Hawaii Electric Light Co. Inc. (HELCO) was organized in 1894 as Hilo Electric Co. and franchised in 1895 to generate and sell electricity in the Hilo area. By 1921 it was serving a number of populated sections well beyond the Hilo district.

In February, 1970, HELCO became a wholly owned subsidiary of Hawaiian Electric Co., Inc.

HELCO's peak load was 102 megawatts in 1985, and that year the company sold 505 million kilowatthours of electricity to its more than 41,000 metered customers.

HELCO's generating units at four locations (Kamuela, Kanoelehua, Keahole and Waiakea) have a total generating capability rating of 101,000 kilowatts.

The company also purchases biomass-fueled electricity under firm contracts from Big Island sugar plantations, and it purchases wind, hydro and geothermal-generated power from other producers selling electricity from those resources. Of the 505 million kilowatthours of electricity sold to HELCO customers, 36 percent was supplied by the sugar companies, 3 percent was generated using steam from the experimental geothermal power plant at Pohoiki, and 1 percent came from small hydro sources and wind energy.

HELCO's facilities include 556 pole miles of 69 KV and 33 KV transmission lines; 1,896 miles of overhead distribution lines plus 210 miles of underground distribution lines.

HELCO's telephone number is 935-1171. Service applications may be made at their office building at 1200 Kilauea Ave. in Hilo. Engineering and rate cost estimating assistance is available.

TELEPHONE

Hawaiian Tel provides assistance to Hawaii County's owners, developers, architects, engineers, and contractors in the design and installation of telecommunication systems and their associated support structures. Hawaiian Tel's Building Industry Consulting Service offers design consultation for low cost, and extremely aesthetic support structures for telecommunication systems. These services range from the installation of house wiring to the design of telecommunication network support structures.

Hawaiian Tel's Systems + Services Division provides the latest in telecommunication systems. They have equipment for everyone from the small business firm to hotels, commercial buildings, and high tech facilities.

Hawaiian Tel can also locate and identify underground telephone cable, at no cost, for contractors who are planning to excavate. The supervising engineer for Hawaiian Tel can render assistance in this area from the Hawaii branch office at 935-9459.

For more information on telecommunication systems and support structures call 1-800-272-5266.

GAS

Gasco Inc. (The Gas Company), provides LPG (propane) energy for commercial, industrial and residential applications from four locations throughout Hawaii County: Hilo, Waimea, Kailua-Kona and Naalehu (Ka'u).

Residential sales to individual home owners and contractors; commercial and industrial projects, such as hotels, apartments and subdivisions; and LP carburetion are available. Branch manager — George Lee.

Engineering, technical sales and service assistance is available from business offices in Hilo (945 Kalanianaole Avenue, phone 935-0021)

and in Kailua-Kona (74-5564 Kaiwi Street, phone 329-2984). Additional technical and engineering assistance is available from The Gas Company's main office in Honolulu, phone 1-800-547-3519.

WATER

The County of Hawaii Department of Water is a semi-autonomous agency responsible for the management, control and operation of the county water works system and all related property. It prepares an annual budget, has the authority to issue bonds, and can acquire, by eminent domain, real property in the name of the Water Commission.

The department consists of the Water Commission, manager and necessary staff. The commission is a nine-member body with an appointed representative from each district of the county. The manager, who must be a registered engineer, is appointed by the commission. He serves as an ex-officio member.

Telephone: 969-1421. Address: 25 Aupuni St.

Hawaii
State Agencies

DEPARTMENT OF HAWAIIAN HOME LANDS

The department administers the provisions of the Hawaiian Homes Commission Act (HHCA). It is headed by an executive board known as the Hawaiian Homes Commission, whose eight members are appointed by the Governor with advice and consent of the State Senate.

Pursuant to provisions of the HHCA, the department provides benefits to native Hawaiians in the form of 99-year homestead leases at an annual rental of $1. The department also provides lessees with loans and loan guarantees for home construction, home repair or replacement, and farming. In addition, it also provides technical assistance to farmers, maintains roads and facilities in homestead districts, and operates or provides for water systems. The homesteading program aims to increase the economic self-sufficiency of native Hawaiians throughout the provision of land.

The department also manages real property not used for homesteading purposes by awarding leases, licenses, and issuing permits for commercial, industrial, and other uses. Revenues from income-producing land are used to meet the cost of operating the department since it is special funded.

Developer and contractor inquiries should be directed to the state office at 335 Merchant St. in Honolulu.

East Hawaii District Office — 160 Baker Avenue, Hilo. Phone 935-5575.

West Hawaii District Office — Mamalahoa Highway, Waimea. Phone 885-7091.

DEPARTMENT OF LAND & NATURAL RESOURCES

The department is headed by the Board of Land and Natural Resources. The board's six members are from four land districts and two at large. The department is responsible for implementing public land and natural resource programs and a historic sites program. Various divisions of the department conduct research, develop programs for conservation and utilization of natural resources and assure compliance with concessionaires with program requirements.

The department approves plans for projects being done in conservation districts and plans involving any land developed and subdivided by the state. Plans for projects in conservation districts must be submitted directly to the state office in Honolulu at 1151 Punchbowl St. Other matters pertaining to zoning are generally approved by county governments.

Land Management Division, Hilo, Phone: 961-7245; Water & Land Development, Hilo, Phone: 961-7279. Address: State Building.

DEPARTMENT OF TRANSPORTATION

The State Department of Transportation is responsible for transportation conveniences in the state of Hawaii.

The Highways Division of the department must be consulted when "plans and specifications" include any driveways, or any land which abuts a state highway. Engineers in county district offices generally approve plans dealing with con-

struction in their respective counties.

The Airports Division must be consulted, according to a state law designed to protect all public airports, when "plans and specifications" involve the construction of a building or tower which may encroach into the aircraft approach zones.

Airport managers in the Airports Division of the Department of Transportation in county district airports are authorized to check plans for their respective counties.

Airports Division, Lyman Field - Hilo, Phone: 935-0809; Highways Division, 50 Makaala, Phone: 935-3347. Harbors Division, Phone: 935-4877; Keahole Airport, Phone: 329-2484.

DEPARTMENT OF HEALTH

The Department of Health is responsible for maintaining surveillance and control over environmental hazards in providing safe, sanitary and aesthetically pleasant environment for human habitation and commerce.

Recommendation is made to developers and contractors to consult the department on matters relating to individual waste water systems, public drinking water sources, mechanical ventilation, air conditioning, food purveying, air pollution sources and swimming pools.

District offices provide direct and liaison review services and are authorized to approve construction plans and building permit applications. Plan reviews that require engineering in-put in Honolulu involve Underground Injection Control, Air Conditioning and Mechanical Ventilating (Form 1) and Air Pollution Source Permits.

Telephone: 961-7371. Address: 75 Aupuni Street, Department of Health, P.O. Box 916, Hilo, HI 96720.

Hawaii

Federal Agencies

U.S. COAST GUARD

Any person planning to construct a bridge over navigable waters or build approaches to such bridges will require a permit from the U.S. Coast Guard.

The Coast Guard should also be informed of marine construction that may pose a hazard to safe navigation. If construction (even temporary) obstructs the passage of vessels, or interferes with aids to navigation such as buoys, lights, or beacons, the Coast Guard will publish the information in the "Local Notice to Mariners" which is issued weekly to supplement daily radio reports on hazards to marine navigation.

To apply for a bridge permit, report marine construction, or damage to an aid to navigation, contact:

Commander (oan)
Fourteenth Coast Guard District
PJKK Federal Building, Rm. 9139
300 Ala Moana Blvd.
Honolulu, Hawaii 96850-4982

Telephone: (808) 546-7130

On the island of Hawaii, the Coast Guard Cutter *Cape Small* may be reached at 961-6181. The Coast Guard also has a permanent LORAN station at Upolu Point and the telephone number is 889-6939.

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FEDERAL AVIATION ADMINISTRATION

The Federal Aviation Administration (FAA) must be contacted with regard to permission for construction in and around airports, and construction which protrudes into air space. Those involved in airport construction or deactivation of airports in Hawaii may contact:

Airports District Office
Federal Aviation Administration
Room 7116
Prince Kuhio Federal Office Bldg.

Phone: 546-7129

Mailing Address: P.O. Box 50244
Honolulu, Hawaii 96850

Those involved in construction which protrudes into air space, such as highrise buildings which require FAA permits and safety lighting in regard to aircraft must contact the FAA in Los Angeles.

Mailing Address:

Manager Airspace and Procedures Branch
Federal Aviation Administration
Western-Pacific Region
P.O. Box 92007
Worldway Postal Center
Los Angeles, California 90009

Phone: (213) 536-6182

Those projects which generally require notice to the FAA include the establishment of a new airport, any type of work on runways and/or landing strips, the deactivation of airports, etc. At least 30 days prior notice to the FAA is required in most instances.

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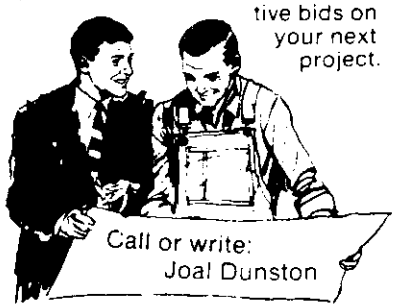

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Joal Dunston

Ph. 848-0711

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Research Department
287 Mokauea St Hon HI 96819

U.S. ARMY CORPS OF ENGINEERS

The Operations Branch of the U.S. Army Corps of Engineers located at Fort Shafter, Oahu, is concerned with construction in and around the waters of the Hawaiian Islands. A permit is required for such construction so that the Corps can keep watch over the nation's water resources and be certain they are safeguarded and used in the public interest.

Approval is required for construction in all navigable waters. These include coastal, inland and tidal waters, tidal ponds, fishponds, rivers, streams and adjacent wetlands. Typical construction activities would be seawalls, piers, dredging and excavation or deposit of fill.

Plans for such work must be submitted to:

Honolulu District Engineer
U.S. Army Corps of Engineers
Building 230
Ft. Shafter, Hawaii 96858

Phone: 438-9258

Although the Corps of Engineers does not maintain offices on any of the Neighbor Islands it's representatives frequently travel between Oahu and all the Islands to inspect on-going projects and enforce federal rules and regulations.

Representatives of the Corps are happy to answer questions while they are visiting Neighbor Island sites and to provide guidance to those who are involved in private construction.

Construction representatives of the Corps work out of its Hawaii Resident Office at Ft. Shafter. Individuals who wish to make contact with them in the field can locate them most readily by calling the Hawaii Resident Office on Oahu at 438-1272.

Hawaii

County Permits

SHORELINE SETBACK VARIANCE

LAW: Chapter 205, Part II, Hawaii Revised Statutes

RULES AND REGULATIONS: Rule No. 8, Planning Commission

RESPONSIBLE AGENCY:
Planning Commission
25 Aupuni Street
Hilo, Hawaii 96720

APPLICABILITY: A variance is required for all proposed construction, improvements, grading, and such related activities within the shoreline setback area. The shoreline is 40 feet inland from the upper reaches of the waves other than storm or tidal except that the shoreline setback may be 20 feet when it meets the requirements of Article 1, Div. 7 Section 25-42(b) of the Zoning Code (Chapter 25).

Projects proposed by government agencies within the shoreline setback area are exempt from the provisions of Rule No. 8 provided that two public hearings are held by the proposing agency — one hearing when the project is first conceived and one hearing prior to letting of the contract.

Special structures necessary for safety reasons or to protect property from erosion or wave damages shall be permitted upon approval by the Planning Director with concurrence of the Chief Engineer of the Department of Public Works, County of Hawaii.

VARIANCE REQUIREMENTS: The variance application is filed with the Planning Commission through the Planning Department. The request should specify the use desired and state the nature of the applicant's interest in the subject matter, his reasons for seeking the variance, and all pertinent facts, maps, plans and data relevant to the request.

A shoreline survey prepared by a registered land surveyor and certified by the Chairman of the Board of Land and Natural Resources must accompany the request. The shoreline survey shall have been certified within six months prior to filing an application.

The filing fee is $100.

A Special Management Area (SMA) Use Permit application shall accompany the variance application — unless previously approved for same project.

PROCEDURE AND REVIEW CRITERIA: In order to grant a setback variance from the rules and regulations, the Planning Commission must find (1) that such structure, activity or facility is in the public interest; or (2) that hardship will be caused to the applicant if the proposed structure, activity, or facility is not allowed on that portion of the land within the shoreline setback.

The Planning Commission shall render written approval or disapproval within 45 days after the public hearing unless such period is extended by written agreement between the governmental body and the applicant.

An SMA Use Permit must be approved prior to the granting of approval for a shoreline setback variance.

PERMIT TO CONSTRUCT DRIVEWAY ONTO COUNTY HIGHWAY

LAW: Hawaii County Code, Chapter 3, Article 2, Section 11

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73-5582 OLOWALU ST. KAILUA-KONA, HAWAII 96740

APPLICABILITY: A "Planned Unit Development" (PUD) is to encourage comprehensive site planning which induces optimum adaptation of development to the land by allowing diversification in the relationship of various uses, buildings, structures, open spaces and yards, building heights, and lot sizes in planned building groups while still insuring that the intent of the Zoning Code is observed.

No PUD shall be considered by the Planning Department that proposes a use that is not permitted either directly or as a conditional use within the district unless a separate application for rezoning accompanies or has preceded the filing of the application for approval of the PUD.

The minimum area of Planned Unit Development shall be two (2) acres.

REQUIREMENTS: A "Planned Unit Development" application is submitted to the Planning Department. The applicant is required to provide the following data:

a. Name and mailing address of the applicant and if not the owner of the property, owner's approval is required.
b. Description of the property in sufficient detail.
c. Drawings and plans comprising a general develoment plan covering the entire area of the PUD. Plans shall show: uses, dimensions and locations of proposed structures; streets, pedestrian ways and etc.; parking areas; public uses; landscaping and open spaces; schedule of development; architectural drawings demonstrating the design and character of the proposed buildings and uses.
d. Any other information or plans deemed necessary by the Planning Department.
e. Petitioner's reasons for requesting a PUD.

There is a filing fee of $100.

PROCEDURE AND REVIEW CRITERIA: The Planning Commission shall, within sixty (60) days consider the application at a preliminary hearing. The Commission shall refund the filing fee if it determines that the application does not meet the requirements as set forth in Charter Section 5-4.3(g). If the Commission believes that said requirements may be met, it shall schedule a public hearing within thirty (30) days after said preliminary hearing, or within such longer period as may be found to be in the best public interest.

In order to approve a PUD, the Planning Commission shall find the following:

a. That the construction on the project shall begin within a reasonable period of time from the date of full approval and shall be completed within a reasonable period of time.
b. That the proposed development substantially conforms to the County General Plan.
c. That all residential development shall constitute an environment of sustained desirability and stability, shall be in harmony with the character of the surrounding neighborhood, and shall result in an intensity of land utilization no higher than, and standards of open space at least as high as permitted or as otherwise specified for the district in which this development occurs.
d. That all commercial development shall create no traffic congestion, shall not interfere with any projected improvements, shall provide for proper entrances and exits along with proper provisions for internal traffic and parking, and shall be an attractive center with no adverse effect upon the adjacent and surrounding existing or prospective development.
e. That all industrial development shall be in conformity with desirable performance standards and shall constitute an efficient and well-organized development with adequate provisions for freight service and necessary storage, and that such development shall have no adverse effects upon adjacent and surrounding existing or prospective development.
f. That the development of a harmonious, integrated whole justifies exceptions, and that the contemplated arrangements or use make it desirable to apply regulations and requirements differing from those ordinarily applicable under the district regulations.

Partial approval may be given where architectural plans and drawings have not been submitted with the original application but no building permit shall be issued nor any construction commence unless and until said drawings have been considered and approved by the Planning Department and full approval of the PUD secured.

Application for any extension shall be filed in the office of the Planning Department not less than sixty (60) days prior to the expiration date. Within forty-five (45) days after receipt of such application, the Planning Department shall hold a hearing and take action thereon and if any extension is granted, the Planning Department may impose additional conditions as required.

GENERAL PLAN AMENDMENT

LAW: Hawaii County Ordinance 761.19682

RULES AND REGULATIONS: None

RESPONSIBLE AGENCIES:

County Council
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

Planning Commission
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

APPLICABILITY: A General Plan Amendment is required to amend the General Plan goals, policies, standards, land use pattern maps and zoning acreage allocations.

REQUIREMENTS:

Amendments Pursuant to Comprehensive Review
The Planning Director may initiate amendments

pursuant to the comprehensive review required of and by the General Plan.

The Planning Director shall conduct a public workshop on a proposed amendment prior to submitting it to the Planning Commission. Within sixty (60) days of receipt of the Planning Director's proposed amendment, the Commission must hold a public hearing on the proposed amendment. Within sixty (60) days of the conclusion of the public hearing, the Commission must submit its comments and recommendations to the County Council. The Council then reviews the Commission's recommendations and acts on the Director's proposals.

Interim Amendments

Members of the general public, the Council, and the Planning Director may propose or initiate amendments to the General Plan at any time other than during the comprehensive review period. Members of the general public may propose an amendment by filing a written petition with the Planning Director. Such a petition must include: a) a $100 filing fee; b) a statement of the nature of the petitioner's interest; c) a draft of the language of the proposed amendment; d) an environmental impact statement; e) a statement of the reasons for granting the proposed change, supported by a written, documented analysis of the General Plan and using all pertinent elements upon which the General Plan is based; and f) graphs, plot plan, and other supportive information.

Upon receipt of a properly filed and completed petition, the Planning Director has one hundred eighty (180) days to study the petition, and then either recommend approval or recommend denial. The Planning Commission shall hold a public hearing on the petition witin sixty (60) days of the date of recommendation. Within sixty (60) days after the close of the hearing, the Planning Commission shall forward its comments and recommendation to the Council. Within thirty (30) days the Council may consider the petition upon two-thirds vote of the Council's membership, and the proposed amendment shall be adopted upon a two-thirds vote of the entire Council.

PROCEDURE AND REVIEW CRITERIA: Proposals from the general public to amend the General Plan goals, policies and standards.

After receipt of a petition and its supporting data, the Planning Director will have one hundred eighty (180) days in which to study the proposal and will either (1) reject the proposal stating his reasons; (2) defer the proposal for up to one (1) year; or (3) initiate the proposed amendments with his recommendations and submit it to the Planning Commission for review.

The Planning Commission, upon receiving the proposed amendment, shall have sixty (60) days to study the proposal and to hold a public hearing. No later than sixty (60) days after the date of the final public hearing on the proposed amendment, the Planning Commission shall forward the proposed amendment together with its recommendations to the County Council.

Proposals from the general public to amend the Land Use Pattern and/or Zoning Acreage Allocations follow the same procedure. The planning director will have up to 180 days to study the proposal.

SPECIAL MANAGEMENT AREA USE PERMIT

LAW: Chapter 205A, Hawaii Revised Statutes

RULES AND REGULATIONS: Rule 9, Planning Commission

RESPONSIBLE AGENCIES:

Planning Commission
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

APPLICABILITY: An SMA Use Permit is required for any development as defined by Chapter 205A-22 which involves lands within the designated Special Management Area. The SMA is defined to include coastal lands lying between the shoreline and an established boundary at 100 yards inland. Maps identifying the SMA are located in the Planning Department Office.

Exemptions are contained in Rule 9.12 or the Planning Commission's Rules and Regulations relating to Environmental Shoreline Protection.

REQUIREMENTS: The applicant must present sufficient data to demonstrate that the project will not have any substantial adverse environmental or ecological effects, except where such effects are clearly outweighed by public health and safety.

To do this, the applicant files a "Special Management Area Use Permit Assessment Form" with the Planning Department. Forms for this purpose are available at the Planning Department.

If the proposed project has significant environmental effects or the cost exceeds $65,000, a major "Special Management Area Use Permit Application" must be filed.

The filing fee for a major SMA Use Permit Application is $100.

PROCEDURE AND REVIEW CRITERIA: Detailed review criteria are specified in Rule 9 of the Planning Commission's Rules and Regulations relating to Environmental Shoreline Protection.

If the cost of the proposed land development project is less than $65,000 and it has no significant effects on the SMA, the Department will issue a minor permit. No public hearing is required.

If the proposed project has significant environmental effects or if its total cost exceeds $65,000, the applicant must file a "Special Management

Area Use Permit Application" with the Department.

In the case of significant effects, an Environmental Assessment will be required by the Department. The assessment is prepared by the applicant addressing the items contained in Rule 9.7 Sections A and D.

If the project requires a major SMA Use Permit, a public hearing is held by the Planning Commission no less than 90 calendar days after the date on which the application is accepted, unless the 90-day period is waived by the applicant. Advance notice is given to the owners of all property within 300 feet of the affected property as well as to all owners of property described in the application. The Department shall give written notice, once in a newspaper of general circulation in the County and once in a newspaper of general circulation in the State, at least 20 calendar days prior to the public hearing. The hearing shall, whenever possible, be held in the Council district in which the development is proposed.

NOTE: Issuance of an SMA permit must, by statute, precede any other necessary land use approval.

CLUSTER PLAN DEVELOPMENT (CPD)

LAW: Hawaii County Code, Chapter 25, Article 22, Section 25-257 through 260 and County Ordinance No. 8324.

RULES AND REGULATIONS: None.

RESPONSIBLE AGENCIES:
Planning Commission
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

APPLICABILITY: A Cluster Plan Development (CPD) permit is required for a single family residential development (subdivision) whereby the lot sizes are reduced below the Single Family Residential (RS) district building site area requirements. The minimum area of a CPD shall be at least two (2) acres.

The purpose of CPD is to provide exceptions to the provisions of the Single Family Residential (RS) district so that permitted density of dwelling units contemplated by the minimum lot size requirements is maintained in single family districts on an overall basis and desirable open space, tree cover, recreational areas or scenic vistas are preserved.

REQUIREMENTS: Application for CPD approval shall be made on a form prescribed by the Planning Department and shall be accompanied by a filing and processing fee as set forth under the Subdivision Code, Chapter 23 of the Hawaii County Code.

PROCEDURE AND REVIEW CRITERIA: The procedure for processing an application for approval of CPD shall be in the manner prescribed for a subdivision application.

The maximum number of lots that may be created under the CPD procedure may be computed by subtracting twenty percent (20%) of the total area being considered for CPD for street right-of-way and dividing the remaining area by the minimum lot area requirement of the single family district or districts in which the CPD is to be located. This method shall apply regardless of the amount of land actually required for street right-of-way. The following shall not be considered as part of the gross acreage in computing the maximum permitted number of lots:

(1) Utilities easements
(2) Land normally subjected to submersion
(3) Land with slopes of more than 30%

The minimum lot size requirements under the CPD are contained in Chapter 25, Article 22, Section 25-260.

The location, extent and purpose of the common land proposed to be set aside for open space or for recreational use within any CPD must be received and approved by the Planning Department before the provisions of Section 25-260.a(4) of Article 22 shall apply. The method of maintenance of common land for open space or recreational use shall be accepted to the Director.

SUBDIVISION VARIANCE

LAW: Hawaii County Code, Chapter 23, Article 2, Section 14

RULES AND REGULATIONS: Rules relating to Administrative Procedure, Planning Commission

RESPONSIBLE AGENCY:
Planning Commission
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

APPLICABILITY: A subdivision variance is required when a person wishes to deviate from the provisions of the Zoning Code (Chapter 25) and the Subdivision Control Code (Chapter 23), e.g. lot size, roadway requirements, average width and etc.

REQUIREMENTS: A variance application is submitted to the Planning Department. Forms are available for this purpose at the Department. The applicant is required to provide the following data:

(a) Name and mailing address of the applicant and if applicant is not the owner of the property, the owner's signature is required;
(b) Description of the property (tax map key);
(c) Request - Reference to the Zoning Code requirement from which a variance is proposed;
(d) Applicant's reasons for requesting a variance showing that the review criteria are met (see PROCEDURE AND REVIEW CRITERIA).

There is a filing fee of $100.00

PROCEDURE AND REVIEW CRITERIA: Upon acceptance of a properly completed application the Planning Department shall set a date for the

Planning Director's consideration of the application. Within three (3) working days after receiving notice of such date, the applicant must serve notice of the application on owners of interests in properties within three hundred (300) feet of the perimeter boundary of the applicant's property and to owners of interests in other properties which the Director may find to be directly affected by the variance being sought. Such notice must state: the applicant's name, the exact location of the property involved; the nature of the use sought and the proposed accompanying structures, if any; the date on which the Director will consider the application; and that such date is the deadline for the Director's actual receipt of written comments on the application. Prior to the deadline for written comment, the applicant must submit to the Director proof of service or of good faith efforts to serve notice of the application on the designated property owners.

No variance may be granted unless it is found that:

1) There are special or unusual circumstances applying to the subject real property which exist either to a degree which deprives the owner or applicant of substantial property rights that would otherwise be available or to a degree which obviously interferes with the best use or manner of development of that property; and
2) There are no other reasonable alternatives that would resolve the difficulty; and
3) The variance shall be consistent with the general purpose of the district, the intent and purpose of this chapter, and the County General Plan and will not be materially detrimental to the public welfare or cause substantial adverse impact to an area's character or to adjoining properties.

The Director shall within sixty (60) days after the filing of a proper application or within a longer period as may be agreed to by the applicant, approve the application subject to conditions, or deny it. If the Director fails to act within the prescribed period, the application shall be considered denied. Such denial may be appealed.

If the Director denies the application, such decision is final except that the applicant may appeal such action in writing to the Planning Commission within thirty (30) days after notice of the decision. All actions of the Planning Commission are final except that within thirty (30) days after notice of action, the applicant or "interested party" (as defined in Section 25.27.o) may appeal such action to the Board of Appeals in accordance with its rules.

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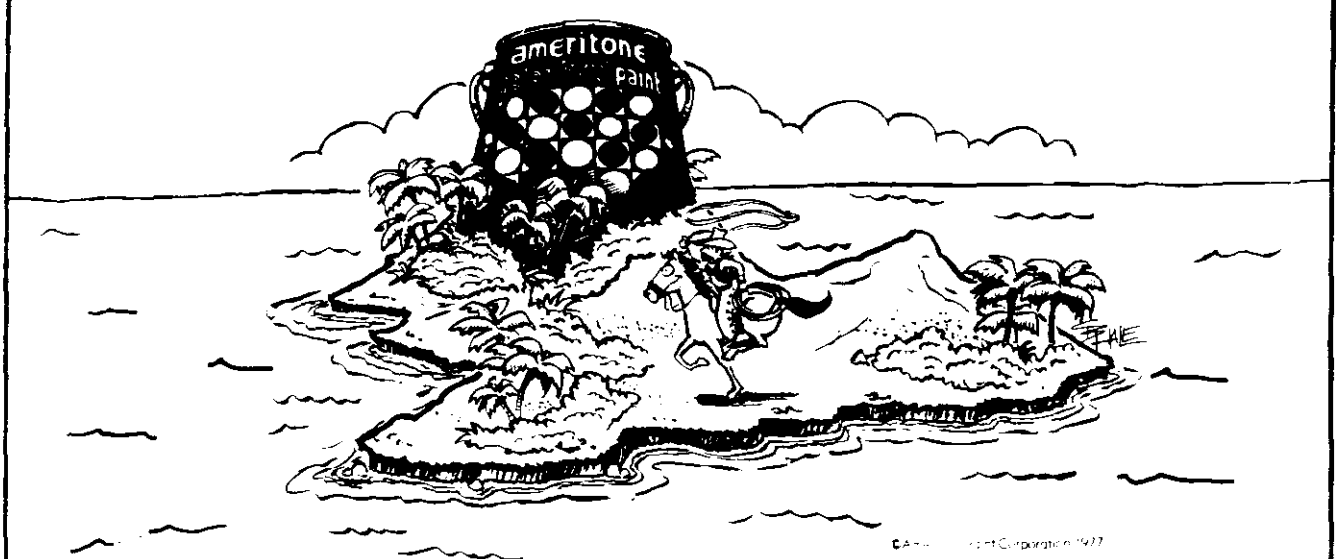

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