



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
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March 19, 2003

Ms. Dierdre S. Mamiya
 Administrator
 Land Division
 Department of Land and Natural
 Resources
 P.O. Box 621
 Honolulu, HI 96809

**SUBJECT: CDUA AND DRAFT ENVIRONMENTAL ASSESSMENT -
 REQUEST FOR COMMENT**

Dear Ms. Mamiya:

Thank you for the opportunity to review the Kona Blue Water Farms CDUA and DEA which involves a lease of State marine waters for the proposed open ocean fish farm in offshore waters near the State's Natural Energy Laboratory.

The Office of Hawaiian Affairs (OHA) has the following comments.

Cultural Resources and Practices (Page 30)

The proposed lease area is too deep for free-diving and for any significant Scuba diving activity.

- According to the local and native Hawaiian community, the location of the proposed cages is in the immediate vicinity of the traditional gathering area: the well known Kona crab. The CDUA mentions this, but lessens the impact by suggesting that the currents are too strong for significant fishing. Several members of the community state that they do fish, dive and gather crabs in the area.

'Opelu Ko'a

- The CDUA mentions the 'opelu ko'a for the general region and acknowledges that the specific locations are part of "marine lore" and is considered inappropriate for publication. This has no bearing that the area is, in fact, used as a traditional fishing ground for opelu. The ko'a does exist - actually a number of them in the specific area designated for the project. The proposed fish cages will negatively impact the 'opelu ko'a and adversely affect Native Hawaiian fishing at Keahole.
- The DEA points out that the Kekaha kupuna stated that the "'opelu ko'a along the north of Keahole Point are not currently fed or fished by either commercial or recreational/artisanal fisherman." This implies that the ko'a is not being kept up and is longer in use. That is not true. Native Hawaiian fishermen take care of the ko'a. Commercial fisherman and recreational users have no use for, or knowledge of 'opelu ko'a in Kona. They would not be a reliable source of information in this instance.

Cultural Practices and Traditional Resources (Page 43)

- Examples cited in the DEA are taken from the Ewa Project on Oahu. None of the examples are from the Keahole fishing area. Abridged transcripts pulled from the Kona Blue Water website (http://www.blackpearlsinc.com/3_4shtml) identify some of the Hawaiians who attended the public meetings to discuss this project. Only two, Mahealani Pai and Paul Chung-Hoon, are from this specific Kona area. All other Hawaiians identified are from the greater Kekaha area, specifically Ka'upulehu and Waimea and would not have specific lineal knowledge of the Keahole area. We suggest the knowledgeable Native Hawaiian practitioners like Jr. Kanuha, Alena Kaiokoa and Josephine Kamoku be contacted. Ms. Geraldine Bell, Director of Kaloko-Honokohau Federal Park should also be contacted for input. She would be able to provide names of specific families directly linked to the Keahole area as well as contacts for the aforementioned individuals.

Land Use and Environmental Compatibility (Page 31)

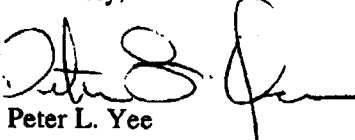
- The ceded land trust is addressed in the DEA in this section with two sentences. HRS 190D is mentioned by stating that 20% of lease revenue should go to OHA. This is not adequate. There is no set formula or criteria on what the lease should be. The proposed lease is for 81 acres of submerged land. However the formula used by the DLNR in determining the lease amount is based on the Department of Agriculture standards. Submerged lands are entirely different than "land based" land and therefore other options should be considered.
- There is the question of biodiversity and bioprospecting - where does this fit in this proposed project? The applicant proposes to lease an 81 acre area of surface, seafloor, and water column of State marine waters and submerged lands. There is no policy or precedent yet set on the ownership of sea surface, seafloor, or water columns. Native Hawaiians do have a partial claim to the submerged lands since, by law, they are considered to be ceded land. However, if this application is approved as is, precedent will be set on the ownership and/or leasing of water columns, seafloors and the ocean surfaces. There has not been enough time and research dedicated to the study of biodiversity in the ocean in regards to Native Hawaiian rights and claims.

Potential Impacts and Mitigation (Page 33)

- The CDUA uses the Ewa Fish Farm project on Oahu as the best example of likely impacts on water quality. The Kona Coast is very different from Oahu in a number of ways. The seabed drops off dramatically, while in Oahu the drop off is gradual. This, in part, results in a different type of ocean current. The ocean around Kona is more "oceanic" in the sense there is less impact from run off and pollution since Kona is not as "land developed" as Oahu. The ocean setting in Kona is more of a natural setting than you find around Oahu. It is our recommendation that consideration be given for a separate study regarding the projects potential impact on water quality
- A FONSI is anticipated for this project. OHA has reservations for the following reasons:
 1. OHA has not received a copy of the Environmental Assessment or the comments of OEQC which have an anticipated publication date in the March 23, 2003 OEQC Environmental Notice. Pursuant to Act 50, a Cultural Impact Assessment must be included in the EA outlining the Native Hawaiian community consultation and the methodology of that consultation.
 2. The CDUA does not identify Native Hawaiian consultants except to quote that "Kekaha kupuna" have given opinions. Kekaha is a very large district and does not necessarily include the project area. It is clear that there was not adequate consultation with the Hawaiian and Native Hawaiian community to provide information for a cultural impact statement. It is recommended the further consultation take place to provide input into the Environmental Assessment.
 3. The CDUA lists consultation with OHA (Colin Kippen, Ruby McDonald, and Donald Cataluna) but does not state what OHA's position or concerns were. For the record, a presentation was made before the OHA Committee on Land but a position was not taken. A least one of the individuals identified had reservations about the proposed project.

If you have any questions, please contact Jerry B. Norris at 594-1847 or email him at jerryn@oha.org

Sincerely,


 Peter L. Yee
 Director
 Nationhood & Native Rights