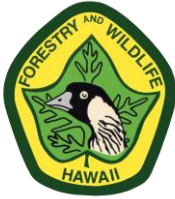
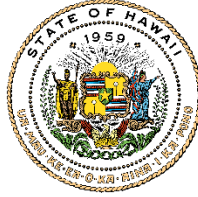


JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



**STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
**KA 'OIHANA KUMUWAIWAI 'ĀINA**

DIVISION OF FORESTRY AND WILDLIFE  
1151 PUNCHBOWL STREET, ROOM 325  
HONOLULU, HAWAII 96813

**DAWN N.S. CHANG**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

**LAURA H.E. KAAKUA**  
FIRST DEPUTY

**M. KALEO MANUEL**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
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ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

October 2, 2023

Jennifer Lim, esq.  
Law Office of Jennifer A. Lim LLLC  
2299 B Roundtop Drive  
Honolulu, Hawai'i 96822

Betsy Wilson  
AKC Leasing Corporation  
2906 Kaihikapu Street  
Honolulu, Hawaii 96819-2012

Dear Ms. Lim and AKC Leasing Corporation,

The Department of Land and Natural Resources (DLNR), Division of Forestry and Wildlife (Division) has received your letters, dated May 18, 2023 and August 8, 2023, requesting to terminate the Bond (No. LPM9170468) in the amount of \$197,500.00 associated with the Incidental Take License (ITL-18) and the Round-Leaved Chaff Flower (*Achyranthes splendens* var. *rotundata*) Habitat Conservation Plan (HCP) for the Kenai Industrial Park (KIP) Project located in Kapolei, on the island of O'ahu. The Division understands that AKC Leasing Corporation (the licensee) considers it has satisfied all the ITL Special Conditions and the biological "Measures of Success" stipulated in Section 6.6 of the HCP and, therefore, wishes to terminate the ITL. However, the Division does not agree that AKC Leasing Corporation has met the success criteria and is therefore still obligated to fulfill the requirements of the original agreement.

On multiple occasions, the Division has indicated that not all the measurable mitigation criteria set forth in the project HCP have been met (see Attachment #1). Additionally, the Division recommended revised criteria intended to help the licensee be successful while maintaining the overall conservation goals of mitigation efforts (see Attachment #2). It is the Division's understanding that the licensee has not agreed to the recommended revised criteria, and therefore, the Division must rely on the original measures of success to determine whether the ITL and HCP obligations have been fulfilled.

Consequently, if the licensee decides not to renew the bond and has no intent of undergoing additional mitigation efforts to comply with its ITL and HCP obligations, the

Division intends to bring the matter to the Endangered Species Recovery Committee (ESRC) and the Board of Land and Natural Resources. The Division will seek to revoke both the HCP and ITL and impose penalties pursuant to Hawai'i Revised Statutes (HRS) sections 194D-4, 195D-9, and 195D-21. Penalties may include administrative costs and fees relating to the licensee's failure to fulfill certain ITL and HCP obligations. The matter will go to the ESRC for its recommendation, which will then be submitted to the Board of Land and Natural Resources for their final approval and determination of the penalties.

The Division urges the licensee to renew its bond and fulfill its obligations under the original success criteria of the ITL and HCP. If the licensee is amenable to the revised recommended criteria, the Division staff is willing to work with the licensee if it renews its bond.

If you have any questions, please contact Myrna N. Girald Pérez, Protected Species Habitat Conservation Planning Coordinator, at (808) 265-3276 or [myrna.girald-perez@hawaii.gov](mailto:myrna.girald-perez@hawaii.gov).

Sincerely,



DAVID G. SMITH  
Administrator

Attachments: (1) DOFAW Letter dated December 02, 2021 - Log No. 3454  
(2) DOFAW Letter dated November 25, 2022

cc: SWCA Consultants, Attention Jaap Eijzenga [jeijzenga@swca.com](mailto:jeijzenga@swca.com)