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To: [DLNR.BLNR.Testimony](#)
Cc: [Ferreira, Darlene_S](#)
Subject: [EXTERNAL] AGENDA FOR THE MEETING OF THE BOARD OF LAND AND NATURAL RESOURCES DATE: AUGUST 13, 2021, 9:00 A.M.
Date: Wednesday, August 11, 2021 10:38:12 AM

AGENDA FOR THE MEETING OF THE BOARD OF LAND AND NATURAL RESOURCES DATE: AUGUST 13, 2021, 9:00 A.M.

M. OTHERS

8. Issuance of a Revocable Permit for Aircraft Parking, K & S Helicopters, Inc., Lanai Airport, Tax Map Key: (2) 4-9-02: Portion of 41.

Aloha SUZANNE D.CASE, CHAIRPERSON BOARD OF LAND AND NATURAL RESOURCES

Aloha BOARD OF LAND AND NATURAL RESOURCES Board Members,

HICoP has provided comment on many similar requests to **BLNR** from HDOT Butay regarding leasing public lands to tour copter operators.

In the past you have rubber stamped "APPROVED" even though there was extensive public input regarding the totally unnecessary tour copter noise nuisance pollution torture which negatively impacts the people on the ground from tour copter operations that will be operated from this leased public land site.

HICoP has asked you in the past to require HDOT to provide assurance that tour copter operations from this public land site will not in any way impact those on the ground in Hawaii.

HICoP, asks you again that you not approve leases on public land that causes harm to your fellow Hawaii neighbors.

It is past time to stop the "APPROVED" and require HDOT Airports Division to protect the people on the ground from the tour copter noise, which is the responsibility of that State Agency.

Airports Division can do this very easily by requiring as part of the existing Tour Aircraft Permit that the tour operators shall not allow the noise footprint from their aircraft enter occupied properties

In the past the Attorney General has said "no can", then ask the Attorney General who is fully aware of the tour copter noise nuisance pollution debacle in Hawaii what actions the Attorney General office has taken to protect the people on the ground in Hawaii with "yes can".

It is way past time to stop kicking the can down the road!

Mahalo,

Bob
For the HICoP Board

comments on item M – 8 K & S Helicopters
for Board of Land and Natural Resources, 9 AM Friday, August 13, 2021
from Cory Harden, Sierra Club, Hawai'i Island Group

Please ask these questions:

- 1- Is the 30-year-old Environmental Impact Statement still valid?
- 2- Is an EA or EIS required to analyze direct, indirect, and cumulative effects of the permit?
- 3- Is an EA (Environmental Assessment) required by HRS 343-5?
- 4- What restrictions, as landlord, should DLNR (Department of Land and Natural Resources) impose?
- 5- How many crashes have helicopter/ air tour companies had recently?

1 - Is the 30-year-old Environmental Impact Statement still valid?

The DOT (Department of Transportation) submittal cites a 30-year-old EIS—the 1991 EIS for the Lānaʻi Airport Master Plan Improvements.

http://oeqc2.doh.hawaii.gov/EA_EIS_Archive/1991-01-23-LA-FEIS-Lanai-Airport-Master-Plan.pdf

But HAR 11-200. 1-11 (d) says:

“Agencies shall not, without careful examination and comparison, use past determinations and previous EISs to apply to the action at hand. The action for which a determination is sought shall be thoroughly reviewed prior to the use of previous determinations and previously accepted EISs. Further, when previous determinations and previous EISs are considered or incorporated by reference, they shall be substantially relevant to the action being considered.”

Note that the Master Plan cited only goes up to 2005. *EIS p. 1-1*

The EIS does not analyze firefighting capabilities for 2021 levels of tour helicopter activity. *EIS p. 5-7*

Tie-down areas on the DOT submittal appear to be smaller than called for in the EIS (70 feet by 70 feet). *EIS p. 2-18*

The EIS does not analyze noise from tour helicopters away from the airport. *EIS p. 3-38*

Since the EIS was written, tour helicopter trips in Hawai'i have increased—about 8,000 in March 2019, compared to 6,000 in March 2005. The number of reported tour operators is more than twice what it was ten years ago.

Tour Helicopter Crashes — And Flights — Have Escalated In Recent Years, by Allan Parachini, Civil Beat, January 23, 2020, <https://www.civilbeat.org/2020/01/tour-helicopter-crashes-and-flights-have-escalated-in-recent-years>

In 2010 the Hawai'i Supreme Court required Turtle Bay Resort to do a new environmental study, since the original study was 25 years old, and circumstances had changed.

<https://www.staradvertiser.com/2010/07/20/breaking-news/supreme-court-affirms-ruling-for-a-new-eis-for-turtle-bay-resort/>

In 2017 Sierra Club sued Makena Resort on Maui, which had a 1974 EIS for its master plan. Makena refused to update for their entire 1,800 acres till a settlement was reached requiring a new EIS.

2 - Is an EA or EIS required to analyze direct, indirect, and cumulative effects of the permit?

The tiedowns are a necessary precedent to, and represent a commitment to, a larger action: helicopter flights that will impact shoreline areas (see #3) and subject residents to noise.

HAR 11-200.1-10 says:

“Multiple or phased actions. A group of actions shall be treated as a single action when:

- (1) The component actions are phases or increments of a larger total program;
- (2) An individual action is a necessary precedent to a larger action;
- (3) An individual action represents a commitment to a larger action...”

3 - Is an EA (Environmental Assessment) required by HRS 343-5?

An EA is required for “construction of new or the expansion or modification of existing helicopter facilities...that by way of their activities, may affect...a conservation district...[or] a shoreline area”.

HRS 343-5

Much of Lāna‘i is zoned conservation district.

https://dlnr.hawaii.gov/occl/files/2013/08/lanai_consv_subz2012_1101.pdf

K & S advertises views of shoreline areas: “Rugged Western Coastline...Secluded White Sand Beaches...Fascinating Reefs...Lanai’s Beautiful Northeastern Coast” and depicts a flight path over shorelines.

<https://paradisecopters.com/tours/lanai-circle-island-experience/#.YQ-folhKjIU>



HRS §343-5 Applicability and requirements.

(a) Except as otherwise provided, an environmental assessment shall be required for actions that...

(8) Propose the **CONSTRUCTION OF NEW OR THE EXPANSION OR MODIFICATION OF EXISTING HELICOPTER FACILITIES** within the State, that by way of their activities, may affect:

(A) Any land classified as a **CONSERVATION DISTRICT** by the state land use commission under chapter

205;

(B) **A SHORELINE AREA** as defined in section 205A-41; or

(C) 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; or until the statewide historic places inventory is completed, any historic site that is found by a field reconnaissance of the area affected by the helicopter facility and is under consideration for placement on the National Register or the Hawaii Register of Historic Places...

https://www.capitol.hawaii.gov/hrscurrent/Vol06_Ch0321-0344/HRS0343/HRS_0343-0005.htm
[capitals added]

HRS §205A-41 Definitions...

"Shoreline area" shall include all of the land area between the shoreline and the shoreline setback line and may include the area between mean sea level and the shoreline; provided that if the highest annual wash of the waves is fixed or significantly affected by a structure that has not received all permits and

approvals required by law or if any part of any structure in violation of this part extends seaward of the shoreline, then the term "shoreline area" shall include the entire structure.

<https://dlnr.hawaii.gov/occl/files/2013/07/205a.pdf>

4 - What restrictions, as landlord, should DLNR (Department of Land and Natural Resources) impose?

An attorney told me a landlord—such as DLNR-- can legally impose almost any kind of restriction on use of a property, such as not using a certain type of aircraft, or not flying at night, as long as the limitation directly affects the property.

5 - How many crashes have K & S and other helicopter/ air tour companies had recently?

In the past year, twenty-one people died in three tour helicopter/small aircraft crashes--Kailua, Dillingham Field, and Kaua'i.

"There were six crashes [of tour helicopters] in 2018 and four crashes in 2019....

...38 accidents and 45 fatalities since 2000..

...Ten crashes involved a single tour operator, Paradise Helicopters, also known as K&S Helicopters Inc., based in Kailua-Kona with operations on Hawaii Island and Oahu. Four people died in a single Paradise crash in 2003..."

Tour Helicopter Crashes — And Flights — Have Escalated In Recent Years, by Allan Parachini, Civil Beat, January 23, 2020, <https://www.civilbeat.org/2020/01/tour-helicopter-crashes-and-flights-have-escalated-in-recent-years>

2020, March 5 – Blue Hawaiian Eurocopter 130 hard landing in Puna, Hawai'i Island.

2019, December 26 - Safari Eurocopter-AS350 crash with 7 fatalities on a Kauai cliff face near the Na Pali Coast

2019, May 21 - Schuman "Magnum" Hughes-369D emergency landing in Diamond Head National Natural Landmark and State Historic Monument crater park with 3,300 daily visitors

2019, April 29 - Novictor Robinson-44 crash with 3 fatalities on a Kailua town street

2019, April 16 - K&S "Paradise" Hughes-369E in Sacred Falls State Park, O'ahu

2019, February 21 - K&S "Paradise" Hughes-369E crash in Waipio Valley, Hawai'i Island

2018, October 22 - Novictor Robinson-44 crash at Kaneohe Bay recreational sand bar

2018, September 18 - Novictor Robinson-44 crash in Wahiawa, O'ahu

2016 - fatal Genesis Aviation tour helicopter crash near the USS Arizona memorial and the Pearl Harbor nuclear submarine base

List based on January 24, 2021 e-mail from Michelle Matson, chair, O'ahu Tour Helicopter Safety and Noise Inter-Action Group