

EIS Preparation Notice

In December 2007, an EISPN was published for a project that was to occupy all 3,000 acres of land then owned by Bridge `Aina Le`a. The project anticipated at that time was vastly different from that proposed in this DEIS. In many cases, the comments received on the EISPN do not pertain to this project. Also, had a new EISPN been published for this project, it is likely that more pertinent (and timely) concerns would have been raised.

We question, therefore, whether this substantially revised project can piggyback on the EISPN prepared for a different developer, by a different consultant, and for a different project.

Statements of Ownership

Throughout the DEIS, statements are made that DW `Aina Le`a (DWAL) purchased the property in either 2008 or 2009. According to Hawai`i County Real Property Tax Office records, all the TMK parcels that make up the project area belong to Bridge `Aina Le`a except for one – the parcel where affordable housing units are in the process of being constructed. This sole parcel, TMK (3) 6-8-001:036, is owned by `Aina Le`a LLC and more than 300 individuals with addresses in Singapore.

While there is a sale agreement between Bridge `Aina Le`a, on the one hand, and DW `Aina Le`a Development, LLC and Relco Corp. on the other, as described in the appendices to the DEIS, this agreement is contingent upon a number of conditions being fulfilled. In any case, only one of the parcels identified in the sale agreement had been conveyed to DW `Aina Le`a or an affiliated entity at the time the DEIS was released.

The DEIS should at the very least correct the mis-statements that DW `Aina Le`a owns the land. Paragraph 12 of the agreement of sale does give Buyer (DWAL) “exclusive possession of the Urban Land” and authorizes DWAL “to take all actions and do all things ... to develop the Urban Land.” So long as title to the lands remains with Bridge `Aina Le`a, however, any statement that DWAL “owns” the land is incorrect and misleading.

Moreover, that same agreement of sale gives DWAL authority to develop land in the Urban District alone. Several elements of the project area lie outside the Urban district, including the site for wastewater treatment plant, parks, a portion of the golf course, and the 32 acres for schools. Also, the proposed development of the emergency access road into a connector road to Waikoloa Village’s Hulu Street assumes authority over lands in the Agriculture District. Inasmuch as all these proposals imply that DWAL has authority over at least some portion of Agriculture lands still owned by Bridge `Aina Le`a, and not a part of the agreement of sale, we question the inclusion of such proposals in any Environmental Impact Statement that does not include Bridge `Aina Le`a (or successor owner of the Agriculture land) as an applicant as well.

Given that the owner is `Aina Le`a LLC plus 319 (at last count) individuals, the question arises: what authority does DW `Aina Le`a have to speak for those individuals? The DEIS does state that `Aina Le`a LLC is a subsidiary of DW `Aina Le`a, but it is

silent on the relationship between the individuals and `Aina Le`a LLC.

We believe that it would be irresponsible for any authority to accept an EIS that did not offer some sort of proof of the ability of the EIS preparer to develop the property in the manner proposed. If the preparer is the sole owner, there's no problem. If the preparer holds some kind of development rights (as the agreement between Bridge `Aina Le`a and DW `Aina Le`a , included in the appendix purports to show), then maybe that would satisfy this need. But when you have `Aina Le`a PLUS more than 300 individuals owning one of the parcels, we think you would need to show that those individuals sign off on the development proposal as well. After all, the Bureau of Conveyances has recorded their ownership of undivided fractional shares of the property; they are not merely members of some LLC that, in turn, owns the land.

We request that the EIS explain what in fact is the relationship between DWAL and Bridge Capital, LLC. Bridge Capital, LLC's current website appears to describe all 3000 acres of the `Aina Le`a lands as being available for purchase in their entirety. How serious is DWAL about completing this project when it's all up for sale?

<http://www.bccnmi.com/property-listings-hawaii.html>

Subject Land

Figure 2 of the Draft EIS contains errors. The correct configuration for Parcel 36 (now 61-plus acres) is not shown on Figure 2. What is labeled as Parcel 36 is now included in Parcel 25, as a result of a consolidation and resubdivision carried out in 2009.

Conservation, Energy Efficiency, Solar Power

In an early presentation to the Puako Community Association (PCA), Bridge `Aina Le`a representatives listed several themes and benefits which the Villages of `Aina Le`a would incorporate to provide a "responsible environmental and energy sensitive development." Among the themes were roads, tree lined on each side with trees in the median strips, creating a canopy effect; side walks, cart and bike paths; extensive landscaping; solar energy generation and promotion of electric vehicles. Benefits would include: Solar Power – Commercial photo-voltaic generation; Electric Vehicles (& golf cart) – Special Access through out all of `Aina Le`a; High Speed Data Access – cable, ADSL, ISDN.

The DEIS indicates that the project will "encourage use of solar" power. However, the applicant's commitment seems to be limited to the role of cheerleader exhorting buyers of lots to do their best, but not imposing any requirement that conservation and energy efficiency goals be met. Given the location of this development, the developer should be required to use photovoltaic panels on all structures or, alternatively, in a community-scale power system incorporated into the development.

There is no discussion in the DEIS about how the project will incorporate designs and technologies that ensure efficiency and conservation with respect to energy and water. Section 2.4.1. contains a generic list of items that generally promote sustainable development, but for the most part the only commitment is to encourage others down the road to adopt them. In an attached letter to Maurice Kaya of the Department of Business,

Economic Development, and Tourism, the statement is made that the developer recognizes “the need for actions to enhance the sustainability of the development” and that “the applicant understands the value of sustainable development and will encourage the application of energy and resource efficient guidelines throughout the project.” However, the construction that has occurred to date in the affordable housing units belies this commitment. There is no solar-energy installation to heat water. There is no plumbing designed to accommodate solar hot-water heating if it should be retrofitted onto the affordable units.

Transportation

In this same vein, there is no provision for public transportation in the design – no transportation hub, no park-and-ride lots, no bus terminals. There is no proximity to arterial roads that would allow for use of public transportation by occupants. Every part of the plan assumes that personal vehicles will be the primary mode of transportation to destinations outside the project area. Since the DEIS anticipates that many residents will be part of the Kona-Kohala workforce, there should be some provision made for mass transit options.

Affordable Housing

In 2.1.5., the statement is made that construction of the first phase (the affordable housing) will take place over three years (February 2009 through February 2012). Under the Land Use Commission’s conditions, however, construction of 385 units of affordable housing must be completed (with certificates of occupancy in hand) by November 17, 2010. Please address this apparent contradiction.

The Bridge `Aina Le`a developer described his project to the Land Use Commission as one that would mix market homes and affordable units in the same neighborhoods, blending the two so as to prevent what has happened with the ghetto-like nature of the present 54 affordable 8-plexes all grouped in a single area.

With excess affordable/workforce housing inventory in Waikoloa Village it is doubtful that sufficient qualified affordable buyers will purchase units at `Aina Le`a and the units will eventually be offered on the open market to any willing buyer. The `Aina Le`a affordable units are priced on the high end of the affordable scale. These unfortunate factors defeat the purpose of providing truly affordable housing to those who work in the resort areas of South Kohala.

School Site

The DEIS anticipates that 32 acres in Agriculture land will be dedicated to the Department of Education for school purposes. However, the Land Use Commission condition relating to this clearly states that 16 acres are to be provided “within the property” subject to the redistricting petition (i.e., Urban land).

Potable Water and Groundwater

The DEIS briefly describes a dual water system where non potable water would be used for irrigation and mentions the need for a “water reuse plan.” This plan should be prepared and thoroughly reviewed before further construction is permitted. Regarding potable water demand, on page 3-17, this is given at 1.323 million gallons a day (mgd). Two pages later, however, potable water demand is said to be between .29 and .63 mgd. (“It is estimated that 35% of the 0.29-0.63 mgd potable water use for the project would become wastewater.”) This mis-statement results in a gross under-estimate of the volume of wastewater – at most, it would be .22 mgd if the potable water use ranged from between .29 and .63 mgd. On the other hand, if the 1.323 mgd cited two pages earlier is used as the basis for calculating wastewater generation, the figure is .46 mgd (again assuming 35 percent ends up as wastewater).

The DEIS states (Section 3.5), that “nutrient levels down-gradient of the Waikoloa Village golf course and Waikoloa WWTPs are lower than levels up-gradient.” The Nance *Assessment* concludes that this lack of an identifiable impact from Waikoloa Village generally and its disposal of wastewater specifically on regional groundwater quality is “significant.”

This conclusion assumes that there is nothing to impede the flow of groundwater in a straight downward makai course from the Waikoloa Village facilities. This assumption may not be justified, however. A recent study of the impacts of the Lahaina wastewater treatment plant done by the U.S. Geological Survey determined that geological features underground caused the injectate from the wastewater treatment plant injection wells to be diverted in a southerly direction, resulting in the impacts to coastal water being found further south than had been expected. (See: [Scientific Investigations Report 2009-5253](#), *A Multitracer Approach to Detecting Wastewater Plumes from Municipal Injection Wells in Nearshore Marine Waters at Kihei and Lahaina, Maui, Hawai`i*, by Charles D. Hunt Jr., and Sarah N. Rosa, USGS, 2010.)

The limited testing done by Nance is hardly sufficient to justify claims that the impact of the nutrients that will be contributed to groundwater as a result of the proposed project will be nil or de minimis – or even beneficial. We share the concern of our neighbor, the Mauna Lani Resort (MLR), that wells drilled on `Aina Le`a land for irrigation purposes may cause increased salinity in the groundwater presently tapped by MLR. This could have dire consequences for MLR.

Furthermore, the potable water average usage per lot at Puako is 1500 gpd. Puako has 14,000 square foot lots for a total of 161 lots. The projected usage of 600 gpd for single family market homes at `Aina Le`a appears unrealistic.

Sewage Treatment

Appendix D1 explains how the wastewater generation totals were calculated. The occupancy density of the townhomes (affordable units) is figured at 4 persons per unit. Given that the units have three or four bedrooms, it would seem as though the occupancy density estimate is too low. If so, the estimate of wastewater generated by the affordable units is also too low.

The DEIS is silent as to the fate of the sewage sludge produced by the wastewater plant. Will it be landfilled? Composted?

The permanent treatment plant (for phases 2 and 3) is proposed to be on land in the state Agriculture District. Is this a permitted or permissible use?

Finally, there is no discussion of the impact, if any, of the unpermitted temporary wastewater system installed to serve the first two apartment buildings in the affordable-housing area. Will the use of this system (which needs to be described) or its removal have environmental impacts?

Regarding this leach field/temporary wastewater system, we find it disturbing and incredible in the Office of State Planning findings that “Petitioner did not have a permit from the Department of Health and received a field citation for the violation of law. Petitioner both violated the law and misrepresented the facts during the last [LUC] site visit.” The EIS should explain this violation and confirm that no such illegal acts will happen in the future.

Runoff

The DEIS says that “drainage facilities will be designed for the 10 year or 50 year storm as required by the County.” Which is it? The DEIS references several potential ways to mitigate runoff, but commits to none. An approved plan for storm water runoff should be prepared and evaluated before further construction is permitted. Also, a worst-case-scenario with storm water entering the near-shore reef ecosystem should be evaluated and mitigated.

The SSFM International Consultant’s Flood Mapping Section 3.6 states: “COH requires that any new development be protected from flooding resulting from a 100-year storm. The project storm drain system is designed for a 50-year storm. During a 100-year storm the Urban District storm drain system capacity would be exceeded. Major streams must be analyzed and the 100-year floodplain identified. The development must meet the conditions of Chapter 27, Flood Control. The development should not encroach on the 100-year floodplain. And, the development must be elevated **above** the 100-year base flood elevation.” The EIS should include 100 Year Flood Mapping.

The DEIS anticipates the use of retention ponds and drywells to deal with storm runoff. However, recently the U.S. Geological Survey studied the impact of drywells in the County of Hawai`i. The study (“Reconnaissance Assessment of the Potential for Roadside Dry Wells to Affect Water Quality on the Island of Hawai`i,” by Scot Izuka *et al.*) notes: “Some of the water that flows into the dry wells comes from runoff that would otherwise have flowed to the ocean through surface-drainage systems. Dry wells reroute this water from the surface system to the groundwater flow system. Most of the water still ultimately flows to the ocean, but it is subject to processes in the groundwater system and in most cases will discharge in a different location in the ocean than it would have if it remained in the surface system. Drywells also receive some water that would otherwise have infiltrated the ground over a broad area and inject this water at point locations. Because drywells are excavations through surface soil and into the underlying rock, they allow water to bypass the natural filtering properties of surface soil and vegetation and

shorten the distance through which infiltrating water must percolate before reaching the water table. The water table is the top of the saturated aquifer; thus, any water or contaminants that reach the water table become part of the saturated groundwater system. Recently, concern has been raised that storm runoff entering the drywells may transport contaminants from roads and adjacent urbanized areas to groundwater and affect drinking-water sources and coastal ecological systems that are dependent on groundwater...” While the impact of runoff on drinking water sources in this area is not a concern, the potential impact of runoff into drywells on coastal water quality should be addressed.

Project District Zoning

Several community benefits were made part of conditions of earlier development plans. These included Municipal Rate Golf – either a municipal golf course or equivalent number of plays; a 1200 foot wide highway buffer; a pedestrian and/or bicycle path; and other benefits. We are very concerned that the proposed commercial area appears to encroach on the highway buffer. Keeping the Queen Kaahumanu Highway a scenic highway is critical. We do not want to see Project District Zoning used as a means to curtail any of the original community assessment benefits.

Time Shares

We see little reference to time shares in the DEIS despite 750 time share units contemplated by the developer. The Puako Community has been opposed to time shares from day one. The South Kohala Community Development Plan prohibits time shares mauka of the Queen K highway.

Facilities District Financing

The reliance on Facilities District financing to provide funds for infrastructure seems farfetched. There are no homeowners or lot owners to assess. This scheme needs a detailed explanation as to how it will be implemented specifically for this project.

The recent articles in the West Hawaii Today describing the failure of the developer to pay for work done on the affordable homes is very worrisome and leads us to believe the present “owners” may never get sufficient financing to complete the project. Furthermore, the high cost money raising scheme in Singapore is another example of the weak financial position of the “owners.”

Effects on Neighboring Communities, Social Impacts

The Draft EIS states that the development will be “an integral and contributing part of the Puako, Mauna Lani and Waikoloa communities.” Yet, the plan does little to define and address the anticipated adverse impacts on these communities.

For example, the DEIS does not address the impact of an estimated 5,780 new residents seeking recreational opportunities in the coastal resorts and communities of South Kohala. Provision of additional urban park space within the `Aina Le`a development will do nothing to satisfy increased demand for diverse nearshore

recreation. The developer should be required to mitigate impacts to coastal recreation areas by providing additional infrastructure and services (e.g. parking, bathroom, enforcement, interpretive signs, etc.)

Fugitive dust: The DEIS suggests that coastal water quality will not be impacted by fugitive dust due to distance from the coastline. Residents of Puako and Mauna Lani have good reason to question this assumption, based on the history of dust problems from adjacent lands.

Wildland Fire: The coastal communities and resorts of South Kohala and the Waikoloa community have all been threatened on several occasions by wildfire. There is good reason to question the adequacy of fire protection strategies that are addressed so briefly in the DEIS.

Intersection Improvements: Perhaps the most important community benefit which would indeed contribute to the communities of South Kohala and the public in general would be the signalization and full channelization of the intersection at the Mauna Lani Resort and Queen K Highway. This improvement needs to be done no matter what happens to this project and it must be done in Phase I.

SMS Consultants: To the best of our knowledge no one interviewed members of the board of the PCA or community leaders at the Mauna Lani Resort Association to determine their opinions about the Villages at `Aina Le`a. Had the consultant taken the time to review the voluminous past testimony, petitions, etc., to the County Council and the Land Use Commission in matters dealing with the development over the years one would have discovered a pattern of opposition and distrust our coastal communities have expressed about the project time after time.

Ordnance

It is not clear from the DEIS how the risks associated with unexploded ordnance will be adequately mitigated.

Solid Waste

The DEIS indicates that the Puako transfer station will be available for use by the additional 2,462 residential units in the new development. The Puako transfer station is already near its potential capacity for both residential and green waste, so this “plan” is unworkable.

Alternatives and Consistency with Other Plans

The DEIS devotes only token consideration to viable project alternatives. At the very least, the option of “development at lower densities” should be seriously evaluated.

The DEIS references several State and County planning documents that stress the need to preserve and restore significant natural resources, including coastal waters. Yet, the DEIS does not adequately consider the potential impacts of this project on the very rich nearshore reef ecosystem in South Kohala.

